



respect to a particular check even if it has been re-deposited and returned more than once. A fee charged pursuant to this subsection shall be a licensee's exclusive charge for late payment.

#### Synopsis of SFI Amendment

Senate Floor Amendment #1 to Senate Floor Substitute to Senate Bill 225 makes the following change to the original bill:

"58-15-3. APPLICABILITY OF ACT--EXEMPTIONS--EVASIONS--  
PENALTY.--

A. No person except for an employer lending money to an employee shall engage in the business of lending in amounts of two thousand five hundred dollars (\$2,500) or less without first having obtained a license from the director. Nothing contained in this subsection shall restrict or prohibit a licensee under the New Mexico Small Loan Act of 1955 from making loans in any amount under the New Mexico Bank Installment Loan Act of 1959 in accordance with the provisions of Section 58-7-2 NMSA 1978

#### Synopsis of Original Bill

The Senate Floor Substitute for Senate Bill 225 creates the Deferred Deposit Loan Act. This Act defines business practices for deferred deposit (payday) loan companies (licensees). It sets maximum loan amounts of \$300 and minimum loans of \$50, with a maximum interest rate of 44% percent a year. It requires licensees to accept partial payments of \$5.00 or more. The Act also requires licensees to not engage in another loan with the same consumer for a period of thirty days after a loan has been paid. There is an administrative fee limit per loan of \$10.00 per loan and a \$15 limit on fees for insufficient funds. The Act requires a \$50,000 bond to be posted by licensees.

SB 225/SFIS also requires the Regulation and Licensing Department (RLD) Financial Institutions Division (FID) to establish a complaint process whereby an aggrieved consumer or other person may file a complaint against licensees and allows the FID to revoke or suspend licenses. The Act also specifies civil and criminal penalties.

#### Significant Issues

The Deferred Deposit Loan Act also specifies that:

- Licensees are required to compile and report annual statistics concerning all deferred deposit loans.
- Licensees are required to file copies of loan contracts and fee schedules with the FID. Copies must then be available for interested parties and the general public.
- That "facilitators" exempt from the fee limitations of the act, which charge fees, interest and other charges greater than those authorized in the act, to post a warning disclosing

that the fees charged are higher than other financial institutions charge.

- Exemptions to licensing requirements and fee limitations are defined for state or federal chartered financial institutions that are exempt by virtue of other state or federal laws.

### **FISCAL IMPLICATIONS**

Deferred deposit lenders are currently subject to the Small Loan Act and pay an annual fee of \$500 plus \$.75/\$1000 of loans outstanding. The Deferred Deposit Loan Act would exempt deferred deposit lenders from the Small Loan Act, but would subject them to the Deferred Deposit Act, which has a higher license fee structure than the Small Loan Act as shown below:

- (1) an application fee of seven hundred fifty dollars (\$750);
- (2) a renewal fee of seven hundred fifty dollars (\$750), plus an additional seventy-five cents (\$.75) for each one thousand dollars (\$1,000) of outstanding loans; and
- (3) an investigative fee of five hundred dollars (\$500).

**Therefore, this bill would increase general fund revenue.**

Additionally, according to FID, current allocation of FTE's is not sufficient to meet the additional workload required by this bill.

### **ADMINISTRATIVE IMPLICATIONS**

According to the FID, this bill would require them to obtain additional FTE's in order to perform the responsibilities outlined in this Act. The FID also states that they do not have the examination staff necessary to perform audits of deferred deposit loan licensee records.

### **TECHNICAL ISSUES**

Language addressing payday loans in existence at the time the law becomes effective should be considered.

RLG/prr:njw