

HB452 INTRODUCED



1 54TK66-1
2 By Representatives Ensler, Garrett
3 RFD: Financial Services
4 First Read: 09-May-23
5
6 2023 Regular Session



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SYNOPSIS:

Under existing law, the term of a deferred presentment transaction is between 10 and 31 calendar days.

This bill would require the term of a deferred presentment transaction to be a minimum of 30 calendar days.

A BILL
TO BE ENTITLED
AN ACT

Relating to deferred presentment transactions; to amend Section 5-18A-13, Code of Alabama 1975, to require the term of a deferred presentment transaction to be a minimum of 30 calendar days.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 5-18A-13, Code of Alabama 1975, is amended to read as follows:

"§5-18A-13

(a) A licensee may not knowingly enter into a deferred presentment transaction with a customer that has outstanding deferred presentment transactions from any lender at any location that exceeds five hundred dollars (\$500) for the term



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29 of the loan.

30 (b) Before a licensee shall present for payment or
31 deposit a check or debit authorization accepted by the
32 licensee, the check shall be endorsed with the actual name
33 under which the licensee is doing business.

34 (c) Any agreement for a deferred presentment
35 transaction shall be in writing and signed by the checking
36 account holder. The customer in a deferred presentment
37 contract shall have the right to redeem the check or debit
38 authorization from the licensee before the agreed date of
39 deposit upon payment to the licensee of the amount of the
40 contract. A licensee shall ~~not~~ defer presentment of any
41 personal check or debit authorization for ~~less than 10 days~~
42 ~~nor more than 31~~ a minimum of 30 calendar days after the date
43 of the contract.

44 (d) The licensee shall notify the district attorney for
45 the circuit in which the check was received within five
46 business days after being advised by the payer financial
47 institution that a check or draft has been altered, forged,
48 stolen, obtained through fraudulent or illegal means,
49 negotiated without proper legal authority, or represents the
50 proceeds of illegal activity. If a check or draft is returned
51 to the licensee by the payer financial institution for any of
52 these reasons, the licensee shall not release the check,
53 draft, or money order without the consent of the district
54 attorney or other investigating law enforcement authority.

55 (e) A licensee shall comply with all ~~provisions of~~
56 state and federal law regarding cash transactions and cash



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57 transaction reporting.

58 (f) A licensee shall provide each prospective customer,
59 before consummation of the deferred presentment agreement,
60 with a written explanation in clear, understandable language
61 of the fees to be charged by the licensee and the date on
62 which the check or debit authorization may be deposited or
63 presented by the licensee. All fees associated with deferred
64 presentment transactions shall be disclosed as finance charges
65 as required by the Federal Truth-in-Lending Act, 15 U.S.C. §
66 1605, its regulations, 12 C.F.R. Part 226, and Official Staff
67 Commentary as adopted by the Federal Reserve Board. The
68 supervisor may ~~promulgate~~adopt rules establishing additional
69 requirements in order to assure complete and accurate
70 disclosures. The customer, prior to entering into a deferred
71 presentment transaction, shall receive and acknowledge an
72 accurate and complete notification and disclosure of the
73 itemized and total amounts of all fees and other costs that
74 will or potentially could be imposed as a result of ~~such~~the
75 agreement. ~~This subsection shall not create any inference that~~
76 ~~a particular method of disclosure was required prior to June~~
77 ~~20, 2003.~~ All customers will be notified in clear and
78 conspicuous language that the deferred presentment check or
79 debit authorization after one rollover, will be subject to
80 terms and conditions described in subsection (c) of Section
81 5-18A-12. The terms and conditions of the transaction shall be
82 provided in the notification.

83 (g) A licensee shall issue a copy of the written
84 agreement to each person for whom a licensee defers deposit of



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85 a check or debit authorization. The written agreement shall
86 include the information described in subsection (f) and the
87 extended repayment program described in subsection (c) of
88 Section 5-18A-12.

89 (h) If a check is returned to the licensee from a payer
90 financial institution due to insufficient funds or a closed
91 account, the licensee shall have the right to all civil
92 remedies allowed by law, except as provided for in Section
93 5-18A-12, to collect the check and may recover court costs and
94 a reasonable attorney's fee. The attorney's fee may not exceed
95 15 percent of the face amount of the check or debit
96 authorization. No individual who issues a personal check or
97 authorizes a debit for his or her checking account to a
98 licensee for the purpose of a deferred presentment transaction
99 under this chapter shall be convicted pursuant to Section
100 13A-9-13.1, if the check or debit authorization is returned
101 due to insufficient funds. Checks or debit authorizations
102 returned to the licensee due to a closed account may be
103 collected pursuant to Section 13A-9-13.1.

104 (i) No licensee may alter or delete the date on any
105 check accepted by the licensee. No licensee may accept an
106 undated check or debit authorization or a check or debit
107 authorization dated on a date other than the date on which the
108 licensee accepts the check or debit authorization.

109 (j) No licensee shall engage in unfair or deceptive
110 acts, practices, or advertising in the conduct of the licensed
111 business.

112 (k) No licensee shall require a customer to provide



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113 security for the transaction or require the customer to
114 provide a guaranty from another person.

115 (l) Each licensee shall pay all proceeds for any
116 deferred presentment transaction in cash and directly to the
117 customer.

118 (m) Every licensee shall conspicuously and continuously
119 display a schedule of all fees, charges, and penalties for all
120 services provided by the licensee. The schedule of fees shall
121 contain the following statement in all capital letters and in
122 12-point type or larger immediately above the space for the
123 borrower's signature: NOTICE: FEES FOR DEFERRED PRESENTMENT
124 TRANSACTIONS MAY BE SIGNIFICANTLY HIGHER THAN FOR OTHER TYPES
125 OF LOANS.

126 (n) A deferred presentment provider shall not redeem,
127 extend, or otherwise consolidate a deferred deposit agreement
128 with the proceeds of another deferred presentment transaction
129 made by the same or affiliated deferred presentment provider
130 except as expressly provided in Section 5-18A-12.

131 (o) The licensee shall use a third party private sector
132 database, where available, to ensure that the customer does
133 not have outstanding deferred presentment transactions that
134 exceed five hundred dollars (\$500)."

135 Section 2. This act shall become effective on the first
136 day of the third month following its passage and approval by
137 the Governor, or its otherwise becoming law.