SENATE BILL No. 719

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January 26, 2016, Introduced by Senator BOOHER and referred to the Committee on Banking and Financial Institutions.

A bill to amend 2005 PA 244, entitled

"Deferred presentment service transactions act,"

by amending section 35 (MCL 487.2155).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 35. (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.

(2) If a drawer enters into 8 deferred presentment service transactions with any licensee in any 12-month period, the licensee shall provide the drawer an option to repay that eighth transaction and each additional transaction in that 12-month period pursuant to a written repayment plan subject to the following terms:

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(a) The drawer shall request the repayment plan, either orally or in writing, within 30 days after the maturity date of the deferred presentment service transaction.

(b) The drawer shall repay the transaction in 3 equal installments with 1 installment due on each of the next 3 dates on which the drawer receives regular wages or compensation from an employer or other regular source of income, pursuant to a written repayment plan agreement.

(c) The drawer shall pay a fee to the licensee for administration of the repayment plan. The initial amount of the fee is $15.00. Beginning March 1, 2011, and by March 1 of every fifth year after March 1, 2011, the licensee may adjust the fee by an amount determined by the ~~commissioner~~ **DIRECTOR** to reflect the cumulative percentage change in the Detroit consumer price index over the preceding 5 calendar years. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the ~~bureau of labor statistics of the United States department of labor.~~ **BUREAU OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.**

(d) The drawer shall agree not to enter into any additional deferred presentment transactions during the repayment plan term.

(3) A licensee shall advise a customer of the repayment option described in subsection (2) at the time he or she is eligible. If a customer believes he or she has been illegally denied the repayment option under this section, he or she is entitled to contact the ~~office of financial and insurance services~~ **DEPARTMENT** toll-free at

1-877-999-6442. If a customer has entered into 8 deferred presentment service transactions in any 12-month period, the database provider shall notify the licensee when the licensee submits the required customer information to the database for that customer that the customer is entitled to a repayment plan under this section. The database provider shall instruct the licensee to provide the customer with the following notice, in a document separate from the deferred presentment transaction agreement and in at least 12-point type:

"If you are unable to pay your deferred presentment service transaction and have entered into 8 deferred presentment transactions in any 12-month period, state law entitles you to request a repayment of that transaction in installments. We are required to advise you of this option at the time it is available. If you elect this option, you must notify us, either orally or in writing, within 30 days after the maturity date of the eighth deferred presentment transaction in the 12-month period. The notice must be provided to us at our place of business. You may be charged an additional fee when the transaction is rescheduled in installments. You will be ineligible to enter into a deferred presentment service transaction with any licensee during the term of the repayment plan. If we refuse to provide this option under the stipulations above, you should contact the ~~Office of Financial and Insurance Services~~ **DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES** toll-free at 1-877-999-6442.".

(4) During the term of a repayment plan by a drawer under this section, the database provider shall notify the licensee at the

time the licensee submits the required customer information to the database for that customer that the customer is presently in a repayment plan under this section with 1 or more other licensees and the licensee shall not enter into a deferred presentment transaction with that individual.

(5) A licensee shall not present a check for payment before the maturity date or during the term of the repayment plan. In addition to the remedies and penalties under this act, a licensee that presents a check for payment before the maturity date or during the term of the repayment plan is liable for all expenses and damages caused to the drawer and the drawee as a result of the violation. If a drawer has not requested a repayment plan on or before the maturity date, the licensee may redeem, present for payment, or enter the check into the check-clearing process under the terms of the original deferred presentment service transaction agreement.

(6) A drawer satisfies his or her obligation under a deferred presentment service agreement when the check the licensee is holding is paid by the drawee or is redeemed by the drawer by paying to the licensee an amount equal to the full amount of the check.

(7) UNLESS THE DRAWER HAS ENTERED INTO A WRITTEN REPAYMENT PLAN UNDER SUBSECTION (2), A LICENSEE SHALL DEPOSIT A CHECK HELD IN CONNECTION WITH A DEFERRED PRESENTMENT SERVICE TRANSACTION ON THE MATURITY DATE IF THE CHECK IS NOT REDEEMED IN THE MANNER DESCRIBED IN SECTION 2(1)(C)(*i*), OR EXCHANGED IN THE MANNER DESCRIBED IN SECTION 2(1)(C)(*ii*), ON OR BEFORE THE MATURITY DATE.

(8) A LICENSEE SHALL DEPOSIT A CHECK HELD IN CONNECTION WITH A DEFERRED PRESENTMENT SERVICE TRANSACTION ON ANY REPAYMENT PLAN INSTALLMENT DATE DESCRIBED IN SUBSECTION (2) IF THE DRAWER FAILS TO MAKE THE INSTALLMENT PAYMENT.

(9) IF THE DRAWER HAS AN OUTSTANDING DEFERRED PRESENTMENT SERVICE TRANSACTION IN WHICH A CHECK HELD IN CONNECTION WITH THE TRANSACTION WAS DEPOSITED AND RETURNED UNPAID, THE LICENSEE MAY COLLECT THE CHECK BY MEANS OF 1 OR MORE TELEPHONE-INITIATED ENTRIES IF ALL OF THE FOLLOWING ARE MET:

(A) THE DRAWER AGREES TO EACH TELEPHONE-INITIATED ENTRY.

(B) EACH TELEPHONE-INITIATED ENTRY IS A SINGLE, DATE-SPECIFIC PAYMENT AND DOES NOT AUTHORIZE MORE THAN 1 PAYMENT OR PERIODIC PAYMENTS.

(C) THE LICENSEE DOES NOT CHARGE THE DRAWER A FEE IN CONNECTION WITH THE TELEPHONE-INITIATED ENTRY OR ENTRIES.

(10) IF THE PAYMENT TO SATISFY AN OUTSTANDING DEFERRED PRESENTMENT TRANSACTION OBLIGATION IS MADE IN PERSON, THE LICENSEE SHALL IMMEDIATELY RETURN THE CHECK HELD IN CONNECTION WITH THE DEFERRED PRESENTMENT SERVICE TRANSACTION TO THE DRAWER. IF THE PAYMENT TO SATISFY THE OBLIGATION IS NOT MADE IN PERSON, THE LICENSEE SHALL RETURN THE CHECK TO THE DRAWER BY MAILING IT TO THE ADDRESS LISTED ON THE DEFERRED PRESENTMENT TRANSACTION SERVICE AGREEMENT WITHIN 1 BUSINESS DAY AFTER THE LICENSEE OBTAINS EVIDENCE THAT THE DRAWER HAS SATISFIED THE OBLIGATION.

(11) A LICENSEE SHALL ONLY ACCEPT A PAYMENT BY DEBIT CARD TO REDEEM A CHECK THE LICENSEE IS HOLDING IF THE DRAWER CERTIFIES TO THE LICENSEE THAT THE DEBIT CARD DRAWS FUNDS FROM THE SAME ACCOUNT

ON WHICH THE CHECK IS DRAWN.

(12) AS USED IN THIS SECTION, "TELEPHONE-INITIATED ENTRY" MEANS A DEBIT TRANSACTION TO A DRAWER'S ACCOUNT THAT IS PROCESSED THROUGH AN AUTOMATED CLEARING HOUSE, AS THAT TERM IS DEFINED IN SECTION 1 OF 2002 PA 738, MCL 124.301, AND INITIATED PURSUANT TO AN AUTHORIZATION OBTAINED FROM THE DRAWER ORALLY BY TELEPHONE.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 607 of the 98th Legislature is enacted into law.