

## DEFERRED PRESENTMENT SERVICE TRANSACTIONS

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4515 as introduced**  
**Sponsor: Rep. William J. Sowerby**  
**Committee: Financial Services**  
**Complete to 5-12-21**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4515 would amend the Deferred Presentment Service Transactions Act, which regulates what are commonly known as payday loans, to prohibit a lender from entering into a loan with a customer who has another such loan open or who has closed a previous loan within the last 30 days, regardless of whether the earlier loan was with that lender or another lender. The bill also would prohibit a lender from entering into a payday loan without first determining that the customer has a reasonable ability to repay the amount owed.

Under a deferred presentment service transaction, a customer borrows money for a fee; no interest is charged on the transaction. The size of the fee is based on the amount borrowed. Under Michigan law, the maximum amount that may be borrowed is \$600 and the maximum term of a transaction is 31 days.<sup>1</sup>

#### **Multiple loans**

Currently a lender licensed under the act is prohibited from entering into a loan with a customer who has another such loan still open with that lender or who has more than one loan open with other lenders. (That is, a customer can have up to two loans open at the same time but only if those loans are with different lenders.) Lenders are required to enter their transactions into a database and, before entering into a transaction with a customer, check that database to be sure that the customer is eligible.

Under the bill, a licensee could not enter into a transaction with a customer who has any other such loan still open, with that lender or another lender, or who has closed a previous such loan with any lender within the last 30 days. (That is, a customer could not have more than one loan open at the same time and would have to wait 30 days between closing one loan and entering into another.) The bill would make corresponding changes to provisions of the act concerning the tracking and verification of transactions in the database, notice that must be provided to customers, and certain loan history information provided by customers.

A deferred presentment service transaction that violated the above provision, or any other provision in section 33 of the act, would be void and uncollectible as to any principal, fee, or charge. (Among other things, section 33 prescribes the maximum amount and term of a transaction, the fees that can be charged, and the notice that must be provided to a customer.)<sup>2</sup>

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<sup>1</sup> For more information: [https://www.michigan.gov/difs/0,5269,7-303-13648\\_60667\\_76246\\_76247---,00.html](https://www.michigan.gov/difs/0,5269,7-303-13648_60667_76246_76247---,00.html)

<sup>2</sup> See <http://legislature.mi.gov/doc.aspx?mcl-487-2153>

**Reasonable ability to repay**

Finally, the bill also would prohibit a licensee from doing any of the following:

- Entering into a deferred presentment service transaction without first determining and documenting that the customer has a *reasonable ability to repay* the amount owed.
- Making, offering, assisting, arranging, guaranteeing, or collecting a transaction with fees or charges that are greater than those allowed under the act.
- Engaging in any device or subterfuge to evade the requirements of the act.

In determining whether the customer has a *reasonable ability to repay* the loan, the licensee would at least have to verify the customer’s credit history and his or her current and anticipated income and expenses. A customer would not have the reasonable ability to repay if payments for the proposed transaction caused him or her to have a *debt-to-income ratio* higher than 41%.

*Debt-to-income ratio* would mean the ratio of a customer’s *total monthly debt obligations* to the customer’s gross monthly income.

*Total monthly debt obligations* would consist of the sum of a customer’s rent or mortgage-related obligations, any other secured or unsecured debt obligations, and payments for child support and alimony.

The bill would take effect 90 days after its enactment.

MCL 487.251 et seq.

**FISCAL IMPACT:**

House Bill 4515 would not have a significant fiscal impact on the Department of Insurance and Financial Services or any other unit of state or local government

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.