~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 1, 2009

**H. 3301**

Introduced by Reps. Harrell, Cato, Sandifer, Sellers, Neilson, Erickson, Bannister, Bedingfield, Merrill, Mitchell, Anthony, Bingham, Huggins, Vick, Cooper, Chalk, J.R. Smith, Willis, Gilliard, Allison, Anderson, Bales, Battle, Bowers, Brady, G.A. Brown, H.B. Brown, Cole, Daning, Duncan, Edge, Forrester, Gambrell, Gullick, Hamilton, Hayes, Herbkersman, Hiott, Jefferson, Horne, Kirsh, Limehouse, Littlejohn, Long, Lowe, Lucas, Miller, Millwood, Nanney, Ott, Owens, Parker, Pinson, E.H. Pitts, M.A. Pitts, Scott, Simrill, Skelton, D.C. Smith, G.R. Smith, Sottile, Spires, Stewart, Stringer, Thompson, Toole, Umphlett, White, Whitmire and Wylie

S. Printed 4/1/09--S.

Read the first time February 12, 2009.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (H. 3301) to amend the Code of Laws of South Carolina, 1976, by adding Section 34‑39‑175 so as to require the Consumer Finance Division of the Board of Financial Institutions, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑175. (A) In order to prevent a person from having a deferred presentment transaction that exceeds the limit in Section 34‑39‑180(B), the Consumer Finance Division of the Board of Financial Institutions shall implement a common database with real‑time access through an Internet connection for deferred presentment providers, as provided in this subsection. The board shall enter into a contract with a single source private vendor to develop and operate the database. By no later than February 1, 2010, the database must be accessible to the board and the deferred presentment providers to meet the requirements of this chapter and verify if a deferred presentment transaction is outstanding for a particular person. Deferred presentment providers shall submit the person’s data to the database provider before entering into a deferred presentment transaction and once a deferred presentment transaction has been paid in full, in a format the board requires by regulation, including the drawer’s name, social security number or employment authorization alien number, address, driver’s license number, amount of the transaction, date of transaction, the date that the transaction is closed, and additional information required by the board. The database provider may impose the database verification fee authorized by Section 34‑39‑270(G) for data required to be submitted by a licensee. The board may adopt procedures to administer and enforce the provisions of this section and to ensure that the database is used by licensees in accordance with this section.

(B) The information provided in the database is limited for the use in determining if a customer is eligible or ineligible to enter into a new deferred presentment transaction and to describe the reason for the determination of eligibility or ineligibility.”

SECTION 2. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑270. (A) A licensee may not enter into a deferred presentment transaction with a person:

(1) who has an outstanding deferred presentment transaction;

(2) who has repaid a previous deferred presentment transaction with any licensee on the same business day or the previous business day; or

(3) who has entered into an extended payment plan agreement with any licensee as provided in Section 34‑39‑280 which has not been paid in full or terminated.

(B) Before entering into a deferred presentment transaction with a person, a licensee shall verify whether the person is eligible to enter into the transaction by accessing the deferred presentment transaction database established pursuant to subsection (C).

(C) The board shall contract with a single third party database provider that is SAS 70 certified to establish and operate a deferred presentment transaction database for the purpose of verifying whether a person is eligible to enter into a deferred presentment transaction. The board should give full consideration to Section 11‑35‑5210 when selecting the third‑party database provider to establish and operate the deferred presentment transaction database required by this chapter. The board shall supervise the establishment and operation of the database and shall ensure that the database provider establishes and operates the database pursuant to the provisions of this section. The board shall have full access to the database and all records related to the database for purposes of supervising the establishment and operation of the database. If the database provider violates a provision of this section, the board shall terminate the contract and immediately substitute another qualified third party database provider. The database must have real‑time access through an internet connection and be accessible at all times to the board and licensees. The database provider shall establish and maintain a process for responding to transaction verification requests when technical difficulties prevent the licensee from accessing the database through the Internet including, but not limited to, verification by telephone. The database must be established and operated so as to prevent a licensee from entering into a transaction that violates the provisions of this section.

(D) To conduct an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, a licensee shall submit to the database provider such information as the board may require. The response to an inquiry to the database provider by a licensee must state only that a person is eligible or ineligible to enter into a transaction and describe the reason for that determination. The person seeking to enter into the transaction may make a direct inquiry to the database provider to request a more detailed explanation of the basis for the database provider’s determination that the person is ineligible to enter into the transaction.

(E) A licensee shall notify the database provider immediately when the licensee enters into a deferred presentment transaction with a person. The licensee shall submit to the database provider such information as the board requires. When the transaction is paid in full the licensee shall designate the transaction as closed and immediately notify the database provider. When the database provider receives notification that the transaction is paid in full, the database provider immediately shall designate the transaction as paid in full in the database.

(F) A licensee shall notify a person seeking to enter into a deferred presentment transaction that the licensee shall access the database to verify whether the person is eligible to enter into a transaction. The licensee also shall notify the person that information related to a new transaction must be entered into the database.

(G) The database provider may charge a database verification fee to a licensee for an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, if that transaction is consummated by the licensee. The fee must be established by the board as the actual cost of verifying a person’s eligibility, not to exceed one dollar. A licensee may charge a person seeking to enter into a deferred presentment transaction one‑half of the actual cost of the verification fee.

(H) Except as otherwise provided in this section, all personally identifiable information regarding a person contained within or obtained by way of the database is strictly confidential and is exempt from disclosure under the Freedom of Information Act. The database provider and licensees shall use the information collected pursuant to this section only as prescribed in this section and for no other purpose.

(I) A licensee may rely on the information contained in the database as accurate and is not subject to an administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

Section 34‑39‑280. (A) Subject to the terms and conditions contained in this section, a customer who is unable to repay a deferred presentment transaction when due may elect once in any twelve month period to repay the deferred presentment transaction to licensee by means of an extended payment plan. The twelve month period is measured from the date the customer enters into one extended payment plan with licensee until the date that the customer enters into another extended payment plan with licensee.

(B) To request an extended payment plan, the customer, on or before the due date of the outstanding deferred presentment transaction, must request the plan and sign an amendment to the deferred presentment agreement that memorializes the plan’s terms. The licensee shall require that as a condition of providing the extended payment plan, the customer agree to make an appointment with an approved consumer credit counseling agency within seven days after entering into the extended payment plan and complete the credit counseling by the end of the extended payment plan. A list of approved credit counseling agencies shall be provided by the board to licensees for distribution to customers.

(C) The extended payment plan’s terms must allow the customer, at no additional cost, to repay the outstanding deferred presentment transaction including any fee due in at least four substantially equal installments. Each plan installment must be due on or after a date on which the customer receives regular income. The customer may prepay an extended payment plan in full at any time without penalty. The licensee shall not charge customer any interest or additional fees during the term of the extended payment plan. The licensee may, with each payment under the plan by a customer, provide for the return of the customer’s prior held check and require a new check for the remaining balance under the plan. Alternatively, the licensee may require the customer at the time the customer enters into the extended payment plan to provide multiple checks, one for each of the scheduled payments in the amount of those payments.

(D) The customer must notify licensee within seven days after entering into the extended payment plan that the customer has made an appointment with a consumer credit counseling agency. The licensee may verify this information with the agency.

(E) If the customer fails to pay any extended payment plan installment when due, make an appointment with a consumer credit counseling agency within seven days, or notify the licensee of the appointment as required, the customer shall be in default of the payment plan and the licensee may immediately accelerate payment on the remaining balance. Upon default, the licensee may take action to collect all amounts due.

(F) If a customer enters into an extended repayment plan, the licensee must enter that information into the database established in Section 34‑39‑175, and the customer and a licensee is prohibited from entering into a subsequent deferred presentment transaction until repayment in full of the original deferred presentment transaction.

(G) At each licensed location, a licensee shall prominently post a notice in at least twenty-four point bold type, in a form established or approved by the board, informing persons that if they are unable to repay a deferred presentment transaction when due they shall be eligible to enter into an extended payment plan. A licensee also shall notify a person of his right to an extended payment plan by displaying the following statement, in at least twelve point bold type, on the first page of each deferred presentment agreement: ‘If you are unable to repay a deferred presentment transaction when due, you may be eligible to request an extended payment plan.’”

SECTION 3. Section 34‑39‑130 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) A person may not engage in the business of deferred presentment services with a customer residing in this State, whether or not that person has a location in South Carolina, except in accordance with the provisions of this chapter and without having first obtained a license pursuant to this chapter.”

SECTION 4. Section 34‑39‑180(B) of the 1976 Code is amended to read:

“(B) The ~~face~~ total amount ~~of a check taken~~ advanced to a customer for deferred presentment or deposit at one time by all licensees ~~may not exceed three hundred dollars~~, exclusive of the fees allowed in Section 34‑39‑180(E), may not exceed five hundred dollars. A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by the customer.”

SECTION 5. Section 34‑39‑150 of the 1976 Code is amended to read:

“Section 34‑39‑150. (A) An application for licensure pursuant to this chapter must be in writing, under oath, and on a form prescribed by the board. The application must set forth all of the following:

(1) the legal name and residence and business addresses of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, managing employee, and director of it;

(2) the location of the registered office of the applicant;

(3) the registered agent of the applicant if the applicant is required by other law to have a registered agent;

(4) the addresses of the locations to be licensed; and

(5) other information concerning the financial responsibility, background experience, and activities, such as other partnerships, associations, and corporations located at or adjacent to the licensed location of the applicant and its members, officers, managing employees, and directors as the board requires.

(B) Upon receipt of an application in the form prescribed by the board, accompanied by the required fee, the board shall investigate whether the qualifications for licensure are satisfied. If the board finds that the qualifications are satisfied, it shall issue to the applicant a license to engage in the deferred presentment services business. If the board fails to issue a license, it shall notify the applicant of the denial and the reasons for it. The provisions of the Administrative Procedures Act apply to the appeal of the denial of a license.

(C) The application must be accompanied by payment of an application fee of ~~two hundred fifty~~ five hundred dollars and an investigation fee of five hundred dollars. These fees are not refundable or abatable. If the license is granted, however, payment of the application fee satisfies the fee requirement for the first license year or its remainder.

(D) A license expires annually and may be renewed upon payment of a license fee of ~~two hundred fifty~~ one thousand dollars. The annual license renewal fee for an applicant with more than one location is ~~two hundred fifty~~ one thousand dollars for the first location and ~~fifty~~ two hundred dollars for each additional location.

(E) Upon annual license renewal, a licensee shall pay a fee to the board of ten cents for each deferred presentment transaction paid in full during the previous license year. The funds collected from this fee shall be credited to the Department of Consumer Affairs to establish and maintain a fund to provide support for consumer credit counseling programs in the State.

(F) One half of the renewal fees collected pursuant to subsection (D) must be credited to the Board of Financial Institutions for enforcement of this chapter and one‑half must be credited to the Attorney General to prosecute actions brought for violations of this chapter.”

SECTION 6. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑290. Based upon data provided by the database vendor, the Board of Financial Institutions annually shall report to the General Assembly the following information for loans made in South Carolina in the previous reporting year, specifically the number of:

(1) loans made in South Carolina by loan amount and the dollar amount of fees collected by loan amount;

(2) borrowers by loan amount and the number of borrowers by the number of times each borrower took out a loan;

(3) borrowers who chose to pay off their loans through an extended payment plan by loan amount;

(4) loans that were not paid off in the previous year by loan amount;

(5) loans on which the lender submitted the check for collection by loan amount and the number of loans on which the lender took action for collection; and

(6) the number of twenty‑four hour periods within which a successive loan is conducted after a prior loan is completed.”

SECTION 7. Section 34‑39‑210 of the 1976 Code is amended to read:

“Section 34‑39‑210. (A) The board may ~~suspend or revoke a license issued pursuant to this chapter~~ impose penalties on a licensee if, after notice and opportunity for hearing, the board issues written findings that the licensee has wilfully and knowingly:

(1) violated this chapter or applicable state or federal law;

(2) made a false statement on the application for a license under the chapter;

(3) refused to permit investigation by the board as authorized by this chapter;

(4) failed to comply with an order of the board;

(5) demonstrated incompetency or untrustworthiness to engage in the business of deferred presentment services; or

(6) been convicted of a felony or misdemeanor involving fraud, misrepresentation, or deceit.

(B) For wilful and knowing violations found pursuant to subsection (A), the board may impose the following penalties:

(1) a fine of one thousand five hundred dollars for the first such violation;

(2) a fine of three thousand dollars for the second violation;

(3) suspension of the license for one year for the third violation;

(4) permanent revocation of license for the fourth violation.

~~(B)~~(C) The board may not suspend or 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.”

SECTION 8. Section 34‑39‑200(9) of the 1976 Code is amended to read:

“(9) engage in the retail sale of goods or services, other than deferred presentment services and Level I check‑cashing services as defined in Section 34‑41‑10, at the location licensed pursuant to this chapter, ~~provided, however~~ except that a sale of money orders~~,~~ or postage stamps, and services such as the payment of utility bills with ~~no additional~~ a fee to the customer that does not exceed one percent of the bill being paid, vending machines for food or beverage, facsimile services, ~~Western Union~~ wire transfer services, or rental of postal boxes at rates not higher than allowed by the United States Postal Service ~~is~~ are not the ~~sale~~ sales of goods or services prohibited by this subsection;”

SECTION 9. Section 34‑39‑170 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) A licensee and a customer may not enter into an electronic funds transfer agreement to make automatic debited loan payments for any portion of a deferred presentment agreement.”

SECTION 10. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 11. SECTIONS 2, 3, and 4 of this act take effect upon implementation of the common database as required in SECTION 1. The remaining SECTIONS of this act take effect upon approval by the Governor. /

Amend title to conform.

DAVID L. THOMAS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT** 1/

This bill, as amended, is expected to apportion fee revenue to earmarked funds of the following agencies in fiscal years 2009-10 and 2010-11: AG: $99,000 (FY10), $84,000 (FY11); DCA: $223,000 (FY10), $161,000 (FY11). Conversely, it would reduce earmarked funds within the CFD of the BFI by $25,000 (FY10) and by $40,000 (FY11). The bill would not impact state general fund revenue.

**Explanation of Amendment (March 30, 2009)–By Senate**

**B & I:**

The bill, as last amended, raises the total amount than can be advanced to a customer for deferred presentment (DP) or deposit in this State, excluding authorized fees, from not more than $300 to not more than $500 per transaction. Loan activity would be regulated to ensure only one DP transaction at a time, and apply to any loan converted to an extended term. The aforementioned changes would take effect by February 1, 2010, the deadline for start up of an internet accessible database of DP transactions. Upon enactment, the bill doubles the fee for an initial license application, which only applies to a parent company (from $250 to $500). Whereas renewal fees apply to parent firm and all satellite offices and are renewed annually in September. At renewal, the bill quadruples the current license renewal fee for the parent company (from $250 to $1,000) and for each location (from $50 to $200). Proceeds from one half of license renewals would shift from earmarked funds of the Consumer Finance Division (CFD) of the Board of Financial Institutions (BFI) to the Attorney General’s Office (AG) to prosecute violations of provisions in Chapter 39 of Title 34 of the 1976 Code. At renewal, a licensee also shall pay a fee of ten cents to the BFI for each DP transaction paid in full during the prior license year. Proceeds from this fee would be transferred to the S.C. Department of Consumer Affairs (DCA) for education and counseling.

We expect that the higher fees and enhanced regulation will reduce demand for these loans over the next two years. We estimate the new fee schedule would apply to 120 firms and 390 satellite offices in FY2009-10 and 95 firms and 365 offices in FY 2010-11, with associated declines in application/examination/investigation fee revenue. This bill would allocate a total of $99,000 to earmarked funds of the AG in FY 2009-10 and $84,000 in FY 2010-11. It also would allocate a total of $223,000 to earmarked funds of the DCA in FY 2009-10 and $161,000 in FY 2010-11. Conversely, we expect offsets from higher fees and enhanced regulation of payday loans to reduce funds earmarked to the CFD within the BFI by $25,000 in FY 2009-10 and by $40,000 in FY 2010-11. Since deferred presentment fees do not apply to the state’s general fund, the bill would not impact general fund revenue.

**Explanation of Amendment (February 11, 2009) – By House:**

The bill, as amended, raises the total amount advanced to a customer for deferred presentment or deposit in this State, excluding authorized fees, from not more than $300 to not more than $600 per transaction. A person is limited to one deferred presentment transaction at a time, which also applies when payment for that transaction is converted to an extended plan. The bill doubles the fee for a license application (from $250 to $500), respective annual license renewal fee for the parent company (from $250 to $500) and for each location (from $50 to $100), and requires proceeds from one half of license fees be shifted from earmarked funds of the Consumer Finance Division (CFD) of the Board of Financial Institutions (BFI) to the Attorney General’s Office (AG) in order to establish and maintain a separate enforcement division for deferred presentment.

Based on the current mix of license fees by parent firm and office location, we expect adoption of this bill would apply to 180 active firms with 530 satellite offices in FY 2009-10. Multiplying 180 times the $250 net increase in application fee per firm yields $45,000 and multiplying 530 times the $50 net increase in renewal fee for a satellite office yields $26,500 in FY 2009-10. This bill would therefore raise earmarked funds of the AG by a total of $71,500 in FY 2009-10. Conversely, we expect offsets from higher fees and enhanced regulation of payday loans to yield a total loss of $37,000 in funds earmarked to the CFD within the BFI in FY 2009-10 based on a net decline of 20 firms, 160 offices, and associated license/investigation/examination fees. Since deferred presentment fees do not apply to the state’s general fund, the bill would not impact general fund revenue in FY2009-10.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 34‑39‑175 SO AS TO REQUIRE THE CONSUMER FINANCE DIVISION OF THE BOARD OF FINANCIAL INSTITUTIONS TO IMPLEMENT A REAL‑TIME INTERNET ACCESSIBLE DATABASE FOR DEFERRED PRESENTMENT PROVIDERS TO VERIFY IF DEFERRED PRESENTMENT TRANSACTIONS ARE OUTSTANDING FOR A PARTICULAR PERSON; BY ADDING SECTION 34‑39‑270 SO AS TO PROHIBIT A DEFERRED PRESENTMENT PROVIDER FROM ENTERING INTO A DEFERRED PRESENTMENT TRANSACTION WITH A PERSON WHO HAS AN OUTSTANDING DEFERRED PRESENTMENT TRANSACTION OR WHO HAS ENTERED INTO AN EXTENDED PAYMENT PLAN AGREEMENT AND TO REQUIRE A DEFERRED PRESENTMENT PROVIDER TO VERIFY WHETHER AN INDIVIDUAL IS ELIGIBLE TO ENTER INTO A DEFERRED PRESENTMENT TRANSACTION; BY ADDING SECTION 34-39-280 SO AS TO REQUIRE THOSE APPLYING FOR LICENSES TO ENGAGE IN THE BUSINESS OF DEFERRED PRESENTMENT TO PROVIDE CERTAIN INFORMATION REGARDING EXTENDED PAYMENT PLANS; TO AMEND SECTION 34‑39‑130, RELATING TO LICENSURE REQUIREMENTS FOR DEFERRED PRESENTMENT PROVIDERS, SO AS TO PROHIBIT A PERSON FROM ENGAGING IN THE BUSINESS OF DEFERRED PRESENTMENT SERVICES WITH A RESIDENT OF SOUTH CAROLINA EXCEPT IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 39, TITLE 34; TO AMEND SECTION 34‑39‑180, RELATING TO DEFERRED PRESENTMENT RESTRICTIONS AND REQUIREMENTS, SO AS TO PROVIDE THAT THE TOTAL AMOUNT ADVANCED TO A CUSTOMER FOR DEFERRED PRESENTMENT OR DEPOSIT, EXCLUSIVE OF PERMISSIBLE FEES, MAY NOT EXCEED SIX HUNDRED DOLLARS.

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

SECTION 1. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑175. (A) In order to prevent a person from having more than one deferred presentment transaction at any one time, the Consumer Finance Division of the Board of Financial Institutions shall implement a common database with real‑time access through an Internet connection for deferred presentment providers, as provided in this subsection. The board shall enter into a contract with a single source private vendor to develop and operate the database. By no later than February 1, 2010, the database must be accessible to the board and the deferred presentment providers to meet the requirements of this act and verify if deferred presentment transactions are outstanding for a particular person. Deferred presentment providers shall submit that data before entering into a deferred presentment transaction and once a deferred presentment transaction has been paid in full, in a format the board requires by regulation including the drawer’s name, social security number or employment authorization alien number, address, driver’s license number, amount of the transaction, date of transaction, the date that the transaction is closed, and additional information required by the board. The database provider may impose the database verification fee authorized by Section 34‑39‑270(G) for data required to be submitted by a licensee. The board may adopt procedures to administer and enforce the provisions of this section and to ensure that the database is used by licensees in accordance with this section.

(B) The information provided in the database is limited for the use in determining if a customer is eligible or ineligible to enter into a new deferred presentment transaction and to describe the reason for the determination of eligibility or ineligibility.”

SECTION 2. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑270. (A) A licensee may not enter into a deferred presentment transaction with a person:

(1) who has an outstanding deferred presentment transaction with any licensee; or

(2) who has entered into an extended payment plan agreement with any licensee as provided in Section 34‑39‑280 which has not been paid in full or terminated.

(B) Before entering into a deferred presentment transaction with a person, a licensee shall verify whether the person is eligible to enter into the transaction by accessing the deferred presentment transaction database established pursuant to subsection (C).

(C) The board shall contract with a single third party database provider to establish and operate a deferred presentment transaction database for the purpose of verifying whether a person is eligible to enter into a deferred presentment transaction. The board shall supervise the establishment and operation of the database and shall ensure that the database provider establishes and operates the database pursuant to the provisions of this section. The board shall have full access to the database and all records related to the database for purposes of supervising the establishment and operation of the database. If the database provider violates a provision of this section, the board shall terminate the contract and immediately substitute another qualified third party database provider. The database must have real‑time access through an internet connection and be accessible at all times to the board and licensees. The database provider shall establish and maintain a process for responding to transaction verification requests when technical difficulties prevent the licensee from accessing the database through the Internet including, but not limited to, verification by telephone. The database must be established and operated so as to prevent a licensee from entering into a transaction that violates the provisions of this section.

(D) To conduct an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, a licensee shall submit to the database provider such information as the board may require. The response to an inquiry to the database provider by a licensee must state only that a person is eligible or ineligible to enter into a transaction and describe the reason for that determination. The person seeking to enter into the transaction may make a direct inquiry to the database provider to request a more detailed explanation of the basis for the database provider’s determination that the person is ineligible to enter into the transaction.

(E) A licensee shall notify the database provider immediately when the licensee enters into a deferred presentment transaction with a person. The licensee shall submit to the database provider such information as the board requires. When the transaction is paid in full the licensee shall designate the transaction as closed and immediately notify the database provider. When the database provider receives notification that the transaction is paid in full the database provider immediately shall designate the transaction as paid in full in the database.

(F) A licensee shall notify a person seeking to enter into a deferred presentment transaction that the licensee shall access the database to verify whether the person is eligible to enter into a transaction. The licensee also shall notify the person that information related to a new transaction must be entered into the database.

(G) The database provider may charge a database verification fee to a licensee for an inquiry as to whether a person is eligible to enter into a deferred presentment transaction, if that transaction is consummated by the licensee. The fee must be established by the board as the actual cost of verifying a person’s eligibility, not to exceed one dollar. A licensee may charge a person seeking to enter into a deferred presentment transaction one‑half of the actual cost of the verification fee.

(H) Except as otherwise provided in this section, all personally identifiable information regarding a person contained within or obtained by way of the database is strictly confidential and is exempt from disclosure under the Freedom of Information Act. The database provider and licensees shall use the information collected pursuant to this section only as prescribed in this section and for no other purpose.

(I) A licensee may rely on the information contained in the database as accurate and is not subject to an administrative penalty or civil liability as a result of relying on inaccurate information contained in the database.

(J) At each licensed location, a licensee shall prominently post a notice in at least 24-point bold type, in a form established or approved by the Board, informing persons that if they are unable to repay a deferred presentment transaction when due they shall be eligible to enter into an extended payment plan. A licensee also shall notify a person of his right to an extended payment plan by displaying the following statement, in at least 12-point bold type, on the first page of each deferred presentment agreement: ‘If you are unable to repay a deferred presentment transaction when due, you may be eligible to request an extended payment plan.’

(K) After a person has completed ten successive deferred presentment transactions, no licensee may enter another deferred presentment transaction with that person for a period of days equal to the person's pay period. A pay period for purposes of this section means the number of days between a person's regular pay dates. A successive deferred presentment transaction for purposes of this section means a deferred presentment transaction made to a person on the same date that the person repaid a previous deferred presentment transaction.

Section 34‑39‑280. (A) At the time of application or renewal of a license to engage in the business of deferred presentment, every licensee must provide to the Consumer Finance Division for approval an extended payment plan to be offered for a customer who is unable to repay a deferred presentment transaction when originally due. No license may be granted unless the division approves an extended payment plan for the licensee.

(B) If, on or before the due date of a deferred presentment transaction, a customer notifies the licensee with which the customer has a deferred presentment transaction that the customer is unable to repay the deferred presentment transaction when due, the licensee must provide to the customer the right to repay the deferred presentment transaction under the terms and conditions of the extended payment plan as approved by the division.

(C) If a customer enters into an extended repayment plan, the licensee must enter that information into the database established in Section 34‑39‑175, and the customer and a licensee is prohibited from entering into a subsequent deferred presentment transaction until repayment in full of the original deferred presentment transaction.

(D) The Consumer Finance Division may not approve any extended payment plan which provides for any additional fee for the use by the customer of the extended payment plan nor may any licensee require any additional fee to a customer for the use of any extended payment plan.”

SECTION 3. Section 34‑39‑130 of the 1976 Code, as added by Act 433 of 1998, is amended by adding at the end:

“(C) A person may not engage in the business of deferred presentment services with a customer residing in this State, whether or not that person has a location in South Carolina, except in accordance with the provisions of this chapter and without having first obtained a license pursuant to this chapter.”

SECTION 4. Section 34‑39‑180(B) of the 1976 Code, as added by Act 433 of 1998, is amended to read:

“(B) The ~~face~~total amount ~~of a check taken~~advanced to a customer for deferred presentment or deposit~~may not exceed three hundred dollars~~, exclusive of the fees allowed in Section 34‑39‑180(E), may not exceed six hundred dollars. A licensee may not advance to a customer an amount for deferred presentment or deposit which causes this limit to be exceeded by the customer.”

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. Section 34‑39‑150(C) and (D) of the 1976 Code, as last amended by Act 433 of 1998, is further amended to read:

“(C) The application must be accompanied by payment of an application fee of ~~two hundred fifty~~five hundred dollars and an investigation fee of five hundred dollars. These fees are not refundable or abatable. If the license is granted, however, payment of the application fee satisfies the fee requirement for the first license year or its remainder.

(D) A license expires annually and may be renewed upon payment of a license fee of ~~two hundred fifty~~five hundred dollars. The annual license renewal fee for an applicant with more than one location is ~~two hundred fifty~~five hundred dollars for the first location and ~~fifty~~one hundred dollars for each additional location.

(E) The Board of Financial Institutions shall disburse one‑half of the license fees collected to the South Carolina Attorney General’s Office to establish and maintain a division to enforce the provisions of this chapter.

(F) The Board of Financial Institutions shall certify that the licensee in compliance with the provisions of this chapter by completing a full examination of licensee’s books, accounts, and records upon application for yearly renewal.”

SECTION 7. Chapter 39, Title 34 of the 1976 Code is amended by adding:

“Section 34‑39‑290. Based upon data provided by the database vendor, the Board of Financial Institutions annually shall report to the General Assembly the following information for loans made in South Carolina in the previous reporting year, specifically the number of:

(1) loans made in South Carolina by loan amount and the dollar amount of fees collected by loan amount;

(2) borrowers by loan amount and the number of borrowers by the number of times each borrower took out a loan;

(3) borrowers who chose to pay off their loans through an extended payment plan by loan amount;

(4) loans that were not paid off in the previous year by loan amount;

(5) loans on which the lender submitted the check for collection by loan amount and the number of loans on which the lender took action for collection; and

(6) the number of twenty-four hour periods within which a successive loan is conducted after a prior loan is completed.”

SECTION 8. SECTIONS 2, 3, and 4 of this act take effect upon implementation of the common database as required in SECTION 1. The remaining SECTIONS of this act take effect upon approval by the Governor.

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