

**Michigan Office of Administrative Hearings and Rules
Administrative Rules Division (ARD)**

MOAHR-Rules@michigan.gov

REQUEST FOR RULEMAKING (RFR)

1. Department:

Insurance and Financial Services

2. Bureau:

Financial Institutions

3. Promulgation type:

Full Process

4. Title of proposed rule set:

Deferred Presentment – Statewide Database and Service Agreements

5. Rule numbers or rule set range of numbers:

R 487.2121 - R 487.2123

6. Estimated time frame:

12 months

Name of person filling out RFR:

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7. Describe the general purpose of these rules, including any problems the changes are intended to address.

Deferred presentment is a transaction in which an individual may obtain up to \$600 on a promise to repay the money, with a service charge, within 31 days. The practice is regulated under the deferred presentment service transactions act, MCL 487.2121, et seq. Deferred presentment transactions must be formalized in a written service agreement between a “drawer”, (the individual obtaining the funds) and an entity licensed under the Act to issue the funds. A service agreement can be extended under some limited circumstances, detailed in Section 35(1) of the Act, MCL 487.2155(1):

"A licensee shall not renew a deferred presentment service agreement. A licensee may extend a deferred presentment service agreement only if the licensee does not charge a fee in connection with the extended transaction. A licensee who extends an agreement under this subsection shall not create a balance owed above the amount owed on the original agreement."

The proposed rule will formalize the extension of the service agreement and give the drawer a written record of the extension of the service agreement.

In addition –

1. The title of the deferred presentment rule set will be changed from “Deferred Presentment Statewide Database” to “Deferred Presentment – Statewide Database and Service Agreements”.
2. The citation of authority will be amended to read: "By authority conferred on the director of the Department of Insurance and Financial Services..."
- 3 The definition in Rule 1(c), R 487.2121(c), will be amended to read: (c) “Director” means the director of the Department of Insurance and Financial Services.

8. Please cite the specific promulgation authority for the rules (i.e. department director, commission, board, etc.).

The Director of the Department of Insurance and Financial Services has the authority to promulgate rules under MCL 487.2140; 487.2142; 487.2171; and Executive Reorganization Order Nos. 2000-2 and 2003-1, MCL 445.2003 and 445.2011.

A. Please list all applicable statutory references (MCLs, Executive Orders, etc.).

Article 3 of the Deferred Presentment Service Transactions Act, MCL 487.2151, et seq.
MCL 487.2140
MCL 487.2142
MCL 487.2171
Executive Reorganization Order Nos. 2000-2 and 2003-1, MCL 445.2003 and 445.2011.

B. Are the rules mandated by any applicable constitutional or statutory provision? If so, please explain.

MCL 487.2142(12) requires the Director to promulgate rules related to the Act’s deferred presentment database. However, the proposed rule, which relates to service agreement extensions, is not mandated by any applicable constitutional or statutory provision.

9. Please describe the extent to which the rules conflict with or duplicate similar rules, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not conflict with or duplicate similar rules or regulations adopted by the state or federal government.

10. Is the subject matter of the rules currently contained in any guideline, handbook, manual, instructional bulletin, form with instructions, or operational memoranda?

Yes.

1. DIFS Consumer Counselor – Financial Information for Michigan Consumers – Deferred Presentment:
https://www.michigan.gov/difs/-/media/Project/Websites/difs/Publication/Financial/FIS-PUB_8500.pdf?rev=4d148201eb364528a68057c05f1e843b&hash=58A4D93FF1893C98D1854C68FA07486F
2. FAQs Deferred Presentment Licensees:
<https://www.michigan.gov/difs/covid-19/faqs/consumer-finance/deferred-presentment>
3. Deferred Presentment Service Transactions – Repayment Plan FAQs:
<https://www.michigan.gov/difs/news-and-outreach/faq/consumer-finance/deferred-presentment/repayment-plan>
4. Deferred Presentment License Application Process:
<https://www.michigan.gov/difs/news-and-outreach/faq/consumer-finance/deferred-presentment/license-application>

11. Are the rules listed on the department’s annual regulatory plan as rules to be processed for the current year?

Yes.

12. Will the proposed rules be promulgated under Section 44 of the Administrative Procedures Act, 1969 PA 306, MCL 24.244, or under the full rulemaking process?

Full Process

13. Please describe the extent to which the rules exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

The rules do not exceed similar regulations, compliance requirements, or other standards adopted at the state, regional, or federal level.

14. Do the rules incorporate the recommendations received from the public regarding any complaints or comments regarding the rules? If yes, please explain.

No.

15. If amending an existing rule set, please provide the date of the last evaluation of the rules and the degree, if any, to which technology, economic conditions, or other factors have changed the regulatory activity covered by the rules since the last evaluation.

The existing rules have not been evaluated since adoption in 2007. The regulatory activity covered by the rule has not been changed by technology, economic conditions, or other factors.

16. Are there any changes or developments since implementation that demonstrate there is no continued need for the rules, or any portion of the rules?

No.

17. Is there an applicable decision record (as defined in MCL 24.203(6) and required by MCL 24.239(2))? If so, please attach the decision record.

No

Based on the information provided in this RFR, MOAHR concludes that there are sufficient policy and legal bases for approving the RFR. The RFR satisfies the requirements of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and Executive Order No. 2019-6.