

SENATE BILL 601

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II
HB 1078/00 - CGM

2001 Regular Session
11r2189
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By: **Senators Blount, Astle, and Currie**
Introduced and read first time: February 2, 2001
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Deferred Presentment Services - Licensing - Fees**

3 FOR the purpose of requiring persons who provide deferred presentment services in
4 the State to be licensed by the Commissioner of Financial Regulation; specifying
5 certain requirements an applicant must satisfy to qualify for a license;
6 specifying the form and content of an application for a license; requiring each
7 application for a license to be accompanied by certain fees and documents;
8 establishing procedures for granting or denying a license; providing that a
9 license issued under this Act is not transferable or assignable; providing for the
10 renewal of a license; requiring a licensee to notify the Commissioner of the
11 occurrence of certain events; requiring a licensee to maintain certain books,
12 accounts, and records and to permit the examination of the books, accounts, and
13 records under certain circumstances; requiring and authorizing the
14 Commissioner to conduct certain examinations and investigations; specifying
15 certain limitations on the fees that may be charged for deferred presentment
16 services; requiring a licensee to provide a drawer of a check a certain notice at a
17 certain time; requiring a licensee to document a deferred presentment service
18 with a certain written agreement; imposing certain limits on the manner in
19 which deferred presentment services may be provided; authorizing the drawer of
20 a check to rescind a deferred presentment service, to redeem a check from a
21 licensee, and to make a partial payment under certain circumstances; limiting
22 the penalties to which a drawer of a check may be subject under certain
23 circumstances; exempting deferred presentment services from certain consumer
24 loan laws; authorizing the Commissioner to impose certain remedies under
25 certain circumstances; authorizing the Commissioner to suspend or revoke a
26 licensee's license under certain circumstances; authorizing the Commissioner to
27 adopt certain regulations; requiring the Commissioner to report annually to the
28 General Assembly on or before a certain date; establishing a certain fund to
29 cover certain costs related to implementing this Act; establishing certain
30 criminal penalties for a violation of this Act; making a criminal violation of this
31 Act subject to the concurrent jurisdiction of the District Court and the circuit
32 courts; requiring the Commissioner to report an alleged criminal violation of
33 this Act to certain individuals; defining certain terms; providing for the
34 application of certain provisions of this Act; and generally relating to deferred
35 presentment services.

1 BY repealing and reenacting, without amendments,
2 Article - Commercial Law
3 Section 12-101(a) and 12-301(a)
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2000 Supplement)

6 BY adding to
7 Article - Commercial Law
8 Section 12-101(f-1)
9 Annotated Code of Maryland
10 (2000 Replacement Volume and 2000 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Commercial Law
13 Section 12-301(e)
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2000 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Courts and Judicial Proceedings
18 Section 4-301(b) and 4-302(a) and (d)
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 2000 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Financial Institutions
23 Section 1-101(a)
24 Annotated Code of Maryland
25 (1998 Replacement Volume and 2000 Supplement)

26 BY adding to
27 Article - Financial Institutions
28 Section 1-101(t); and 11-601 through 11-627, inclusive, to be under the new
29 subtitle "Subtitle 6. Deferred Presentment Services"
30 Annotated Code of Maryland
31 (1998 Replacement Volume and 2000 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
33 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Commercial Law

2 12-101.

3 (a) In this subtitle the following words have the meanings indicated.

4 (F-1) (1) "LOAN" MEANS A LOAN OR ADVANCE OF MONEY OR CREDIT MADE
5 UNDER THIS SUBTITLE.6 (2) "LOAN" DOES NOT INCLUDE A DEFERRED PRESENTMENT SERVICE
7 PROVIDED UNDER TITLE 11, SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE.
8 12-301.

9 (a) In this subtitle the following words have the meanings indicated.

10 (e) (1) "Loan" means any loan or advance of money or credit made under
11 this subtitle.12 (2) "LOAN" DOES NOT INCLUDE A DEFERRED PRESENTMENT SERVICE
13 PROVIDED UNDER TITLE 11, SUBTITLE 6 OF THE FINANCIAL INSTITUTIONS ARTICLE.

14

Article - Courts and Judicial Proceedings

15 4-301.

16 (b) Except as provided in § 4-302 of this subtitle, the District Court also has
17 exclusive original jurisdiction in a criminal case in which a person at least 18 years
18 old or a corporation is charged with:19 (1) Commission of a common-law or statutory misdemeanor regardless
20 of the amount of money or value of the property involved;21 (2) Violation of §§ 342 through 344 of Article 27 of the Code, whether a
22 felony or a misdemeanor;23 (3) Violation of a county, municipal, or other ordinance, if the violation is
24 not a felony;25 (4) Criminal violation of a State, county, or municipal rule or regulation,
26 if the violation is not a felony;27 (5) Doing or omitting to do any act made punishable by a fine,
28 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or
29 regulation defining the violation if the violation is not a felony;30 (6) Violation of Article 27, § 141 of this Code, whether a felony or a
31 misdemeanor;32 (7) Violation of Article 27, § 145 of this Code, whether a felony or
33 misdemeanor;

- 1 (8) Violation of Article 27, § 44 of the Code;
- 2 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a
3 felony or a misdemeanor;
- 4 (10) Violation of § 9-1106 of the Labor and Employment Article;
- 5 (11) Violation of § 14-1403 of the Commercial Law Article;
- 6 (12) Violation of Article 27, § 388 of the Code;
- 7 (13) Violation of Article 27, § 388A of the Code; [or]
- 8 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;
9 OR

10 (15) VIOLATION OF TITLE 11, SUBTITLE 6 OF THE FINANCIAL
11 INSTITUTIONS ARTICLE.

12 4-302.

13 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
14 [and] (14), AND (15) of this subtitle, the District Court does not have jurisdiction to
15 try a criminal case charging the commission of a felony.

16 (d) (1) Except as provided in paragraph (2) of this subsection, the
17 jurisdiction of the District Court is concurrent with that of the circuit court in a
18 criminal case:

19 (i) In which the penalty may be confinement for three years or
20 more or a fine of \$2,500 or more; or

21 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
22 (10), (11), (12), (13), [and] (14), AND (15) of this subtitle.

23 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
24 circuit court does not have jurisdiction to try a case charging a violation of Article 27,
25 § 287 of the Code.

26 (ii) A circuit court does have jurisdiction to try a case charging a
27 violation of Article 27, § 287 of the Code if the defendant:

- 28 1. Properly demands a jury trial;
- 29 2. Appeals as provided by law from a final judgment entered
30 in the District Court; or
- 31 3. Is charged with another offense arising out of the same
32 circumstances that is within a circuit court's jurisdiction.

Article - Financial Institutions

1-101.

(a) In this article, unless the context clearly requires otherwise, the following words have the meanings indicated.

(T) "SECRETARY" MEANS THE SECRETARY OF LABOR, LICENSING, AND REGULATION.

SUBTITLE 6. DEFERRED PRESENTMENT SERVICES.

11-601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "CHECK" MEANS A PERSONAL CHECK SIGNED BY THE DRAWER AND MADE PAYABLE TO A LICENSEE.

(C) "DEFERRED PRESENTMENT SERVICE" MEANS A TRANSACTION BETWEEN A LICENSEE AND THE DRAWER OF A CHECK THAT PROVIDES THAT THE LICENSEE:

(1) ACCEPTS A CHECK FROM THE DRAWER REGARDLESS OF THE DATE OF THE CHECK;

(2) AGREES TO HOLD THE CHECK FOR A SPECIFIC PERIOD OF TIME BEFORE NEGOTIATION OR PRESENTMENT; AND

(3) PAYS TO THE DRAWER OF THE CHECK THE AMOUNT OF THE CHECK:

(I) LESS THE FEE AUTHORIZED UNDER § 11-615 OF THIS SUBTITLE; OR

(II) WHICH AMOUNT SHALL BE DISTINCT FROM THE AMOUNT OF ANY FEE CHARGED UNDER § 11-615 OF THIS SUBTITLE IN A SEPARATE TRANSACTION.

(D) "FUND" MEANS THE DEFERRED PRESENTMENT SERVICES FUND ESTABLISHED UNDER § 11-625 OF THIS SUBTITLE.

(E) "LICENSEE" MEANS A PERSON LICENSED TO PROVIDE DEFERRED PRESENTMENT SERVICES UNDER THIS SUBTITLE.

(F) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION, CORPORATION, OR ANY OTHER BUSINESS UNIT OR LEGAL ENTITY.

11-602.

(A) A PERSON SHALL OBTAIN A LICENSE UNDER THIS SUBTITLE BEFORE THE PERSON MAY PROVIDE DEFERRED PRESENTMENT SERVICES IN THE STATE.

1 (B) A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH LOCATION AT
2 WHICH A PERSON PROVIDES DEFERRED PRESENTMENT SERVICES.

3 11-603.

4 (A) TO QUALIFY FOR A LICENSE UNDER THIS SUBTITLE, AN APPLICANT SHALL
5 SATISFY THE FOLLOWING REQUIREMENTS:

6 (1) THE APPLICANT SHALL HAVE AND MAINTAIN LIQUID ASSETS OF AT
7 LEAST \$25,000 PER LICENSED LOCATION, DETERMINED IN ACCORDANCE WITH
8 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, UP TO A MAXIMUM OF \$250,000;
9 AND

10 (2) THE FINANCIAL RESPONSIBILITY, FINANCIAL CONDITION, BUSINESS
11 EXPERIENCE, CHARACTER, AND GENERAL FITNESS OF THE APPLICANT SHALL
12 REASONABLY WARRANT THE BELIEF THAT THE APPLICANT'S BUSINESS WILL BE
13 CONDUCTED LAWFULLY AND FAIRLY.

14 (B) IN DETERMINING WHETHER THE REQUIREMENTS OF SUBSECTION (A) OF
15 THIS SECTION HAVE BEEN MET, AND FOR THE PURPOSE OF INVESTIGATING
16 COMPLIANCE WITH THIS SUBTITLE, THE COMMISSIONER MAY REVIEW:

17 (1) THE RELEVANT BUSINESS RECORDS AND THE CAPITAL ADEQUACY
18 OF THE APPLICANT;

19 (2) THE COMPETENCE, EXPERIENCE, INTEGRITY, AND FINANCIAL
20 ABILITY OF THE APPLICANT OR A PERSON WHO IS A MEMBER, PARTNER, DIRECTOR,
21 OFFICER, OR 25% OR MORE SHAREHOLDER OF THE APPLICANT; AND

22 (3) (I) ANY RECORD OF CONVICTION, OF THE APPLICANT OR A
23 PERSON DESCRIBED IN ITEM (2) OF THIS SUBSECTION, OF ANY CRIMINAL ACTIVITY,
24 FRAUD, OR OTHER ACT OF PERSONAL DISHONESTY;

25 (II) ANY ACT, OMISSION, OR PRACTICE WHICH CONSTITUTES A
26 BREACH OF A FIDUCIARY DUTY; OR

27 (III) ANY SUSPENSION, REMOVAL, OR ADMINISTRATIVE ACTION BY
28 AN AGENCY OR DEPARTMENT OF THE UNITED STATES OR A STATE FROM
29 PARTICIPATION IN THE CONDUCT OF ANY BUSINESS.

30 (C) THE REQUIREMENTS SET FORTH IN SUBSECTION (A)(1) AND (2) OF THIS
31 SECTION ARE CONTINUING IN NATURE.

32 11-604.

33 (A) EACH APPLICATION FOR A LICENSE UNDER THIS SUBTITLE:

34 (1) SHALL BE IN WRITING AND UNDER OATH TO THE COMMISSIONER;

35 (2) SHALL BE IN A FORM PRESCRIBED BY THE COMMISSIONER; AND

1 (3) SHALL INCLUDE THE FOLLOWING:

2 (I) THE LEGAL NAME, RESIDENCE, AND BUSINESS ADDRESS OF
3 THE APPLICANT AND, IF THE APPLICANT IS A PARTNERSHIP, ASSOCIATION, OR
4 CORPORATION, OF EACH MEMBER, OFFICER, AND DIRECTOR OF THE APPLICANT;

5 (II) THE ADDRESS OF THE PRINCIPAL PLACE OF BUSINESS OF THE
6 APPLICANT IN THE STATE;

7 (III) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
8 BALANCE SHEET AND INCOME STATEMENT OF THE APPLICANT FOR THE PRECEDING
9 FISCAL YEAR END, PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED
10 ACCOUNTING PRINCIPLES; AND

11 (IV) ANY OTHER DATA AND INFORMATION THE COMMISSIONER
12 MAY REQUIRE WITH RESPECT TO THE APPLICANT AND ITS DIRECTORS, OFFICERS,
13 MEMBERS, SHAREHOLDERS, MANAGING EMPLOYEES, OR AGENTS.

14 (B) FOR A NEWLY CREATED ENTITY, THE COMMISSIONER MAY ACCEPT A
15 BALANCE SHEET ONLY, ACCOMPANIED BY A PROJECTED INCOME STATEMENT
16 DEMONSTRATING THAT THE APPLICANT WILL HAVE ADEQUATE CAPITAL AFTER
17 PAYMENT OF START-UP COSTS.

18 11-605.

19 (A) EACH APPLICATION FOR A LICENSE UNDER THIS SUBTITLE SHALL BE
20 ACCOMPANIED BY:

21 (1) A NONREFUNDABLE INVESTIGATION FEE OF \$100; AND

22 (2) A LICENSE FEE OF:

23 (I) \$1,000 IF THE APPLICANT APPLIES FOR A LICENSE TO BE
24 ISSUED ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN
25 EVEN-NUMBERED YEAR; OR

26 (II) \$500 IF THE APPLICANT APPLIES FOR A LICENSE TO BE ISSUED
27 ON OR AFTER JANUARY 1 AND ON OR BEFORE DECEMBER 31 OF AN ODD-NUMBERED
28 YEAR.

29 (B) FOR EACH LICENSE FOR WHICH AN APPLICANT APPLIES, THE APPLICANT
30 SHALL:

31 (1) SUBMIT A SEPARATE APPLICATION; AND

32 (2) PAY A SEPARATE INVESTIGATION FEE AND LICENSE FEE.

33 (C) (1) WITH THE APPLICATION, THE APPLICANT SHALL FILE WITH THE
34 COMMISSIONER A SURETY BOND OR ENDORSEMENT.

1 (2) THE SURETY BOND FILED UNDER THIS SUBSECTION SHALL RUN TO
2 THE STATE FOR THE BENEFIT OF ANY INDIVIDUAL WHO HAS BEEN DAMAGED BY A
3 VIOLATION BY THE LICENSEE OF ANY LAW GOVERNING DEFERRED PRESENTMENT
4 SERVICES.

5 (3) THE SURETY BOND SHALL BE:

6 (I) IN THE AMOUNT OF \$50,000 PER LOCATION;

7 (II) ISSUED BY A SURETY COMPANY AUTHORIZED TO DO BUSINESS
8 IN THE STATE;

9 (III) CONDITIONED ON THE APPLICANT'S COMPLIANCE WITH ALL
10 LAWS REGULATING DEFERRED PRESENTMENT SERVICES; AND

11 (IV) APPROVED BY THE COMMISSIONER.

12 11-606.

13 (A) THIS SECTION DOES NOT APPLY TO ANY CORPORATION THE SECURITIES
14 OF WHICH ARE EXEMPT FROM REGISTRATION UNDER § 11-601(8) OR (12) OF THE
15 CORPORATIONS AND ASSOCIATIONS ARTICLE.

16 (B) IN CONNECTION WITH AN INITIAL APPLICATION AND AT ANY OTHER TIME
17 THE COMMISSIONER REQUESTS, EACH APPLICANT OR LICENSEE SHALL PROVIDE
18 FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF INVESTIGATION AND THE
19 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY OF THE
20 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES TO CONDUCT
21 CRIMINAL HISTORY RECORDS CHECKS.

22 (C) ANY APPLICANT OR LICENSEE REQUIRED UNDER THIS SECTION TO
23 PROVIDE FINGERPRINTS SHALL PAY ANY PROCESSING OR OTHER FEE REQUIRED BY
24 THE FEDERAL BUREAU OF INVESTIGATION OR THE CRIMINAL JUSTICE
25 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
26 SAFETY AND CORRECTIONAL SERVICES.

27 (D) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE
28 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL
29 APPLY TO THE PRESIDENT AND TO ANY OTHER OFFICER, DIRECTOR, OR PRINCIPAL
30 OF THE CORPORATION AS REQUESTED BY THE COMMISSIONER.

31 11-607.

32 (A) (1) AFTER THE FILING OF AN APPLICATION IN A FORM PRESCRIBED BY
33 THE COMMISSIONER, ACCOMPANIED BY THE FEES AND DOCUMENTS REQUIRED
34 UNDER §§ 11-605 AND 11-606 OF THIS SUBTITLE, THE COMMISSIONER SHALL
35 INVESTIGATE WHETHER THE QUALIFICATIONS PRESCRIBED UNDER § 11-603 OF THIS
36 SUBTITLE HAVE BEEN SATISFIED.

1 (2) IF THE COMMISSIONER FINDS THAT THE QUALIFICATIONS HAVE
2 BEEN SATISFIED, AND APPROVES THE DOCUMENTS, THE COMMISSIONER SHALL
3 ISSUE TO THE APPLICANT A LICENSE TO PROVIDE DEFERRED PRESENTMENT
4 SERVICES.

5 (B) THE LICENSE SHALL BE CONSPICUOUSLY POSTED IN VIEW TO THE
6 PUBLIC AT THE LICENSED LOCATION AT WHICH DEFERRED PRESENTMENT
7 SERVICES ARE PROVIDED.

8 11-608.

9 (A) IF THE COMMISSIONER DETERMINES THAT AN APPLICANT IS NOT
10 QUALIFIED TO RECEIVE A LICENSE, THE COMMISSIONER SHALL NOTIFY THE
11 APPLICANT IN WRITING THAT THE APPLICATION HAS BEEN DENIED, STATING THE
12 BASIS FOR DENIAL.

13 (B) (1) IF THE COMMISSIONER DENIES AN APPLICATION, OR IF THE
14 COMMISSIONER FAILS TO ACT ON AN APPLICATION WITHIN 60 DAYS AFTER THE
15 FILING OF A PROPERLY COMPLETED APPLICATION, THE APPLICANT MAY MAKE
16 WRITTEN DEMAND TO THE COMMISSIONER FOR A HEARING BEFORE THE
17 COMMISSIONER ON THE QUESTION OF WHETHER THE LICENSE SHOULD BE
18 GRANTED.

19 (2) IN THE EVENT OF A HEARING, THE COMMISSIONER SHALL
20 RECONSIDER THE APPLICATION AND, AFTER THE HEARING, ISSUE A WRITTEN
21 ORDER GRANTING OR DENYING THE LICENSE.

22 (C) IF AN APPLICATION IS DENIED UNDER SUBSECTION (A) OF THIS SECTION
23 OR AFTER A HEARING UNDER SUBSECTION (B) OF THIS SECTION, THE
24 COMMISSIONER SHALL:

- 25 (1) RETURN THE SURETY BOND;
- 26 (2) REFUND THE LICENSE FEE; AND
- 27 (3) KEEP THE INVESTIGATION FEE.

28 11-609.

29 (A) A LICENSE ISSUED UNDER THIS SUBTITLE IS NOT TRANSFERABLE OR
30 ASSIGNABLE.

31 (B) (1) THE PRIOR WRITTEN APPROVAL OF THE COMMISSIONER IS
32 REQUIRED FOR THE CONTINUED OPERATION OF A DEFERRED PRESENTMENT
33 SERVICES BUSINESS WHENEVER A CHANGE IN CONTROL OF A LICENSEE IS
34 PROPOSED.

35 (2) (I) IF THE LICENSEE IS A CORPORATION, "CONTROL" MEANS
36 DIRECT OR INDIRECT OWNERSHIP OF, OR THE RIGHT TO CONTROL, 25% OR MORE OF

1 THE VOTING SHARES OF THE LICENSEE, OR THE ABILITY TO ELECT A MAJORITY OF
2 THE DIRECTORS OR OTHERWISE EFFECT A CHANGE IN POLICY.

3 (II) IF THE LICENSEE IS AN ENTITY OTHER THAN A CORPORATION,
4 "CONTROL" MEANS THE POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO
5 DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THE
6 LICENSEE, WHETHER THROUGH THE OWNERSHIP OF VOTING SECURITIES, BY
7 CONTRACT, OR OTHERWISE.

8 (3) THE COMMISSIONER MAY REQUIRE INFORMATION DEEMED
9 NECESSARY TO DETERMINE WHETHER A NEW APPLICATION IS REQUIRED BECAUSE
10 OF A CHANGE IN CONTROL.

11 (4) COSTS INCURRED BY THE COMMISSIONER TO INVESTIGATE A
12 CHANGE IN CONTROL REQUEST SHALL BE PAID BY THE PERSON REQUESTING
13 APPROVAL OF THE CHANGE.

14 (C) A LICENSEE SHALL NOTIFY THE COMMISSIONER AT LEAST 30 DAYS
15 BEFORE ANY PROPOSED CHANGE IN THE LICENSEE'S BUSINESS LOCATION OR NAME
16 IS MADE.

17 11-610.

18 (A) A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES ON DECEMBER 31 IN
19 EACH ODD-NUMBERED YEAR UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS
20 PROVIDED IN THIS SECTION.

21 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE
22 MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM, IF THE LICENSEE:

23 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

24 (2) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$1,000;

25 (3) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE
26 FORM THAT THE COMMISSIONER REQUIRES; AND

27 (4) FILES A SURETY BOND OR ENDORSEMENT FOR THE AMOUNT
28 REQUIRED UNDER § 11-605(C) OF THIS SUBTITLE.

29 (C) THE SECRETARY MAY DETERMINE THAT LICENSES ISSUED UNDER THIS
30 SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

31 11-611.

32 WITHIN 15 DAYS AFTER THE OCCURRENCE OF ANY OF THE EVENTS LISTED
33 BELOW, A LICENSEE SHALL FILE A WRITTEN REPORT WITH THE COMMISSIONER
34 DESCRIBING THE EVENT AND ITS EXPECTED IMPACT ON THE ACTIVITIES OF THE
35 LICENSEE IN THE STATE:

1 (1) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
2 LICENSEE;

3 (2) THE INSTITUTION OF REVOCATION OR SUSPENSION PROCEEDINGS
4 AGAINST THE LICENSEE BY A FEDERAL, STATE, OR LOCAL GOVERNMENTAL
5 AUTHORITY;

6 (3) A FELONY INDICTMENT OF THE LICENSEE OR ANY OF ITS MEMBERS,
7 DIRECTORS, OFFICERS, OR SHAREHOLDERS;

8 (4) A FELONY CONVICTION OF THE LICENSEE OR ANY OF ITS MEMBERS,
9 DIRECTORS, OFFICERS, OR SHAREHOLDERS; OR

10 (5) ANY OTHER EVENT THAT THE COMMISSIONER MAY DETERMINE AND
11 IDENTIFY BY REGULATION.

12 11-612.

13 (A) A LICENSEE SHALL KEEP AND USE IN ITS BUSINESS ANY BOOKS,
14 ACCOUNTS, AND RECORDS THE COMMISSIONER MAY REQUIRE TO CARRY INTO
15 EFFECT THE PROVISIONS OF THIS SUBTITLE.

16 (B) A LICENSEE SHALL PRESERVE THE BOOKS, ACCOUNTS, AND RECORDS FOR
17 AT LEAST 3 YEARS.

18 (C) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
19 SUBSECTION, A LICENSEE MAY KEEP THE BOOKS, ACCOUNTS, AND RECORDS
20 REQUIRED UNDER THIS SECTION AT ANY LOCATION.

21 (2) THE LICENSEE SHALL NOTIFY THE COMMISSIONER IN WRITING OF
22 THE LOCATION OF THE BOOKS, ACCOUNTS, AND RECORDS, AND MAKE THE BOOKS,
23 ACCOUNTS, AND RECORDS AVAILABLE AT THE LICENSED LOCATION TO WHICH THE
24 BOOKS, ACCOUNTS, AND RECORDS PERTAIN WITHIN 7 DAYS AFTER A WRITTEN
25 REQUEST FOR EXAMINATION BY THE COMMISSIONER.

26 11-613.

27 (A) TO ASSURE COMPLIANCE WITH THE PROVISIONS OF THIS SUBTITLE, AND
28 TO DISCOVER ANY VIOLATIONS OF THIS SUBTITLE OR OTHER LAWS APPLICABLE TO
29 THE LICENSEE, THE COMMISSIONER SHALL ANNUALLY, AND AT ANY TIME THE
30 COMMISSIONER CONSIDERS APPROPRIATE, EXAMINE THE BOOKS, ACCOUNTS, AND
31 RECORDS OF A LICENSEE OR A PERSON WHO ACTS ON BEHALF OF A LICENSEE.

32 (B) A LICENSEE SHALL PAY TO THE COMMISSIONER A FEE NOT EXCEEDING
33 \$100 PER DAY FOR EACH OF THE COMMISSIONER'S EMPLOYEES ENGAGED IN AN
34 EXAMINATION CONDUCTED UNDER SUBSECTION (A) OF THIS SECTION.

35 (C) FOR PURPOSES OF THIS SECTION, THE COMMISSIONER:

1 (1) SHALL BE GIVEN ACCESS TO ANY BOOKS, PAPERS, RECORDS, SAFES,
2 OR VAULTS OF THE PERSON UNDER INVESTIGATION; AND

3 (2) MAY EXAMINE UNDER OATH ANY PERSON WHOSE TESTIMONY THE
4 COMMISSIONER REQUIRES.

5 11-614.

6 (A) A LICENSEE SHALL COMPLY WITH:

7 (1) ALL FEDERAL AND STATE LAWS GOVERNING CURRENCY
8 TRANSACTIONS; AND

9 (2) FEDERAL TRUTH-IN-LENDING LAWS AND REGULATIONS.

10 (B) A LICENSEE MAY NOT ENGAGE IN UNFAIR OR DECEPTIVE ACTS,
11 PRACTICES, OR ADVERTISING IN RELATION TO PROVIDING DEFERRED
12 PRESENTMENT SERVICES.

13 11-615.

14 (A) (1) A LICENSEE MAY CHARGE A FEE FOR A DEFERRED PRESENTMENT
15 SERVICE NOT TO EXCEED 15% OF THE AMOUNT PAID BY THE LICENSEE TO THE
16 DRAWER.

17 (2) NO OTHER FEE OR CHARGE MAY BE IMPOSED OR COLLECTED FOR
18 THE DEFERRED PRESENTMENT SERVICE, INCLUDING A FEE OR CHARGE FOR EARLY
19 PAYMENT OF A DEFERRED PRESENTMENT SERVICE.

20 (B) A LICENSEE SHALL CONSPICUOUSLY POST THE FEES FOR DEFERRED
21 PRESENTMENT SERVICES IN VIEW TO THE PUBLIC AT THE LICENSED LOCATION AT
22 WHICH DEFERRED PRESENTMENT SERVICES ARE PROVIDED.

23 11-616.

24 (A) BEFORE EXECUTING A DEFERRED PRESENTMENT SERVICES WRITTEN
25 AGREEMENT UNDER § 11-617 OF THIS SUBTITLE AND PAYING FUNDS UNDER THE
26 WRITTEN AGREEMENT, A LICENSEE SHALL PROVIDE TO THE DRAWER OF THE CHECK
27 A CLEAR AND CONSPICUOUS PRINTED NOTICE, SEPARATE FROM ANY OTHER
28 DOCUMENT, THAT MAKES THE FOLLOWING STATEMENTS:

29 (1) A DEFERRED PRESENTMENT SERVICE IS NOT INTENDED TO MEET
30 YOUR LONG-TERM FINANCIAL NEEDS, AND YOU SHOULD USE A DEFERRED
31 PRESENTMENT SERVICE ONLY TO MEET YOUR SHORT-TERM CASH NEEDS;

32 (2) A DEFERRED PRESENTMENT SERVICE IS A HIGH RATE LOAN AND IS
33 REGULATED BY THE DIVISION OF FINANCIAL REGULATION OF THE STATE
34 DEPARTMENT OF LICENSING, LABOR, AND REGULATION;

35 (3) ENTERING INTO MORE THAN ONE DEFERRED PRESENTMENT
36 SERVICE AT A TIME WITH DIFFERENT LICENSEES, OR STARTING A NEW DEFERRED

1 PRESENTMENT SERVICE SOON AFTER COMPLETING A PRIOR DEFERRED
2 PRESENTMENT SERVICE, IS NOT ADVISABLE AND MAY CAUSE YOU SIGNIFICANT
3 FINANCIAL HARDSHIP;

4 (4) THE LICENSEE IS OBLIGATED TO DEFER NEGOTIATION OR
5 PRESENTMENT OF THE CHECK UNTIL A SPECIFIED DATE, WHICH MAY NOT BE LATER
6 THAN 14 DAYS AFTER THE DATE YOU SIGNED THE WRITTEN AGREEMENT;

7 (5) THE TOTAL AMOUNT OF THE FEE YOU MUST PAY MAY NOT BE MORE
8 THAN 15% OF THE AMOUNT YOU RECEIVE;

9 (6) YOU HAVE THE RIGHT TO REDEEM THE CHECK THAT YOU WROTE AT
10 ANY TIME BEFORE THE DUE DATE BY MAKING PAYMENT TO THE LICENSEE OF THE
11 FULL AMOUNT OF THE CHECK;

12 (7) YOU HAVE THE RIGHT TO MAKE A PARTIAL PAYMENT AT ANY TIME
13 BEFORE THE DUE DATE WITHOUT INCURRING AN ADDITIONAL FEE OR CHARGE;

14 (8) THE MAXIMUM AMOUNT THAT THE LICENSEE MAY PAY YOU PER
15 CHECK FOR DEFERRED PRESENTMENT IS ONE-THIRD OF YOUR MONTHLY NET
16 INCOME UP TO A MAXIMUM OF \$300;

17 (9) THE LICENSEE MAY NOT RENEW A DEFERRED PRESENTMENT
18 SERVICE WRITTEN AGREEMENT OR OFFER YOU MORE THAN ONE DEFERRED
19 PRESENTMENT SERVICE WRITTEN AGREEMENT AT A TIME, AND THE LICENSEE MAY
20 NOT ENTER INTO A NEW DEFERRED PRESENTMENT SERVICE WRITTEN AGREEMENT
21 WITH YOU ON THE SAME DAY THAT YOU COMPLETE A PRIOR DEFERRED
22 PRESENTMENT SERVICE WRITTEN AGREEMENT;

23 (10) THE LICENSEE MAY PAY YOU IN THE FORM OF THE LICENSEE'S
24 BUSINESS CHECK, MONEY ORDER, OR CASH;

25 (11) YOU HAVE THE RIGHT TO RESCIND THE DEFERRED PRESENTMENT
26 SERVICE AT NO COST TO YOU AT ANY TIME PRIOR TO THE CLOSE OF BUSINESS ON
27 THE BUSINESS DAY IMMEDIATELY FOLLOWING THE DATE OF THE WRITTEN
28 AGREEMENT BY PAYING TO THE LICENSEE, IN THE FORM OF CASH OR OTHER
29 IMMEDIATELY AVAILABLE FUNDS, THE AMOUNT OF MONEY ADVANCED TO YOU, AND
30 ANY FEES OR CHARGES THAT YOU PAID SHALL BE FULLY AND IMMEDIATELY
31 REFUNDED TO YOU;

32 (12) IF YOU SIGN A WRITTEN AGREEMENT FOR A DEFERRED
33 PRESENTMENT SERVICE AND OFFER TO THE LICENSEE YOUR OWN PERSONAL
34 CHECK BEARING YOUR GENUINE SIGNATURE AND DRAWN ON YOUR EXISTING
35 CHECKING ACCOUNT, YOU WILL NOT BE SUBJECT TO ANY CRIMINAL PENALTY FOR
36 FAILING TO COMPLY WITH THE TERMS OF THE WRITTEN AGREEMENT; AND

37 (13) IF YOUR CHECK IS RETURNED TO THE LICENSEE FROM A PAYOR
38 FINANCIAL INSTITUTION DUE TO INSUFFICIENT FUNDS, CLOSED ACCOUNT, OR A
39 STOP PAYMENT ORDER, THE LICENSEE MAY CONTRACT TO COLLECT A RETURNED

1 CHECK CHARGE NOT TO EXCEED \$25, AND NO OTHER FEES OR CHARGES MAY BE
2 COLLECTED AS A RESULT OF A RETURNED CHECK OR A DEFAULT.

3 (B) THE COMMISSIONER MAY REQUIRE THE NOTICE PROVIDED UNDER THIS
4 SECTION TO CONTAIN ADDITIONAL INFORMATION OR STATEMENTS.

5 (C) (1) BOTH THE LICENSEE AND DRAWER SHALL SIGN AND DATE THE
6 NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION.

7 (2) THE LICENSEE SHALL GIVE A COPY OF THE SIGNED AND DATED
8 NOTICE TO THE DRAWER AND KEEP A COPY IN THE LICENSEE'S RECORDS.

9 11-617.

10 (A) (1) A LICENSEE SHALL DOCUMENT A DEFERRED PRESENTMENT
11 SERVICE WITH A WRITTEN AGREEMENT SIGNED AND DATED BY BOTH THE DRAWER
12 OF THE CHECK AND THE LICENSEE.

13 (2) THE LICENSEE SHALL GIVE A COPY OF THE SIGNED AND DATED
14 WRITTEN AGREEMENT TO THE DRAWER AND RETAIN A COPY IN THE LICENSEE'S
15 RECORDS.

16 (B) THE WRITTEN AGREEMENT SHALL INCLUDE:

17 (1) THE NAME AND ADDRESS OF THE LICENSEE;

18 (2) THE DATE OF THE DEFERRED PRESENTMENT SERVICE; AND

19 (3) THE AMOUNT OF THE CHECK.

20 (C) IN BOLD-FACED TYPE, THE WRITTEN AGREEMENT SHALL ALSO INCLUDE:

21 (1) A STATEMENT THAT THE LICENSEE IS OBLIGATED TO DEFER
22 NEGOTIATION OR PRESENTMENT OF THE CHECK UNTIL A SPECIFIED DATE, WHICH
23 MAY NOT BE LATER THAN 14 DAYS AFTER THE DATE YOU SIGNED THE WRITTEN
24 AGREEMENT;

25 (2) THE TOTAL DOLLAR AMOUNT OF THE FEE CHARGED, WHICH MAY
26 NOT EXCEED 15% OF THE AMOUNT PAID TO THE DRAWER AND THE TOTAL AMOUNT
27 OF THE FEE CALCULATED AS AN ANNUAL PERCENTAGE RATE;

28 (3) A STATEMENT THAT THE DRAWER HAS THE RIGHT TO REDEEM THE
29 CHECK AT ANY TIME BEFORE NEGOTIATION OR PRESENTMENT OF THE CHECK BY
30 MAKING PAYMENT TO THE LICENSEE OF THE FULL AMOUNT OF THE CHECK;

31 (4) A STATEMENT THAT THE DRAWER HAS THE RIGHT TO MAKE A
32 PARTIAL PAYMENT AT ANY TIME BEFORE THE NEGOTIATION OR PRESENTMENT OF
33 THE CHECK WITHOUT INCURRING AN ADDITIONAL FEE OR CHARGE;

1 (5) A STATEMENT THAT THE MAXIMUM AMOUNT A LICENSEE MAY PAY
2 TO THE DRAWER OF A CHECK IN A DEFERRED PRESENTMENT SERVICE IS ONE-THIRD
3 OF THE DRAWER'S MONTHLY NET INCOME UP TO A MAXIMUM OF \$300;

4 (6) A STATEMENT THAT THE LICENSEE MAY NOT RENEW A DEFERRED
5 PRESENTMENT SERVICE WRITTEN AGREEMENT OR OFFER A DRAWER MORE THAN
6 ONE DEFERRED PRESENTMENT SERVICE WRITTEN AGREEMENT AT A TIME, AND
7 THAT THE LICENSEE MAY NOT ENTER INTO A NEW DEFERRED PRESENTMENT
8 SERVICE WRITTEN AGREEMENT WITH A DRAWER ON THE SAME DAY THAT THE
9 DRAWER COMPLETES A PRIOR DEFERRED PRESENTMENT SERVICE WRITTEN
10 AGREEMENT;

11 (7) A STATEMENT THAT THE AMOUNT PAID TO THE DRAWER OF A
12 CHECK BY THE LICENSEE IN A DEFERRED PRESENTMENT SERVICE MAY BE PAID IN
13 THE FORM OF THE LICENSEE'S BUSINESS CHECK, MONEY ORDER, OR CASH;

14 (8) A STATEMENT THAT THE DRAWER HAS THE RIGHT TO RESCIND THE
15 DEFERRED PRESENTMENT SERVICE AT NO COST TO THE DRAWER AT ANY TIME
16 PRIOR TO THE CLOSE OF BUSINESS ON THE BUSINESS DAY IMMEDIATELY
17 FOLLOWING THE DATE OF THE WRITTEN AGREEMENT BY PAYING TO THE LICENSEE,
18 IN THE FORM OF CASH OR OTHER IMMEDIATELY AVAILABLE FUNDS, THE AMOUNT
19 OF MONEY ADVANCED TO THE DRAWER, AND THAT ANY FEES OR CHARGES PAID BY
20 THE DRAWER OF THE CHECK SHALL BE FULLY AND IMMEDIATELY REFUNDED TO
21 THE DRAWER;

22 (9) A STATEMENT THAT A DRAWER OF A CHECK WHO ENTERS INTO A
23 DEFERRED PRESENTMENT SERVICE AND OFFERS THE DRAWER'S OWN PERSONAL
24 CHECK, BEARING A GENUINE SIGNATURE AND DRAWN ON AN EXISTING CHECKING
25 ACCOUNT, IS NOT SUBJECT TO ANY CRIMINAL PENALTY FOR FAILING TO COMPLY
26 WITH THE TERMS OF THE WRITTEN AGREEMENT;

27 (10) A STATEMENT THAT IF A CHECK IS RETURNED TO THE LICENSEE
28 FROM A PAYOR FINANCIAL INSTITUTION DUE TO INSUFFICIENT FUNDS, CLOSED
29 ACCOUNT, OR A STOP PAYMENT ORDER, THE LICENSEE MAY CONTRACT TO COLLECT
30 A RETURNED CHECK CHARGE NOT TO EXCEED \$25, AND THAT NO OTHER FEES OR
31 CHARGES MAY BE COLLECTED AS A RESULT OF A RETURNED CHECK OR A DEFAULT
32 UNDER A DEFERRED PRESENTMENT SERVICES WRITTEN AGREEMENT; AND

33 (11) ANY OTHER INFORMATION OR STATEMENT THAT THE
34 COMMISSIONER MAY REQUIRE.

35 11-618.

36 (A) THE MAXIMUM AMOUNT A LICENSEE MAY PAY TO THE DRAWER OF A
37 CHECK IN A DEFERRED PRESENTMENT SERVICE IS ONE-THIRD OF THE DRAWER'S
38 MONTHLY NET INCOME UP TO A MAXIMUM OF \$300.

39 (B) A LICENSEE MAY NOT OFFER TO HOLD AT ANY ONE TIME MORE THAN ONE
40 CHECK FROM A DRAWER FOR DEFERRED PRESENTMENT.

1 (C) (1) THE AMOUNT PAID TO THE DRAWER OF A CHECK BY THE LICENSEE
2 IN A DEFERRED PRESENTMENT SERVICE MAY BE PAID IN THE FORM OF THE
3 LICENSEE'S BUSINESS CHECK, MONEY ORDER, OR CASH.

4 (2) AT THE OPTION OF THE DRAWER OF THE CHECK, IF THE LICENSEE
5 PAYS THE DRAWER BY THE LICENSEE'S BUSINESS CHECK OR MONEY ORDER, THE
6 LICENSEE SHALL CASH THE CHECK OR MONEY ORDER AT NO CHARGE TO THE
7 DRAWER.

8 (D) BEFORE A LICENSEE MAY NEGOTIATE OR PRESENT A CHECK FOR
9 PAYMENT, THE CHECK MUST BE ENDORSED WITH THE ACTUAL NAME UNDER WHICH
10 THE LICENSEE IS LICENSED UNDER THIS SUBTITLE.

11 (E) A LICENSEE MAY NOT DEFER PRESENTMENT OR NEGOTIATION OF ANY
12 CHECK FOR MORE THAN 14 CALENDAR DAYS AFTER THE DATE OF THE DEFERRED
13 PRESENTMENT SERVICE WRITTEN AGREEMENT.

14 (F) A LICENSEE SHALL KEEP IN ITS RECORDS RELATING TO A DEFERRED
15 PRESENTMENT SERVICE WRITTEN AGREEMENT A COPY OF:

16 (1) THE MOST RECENT STATEMENT OF THE DRAWER'S CHECKING
17 ACCOUNT;

18 (2) A PHOTOGRAPHIC IDENTIFICATION OF THE DRAWER; AND

19 (3) THE MOST RECENT PAY STUB OF THE DRAWER.

20 11-619.

21 (A) (1) THE DRAWER OF A CHECK MAY RESCIND THE DEFERRED
22 PRESENTMENT SERVICE AT NO COST TO THE DRAWER AT ANY TIME PRIOR TO THE
23 CLOSE OF BUSINESS ON THE BUSINESS DAY IMMEDIATELY FOLLOWING THE DATE
24 OF THE DEFERRED PRESENTMENT SERVICE WRITTEN AGREEMENT BY PAYING TO
25 THE LICENSEE, IN THE FORM OF CASH OR OTHER IMMEDIATELY AVAILABLE FUNDS,
26 THE AMOUNT OF MONEY PAID TO THE DRAWER.

27 (2) ANY FEES OR CHARGES PAID BY THE DRAWER OF THE CHECK SHALL
28 BE FULLY AND IMMEDIATELY REFUNDED TO THE DRAWER.

29 (B) THE DRAWER OF A CHECK SHALL HAVE THE RIGHT TO REDEEM THE
30 CHECK FROM THE LICENSEE AT ANY TIME PRIOR TO THE NEGOTIATION OR
31 PRESENTMENT OF THE CHECK BY MAKING PAYMENT TO THE LICENSEE OF THE
32 FULL AMOUNT OF THE CHECK.

33 (C) THE DRAWER OF A CHECK SHALL HAVE THE RIGHT TO MAKE A PARTIAL
34 PAYMENT TO THE LICENSEE AT ANY TIME PRIOR TO THE NEGOTIATION OR
35 PRESENTMENT OF THE CHECK WITHOUT INCURRING AN EXTRA CHARGE OR FEE.

36 (D) A DEFERRED PRESENTMENT SERVICE IS COMPLETED WHEN A CHECK IS:

1 (1) NEGOTIATED OR PRESENTED FOR PAYMENT BY THE LICENSEE; OR

2 (2) REDEEMED BY THE DRAWER BY PAYMENT IN FULL IN CASH TO THE
3 LICENSEE.

4 (E) (1) A LICENSEE MAY NOT RENEW A DEFERRED PRESENTMENT SERVICE
5 WRITTEN AGREEMENT.

6 (2) A LICENSEE MAY NOT ENTER INTO A NEW DEFERRED PRESENTMENT
7 SERVICE WRITTEN AGREEMENT WITH A DRAWER ON THE SAME DAY THAT THE
8 DRAWER COMPLETES A PRIOR DEFERRED PRESENTMENT SERVICE WRITTEN
9 AGREEMENT.

10 11-620.

11 (A) A DRAWER OF A CHECK WHO ENTERS INTO A DEFERRED PRESENTMENT
12 SERVICE AND OFFERS THE DRAWER'S OWN PERSONAL CHECK, BEARING A GENUINE
13 SIGNATURE AND DRAWN ON AN EXISTING CHECKING ACCOUNT, IS NOT SUBJECT TO
14 ANY CRIMINAL PENALTY FOR FAILING TO COMPLY WITH THE TERMS OF THE
15 DEFERRED PRESENTMENT SERVICE WRITTEN AGREEMENT.

16 (B) (1) IF A CHECK IS RETURNED TO THE LICENSEE FROM A PAYOR
17 FINANCIAL INSTITUTION DUE TO INSUFFICIENT FUNDS, CLOSED ACCOUNT, OR A
18 STOP PAYMENT ORDER, THE LICENSEE MAY CONTRACT FOR AND COLLECT A
19 RETURNED CHECK CHARGE NOT TO EXCEED \$25.

20 (2) NO OTHER FEES OR CHARGES MAY BE COLLECTED AS A RESULT OF A
21 RETURNED CHECK OR A DEFAULT IN A DEFERRED PRESENTMENT SERVICE.

22 (3) THE LICENSEE MAY NOT PURSUE A REMEDY UNDER THE
23 PROVISIONS OF TITLE 15, SUBTITLE 8 OF THE COMMERCIAL LAW ARTICLE.

24 11-621.

25 A DEFERRED PRESENTMENT SERVICE PROVIDED IN ACCORDANCE WITH THIS
26 SUBTITLE IS NOT SUBJECT TO THE PROVISIONS OF TITLE 12, SUBTITLE 1 OR
27 SUBTITLE 3 OF THE COMMERCIAL LAW ARTICLE.

28 11-622.

29 (A) IF, SUBJECT TO THE OPPORTUNITY FOR A HEARING, THE COMMISSIONER
30 FINDS THAT A PERSON HAS VIOLATED THIS SUBTITLE OR A REGULATION ADOPTED
31 UNDER THIS SUBTITLE, THE COMMISSIONER MAY:

32 (1) ORDER THE PERSON TO CEASE AND DESIST FROM VIOLATING THIS
33 SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE;

34 (2) REQUIRE THE REFUND OF ANY FEE COLLECTED BY THE PERSON IN
35 VIOLATION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE;
36 OR

1 (3) ORDER THE PERSON TO PAY TO THE COMMISSIONER A CIVIL
2 PENALTY NOT EXCEEDING \$1,000 FOR EACH DEFERRED PRESENTMENT SERVICE
3 PROVIDED IN VIOLATION OF THIS SUBTITLE OR A REGULATION ADOPTED UNDER
4 THIS SUBTITLE, FOR EACH DAY THAT A VIOLATION HAS OCCURRED AND CONTINUES.

5 (B) IN DETERMINING THE AMOUNT OF FINANCIAL PENALTY TO BE IMPOSED
6 UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER
7 THE FOLLOWING:

8 (1) THE SERIOUSNESS OF THE VIOLATION;

9 (2) THE GOOD FAITH OF THE VIOLATOR;

10 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

11 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND
12 THE DEFERRED PRESENTMENT SERVICES INDUSTRY;

13 (5) THE ASSETS OF THE VIOLATOR; AND

14 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
15 FINANCIAL PENALTY.

16 11-623.

17 (A) THE COMMISSIONER, AFTER NOTICE AND THE OPPORTUNITY FOR A
18 HEARING, MAY SUSPEND OR REVOKE ANY LICENSE ISSUED UNDER THIS SUBTITLE IF
19 THE COMMISSIONER FINDS THAT THE LICENSEE, EITHER KNOWINGLY OR THROUGH
20 LACK OF DUE CARE:

21 (1) HAS FAILED TO PAY ANY LICENSE FEE IMPOSED BY THIS SUBTITLE,
22 OR ANY EXAMINATION FEE IMPOSED BY THE COMMISSIONER UNDER THE
23 AUTHORITY OF THIS SUBTITLE;

24 (2) HAS COMMITTED ANY FRAUD, ENGAGED IN ANY DISHONEST
25 ACTIVITIES, OR MADE ANY MISREPRESENTATIONS;

26 (3) HAS VIOLATED A PROVISION OF THIS SUBTITLE OR OTHER LAW IN
27 THE COURSE OF PROVIDING DEFERRED PRESENTMENT SERVICES;

28 (4) HAS MADE A FALSE STATEMENT IN THE APPLICATION FOR THE
29 LICENSE OR FAILED TO GIVE A TRUE REPLY TO A QUESTION IN THE APPLICATION; OR

30 (5) HAS DEMONSTRATED INCOMPETENCY OR UNTRUSTWORTHINESS TO
31 ACT AS A LICENSEE.

32 (B) IF THE REASON FOR REVOCATION OR SUSPENSION OF A LICENSEE'S
33 LICENSE AT ONE LOCATION IS OF GENERAL APPLICATION TO ALL LOCATIONS
34 OPERATED BY A LICENSEE, THE COMMISSIONER MAY REVOKE OR SUSPEND ALL
35 LICENSES ISSUED TO A LICENSEE.

1 (C) (1) A HEARING SHALL BE HELD ON WRITTEN NOTICE GIVEN AT LEAST 20
2 DAYS PRIOR TO THE DATE OF THE HEARING.

3 (2) THE HEARING SHALL BE HELD IN ACCORDANCE WITH THE
4 ADMINISTRATIVE PROCEDURE ACT.

5 11-624.

6 (A) THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THE
7 PROVISIONS OF THIS SUBTITLE.

8 (B) THE COMMISSIONER SHALL REPORT TO THE GENERAL ASSEMBLY ON OR
9 BEFORE JANUARY 1 OF EACH YEAR, IN ACCORDANCE WITH § 2-1246 OF THE STATE
10 GOVERNMENT ARTICLE, ON THE IMPLEMENTATION OF THIS SUBTITLE, INCLUDING A
11 SUMMARY OF THE STATISTICS ON:

12 (1) THE NUMBER OF LICENSEES PER COUNTY;

13 (2) THE NUMBER OF DEFERRED PRESENTMENT SERVICE WRITTEN
14 AGREEMENTS PER LICENSEE;

15 (3) THE TOTAL DOLLAR AMOUNT AND THE AVERAGE DOLLAR AMOUNT
16 OF DEFERRED PRESENTMENT SERVICE WRITTEN AGREEMENTS PER LICENSEE; AND

17 (4) THE NUMBER OF DEFERRED PRESENTMENT SERVICE WRITTEN
18 AGREEMENTS PROVIDED WITH FRAUD OR ERRORS PER LICENSEE.

19 11-625.

20 (A) THERE IS A DEFERRED PRESENTMENT SERVICES FUND.

21 (B) NOTWITHSTANDING THE PROVISIONS OF § 11-101 OF THIS TITLE, THE
22 COMMISSIONER SHALL PAY ALL FUNDS COLLECTED UNDER THIS SUBTITLE TO THE
23 COMPTROLLER OF THE TREASURY WHO SHALL DISTRIBUTE THE FEES TO THE FUND.

24 (C) (1) THE FUND SHALL BE USED TO COVER THE ACTUAL DOCUMENTED
25 DIRECT AND INDIRECT COSTS OF FULFILLING THE STATUTORY AND REGULATORY
26 DUTIES OF THE DIVISION OF FINANCIAL REGULATION UNDER THIS SUBTITLE.

27 (2) THE FUND IS A CONTINUING NONLAPSING FUND, NOT SUBJECT TO §
28 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

29 (3) ANY UNSPENT PORTIONS OF THE FUND MAY NOT REVERT OR BE
30 TRANSFERRED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE
31 FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS SUBTITLE.

32 (4) NO OTHER STATE MONEY MAY BE USED TO SUPPORT THE FUND.

33 (D) (1) THE COMMISSIONER SHALL ADMINISTER THE FUND.

1 (2) MONEYS IN THE FUND MAY BE EXPENDED FOR ANY LAWFUL
2 PURPOSE AUTHORIZED UNDER THE PROVISIONS OF THIS SUBTITLE.

3 (E) THE LEGISLATIVE AUDITOR SHALL AUDIT THE ACCOUNTS AND
4 TRANSACTIONS OF THE FUND AS PROVIDED IN § 2-1220 OF THE STATE GOVERNMENT
5 ARTICLE.

6 11-626.

7 (A) A PERSON WHO KNOWINGLY VIOLATES A PROVISION OF THIS SUBTITLE IS
8 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
9 \$50,000 OR IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.

10 (B) THE COMMISSIONER SHALL REPORT TO THE APPROPRIATE STATE'S
11 ATTORNEY OR TO THE ATTORNEY GENERAL AN ALLEGED CRIMINAL VIOLATION OF
12 THIS SUBTITLE.

13 11-627.

14 THIS SUBTITLE MAY BE CITED AS THE "DEFERRED PRESENTMENT SERVICES
15 ACT".

16 SECTION 2. AND BE IT FURTHER ENACTED, That the licensing provisions
17 of this Act may not be construed to apply until January 1, 2002.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 July 1, 2001.