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FISCAL IMPACT REPORT

SPONSOR: Park DATE TYPED: 02/19/03 HB 647

SHORT TITLE: Deferred Deposit Loan Act SB _____

ANALYST: Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			\$146.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	See Narrative	See Narrative	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to SB 225, SB 433, HB 526, and HB 427

SOURCES OF INFORMATION

LFC Files

Response Received From
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 647 pertains to deferred deposit (pay day loans) lending and offers additional consumer protections that will require additional regulatory burden and costs.

This bill regulates the business practices of deferred deposit (payday) loan companies. It sets a maximum loan amount of \$5.0 and sets a maximum interest rate of twenty five percent of the

principal balance. It also requires that loans made for \$3.0 or more have a minimum repayment period of 60 days. It requires companies to accept partial payments in any amount and limits the number of loan refinancing renewals to three. Companies with multiple locations would be required to inquire about other deferred deposit loans the consumer may have, as they cannot permit a consumer to pay off all or a portion of one loan with the proceeds of another loan made by the licensee at one of their other locations. The bill requires a \$25.0 surety bond per location with a maximum bond amount of \$250 million. The Act also requires new posting requirements and new written disclosure requirements.

FISCAL IMPLICATIONS

According to the Regulation and Licensing Department (RLD), this bill would require 3 additional FTEs (2 examiners, and a clerk specialist), vehicle costs, per-diem, office space, and a toll free number. These resources are needed to enforce the provisions of the Act, conduct investigations, conduct administrative proceedings, and enforce penalties. RLD estimates this would require an additional appropriation of \$146.0.

Deferred deposit lenders are currently subject to the Small Loan Act:

Current Revenue

200 companies X \$500 = \$100,000
Revenue from volume of outstanding loans = \$15.0 - \$36.0
Total Current revenue = \$115.0 - \$136.0

RLD estimates that there are currently 200 deferred deposit lenders.

Projected Revenue under HB 647

200 X \$7.5 = \$150.0

This assumes that all of the licenses are main offices. However, branch offices would only bring in revenue of \$5.0, which would lower this projection.

ADMINISTRATIVE IMPLICATIONS

RLD believes its current allocation of FTE's is not sufficient to meet the additional workload required by this act.

TECHNICAL ISSUES

This Act would require dual licensing for small loan companies that make installment loans and deferred deposit loans.

HB 647 is unclear in how to support the education fund created by this Act.

OTHER SUBSTANTIVE ISSUES

RLD concerns regarding this bill are outlined below:

House Bill 647-- Page 3

Page 2 line 10, "loans" not defined.

Page 2 line 13, "bank" not defined.

Page 2 line 18, "assists" not defined. For example, would the placement of marketing brochures be considered assisting?

Page 3 lines 3-9 appears to bring any borrower under the Act who opts for the convenience of automatic payments, regardless of the type of loan.

Page 3 line 17 "financial institution" not defined.

Page 3 line 22 the word "buyer" appears to be incorrect. It appears that the word should be "seller".

Page 4 lines 4 & 5 unclear as to who is exempt.

Page 4 lines 20-25, discusses the address at which the business is to be conducted if the licensee is an individual. However, if the licensee is a corporation, partnership, trust or association, the bill does not state whether the address listed should be the address of the business entity or the address of the physical location where deferred deposit loans are made. Without an actual physical address listed, it would be difficult to track actual physical location of licensee. It appears the requirement for an individual is different than that of a corporation.

Page 5 line 9 "person" is not defined.

Page 6 line 23 "licence" is a misspelling, the word should be spelled "license".

Page 7 lines 1-7, this is a new surety bond requirement; a surety bond is not required by the Small Loan Act. There is also no time requirement for the bond to remain in effect. For example upon surrender of the Deferred Deposit License the lender could immediately cancel the bond.

Page 7 line 7, "cashing of check" is not consistent with the definition of a deferred deposit loan transaction as stated on page 3 lines 7-9.

Page 8 lines 7-13, the Act allows for branch offices, all small loan offices are licensed separately under the Small Loan Act.

Page 10 line 3 "spirit" not defined.

Page 11 lines 14-18 the Small Loan Act currently charges \$10.00 a day for late renewal, this raises the fee to \$50.00 a day for late renewal of license.

Page 12 line 11 is not consistent with page 9 lines 22-25 where it requires a pattern; this implies that one violation of any type is cause for revocation.

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Page 14 lines 1-5 unclear of what the intent is of this section and who the “person” is, for example is it the licensee or a member of the public? The word “certified” is also not de-fined. The Financial Institutions Division currently does not certify copies of rules and orders.

Page 14 lines 12-21 depository institutions are assessed supervisory fees based on their asset size, not based on the costs and expenses reasonably incurred in the administration of their governing Act. Payday lending locations and depository institutions are not comparable; how and on what basis would FID determine an assessment amount. It is unclear what the assessment period is for each location, and it is unclear whether the assessment goes to the state’s general fund or the education fund as provided in the Act page 31 lines 3-5.

Page 15 lines 17-22 is inconsistent with page 29 lines 2-8, as it appears the Director can authorize different names for the business.

Page 16 line 18 “resources” not defined.

Page 16 line 14-25 and page 17 lines 1-19, it appears that all information required for the annual report to the Director may be considered proprietary by the licensee. It is questionable whether all information gathered should be considered as public information.

Page 17 lines 23-25 and page 18 lines 1-12 states that the Director may impose additional disclosures that are already mandated in Section 8 Conditions of Loans. This appears to be in conflict as one section says may while another says shall.

Page 18 lines 23-25 page 19 lines 1-10 will require three additional postings of information.

Page 19 lines 11-25 and page 20 lines 1-25 and page 21 lines 1-5 is a mandatory requirement for the Deferred Deposit Lender prior to making the loan, deliver to the consumer a pamphlet and an additional written disclosure before entering into the loan agreement.

Page 21 line 10 the word “check” is not consistent with the definition of a deferred deposit loan as stated on page 3 lines 7-9.

Page 22 lines 17-21 limits maximum charge of all fees and interest to 25% of principal for example \$25.00 per \$100.00.

Page 23 lines 2-4 does not specify how partial payments are to be applied.

Page 23 line 7 the work “check” is not consistent with definition of a deferred deposit loan as stated on page 3 lines 7-9.

Page 23 lines 11-13 limit of three renewals.

Page 23 line 17 “fees” not defined.

House Bill 647-- Page 5

Page 27 lines 2-4 loan of \$300 or more must have minimum maturity date of 60 days. When combined with page 24 lines 19-23 limits the maximum amount of fees, interest, and charges to \$75.00 for a \$300 loan for sixty days.

Page 28 line 18 the word “unconscionable” is not defined.

Page 29 lines 2-8 conflicts with page 15 lines 17-22 where it appears that the Director has the ability to authorize a different name.

Page 31 line 2 “civil penalties” are not defined.

Page 31 line 2 “costs of investigation” not defined.

RLG/prr:njw