

**LOUISIANA REVISED STATUTES
TITLE 9 CIVIL CODE BOOK III-OF THE DIFFERENT MODES OF ACQUIRING
THE OWNERSHIP OF THINGS
CHAPTER 2-A. LOUISIANA DEFERRED PRESENTMENT
AND SMALL LOAN ACT**

(Current through 2019 Regular Legislative Session)

**CHAPTER 2-A. LOUISIANA DEFERRED PRESENTMENT
AND SMALL LOAN ACT**

§3578.1. Short title

This Chapter shall be known and may be cited as the “Louisiana Deferred Presentment and Small Loan Act”.

§3578.2. Legislative intent

It is the intent of the legislature to regulate deferred presentment transactions and small loans. These loans meet a legitimate credit need for many consumers; however, in order to protect consumers from excessive charges, it is the intent of the legislature to put certain restrictions on lenders who make these loans.

§3578.3. Definitions

As used in this Chapter, the following terms have the following meanings ascribed to them:

- (1) “Commissioner” means the commissioner of the office of financial institutions.
- (2) “Deferred presentment transaction” means a transaction made pursuant to a written agreement whereby a licensee:
 - (a) Accepts a check from the issuer dated as of the date it was written;
 - (b) Agrees to hold the check for a period of time not to exceed thirty days prior to negotiation or presentment; and
 - (c) Pays to the issuer of the check the amount of the check less the fee permitted in R.S. 9:3578.4(A). The amount paid to the issuer of the check may not exceed three hundred fifty dollars.
- (3) “Licensee” means a person licensed pursuant to this Chapter that offers deferred presentment transactions or small loans, or both.
- (4) “Partial payment” means a payment of fifty dollars or more on a deferred presentment transaction or small loan.

(5) "Prepayment" means payment in full of the deferred presentment transaction or small loan amount prior to the end of the term of that transaction or loan.

(6) "Small loan" means a consumer loan, as defined in R.S. 9:3516(14), of three hundred fifty dollars or less, made for a term of sixty days or less.

§3578.4. Finance charge and fees

A. (1) In conjunction with a deferred presentment transaction or small loan, a licensee may charge a fee not to exceed sixteen and seventy-five one hundredths percent of the face amount of the check issued or in the case of a small loan, the equivalent rate of interest, provided however that such fee or interest does not exceed forty-five dollars, regardless of the name or type of charge.

(2) If the loan remains unpaid at contractual maturity, the licensee may charge an amount equal to the rate of thirty-six percent per annum for a period not to exceed one year and beginning one year after contractual maturity, the rate shall not exceed eighteen percent per annum.

B. A licensee may contract with the borrower for reimbursement of the actual fee assessed to the licensee by the licensee's depository institution as a result of a borrower's check being returned for any reason. The fee shall be reimbursed to the licensee only once per check, regardless of the number of times the check was returned by the depository institution.

C. Except for reasonable attorney fees and costs awarded by a court, and fees allowed under R.S. 9:3529 and 3530(C) no other fees or charges may be assessed or collected on a deferred presentment transaction or small loan, including any other fees as may be provided for under Chapter 2 of this Code Title or any other law.

§3578.4. 1 Extended payment plan; terms; conditions

A.(1) A consumer who is unable to repay either a deferred presentment transaction or small loan when due to a licensee, may elect once in any twelve-month period to repay the licensee the amount due under the deferred presentment transaction or small loan by means of installments, referred to as an extended payment plan in this Section.

(2) A consumer is ineligible for an extended payment plan if the consumer previously obtained an extended payment plan from the licensee within the preceding twelve months. The twelve-month period shall be measured from the date that the extended payment plan is executed between the licensee and the consumer.

B.(1) To be eligible for an extended payment plan, the consumer shall request to enter into the plan before the due date of the outstanding deferred presentment transaction or small loan.

(2) If a consumer is unable to request to enter into the plan prior to the due date of the outstanding deferred presentment transaction or small loan because of incapacitation that results in or from hospitalization, upon the consumer's presentation of proof of hospitalization, the

lender shall allow the consumer to request to enter into the plan within seventy-two hours from the discharge of the consumer from the hospital.

(3) The licensee and consumer shall execute an agreement, in writing, that modifies the terms of the outstanding small loan or deferred presentment transaction and establishes the terms of the extended payment plan.

C.(1) The terms of the extended payment plan shall provide for the following:

(a) Allow the consumer to repay the outstanding deferred presentment transaction or small loan, including any fees due prior to entering into the plan, in at least four substantially equal installments.

(b) Allow the consumer to prepay sums due to an extended payment plan in full at any time without penalty.

(c) Prohibit the licensee from charging the consumer any interest, or additional charges or fees during the term of the plan.

(d) Require that the first plan installment shall be due no sooner than thirty days following the execution of the plan, unless a shorter period of time is agreed to by the consumer and licensee based on when the consumer receives income. The dollar amount of each installment shall be substantially the same and the installment due dates shall be spread out substantially evenly over the term of the extended payment plan.

(2) The terms of the extended payment plan may permit the licensee to do either of the following:

(a) With each payment under the plan by a consumer, provide for the return of the consumer's previously held check and require a new check for the remaining balance under the plan.

(b) Require the consumer to provide multiple checks, one for each of the installments in the amounts of each installment at the time the plan is executed.

D. A licensee shall immediately provide consumer receipts, signed and dated by the licensee, for any payments made in connection with the extended payment plan. The receipts shall also state the balance due under the extended payment plan after each payment.

E.(1) If the consumer fails to pay any extended payment plan installment when due, the consumer shall be in default of the extended payment plan, and the licensee may immediately accelerate payment on only the remaining balance of the extended payment plan.

(2) Upon default, the licensee may take action to collect only the amount outstanding on the extended payment plan. A licensee is prohibited from collecting any amount on an extended payment plan other than what the consumer owes pursuant to the plan on the date of default.

F. If a consumer enters into an extended payment plan, the consumer and licensee are prohibited from entering into a subsequent deferred presentment transaction or small loan until repayment in full of the extended payment plan.

G.(1) At each licensed location or on the homepage of a licensee's website, the licensee shall prominently post a notice visible to the public and all those visiting the website stating that if a consumer is unable to repay either a deferred presentment transaction or small loan when due, the consumer may enter into one extended payment plan for either a deferred presentment transaction or small loan if he notifies the licensee as required by Paragraph (B)(1) of this Section before the payment is due of his inability to make payment.

(2)(a) A licensee shall also notify a person of his right to enter into an extended payment plan by including the following statement, in at least sixteen point bold type, on the first page of each deferred presentment or small loan agreement:

“IF YOU CANNOT MAKE A PAYMENT WHEN DUE, YOU CAN ASK TO ENTER INTO AN EXTENDED PAYMENT PLAN ONCE IN A TWELVE-MONTH PERIOD, BUT THE REQUEST MUST BE MADE BEFORE PAYMENT IS DUE. REQUESTS MUST BE IN WRITING AND MAY BE MADE IN PERSON, BY EMAIL, OR FACSIMILE (LICENSEE/LENDER TO INSERT NAME, EMAIL ADDRESS, PHONE NUMBER, AND FACSIMILE NUMBER HERE). IF (LICENSEE/LENDER TO INSERT NAME HERE) REFUSES TO ENTER INTO AN EXTENDED PAYMENT PLAN UPON YOUR REQUEST BEFORE THE DUE DATE, CONTACT THE OFFICE OF FINANCIAL INSTITUTION AT 1-888-525-9414.”

(b) In addition, a consumer shall sign the following statement acknowledging that he has been informed of the extended payment plan. The statement shall be in at least twelve point bold type, on the first page of each deferred presentment transaction or small loan agreement below the statement required by Subparagraph (a) of this Paragraph:

“I acknowledge that I understand that I may be eligible to enter into an extended payment plan if I cannot make payment when due. In order to be potentially eligible for an extended payment plan, I understand that it is my responsibility to notify my lender that I cannot make payment before payment is due. I have asked any questions I have about the extended payment plan and lender (licensee) answered all question to my satisfaction.”

[SIGNATURE BLOCK]

[DATE]

§3578.5. Rebate upon prepayment

Upon the prepayment in full of a deferred presentment transaction or small loan, during the first five days of the term of such transaction or loan only, the licensee shall refund any and all unearned charges by a method no less favorable to the consumer than the actuarial method, less twenty dollars of the original fee, which shall be considered earned and shall not be subject to

refund. Should the consumer make prepayment after the first five days of the term of the transaction or loan, the licensee shall not be required to make any refund.

§3578.6. Prohibited acts

A. A licensee shall not:

(1) Except for reasonable attorney fees and costs awarded by a court, charge, contract for, receive, or collect a loan finance charge or credit service charge, or any other fee or charge other than as provided in R.S. 9:3578.4.

(2) Sell any goods when those goods are financed with the proceeds of the loan or sell insurance in connection with a deferred presentment transaction or small loan. The sale and financing of services, including but not limited to utility payment services, financial or tax services, or the sale of prepaid telephone services and telephone-related products which are not financed with the proceeds of the loan, shall not be deemed a violation of this Chapter.

(3) Refuse a partial loan payment of fifty dollars or greater.

(4) Divide a deferred presentment transaction or small loan into multiple agreements for the purpose of obtaining a higher fee or charge.

(5) Threaten any customer with prosecution or refer for prosecution any check accepted as payment of a deferred presentment transaction and returned by the lender's depository institution for reason of insufficient funds.

(6) Structure the repayment of a loan in such a manner as to attempt to circumvent the provisions of this Chapter.

(7) Renew or roll over a deferred presentment transaction or small loan. However, a licensee may accept a partial payment of twenty-five percent of the amount advanced plus fees charged and enter into a new deferred presentment transaction or renew the small loan for the remaining balance owed. Once a deferred presentment transaction or small loan has been completed, a consumer may enter into a new transaction or loan with the licensee. A deferred presentment transaction or small loan shall be considered completed when the amount advanced has been paid in full by the consumer.

(8) Take any direct or indirect interest, possessory or otherwise, whether perfected or unperfected, in any property in connection with a small loan, or a deferred presentment transaction.

B. It shall be unlawful for any small loan lender, for any reason and by any means, including but not limited to direct deposit and personal tender, to accept as payment, offer to accept as payment, or require for use as security any check issued pursuant to the federal Social Security Act. In addition, it shall be unlawful for any lender making small loans to act as a depository institution for the acceptance of any check issued pursuant to the federal Social Security Act, unless such lender is a federally insured financial institution.

§ 3578.7. Posting of notice; toll free number

The commissioner may provide a notice, which includes a toll free number to the commissioner's office, which shall be posted, along with the fees as allowed under this Chapter, in a conspicuous place and manner by the licensee at the lending location or on the homepage of the website of the licensee, or both if the licensee has a physical location in the state and a website.

§ 3578.8. Powers of the commissioner; adoption of rules and regulations

A. The commissioner may apply the provisions of Parts I, VII, VIII, IX, and X of Chapter 2 of this Code Title, the Louisiana Consumer Credit Law, for purposes of administering and regulating the activities of licensees and the provisions of this Chapter.

B. The commissioner may adopt rules and regulations as he deems necessary to implement the purposes and provisions of this Chapter.

C. (1) Beginning January 1, 2013, for a period of one year, the commissioner shall collect and compile information and data from licensees concerning the operation, function, and customers of deferred presentment transactions and small loan businesses.

(2) The information and data collected by the commissioner from a licensee shall include but not be limited to the following:

(a) The number of deferred presentment transactions and small loans issued quarterly.

(b) The fees collected quarterly on deferred presentment transactions and small loans.

(c) The location of the licensee's business.

(d) The number of checks returned unpaid for any reason and the amount of the fee charged by the licensee for such checks.

D. The commissioner shall compile and submit to the legislature, in an aggregate format, the information and data collected by April 1, 2014.

Notice

Please note that the excerpted version of this statute contained herein is unofficial and should not be relied on when making legal determinations affecting a person's rights or obligations without first consulting with competent legal counsel. A complete, but unofficial, copy of the entire Louisiana Revised Statutes is available through the State of Louisiana on the Louisiana Legislature's website located at www.legis.louisiana.gov.