

1 HB258
2 197231-1
3 By Representatives Garrett, Coleman, Faulkner, Rafferty,
4 Isbell, Dismukes, Reynolds, Daniels, Scott, Ball, Rogers,
5 Shaver, Wood (D), Brown (K), Boyd, Stringer, Drummond, Hall,
6 Nordgren, Sells, Mooney, Drake, Treadaway, Lee, Wadsworth,
7 Whorton, Baker, Jackson, Warren, Fincher and Wingo
8 RFD: Financial Services
9 First Read: 21-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.

14
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.