

APPLICATION FOR INITIATIVE OR REFERENDUM PETITION SERIAL NUMBER

Secretary of State
1700 W. Washington Street, 7th Floor
Phoenix, AZ 85007

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SECRETARY OF STATE

2008 MAR -3 AM 9:31

The undersigned intends to circulate and file an INITIATIVE or a REFERENDUM (circle the appropriate word) petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Pursuant to Arizona Revised Statutes § 19-111, attached hereto is the full text, in no less than eight point type, of the MEASURE or CONSTITUTIONAL AMENDMENT (circle appropriate word) intended to be INITIATED or REFERRED (circle appropriate word) at the next general election.

SUMMARY: A description of no more than one hundred words of the principal provisions of the proposed law, constitutional amendment or measure that will appear in no less than eight point type on the face of each petition signature sheet to be circulated.

Arizonans use payday lending services everyday to take care of unforeseen expenses and financial emergencies. The payday lending industry is set to be eliminated and the Arizona Legislature refuses to enact reforms to benefit borrowers while preserving this important financial option. This measure would bring dramatic pro-consumer reform to the payday loan industry and preserve consumer choice. It includes a substantial rate cut, eliminates rolling-over principle to extend a loan, creates a repayment plan at no cost to customers that cannot meet their obligations, and inhibits a borrower's ability to obtain more than one loan at a time.

Lisa Urias

Signature of Applicant

Lisa Urias

Printed Name of Applicant

2525 E. Arizona Biltmore Circle, Ste A-117

Address

Phoenix AZ 85016

City

State

Zip

(602) 224-0212

Telephone Number

Arizonans For Financial Reform

Name of Organization (if any)

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Address

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Lisa Urias/Chairman

Name of Officer and Title

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Manny Tarango/Treasurer

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Date of Application March 3, 2008

Signatures Required 153,365

Deadline for Filing July 3, 2008

Serial Number Issued I-15-2008

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S.O.D. # 200810093

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARIZONA:

2008 MAR -3 AM 9:31

1 Section 1. Title

2 This measure shall be known as the Payday Loan Reform Act.

3 Section 2. Purpose and Intent

4 The people of Arizona declare that the intent and purpose of this Act is to:

- 5 1. Reduce the cost of small dollar, short-term consumer loans;
- 6 2. Promote responsible consumer lending practices;
- 7 3. Provide consumers with borrowing options on fair terms that allow a
- 8 reasonable time to repay a loan;
- 9 4. Regulate the covered products in a comprehensive and efficient manner;
- 10 5. Make clear that internet lenders are subject to the laws of this State; and,
- 11 6. Reduce the number of store-front locations in our neighborhoods.

12 Section 3. 6-1251, Arizona Revised Statutes is amended to read:

13 6-1251. Definitions

14 In this chapter, unless the context otherwise requires:

- 15 1. "Branch office" means any office operated by a licensee to provide deferred
- 16 presentment services.
- 17 2. "Check" means a draft signed by the maker and made payable to a person that
- 18 is licensed pursuant to this chapter with the name of the maker preprinted on the face of
- 19 the check OR AN ELECTRONIC DEBIT AGREEMENT THAT COMPLIES WITH
- 20 TITLE 44, CHAPTER 26.
- 21 3. "Deferred presentment services" means a transaction pursuant to a written
- 22 agreement in which the licensee accepts a check and agrees to hold the check for at least
- 23 five days before presentment for payment or deposit.
- 24 4. "Engaged in the business" means either:
- 25 (a) Advertising to or any other solicitation of a resident of this state that offers
- 26 deferred presentment services and that occurs within this state.
- 27 (b) Providing three or more deferred presentment services within a calendar year
- 28 to residents of this state.
- 29 5. "License" means a license issued pursuant to this chapter.
- 30 6. "Licensee" means a corporation, company, firm, partnership, association or
- 31 natural person that is licensed by the superintendent to engage in the business of
- 32 providing deferred presentment services pursuant to this chapter.
- 33 7. "Location" means the entire space in which a licensee provides deferred
- 34 presentment services.
- 35 8. "Partner" means a person who either:
- 36 (a) Is authorized by law or a partnership agreement to participate in the
- 37 management of the business of the partnership.
- 38 (b) Owns more than twenty-five per cent of the applicant or licensee partnership.
- 39 Section 4. 6-1254, Arizona Revised Statutes, is amended to read:
- 40 6-1254. Qualifications of applicants
- 41 A. An applicant for a license:
- 42 1. Shall be a citizen of the United States.
- 43 2. Shall be a person of honesty, truthfulness and good moral character.
- 44 3. Shall not have been convicted of a crime that involves moral turpitude.

1 4. Shall not have defaulted on payment of money collected or received for another
2 person.

3 5. Shall not have been a former licensee pursuant to this chapter whose license
4 was suspended or revoked and not subsequently reinstated.

5 B. If the applicant is a person other than a natural person, the qualifications
6 required by subsection A are also required of any executive officer, director or partner of
7 the firm, partnership or association.

8 C. To qualify for a license an applicant shall have AND MAINTAIN:

9 1. A minimum net worth in cash or cash equivalents, determined in accordance
10 with generally accepted accounting principles, of at least fifty thousand dollars, PER
11 LICENSED LOCATION, UP TO A MAXIMUM REQUIRED NET WORTH OF ONE
12 MILLION DOLLARS.

13 2. The financial responsibility, character and experience to warrant a belief that
14 the business is operated lawfully, honestly, fairly and efficiently.

15 Section 5. 6-1259, Arizona Revised Statutes is amended to read:

16 6-1259. Prohibited acts

17 A. A person shall not engage in the business of providing deferred presentment
18 services, including internet deferred presentment services, without first obtaining a
19 license pursuant to this chapter. A separate license is required for each location from
20 which the business is conducted. The licensee shall post its license to engage in the
21 business of deferred presentment services at each location that is licensed pursuant to this
22 chapter.

23 B. A licensee shall not:

24 1. Advance monies on the security of a check without first obtaining reasonable
25 evidence that indicates that the account on which the presented check is drawn is an open
26 and active account.

27 2. Assess any fee that is more than the amount prescribed in this chapter.

28 3. At the licensed location engage in the business of:

29 (a) Making loans of money or extensions of credit other than those allowed under
30 this chapter TITLE or title 44, chapter 11, article 3.

31 (b) Discounting notes, bills of exchange, items or other evidences of debt.

32 (c) Accepting deposits or bailments of money or items, except as expressly
33 provided in section 6-1260.

34 4. Use or cause to be published or disseminated any advertisement that contains
35 false, misleading or deceptive statements or representations.

36 5. Engage in the business of deferred presentment services at locations other than
37 licensed locations.

38 6. Engage in unfair, deceptive or fraudulent practices.

39 7. Alter or delete the date on a check accepted by the licensee.

40 8. Take possession of an undated check or a check dated on a date other than the
41 date on which the licensee takes possession of the check or the date of presentment.

42 9. Require a customer to provide security for the transaction, other than the
43 presented check, or require the customer to provide a guaranty from another person.

44 10. Fail to take reasonable measures to ensure that no customer has more than
45 one deferred presentment loan outstanding at any time with any licensee in this state.

46 11. Engage in the sale of the following goods or services at any licensed location:

1 (a) Gaming activities, including the sale of lottery tickets.
2 (b) Alcoholic beverages.
3 12. Tie or otherwise condition the offering of deferred presentment services to
4 the sale of any good or service.
5 13. Permit others to engage in any activity prohibited in this section at a location
6 licensed pursuant to this chapter.
7 14. Offer deferred presentment services for less than five days OR LONGER
8 THAN THIRTY FIVE DAYS.
9 15. Be required to request or accept any written representation by a customer as
10 to whether the customer has any outstanding checks for deferred presentment held by
11 other licensees.
12 15. Charge a prepayment penalty.
13 16. ENTER INTO A NEW DEFERRED PRESENTMENT TRANSACTION
14 WITH A CUSTOMER UNTIL THE NEXT BUSINESS DAY FOLLOWING THE
15 COMPLETION OF A PRIOR TRANSACTION, INCLUDING A REPAYMENT PLAN
16 TRANSACTION.
17 Sec. 6. Section 6-1260, Arizona Revised Statutes, is amended to read:
18 6-1260. Deferred presentment; amount; fees; loans to members of military
19 service; repayment plans
20 A. The licensee may accept for deferred presentment or deposit a check with a
21 face amount of at least fifty dollars but not more than five hundred dollars, excluding the
22 fees permitted in subsection F G of this section.
23 B. For each check the licensee accepts for deferred presentment ~~or deposit~~, the
24 licensee and the customer shall sign a written agreement IN ENGLISH OR IN SPANISH
25 AT THE CUSTOMER'S REQUEST that contains the name or trade name of the licensee,
26 the transaction date, the amount of the check, the amount to be paid by the maker, a
27 statement of the total amount of the fees charged, expressed both as a dollar amount and
28 as an effective annual percentage rate, a disclosure statement that complies with state and
29 federal truth in lending laws and a notice to the customer as prescribed in subsection C of
30 this section. The written agreement shall expressly require the licensee to defer
31 presentment or deposit of the check until a specified date. THE WRITTEN
32 AGREEMENT SHALL CONTAIN THE FOLLOWING INFORMATION ADJACENT
33 TO THE CUSTOMER SIGNATURE LINE:
34 1. THE TELEPHONE NUMBER AND ADDRESS OF THE DEPARTMENT.
35 2. THE LICENSEE IS REGULATED BY THE DEPARTMENT.
36 3. ANY COMPLAINTS CONCERNING THE AGREEMENT MAY BE
37 ADDRESSED TO THE DEPARTMENT AT THE DEPARTMENT'S ADDRESS AND
38 TELEPHONE NUMBER.
39 C. A licensee shall provide a notice in a prominent place on each written
40 agreement that specifies that no customer may have outstanding more than one deferred
41 presentment service agreement at one time and the face amount, exclusive of any fees,
42 cannot be more than five hundred dollars. A licensee shall ask every customer who seeks
43 deferred presentment services whether that customer has any outstanding checks payable
44 to other licensees.
45 D. A licensee may rely on the customer's representation of whether the customer
46 has any outstanding checks for deferred presentment held by other licensees.

1 E. UNTIL A DATABASE IS CERTIFIED BY THE DEPARTMENT
2 PURSUANT TO SECTION 6-1264, A LICENSEE MAY RELY UPON THE
3 CUSTOMER'S WRITTEN REPRESENTATION THAT THE CUSTOMER DOES
4 NOT HAVE AN OUTSTANDING, INCOMPLETE REPAYMENT PLAN AS
5 DESCRIBED IN SUBSECTION O OF THIS SECTION.

6 E. F. The maker of a check has the right to redeem the check from the licensee
7 before the agreed on date of presentment or deposit if the maker pays the licensee the
8 amount of the check.

9 F. G. A licensee shall not directly or indirectly charge any fee or other
10 consideration for accepting a check for deferred presentment or deposit that is more than
11 fifteen per cent of the ~~face amount of the check for any initial transaction or any~~
12 ~~extension~~ PRINCIPAL AMOUNT BORROWED BY THE CUSTOMER.

13 G. H. A licensee may impose the fee prescribed in subsection ~~F~~ G of this section
14 only once for each written agreement. The fee is earned on execution of the written
15 agreement and is not subject to any reimbursement even if the maker redeems the check
16 pursuant to subsection ~~E~~ F of this section.

17 ~~H~~ I. The fee charged by the licensee is not interest for purposes of any other
18 law or rule of this state.

19 I. J. ~~Except as otherwise provided in this subsection, A person may NOT, FOR~~
20 A FEE, extend the presentment or deposit of a check. ~~not more than three consecutive~~
21 ~~times. For each extension the customer and the licensee shall terminate the previous~~
22 ~~agreement and sign a separate agreement. During an incomplete transaction the customer~~
23 ~~may not receive any additional monies from the licensee. The licensee may charge a fee~~
24 ~~as prescribed in subsection F of this section for each extension. A person who is a~~
25 ~~member of the military service of the United States or the member's spouse may not~~
26 ~~extend the presentment or deposit of a check.~~ If a customer has completed a deferred
27 presentment transaction with the licensee, the customer may enter into a new agreement
28 for deferred presentment services with the licensee ON THE NEXT BUSINESS DAY
29 FOLLOWING THE COMPLETION OF AN EXISTING TRANSACTION,
30 INCLUDING THE COMPLETION OF A REPAYMENT AGREEMENT AS
31 PROVIDED FOR IN SECTION 6-1260.O. A transaction is completed when the
32 customer's check is presented for payment, deposited or redeemed by the customer for
33 cash.

34 J. K. If a check is returned to the licensee from a payer financial institution due
35 to insufficient funds, a closed account or a stop payment order, the licensee may use all
36 available civil remedies to collect on the check including the imposition of the
37 dishonored check service fee prescribed in section 44-6852. THE LICENSEE SHALL
38 NOT CHARGE A DISHONORED CHECK SERVICE FEE MORE THAN TWICE FOR
39 A CHECK RETURNED DUE TO INSUFFICIENT FUNDS. THE LICENSEE SHALL
40 NOT CHARGE A DISHONORED CHECK SERVICE FEE MORE THAN ONCE FOR
41 A CHECK RETURNED DUE TO A CLOSED ACCOUNT OR A STOP PAYMENT
42 ORDER. A LICENSEE MAY NOT CHARGE ANY ADDITIONAL FEES FOR THE
43 DEFERRED PRESENTMENT TRANSACTION IF A CHECK IS RETURNED TO
44 THE LICENSEE FROM A PAYER FINANCIAL INSTITUTION DUE TO
45 INSUFFICIENT FUNDS, A CLOSED ACCOUNT OR A STOP PAYMENT ORDER,
46 EXCEPT AS PROVIDED IN THIS SUBSECTION. An individual who issues a

1 personal check to a licensee under a deferred presentment agreement is not subject to
2 criminal prosecution pursuant to title 13, chapter 18.

3 ~~K.~~ L. Before engaging in a deferred presentment transaction, a licensee shall
4 provide to a customer who is a member of the military service of the United States or the
5 member's spouse a written statement that clearly and conspicuously states the prohibited
6 practices and requirements prescribed in subsection ~~L~~ M of this section.

7 ~~L.~~ M. If lending to a member of the military service of the United States or the
8 spouse of a member of the military service of the United States, a licensee:

9 1. Shall not garnish any military wages or salary.

10 2. Shall not conduct any collection activity against a customer who is a member
11 of the military service of the United States or the spouse of the member during the
12 member's deployment to a combat or combat support posting or during active duty
13 service by a member of the national guard or any military reserve unit of any branch of
14 the armed forces of the United States.

15 3. Shall contact the employer of a member of the military service of the United
16 States about a deferred presentment debt of the member or the member's spouse. The
17 contact allowed by this paragraph shall only be a notice for informational purposes and
18 shall not be an attempt to collect on a loan made to the member or the member's spouse.
19 A licensee shall not attempt to collect on a loan made to a member of the military service
20 of the United States or the member's spouse through the member's chain of command.

21 4. Shall not conduct a deferred presentment transaction with a member of the
22 military service of the United States or the member's spouse in any location that the
23 member's commanding officer prohibits the member or the member's spouse from
24 transacting deferred presentment business.

25 5. Is bound by the terms of any repayment agreement that the licensee negotiates
26 with respect to the customer through military counselors or third party credit counselors.

27 N. A LICENSEE WHO ENTERS INTO A DEFERRED PRESENTMENT
28 TRANSACTION WITH A "COVERED BORROWER" AS THAT TERM IS DEFINED
29 IN SECTION 670 OF THE JOHN WARNER NATIONAL DEFENSE
30 AUTHORIZATION ACT FOR FISCAL YEAR 2007 (P.L. 109-364; 120 STAT. 2083;
31 10 UNITED STATES CODE SECTION 987), AND REGULATIONS
32 PROMULGATED THEREUNDER, AND WHO VIOLATES ANY PROVISION OF
33 SUCH ACT OR REGULATION IN EFFECT ON THE EFFECTIVE DATE OF THIS
34 AMENDMENT TO THIS SECTION IS IN VIOLATION OF THIS TITLE.

35 O. IF A CUSTOMER REQUESTS A REPAYMENT PLAN AND SIGNS AN
36 AMENDMENT TO THE PARTIES' WRITTEN AGREEMENT BEFORE THE CLOSE
37 OF BUSINESS ON THE DATE ON WHICH A DEFERRED PRESENTMENT
38 TRANSACTION IS DUE, THE LICENSEE SHALL ENTER INTO A REPAYMENT
39 PLAN WITH THE CUSTOMER AS FOLLOWS:

40 1. THE REPAYMENT PLAN SHALL DIVIDE THE CUSTOMER'S
41 OUTSTANDING BALANCE INTO FOUR SUBSTANTIALLY EQUAL PAYMENTS
42 THAT COINCIDE WITH THE CUSTOMER'S EXPECTED PAY DAYS OR IF THE
43 CUSTOMER IS UNEMPLOYED AT THE TIME, FOUR MONTHLY PAYMENTS.
44 NO ADDITIONAL FEES OR INTEREST MAY BE ASSESSED ON THE
45 OUTSTANDING BALANCE PAID PURSUANT TO THE REPAYMENT PLAN IF
46 THE CUSTOMER FULFILLS THE TERMS OF THE REPAYMENT PLAN. A

1 REPAYMENT PLAN IS NOT AN AGREEMENT FOR DEFERRED PRESENTMENT
2 SERVICES AND IS NOT A LOAN. EXCEPT FOR THE REVISED PAYMENT
3 SCHEDULE THE TERMS OF THE DEFERRED PRESENTMENT AGREEMENT
4 REMAIN IN FULL FORCE AND EFFECT. PROVIDED THAT THE CUSTOMER
5 HAS COMPLIED WITH THE TERMS OF THE REPAYMENT PLAN, THEN
6 DURING THE TERM OF THE REPAYMENT PLAN THE LICENSEE MAY NOT
7 SEEK TO COLLECT ANY AMOUNT DUE EXCEPT PURSUANT TO THE TERMS
8 OF THE REPAYMENT PLAN. IF THE CUSTOMER MAKES EACH OF THE
9 PAYMENTS REQUIRED UNDER THE REPAYMENT PLAN, THE OUTSTANDING
10 DEFERRED PRESENTMENT SERVICES AGREEMENT SHALL BE COMPLETED.
11 IF THE CUSTOMER FAILS TO ADHERE TO THE ORIGINAL REPAYMENT
12 PLAN, THE LICENSEE MAY ENGAGE IN ANY LAWFUL COLLECTION
13 ACTIVITY, BUT SHALL USE REASONABLE EFFORTS TO NEGOTIATE A
14 MUTUALLY AGREEABLE ALTERNATIVE REPAYMENT PLAN BEFORE
15 INITIATING ANY LEGAL ACTION.

16 2. NO LICENSEE MAY ALLOW A CUSTOMER TO ENTER INTO THE
17 AGREEMENT PROVIDED FOR IN THIS SUBSECTION MORE THAN ONCE PER
18 THREE HUNDRED AND SIXTY-FIVE DAY PERIOD COMMENCING ON THE
19 FIRST DAY OF THE AGREEMENT.

20 3. THE LICENSEE SHALL SUBMIT TO A CONSUMER CREDIT
21 REPORTING SERVICE THE DATA REQUIRED BY SECTION 6-1264 AT THE
22 TIME IT ENTERS INTO A REPAYMENT PLAN.

23 4. AT THE SUCCESSFUL COMPLETION OF THE REPAYMENT PLAN,
24 THE LICENSEE SHALL REPORT TO THE CONSUMER CREDIT REPORTING
25 SERVICE THAT THE CUSTOMER'S REPAYMENT PLAN IS TERMINATED.

26 Sec. 7. Section 6-1262, Arizona Revised Statutes, is amended to read:

27 6-1262. Violation; classification; individual liability

28 A. A person that provides deferred presentment services without a license is
29 guilty of a class 1 misdemeanor.

30 B. A licensee that violates this chapter or the rules adopted pursuant to this
31 chapter is subject to revocation of the licensee's license and is guilty of a class 1
32 misdemeanor.

33 C. An officer or agent of a corporation or association who participates in a
34 violation of this chapter is subject to the penalties prescribed in this section.

35 D. Except as the result of an accidental or bona fide error, if the licensee charges,
36 contracts for or receives any amount in excess of the fees expressly permitted by this
37 chapter, the deferred presentment is voidable and the licensee has no right to collect or
38 receive any fees in connection with the deferred presentment transaction. Any deferred
39 presentment transaction, that is made by a person who is required to be licensed pursuant
40 to this chapter but who is not licensed is void, and the person has no right to MAINTAIN
41 A COURT ACTION OR OTHERWISE collect, receive or retain any principal or other
42 fees in connection with that deferred presentment transaction. ANY AMOUNT
43 RECEIVED BY A CUSTOMER FROM A PERSON WHO IS REQUIRED TO BE
44 LICENSED BUT WHO IS NOT, SHALL BE DEEMED A GIFT TO THE CUSTOMER.

45 Sec. 8. Repeal

46 6-1263. Program termination

1 Section 6-1263., Arizona Revised Statutes is hereby repealed.
2 Sec. 9. Title 6, chapter 12.1, article 1, Arizona Revised Statutes, is amended by
3 adding a new section 6-1264, to read:

4 6-1264. Commercially reasonable methods for verification; one incomplete
5 repayment plan; definition

6 A. BEFORE ENTERING INTO A DEFERRED PRESENTMENT
7 AGREEMENT WITH A CONSUMER, A LICENSEE MUST USE A
8 COMMERCIALY REASONABLE METHOD OF VERIFICATION TO VERIFY
9 THAT THE CUSTOMER HAS NO OUTSTANDING INCOMPLETE REPAYMENT
10 PLANS AS PROVIDED FOR IN SECTION 6-1260.O WITH THE LICENSEE OR
11 ANY OTHER LICENSEE.

12 B. NO LATER THAN OCTOBER 15, 2009, THE SUPERINTENDENT SHALL
13 CERTIFY THAT ONE OR MORE CONSUMER REPORTING SERVICE
14 DATABASES ARE COMMERCIALY REASONABLE METHODS OF
15 VERIFICATION. THE LIST OF PROVIDERS THAT THE DIRECTOR HAS
16 CERTIFIED AS PROVIDING COMMERCIALY REASONABLE METHODS OF
17 VERIFICATION SHALL BE POSTED ON THE DEPARTMENT'S WEBSITE AND
18 SHALL BE MAILED TO EACH LICENSEE BY FIRST CLASS MAIL AT THE
19 ADDRESS OF RECORD AS SHOWN ON THE DEPARTMENT'S LICENSING
20 FILES.

21 C. EACH LICENSEE WHO PROVIDES DEFERRED PRESENTMENT
22 SERVICES SHALL COMPLY WITH SUBSECTION A OF THIS SECTION NO
23 LATER THAN DECEMBER 31, 2009.

24 D. A CONSUMER SEEKING DEFERRED PRESENTMENT SERVICES MAY
25 MAKE A DIRECT INQUIRY TO THE CONSUMER REPORTING SERVICE TO
26 REQUEST A MORE DETAILED EXPLANATION OF THE BASIS FOR A
27 CONSUMER REPORTING SERVICE'S DETERMINATION THAT THE
28 CONSUMER IS INELIGIBLE FOR A DEFERRED PRESENTMENT, AND THE
29 CONSUMER REPORTING SERVICE SHALL PROVIDE A REASONABLE
30 RESPONSE TO THE CONSUMER.

31 E. IN CERTIFYING A COMMERCIALY REASONABLE METHOD OF
32 VERIFICATION, THE SUPERINTENDENT SHALL ENSURE THE CERTIFIED
33 DATABASE:

34 1. PROVIDES REAL TIME ACCESS THROUGH AN INTERNET
35 CONNECTION OR, IF REAL TIME ACCESS THROUGH AN INTERNET
36 CONNECTION BECOMES UNAVAILABLE DUE TO TECHNICAL PROBLEMS
37 INCURRED BY THE CONSUMER REPORTING SERVICE, THROUGH
38 ALTERNATIVE REAL TIME VERIFICATION MECHANISMS, INCLUDING REAL
39 TIME VERIFICATION BY TELEPHONE;

40 2. CONTAINS A REAL TIME REGULATOR INTERFACE THAT ALLOWS
41 THE DEPTMENT TO ACCESS A CONSUMER REPORTING SERVICE
42 DATABASE FOR REQUIRED MONITORING AND REPORTING FUNCTION; THIS
43 INCLUDES THE ABILITY TO DETERMINE CONSUMER ELIGIBILITY AND
44 REPORTS FOR LICENSEE EXAMINATIONS, REGULATORY REPORTING AND
45 PROGRAM MONITORING;

1 3. PROVIDES LICENSEES WITH A STATEMENT THAT A CONSUMER IS
2 ELIGIBLE OR INELIGIBLE FOR DEFERRED PRESENTMENT SERVICES AND A
3 DESCRIPTION OF THE REASON FOR THE DETERMINATION.

4 4. PROVIDES ADEQUATE SAFEGUARDS TO ENSURE THAT
5 CONSUMER INFORMATION CONTAINED IN THE CONSUMER REPORTING
6 DATABASE IS KEPT CONFIDENTIAL;

7 5. DOES NOT ALLOW THE LICENSEE TO ENTER INTO A DEFERRED
8 PRESENTMENT AGREEMENT THAT WOULD BE IN VIOLATION OF THIS
9 CHAPTER;

10 6. ENSURES THAT INFORMATION SUBMITTED TO THE CERTIFIED
11 DATABASE IS CONFIDENTIAL AND SHALL NOT BE RELEASED, OR
12 OTHERWISE MADE AVAILABLE, TO THE PUBLIC;

13 7. DEMONSTRATES A WORKING SYSTEM TO THE DEPARTMENT
14 PRIOR TO THE CERTIFICATION; AND

15 8. REQUIRES THAT A PROVIDER BE A REGISTERED CONSUMER
16 REPORTING AGENCY AND BE SUBJECT TO THE APPLICABLE RULES AND
17 REGULATIONS APPLIED BY THE FEDERAL TRADE COMMISSION UNDER
18 THE FAIR CREDIT REPORTING ACT.

19 F. A LICENSEE SHALL UPDATE THE CERTIFIED DATABASE WHEN:

20 1. A CONSUMER ELECTS TO ENTER INTO A REPAYMENT PLAN;

21 2. A CONSUMER'S REPAYMENT PLAN IS PAID IN FULL; OR

22 4. A LICENSEE DETERMINES A REPAYMENT PLAN IS IN DEFAULT.

23 G. A LICENSEE MAY RELY ON THE INFORMATION CONTAINED IN
24 THE CERTIFIED DATABASE AS ACCURATE AND IS NOT SUBJECT TO ANY
25 PENALTY OR LIABILITY AS A RESULT OF RELYING ON INACCURATE
26 INFORMATION CONTAINED IN THE DATABASE.

27 H. IN DETERMINING WHETHER A CREDIT REPORTING SERVICE
28 SHOULD BE CERTIFIED AS A COMMERCIALY REASONABLE METHOD OF
29 VERIFICATION, THE SUPERINTENDENT WILL CONSIDER WHETHER SUCH
30 CREDIT REPORTING SERVICE IS ADEQUATELY CAPITALIZED,
31 DEMONSTRATES THE RESOURCES AND ABILITY TO PERFORM THE
32 SERVICES REQUIRED PURSUANT TO THIS SECTION, AND HAS APPROPRIATE
33 SURETY TO ENSURE PERFORMANCE OF ITS OBLIGATIONS PURSUANT TO
34 THIS SECTION AND TO REASONABLY PROTECT CLAIMANTS IN THE EVENT
35 THAT ACTIONS OR INACTIONS ON THE PART OF THE CREDIT REPORTING
36 SERVICE RESULTS IN DAMAGES TO LICENSEES OR CONSUMERS.

37 Sec. 10. Section 12-671, Arizona Revised Statutes, is amended to read:

38 12-671. Drawing check or draft on no account or insufficient account with intent
39 to defraud; civil action; definition of credit; prima facie evidence

40 A. A person who, for himself or for another, with intent to defraud, makes,
41 draws, utters or delivers to another person or persons a check or draft on a bank or
42 depositary for payment of money, knowing at the time of such making, drawing, uttering
43 or delivery, that he or his principal does not have an account or does not have sufficient
44 funds in, or credit with, such bank or depositary to meet the check or draft in full upon
45 presentation, shall be liable to the holder of such check or draft for twice the amount of
46 such check or draft or fifty dollars, whichever is greater, together with costs and

1 reasonable ~~attorney's~~ ATTORNEY fees as allowed by the court on the basis of time and
2 effort expended by such attorney on behalf of plaintiff, EXCEPT THAT LIABILITY
3 FOR A CHECK OR DRAFT PRESENTED ACCORDING TO TITLE 6, CHAPTER
4 12.1 IS LIMITED TO ONLY THE FACE VALUE OF THE CHECK OR DRAFT
5 TOGETHER WITH COSTS AND REASONABLE ATTORNEY FEES AND ANY
6 APPLICABLE DISHONORED CHECK SERVICE FEE PRESCRIBED IN SECTION
7 44-6852.

8 B. The word "credit" as used in this section shall be construed to be an express
9 agreement with the bank or depository for payment of the check or draft.

10 C. Proof that, at the time of presentment, the maker, issuer or drawer did not have
11 sufficient funds with the bank or depository, and that he failed within twelve days after
12 receiving notice of nonpayment or dishonor to pay the check or draft is prima facie
13 evidence of intent to defraud.

14 D. Where a check, draft or order is protested, on the ground of insufficiency of
15 funds or credit, the notice of formal protest thereof shall be admissible as proof of
16 presentation, nonpayment and protest and shall be prima facie evidence of the
17 insufficiency of funds or credit with the bank or depository, or person, or firm or
18 corporation.

19 E. "Notice", as used in this section, means notice given to the person entitled
20 thereto, either in person, or in writing. Such notice in writing shall be given by certified
21 mail, return receipt requested, to the person at his address as it appears on such check or
22 draft.

23 F. Nothing in this section shall be applicable to any criminal case or affect
24 eligibility or terms of probation.

25 Sec. 11. Section 44-6852, Arizona Revised Statutes, is amended to read:

26 44-6852. Dishonored checks; service fee

27 Notwithstanding any other law EXCEPT AS PROVIDED IN SECTION 6-1260,
28 the holder, payee or assignee of the holder or payee of a dishonored check, draft, order or
29 note may charge and collect from the maker or drawer a service fee of not more than
30 twenty-five dollars plus any actual charges assessed by the financial institution of the
31 holder, payee or assignee of the holder or payee as a result of the dishonored instrument.

32 Sec. 12. Conflicting Initiatives

33 This initiative constitutes a comprehensive regulatory program for deferred
34 presentment lending. The people intend that if this measure receives more votes than any
35 other initiative concerning deferred presentments then this measure shall prevail and take
36 effect in its entirety and that no provision of any other measure concerning deferred
37 presentments shall take effect in any respect.

38 Sec. 13. Severability

39 If any provision of this initiative measure is declared invalid, such invalidity shall
40 not affect other provisions of this initiative measure which can be given effect without the
41 invalid provision. To this end, the provisions of this initiative measure are declared to be
42 severable.