

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

# SENATE BILL 1446

## AN ACT

AMENDING SECTIONS 6-1256, 6-1259, 6-1260 AND 6-1262, ARIZONA REVISED STATUTES; REPEALING SECTION 6-1263, ARIZONA REVISED STATUTES; AMENDING TITLE 6, CHAPTER 12.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 6-1263; AMENDING TITLE 6, CHAPTER 12.1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-1264; AMENDING SECTIONS 12-671 AND 44-6852, ARIZONA REVISED STATUTES; RELATING TO DEFERRED PRESENTMENT TRANSACTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-1256, Arizona Revised Statutes, is amended to  
3 read:

4 6-1256. Annual renewal of license

5 A. On or before June 30 of each year, an applicant for licensure  
6 renewal shall:

7 1. File with the superintendent a financial statement prepared  
8 according to generally accepted accounting principles for the twelve month  
9 period ending the previous December 31.

10 2. Make a renewal application to the department on forms prescribed by  
11 the superintendent and:

12 (a) Pay the fees prescribed in section 6-126.

13 (b) Include information to assist the superintendent in determining  
14 whether the applicant is in default of or in violation of this chapter and  
15 whether the applicant meets the requirements of this chapter.

16 3. PROVIDE THE INFORMATION REQUIRED BY SECTION 6-1264.

17 B. If the renewal applicant is unable to make a financial statement at  
18 the time the applicant files the renewal application, the applicant may make  
19 a written request for an extension of time to file the financial statement.  
20 If the superintendent grants the extension the applicant shall file a  
21 financial statement within thirty days after the superintendent issues the  
22 renewal license.

23 C. On application to the superintendent each year pursuant to  
24 subsection A of this section, the superintendent shall issue the renewal  
25 license on OR BEFORE August 1 of each year.

26 Sec. 2. Section 6-1259, Arizona Revised Statutes, is amended to read:

27 6-1259. Prohibited acts

28 A. A person shall not engage in the business of providing deferred  
29 presentment services, INCLUDING INTERNET DEFERRED PRESENTMENT SERVICES,  
30 without first obtaining a license pursuant to this chapter. A separate  
31 license is required for each location from which the business is conducted.  
32 The licensee shall post its license to engage in the business of deferred  
33 presentment services at each location that is licensed pursuant to this  
34 chapter.

35 B. A licensee shall not:

36 1. Advance monies on the security of a check without first obtaining  
37 reasonable evidence that indicates that the account on which the presented  
38 check is drawn is an open and active account.

39 2. Assess any fee that is more than the amount prescribed in this  
40 chapter.

41 3. At the licensed location engage in the business of:

42 (a) Making loans of money or extensions of credit other than those  
43 allowed under this chapter or title 44, chapter 11, article 3.

44 (b) Discounting notes, bills of exchange, items or other evidences of  
45 debt.

1 (c) Accepting deposits or bailments of money or items, except as  
2 expressly provided in section 6-1260.

3 4. Use or cause to be published or disseminated any advertisement that  
4 contains false, misleading or deceptive statements or representations.

5 5. Engage in the business of deferred presentment services at  
6 locations other than licensed locations.

7 6. Engage in unfair, deceptive or fraudulent practices.

8 7. Alter or delete the date on a check accepted by the licensee.

9 8. Take possession of an undated check or a check dated on a date  
10 other than the date on which the licensee takes possession of the check or  
11 the date of presentment.

12 9. Require a customer to provide security for the transaction, other  
13 than the presented check, or require the customer to provide a guaranty from  
14 another person.

15 ~~10. Fail to take reasonable measures to ensure that no customer has~~  
16 ~~more than one deferred presentment loan outstanding at any time with any~~  
17 ~~licensee in this state.~~

18 ~~11.~~ 10. Engage in the sale of the following goods or services at any  
19 licensed location:

20 (a) Gaming activities, including the sale of lottery tickets.

21 (b) Alcoholic beverages.

22 ~~12.~~ 11. Tie or otherwise condition the offering of deferred  
23 presentment services to the sale of any good or service.

24 ~~13.~~ 12. Permit others to engage in any activity prohibited in this  
25 section at a location licensed pursuant to this chapter.

26 ~~14.~~ 13. Offer deferred presentment services for less than five days **OR**  
27 **LONGER THAN THIRTY DAYS.**

28 ~~15. Be required to request or accept any written representation by a~~  
29 ~~customer as to whether the customer has any outstanding checks for deferred~~  
30 ~~presentment held by other licensees.~~

31 **14. CHARGE A PREPAYMENT PENALTY.**

32 Sec. 3. Section 6-1260, Arizona Revised Statutes, is amended to read:

33 **6-1260. Deferred presentment; amount; fees; loans to members of**  
34 **military service; repayment plans**

35 A. The licensee may accept for deferred presentment or deposit a check  
36 with a face amount of at least fifty dollars but not more than five hundred  
37 dollars, excluding the fees permitted in subsection ~~F~~ H of this section.

38 B. For each check the licensee accepts for deferred presentment or  
39 deposit, the licensee and the customer shall sign a written agreement **IN**  
40 **ENGLISH OR IN SPANISH AT THE CUSTOMER'S REQUEST** that contains the name or  
41 trade name of the licensee, the transaction date, the amount of the check,  
42 the amount to be paid by the maker, a statement of the total amount of the  
43 fees charged, expressed both as a dollar amount and as an effective annual  
44 percentage rate, a disclosure statement that complies with state and federal  
45 truth in lending laws and a notice to the customer as prescribed in

1 subsection C of this section. The written agreement shall expressly require  
2 the licensee to defer presentment or deposit of the check until a specified  
3 date. BEFORE ENTERING INTO A WRITTEN AGREEMENT WITH A CUSTOMER, A LICENSEE  
4 SHALL VERBALLY NOTIFY THE CUSTOMER OF THE AVAILABILITY OF A REPAYMENT PLAN  
5 AND SHALL GIVE THE CUSTOMER A SEPARATE FLIER IN SIXTEEN POINT BOLD-FACED TYPE  
6 IN ENGLISH AND IN SPANISH DESCRIBING THE DETAILS OF THE REPAYMENT PLAN AS  
7 PRESCRIBED BY SUBSECTION P OF THIS SECTION. THE FIRST PAGE OF THE WRITTEN  
8 AGREEMENT SHALL DISCLOSE IN SIXTEEN POINT BOLD-FACED TYPE THAT A REPAYMENT  
9 PLAN AS PRESCRIBED BY SUBSECTION P OF THIS SECTION IS AVAILABLE TO THE  
10 CUSTOMER. THE WRITTEN AGREEMENT SHALL CONTAIN THE FOLLOWING INFORMATION  
11 ADJACENT TO THE CUSTOMER SIGNATURE LINE:

12 1. THE TELEPHONE NUMBER AND ADDRESS OF THE DEPARTMENT.

13 2. THE LICENSEE IS REGULATED BY THE DEPARTMENT.

14 3. ANY COMPLAINTS CONCERNING THE AGREEMENT MAY BE ADDRESSED TO THE  
15 DEPARTMENT AT THE DEPARTMENT'S ADDRESS AND TELEPHONE NUMBER.

16 C. A licensee shall provide a notice in a prominent place on each  
17 written agreement that specifies that no customer may have outstanding more  
18 than one deferred presentment service agreement at one time and the face  
19 amount, exclusive of any fees, cannot be more than five hundred dollars.

20 ~~A licensee shall ask every customer who seeks deferred presentment services~~  
21 ~~whether that customer has any outstanding checks payable to other licensees.~~

22 D. EACH BRANCH OFFICE SHALL DISPLAY IN PLAIN VIEW OF EACH CUSTOMER AND  
23 IN A CONSPICUOUS LOCATION AT ALL TIMES DURING THE DEFERRED PRESENTMENT  
24 TRANSACTION APPLICATION PROCESS A LEGIBLE CHART THAT CLEARLY DESCRIBES THE  
25 DETAILS OF THE REPAYMENT PLAN PRESCRIBED BY SUBSECTION P OF THIS SECTION.  
26 THE CHART SHALL BE IN ENGLISH AND IN SPANISH.

27 ~~D.~~ E. A LICENSEE MUST REQUIRE EACH CUSTOMER TO AFFIRM IN WRITING THAT  
28 THE CUSTOMER DOES NOT HAVE AN OUTSTANDING DEFERRED PRESENTMENT LOAN WITH ANY  
29 LICENSEE. A licensee may rely on the customer's representation of whether  
30 the customer has any outstanding checks for deferred presentment held by  
31 other licensees.

32 F. UNTIL A DATABASE IS CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION  
33 6-1263, THE CUSTOMER SHALL PROVIDE THE LICENSEE WITH A WRITTEN STATEMENT THAT  
34 THE CUSTOMER DOES NOT HAVE AN EXISTING INCOMPLETE REPAYMENT PLAN AS DESCRIBED  
35 IN SUBSECTION P OF THIS SECTION.

36 ~~E.~~ G. The maker of a check has the right to redeem the check from the  
37 licensee before the agreed on date of presentment or deposit if the maker  
38 pays the licensee the amount of the check.

39 ~~F.~~ H. A licensee shall not directly or indirectly charge any fee or  
40 other consideration for accepting a check for deferred presentment or deposit  
41 that is more than fifteen per cent of the ~~face amount of the check for any~~  
42 ~~initial transaction or any extension~~ NET TRANSACTION PROCEEDS PAID TO THE  
43 CUSTOMER.

44 ~~G.~~ I. A licensee may impose the fee prescribed in subsection ~~F~~ H of  
45 this section only once for each written agreement. The fee is earned on

1 execution of the written agreement and is not subject to any reimbursement  
2 even if the maker redeems the check pursuant to subsection ~~E~~ G of this  
3 section.

4 ~~H~~ J. The fee charged by the licensee is not interest for purposes of  
5 any other law or rule of this state.

6 ~~I~~ K. ~~Except as otherwise provided in this subsection,~~ A person may  
7 NOT extend the presentment or deposit of a check. ~~not more than three~~  
8 ~~consecutive times. For each extension the customer and the licensee shall~~  
9 ~~terminate the previous agreement and sign a separate agreement.~~ During an  
10 incomplete transaction the customer may not receive any additional monies  
11 from the licensee. ~~The licensee may charge a fee as prescribed in subsection~~  
12 ~~F of this section for each extension. A person who is a member of the~~  
13 ~~military service of the United States or the member's spouse may not extend~~  
14 ~~the presentment or deposit of a check. If a customer has completed a~~  
15 ~~deferred presentment transaction with the licensee and has waited at least~~  
16 ~~two days after the completion of the transaction, the customer may enter into~~  
17 ~~a new agreement for deferred presentment services with the a licensee. A~~  
18 CUSTOMER SHALL WAIT AT LEAST TWO DAYS FOLLOWING THE COMPLETION OF THE  
19 CUSTOMER'S TRANSACTION WITH A LICENSEE BEFORE ENTERING INTO A NEW TRANSACTION  
20 WITH A LICENSEE. A transaction is completed when the customer's check is  
21 presented for payment, deposited or redeemed by the customer for cash.

22 ~~J~~ L. If a check is returned to the licensee from a payer financial  
23 institution due to insufficient funds, a closed account or a stop payment  
24 order, the licensee may use all available civil remedies to collect on the  
25 check including the imposition of the dishonored check service fee prescribed  
26 in section 44-6852. THE LICENSEE SHALL NOT CHARGE A DISHONORED CHECK SERVICE  
27 FEE MORE THAN TWICE FOR A CHECK RETURNED DUE TO INSUFFICIENT FUNDS. THE  
28 LICENSEE SHALL NOT CHARGE A DISHONORED CHECK SERVICE FEE MORE THAN ONCE FOR A  
29 CHECK RETURNED DUE TO A CLOSED ACCOUNT OR A STOP PAYMENT ORDER. A LICENSEE  
30 MAY NOT CHARGE ANY ADDITIONAL FEES FOR THE DEFERRED PRESENTMENT TRANSACTION  
31 IF A CHECK IS RETURNED TO THE LICENSEE FROM A PAYER FINANCIAL INSTITUTION DUE  
32 TO INSUFFICIENT FUNDS, A CLOSED ACCOUNT OR A STOP PAYMENT ORDER, EXCEPT AS  
33 PROVIDED IN THIS SUBSECTION. An individual who issues a personal check to a  
34 licensee under a deferred presentment agreement is not subject to criminal  
35 prosecution pursuant to title 13, chapter 18.

36 ~~K~~ M. Before engaging in a deferred presentment transaction, a  
37 licensee shall provide to a customer who is a member of the military service  
38 of the United States or the member's spouse a written statement that clearly  
39 and conspicuously states the prohibited practices and requirements prescribed  
40 in subsection ~~L~~ N of this section.

41 ~~L~~ N. If lending to a member of the military service of the United  
42 States or the spouse of a member of the military service of the United  
43 States, a licensee:

- 44 1. Shall not garnish any military wages or salary.

1           2. Shall not conduct any collection activity against a customer who is  
2 a member of the military service of the United States or the spouse of the  
3 member during the member's deployment to a combat or combat support posting  
4 or during active duty service by a member of the national guard or any  
5 military reserve unit of any branch of the armed forces of the United States.

6           3. Shall contact the employer of a member of the military service of  
7 the United States about a deferred presentment debt of the member or the  
8 member's spouse. The contact allowed by this paragraph shall only be a  
9 notice for informational purposes and shall not be an attempt to collect on a  
10 loan made to the member or the member's spouse. A licensee shall not attempt  
11 to collect on a loan made to a member of the military service of the United  
12 States or the member's spouse through the member's chain of command.

13           4. Shall not conduct a deferred presentment transaction with a member  
14 of the military service of the United States or the member's spouse in any  
15 location that the member's commanding officer prohibits the member or the  
16 member's spouse from transacting deferred presentment business.

17           5. Is bound by the terms of any repayment agreement that the licensee  
18 negotiates with respect to the customer through military counselors or third  
19 party credit counselors.

20           O. A LICENSEE WHO ENTERS INTO A DEFERRED PRESENTMENT TRANSACTION WITH  
21 A MEMBER OF THE MILITARY SERVICE OF THE UNITED STATES OR THE MEMBER'S  
22 DEPENDENT AND WHO VIOLATES ANY PROVISION OF SECTION 670 OF THE JOHN WARNER  
23 NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120  
24 STAT. 2083; 10 UNITED STATES CODE SECTION 987), OR ANY REGULATION MADE UNDER  
25 THAT ACT, IN EFFECT ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION  
26 IS IN VIOLATION OF THIS TITLE.

27           P. IF A CUSTOMER REQUESTS A REPAYMENT PLAN AND SIGNS AN AMENDMENT TO  
28 THE PARTIES' WRITTEN AGREEMENT BEFORE THE DATE ON WHICH A DEFERRED  
29 PRESENTMENT TRANSACTION IS DUE, THE LICENSEE SHALL ENTER INTO A REPAYMENT  
30 PLAN WITH THE CUSTOMER AS FOLLOWS:

31           1. THE REPAYMENT PLAN SHALL DIVIDE THE CUSTOMER'S OUTSTANDING BALANCE  
32 INTO SUBSTANTIALLY EQUAL PAYMENTS THAT COINCIDE WITH THE CUSTOMER'S PAY DAYS  
33 AND THAT AGGREGATE TO AT LEAST EIGHTY-FOUR DAYS. THE REPAYMENT PLAN SHALL  
34 PROVIDE FOR A ONE-DAY GRACE PERIOD FOR ANY AMOUNTS DUE. NO ADDITIONAL FEES  
35 OR INTEREST MAY BE ASSESSED ON THE OUTSTANDING BALANCE PAID PURSUANT TO THE  
36 REPAYMENT PLAN IF THE CUSTOMER FULFILLS THE TERMS OF THE REPAYMENT PLAN. A  
37 REPAYMENT PLAN IS NOT AN AGREEMENT FOR DEFERRED PRESENTMENT SERVICES AND IS  
38 NOT A LOAN. THE TERMS OF THE DEFERRED PRESENTMENT AGREEMENT REMAIN IN FULL  
39 FORCE AND EFFECT. DURING THE TERM OF THE REPAYMENT PLAN, THE LICENSEE MAY  
40 NOT SEEK TO COLLECT ANY AMOUNT DUE EXCEPT PURSUANT TO THE TERMS OF THE  
41 REPAYMENT PLAN. IF THE CUSTOMER MAKES EACH OF THE PAYMENTS REQUIRED UNDER  
42 THE REPAYMENT PLAN, THE OUTSTANDING DEFERRED PRESENTMENT SERVICES AGREEMENT  
43 SHALL BE COMPLETED. IF THE CUSTOMER FAILS TO ADHERE TO THE ORIGINAL  
44 REPAYMENT PLAN, THE LICENSEE SHALL USE REASONABLE EFFORTS TO NEGOTIATE A  
45 MUTUALLY AGREEABLE ALTERNATIVE REPAYMENT PLAN BEFORE INITIATING ANY LEGAL

1 ACTION. A LICENSEE IS AUTHORIZED TO CHARGE A MONTHLY FEE EQUAL TO THREE PER  
2 CENT OF THE OUTSTANDING BALANCE OF AN INCOMPLETE DEFERRED PRESENTMENT  
3 AGREEMENT IN THE EVENT OF A DEFAULT ON A REPAYMENT PLAN.

4 2. THE LICENSEE SHALL SUBMIT THE FOLLOWING DATA TO A CONSUMER CREDIT  
5 REPORTING SERVICE WHOSE DATABASE IS CERTIFIED BY THE DEPARTMENT PURSUANT TO  
6 SECTION 6-1263:

7 (a) THE CUSTOMER'S NAME.

8 (b) THE CUSTOMER'S SOCIAL SECURITY NUMBER OR EMPLOYMENT AUTHORIZATION  
9 ALIEN NUMBER.

10 (c) THE CUSTOMER'S ADDRESS.

11 (d) THE CUSTOMER'S DRIVER LICENSE NUMBER.

12 (e) THE AMOUNT OF THE TRANSACTION.

13 (f) THE DATE OF THE TRANSACTION.

14 (g) THE DATE THE TRANSACTION IS CLOSED.

15 3. AT THE COMPLETION OF THE REPAYMENT PLAN, THE LICENSEE SHALL REPORT  
16 TO THE CONSUMER CREDIT REPORTING SERVICE THAT THE CUSTOMER'S REPAYMENT PLAN  
17 IS TERMINATED.

18 Q. ON OR BEFORE DECEMBER 31, 2007, THE DEPARTMENT SHALL ESTABLISH BY  
19 RULE A CONSUMER CREDIT COUNSELING STATEMENT. THE STATEMENT SHALL PROVIDE  
20 INFORMATION REGARDING CONSUMER CREDIT COUNSELING ALTERNATIVES AND SHALL LIST  
21 THE NAMES AND CONTACT INFORMATION FOR AVAILABLE CONSUMER CREDIT COUNSELING  
22 ORGANIZATIONS. A LICENSEE SHALL:

23 1. MAKE THE CONSUMER CREDIT COUNSELING STATEMENT AVAILABLE IN ENGLISH  
24 AND IN SPANISH TO CUSTOMERS AT EACH LICENSED LOCATION.

25 2. DISPLAY IN EACH BRANCH OFFICE IN PLAIN VIEW OF EACH CUSTOMER AND IN  
26 A CONSPICUOUS LOCATION AT ALL TIMES DURING THE DEFERRED PRESENTMENT  
27 TRANSACTION APPLICATION PROCESS A LEGIBLE CHART THAT CLEARLY DESCRIBES THE  
28 CONSUMER CREDIT COUNSELING STATEMENT. THE CHART SHALL BE IN ENGLISH AND IN  
29 SPANISH.

30 3. PROVIDE A COPY OF THE CONSUMER CREDIT COUNSELING STATEMENT IN  
31 ENGLISH AND IN SPANISH TO EACH CUSTOMER THAT ENTERS INTO A REPAYMENT PLAN  
32 PURSUANT TO SUBSECTION P OF THIS SECTION.

33 Sec. 4. Section 6-1262, Arizona Revised Statutes, is amended to read:

34 6-1262. Violation; classification; individual liability

35 A. A person that provides deferred presentment services without a  
36 license is guilty of a class 1 misdemeanor.

37 B. A licensee that violates this chapter or the rules adopted pursuant  
38 to this chapter is subject to revocation of the licensee's license and is  
39 guilty of a class 1 misdemeanor.

40 C. An officer or agent of a corporation or association who  
41 participates in a violation of this chapter is subject to the penalties  
42 prescribed in this section.

43 D. Except as the result of an accidental or bona fide error, if the  
44 licensee charges, contracts for or receives any amount in excess of the fees  
45 expressly permitted by this chapter, the deferred presentment is voidable and

1 the licensee has no right to collect or receive any fees in connection with  
2 the deferred presentment transaction. Any deferred presentment transaction,  
3 INCLUDING AN INTERNET DEFERRED PRESENTMENT TRANSACTION that is made by a  
4 person who is required to be licensed pursuant to this chapter but who is not  
5 licensed is void, and the person has no right to MAINTAIN A COURT ACTION OR  
6 OTHERWISE collect, receive or retain any principal or other fees in  
7 connection with that deferred presentment transaction. ANY AMOUNT RECEIVED  
8 BY A CUSTOMER FROM A PERSON WHO IS REQUIRED TO BE LICENSED BUT WHO IS NOT,  
9 SHALL BE DEEMED A GIFT TO THE CUSTOMER.

10 Sec. 5. Repeal

11 Section 6-1263, Arizona Revised Statutes, is repealed.

12 Sec. 6. Title 6, chapter 12.1, article 1, Arizona Revised Statutes, is  
13 amended by adding a new section 6-1263, to read:

14 6-1263. Commercially reasonable methods for verification; one  
15 incomplete repayment plan; definition

16 A. BEFORE ENTERING INTO A DEFERRED PRESENTMENT TRANSACTION, THE  
17 LICENSEE SHALL USE REASONABLE EFFORTS TO VERIFY THAT A CUSTOMER DOES NOT HAVE  
18 AN INCOMPLETE REPAYMENT PLAN DESCRIBED IN SECTION 6-1260, SUBSECTION P. A  
19 CUSTOMER IN A REPAYMENT PLAN MAY NOT ENTER INTO A NEW DEFERRED PRESENTMENT  
20 AGREEMENT WITH ANY LICENSEE.

21 B. PRIVATE CONSUMER CREDIT REPORTING SERVICES SHALL DEVELOP DATABASES  
22 TO VERIFY INCOMPLETE REPAYMENT PLANS. THE DATABASES SHALL INCLUDE  
23 INFORMATION SUBMITTED BY LICENSEES PURSUANT TO SECTION 6-1260, SUBSECTION P.  
24 ON OR BEFORE JANUARY 1, 2008, THE DEPARTMENT SHALL CERTIFY THE EFFECTIVENESS  
25 OF PRIVATE CONSUMER CREDIT REPORTING SERVICES DATABASES IF THE DATABASES ARE  
26 EFFECTIVE IN PROVIDING THE VERIFICATION INFORMATION REQUIRED UNDER SUBSECTION  
27 A OF THIS SECTION. IF THE DEPARTMENT DETERMINES THAT ONE OR MORE  
28 COMMERCIALY REASONABLE METHODS OF VERIFICATION ARE AVAILABLE, THE DEPARTMENT  
29 SHALL DO BOTH OF THE FOLLOWING:

30 1. PROVIDE REASONABLE NOTICE TO ALL LICENSEES IDENTIFYING THE  
31 COMMERCIALY REASONABLE METHODS OF VERIFICATION THAT ARE AVAILABLE.

32 2. REQUIRE EACH LICENSEE TO USE, CONSISTENT WITH THE POLICIES OF THE  
33 DEPARTMENT, AT LEAST ONE OF THE IDENTIFIED COMMERCIALY REASONABLE METHODS OF  
34 VERIFICATION AS A MEANS OF COMPLYING WITH SUBSECTION A OF THIS SECTION.

35 C. A LICENSEE MAY RELY ON THE INFORMATION CONTAINED IN A DEPARTMENT  
36 CERTIFIED DATABASE AS ACCURATE AND IS NOT SUBJECT TO AN ADMINISTRATIVE  
37 PENALTY OR CIVIL LIABILITY AS A RESULT OF RELYING ON INACCURATE INFORMATION  
38 IN THE DATABASE.

39 D. FOR THE PURPOSES OF THIS SECTION, "COMMERCIALY REASONABLE METHOD  
40 OF VERIFICATION" INCLUDES A MANUAL INVESTIGATION OR AN ELECTRONIC QUERY OF  
41 BOTH OF THE FOLLOWING:

42 1. THE LICENSEE'S OWN RECORDS, INCLUDING BOTH RECORDS MAINTAINED AT  
43 THE LOCATION WHERE THE CUSTOMER IS APPLYING FOR THE TRANSACTION AND RECORDS  
44 MAINTAINED AT OTHER LOCATIONS THAT ARE OWNED AND OPERATED BY THE LICENSEE.

1           2. PRIVATE CONSUMER CREDIT REPORTING SERVICE DATABASES THAT ARE  
2 CERTIFIED BY THE DEPARTMENT AS BEING SUFFICIENT TO VERIFY THE EXISTENCE OF AN  
3 INCOMPLETE REPAYMENT PLAN.

4           Sec. 7. Title 6, chapter 12.1, article 1, Arizona Revised Statutes, is  
5 amended by adding section 6-1264, to read:

6           6-1264. Annual reporting; record maintenance

7           A. AT THE TIME OF THE LICENSE RENEWAL APPLICATION REQUIRED PURSUANT TO  
8 SECTION 6-1256, EACH LICENSEE SHALL REPORT TO THE DEPARTMENT THE FOLLOWING  
9 INFORMATION:

10           1. THE TOTAL NUMBER AND DOLLAR AMOUNT OF DEFERRED PRESENTMENT  
11 TRANSACTIONS ENTERED INTO AS OF DECEMBER 31 OF THE PREVIOUS YEAR.

12           2. THE TOTAL NUMBER AND DOLLAR AMOUNT OF DEFERRED PRESENTMENT  
13 TRANSACTIONS OUTSTANDING AS OF DECEMBER 31 OF THE PREVIOUS YEAR.

14           3. THE AVERAGE ANNUAL PERCENTAGE RATE, THE AVERAGE DOLLAR AMOUNT AND  
15 THE AVERAGE NUMBER OF DAYS OF DEFERRED PRESENTMENT TRANSACTIONS ENTERED INTO  
16 DURING THE PREVIOUS CALENDAR YEAR.

17           4. THE TOTAL DOLLAR AMOUNT OF FEES COLLECTED FROM DEFERRED PRESENTMENT  
18 TRANSACTIONS DURING THE PREVIOUS CALENDAR YEAR.

19           5. THE NUMBER AND DOLLAR AMOUNT OF DEFERRED PRESENTMENT TRANSACTIONS  
20 WRITTEN OFF DURING THE PREVIOUS CALENDAR YEAR.

21           6. THE TOTAL NUMBER OF CUSTOMERS THAT ENTERED INTO A REPAYMENT PLAN  
22 DURING THE PREVIOUS CALENDAR YEAR.

23           7. THE TOTAL NUMBER OF CUSTOMERS THAT COMPLETED A REPAYMENT PLAN  
24 DURING THE PREVIOUS CALENDAR YEAR.

25           8. THE TOTAL NUMBER OF CUSTOMERS THAT DEFAULTED ON A REPAYMENT PLAN  
26 DURING THE PREVIOUS CALENDAR YEAR.

27           9. THE TOTAL NUMBER OF CUSTOMERS THAT ENTERED INTO MORE THAN ONE  
28 DEFERRED PRESENTMENT TRANSACTION DURING THE PREVIOUS CALENDAR YEAR.

29           B. THE DEPARTMENT SHALL AGGREGATE THE INFORMATION OBTAINED PURSUANT TO  
30 SUBSECTION A OF THIS SECTION INTO A REPORT AND, ON OR BEFORE NOVEMBER 1 OF  
31 EACH YEAR, SHALL SUBMIT THE REPORT TO THE GOVERNOR, THE PRESIDENT OF THE  
32 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A  
33 COPY OF THE REPORT TO THE SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA  
34 STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS. THE DEPARTMENT SHALL MAKE THE  
35 REPORT AVAILABLE ON THE DEPARTMENT'S WEBSITE. THE REPORT SUBMITTED PURSUANT  
36 TO THIS SUBSECTION SHALL BE IN AN ELECTRONIC FORMAT AS SPECIFIED BY THE  
37 DEPARTMENT IN RULE.

38           C. THE INFORMATION OBTAINED BY THE DEPARTMENT PURSUANT TO SUBSECTION A  
39 OF THIS SECTION SHALL BE TREATED AS A RECORD RELATING TO FINANCIAL  
40 INSTITUTIONS AND SHALL BE MAINTAINED PURSUANT TO SECTION 6-129.

1 Sec. 8. Section 12-671, Arizona Revised Statutes, is amended to read:

2 12-671. Drawing check or draft on no account or insufficient  
3 account with intent to defraud; civil action;  
4 definition of credit; prima facie evidence

5 A. A person who, for himself or for another, with intent to defraud,  
6 makes, draws, utters or delivers to another person or persons a check or  
7 draft on a bank or depository for payment of money, knowing at the time of  
8 such making, drawing, uttering or delivery, that he or his principal does not  
9 have an account or does not have sufficient funds in, or credit with, such  
10 bank or depository to meet the check or draft in full upon presentation,  
11 shall be liable to the holder of such check or draft for twice the amount of  
12 such check or draft or fifty dollars, whichever is greater, together with  
13 costs and reasonable ~~attorney's~~ ATTORNEY fees as allowed by the court on the  
14 basis of time and effort expended by such attorney on behalf of plaintiff,  
15 EXCEPT THAT LIABILITY FOR A CHECK OR DRAFT PRESENTED ACCORDING TO TITLE 6,  
16 CHAPTER 12.1 IS LIMITED TO ONLY THE FACE VALUE OF THE CHECK OR DRAFT TOGETHER  
17 WITH COSTS AND REASONABLE ATTORNEY FEES AND ANY APPLICABLE DISHONORED CHECK  
18 SERVICE FEE PRESCRIBED IN SECTION 44-6852.

19 B. The word "credit" as used in this section shall be construed to be  
20 an express agreement with the bank or depository for payment of the check or  
21 draft.

22 C. Proof that, at the time of presentment, the maker, issuer or drawer  
23 did not have sufficient funds with the bank or depository, and that he failed  
24 within twelve days after receiving notice of nonpayment or dishonor to pay  
25 the check or draft is prima facie evidence of intent to defraud.

26 D. Where a check, draft or order is protested, on the ground of  
27 insufficiency of funds or credit, the notice of formal protest thereof shall  
28 be admissible as proof of presentation, nonpayment and protest and shall be  
29 prima facie evidence of the insufficiency of funds or credit with the bank or  
30 depository, or person, or firm or corporation.

31 E. "Notice", as used in this section, means notice given to the person  
32 entitled thereto, either in person, or in writing. Such notice in writing  
33 shall be given by certified mail, return receipt requested, to the person at  
34 his address as it appears on such check or draft.

35 F. Nothing in this section shall be applicable to any criminal case or  
36 affect eligibility or terms of probation.

37 Sec. 9. Section 44-6852, Arizona Revised Statutes, is amended to read:  
38 44-6852. Dishonored checks; service fee

39 Notwithstanding any other law EXCEPT AS PROVIDED IN SECTION 6-1260, the  
40 holder, payee or assignee of the holder or payee of a dishonored check,  
41 draft, order or note may charge and collect from the maker or drawer a  
42 service fee of not more than twenty-five dollars plus any actual charges  
43 assessed by the financial institution of the holder, payee or assignee of the  
44 holder or payee as a result of the dishonored instrument.