

1 SB75  
2 197258-1  
3 By Senator Orr  
4 RFD: Banking and Insurance  
5 First Read: 05-MAR-19

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

11 This bill would require the term of a  
12 deferred presentment transaction to be a minimum of  
13 30 calendar days.

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15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to deferred presentment transactions; to  
20 amend Section 5-18A-13, Code of Alabama 1975; to require the  
21 term of a deferred presentment transaction to be a minimum of  
22 30 calendar days.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§5-18A-13.

1           "(a) A licensee may not knowingly enter into a  
2 deferred presentment transaction with a customer that has  
3 outstanding deferred presentment transactions from any lender  
4 at any location that exceeds five hundred dollars (\$500) for  
5 the term of the loan.

6           "(b) Before a licensee shall present for payment or  
7 deposit a check or debit authorization accepted by the  
8 licensee, the check shall be endorsed with the actual name  
9 under which the licensee is doing business.

10           "(c) Any agreement for a deferred presentment  
11 transaction shall be in writing and signed by the checking  
12 account holder. The customer in a deferred presentment  
13 contract shall have the right to redeem the check or debit  
14 authorization from the licensee before the agreed date of  
15 deposit upon payment to the licensee of the amount of the  
16 contract. A licensee shall ~~not~~ defer presentment of any  
17 personal check or debit authorization for ~~less than 10 days~~  
18 ~~nor more than 31~~ a minimum of 30 calendar days after the date  
19 of the contract.

20           "(d) The licensee shall notify the district attorney  
21 for the circuit in which the check was received within five  
22 business days after being advised by the payer financial  
23 institution that a check or draft has been altered, forged,  
24 stolen, obtained through fraudulent or illegal means,  
25 negotiated without proper legal authority, or represents the  
26 proceeds of illegal activity. If a check or draft is returned  
27 to the licensee by the payer financial institution for any of

1 these reasons, the licensee shall not release the check,  
2 draft, or money order without the consent of the district  
3 attorney or other investigating law enforcement authority.

4 "(e) A licensee shall comply with all provisions of  
5 state and federal law regarding cash transactions and cash  
6 transaction reporting.

7 "(f) A licensee shall provide each prospective  
8 customer, before consummation of the deferred presentment  
9 agreement, with a written explanation in clear, understandable  
10 language of the fees to be charged by the licensee and the  
11 date on which the check or debit authorization may be  
12 deposited or presented by the licensee. All fees associated  
13 with deferred presentment transactions shall be disclosed as  
14 finance charges as required by the Federal Truth-in-Lending  
15 Act, 15 U.S.C. §1605, its regulations, 12 C.F.R. Part 226, and  
16 Official Staff Commentary as adopted by the Federal Reserve  
17 Board. The supervisor may promulgate rules establishing  
18 additional requirements in order to assure complete and  
19 accurate disclosures. The customer, prior to entering into a  
20 deferred presentment transaction, shall receive and  
21 acknowledge an accurate and complete notification and  
22 disclosure of the itemized and total amounts of all fees and  
23 other costs that will or potentially could be imposed as a  
24 result of such agreement. This subsection shall not create any  
25 inference that a particular method of disclosure was required  
26 prior to June 20, 2003. All customers will be notified in  
27 clear and conspicuous language that the deferred presentment

1 check or debit authorization after one rollover, will be  
2 subject to terms and conditions described in subsection (c) of  
3 Section 5-18A-12. The terms and conditions of the transaction  
4 shall be provided in the notification.

5 "(g) A licensee shall issue a copy of the written  
6 agreement to each person for whom a licensee defers deposit of  
7 a check or debit authorization. The written agreement shall  
8 include the information described in subsection (f) and the  
9 extended repayment program described in subsection (c) of  
10 Section 5-18A-12.

11 "(h) If a check is returned to the licensee from a  
12 payer financial institution due to insufficient funds or a  
13 closed account, the licensee shall have the right to all civil  
14 remedies allowed by law, except as provided for in Section  
15 5-18A-12, to collect the check and may recover court costs and  
16 a reasonable attorney's fee. The attorney's fee may not exceed  
17 15 percent of the face amount of the check or debit  
18 authorization. No individual who issues a personal check or  
19 authorizes a debit for his or her checking account to a  
20 licensee for the purpose of a deferred presentment transaction  
21 under this chapter shall be convicted pursuant to Section  
22 13A-9-13.1, if the check or debit authorization is returned  
23 due to insufficient funds. Checks or debit authorizations  
24 returned to the licensee due to a closed account may be  
25 collected pursuant to Section 13A-9-13.1.

26 "(i) No licensee may alter or delete the date on any  
27 check accepted by the licensee. No licensee may accept an

1 undated check or debit authorization or a check or debit  
2 authorization dated on a date other than the date on which the  
3 licensee accepts the check or debit authorization.

4 "(j) No licensee shall engage in unfair or deceptive  
5 acts, practices, or advertising in the conduct of the licensed  
6 business.

7 "(k) No licensee shall require a customer to provide  
8 security for the transaction or require the customer to  
9 provide a guaranty from another person.

10 "(l) Each licensee shall pay all proceeds for any  
11 deferred presentment transaction in cash and directly to the  
12 customer.

13 "(m) Every licensee shall conspicuously and  
14 continuously display a schedule of all fees, charges, and  
15 penalties for all services provided by the licensee. The  
16 schedule of fees shall contain the following statement in all  
17 capital letters and in 12-point type or larger immediately  
18 above the space for the borrower's signature: NOTICE: FEES FOR  
19 DEFERRED PRESENTMENT TRANSACTIONS MAY BE SIGNIFICANTLY HIGHER  
20 THAN FOR OTHER TYPES OF LOANS.

21 "(n) A deferred presentment provider shall not  
22 redeem, extend, or otherwise consolidate a deferred deposit  
23 agreement with the proceeds of another deferred presentment  
24 transaction made by the same or affiliated deferred  
25 presentment provider except as expressly provided in Section  
26 5-18A-12.

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

5                   Section 2. This act shall become effective  
6                   immediately following its passage and approval by the  
7                   Governor, or its otherwise becoming law.