DEFERRED PRESENTMENT REFORM ACT HB 5097

Let's Strengthen the Regulated Credit Market and Shrink the Unregulated Market

In 2005, Michigan passed the gold standard of deferred presentment legislation. It was designed to protect consumers with a well-regulated loan that could meet their short term financial needs while still allowing the consumer lending industry to provide the loans, pay their employees, operate their stores, remit taxes and fees to the state, and still make a profit. The model has worked with few complaints since 2005, but consumer demands have been changing.

Today's consumers are asking for more flexibility in terms of loan amounts and the length of the loan. The federal government, through the Consumer Financial Protection Bureau (CFPB), is also pushing the consumer lending industry away from the current deferred presentment model by proposing rules that could end these types of loans. Unregulated lenders are growing nationally and provide financial services often at a higher cost while offering fewer of the consumer protections that state regulated lenders are required by statute to provide. How can the Michigan Legislature help?

First, understand that millions of Michigan consumers have credit issues. A recent study showed that nearly 40% of adults could not meet an emergency expense of just $400, which equates to an estimated 3 million Michiganders. The consumer lending industry services subprime consumers that often do not have the option to turn to their traditional lenders for a loan.

Second, realize that if the CFPB rules go into effect it will drive the regulated lenders out of business in the state and force consumers to turn to unregulated online and tribal lenders. These unregulated lenders operate outside Michigan's consumer protections laws, and without a competitive market that drives down prices and improves services, consumers are left with few other options.

Finally, the Michigan Legislature can help consumers by giving them more options to meet their credit needs in a well-regulated marketplace. Legislation has been proposed, HB 5097, that will help ensure consumers can access adequate amounts of credit on the right terms. We can build on the successful and popular consumer lending markets already established in Michigan law, but reform that framework to allow consumers access to small loans.

Without this legislative action, Michigan consumers will continue to use deferred presentment loans and online payday lenders to meet their needs. HB 5097 creates a viable alternative to payday loans that are more manageable, lower priced, and easier to repay.

About the HB 5097 -

- Allows installment loans of up to $2,500 with terms up to 12 months.

- Interest is not permitted on these loans and the service fees are capped at a monthly rate of 11% of the loan amount.

- Lenders would need to be licensed and regulated by the Department of Insurance & Financial Services.

- When underwriting loans, a lender is required take into consideration the financial ability of the borrowers to repay the loan in the time and manner provided in the loan contracts. This includes, but not limited to the borrowers credit history, income, major financial obligations, and basic living expenses - food, utilities, medical costs, household and family expenses, etc.

- Would allow a borrower to convert a deferred presentment loan to a small loan to better meet the borrowers credit needs.

- Requires lenders to provide a clearly written loan disclosure document stating loan amount, payment amounts, length of loan, interest and any other associated fees.

- Lenders would be required to track loans in a common database and limit consumers to one small loan at any time.

- ACH payments (automated withdrawals from a borrower’s bank account) would be voluntary and are not a condition for a borrower to qualify for a loan.

- Loans would need to be fully amortizing that pay down to zero on the maturity date with no balloon payments. There is no penalty for paying off these loans early and rollovers would be prohibited. Loan renewals are prohibited unless the customer is in good standing, met their obligations, and retired a significant portion of the outstanding principal. Additionally, a licensee is prohibited from charging a higher rate for a small dollar loan renewal.

- These loans would be unsecured and title lending would remain prohibited in the state.

- Provides for a regulated market where consumers would have the benefits of obtaining loans from lenders that are regulated by the state of Michigan, unlike tribal lenders and off-shore internet lenders that have no Michigan regulatory oversight.

- Creates a financial literacy fund for borrowers to help them better understand and access financial services, financial counseling, cost of credit, and learn about other financial options that may be available to them.

- If a loan goes into default, lenders can work with borrowers to improve the payment performance and collections would be regulated at the federal level under the Fair Debt Collections Practices Act.

- Technical cleanup language to bring the Deferred Presentment Act up-to-date with current practices.

How does the current Deferred Presentment Service Transactions Act compare to the proposed Deferred Presentment Reform Act (HB 5097)?

Consumer Protections	Current Deferred Presentment Service Transactions Act	Proposed Reforms to the Act
Characteristics	Single-installment (deferred presentment), not to exceed $600 plus Finance Charges	Multiple-installments (Small Loan), not to exceed $2,500 plus Finance Charges
Term	14-31 Days	Between 90 days and 12 months
Maximum Outstanding	One DPS Transaction per licensee, two per borrower	One Small Loan per borrower. Borrower would also be prohibited from also having a DPS loan
Interest	Not Permitted	Not Permitted
Finance Charges (Not to Exceed)	15% of $100, plus 14% of additional $100, plus 13% of additional $100, plus 12% of additional $100, plus 11% of additional $100, plus	Eleven percent of the amount of the small loan and the amount of any database verification fee
Ability to repay	Borrower's income reviewed by lender	When underwriting, making or negotiating loans, a licensee shall take into consideration, in determining the size and duration thereof, the financial ability of the borrowers to repay the same, to the end that the borrowers should be reasonably able to repay said loans in the time and manner provided in the loan contracts. This includes, but not limited to the borrowers credit history, income, major financial obligations, and basic living expenses - food, utilities, medical costs, household and family expenses, etc.
Credit reporting	None	A licensee shall report to credit reporting agencies the terms of the loan and the borrower's performance
Repayment schedule	1 payment	All loans shall have a repayment schedule with payments of substantially equal amounts of principal and service fees amortizing over the term of the small loan such that the loan is repaid in full when due. Prohibits balloon payments (significantly larger payment on the due date
Rollovers	Not allowed	Not allowed. Also prohibits a licensee from renewing a loan if the customer has been late or defaulted on any payment. A licensee may refinance a loan if the borrower is in good standing and has met at least 30% of the scheduled payments or

		retired at least 50% of the original loan. A refinanced loan cannot have a higher monthly service charge than the original transaction.
Title lending	Not allowed	Not allowed
ACH fund transfer	Not required	Not required
Transparency	Full disclosure of all fees and regulations up-front before any loans are provided	Full disclosure of all fees and regulations up-front before any loans are provided
Consumer Hardship	If a consumer is unable to pay their deferred presentment service transaction and have entered into eight deferred presentment service transactions with any licensee in any 12-month period, they may request a repayment of that transaction in installments.	A borrower is entitled to one no-cost extension of at least 4 pay periods if the borrower is able document family hardship or loss of employment
State oversight	Requires Department of Financial Services to regulate the industry	Requires Department of Financial Services to regulate the industry
Statewide common database paid for by the industry to track all loans	Required	Required
Impact of federal CFPB rules on consumers	Adverse. Proposed federal rules are overly onerous and restrict consumers ability to obtain services, resulting in an estimated 70% reduction which is fatal to the state-regulated industry	Likely none - the proposed Act requires compliance with the ability to repay, underwriting and credit reporting standards