Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

F I S C A L   I M P A C T   R E P O R T

SPONSOR Taylor **DATE TYPED** 03/15/05 **HB**

SHORT TITLE Payday Loan Regulation **SB** 674

ANALYST McSherry

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	**FY06**			
NFI	$270.8	$270.8	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Senate Bill 674 duplicates the original version of House Bill 65.

SOURCES OF INFORMATION
LFC Files
Economic Development
Department of Labor
Regulations and Licensing Department

SUMMARY

Synopsis of Bill

Senate Bill 674 amends the Small Loan Act of 1955. The amended act would require that all loans made under the Small Loan Act use the simple interest method calculation for interest computation. Pre-computed loans would no longer be allowed under the Small Loan Act. The amendment includes four new sections that address Payday type loans made by small loan licensees. The new sections address payday loan limitations, permitted charges, prohibited acts, and additional required disclosures. There is also a proposed new section regarding reporting requirements for small loan companies that make payday loans.

SB 674 sets new dollar regulations for most fund transactions involved in the payday loans. Lines of credits in excess of two thousand five hundred dollars ($2,500) would not need to be secured by real estate. Fees would be increased for payday lenders: the original license fee would increase from five hundred dollars ($500) to seven hundred and fifty dollars ($750); the renewal license fee would increase from five hundred dollars ($500) to seven hundred and fifty dollars ($750) and the annual examination fee would increase from two hundred dollars ($200) to four hundred dollars ($400). Enactment of HB 65 would allow for a delinquency fee which reflects the Bank Installment Loans Act.

The 1st proposed new section would set limitations for small loan licensees who make payday type loans and would allow a consumer the right to rescind the payday loan transaction. The section would require the lender to allow a consumer to make partial payments in any amount on the payday loan and would limit payday loans made to a maximum of one thousand dollars ($1,000). 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, requiring a receipt detailing the payment transaction and requiring 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 are all included in HB 65's proposed amendments. The bill also proposes the requirement that the licensee will have available a consumer information brochure in English and Spanish as determined by the director.

The 2nd proposed new section would address permitted charges for small loan licensees who make payday type loans. The section would establish a $5.00 maximum administration fee for each new payday loan. It would limit the amount of interest that a licensee can collect on a payday loan to two times the original principal balance. If the aggregate limit were to be reached, the licensee would have to terminate the payday loan agreement and consider the loan to have been paid in full. The licensee would not be able to collect on the original principal balance once the aggregate limit were to be reached. The section would limit the charge for a check with insufficient funds to $15.00 even if the check has been re-deposited and returned more than once.

The 3rd proposed new section would prohibit certain practices when a small loan licensee makes payday type loans. Prohibited practices addressed in the section are: licensee use of the criminal process to collect on a payday loan, licensee assessment of a fee to cash a check representing the proceeds of a payday loan, and licensee issuance of more than one payday loan to a consumer at a time. The 3rd new section addresses additional consumer protections.

The fourth newly proposed section addition to the Small Loan Act would require a small loan licensee that issues payday loans to file an annual report with the Financial Institutions Division for data collection purposes.

Significant Issues

According to the Economic Development Department, payday lenders have received negative publicity about charging predatory amounts to financially disadvantaged clients and for charging extremely high interest rates and fees for their loans. The department points out that the proposed bill does not address a cap on interest rates.

Dept of Labor notes that, if enacted, the total aggregate amount of interest on payday loans would be limited to two times the amount of the original loan's principle balance. The consumer would also be provided the right to rescind a payday loan by returning the full amount advanced on the first day of business following the execution of the agreement.

PERFORMANCE IMPLICATIONS

No performance measure implications were noted by any of the agencies, however RLD would be the agency responsible for administration of the amended statute should it pass and performance could be affected.

FISCAL IMPLICATIONS

Senate Bill 674 does not include an appropriation.

According to RLD Financial Institutions and Securities Division, the enactment of the bill would generate additional revenue for FY06 with the proposed increases in original and renewal license fees from $500.00 to $750.00 and the increase in examination fees from $200.00 to $400.00.

The following revenue estimate was predicted by RLD, based on the increased amount of the license and examination fees and not the total revenue generated.

Small Loan Company License Renewals estimated at 600	$150,000.00
Examinations estimated at 600	$120,000.00
Total	$270,000.00

With increased fees and restrictions on the industry, it is possible that the number of licenses renewed would be reduced and that revenues would not be as great as the prediction calculated by RLD. The estimate uses historic information, based during a time without the increased fees and examination costs, and without the industry regulations that are proposed.

Fewer lenders maintaining licenses with the Department would cause lost revenue, however the Department contends that NM is one of the states with the lowest cost for licensing small loan lenders and that there would likely not be a decrease in the number of licensees due to the proposed increase in fees.

ADMINISTRATIVE IMPLICATIONS

The Regulations and Licensing Department would be responsible for the administration of the amended licensing requirements and oversight.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 674 duplicates the original version of HB 65 and relates to SB 200, the Consumer Loan Act.

TECHNICAL ISSUES

The Department of Labor cites page 27, § 11(B) lines 19-22 as being confusing with respect to the right to rescind.

OTHER SUBSTANTIVE ISSUES

This proposed changes to the Small Loan Act address payday type lending and offer additional consumer protections. RLD cites that the bill will result in additional regulatory burden and increased costs to the small loan companies that issue payday loans.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The Department of Labor asserts that borrowers will continue to pay exorbitant interest rates on pay day loans should SB 674 not be enacted

Payday loans would remain readily available to consumers without additional disclosures, renewal restrictions, maximum loan amount, or other restrictions which would be imposed by enactment of this bill. According to RLD, consumers would not benefit from the additional consumer protections regarding payday loans which would be provided for should SB 674 be enacted.

EM/lg