

# SENATE BILL No. 719

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:

1       Sec. 35. (1) A licensee shall not renew a deferred presentment  
2       service agreement. A licensee may extend a deferred presentment  
3       service agreement only if the licensee does not charge a fee in  
4       connection with the extended transaction. A licensee who extends an  
5       agreement under this subsection shall not create a balance owed  
6       above the amount owed on the original agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ON WHICH THE CHECK IS DRAWN.

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

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

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