



Consumer Notice Deferred Presentment Services Act

August, 2012

Tennessee consumers using the services of Deferred Presentment Services providers, also known as payday lenders, should be aware of statutory changes that were made to the Deferred Presentment Services Act (the "Act"), Tennessee Code Annotated §§ 45-17-101 *et seq.* You can access the changes at the following link: <http://state.tn.us/sos/acts/107/pub/pc0205.pdf>, and you can view all of Tennessee's statutes at: <http://www.lexisnexis.com/hottopics/tncode/>.

Most significantly, the amendments to the Act expanded the definition of the term "check" to include any authorization for electronic payments. The amendments also provide that no person shall engage in the business of deferred presentment services in this state through the use of the internet, facsimile, telephone or other means without first obtaining a license with this Department. The amendments go on to state that a person is engaged in the business of deferred presentment services in this state "if the person induces a consumer, while located in this state, to enter into a deferred presentment services transaction in this state."

You should always check to make certain that you are doing business with a licensed deferred presentment services provider. You can check licensing status for entities at the following link: http://www.tn.gov/tdfi/compliance/Lic_DP.shtml. You may also contact the Department's Consumer Resources Division with questions at (800) 778-4215, or by email at tdfi.consumerresources@tn.gov. You may also file a formal complaint with the Department by using our online consumer complaint form that can be submitted from the following link: <http://www.tn.gov/tdfi/crd/CCF.shtml> or by printing the consumer complaint form and faxing it to (615) 253-7794.

Other key provisions of the Act include:

- The maximum fee amount on a deferred presentment services transaction, or payday loan, cannot exceed 15% of the face amount of the check, or internet payday loan. (Tenn. Code Ann. § 45-17-112(b))
- Agreements cannot exceed 31 days in length. (Tenn. Code Ann. § 45-17-112(d))



- No licensee under the Deferred Presentment Services Act or person related to a licensee may have outstanding more than two (2) checks from any one (1) customer at any one (1) time, with the aggregate face value of all outstanding checks totaling \$500. (Tenn. Code Ann. § 45-17-112(o))
- A borrower of deferred presentment services loans, or payday loans, is limited to three (3) such outstanding transactions at any given time and the aggregate face value of all three cannot exceed \$500. (Tenn. Code Ann. § 45-17-112(p))
- Deferred presentment services loans, or payday loans, shall not be renewed or otherwise consolidated into a new deferred presentment services loan. A transaction entered into in violation of this statute is void and unenforceable in law or in equity. (Tenn. Code Ann. § 45-17-112(q))
- If a check is returned to a lender due to insufficient funds, a closed account or a stop-payment order, a deferred presentment services provider may collect the check by civil action, but is limited to collecting the face amount of the check and court costs actually incurred in seeking to collect the loan. A deferred presentment services provider is prohibited from charging other fees or attorney's fees. (Tenn. Code Ann. § 45-17-112(i))
- No borrower can be convicted under Tennessee's criminal worthless check law, set forth at Tenn. Code Ann. § 39-14-121. (Tenn. Code Ann. § 45-17-112(i))
- A deferred presentment services agreement, or payday loan, subject to Tennessee's law shall not include any of the following prohibited provisions:
 - Provide the law of a jurisdiction other than Tennessee applies;
 - Provide that the customer consents to the jurisdiction of another state or foreign country;
 - Fix a venue; or
 - Waive any provision of the Deferred Presentment Services Act.

If the deferred presentment services agreement contains any of these prohibited provisions, the provision shall be void and not enforceable as a matter of law. (Tenn. Code Ann. § 45-17-112(s))

