



# STATE OF ALABAMA STATE BANKING DEPARTMENT



## FAQs for Deferred Presentment Providers

Below are Frequently Asked Questions about the Alabama's Deferred Presentment Services Act:

**1. What is the maximum fee that providers may charge on their Deferred Presentment (“DP”) transactions?** The maximum fee is 17.5% of the cash advanced. For example, if a customer wants \$100, then licensees may charge up to \$17.50 and the customer would write a check for \$117.50.

**2. What must I disclose to my customers?** All providers must conspicuously and continuously display a schedule of all fees and pertinent provisions of the Act in its lobby. This sign must be at least 20 X 20 in size and must contain the wording in Attachment A, as modified for the licensee's name and fees charged, and the corresponding APR for typical terms. In addition, providers must make specific disclosures in their Customer Agreement, such as their fees, the maturity date, APR and other TILA disclosures, and the extended repayment plan. A sample Customer Agreement is provided in Attachment B.

**3. Are there any restrictions on the term of a DP transaction?** Yes. Deferred Presentment transactions cannot be made for less than 10 days nor more than 31 days after the date of the contract.

**4. What is the maximum loan amount allowed for DP transactions?** The maximum loan amount that any one customer may have with all DP providers is \$500. Providers must first access a third-party, private sector database to verify that their customers do not have more than \$500 outstanding with other DP providers.

**5. Is there a limitation on renewals or “rollovers”?** Yes. Customers may not renew or rollover their DP transaction more than once when the customer only pays the additional fee to extend the transaction. Once a borrower extends their DP transaction once, then the borrower must pay-off in full and may not obtain a new transaction until the next business day. However, providers may choose not to offer “fee-only” renewals. If a customer pays off their transaction in-full every time, then the provider may enter into another transaction with the same customer on the same day, provided the customer does not have more than \$500 outstanding elsewhere.

**6. May I threaten to put borrowers in jail for passing a worthless check?** No. The law prohibits criminal prosecutions for bad checks written in connection with a DP transaction unless the check is returned due to an account closed prior to the day of the transaction. Moreover, licensees may only charge one NSF fee for a “bounced” check, which has actually been returned by the bank. Licensees may not split a DP transaction into two agreements on the same day in order to collect two NSF fees.

**7. May I pay-out the proceeds of a DP transaction with a company check?** No. The law requires providers to pay the DP advance with cash.

**8. Do these same restrictions apply to Catalog Sales, Phone Card Clubs and Internet Instant Rebate check cashing?** Yes. The law applies to anyone that advances money to customers by holding a check or authorization to debit a customer's checking account. Providers using catalog sales, phone

card clubs or Internet service as a marketing tool for their DP services may not charge any additional fees.

**9. *Is there a maximum fee that can be charged for traditional check cashing transaction?*** No. The fees charged for cashing third-party checks, payroll checks, government checks, etc., where the check is not held before depositing to a bank are not regulated by this law.

**10. *What records am I required to keep?*** Providers must keep the following information for their DP business:

(a) Customer Account file: Each customer's file must contain all information kept by the provider, including each original Customer Agreement with a copy of the check or debit authorization and "approval" message from the database attached; copy of any returned check and records of any collection activity or extended repayment plans; copies of any other documents kept on the customer. Documents and payment histories must accurately reflect the amount of payments made to and by the borrower.

(b) Loan Register of Agreements executed: Customer Agreements must be consecutively numbered and providers must maintain a loan register. The register must contain at a minimum the customer's name, transaction date and Agreement number. In lieu of a loan register, providers may keep a notebook with a copy of each DP Agreement executed in consecutive order. Licensee must also keep any "voided" loans and be able to account for any missing numbers.

(c) Litigation Log: An up-to-date list of suits filed against customers providing at a minimum the customer's full name and address, transaction date, Agreement number, amount of check, maturity date, amount of claim, name of court and judge, date filed, date of judgment and amount awarded, date(s) and amount(s) paid; notation when paid-in-full.

(d) Retention: Deferred Presentment records must be kept on-site for at least two years after making the last entry on a transaction. Providers must also keep their business records regarding deferred presentment transactions separate from any other business records.

**11. *What is the cost of an examination?*** Licensees will be examined by Loan Examiners from the State Banking Department. Our current examination fee is \$100 per examiner per day, or part thereof. We expect that most DP providers can be examined by one examiner in one day or less.

**12. *Do loan receivables count as unencumbered cash assets?*** No. In order to receive a license to engage in DP services, applicants must have and maintain at least \$20,000 in unencumbered cash assets for each location. The term "unencumbered cash asset" does not include receivables, furniture, buildings or computers. It must be cash on hand for the business or a bank letter of credit. Nor may a bond substitute for this requirement. A financial statement completed by a CPA must be submitted with the license application.

**13. *Must providers offer an extended repayment plan?*** No. However, if licensees intend to file claims with Small Claims Court to collect delinquent DP transaction, then it must first offer the borrower in writing an extended repayment plan of four equal monthly payments at no additional cost. Note the borrower's held DP check must first be returned by the bank before filing a claim.

## ATTACHMENT A

### **NOTICE: FEES FOR DEFERRED PRESENTMENT TRANSACTIONS MAY BE SIGNIFICANTLY HIGHER THAN FOR OTHER TYPES OF LOANS.**

Maximum Fee: The most that any Deferred Presentment provider may charge for Deferred Presentment transactions is 17.5% of the cash advanced. [LICENSEE'S NAME] charges [FEE RATE] for these transactions. The following table illustrates [LICENSEE'S NAME] fee structure:

<u>Loan Amount</u>	<u>Fee Rate</u>	<u>Fee Amount</u>	<u>Total of Payments</u>
\$100	[ ]%	[\$ ]	[\$ ]
\$150	[ ]%	[\$ ]	[\$ ]
\$200	[ ]%	[\$ ]	[\$ ]
\$250	[ ]%	[\$ ]	[\$ ]
\$300	[ ]%	[\$ ]	[\$ ]
\$350	[ ]%	[\$ ]	[\$ ]
\$400	[ ]%	[\$ ]	[\$ ]
\$450	[ ]%	[\$ ]	[\$ ]
\$500	[ ]%	[\$ ]	[\$ ]

No other fees may be charged for these transactions, except if a check “bounces” once it is deposited at a bank, then the provider may charge a one-time NSF fee of up to \$30.00. And if the provider must go to court to enforce payment of this loan, then you may be assessed court costs and up to 15% of the face amount of the check as attorney’s fees. *You cannot be arrested or sent to jail for passing a “worthless” deferred presentment check unless the check was returned due to an account closed prior to the day of the loan.*

Maximum Loan Amount: The law limits the maximum loan amount that any one borrower may have with all Deferred Presentment providers to \$500. The provider will be verifying your other outstanding deferred presentment loans with a database to determine compliance with the law.

Term: Deferred Presentment transactions cannot be made for a term of less than 10 days or more than 31 days.

Renewal: Your transaction is due on the maturity date. You may obtain another transaction once this one is paid-in-full. However, if you cannot repay the total amount due, then, if offered by the provider, you may renew this transaction one more time upon payment of an additional fee. If you cannot pay the total amount due at that time, then, at the provider’s option, you may extend your repayment into four equal monthly installments at no additional cost.

Customer Agreement: You must be given a copy of the provider’s Deferred Presentment Services Agreement. You have the right to read the Agreement before you sign it. You have the right to ask questions of the provider’s staff until you thoroughly understand everything in the Agreement. You also have the right to walk away from the Agreement before you sign it.

Complaints: [LICENSEE'S NAME] is a licensed Deferred Presentment provider in Alabama. To report any unresolved problems with [LICENSEE'S NAME], contact the STATE BANKING DEPARTMENT, Bureau of Loans, P.O. Box 4600, Montgomery, Alabama 36103-4600. Telephone: 334/242-3452. Website: [www.banking.alabama.gov](http://www.banking.alabama.gov).

ATTACHMENT B

No. 00000

DEFERRED PRESENTMENT SERVICES AGREEMENT

Licensee's Name  
Licensee's Address

Borrower Name  
Borrower Address

<b>ANNUAL PERCENTAGE RATE:</b> The cost of your credit as a yearly rate.  <div style="text-align: right;">%</div>	<b>FINANCE CHARGE:</b> The dollar amount the credit will cost you.  <div style="text-align: right;">\$</div>	<b>Amount Financed:</b> The amount of cash advanced to you.  <div style="text-align: right;">\$</div>	<b>Total of Payments:</b> The total amount you will pay upon maturity.  <div style="text-align: right;">\$</div>
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Payment Schedule: One payment in the amount of \$ \_\_\_\_\_ is due on \_\_\_\_\_.

The Amount Financed consists solely of the cash being advanced to you.

Prepayment: If you pay off early, you will not be entitled to a refund of part of the finance charge.

Late Fee: None.

Security: None.

See below for additional information regarding loan terms.

Deferred Presentment Fee: \_\_\_\_% of the cash advanced. Check Number: \_\_\_\_\_.

Deferred Deposit: Your check will be deposited at the bank on the maturity date, or you may redeem your check in person with cash or guaranteed funds.

Renewal: Your transaction is due on the maturity date. You may obtain another transaction once this one is paid-in-full. However, if you cannot repay the total amount due, then, we may offer to renew this transaction one more time upon payment of an additional deferred presentment fee. If you cannot pay the total amount due at that time, then, at our option, we may extend your repayment into four equal monthly installments.

Returned Check: If your check bounces for insufficient funds, then you may be charged a one-time fee of up to \$30. You may also be charged court costs and up to 15% of the face amount of the check as attorney's fees if legal action is necessary to collect payment of the check. You cannot be arrested for passing a worthless check in connection with a deferred presentment transaction unless the check was returned due to a closed account.

Acknowledgment: I understand the fees described above.

**NOTICE: FEES FOR DEFERRED PRESENTMENT TRANSACTIONS MAY BE SIGNIFICANTLY HIGHER THAN FOR OTHER TYPES OF LOANS.**

\_\_\_\_\_  
Borrower's Signature

\_\_\_\_\_  
Date