STATE OF ALABAMA
STATE BANKING DEPARTMENT
BUREAU OF LOANS
(NOT SUBJECT TO APA)
ADMINISTRATIVE CODE

CHAPTER 155-2-4
DEFERRED PRESENTMENT SERVICES ACT REGULATIONS

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155-2-4-.01 Licensure.

(1) The provisions of the Deferred Presentment Services Act are to be liberally construed to effectuate its purposes as a consumer protection statute and require a license to be obtained by any person engaged in deferred presentment services. A license for each location from which such business is conducted must be obtained from the Supervisor of the Bureau of Loans prior to engaging in the deferred presentment services business.

(2) The deferred presentment license application shall be completed and shall include all fees, forms, and exhibits as requested. The Supervisor may require any applicant to provide additional information. An application is not considered final until all requested information has been submitted.

(3) The Supervisor shall grant or deny a license application within ninety (90) days from the day of completion unless the period is extended by written agreement between the applicant and the Supervisor.

(4) An application that is not reviewed for any failure of the applicant shall be deemed to be a withdrawal of the application and not deemed a denial of the application.

(5) A license, executed by the Supervisor, is evidence of a deferred presentment lender's authority to engage in deferred presentment loans within Alabama. No other license issued by the Supervisor authorizes a person to engage in deferred presentment loans within Alabama.

(6) A licensee shall maintain unencumbered cash assets or its equivalent of at least twenty thousand dollars ($20,000) at all times for each location. The Supervisor may require evidence of such assets at any time.

(7) Once a license is issued, each licensee shall keep current information required for licensing by reporting any changes or additions to the Department within thirty (30) days of such change or addition.

(8) Applications for renewal of license shall be submitted in the form prescribed by the Supervisor of the Bureau of Loans and shall include such information, statements and representations as may be required by the Supervisor.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10, §5-18A-3, §5-18A-4, §5-18A-5, and §5-18A-6, and §5-18A-7
History: Effective October 1, 2013

155-2-4-.02 Amendment of License.

(1) Any amendment of the license shall require the prior approval of the Supervisor. Authorized amendments, including but not limited to changes in location or trade name, shall be made only upon written request of the licensee and submission of the current license.

(2) Failure to obtain the prior approval of the Supervisor may result in a fine not to exceed $500.00.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10 and §5-18A-7
History: Effective October 1, 2013

155-2-4-.03 Changes in Ownership.

(1) A licensee, other than a licensee whose shares are publicly traded, shall notify the Supervisor, in writing, of any changes affecting ownership and submit such information as the Supervisor may require consistent with the provisions of the Deferred Presentment Services Act. The Supervisor may request such information at any time should he or she have reasonable cause to believe a change in licensee's ownership has occurred.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10 and §5-18A-8
History: Effective October 1, 2013

155-2-4-.04 Additional Reports and Records.

(1) In addition to the reports and records required elsewhere in the Act and regulations, each licensee shall maintain and/or submit to the Bureau of Loans such other reports and records at such time and in such form as the Supervisor may require.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10 and §5-18A-11
History: Effective October 1, 2013

155-2-4-.05 Moving or Closing a Licensed Location.

(1) At least thirty (30) days before the address of a licensed location is changed, the licensee shall notify the Supervisor in writing. The licensee shall post an announcement on the front door listing the address for the new location. The announcement shall remain on the front door until the location changes. The licensee shall certify to the Supervisor the date the announcement was posted and shall attach a copy of the announcement and the original license for amendment.

(2) At least thirty (30) days before a licensed location is to be closed, the licensee shall notify the Supervisor in writing. The licensee shall post an announcement on the front door listing the business telephone number and mailing address of another location, if any. The announcement shall remain posted until the existing location closes. The licensee shall certify to the Supervisor the date the announcement was posted and shall attach a copy of the announcement along with the original license for the closing location.
Author: Scott Corscadden, Supervisor, Bureau of Loans

Statutory Authority: Code of Alabama 1975, §5-18A-10 and §5-18A-7
History: Effective October 1, 2013

155-2-4-.06 Locations.

(1) Each location where deferred presentment loans are made shall be licensed. A "location" shall include any location at which: (i) a deferred presentment loan application is provided, taken, or completed in person, or (ii) where a potential customer obtains information about the terms and conditions of deferred presentment loans and includes the use of the internet, facsimile, telephone, kiosk, or other means. Transactions entered without benefit of a license under the Deferred Presentment Services Act shall be uncollectable and unenforceable.

(2) Location shall not include administrative offices at which only bookkeeping, billing, or accounting duties are performed for separate deferred presentment loan locations.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10, §5-18A-3 and §5-18A-3
History: Effective October 1, 2013

155-2-4-.07 Records.

(1) Each licensee shall maintain adequate files at each licensed location containing all information necessary to verify compliance with the Deferred Presentment Services Act and regulations, including, but not limited to, the following:

(a) Customer Account File: Each customer's file must contain all information kept by the deferred presentment licensee, including each original Customer Agreement with a copy of the check or debit authorization, "APPROVED" message from the third-party database provider, copy of any returned check and records of any collection activity or extended repayment plans, and copies of any other documents kept regarding the customer. Documents and payment histories must accurately reflect the amount of payments made to and by the borrower.

(b) Loan Register Agreement Executed: Customer Agreements must be consecutively numbered and a loan register must be maintained. The register must contain at a minimum the customer's name, transaction date and Agreement number. In lieu of a loan register, providers may keep a notebook with a copy of each deferred presentment agreement executed in

consecutive order. Licensee must also keep any "voided" loans and be able to account for any missing numbers.

(c) Litigation Log: An up-to-date list of suits filed against customers providing at a minimum the customer's full name and address, transaction date, Agreement number, amount of check, maturity date, amount of claim, name of court and judge, date filed, date of judgment and amount awarded, date(s) and amount(s) paid; notation when paid-in-full. Copies of the returned check or ACH item, customer agreement, filed copy of the Statement of Claim, and receipts of all court costs must be attached to the log.

(2) "Records" shall mean any item in hard copy or otherwise produced in a format of storage commonly described as electronic, imaged, magnetic, or otherwise.

(3) Each licensee shall preserve and make available such books and records related to each of its loans for two (2) years from the date of the final entry into such records are made thereon. The records shall be maintained for such time period whether the deferred deposit lender is currently licensed or previously licensed. Licensee shall maintain all records at its licensed location unless the Supervisor has given written approval for another location.

(4) Each licensee's records shall be maintained in compliance with the Act and regulations.

(5) Each licensee shall maintain separate records relating to transactions under the Act from its other business.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10 and §5-18A-11
History: Effective October 1, 2013

155-2-4-.08 Examination.

(1) The Supervisor, or duly appointed representatives, shall conduct an examination of each licensee.

(2) Each licensee shall ensure that all records are promptly and reasonably available to be examined and, if necessary, copied.

(3) In case of failure to comply with the Supervisor's examination process, the Supervisor may initiate any authorized action, including the assessment of civil penalties and/or license revocation.

(4) If the examination finds any violations of the Act or these regulations, the Supervisor may initiate any authorized action, including the assessment of civil penalties and/or license revocation.

(5) In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Supervisor to afford parties who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, or consent orders when it appears to the Supervisor that such procedure fully safeguards the public interest. The Supervisor reserves the right in all matters to withhold the privilege of an informal disposition.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10, §5-18A-11, §5-18A-15, §5-18A-16, and §5-18A-17
History: Effective October 1, 2013; Amended January 1, 2020

155-2-4-.09 Database Service Provider.

(1) In order to comply with the intent of the Act regarding the maximum loan amount for a single customer, the State Banking Department shall implement a common approved database with real-time access through an internet connection. Each licensee shall use the same approved third-party database service provider as determined by the State Banking Department.

(2) The database service provider shall afford the State Banking Department access to the database information without charge in order to conduct continuous and random inquiries to measure compliance with the applicable provisions of the Act and regulations.

(3) The database service-provider shall establish and maintain minimum standards as to the database required by the State Banking Department. The database service-provider must have "real time" capability to communicate with all licensees to determine compliance with the maximum loan amount for a single customer.

(4) Licensees must submit accurate and timely information to the

database service provider. Failure to do so may result in the assessment of civil money penalties and/or license revocation.

(5) Licensees must cooperate with the approved database service provider to resolve customer disputes.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10, §5-18A-1 and §5-18A-13
History: Effective January 1, 2014

155-2-4-.10 Investigative Proceedings.

(1) Investigations and inquiries are originated upon request or complaint by a member of the public or by the Supervisor.

(2) The Supervisor encourages voluntary cooperation in investigations. The Supervisor may invoke any or all of the compulsory process authorized by law, including subpoenas, depositions, and production of records.

(3) In case of failure to comply with the Supervisor's investigative processes, the Supervisor may initiate any authorized action, including license suspension, and petitioning any court of competent jurisdiction for enforcement.

(4) If the investigation finds any violations of the Act or these regulations, the Supervisor may initiate any authorized action, including the assessment of civil penalties, and the issuance of Cease and Desist Orders.

(5) In order to avoid the expense and time involved in formal legal proceedings, it is the policy of the Supervisor to afford parties who have engaged in unlawful acts and practices an opportunity to enter into stipulations, agreed settlements, consent orders, or defaults when it appears to the Supervisor that such procedure fully safeguards the public interest. The Supervisor reserves the right in all matters to withhold the privilege of an informal disposition.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10, §5-18A-11, §5-18A-16, §5-18A-17 and §5-18A-18
History: Effective October 1, 2013

155-2-4-.11 Joint Bank Accounts.

(1) Each party on a joint bank account may write checks in an amount not to exceed an aggregate of five hundred dollars ($500) per party. However, a separate deferred deposit agreement must accompany each check.

(2) A licensee may not require joint account holders to take either joint or separate loans and a joint account holder's decision to obtain a separate loan must be voluntary.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10 and §5-18A-13
History: Effective October 1, 2013

155-2-4-.12 Prohibited Acts.

(1) No licensee may threaten criminal prosecution for bad checks written in connection with a deferred presentment loan unless the check is returned due to an account closed prior to the day of the transaction. The licensee may charge only one (1) NSF fee on a returned check and the check must be presented to the depository institution before the imposition of the single NSF fee. Licensees may not split a DP transaction into two agreements on the same day in order to collect two NSF fees.

(2) Licensees may not file legal claims to collect delinquent deferred presentment transactions, without first offering the customer in writing an extended repayment plan of four equal monthly payments at no additional cost.

(3) No licensee shall charge any fee authorized under Section 8-8-15 unless the check has actually been presented for payment to the financial institution.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10, §5-18A-12, and §5-18A-13
History: Effective October 1, 2013

155-2-4-.13 Public Notice of Provisions.

(1) All licensees must conspicuously and continuously display a schedule of all fees and pertinent provisions of the Act in its

lobby. This sign must be at least 20 X 20 in size and must contain the wording in Appendix A, as modified for the licensee's name and fees charged, and the corresponding APR for a typical 14-day term.

Appendix A

NOTICE: FEES FOR DEFERRED PRESENTMENT TRANSACTIONS MAY BE SIGNIFICANTLY HIGHER THAN FOR OTHER TYPES OF LOANS.

Maximum Fee: The most that any Deferred Presentment provider may charge for Deferred Presentment transactions is 17.5% of the cash advanced. [LICENSEE'S NAME] charges [FEE RATE] for these transactions. The following table illustrates [LICENSEE'S NAME] fee structure:

Loan Amount	Fee Rate	Fee Amount	APR for 14-Day Term	Total of Payments
$100	[ ]%	$[ ]	[ ]%	$[ ]
$150	[ ]%	$[ ]	[ ]%	$[ ]
$200	[ ]%	$[ ]	[ ]%	$[ ]
$250	[ ]%	$[ ]	[ ]%	$[ ]
$300	[ ]%	$[ ]	[ ]%	$[ ]
$350	[ ]%	$[ ]	[ ]%	$[ ]
$400	[ ]%	$[ ]	[ ]%	$[ ]
$450	[ ]%	$[ ]	[ ]%	$[ ]
$500	[ ]%	$[ ]	[ ]%	$[ ]

No other fees may be charged for these transactions, except if a check "bounces" once it is deposited at a bank, then the provider may charge a one-time NSF fee of up to $30.00. And if the provider must go to court to enforce payment of this loan, then you may be assessed court costs and up to 15% of the face amount of the check as attorney's fees. *You cannot be arrested or sent to jail for passing a "worthless" deferred presentment check unless the check was returned due to an account closed prior to the day of the loan.*

Maximum Loan Amount: The law limits the maximum loan amount that any one borrower may have with all Deferred Presentment providers to $500. The provider will be verifying your other outstanding deferred presentment loans with a database to determine compliance with the law.

Term: Deferred Presentment transactions cannot be made for a term of less than 10 days or more than 31 days.

Renewal: Your transaction is due on the maturity date. You may obtain another transaction once this one is paid-in-full. However, if you cannot repay the total amount due, then, if offered by the

provider, you may renew this transaction one more time upon payment of an additional fee. If you cannot pay the total amount due at that time, then, at the provider's option, you may extend your repayment into four equal monthly installments at no additional cost.

Customer Agreement: You must be given a copy of the provider's Deferred Presentment Services Agreement. You have the right to read the Agreement before you sign it. You have the right to ask questions of the provider's staff until you thoroughly understand everything in the Agreement. You also have the right to walk away from the Agreement before you sign it.

Complaints: [LICENSEE'S NAME] is a licensed Deferred Presentment provider in Alabama. To report any unresolved problems with [LICENSEE'S NAME], contact the STATE BANKING DEPARTMENT, Bureau of Loans, P.O. Box 4600, Montgomery, Alabama 36103-4600. Telephone: 334/242-3452. Website: www.banking.alabama.gov.
Author: Scott Corscadden, Supervisor, Bureau of Loans
Statutory Authority: Code of Alabama 1975, §5-18A-10 and §5-18A-13
History: Effective October 1, 2013