



STATE OF ALABAMA
STATE BANKING DEPARTMENT



January 27, 2005

Mr. Maurice L. Shevin
Sirote & Permutt
Post Office Box 55727
Birmingham, Alabama 35255-5727

Re: Modern Financial Services Association

Dear Mr. Shevin:

Thank you for the opportunity to participate in the seminars conducted by the Modern Financial Services Association. I truly believe the seminars were very helpful to all involved. As requested, I have responded to each of the questions presented in your letter, dated December 30, 2005 below.

1. *Must a licensee offer the "four payment" option of Section 12(c), before commencing a civil action to recover a contract delinquency?*

Yes. A licensee must offer the extended payment option contained in Section 12(c) prior to commencing civil action to recover on a deferred presentment agreement.

2. *Are third party private sector database providers available to licensees under Section 13(o) such that Licensees must now utilize such providers?*

Yes. The Department provided a list of available database providers with each license issued under the Deferred Presentment Services Act.

3. *Must the display or sign required in Section 13(m) include language that references the right to a four-payment option prior to a licensee's initiating a civil action for collection of an unpaid debt?*

Yes.

4. *Must a licensee provide as a handout to the customer a copy of the sign?*

No. While the Department initially required that the customer be provided a handout that requirement is no longer applicable.

5. *May a licensee direct-deposit the proceeds of a deferred presentment transaction to the customer's bank account?*

Yes. However, there can be no additional charge to the customer and a customer may insist that proceeds of the transaction be provided in cash.

6. *Must a licensee have a customer separately acknowledge receipt of the loan proceeds?*

Yes. The Licensee may provide a separate document or the customer may indicate his/her receipt of such proceeds by initialing a statement on the deferred presentment services agreement.

7. *Must a licensee maintain a copy of each check?*

Yes.

8. *Must a licensee's contract forms be sequentially numbered?*

Yes.

9. *When a licensee offers a four-payment option pursuant to Section 12(c), does such option constitute the acceptance of a partial payment, such that the licensee may not maintain a civil action until the expiration of the entire four-payment option?*

No.

10. *When does the four-payment option commence?*

The first payment due date under the four-payment option may commence upon the expiration of the 15-day notice to the consumer. A licensee may set the first payment due date immediately upon expiration of the fifteenth day with payments monthly thereafter.

11. *May a check be presented for the purposes of supporting an NSF fee, by presenting a check to the customer's bank and demanding payment?*

As you note presentment is a term defined under the Alabama Uniform Commercial Code. However, it is incumbent upon a licensee to obtain written notice of the dishonor on the check in order to support the NSF fee. In the situation where the licensee is unable to obtain such written notice, then the licensee must process the check through the licensee's account and have the licensee's bank present the check to the customer's bank.

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12. *Will the Department accept a letter from a licensee's financial institution certifying that the licensee has available to it \$20,000?*

Yes. However, the certification must evidence that the licensee has the \$20,000 required for each office location.

13. *Do licensees need to maintain an extra copy of the deferred presentment services contract in sequential order?*

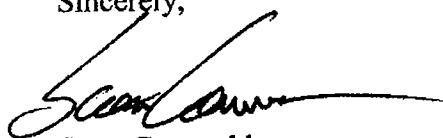
The licensee must maintain either a copy of the contract in sequential order or maintain a register that clearly shows the order of the contract.

14. *If the third-party database provider does not offer a written confirmation of the fact that the licensee performed a database search, how may a licensee evidence that it conducted a database search?*

All licensees are encouraged to use third-party database providers that will provide evidence of the search; however, if this is not an option then the licensee must note the time and date of the search and the results. The Department will examine records to assure compliance. This may include, but is not limited to a review of records related to payments made to third-party database providers.

Should you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,



Scott Corscadden
Supervisor, Bureau of Loans

cc: Anthony Humphries, Superintendent of Banks
Lynne Windham, Assistant Supervisor