

HB 1177

2016

1 A bill to be entitled

2 An act relating to deferred presentment transactions;
3 amending s. 560.404, F.S.; providing a maximum amount
4 that may be charged per annum for interest, fees, or
5 other charges in a deferred presentment transaction;
6 prohibiting engaging in a device or subterfuge in
7 order to evade specified requirements; declaring that
8 a deferred presentment transaction that does not
9 comply with specified requirements is void; amending
10 s. 687.02, F.S.; declaring that a deferred presentment
11 transaction in which the interest, fees, or other
12 charges charged are in excess of the amount allowed by
13 s. 560.404, F.S., is usurious; providing an effective
14 date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (6) of section 560.404, Florida
19 Statutes, is amended, and subsections (25) and (26) are added to
20 that section, to read:

21 560.404 Requirements for deferred presentment
22 transactions.—

23 (6) A deferred presentment provider or its affiliate may
24 not, directly or indirectly, charge, collect, or receive
25 interest, fees, or other charges exceeding 30 percent per annum,
26 inclusive of ancillary products or services incident to or

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27 included in the deferred presentment transaction ~~that exceed 10~~
28 ~~percent of the currency or payment instrument provided. However,~~
29 ~~a verification fee may be charged as provided in s. 560.309(8).~~
30 ~~The 10-percent fee may not be applied to the verification fee. A~~
31 ~~deferred presentment provider may charge, collect, or receive~~
32 ~~only the interest, those fees, and other charges~~ specifically
33 authorized in this section.

34 (25) A person may not engage in any device or subterfuge
35 to evade the requirements of this part, including offering or
36 arranging a loan or assisting a borrower in obtaining a loan on
37 terms that would be prohibited by this part, making loans
38 disguised as personal property sales and leaseback transactions,
39 making long term loans, or disguising loan proceeds as cash
40 rebates for the pretextual installment sale of goods or
41 services.

42 (26) A deferred presentment transaction that does not
43 comply with the requirements of this part is void. It is a
44 violation of this part to charge, collect, or receive any
45 interest, fees, or other charges relating to such a transaction.

46 Section 2. Subsection (3) is added to section 687.02,
47 Florida Statutes, to read:

48 687.02 "Usurious contracts" defined.—

49 (3) A deferred presentment transaction in which the
50 interest, fees, or other charges charged, collected, or
51 received, directly or indirectly, as part of the transaction are
52 in excess of the amount allowed by s. 560.404 is declared

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53 | usurious.

54 | Section 3. This act shall take effect July 1, 2016.