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Indicates New Matter

COMMITTEE AMENDMENT ADOPTED AND AMENDED

February 17, 2010

**S. 1065**

Introduced by Senators Hayes, Malloy, Lourie, Thomas, Sheheen, Fair and Anderson

S. Printed 2/17/10--S. [SEC 2/18/10 1:55 PM]

Read the first time January 20, 2010.

**A** **BILL**

TO AMEND SECTION 37‑3‑501, AS AMENDED, OF THE 1976 CODE, RELATING TO THE DEFINITION OF SUPERVISED LOAN, TO PROVIDE THAT CERTAIN CLOSED‑END CREDIT TRANSACTIONS ARE NOT SUPERVISED LOANS; AND TO AMEND SECTION 37‑3‑503, RELATING TO A LICENSE TO MAKE SUPERVISED LOANS, TO PROVIDE THAT CERTAIN LICENSED DEFERRED PRESENTMENT PROVIDERS MAY NOT CONDUCT THE BUSINESS OF MAKING SUPERVISED LOANS, TO PROVIDE PENALTIES, AND TO PROVIDE NECESSARY DEFINITIONS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 37‑3‑501(1) of the 1976 Code, as last amended by Act 67 of 2009, is further amended to read:

“Section 37-3-501. (1) ‘Supervised loan’ means a consumer loan in which the rate of the loan finance charge exceeds twelve percent per year as determined according to the provisions on the loan finance charge for consumer loans (Section 37‑3‑201). A supervised loan does not include ~~a mortgage loan as defined in Section 37‑22‑110(30).~~:

(a) a mortgage loan as defined in Section 37‑22‑110(30); or

(b) a closed‑end credit transaction, with an original repayment term of less than one hundred twenty days, unsecured by any interest in the consumer’s personal property or secured by personal property, excluding motor vehicles that are free of any other liens or encumbrances, that does not have a market value that reasonably secures the amount of the loan, and the consumer:

(i) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, provides a check or other payment instrument to the creditor who agrees with the consumer not to deposit or present the check or payment instrument; or

(ii) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, authorizes the creditor to initiate a debit or debits to the consumer’s deposit account by electronic fund transfer or a remotely created check or remotely created consumer item as defined in Section 36‑3‑103(16).

The provisions of subitem (b) do not apply to credit unions, bank holding companies, banks, or financial institutions insured by the Federal Deposit Insurance Corporation.”

SECTION 2. Section 37‑3‑503(7) of the 1976 Code is amended to read:

“(7)(a) A licensee may conduct the business of making supervised loans only at or from any place of business for which he holds a license and not under any other name than that in the license. Sales or leases made pursuant to a lender credit card do not violate this subsection.

(b)(1) A person licensed to make supervised loans may not make or enter into a closed‑end credit transaction, with an original repayment term of less than one hundred twenty days, unsecured by any interest in the consumer’s personal property or secured by personal property, excluding motor vehicles that are free of any other liens or encumbrances, that does not have a market value that reasonably secures the amount of the loan, and the consumer:

(i) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, provides a check or other payment instrument to the creditor who agrees with the consumer not to deposit or present the check or payment instrument; or

(ii) receives funds from and incurs interest or a fee payable to a creditor, and contemporaneously with, or any time after, the receipt of funds, authorizes the creditor to initiate a debit or debits to the consumer’s deposit account by electronic fund transfer or a remotely created check or remotely created consumer item as defined in Section 36‑3‑103(16).

(2) The board shall impose the following penalties for violation of this item:

(a) a fine of $500.00 for the first violation;

(b) a fine of $1,000.00 for the second violation;

(c) permanent revocation of license for the third violation.

The board may not revoke a license issued pursuant to this chapter unless the licensee has been given notice and opportunity for hearing in accordance with the Administrative Procedures Act.

(3) In addition to the penalties required in item (2), the board or the court may order and impose civil penalties upon a person subject to the provisions of this article for violations of this article or its regulations in an amount not to exceed one thousand dollars for each violation. The board also may order repayment of unlawful or excessive fees charged to customers.

(c) The provisions of subsection (b)(1) do not apply to credit unions, bank holding companies, banks, or financial institutions insured by the Federal Deposit Insurance Corporation.

(d) A person licensed to make supervised loans that makes supervised loans secured by a motor vehicle that have an original repayment term of less than one hundred twenty days must comply with the provisions contained in Section 37-3-413.”

SECTION 3. This act takes effect upon approval by the Governor. ‑‑‑‑XX‑‑‑‑