

DEFERRED PRESENTMENT SERVICE TRANSACTIONS ACT (EXCERPT)
Act 244 of 2005
ARTICLE 4

487.2165 Customer complaint; filing; investigation or examination by commissioner; subpoena; noncompliance.

Sec. 45.

(1) A customer may file a written complaint with the office on a form prescribed by the commissioner regarding a licensee. The customer shall include with the complaint documentary or other evidence of the violation or activities of the licensee. The commissioner shall investigate a complaint filed by a customer under this subsection.

(2) The commissioner may investigate or conduct examinations of a licensee and conduct hearings as the commissioner considers necessary to determine whether a licensee or any other person has violated this act, or whether a licensee has conducted business in a manner that justifies suspension or forfeiture of its authority to engage in the business of providing deferred presentment service transactions in this state.

(3) The commissioner may subpoena witnesses and documents, papers, books, records, and other evidence in any manner over which the commissioner has jurisdiction, control, or supervision. The commissioner may administer oaths to any person whose testimony is required. If a person fails to comply with a subpoena issued by the commissioner or to testify with respect to any matter concerning which the person may be lawfully questioned, the commissioner may petition the circuit court for Ingham county to issue an order requiring the person to attend, give testimony, or produce evidence.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005

487.2166 Cease and desist order.

Sec. 46.

(1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare, or is, has, or is about to violate this act, state or federal law, or an applicable rule or regulation, the commissioner may serve a notice of intention to issue a cease and desist order. A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation and shall fix a time and place for a hearing at which the commissioner will determine whether to issue an order to cease and desist against the licensee.

(2) A licensee that fails to appear at a hearing under subsection (1) consents to the issuance of a cease and desist order. If a licensee consents, or upon the record made at the hearing the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its executive officers, employees, and agents to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(3) Except to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order is effective on the date of service. A cease and desist order issued with the consent of the licensee is effective at the time specified in the order and remains effective and enforceable as provided in the order.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005

487.2167 Suspension, revocation, or termination of license.

Sec. 47.

(1) The commissioner may, after notice and hearing, suspend or revoke a license if the commissioner finds that

the licensee has knowingly or through lack of due care done any of the following:

(a) Failed to pay the annual license fee, an examination fee, or any other fee imposed by the commissioner under this act.

(b) Committed any fraud, engaged in any dishonest activities, or made any misrepresentations.

(c) Violated this act or any rule or order issued under this act or violated any other law in the course of the licensee's dealings as a licensee.

(d) Made a false statement in the application for the license, failed to give a true reply to a question in the application, or failed to reply to a request of the commissioner authorized in this act.

(e) Demonstrated incompetency or untrustworthiness to act as a licensee.

(f) Engaged in a pattern or practice that poses a threat of financial loss or threat to the public welfare.

(2) If the reason for revocation or suspension of a licensee's license at any 1 location is of general application to all locations operated by a licensee, the commissioner may revoke or suspend all licenses issued to a licensee.

(3) A notice served under this section shall contain a statement of the facts constituting the violation or pattern of practice and shall fix a time and place at which the commissioner will hold a hearing to determine whether the commissioner should issue an order to suspend or terminate 1 or more licenses of the licensee.

(4) If a licensee fails to appear at a hearing under subsection (1), the licensee consents to the issuance of the order to suspend or terminate 1 or more licenses of the licensee. If a licensee consents, or upon the record made at the hearing the commissioner finds that the pattern of practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order suspending or terminating 1 or more licenses of the licensee.

(5) Except to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, an order suspending or terminating 1 or more licenses of the licensee is effective on the date of service. An order suspending or terminating 1 or more licenses of the licensee issued with the consent of the licensee is effective at the time specified in the order and remains effective and enforceable as provided in the order.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005

487.2168 Violations; civil fines.

Sec. 48.

(1) If the commissioner finds that a person has violated this act, state or federal law, or an applicable rule or regulation, the commissioner may order the person to pay a civil fine of not less than \$1,000.00 or more than \$10,000.00 for each violation. However, if the commissioner finds that a person has violated this act and that the person knew or reasonably should have known that he or she was in violation of this act, the commissioner may order the person to pay a civil fine of not less than \$5,000.00 or more than \$50,000.00 for each violation. The commissioner may also order the person to pay the costs of the investigation.

(2) A civil fine assessed under subsection (1) may be sued for and recovered by and in the name of the commissioner and may be collected and enforced by summary proceedings by the attorney general. In determining the amount of a fine, the commissioner shall consider the extent to which the violation was a knowing and willful violation, the extent of the injury suffered because of the violation, the corrective action taken by the licensee to ensure that the violation will not be repeated, and the record of the licensee in the complying with this act.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005

487.2169 Fraud.

Sec. 49.

(1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or an executive officer of a licensee under this act. As used in this subsection, "fraud" includes actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or

in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing on a date within 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or from being employed by, an agent of, or an executive officer of any licensee under this act.

(4) An order issued under subsection (2) or (3) is effective when served on a person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or executive officer. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to customers, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or an executive officer of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect until the commissioner completes the review required under this section, and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the commissioner shall hold the hearing required under subsection (2) to review the suspension not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or an executive officer of any licensee under this act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or executive officer.

(10) Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that includes findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(11) Except for a consent order, a party to the proceeding or a person affected by an order issued under this section may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(12) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (11) does not stay the commissioner's order.

(13) The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under this section.

(14) Any current or former executive officer or agent who violates a final order issued under this section is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

(15) An executive officer who is subject to an order issued under this section and who meets all of the following requirements is not in violation of the order:

(a) He or she does not in any manner, directly or indirectly, participate in the control or management of a licensee after the date the order is issued.

(b) He or she transfers any interest he or she owns in the licensee to an unrelated third party within 6 months after the date the order is final.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005

487.2170 Hearing.

Sec. 50.

(1) A licensee who is ordered to cease and desist, whose license is suspended or terminated, or who is ordered to

pay a fine under this act is entitled to a hearing before the commissioner if a written request for a hearing is filed with the commissioner not more than 30 days after the effective date of the order.

(2) Any administrative proceedings under this act are subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005

487.2171 Rules; report.

Sec. 51.

(1) The director may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to enforce and administer this act.

(2) By October 31, 2025, and by each October 31 thereafter through October 31, 2031, the director shall submit a report to the standing committees of the senate and house of representatives concerned with banking and financial services issues that includes the following information:

(a) The number of persons engaged in the business of providing deferred presentment service transactions in this state during the immediately preceding calendar year.

(b) A general report on the business of providing deferred presentment service transactions in this state during the immediately preceding calendar year. The report must include information about the number of licensees, the number of customers, and the number and amount of transactions, reported in the following format:

(i) A summary of the deferred presentment service transaction program fees received by the department.

(ii) Statewide statistics concerning transaction volumes by month, transaction amounts, fees, and averages, active license locations, the total number of customers, and drawer usage of repayment plans.

(iii) Statistics, reported by county or zip code, concerning provider locations, transaction volumes, total amount of advances, total fees for advances, average advance amounts, average advance fees, the total number of repeat drawers, and the total number of licensee locations.

(c) The name and street address of each licensee in this state during the immediately preceding calendar year.

(d) The number of complaints filed with the department against licensees and nonlicensees arising from transactions that took place in this state for the immediately preceding calendar year.

(e) Any additional information that the director considers relevant.

(3) Beginning October 31, 2025, and on October 31 of each year thereafter through October 31, 2031, the department shall publish on its website the report described in subsection (2).

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005 ;-- Am. 2024, Act 46, Eff. Apr. 2, 2025

487.2172 Person providing services before effective date of act; compliance.

Sec. 52.

A person who provided deferred presentment service transactions in this state before the effective date of this act is considered to have complied with applicable state law if the person provided those transactions in substantial conformity with the rulings and interpretive statements then in effect that were issued by the office or its predecessor agency.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005

487.2173 Civil cause of action; damages.

Sec. 53.

A person injured by a licensee's violation of this act may maintain a civil cause of action against the licensee and may recover actual damages and an amount equal to the service fee paid in connection with each deferred presentment service transaction that is found to violate this act, plus reasonable attorney fees.

History: 2005, Act 244, Imd. Eff. Nov. 28, 2005