

DEFERRED PRESENTMENT SERVICE TRANSACTIONS ACT (EXCERPT)

Act 244 of 2005

ARTICLE 1

487.2121 Short title.

Sec. 1. This act shall be known and may be cited as the "deferred presentment service transactions act".

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005.

487.2122 Definitions.

Sec. 2. (1) As used in this act:

(a) "Applicant" means a person that is seeking a license to engage in the business of providing deferred presentment service transactions under this act.

(b) "Check" means a draft that is payable on demand and drawn on a bank, savings bank, savings and loan association, or credit union. Check includes any negotiable instrument that represents evidence of an obligation to pay even if it is described on its face by another term.

(c) "Closed" in connection with a deferred presentment service transaction means that 1 of the following has occurred concerning each of the customer's checks that is the basis of the deferred presentment service transaction:

(i) The check is redeemed by the customer by payment to the licensee of the face amount of the check in cash or payment from a debit card that meets the requirements of section 35(11).

(ii) The check is exchanged by the licensee for a cashier's check or cash from the customer's financial institution.

(iii) The check is deposited by the licensee and the licensee has evidence that the person has satisfied the obligation.

(iv) The check is collected by the licensee or its agent through any civil remedy available under the laws of this state.

(v) The check is collected by means of a repayment plan agreed on by the customer and the licensee or as the result of credit counseling where the licensee is paid the amount agreed upon by the licensee under that plan.

(vi) The check is collected by the licensee under section 35(9) and the licensee has evidence that the person has satisfied the obligation.

(d) "Commissioner" means the director or his or her authorized representative.

(e) "Customer" means an individual who inquires into the availability of or applies for a deferred presentment service transaction or a drawer who enters into a deferred presentment service transaction.

(f) "Database provider" means 1 of the following:

(i) A third party provider selected by the director under section 22 to operate the statewide database described in that section.

(ii) If the director has not selected a third party provider under section 22, the director.

(g) Subject to subsection (2), "deferred presentment service transaction" means a transaction between a licensee and a customer under which the licensee agrees to do all of the following:

(i) Pay to the customer an agreed-upon amount in exchange for a fee.

(ii) Hold a customer's check for a period of time before negotiation, redemption, or presentment of the checks.

(h) "Department" means the department of insurance and financial services.

(i) "Director" means the director of the department or his or her authorized representative.

(j) "Drawee" means a bank, savings bank, savings and loan association, credit union, or other person on which a check is drawn.

(k) "Drawer" means a customer who enters into a deferred presentment service transaction with a licensee.

(l) "Executive officer" means an officer or director of a licensee or any other individual who has the authority to participate in the direction, directly or indirectly, through 1 or more persons, or the management or policies of a licensee.

(m) "Financial licensing act" means this act or any of the financial licensing acts as defined in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(n) "Licensee" means a person that is licensed to engage in the business of providing deferred presentment service transactions under this act.

(o) "Maturity date" means the date on which a drawer's check is to be redeemed, presented for payment, or entered into the check-clearing process in a deferred presentment service transaction.

(p) "Office" or "office of financial and insurance services" means the department.

(q) "Person" means an individual, partnership, association, corporation, limited liability company, or other legal entity except a governmental entity.

(r) "Redeem" means that the customer pays to the licensee an amount equal to the face amount of a check included in a deferred presentment service transaction, on or before the maturity date or after the check is deposited and returned unpaid by the drawee, and the licensee returns the check to the customer.

(2) Deferred presentment service transaction does not include a delay in presentment of a loan repayment check, at the request of the borrower, by a person that is licensed or registered under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, 1984 PA 379, MCL 493.101 to 493.114, the money transmission services act, 2006 PA 250, MCL 487.1001 to 487.1047, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005;—Am. 2016, Act 140, Eff. Aug. 24, 2016.