

State of Arizona
Senate
Forty-fourth Legislature
Second Regular Session
2000

SENATE BILL 1266

AN ACT

AMENDING SECTIONS 6-126 AND 6-1203, ARIZONA REVISED STATUTES; AMENDING TITLE 6, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 12.1; AMENDING SECTION 44-282, ARIZONA REVISED STATUTES; RELATING TO DEFERRED PRESENTMENT COMPANIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-126, Arizona Revised Statutes, is amended to
3 read:

4 6-126. Application fees for financial institutions and
5 enterprises

6 A. The following nonrefundable fees are payable to the department with
7 the filing of the following applications:

8 1. To apply for a banking permit, ten thousand dollars.

9 2. To apply for an amendment to a banking or savings and loan
10 association permit, one thousand dollars.

11 3. To establish each banking branch office, one thousand five hundred
12 dollars.

13 4. To move a banking office to other than an established office of a
14 bank, one thousand dollars.

15 5. To apply for a savings and loan association permit, ten thousand
16 dollars.

17 6. To establish each savings and loan association branch office, one
18 thousand five hundred dollars.

19 7. To move an office of a savings and loan association to other than
20 an established office, one thousand dollars.

21 8. To organize and establish a credit union, one hundred dollars.

22 9. To establish each credit union branch or credit union freestanding
23 automated teller machine or to move a credit union office to other than an
24 established office of a credit union, two hundred fifty dollars.

25 10. To organize and establish any other financial institutions for
26 which an application or investigation fee is not otherwise provided by law,
27 two thousand five hundred dollars.

28 11. To acquire control of a financial institution, other than a
29 consumer lender, five thousand dollars.

30 12. To apply for a trust company license, five thousand dollars.

31 13. To apply for a commercial mortgage banker, mortgage banker, escrow
32 agent or consumer lender license, one thousand five hundred dollars.

33 14. To apply for a mortgage broker, sales finance company or debt
34 management company license, eight hundred dollars.

35 15. To apply for a collection agency license, one thousand five hundred
36 dollars.

37 16. TO APPLY FOR A DEFERRED PRESENTMENT COMPANY LICENSE, ONE THOUSAND
38 DOLLARS.

39 ~~16.~~ 17. To apply for a motor vehicle dealer license, three hundred
40 dollars.

41 ~~17.~~ 18. To apply for a branch office of an escrow agent, consumer
42 lender, commercial mortgage banker, mortgage banker, trust company, money
43 transmitter ~~or~~, collection agency OR DEFERRED PRESENTMENT COMPANY, five
44 hundred dollars.

- 1 ~~18.~~ 19. To apply for a branch office of a mortgage broker, debt
2 management company or sales finance company, two hundred fifty dollars.
- 3 ~~19.~~ 20. To apply for approval of the articles of incorporation of a
4 business development corporation, five hundred dollars.
- 5 ~~20.~~ 21. To establish each freestanding automated teller machine, not
6 otherwise provided by law, five hundred dollars.
- 7 ~~21.~~ 22. To apply for approval for the merger or consolidation of two
8 or more financial institutions, five thousand dollars per institution.
- 9 ~~22.~~ 23. To apply for approval to convert from a national bank or
10 federal savings and loan charter to a state chartered institution, five
11 thousand dollars.
- 12 ~~23.~~ 24. To apply for approval to convert from a federal credit union
13 to a state chartered credit union, one thousand dollars.
- 14 ~~24.~~ 25. To apply for approval to merge or consolidate two or more
15 credit unions, five hundred dollars per credit union.
- 16 ~~25.~~ 26. To move an established office of an enterprise to other than
17 an established office, fifty dollars.
- 18 ~~26.~~ 27. To issue a duplicate or replace a lost enterprise's license,
19 one hundred dollars.
- 20 ~~27.~~ 28. To change a responsible person on a mortgage broker's,
21 commercial mortgage banker's or a mortgage banker's license, two hundred
22 fifty dollars.
- 23 ~~28.~~ 29. To change an active manager on a collection agency license or
24 a manager of a money transmitter branch office license, two hundred fifty
25 dollars.
- 26 ~~29.~~ 30. To change the licensee name on a financial institution or
27 enterprise license, two hundred fifty dollars.
- 28 ~~30.~~ 31. To apply for a money transmitter license, one thousand five
29 hundred dollars plus twenty-five dollars for each branch office and
30 authorized delegate to a maximum of four thousand five hundred dollars.
- 31 ~~31.~~ 32. To acquire control of any money transmitter or controlling
32 person pursuant to chapter 12 of this title, two thousand five hundred
33 dollars.
- 34 ~~32.~~ 33. To receive the following publications:
- 35 (a) Quarterly bank and savings and loan statement of condition, not
36 more than ten dollars per copy.
- 37 (b) Monthly summary of actions report, not more than five dollars per
38 copy.
- 39 (c) A list of licensees, a monthly pending actions report and all
40 other in-house prepared reports or listings made available to the public, not
41 more than one dollar per page.
- 42 B. On issuance of a license or permit for a financial institution or
43 enterprise, the superintendent shall collect the first year's annual
44 assessment or renewal fee for the financial institution or enterprise

1 prorated according to the number of quarters remaining until the date of the
2 next annual assessment or renewal.

3 C. The following annual renewal fees shall be paid each year:

4 1. For an escrow agent, or trust company, one thousand dollars plus
5 two hundred fifty dollars for each branch office.

6 2. For a debt management company or sales finance company, five
7 hundred dollars plus two hundred dollars for each branch office.

8 3. For a collection agency, six hundred dollars plus two hundred
9 dollars for each branch office.

10 4. For a motor vehicle dealer, one hundred fifty dollars.

11 5. For an inactive mortgage broker, two hundred fifty dollars.

12 6. For a mortgage banker that negotiates or closes in the aggregate
13 one hundred loans or less in the immediately preceding calendar year, seven
14 hundred fifty dollars, and for a mortgage banker or a commercial mortgage
15 banker that negotiates or closes in the aggregate over one hundred loans in
16 the immediately preceding calendar year, one thousand two hundred fifty
17 dollars. In addition, a commercial mortgage banker or a mortgage banker
18 shall pay two hundred fifty dollars for each branch office.

19 7. For a mortgage broker that negotiates or closes in the aggregate
20 fifty loans or less in the immediately preceding calendar year, two hundred
21 fifty dollars and for a mortgage broker that negotiates or closes in the
22 aggregate more than fifty loans in the immediately preceding calendar year,
23 five hundred dollars. In addition, a mortgage broker shall pay two hundred
24 dollars for each branch office.

25 8. For a consumer lender, one thousand dollars plus two hundred
26 dollars for each branch office.

27 9. For a money transmitter, five hundred dollars plus twenty-five
28 dollars for each branch office and each authorized delegate to a maximum of
29 two thousand five hundred dollars.

30 10. FOR A DEFERRED PRESENTMENT COMPANY, FOUR HUNDRED DOLLARS. IN
31 ADDITION, A DEFERRED PRESENTMENT COMPANY SHALL PAY TWO HUNDRED DOLLARS FOR
32 EACH BRANCH OFFICE.

33 D. The license, renewal or branch office permit fee for a premium
34 finance company for each calendar year or part thereof shall not be less than
35 one hundred dollars or more than three hundred dollars as set by the
36 superintendent. If the license is issued or the branch office is opened
37 after June 30 in any year the fees shall not be less than fifty dollars or
38 more than one hundred fifty dollars for that year.

39 Sec. 2. Section 6-1203, Arizona Revised Statutes, is amended to read:

40 6-1203. Exemptions

41 A. This chapter does not apply to:

42 1. The United States or any department or agency of the United States.

43 2. This state, including any political subdivision of this state.

1 B. This chapter does not apply to the following if engaged in the
2 regular course of their respective businesses, except that the following are
3 subject to the requirements of article 2 of this chapter:

4 1. A bank, financial institution holding company, credit union,
5 savings and loan association or savings bank, whether organized under the
6 laws of any state or the United States.

7 2. A person who engages in check cashing or foreign money exchange and
8 engages in other activity regulated under this chapter only as an authorized
9 delegate of a licensee acting within the scope of the contract between the
10 authorized delegate and the licensee.

11 ~~3. A person licensed pursuant to chapter 5 of this title.~~

12 ~~4. A person licensed pursuant to chapter 6 of this title.~~

13 ~~5. A person licensed pursuant to chapter 7 of this title.~~

14 ~~6. A person licensed pursuant to chapter 8 of this title.~~

15 ~~7. A person licensed pursuant to chapter 9, article 2 of this title.~~

16 ~~8. A person licensed pursuant to title 32, chapter 9.~~

17 3. A PERSON LICENSED PURSUANT TO CHAPTER 5, 6, 7 OR 8 OF THIS TITLE,
18 CHAPTER 9, ARTICLE 2 OF THIS TITLE, CHAPTER 12.1 OF THIS TITLE OR TITLE 32,
19 CHAPTER 9.

20 Sec. 3. Title 6, Arizona Revised Statutes, is amended effective
21 September 1, 2000 by adding chapter 12.1, to read:

22 CHAPTER 12.1

23 DEFERRED PRESENTMENT COMPANIES

24 ARTICLE 1. GENERAL PROVISIONS

25 6-1251. Definitions

26 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

27 1. "BRANCH OFFICE" MEANS ANY OFFICE OPERATED BY A LICENSEE TO PROVIDE
28 DEFERRED PRESENTMENT SERVICES.

29 2. "CHECK" MEANS A DRAFT SIGNED BY THE MAKER AND MADE PAYABLE TO A
30 PERSON THAT IS LICENSED PURSUANT TO THIS CHAPTER WITH THE NAME OF THE MAKER
31 PREPRINTED ON THE FACE OF THE CHECK.

32 3. "DEFERRED PRESENTMENT SERVICES" MEANS A TRANSACTION PURSUANT TO A
33 WRITTEN AGREEMENT IN WHICH THE LICENSEE ACCEPTS A CHECK AND AGREES TO HOLD
34 THE CHECK FOR AT LEAST FIVE DAYS BEFORE PRESENTMENT FOR PAYMENT OR DEPOSIT.

35 4. "ENGAGED IN THE BUSINESS" MEANS EITHER:

36 (a) ADVERTISING TO OR ANY OTHER SOLICITATION OF A RESIDENT OF THIS
37 STATE THAT OFFERS DEFERRED PRESENTMENT SERVICES AND THAT OCCURS WITHIN THIS
38 STATE.

39 (b) PROVIDING THREE OR MORE DEFERRED PRESENTMENT SERVICES WITHIN A
40 CALENDAR YEAR TO RESIDENTS OF THIS STATE.

41 5. "LICENSE" MEANS A LICENSE ISSUED PURSUANT TO THIS CHAPTER.

42 6. "LICENSEE" MEANS A CORPORATION, COMPANY, FIRM, PARTNERSHIP,
43 ASSOCIATION OR NATURAL PERSON THAT IS LICENSED BY THE SUPERINTENDENT TO
44 ENGAGE IN THE BUSINESS OF PROVIDING DEFERRED PRESENTMENT SERVICES PURSUANT TO
45 THIS CHAPTER.

1 7. "LOCATION" MEANS THE ENTIRE SPACE IN WHICH A LICENSEE PROVIDES
2 DEFERRED PRESENTMENT SERVICES.

3 8. "PARTNER" MEANS A PERSON WHO EITHER:

4 (a) IS AUTHORIZED BY LAW OR A PARTNERSHIP AGREEMENT TO PARTICIPATE IN
5 THE MANAGEMENT OF THE BUSINESS OF THE PARTNERSHIP.

6 (b) OWNS MORE THAN TWENTY-FIVE PER CENT OF THE APPLICANT OR LICENSEE
7 PARTNERSHIP.

8 6-1252. Exemptions

9 THIS CHAPTER DOES NOT APPLY TO:

10 1. BANKS, SAVINGS AND LOAN ASSOCIATIONS, COLLECTION AGENCIES OR
11 FINANCING OR LENDING INSTITUTIONS AUTHORIZED AND LICENSED TO TRANSACT
12 BUSINESS UNDER THE LAWS OF THE UNITED STATES OR THIS STATE.

13 2. ANY PERSON THAT IS PRINCIPALLY ENGAGED IN THE RETAIL SALE OF GOODS
14 OR SERVICES AND THAT, EITHER AS AN INCIDENT TO OR INDEPENDENTLY OF A RETAIL
15 SALE OR SERVICE AND NOT HOLDING ITSELF OUT TO BE A DEFERRED PRESENTMENT
16 SERVICE, FROM TIME TO TIME CASHES CHECKS, DRAFTS OR MONEY ORDERS FOR ANY FEE
17 OR OTHER CONSIDERATION IN WHICH NOT MORE THAN TWO DOLLARS IS CHARGED FOR THE
18 SERVICE.

19 6-1253. Application for license; financial statement

20 A. A PERSON SHALL MAKE AN APPLICATION FOR A LICENSE IN WRITING, UNDER
21 OATH AND IN THE FORM PRESCRIBED BY THE SUPERINTENDENT. THE SUPERINTENDENT
22 MAY REQUIRE ADDITIONAL INFORMATION ON THE EXPERIENCE, BACKGROUND, HONESTY,
23 TRUTHFULNESS, INTEGRITY AND COMPETENCY OF THE APPLICANT. IF THE APPLICANT IS
24 A PERSON OTHER THAN A NATURAL PERSON, THE SUPERINTENDENT MAY REQUIRE
25 INFORMATION AS TO THE HONESTY, TRUTHFULNESS, INTEGRITY AND COMPETENCY OF ANY
26 EXECUTIVE OFFICER, DIRECTOR, SHAREHOLDER, MEMBER, PARTNER, TRUSTEE, EMPLOYEE
27 OR ANY OTHER INTERESTED PARTY OF THE FIRM, PARTNERSHIP OR ASSOCIATION.

28 B. EACH APPLICANT SHALL INCLUDE WITH AN APPLICATION FOR A LICENSE BOTH
29 OF THE FOLLOWING:

30 1. A STATEMENT OF PERSONAL HISTORY IN THE FORM PRESCRIBED BY THE
31 SUPERINTENDENT. IF THE APPLICANT IS A PERSON OTHER THAN A NATURAL PERSON,
32 THE SUPERINTENDENT MAY REQUIRE A STATEMENT OF PERSONAL HISTORY OF ANY
33 EXECUTIVE OFFICER, DIRECTOR, SHAREHOLDER, MEMBER, PARTNER, TRUSTEE, EMPLOYEE
34 OR ANY OTHER INTERESTED PARTY OF THE FIRM, PARTNERSHIP OR ASSOCIATION. THE
35 STATEMENT OF PERSONAL HISTORY PRESCRIBED IN THIS SECTION IS CONFIDENTIAL AND
36 IS NOT A PUBLIC RECORD UNDER TITLE 39, CHAPTER 1, ARTICLE 2.

37 2. A FINANCIAL STATEMENT IN THE FORM PRESCRIBED BY THE SUPERINTENDENT
38 THAT ACCURATELY STATES THE APPLICANT'S ASSETS, LIABILITIES AND NET WORTH.

39 C. THE SUPERINTENDENT MAY ACQUIRE AS PART OF THE APPLICATION A CREDIT
40 REPORT AND ANY INFORMATION THE SUPERINTENDENT DEEMS NECESSARY IN ORDER TO
41 EVALUATE THE APPLICANT'S QUALIFICATIONS FOR LICENSURE PURSUANT TO THIS
42 CHAPTER.

43 D. THIS CHAPTER APPLIES TO ANY PERSON WHO SEEKS TO AVOID ITS
44 APPLICATION BY ANY ILLEGAL DEVICE, SUBTERFUGE OR PRETENSE.

- 1 6-1254. Qualifications of applicants
- 2 A. AN APPLICANT FOR A LICENSE:
- 3 1. SHALL BE A CITIZEN OF THE UNITED STATES.
- 4 2. SHALL BE A PERSON OF HONESTY, TRUTHFULNESS AND GOOD MORAL
- 5 CHARACTER.
- 6 3. SHALL NOT HAVE BEEN CONVICTED OF A CRIME THAT INVOLVES MORAL
- 7 TURPITUDE.
- 8 4. SHALL NOT HAVE DEFAULTED ON PAYMENT OF MONEY COLLECTED OR RECEIVED
- 9 FOR ANOTHER PERSON.
- 10 5. SHALL NOT HAVE BEEN A FORMER LICENSEE PURSUANT TO THIS CHAPTER
- 11 WHOSE LICENSE WAS SUSPENDED OR REVOKED AND NOT SUBSEQUENTLY REINSTATED.
- 12 B. IF THE APPLICANT IS A PERSON OTHER THAN A NATURAL PERSON, THE
- 13 QUALIFICATIONS REQUIRED BY SUBSECTION A ARE ALSO REQUIRED OF ANY EXECUTIVE
- 14 OFFICER, DIRECTOR OR PARTNER OF THE FIRM, PARTNERSHIP OR ASSOCIATION.
- 15 C. TO QUALIFY FOR A LICENSE AN APPLICANT SHALL HAVE:
- 16 1. A MINIMUM NET WORTH IN CASH OR CASH EQUIVALENTS, DETERMINED IN
- 17 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, OF AT LEAST FIFTY
- 18 THOUSAND DOLLARS.
- 19 2. THE FINANCIAL RESPONSIBILITY, CHARACTER AND EXPERIENCE TO WARRANT A
- 20 BELIEF THAT THE BUSINESS IS OPERATED LAWFULLY, HONESTLY, FAIRLY AND
- 21 EFFICIENTLY.
- 22 6-1255. Issuance of licenses
- 23 A. ON RECEIPT OF AN ORIGINAL APPLICATION THAT IS ACCOMPANIED BY THE
- 24 FEES PRESCRIBED IN SECTION 6-126 AND THE FINANCIAL STATEMENT PRESCRIBED IN
- 25 THIS CHAPTER, THE SUPERINTENDENT SHALL CONDUCT A GENERAL REVIEW OF THE
- 26 QUALIFICATIONS OF THE APPLICANT. IF THE SUPERINTENDENT FINDS NO GROUNDS FOR
- 27 DENIAL OF A LICENSE, WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING A
- 28 COMPLETE APPLICATION, THE SUPERINTENDENT SHALL GRANT THE APPLICATION AND
- 29 ISSUE A LICENSE TO THE APPLICANT.
- 30 B. A LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE AND CONTROL OF A
- 31 LICENSE SHALL NOT BE ACQUIRED THROUGH ANY STOCK PURCHASE OR OTHER DEVICE
- 32 WITHOUT THE PRIOR WRITTEN CONSENT OF THE SUPERINTENDENT. THE SUPERINTENDENT
- 33 SHALL NOT GIVE CONSENT IF THE SUPERINTENDENT FINDS THAT THE ACQUIRING PERSON
- 34 DOES NOT MEET THE QUALIFICATIONS OF THIS CHAPTER. FOR THE PURPOSES OF THIS
- 35 SUBSECTION, "CONTROL" MEANS THE POWER TO VOTE MORE THAN TWENTY-FIVE PER CENT
- 36 OF THE OUTSTANDING VOTING SHARES OF A LICENSED CORPORATION, PARTNERSHIP,
- 37 ASSOCIATION OR TRUST.
- 38 C. A LICENSE REMAINS THE PROPERTY OF THIS STATE. ON TERMINATION AT
- 39 THE REQUEST OF THE LICENSEE OR REVOCATION BY THE SUPERINTENDENT, THE LICENSEE
- 40 SHALL IMMEDIATELY DELIVER THE LICENSE TO THE SUPERINTENDENT. TERMINATION OF
- 41 THE LICENSE DOES NOT AFFECT ANY OTHER LIABILITY OF THE LICENSEE.
- 42 6-1256. Annual renewal of license
- 43 A. ON OR BEFORE JUNE 30 OF EACH YEAR, AN APPLICANT FOR LICENSURE
- 44 RENEWAL SHALL:

1 1. FILE WITH THE SUPERINTENDENT A FINANCIAL STATEMENT PREPARED
2 ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES FOR THE TWELVE MONTH
3 PERIOD ENDING THE PREVIOUS DECEMBER 31.

4 2. MAKE A RENEWAL APPLICATION TO THE DEPARTMENT ON FORMS PRESCRIBED BY
5 THE SUPERINTENDENT AND:

6 (a) PAY THE FEES PRESCRIBED IN SECTION 6-126.

7 (b) INCLUDE INFORMATION TO ASSIST THE SUPERINTENDENT IN DETERMINING
8 WHETHER THE APPLICANT IS IN DEFAULT OF OR IN VIOLATION OF THIS CHAPTER AND
9 WHETHER THE APPLICANT MEETS THE REQUIREMENTS OF THIS CHAPTER.

10 B. IF THE RENEWAL APPLICANT IS UNABLE TO MAKE A FINANCIAL STATEMENT AT
11 THE TIME THE APPLICANT FILES THE RENEWAL APPLICATION, THE APPLICANT MAY MAKE
12 A WRITTEN REQUEST FOR AN EXTENSION OF TIME TO FILE THE FINANCIAL STATEMENT.
13 IF THE SUPERINTENDENT GRANTS THE EXTENSION THE APPLICANT SHALL FILE A
14 FINANCIAL STATEMENT WITHIN THIRTY DAYS AFTER THE SUPERINTENDENT ISSUES THE
15 RENEWAL LICENSE.

16 C. ON APPLICATION TO THE SUPERINTENDENT EACH YEAR PURSUANT TO
17 SUBSECTION A OF THIS SECTION, THE SUPERINTENDENT SHALL ISSUE THE RENEWAL
18 LICENSE ON AUGUST 1 OF EACH YEAR.

19 6-1257. Duties of licensees

20 A LICENSEE:

21 1. SHALL MEET THE FINANCIAL RESPONSIBILITY REQUIREMENTS OF THIS
22 CHAPTER.

23 2. SHALL DEAL OPENLY, FAIRLY AND HONESTLY IN THE CONDUCT OF THE
24 DEFERRED PRESENTMENT BUSINESS.

25 3. SHALL AT ALL TIMES AND IN EVERY BRANCH OFFICE CONSPICUOUSLY POST A
26 NOTICE THAT STATES THE FEE CHARGED FOR DEFERRED PRESENTMENT SERVICES.

27 4. SHALL FILE WITH THE SUPERINTENDENT A STATEMENT OF THE FEES CHARGED
28 AT EVERY LOCATION THAT IS LICENSED FOR DEFERRED PRESENTMENT SERVICES. THE
29 LICENSEE SHALL FILE THE STATEMENT ANNUALLY AND INCLUDE THE STATEMENT WITH THE
30 LICENSEE'S RENEWAL APPLICATION.

31 6-1258. Denial, revocation or suspension of license

32 A. THE SUPERINTENDENT MAY DENY A LICENSE TO A PERSON OR SUSPEND OR
33 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT AN APPLICANT OR LICENSEE:

34 1. HAS FAILED TO PAY THE ANNUAL RENEWAL FEES.

35 2. HAS FAILED TO FILE THE ANNUAL FINANCIAL STATEMENT AS PRESCRIBED IN
36 THIS CHAPTER.

37 3. IS INSOLVENT AS DEFINED IN SECTION 47-1201.

38 4. IS NOT A PERSON OF HONESTY, TRUTHFULNESS OR GOOD CHARACTER.

39 5. HAS VIOLATED THIS CHAPTER OR ANY OTHER APPLICABLE LAW, RULE OR
40 ORDER.

41 6. HAS BEEN CONVICTED IN ANY JURISDICTION OF ANY FELONY OR OTHER CRIME
42 THAT INVOLVED BREACH OF TRUST OR DISHONESTY.

43 7. HAS HAD AN ORDER ENTERED AGAINST THE APPLICANT OR LICENSEE BY AN
44 ADMINISTRATIVE AGENCY OF ANY JURISDICTION AND THE ORDER IS BASED ON CONDUCT

1 THAT INVOLVES FRAUD, DECEIT OR MISREPRESENTATION BY THE APPLICANT OR LICENSEE
2 AND IS ENTERED AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD.

3 8. HAS MADE A MATERIAL MISSTATEMENT OR OMISSION ON THE APPLICATION FOR
4 A LICENSE OR ON ANY DOCUMENT REQUIRED TO BE FILED WITH THE SUPERINTENDENT.

5 9. HAS HAD A FINANCIAL JUDGMENT ORDERED AGAINST THE APPLICANT OR
6 LICENSEE IN A CIVIL ACTION BASED ON FRAUD, DECEIT OR MISREPRESENTATION.

7 10. HAS FAILED TO TAKE REASONABLE MEASURES TO ENSURE THAT AN AGREEMENT
8 TO DEFER PRESENTMENT IS NOT BREACHED.

9 11. HAS ENGAGED IN ANY ACT OR PRACTICE THAT WOULD VIOLATE SECTION
10 32-1051, PARAGRAPH 4, 6, 7 OR 8 IF ENGAGED IN BY A THIRD PARTY ACTING ON
11 BEHALF OF THE APPLICANT OR LICENSEE.

12 B. IT IS SUFFICIENT CAUSE FOR THE DENIAL, SUSPENSION OR REVOCATION OF
13 A LICENSE IF AN OFFICER, DIRECTOR, PARTNER, EMPLOYEE OR CONTROLLING PERSON OF
14 THE LICENSEE HAS ACTED OR FAILED TO ACT IN A MANNER THAT IF THE LICENSEE
15 ACTED OR FAILED TO ACT IN THAT MANNER WOULD BE CAUSE FOR DENIAL, SUSPENSION
16 OR REVOCATION OF THE LICENSE. FOR PURPOSES OF THIS SUBSECTION, "CONTROLLING
17 PERSON" MEANS A PERSON WHO OWNS MORE THAN TWENTY-FIVE PER CENT EQUITY
18 INTEREST IN THE DEFERRED PRESENTMENT COMPANY OR WHO HAS THE ABILITY TO AFFECT
19 ONE OR MORE SIGNIFICANT BUSINESS DECISIONS OF THE LICENSEE OR APPLICANT.

20 C. THE SUPERINTENDENT MAY DENY RENEWAL OF A LICENSE OR SUSPEND OR
21 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT ANY FACT OR CONDITION
22 EXISTS THAT, IF IT HAD EXISTED AT THE TIME OF THE ORIGINAL APPLICATION FOR
23 THE LICENSE, WOULD HAVE WARRANTED THE SUPERINTENDENT TO REFUSE TO ISSUE THE
24 LICENSE.

25 6-1259. Prohibited acts

26 A. A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF PROVIDING DEFERRED
27 PRESENTMENT SERVICES WITHOUT FIRST OBTAINING A LICENSE PURSUANT TO THIS
28 CHAPTER. A SEPARATE LICENSE IS REQUIRED FOR EACH LOCATION FROM WHICH THE
29 BUSINESS IS CONDUCTED. THE LICENSEE SHALL POST ITS LICENSE TO ENGAGE IN THE
30 BUSINESS OF DEFERRED PRESENTMENT SERVICES AT EACH LOCATION THAT IS LICENSED
31 PURSUANT TO THIS CHAPTER.

32 B. A LICENSEE SHALL NOT:

33 1. ADVANCE MONIES ON THE SECURITY OF A CHECK WITHOUT FIRST OBTAINING
34 REASONABLE EVIDENCE THAT INDICATES THAT THE ACCOUNT ON WHICH THE PRESENTED
35 CHECK IS DRAWN IS AN OPEN AND ACTIVE ACCOUNT.

36 2. ASSESS ANY FEE THAT IS MORE THAN THE AMOUNT PRESCRIBED IN THIS
37 CHAPTER.

38 3. AT THE LICENSED LOCATION ENGAGE IN THE BUSINESS OF:

39 (a) MAKING LOANS OF MONEY OR EXTENSIONS OF CREDIT OTHER THAN THOSE
40 ALLOWED UNDER THIS CHAPTER OR TITLE 44, CHAPTER 11, ARTICLE 3.

41 (b) DISCOUNTING NOTES, BILLS OF EXCHANGE, ITEMS OR OTHER EVIDENCES OF
42 DEBT.

43 (c) ACCEPTING DEPOSITS OR BAILMENTS OF MONEY OR ITEMS, EXCEPT AS
44 EXPRESSLY PROVIDED IN SECTION 6-1260.

- 1 4. USE OR CAUSE TO BE PUBLISHED OR DISSEMINATED ANY ADVERTISEMENT THAT
- 2 CONTAINS FALSE, MISLEADING OR DECEPTIVE STATEMENTS OR REPRESENTATIONS.
- 3 5. ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES AT
- 4 LOCATIONS OTHER THAN LICENSED LOCATIONS.
- 5 6. ENGAGE IN UNFAIR, DECEPTIVE OR FRAUDULENT PRACTICES.
- 6 7. ALTER OR DELETE THE DATE ON A CHECK ACCEPTED BY THE LICENSEE.
- 7 8. TAKE POSSESSION OF AN UNDATED CHECK OR A CHECK DATED ON A DATE
- 8 OTHER THAN THE DATE ON WHICH THE LICENSEE TAKES POSSESSION OF THE CHECK OR
- 9 THE DATE OF PRESENTMENT.
- 10 9. REQUIRE A CUSTOMER TO PROVIDE SECURITY FOR THE TRANSACTION, OTHER
- 11 THAN THE PRESENTED CHECK, OR REQUIRE THE CUSTOMER TO PROVIDE A GUARANTY FROM
- 12 ANOTHER PERSON.
- 13 10. FAIL TO TAKE REASONABLE MEASURES TO ENSURE THAT NO CUSTOMER HAS
- 14 MORE THAN ONE DEFERRED PRESENTMENT LOAN OUTSTANDING AT ANY TIME WITH ANY
- 15 LICENSEE IN THIS STATE.
- 16 11. ENGAGE IN THE SALE OF THE FOLLOWING GOODS OR SERVICES AT ANY
- 17 LICENSED LOCATION:
- 18 (a) GAMING ACTIVITIES, INCLUDING THE SALE OF LOTTERY TICKETS.
- 19 (b) ALCOHOLIC BEVERAGES.
- 20 12. TIE OR OTHERWISE CONDITION THE OFFERING OF DEFERRED PRESENTMENT
- 21 SERVICES TO THE SALE OF ANY GOOD OR SERVICE.
- 22 13. PERMIT OTHERS TO ENGAGE IN ANY ACTIVITY PROHIBITED IN THIS SECTION
- 23 AT A LOCATION LICENSED PURSUANT TO THIS CHAPTER.
- 24 14. OFFER DEFERRED PRESENTMENT SERVICES FOR LESS THAN FIVE DAYS.
- 25 6-1260. Deferred presentment; amount; fees
- 26 A. THE LICENSEE MAY ACCEPT FOR DEFERRED PRESENTMENT OR DEPOSIT A CHECK
- 27 WITH A FACE AMOUNT OF AT LEAST FIFTY DOLLARS BUT NOT MORE THAN FIVE HUNDRED
- 28 DOLLARS, EXCLUDING THE FEES PERMITTED IN SUBSECTION F OF THIS SECTION.
- 29 B. FOR EACH CHECK THE LICENSEE ACCEPTS FOR DEFERRED PRESENTMENT OR
- 30 DEPOSIT, THE LICENSEE AND THE CUSTOMER SHALL SIGN A WRITTEN AGREEMENT THAT
- 31 CONTAINS THE NAME OR TRADE NAME OF THE LICENSEE, THE TRANSACTION DATE, THE
- 32 AMOUNT OF THE CHECK, THE AMOUNT TO BE PAID BY THE MAKER, A STATEMENT OF THE
- 33 TOTAL AMOUNT OF THE FEES CHARGED, EXPRESSED BOTH AS A DOLLAR AMOUNT AND AS AN
- 34 EFFECTIVE ANNUAL PERCENTAGE RATE, A DISCLOSURE STATEMENT THAT COMPLIES WITH
- 35 STATE AND FEDERAL TRUTH IN LENDING LAWS AND A NOTICE TO THE CUSTOMER AS
- 36 PRESCRIBED IN SUBSECTION C OF THIS SECTION. THE WRITTEN AGREEMENT SHALL
- 37 EXPRESSLY REQUIRE THE LICENSEE TO DEFER PRESENTMENT OR DEPOSIT OF THE CHECK
- 38 UNTIL A SPECIFIED DATE.
- 39 C. A LICENSEE SHALL PROVIDE A NOTICE IN A PROMINENT PLACE ON EACH
- 40 WRITTEN AGREEMENT THAT SPECIFIES THAT NO CUSTOMER MAY HAVE OUTSTANDING MORE
- 41 THAN ONE DEFERRED PRESENTMENT SERVICE AGREEMENT AT ONE TIME AND THE FACE
- 42 AMOUNT, EXCLUSIVE OF ANY FEES, CANNOT BE MORE THAN FIVE HUNDRED DOLLARS. A
- 43 LICENSEE SHALL ASK EVERY CUSTOMER WHO SEEKS DEFERRED PRESENTMENT SERVICES
- 44 WHETHER THAT CUSTOMER HAS ANY OUTSTANDING CHECKS PAYABLE TO OTHER LICENSEES.

1 D. A LICENSEE MAY RELY ON THE CUSTOMER'S WRITTEN REPRESENTATION OF
2 WHETHER THE CUSTOMER HAS ANY OUTSTANDING CHECKS FOR DEFERRED PRESENTMENT HELD
3 BY OTHER LICENSEES.

4 E. THE MAKER OF A CHECK HAS THE RIGHT TO REDEEM THE CHECK FROM THE
5 LICENSEE BEFORE THE AGREED ON DATE OF PRESENTMENT OR DEPOSIT IF THE MAKER
6 PAYS THE LICENSEE THE AMOUNT OF THE CHECK.

7 F. A LICENSEE SHALL NOT DIRECTLY OR INDIRECTLY CHARGE ANY FEE OR OTHER
8 CONSIDERATION FOR ACCEPTING A CHECK FOR DEFERRED PRESENTMENT OR DEPOSIT THAT
9 IS MORE THAN FIFTEEN PER CENT OF THE FACE AMOUNT OF THE CHECK FOR ANY INITIAL
10 TRANSACTION OR ANY EXTENSION.

11 G. A LICENSEE MAY IMPOSE THE FEE PRESCRIBED IN SUBSECTION F OF THIS
12 SECTION ONLY ONCE FOR EACH WRITTEN AGREEMENT. THE FEE IS EARNED ON EXECUTION
13 OF THE WRITTEN AGREEMENT AND IS NOT SUBJECT TO ANY REIMBURSEMENT EVEN IF THE
14 MAKER REDEEMS THE CHECK PURSUANT TO SUBSECTION E OF THIS SECTION.

15 H. THE FEE CHARGED BY THE LICENSEE IS NOT INTEREST FOR PURPOSES OF ANY
16 OTHER LAW OR RULE OF THIS STATE.

17 I. A PERSON MAY EXTEND THE PRESENTMENT OR DEPOSIT OF A CHECK NOT MORE
18 THAN THREE CONSECUTIVE TIMES. FOR EACH EXTENSION THE CUSTOMER AND THE
19 LICENSEE SHALL TERMINATE THE PREVIOUS AGREEMENT AND SIGN A SEPARATE
20 AGREEMENT. DURING AN INCOMPLETE TRANSACTION THE CUSTOMER MAY NOT RECEIVE ANY
21 ADDITIONAL MONIES FROM THE LICENSEE. THE LICENSEE MAY CHARGE A FEE AS
22 PRESCRIBED IN SUBSECTION F OF THIS SECTION FOR EACH EXTENSION. IF A CUSTOMER
23 HAS COMPLETED A DEFERRED PRESENTMENT TRANSACTION WITH THE LICENSEE, THE
24 CUSTOMER MAY ENTER INTO A NEW AGREEMENT FOR DEFERRED PRESENTMENT SERVICES
25 WITH THE LICENSEE. A TRANSACTION IS COMPLETED WHEN THE CUSTOMER'S CHECK IS
26 PRESENTED FOR PAYMENT, DEPOSITED OR REDEEMED BY THE CUSTOMER FOR CASH.

27 J. IF A CHECK IS RETURNED TO THE LICENSEE FROM A PAYER FINANCIAL
28 INSTITUTION DUE TO INSUFFICIENT FUNDS, A CLOSED ACCOUNT OR A STOP PAYMENT
29 ORDER, THE LICENSEE MAY USE ALL AVAILABLE CIVIL REMEDIES TO COLLECT ON THE
30 CHECK INCLUDING THE IMPOSITION OF THE DISHONORED CHECK FEE PRESCRIBED IN
31 SECTION 44-6852. AN INDIVIDUAL WHO ISSUES A PERSONAL CHECK TO A LICENSEE
32 UNDER A DEFERRED PRESENTMENT AGREEMENT IS NOT SUBJECT TO CRIMINAL PROSECUTION
33 PURSUANT TO TITLE 13, CHAPTER 18.

34 6-1261. Licensee; examinations; costs

35 A. A LICENSEE SHALL MAINTAIN IN ITS BRANCH AND HOME OFFICES ALL BOOKS,
36 ACCOUNTS AND RECORDS THAT THE SUPERINTENDENT REASONABLY REQUIRES. THE
37 LICENSEE SHALL:

38 1. ENSURE THAT THE BOOKS, ACCOUNTS AND RECORDS ARE SUFFICIENTLY
39 DETAILED TO COMPLY WITH ALL APPLICABLE STATUTES AND RULES.

40 2. MAINTAIN THE BOOKS, ACCOUNTS AND RECORDS SEPARATELY FROM ANY OTHER
41 BUSINESS IN WHICH THE LICENSEE IS ENGAGED AND SHALL RETAIN THE BOOKS,
42 ACCOUNTS AND RECORDS FOR AT LEAST THREE YEARS.

43 B. THE SUPERINTENDENT MAY EXAMINE THE BOOKS, ACCOUNTS AND RECORDS TO
44 DETERMINE IF THE LICENSEE HAS COMPLIED WITH THIS CHAPTER AND ANY RULE ADOPTED

1 PURSUANT TO THIS CHAPTER. THE LICENSEE SHALL PAY THE COST OF THE EXAMINATION
2 DETERMINED IN ACCORDANCE WITH SECTION 6-125 TO THE DEPARTMENT.

3 6-1262. Violation; classification; prosecution; individual
4 liability

5 A. A PERSON THAT PROVIDES DEFERRED PRESENTMENT SERVICES WITHOUT A
6 LICENSE IS GUILTY OF A CLASS 1 MISDEMEANOR.

7 B. A LICENSEE THAT VIOLATES THIS CHAPTER OR THE RULES ADOPTED PURSUANT
8 TO THIS CHAPTER IS SUBJECT TO REVOCATION OF THE LICENSEE'S LICENSE AND IS
9 GUILTY OF A CLASS 1 MISDEMEANOR.

10 C. AN OFFICER OR AGENT OF A CORPORATION OR ASSOCIATION WHO
11 PARTICIPATES IN A VIOLATION OF THIS CHAPTER IS SUBJECT TO THE PENALTIES
12 PRESCRIBED IN THIS SECTION.

13 6-1263. Program termination

14 THE DEFERRED PRESENTMENT LICENSING PROGRAM ESTABLISHED BY THIS CHAPTER
15 ENDS ON JULY 1, 2010 PURSUANT TO SECTION 41-3102.

16 Sec. 4. Section 44-282, Arizona Revised Statutes, is amended to read:

17 44-282. Licensing of sales finance companies and dealers
18 required; penalty

19 A. No person shall engage in the business of a sales finance company
20 in this state without a license therefor as provided in this article. No
21 dealer shall engage in business in this state without a license issued by the
22 administrator. No dealer shall sell or transfer any contract to a person in
23 Arizona not licensed under the terms of this chapter.

24 B. The application for a license shall be in writing, under oath and
25 in the form prescribed by the administrator. The application shall contain
26 the name of the applicant, the date of incorporation if incorporated, the
27 address where the business is or is to be conducted and similar information
28 as to any branch office of the applicant, the name and resident address of
29 the owners or partners or, if a corporation or association, of the directors,
30 trustees and principal officers, and such other pertinent information the
31 administrator may require.

32 C. The license fee for a sales finance company for each fiscal year or
33 part thereof is the fee prescribed in section 6-126. The license fee for
34 each dealer is the fee prescribed in section 6-126 for each fiscal year or
35 part thereof. The fiscal year shall be July 1 through June 30. License fees
36 shall be due and payable on or before each July 1. A penalty of twenty-five
37 dollars per day shall be assessed against any licensee for each day after
38 July 1 that his renewal application and fee are not received by the
39 department. Licenses not renewed by September 15 are automatically
40 cancelled.

41 D. A license shall be obtained for each separate place of business at
42 or from which a licensee transacts business. Each license shall specify the
43 location of the office or branch and must be conspicuously displayed there.
44 In case such location is changed, the administrator shall endorse the change

1 of location on the license on the payment of the fee prescribed in section
2 6-126, subsection A, paragraph ~~25~~ 26.

3 E. Upon the filing of the application and the payment of the required
4 fee the administrator shall issue a license to the applicant to engage in the
5 business of a sales finance company or dealer under and in accordance with
6 the provisions of this article. All licenses issued under this article shall
7 remain in full force and effect until surrendered, revoked, suspended or
8 canceled by failure to renew under the provisions of this article. No
9 licensee shall transact any business provided for by this article under any
10 other name.

11 F. A license is not transferable or assignable and control of a
12 licensee may not be acquired through a stock purchase or ANY other device
13 without the prior written consent of the administrator. Written consent
14 shall not be given if the administrator finds that any of the grounds for
15 denial, revocation or suspension of a license as set forth in section 44-283
16 are applicable to the acquiring person. For the purposes of this subsection,
17 "control" means the power to vote more than twenty per cent of the
18 outstanding voting shares of a licensed corporation, partnership, association
19 or trust.

20 G. A person doing business under the laws of this state or the United
21 States as a bank, savings bank, savings and loan association or credit union
22 is exempt from the licensing requirements of this section but shall comply
23 with all other requirements of this chapter, except that affiliates of banks,
24 savings banks, savings and loan associations or credit unions shall comply
25 with this section. For the purposes of this subsection "affiliate" means an
26 entity which directly or indirectly, through one or more intermediaries,
27 controls, is controlled by or is under common control with the entity
28 specified.

29 Sec. 5. Requirements for enactment; two-thirds vote

30 Pursuant to article IX, section 22, Constitution of Arizona, this act
31 is effective only on the affirmative vote of at least two-thirds of the
32 members of each house of the legislature and is effective immediately on the
33 signature of the governor or, if the governor vetoes this act, on the
34 subsequent affirmative vote of at least three-fourths of the members of each
35 house of the legislature.