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## FISCAL IMPACT REPORT

SPONSOR: Smith DATE TYPED: 2/17/03 HB \_\_\_\_\_

SHORT TITLE: High-Cost Home Loans SB 616

ANALYST: Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative		

Relates to SB 225, SB 433, HB526, HB647 and HB427.

### SOURCES OF INFORMATION

Responses Received From  
Regulation & Licensing (RLD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 616 amends the Mortgage Loan Company and Loan Broker Act (MLBA) by prohibiting certain mortgage lending practices by mortgage lenders/brokers and providing disclosure requirements, civil remedies and enforcement provisions. SB 616 removes the exemption of consumer finance companies from the MLBA.

#### Significant Issues

SB 616 allows the Director of the Financial Institutions Division to ultimately set the annual percentage rate and total points and fees that are the threshold for the definition of a high cost home loan.

The inclusion of consumer finance companies in this bill means that deferred deposit loan companies or payday lenders would be subject to the MLBA.

### FISCAL IMPLICATIONS

Verification of compliance with SB 616 will be on a case by case basis, upon the receipt of a

complaint regarding a licensee. The number of complaints that might arise is unknown, thus making it difficult to determine if there would be fiscal implications as a result of these amendments. For the present RLD does not estimate any fiscal implication..

## **RELATIONSHIP**

SB 616 relates to the following bills: SB 225, SB 433, HB526, HB647, and HB427. These also have provisions referring to deferred deposit or payday loans.

## **TECHNICAL ISSUES**

RLD provided the following:

Page 3, line 18, through page 4, line 5; define “high cost loans” by substituting the following: “the annual percentage rate and points exceed the requirements of Federal truth in lending laws (Regulation Z Section 226.32 (a) (1)”. Also omit the language on page 10, lines 10 through 17.

Page 4, lines 14 and 15; Various closing costs are normally charged by third party affiliates of mortgage lenders/brokers.

Page 6, line13; It appears that introductory language has been omitted (“...or an affiliate...”)

Page 7 line 5 – the sentence should begin with the word “shall”.

Page 7, lines 8 through 10; (“prearranged appointment ...expressed invitation”). Verification would be obscure and enforcement elusive.

Page 8, lines 2 through 6; It should be noted that creditors incur costs to modify, refinance, extend or amend loans and that such activity may become necessary more often than once every twelve months.

Page 8, line10 through Page10, line 7; SB 616 does not require that disclosures need to be in a form that is signed and dated by a borrower for the purposes of verification and enforcement.

Page 7, line18 through page 8, line 1; (A late payment fee may not be charged more than once...) This language is unclear and compliance may prohibit lenders from assessing late fees on loans where the borrower is chronically past due.

Page 12, lines 15 through 16; (“...noncompliance was not intentional and resulted in a bona fide error.”) Verification would be obscure and enforcement elusive.

Page 12, line 20; (“...computer malfunction and programming...”) Verification will be obscure and enforcement elusive.

Page 12, line 10; the language, “Loan in good faith”, is unclear.

**DW/sb**