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LEGISLATIVE ACTION

Senate

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House

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The Committee on Commerce and Tourism (Gibson) recommended the following:

1           **Senate Amendment to Amendment (478870) (with title**  
2 **amendment)**

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4           Delete lines 40 - 283  
5 and insert:

6           (6) (a) A deferred presentment provider or its affiliate may  
7 not directly or indirectly charge, collect, or receive interest,  
8 fees, or other charges exceeding 30 percent per annum on the  
9 principal amount, inclusive of ancillary products or services  
10 incidental to or included in the deferred presentment



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11 transaction or deferred presentment installment transaction that  
12 exceed 10 percent of the currency or payment instrument  
13 provided. However, a verification fee may be charged as provided  
14 in s. 560.309(8). The 10 percent fee may not be applied to the  
15 verification fee.

16 (b) Fees are earned at the time of origination for a  
17 deferred presentment transaction scheduled to be paid off in 31  
18 days or less; however, fees for a deferred presentment  
19 installment transaction are earned using a simple interest  
20 calculation. A deferred presentment provider may charge only the  
21 interest, these fees, and other charges specifically authorized  
22 in this section. Prepayment penalties are prohibited.

23 (8) A deferred presentment agreement may not be for a term  
24 longer than 31 days or fewer less than 7 days, except for a  
25 deferred presentment installment transaction, which may not be  
26 for a term longer than 90 days or fewer than 60 days.

27 (12) The deferred presentment agreement and the drawer's  
28 initial check must bear the same date, and the number of days of  
29 the deferment period must shall be calculated from that date.  
30 For deferred presentment installment transactions, the deferred  
31 presentment provider may accept additional checks, subject to  
32 the limitations in subsection (5), each bearing the date that  
33 the check was given to the provider, and the deferred  
34 presentment agreement must include the deferment period  
35 applicable to each check. The deferred presentment provider and  
36 the drawer may not alter or delete the date on any written  
37 agreement or check held by the deferred presentment provider.

38 (13) For each deferred presentment transaction, the  
39 deferred presentment provider must comply with the disclosure



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40 requirements of 12 C.F.R. part 226, relating to the federal  
41 Truth-in-Lending Act, and Regulation Z of the Bureau of Consumer  
42 Financial Protection Board of Governors of the Federal Reserve  
43 Board. A copy of the disclosure must be provided to the drawer  
44 at the time the deferred presentment transaction is initiated.

45 (14) A deferred presentment provider or its affiliate may  
46 not accept or hold an undated check or a check dated on a date  
47 other than the date on which the deferred presentment provider  
48 agreed to hold the check and signed the deferred presentment  
49 transaction agreement, except when a customer provides a new  
50 payment instrument reflecting the new outstanding transaction  
51 balance and anticipated fees upon making a payment on a deferred  
52 presentment installment transaction.

53 (19) A deferred presentment provider may not enter into a  
54 deferred presentment transaction or a deferred presentment  
55 installment transaction with a drawer if the drawer or any other  
56 person in the drawer's household who has an outstanding deferred  
57 presentment transaction or an outstanding deferred presentment  
58 installment transaction with that provider or with any other  
59 deferred presentment provider. A deferred presentment provider  
60 may not enter into a deferred presentment transaction or a  
61 deferred presentment installment transaction with a drawer if  
62 the previous deferred presentment transaction or previous  
63 deferred presentment installment transaction of a drawer or any  
64 other person in the drawer's household terminated in the  
65 previous 24 hours. As used in this section, the term "household"  
66 means a person or group of persons living together in a room or  
67 group of rooms as a housing unit, but the term does not include  
68 persons boarding in or renting a portion of the dwelling, or



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69 ~~with a person whose previous deferred presentment transaction~~  
70 ~~with that provider or with any other provider has been~~  
71 ~~terminated for less than 24 hours.~~ The deferred presentment  
72 provider must verify such information as follows:

73 (a) The deferred presentment provider must ~~shall~~ maintain a  
74 common database and ~~shall~~ verify whether the provider or an  
75 affiliate has an outstanding deferred presentment transaction  
76 with any drawer in a particular household person or has  
77 terminated a transaction with any drawer in that household  
78 ~~person~~ within the previous 24 hours. If a provider has not  
79 established a database, the provider may rely upon the written  
80 verification of the drawer as provided in subsection (20).

81 (b) The deferred presentment provider must ~~shall~~ access the  
82 office's database established pursuant to subsection (24) ~~(23)~~  
83 and ~~shall~~ verify whether any other deferred presentment provider  
84 has an outstanding deferred presentment transaction with any  
85 drawer in a particular household person or has terminated a  
86 transaction with any drawer in that household person within the  
87 previous 24 hours. Before the office has implemented a database  
88 to include deferred presentment installment transactions ~~If a~~  
89 ~~provider has not established a database,~~ the deferred  
90 presentment provider must access the office's current database  
91 pursuant to this paragraph and may rely upon the written  
92 verification of the drawer as provided in subsection (20).

93 (20) A deferred presentment provider must ~~shall~~ provide the  
94 following notice in a prominent place on each deferred  
95 presentment agreement in at least 14-point type in substantially  
96 the following form and ~~must~~ obtain the signature of the drawer  
97 where indicated:



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NOTICE

1. STATE LAW PROHIBITS A HOUSEHOLD ~~YOU~~ FROM HAVING MORE THAN ONE DEFERRED PRESENTMENT AGREEMENT AT ANY ONE TIME. STATE LAW ALSO PROHIBITS A HOUSEHOLD ~~YOU~~ FROM ENTERING INTO A DEFERRED PRESENTMENT AGREEMENT WITHIN 24 HOURS AFTER TERMINATING ANY PREVIOUS DEFERRED PRESENTMENT AGREEMENT. FAILURE TO OBEY THIS LAW COULD CREATE SEVERE FINANCIAL HARDSHIP FOR YOU AND YOUR FAMILY.

YOU MUST SIGN THE FOLLOWING STATEMENT:

NO PERSON IN MY HOUSEHOLD HAS ~~I DO NOT HAVE~~ AN OUTSTANDING DEFERRED PRESENTMENT AGREEMENT WITH ANY DEFERRED PRESENTMENT PROVIDER AT THIS TIME. NO PERSON IN MY HOUSEHOLD HAS ~~I HAVE NOT~~ TERMINATED A DEFERRED PRESENTMENT AGREEMENT WITHIN THE PAST 24 HOURS.

(Signature of Drawer)

2. YOU CANNOT BE PROSECUTED IN CRIMINAL COURT FOR A CHECK WRITTEN UNDER THIS AGREEMENT, BUT ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE THE DEBT MAY BE PURSUED AGAINST YOU.

3. STATE LAW PROHIBITS A DEFERRED PRESENTMENT PROVIDER (THIS BUSINESS) FROM ALLOWING YOU TO "ROLL OVER" YOUR DEFERRED PRESENTMENT TRANSACTION. THIS MEANS THAT YOU



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CANNOT BE ASKED OR REQUIRED TO PAY AN ADDITIONAL FEE  
IN ORDER TO FURTHER DELAY THE DEPOSIT OR PRESENTMENT  
OF YOUR CHECK FOR PAYMENT.

4. FOR DEFERRED PRESENTMENT TRANSACTIONS NOT REPAYABLE  
IN INSTALLMENTS: IF YOU INFORM THE PROVIDER IN PERSON  
THAT YOU CANNOT COVER THE CHECK OR PAY IN FULL THE  
AMOUNT OWING AT THE END OF THE TERM OF THIS AGREEMENT,  
YOU WILL RECEIVE A GRACE PERIOD EXTENDING THE TERM OF  
THE AGREEMENT FOR AN ADDITIONAL 60 DAYS AFTER THE  
ORIGINAL TERMINATION DATE, WITHOUT ANY ADDITIONAL  
CHARGE. THE DEFERRED PRESENTMENT PROVIDER MUST ~~SHALL~~  
REQUIRE THAT YOU, AS A CONDITION OF OBTAINING THE  
GRACE PERIOD, COMPLETE CONSUMER CREDIT COUNSELING  
PROVIDED BY AN AGENCY INCLUDED ON THE LIST THAT WILL  
BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY ALSO  
AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT PLAN  
APPROVED BY THAT AGENCY. IF YOU DO NOT COMPLY WITH AND  
ADHERE TO A REPAYMENT PLAN APPROVED BY THAT AGENCY, WE  
MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND  
PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE  
THE DEBT AT THE END OF THE 60-DAY GRACE PERIOD.

5. FOR DEFERRED PRESENTMENT INSTALLMENT TRANSACTIONS:  
IF YOU INFORM THE PROVIDER IN WRITING OR IN PERSON BY  
NOON [TIME ZONE] OF THE BUSINESS DAY BEFORE A  
SCHEDULED PAYMENT THAT YOU CANNOT PAY IN FULL THE  
SCHEDULED AMOUNT DUE AND OWING, YOU MAY DEFER THE  
SCHEDULED PAYMENT, WITHOUT ANY ADDITIONAL FEES OR



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156           CHARGES, AND THE PROVIDER MAY NOT DEFAULT THE ACCOUNT  
157           AND ACCELERATE THE FULL BALANCE. YOU MAY REQUEST ONLY  
158           ONE DEFERRED PAYMENT PER LOAN. THE DEFERRED PAYMENT  
159           WILL BE ADDED AFTER THE LAST SCHEDULED PAYMENT AND IS  
160           DUE AT AN INTERVAL NO SHORTER THAN THE INTERVALS  
161           BETWEEN THE ORIGINALLY SCHEDULED PAYMENTS.

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163           (21) The deferred presentment provider may not deposit or  
164 present the drawer's check if the drawer informs the provider in  
165 writing or in person that the drawer cannot redeem or pay in  
166 full in cash the amount due and owing the deferred presentment  
167 provider, unless the drawer fails to comply with subsection (22)  
168 or subsection (23), as applicable. No additional fees or  
169 penalties may be imposed on the drawer by virtue of any  
170 misrepresentation made by the drawer as to the sufficiency of  
171 funds in the drawer's account. Additional fees may not be added  
172 to the amounts due and owing to the deferred presentment  
173 provider.

174           (22) For deferred presentment transactions not repayable in  
175 installments, if, by the end of the deferment period, the drawer  
176 informs the deferred presentment provider in writing or in  
177 person that the drawer cannot redeem or pay in full in cash the  
178 amount due and owing the deferred presentment provider, the  
179 deferred presentment provider must ~~shall~~ provide a grace period  
180 extending the term of the agreement for an additional 60 days  
181 after the original termination date, without any additional  
182 charge.

183           (a) The provider must ~~shall~~ require, ~~that~~ as a condition of  
184 providing a grace period, that the drawer make an appointment



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185 with a consumer credit counseling agency within 7 days after the  
186 end of the deferment period and complete the counseling by the  
187 end of the grace period. The drawer may agree to, comply with,  
188 and adhere to a repayment plan approved by the counseling  
189 agency. If the drawer agrees to comply with and adhere to a  
190 repayment plan approved by the counseling agency, the provider  
191 must also comply with and adhere to that repayment plan. The  
192 deferred presentment provider may not deposit or present the  
193 drawer's check for payment before the end of the 60-day grace  
194 period unless the drawer fails to comply with such conditions or  
195 the drawer fails to notify the provider of such compliance.

196 Before each deferred presentment transaction, the provider may  
197 verbally advise the drawer of the availability of the grace  
198 period consistent with the written notice in subsection (20),  
199 and may not discourage the drawer from using the grace period.

200 (b) At the commencement of the grace period, the deferred  
201 presentment provider must ~~shall~~ provide the drawer:

202 1. Verbal notice of the availability of the grace period  
203 consistent with the written notice in subsection (20).

204 2. A list of approved consumer credit counseling agencies  
205 prepared by the office. The office list must ~~shall~~ include  
206 nonprofit consumer credit counseling agencies affiliated with  
207 the National Foundation for Credit Counseling which provide  
208 credit counseling services to state residents in person, by  
209 telephone, or through the Internet. The office list must include  
210 phone numbers for the agencies, the counties served by the  
211 agencies, and indicate the agencies that provide telephone  
212 counseling and those that provide Internet counseling. The  
213 office must ~~shall~~ update the list at least once each year.





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214 3. The following notice in at least 14-point type in  
215 substantially the following form:

216  
217 AS A CONDITION OF OBTAINING A GRACE PERIOD EXTENDING  
218 THE TERM OF YOUR DEFERRED PRESENTMENT AGREEMENT FOR AN  
219 ADDITIONAL 60 DAYS, UNTIL [DATE], WITHOUT ANY  
220 ADDITIONAL FEES, YOU MUST COMPLETE CONSUMER CREDIT  
221 COUNSELING PROVIDED BY AN AGENCY INCLUDED ON THE LIST  
222 THAT WILL BE PROVIDED TO YOU BY THIS PROVIDER. YOU MAY  
223 ALSO AGREE TO COMPLY WITH AND ADHERE TO A REPAYMENT  
224 PLAN APPROVED BY THE AGENCY. THE COUNSELING MAY BE IN  
225 PERSON, BY TELEPHONE, OR THROUGH THE INTERNET. YOU  
226 MUST NOTIFY US WITHIN 7 DAYS, BY [DATE], THAT YOU HAVE  
227 MADE AN APPOINTMENT WITH A CONSUMER CREDIT COUNSELING  
228 AGENCY. YOU MUST ALSO NOTIFY US WITHIN 60 DAYS, BY  
229 [DATE], THAT YOU HAVE COMPLETED THE CONSUMER CREDIT  
230 COUNSELING. WE MAY VERIFY THIS INFORMATION WITH THE  
231 AGENCY. IF YOU FAIL TO PROVIDE THE 7-DAY OR 60-DAY  
232 NOTICE, OR IF YOU HAVE NOT MADE THE APPOINTMENT OR  
233 COMPLETED THE COUNSELING WITHIN THE TIME REQUIRED, WE  
234 MAY DEPOSIT OR PRESENT YOUR CHECK FOR PAYMENT AND  
235 PURSUE ALL LEGALLY AVAILABLE CIVIL MEANS TO ENFORCE  
236 THE DEBT.

237  
238 (c) If a drawer completes an approved payment plan, the  
239 deferred presentment provider must ~~shall~~ pay one-half of the  
240 drawer's fee for the deferred presentment agreement to the  
241 consumer credit counseling agency.

242 (23) For deferred presentment installment transactions, if



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243 a drawer informs the deferred presentment provider in writing or  
244 in person by noon of the business day before a scheduled payment  
245 that the drawer cannot pay in full the scheduled payment amount  
246 due and owing the provider, the deferred presentment provider  
247 must provide the drawer the opportunity to defer the scheduled  
248 payment, at no additional fee or charge, until after the last  
249 scheduled payment. The phrase "by noon" means 12:00 p.m. of the  
250 same time zone in which the deferred presentment agreement was  
251 entered into. Only one deferred payment is permitted for each  
252 deferred presentment installment transaction. The deferred  
253 payment must be due at an interval after the last scheduled  
254 payment which is no shorter than the intervals between the  
255 originally scheduled payments.

256 (24) (a) ~~(23)~~ The office must ~~shall~~ implement a common  
257 database with real-time access through an Internet connection  
258 for deferred presentment providers, as provided in this  
259 subsection. The database must be accessible to the office and  
260 the deferred presentment providers in order to verify whether  
261 any deferred presentment transactions are outstanding for any  
262 drawer in a particular household ~~person~~. Deferred presentment  
263 providers must ~~shall~~

264  
265 ===== T I T L E A M E N D M E N T =====

266 And the title is amended as follows:

267 Delete lines 380 - 414

268 and insert:

269 exclusive of fees; revising and specifying the maximum  
270 interest, fees, and charges that deferred presentment  
271 providers or their affiliates may charge, collect, or



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272 receive in deferred presentment transactions and  
273 deferred presentment installment transactions,  
274 respectively; specifying the calculation of fees  
275 earned for deferred presentment installment  
276 transactions; prohibiting prepayment penalties;  
277 specifying the minimum and maximum terms of a deferred  
278 presentment installment transaction; specifying dates  
279 that checks must bear; authorizing providers of  
280 deferred presentment installment transactions to  
281 accept additional checks subject to certain  
282 limitations; requiring the deferred presentment  
283 agreement to include the deferment period applicable  
284 to each check; correcting a reference to federal law;  
285 providing an exception to a prohibition against the  
286 acceptance or holding of undated checks or checks with  
287 certain dates by a deferred presentment provider or  
288 its affiliate; prohibiting deferred presentment  
289 providers from entering into deferred presentment  
290 transactions or deferred presentment installment  
291 transactions with a drawer, if the drawer or any other  
292 person in the drawer's household has an outstanding  
293 deferred presentment transaction or deferred  
294 presentment installment transaction, or within a  
295 specified timeframe after the termination of the  
296 previous deferred presentment transaction or deferred  
297 presentment installment transaction of the drawer or  
298 any other person in the drawer's household; defining  
299 the term "household"; conforming a cross-reference;  
300 providing a verification process that may be relied



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301 upon under certain conditions; revising a notice in  
302 deferred presentment agreements; authorizing a drawer  
303 to inform a provider in writing that the drawer cannot  
304 redeem or pay in full the amount due and owing to the  
305 provider; providing an exception to a prohibition,  
306 under certain circumstances, against a deferred  
307 presentment provider's deposit or presentment of a  
308 drawer's check; requiring a provider of a deferred  
309 presentment installment transaction to allow a drawer  
310 to defer one scheduled payment under certain  
311 circumstances; providing requirements for the deferred  
312 payment; revising a requirement for the common  
313 database for deferred presentment providers;  
314 specifying the frequency a certain fee may be imposed  
315 by Financial Services Commission rule for data on  
316 certain transactions submitted by deferred presentment  
317 providers to the database; providing