

NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR: Tsosie DATE TYPED: 03/10/01 HB _____
 SHORT TITLE: Refund Anticipation Loan Act SB 322/aSIAC
 ANALYST: Valdes

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Regulation and Licensing Department

SUMMARY

Synopsis of SIAC Amendment

This amendment includes the following:

- Removes the emergency clause included in the original bill
- The definition of “refund anticipation loan fee” is amended to distinguish a tax preparer and a lender.
- The maximum fees allowed under the Refund Anticipation Loan Act are changed from ninety dollar (\$90) maximum to 10 ½ percent of the principal amount of the principal of the loan
- The fees charged a debtor cannot be different for a tax preparation and filing fee than the creditor charges customers not applying for a refund anticipation loan

Synopsis of Original Bill

According to the Regulation and Licensing Department, Senate Bill 322 requires additional and duplicative licensure for any small loan company already licensed pursuant to the New Mexico Small Loan Act of 1955, if the small loan company engages in making refund anticipation loans to consumers in New Mexico.

Significant Issues

Senate Bill 322/aSIAC -- Page 2

The department identified the following significant issues regarding this bill:

A few small loan companies currently licensed pursuant to the New Mexico Small Loan Act of 1955 would be affected.

The bill places limitations on the annual percentage rate and the finance charge that lenders may charge on refund anticipation loans.

The bill also contains penalties where the lender may have to refund double the amount of fees collected or received.

This bill requires an annual license fee for a refund anticipation loan creditor of \$400 for the principal place of business and \$400 for each branch maintained in the state.

Maximum fees established in the bill are:

- c \$90 to prepare and file a state and federal income tax return;
- c \$90 as a refund loan anticipation fee;
- c An annual percentage rate calculated pursuant to the bill cannot exceed 120 percent; and
- c The Financial Institutions Director, by rule, may adjust the maximum fee established in the bill upon a finding that the adjusted fee more accurately compensates a creditor for the actual services rendered.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

According to the department, this bill duplicates licensure for a few small loan companies. The fee provisions in the bill conflict with the New Mexico Small Loan Act of 1955, the New Mexico Bank Installment Loan Act of 1959 and the general laws governing Money, Interest and Usury. The bill also does not require lenders to fully comply with the minimum requirements set forth in the federal truth-in-lending laws.

MV/ar/njw