

114TH CONGRESS
1ST SESSION

H. R. 4018

To amend the Truth in Lending Act to establish deferred presentment transaction requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2015

Mr. ROSS (for himself, Mr. MURPHY of Florida, Mr. CURBELO of Florida, Mr. HASTINGS, Ms. BROWN of Florida, and Mr. POSEY) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Truth in Lending Act to establish deferred presentment transaction requirements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Protection
5 and Choice Act”.

1 **SEC. 2. DEFERRED PRESENTMENT TRANSACTION RE-**
2 **QUIREMENTS.**

3 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
4 ing Act is amended by inserting after section 128A (15
5 U.S.C. 1638A) the following new section:

6 **“§ 128B. Deferred presentment transaction require-**
7 **ments**

8 “(a) PROHIBITION ON DEFERRED PRESENTMENT
9 TRANSACTIONS.—A deferred presentment transaction is
10 prohibited except as authorized by this section.

11 “(b) REGULATION OF DEFERRED PRESENTMENT
12 TRANSACTIONS AND DEFERRED PRESENTMENT PRO-
13 VIDERS.—If the Director of the Bureau determines that
14 a State has in effect a covered deferred presentment law,
15 any regulations of the Bureau with respect to deferred
16 presentment transactions and deferred presentment pro-
17 viders shall not apply in such State.

18 “(c) COVERED DEFERRED PRESENTMENT LAW DE-
19 FINED.—For purposes of this section, the term ‘covered
20 deferred presentment law’ means a law or regulation of
21 a State that provides for the licensing of deferred present-
22 ment providers and the regulation of deferred presentment
23 transactions, which may be accomplished through existing
24 State authority, and that meets the following require-
25 ments:

1 “(1) DATABASE.—The law or regulation must
2 establish a database of deferred presentment trans-
3 actions to assist deferred presentment providers with
4 complying with the requirements of this section,
5 which may be operated by a private company se-
6 lected by the State.

7 “(2) DEFERRED PRESENTMENT PROVIDER RE-
8 QUIREMENTS.—The law or regulation must require
9 a deferred presentment provider to—

10 “(A) be licensed by the State;

11 “(B) provide to the State the results of a
12 background check, including fingerprinting, of
13 each officer and principal of the deferred pre-
14 sentment provider;

15 “(C) secure a copy of a valid State-issued
16 form of identification from a consumer before
17 entering into a deferred presentment trans-
18 action;

19 “(D) verify through the State deferred pre-
20 sentment transaction database that a consumer
21 entering into a deferred presentment trans-
22 action with the deferred presentment provider—

23 “(i) does not have an outstanding de-
24 ferred presentment transaction; and

1 “(ii) did not have an outstanding de-
2 ferred presentment transaction within the
3 previous 24-hour period; and

4 “(E) report to the State deferred present-
5 ment transaction database operator imme-
6 diately—

7 “(i) upon entering into a deferred pre-
8 sentment transaction agreement—

9 “(I) the name of the consumer
10 that provided a check or other pay-
11 ment instrument for deferred present-
12 ment;

13 “(II) the consumer’s social secu-
14 rity number or employment authoriza-
15 tion alien number;

16 “(III) the consumer’s address;

17 “(IV) the consumer’s driver’s li-
18 cense number or identifier from other
19 valid State-issued form of identifica-
20 tion;

21 “(V) the amount of the deferred
22 presentment transaction;

23 “(VI) the date such deferred pre-
24 sentment transaction is made and the
25 date on which repayment of the de-

1 ferred presentment transaction is due;
2 and

3 “(VII) such other information as
4 the State determines appropriate; and

5 “(ii) upon repayment by the consumer
6 of the amount owed under a deferred pre-
7 sentment transaction agreement or after
8 such deferred presentment transaction
9 agreement is otherwise settled, the date
10 and time on which the amount owed under
11 such deferred presentment transaction
12 agreement is satisfied.

13 “(3) DEFERRED PRESENTMENT TRANSACTION
14 AGREEMENT REQUIREMENTS.—The law or regula-
15 tion must require that the terms of a deferred pre-
16 sentment transaction agreement—

17 “(A) limit the total amount of all interest
18 and fees that may be charged to a consumer by
19 a deferred presentment provider with respect to
20 a deferred presentment transaction to no more
21 than 10 percent of the amount of such a de-
22 ferred presentment transaction and no more
23 than a \$5 processing fee;

1 “(B) limit the duration of the deferred pre-
2 sentment transaction to a period no longer than
3 31 days or less than 7 days;

4 “(C) limit the amount of the deferred pre-
5 sentment transaction to no more than \$500, ex-
6 clusive of allowed fees;

7 “(D) be in writing;

8 “(E) provide that the consumer shall—

9 “(i) have the right to rescind any de-
10 ferred presentment transaction agreement
11 within the first 24 hours of the deferment
12 period; and

13 “(ii) pay any allowable processing fee
14 regardless of such rescission; and

15 “(F) include such other information as the
16 State determines to be appropriate.

17 “(4) TREATMENT OF PAST-DUE AMOUNTS.—

18 The law or regulation must require that if a con-
19 sumer fails to repay the amount due pursuant to a
20 deferred presentment transaction agreement by the
21 contractual repayment date, a deferred presentment
22 provider shall provide an additional 60-day grace pe-
23 riod, without any additional charge, for the con-
24 sumer to repay such amount before the deferred pre-
25 sentment provider may request payment for the

1 check or other payment instrument or pursue other
2 civil remedies, subject to the conditions that the
3 grace period will—

4 “(A) terminate immediately if, before the
5 end of the 7-day period beginning on the date
6 of the contractual repayment date, the con-
7 sumer failed to make an appointment to attend
8 a course with a consumer credit counseling
9 agency and inform the deferred presentment
10 provider of such appointment; and

11 “(B) be deemed to have terminated at the
12 end of the 7-day period beginning on the date
13 of the contractual repayment date if, before the
14 end of the 60-day period beginning on the date
15 of the contractual repayment date, the con-
16 sumer failed to complete a course with a con-
17 sumer credit counseling agency and inform the
18 deferred presentment provider of the completion
19 of such course.

20 “(d) COMPLIANCE.—A deferred presentment trans-
21 action that complies with the requirements of this section
22 and applicable State law shall not be considered to be an
23 unfair, deceptive, or abusive act or practice.

1 “(e) EFFECTIVE DATE.—The requirements of this
2 section shall take effect on the date that is 24 months
3 after the date of the enactment of this section.

4 “(f) DEFINITIONS.—For purposes of this section:

5 “(1) DEFERMENT PERIOD.—The term
6 ‘deferment period’ means the number of days a de-
7 ferred presentment provider agrees to wait before
8 depositing, presenting, or redeeming a consumer’s
9 check or other payment instrument under a deferred
10 presentment transaction agreement.

11 “(2) DEFERRED PRESENTMENT PROVIDER.—
12 The term ‘deferred presentment provider’ means a
13 person who holds a license to be a deferred present-
14 ment provider in the State in which a deferred pre-
15 sentment transaction agreement is entered into and
16 who provides currency or other payment instrument
17 to a consumer as part of a deferred presentment
18 transaction.

19 “(3) DEFERRED PRESENTMENT TRANS-
20 ACTION.—The term ‘deferred presentment trans-
21 action’ means a transaction in which currency or
22 other payment instrument is provided to a consumer
23 in exchange for a consumer’s check or other pay-
24 ment instrument and an agreement that such con-
25 sumer’s check or other payment instrument shall be

1 held for a deferment period prior to presentment,
2 deposit, or redemption.

3 “(4) DEFERRED PRESENTMENT TRANSACTION
4 AGREEMENT.—The term ‘deferred presentment
5 transaction agreement’ means the underlying agree-
6 ment establishing a deferred presentment trans-
7 action.

8 “(5) OTHER PAYMENT INSTRUMENT.—The
9 term ‘other payment instrument’ means a draft,
10 warrant, money order, traveler’s check, or electronic
11 instrument (other than currency).

12 “(6) STATE.—The term ‘State’ means each of
13 the several States, the District of Columbia, and
14 each territory and possession of the United States.

15 “(7) STATE DEFERRED PRESENTMENT TRANS-
16 ACTION DATABASE.—The term ‘State deferred pre-
17 sentment transaction database’ means the database
18 established by the State that issued the consumer’s
19 form of identification.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 at the beginning of chapter 2 of the Truth in Lending
22 Act is amended by inserting after the item relating to sec-
23 tion 128A the following new item:

“128B. Deferred presentment transaction requirements.”.

1 **SEC. 3. MORATORIUM AND SAFE HARBOR.**

2 (a) MORATORIUM.—The Bureau of Consumer Finan-
3 cial Protection may not promulgate or enforce any regula-
4 tion related to deferred presentment providers with respect
5 to deferred presentment transactions during the 24-month
6 period beginning on the date of enactment of this Act.

7 (b) SAFE HARBOR.—The Bureau of Consumer Fi-
8 nancial Protection may not impose any additional require-
9 ments related to deferred presentment providers with re-
10 spect to deferred presentment transactions in a State if
11 such State has enacted a covered deferred presentment
12 law by the effective date in subsection (e) of section 128B
13 of the Truth in Lending Act, as added by section 2(a).

14 (c) PAYDAY LOANS.—The Bureau of Consumer Fi-
15 nancial Protection—

16 (1) may not regulate payday loans during the
17 24-month period beginning on the date of enactment
18 of this Act; and

19 (2) may regulate payday loans in a State after
20 such period only if such State has not enacted a cov-
21 ered deferred presentment law.

22 (d) DEFINITIONS.—For purposes of this section:

23 (1) TILA DEFINITIONS.—The terms “covered
24 deferred presentment law”, “deferred presentment
25 provider”, “deferred presentment transaction”, and
26 “State” shall have the meanings given such terms

1 under section 128B of the Truth in Lending Act, as
2 added by section 2(a).

3 (2) PAYDAY LOAN.—The term “payday loan”
4 means a loan described under section 1024(a)(1)(E)
5 of Public Law 111–203 (12 U.S.C. 5514(a)(1)(E)),
6 except that such term does not include a deferred
7 presentment transaction.

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