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FISCAL IMPACT REPORT

ORIGINAL DATE 3/13/09

SPONSOR SCONC LAST UPDATED _____ HB _____

SHORT TITLE Amending The New Mexico Installment Loan Act SB 731/SCONCS

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	Indeterminate	Indeterminate	Indeterminate	Indeterminate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

The Senate Conservation Committee Substitute to SB 731 amends both the "New Mexico Bank Installment Loan Act of 1959", hereinafter referred to as the "NMBILA", found at NMSA Sections 58-7-1 thru 58-7-9 and the "New Mexico Small Loan Act of 1955", hereinafter referred to as the "NMSLA, found at NMSA Sections 58-15-1 thru 58-15-39. SB 731 also adds a new section to the NMSLA creating a loan database.

According to the AGO, the NMBILA cover two kinds of loans: (1) precomputed loans repayable in installments; or (2) those are clearly identified on the loan documents as being made under that act. CS/SB 731 leaves the coverage of loans that are precomputed loans payable in installments and eliminates coverage for those loans that are clearly identified as being made under NMBILA. CS/SB 731 then proposes that the NMBILA only cover loans that are

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precomputed loans repayable in installments. At the same time, CS/SB 731 amends the NMBILA to provide that any loan transaction under NMBILA must be clearly identified on the loan documents as being made under the NMBILA.

CS/SB 731 adds the definition of “consumer loan”. The definition is a loan for personal, family or household purposes. SB 731 specifically excludes loans secured by a lien on real property, educational, commercial, business and loans made pursuant to the Motor Vehicle Sales Finance Act.

CS/SB 731 also proposes to increase the amount of loans covered under the NMSLA from \$2,500 or less to \$5,000 or less. All sections where this increase is applicable are changed accordingly.

CS/SB 731 also adds a new subsection to Section 58-15-20 Fees and Costs of the NMSLA allowing the licensee to charge no more than 50 cents per executed new loan agreement to cover the cost of submitting the loan information to a database reporting agency.

CS/SB 731 adds a new section outlining the procedure for lenders to submit loan information to a database reporting service.

The NMSLA provides in Section 58-15-24 that no loan made outside the State of New Mexico to a resident of NM with a greater rate of interest, consideration, charge or compensation is permitted by the laws of NM governing money, interest and usury.

CS/SB 731 eliminates the reference to the laws governing “money, interest and usury” and simply leaves it that charges cannot be greater than those provided by the laws of New Mexico.

SIGNIFICANT ISSUES

According to the AGO, CS/SB 731 proposes the certification of one or more database reporting services by the Director of the Financial Institutions Division, FID, no later than the date this new material is effective which is November 1, 2009. For any loans made under the provisions of CS/SB 731 on or after November 1, 2009 lenders must provide certain loan information to the database reporting service agency. The certification must include commercially reasonable methods of collecting and reporting loan information, following the guidelines of the rules and regulations of the Federal Trade Commission under the federal Fair Credit Reporting Act. The certification includes that the director of FID considers the capitalization of the service provider and able and willing to perform these confidential collection and reporting of loan information. The information to be reported by lenders includes basic information of the loan such as name, address and social security number of borrower, amount of loan, charges for the loans, terms and due date of loan, monthly income of borrower and other pertinent information about the loan. CS/SB 731 proposes that the reporting services allow for a real-time regulator interface to access the database for the required purpose of monitoring and reporting function of FID. Finally, the notice of intent to gain access to records of FID pursuant to Section 14-7-1 NMSA will not apply to access of FID to the database information.

The database reporting services do not apply to payday loans under SB 731.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 558 Payday Loan Disclosure and Rate and Fee Caps also address amendments to the NM BILA. HB 558 maintains the loan amount at the current amount of \$2,500 or less. While HB 558 creates a new type of loan called “consumer loans”, SB 731 maintains the distinction between “payday loans” and “installment loans” but limits them to loans for “personal, family or household purposes”.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

CS/mc

