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FISCAL IMPACT REPORT

SPONSOR: HBIC DATE TYPED: 03/14/03 HB 427& 647/HBICS

SHORT TITLE: Regulation of Payday Loans SB _____

ANALYST: Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
		\$35.0	\$29.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	\$365.0	*\$365.0	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

The House Business and Industry Committee substitute for House Bill 427 & 647 amends and repeals language in the New Mexico Small Loan Act of 1955 § 58-15-1 (SLA) to address regulation and supervision of payday loan lenders, thus providing additional consumer protection.

HB 427 & 647/HBICS requires all loans made under the SLA to use the simple interest method calculation for interest computation and pre-computed loans will no longer be allowed. The amendment includes three new sections that address payday type loans made by small loan licen-

sees. The new sections address payday loan limitations, permitted charges, and prohibited acts. There is also a new section regarding reporting requirements for small loan companies that make payday loans.

Significant Issues

Substantive changes to existing law are outlined below:

The bill will increase the original license fee from \$500 to \$1,000; it also increases the renewal license fee from \$500 to \$1,000. The bill also increases the annual examination fee from \$200 to \$400.

Page 4 lines 17-22 amends the act so that lines of credits in excess of two thousand five hundred dollars (\$2,500) do not need to be secured by real estate.

Page 24 lines 22-25 and page 25 lines 1-3 allows for a delinquency fee which mirrors the Bank Installment Loans Act.

Page 25 lines 19-25 and page 26 lines 1-18 add a new section to the Small Loan Act to address limitations for small loan licensees who make payday type loans. The section requires the lender to allow a consumer to make partial payments in any amount on the payday loan. A payday loan made to a consumer shall not exceed one thousand dollars (\$1,000). It contains consumer protections such as requiring a check written by a consumer for a payday loan to be made payable to the order of the licensee, requires a receipt detailing the payment transaction and requires the licensee to provide a copy of the payday loan agreement in English or Spanish, prior to the consummation of the loan to all parties involved in the payday loan. Requires that the licensee will have available a consumer information brochure in English and Spanish as determined by the director.

Page 26 line 23-25 and page 27 lines 1-25 add a new section to the Small Loan Act to address permitted charges for small loan licensees who make payday type loans. It establishes a \$5.00 maximum administration fee for each new payday loan. It limits the amount of interest that a licensee can collect on a payday loan to two times the original principal balance. If the aggregate limit is reached, the licensee must terminate the payday loan agreement and consider that the loan is paid in full. The licensee will not be able to collect on the original principal balance once the aggregate limit is reached. The section also limits the charge to \$15.00 for a check with insufficient funds even though the check has been re-deposited and returned more than once.

FISCAL IMPLICATIONS

Appropriations Required

There is no appropriation contained in this bill. However, the Regulation and Licensing Department (RLD) Financial Institutions Division (FID) estimates that this bill would require one additional FTE with the following annual fiscal impact:

Clerk @ \$20,000 + 30% benefits	\$ 26,000
Office space 1 additional employee @ 150 sf per employee @ \$20 per sf	\$ 3,000

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2 movable file expansions for movable file system @ \$3,000 each	\$ 6,000
	\$ 35,000

Revenue Impact

Page 8 lines 15-16 increases the original license fee from five hundred dollars (\$500) to one thousand dollars (\$1,000).

Page 11 lines 11-12 increases the renewal license fee from five hundred dollars (\$500) to one thousand dollars (\$1,000).

Page 12 lines 14-15 increases the annual examination fee from two hundred dollars (\$200) to four hundred dollars (\$400).

The FID revenue estimate only reflects the incremental increase in license and examination fees as follows:

Small Loan Company License Renewals estimated at 500	\$250,000.00
New Small Loan Companies estimated at 30 (based on historical info.)	\$ 15,000.00
Examinations estimated at 500	\$100,000.00
Total	\$365,000.00

*Revenue impact for future fiscal years will vary depending upon how many small loan companies choose to renew their licenses.

ADMINISTRATIVE IMPLICATIONS

With additional statutory consumer protections addressing payday lenders, the need for enforcement is increased. Given the proliferation of payday type lenders, it likely there will be increased violations due to questionable practices by such lenders or due to their ignorance of the new provisions contained in this bill. Thus, passage of this bill may increase the workload of the Attorney General's Office (AGO), Consumer Protection Division.

The FID states that an additional clerk position would be needed due to the additional workload of filing, follow up with the small loan companies to ensure that the Division receives the required reports, and compiling the data received from the annual reports. According to the Regulation and Licensing Department (RLD), this bill will not affect the Financial Institutions Division's workload. Businesses now are required to be licensed under this act.

TECHNICAL ISSUES

Language addressing the treatment of payday loans in existence at the time this bill becomes effective should be considered.

OTHER SUBSTANTIVE ISSUES

HB 427 repeals § 58-15-15 and § 58-15-19. While HB 427 proposes to require the "simple interest" method of computation all small loans under § 58-15-14.1; this section does not address disclosure requirements of the various rates and charges of various loans. According to the

AGO, this is an area in the payday lending industry that is ripe for unethical business practices.

This bill includes provisions for “consumer information brochures” in Spanish language, but it is not clear that this “Spanish” requirement applies to the terms of the agreement.

RLG/njw/l