

HOUSE BILL 694

By Jernigan

AN ACT to amend Tennessee Code Annotated, Title 45, Chapter 1; Title 45, Chapter 12 and Title 45, Chapter 17, relative to financial transactions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 45, Chapter 1, Part 1, is amended by adding the following language as a new section:

45-1-128.

(a) As used in this section, "licensee" means:

(1) A person who is licensed to offer flex loan plans pursuant to the Flexible Credit Act, compiled in title 45, chapter 12; or

(2) A person who is licensed to provide deferred presentment services pursuant to the Deferred Presentment Services Act, compiled in title 45, chapter 17.

(b) In order to prevent persons from seeking deferred presentment services in amounts exceeding the aggregate limits and amounts permitted in § 45-17-112(o) and (p), and from seeking more than one (1) flex loan plan at a time in violation of § 45-12-113(c), the department shall implement a common database with real-time access through an internet connection for licensees. The department may enter into a contract with a single-source private vendor to develop and operate the database.

(c) On or after January 1, 2020, a licensee shall submit certain data to the department or the database vendor about a person seeking deferred presentment services or a flex loan plan, as applicable, in a form prescribed by the department both before entering into a transaction and when a transaction has been paid in full in

accordance with § 45-12-113(c) or § 45-17-112(p), as applicable. The licensee shall submit the required data within twenty-four (24) hours following its receipt.

(d) On or after July 1, 2019:

(1) The department shall impose a fee on a licensee not to exceed fifty-six cents (56¢) per transaction for data required to be submitted by the licensee. The department shall use the funds received from the fee to develop, implement, and maintain the database described in subsection (b). The department shall use any funds in excess of the amount needed to develop, implement, and maintain the database for the sole purpose of promoting financial literacy in this state; and

(2) A licensee who is assessed a fee, as described in subdivision (d)(1), for a transaction may charge the customer seeking the transaction an amount equal to the fee, which is in addition to any other interest, fee, or charge authorized for the transaction by the Flexible Credit Act, compiled in title 45, chapter 12, or the Deferred Presentment Services Act, compiled in title 45, chapter 17, as applicable.

(e) A licensee shall rely on the information contained in the database as accurate and is not subject to any administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

(f) Except as otherwise provided in this section and in §§ 45-12-113(c) and 45-17-112(p), the information in the database is confidential and not subject to the open records law, compiled in title 10, chapter 7.

SECTION 2. Tennessee Code Annotated, Section 45-12-113(c), is amended by deleting the subsection and substituting instead the following:

(1) No customer shall have outstanding more than one (1) flex loan plan under this chapter at any one (1) time. Each licensee shall inquire of any customer seeking a flex loan plan under this chapter regarding the customer's outstanding flex loan plans.

(2)

(A) Prior to reviewing the database pursuant to this subdivision (c)(2), a licensee shall disclose to the customer that in order to obtain a flex loan plan, the licensee is required by law to check the database as described in § 45-1-128 to determine whether there are any outstanding flex loan plans held by other licensees for the customer. The licensee shall also disclose that a customer making any false or misleading statement to a licensee commits a Class C misdemeanor.

(B) Prior to entering into a flex loan plan under this chapter, a licensee shall review the database to determine whether there are any outstanding flex loan plans held by other licensees for the customer seeking the flex loan plan.

(C) The licensee shall submit certain data to the department or the database vendor about a customer seeking a flex loan plan, in a form prescribed by the department both before entering into a transaction and when a transaction has been paid in full. A licensee shall submit, at a minimum:

(i) The customer's name, social security number or employment authorization alien number, address, and driver license number;

(ii) The amount of the transaction, date of transaction, and date that the transaction is closed; and

(iii) Any additional information required by the department.

(D)

(i) A licensee who, with intent to deceive, makes any false or misleading entry in the database is subject to the administrative penalties provided in this chapter.

(ii) A customer seeking a flex loan plan who, with intent to deceive, makes any false or misleading statement regarding the information provided to a licensee commits a Class C misdemeanor.

(E) If the database shows that the customer has no other flex loan plan, then the licensee may enter into a flex loan plan with the customer. If the database shows that the customer has a flex loan plan with another licensee, the licensee shall not enter into a flex loan plan with the customer.

(F) The licensee shall only use the information provided in the database to determine if a customer is eligible or ineligible to enter into a flex loan plan, and to describe the reason for the determination of eligibility or ineligibility.

(3) In addition to the database check required by subdivision (c)(2), a licensee may also require a customer to represent in writing that the customer has no outstanding flex loan plans.

SECTION 3. Tennessee Code Annotated, Section 45-17-112(p), is amended by deleting the subsection and substituting instead the following:

(1) Prior to reviewing the database pursuant to this subsection (p), a licensee shall disclose to the person that in order to obtain a deferred presentment transaction, the licensee is required by law to check the database as described in § 45-1-128 to determine whether there are any outstanding deferred presentment transactions held by other licensees for the person. The licensee shall also disclose that a person making any false or misleading statement to a licensee commits a Class C misdemeanor.

(2) Prior to engaging in a deferred presentment transaction, a licensee shall review the database to determine whether there are any outstanding checks held by other licensees for the person seeking deferred presentment services.

(3) The licensee shall submit certain data to the department or the database vendor about a person seeking a deferred presentment transaction, in a form prescribed by the department, both before entering into a transaction and when a transaction has been paid in full. A licensee shall submit, at a minimum:

(A) The person's name, social security number or employment authorization alien number, address, and driver license number;

(B) The amount of the transaction, date of transaction, and date that the transaction is closed; and

(C) Any additional information required by the department.

(4)

(A) A licensee who, with intent to deceive, makes any false or misleading entry in the database is subject to the administrative penalties provided in this chapter.

(B) A person seeking a deferred presentment transaction who, with intent to deceive, makes any false or misleading statement regarding the information provided to a licensee commits a Class C misdemeanor.

(5)

(A) If the database shows that the person seeking deferred presentment services has no more than two (2) checks outstanding and that the aggregate face value of all outstanding checks issued by the customer for deferred presentment does not equal or exceed five hundred dollars (\$500), then the licensee may accept for deferred presentment a check in an amount that, when combined with the customer's other outstanding checks held for deferred presentment, does not exceed five hundred dollars (\$500), so long as the check for deferred presentment complies with subsection (o).

(B) If the database shows that the customer has three (3) or more checks outstanding, or if the aggregate face value of all outstanding checks issued by the customer for deferred presentment equals or exceeds five hundred dollars (\$500), a licensee shall not accept another check for deferred presentment.

(6) The licensee shall only use the information provided in the database to determine if a person is eligible or ineligible to enter into a deferred presentment transaction, and to describe the reason for the determination of eligibility or ineligibility.

SECTION 4. No later than January 1, 2021, the database required by Section 1 of this act must be accessible to the department of financial institutions and licensees to meet the requirements of this act.

SECTION 5. The department of financial institutions is authorized to promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 6. For purposes of Sections 2 and 3, this act shall take effect January 1, 2021, the public welfare requiring it. For all other purposes, this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to transactions entered into on or after that date.