**South Carolina General Assembly**

125th Session, 2023-2024

**S. 910**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Davis, Shealy, Gambrell, Hutto, K. Johnson, Allen and Devine

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Introduced in the Senate on January 9, 2024

Currently residing in the Senate

Summary: Predatory Trade Practices Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/9/2024 Senate Introduced and read first time (Senate Journal‑page 84)

 1/9/2024 Senate Referred to Committee on **Labor, Commerce and Industry** (Senate Journal‑page 84)

 2/14/2024 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** (Senate Journal‑page 10)

 2/15/2024 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[01/09/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/910_20240109.docx)

[02/14/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/910_20240214.docx)

[02/15/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/910_20240215.docx)

Committee Report

February 14, 2024

S. 910

Introduced by Senators Davis, Shealy, Gambrell, Hutto, K. Johnson, Allen and Devine

S. Printed 02/14/24--S. [SEC 2/15/2024 1:45 PM]

Read the first time January 09, 2024

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The committee on Senate Labor, Commerce and Industry

To whom was referred a Bill (S. 910) to amend the South Carolina Code of Laws by adding Section 39‑5‑30 so as to prohibit and define certain predatory loan practices as unlawful, to provide that banks, 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, SECTION 1, by striking Section 39-5-30(A) and inserting:

 (A) It shall be an unlawful trade practice under Section 39-5-20 for any person providing a consumer installment loan pursuant to Title 37 or Title 34, or a deferred presentment loan pursuant to Chapter 39 of Title 34, to engage in predatory consumer loan practices, including, but not limited to:

 (1)(a) failing to conduct a reasonable analysis of a borrower’s ability to fully repay a loan. This analysis:

 (i) must be included in and documented with the borrower’s loan application;

 (ii) must consider the borrower's, and any coborrower's, employment, monthly income, and monthly expenses including, but not limited to, other consumer installment, revolving credit, or deferred presentment loans, compared to the loan's repayment obligation for the original term and permitted renewals; and

 (iii) must include a signed statement that the information the borrower has provided regarding employment, income, and expenses is documented, true and correct and that, given the information, the borrower has the ability to repay the loan.

 (b) If the consumer installment loan is renewed at any time or a deferred presentment or paycheck advance loan is made within thirty days of the original loan, then the analysis of the borrower’s ability to fully repay the loan must be conducted and documented, analyzing the borrower’s and any coborrower’s updated employment, monthly income, and other monthly expenses compared to the loan's repayment obligation for the original term and permitted renewals;

 (2) making a loan to a consumer who does not have the ability to repay based on the analysis required in item (1);

 (3) mailing an unsolicited check or a debit or credit card that prompts the recipient to borrow money or prompts a person to enter into an installment or deferred presentment loan in any way. Mailing an unsolicited check or debit or credit card to consumers in specific targeted zip codes and without performing a current assessment of the customer’s ability to repay constitutes a willful violation of this section for purposes of Section 39-5-110;

 (4) renewing a consumer installment loan for a third time, or more, within one hundred eighty days of the previous loan renewal from the same lender;

 (5) making a deferred presentment loan or a paycheck advance loan within one hundred eighty days of the previous loan renewal from the same lender;

 (6) making a payday or paycheck advance loan within thirty days of the original loan;

 (7) making an installment or payday loan without proper licensing by the State or local governing body;

 (8) adding an additional set of fees to each loan; and

 (9) targeted marketing of a consumer installment loan, a deferred presentment loan, or targeted mailing of an unsolicited check or credit card to a low‑income community. For the purposes of this item “low‑income community” means any population census tract if the poverty rate for the tract is at least twenty percent, in the case of a tract not located within a metropolitan area, the median income for the tract does not exceed eighty percent of statewide median income, or in the case of a tract located within a metropolitan area, the median family income for the tract does not exceed eighty percent of the greater statewide median family income or the metropolitan area median family income.

Amend the bill further, SECTION 1, by striking Section 39-5-30(C) and inserting:

 (C) Individuals who were subjected to these prohibited practices may pursue all remedies provided by law including, but not limited to, remedies provided for in this chapter.

Renumber sections to conform.

Amend title to conform.

THOMAS C. “TOM” DAVIS for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 39‑5‑30 SO AS TO PROHIBIT AND DEFINE CERTAIN PREDATORY LOAN PRACTICES AS UNLAWFUL, TO PROVIDE THAT BANKS AND CREDIT UNIONS ARE EXEMPT, TO PROVIDE THAT THE ATTORNEY GENERAL SHALL ENFORCE VIOLATIONS OF THIS CODE SECTION, AND TO PROVIDE THAT INDIVIDUALS AGGRIEVED BY ACTIONS PROHIBITED BY THIS CODE SECTION MAY PURSUE ALL REMEDIES AVAILABLE UNDER THE LAWS OF THIS STATE.

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

SECTION 1. Chapter 5, Title 39 of the S.C. Code is amended by adding:

 Section 39‑5‑30. (A) It shall be an unlawful trade practice for any person providing consumer installment loan pursuant to Title 37 or Title 34, or a deferred presentment loan pursuant to Chapter 39 of Title 34, to engage in predatory consumer loan practices, including, but not limited to:

 (1)(a) failing to conduct an analysis of a borrower’s ability to fully repay a loan. This analysis:

 (i) must be included in and documented with the borrower’s loan application;

 (ii) must consider the borrower's, and any coborrower's, employment, monthly income, and monthly expenses, including, but not limited to, other consumer installment, revolving credit, or deferred presentment loans, compared to the loan's repayment obligation for the original term and permitted renewals; and

 (iii) must include a signed statement that the information the borrower has provided regarding employment, income, and expenses is documented, true and correct and that, given the information, has the ability to repay the loan.

 (b) If the consumer installment loan is renewed at any time or a deferred presentment or paycheck advance loan is made within thirty days of the original loan, then the analysis of the borrower’s ability to fully repay the loan must be conducted and documented, analyzing the borrower’s and any coborrower’s updated employment, monthly income, and other monthly expenses compared to the loan's repayment obligation for the original term and permitted renewals;

 (2) making a loan to a consumer who does not have the ability to repay after conducting the analysis required in item (1);

 (3) mailing an unsolicited check or a debit or credit card that prompts the recipient to borrow money or prompts a person to enter into an installment or deferred presentment loan in any way. Mailing an unsolicited check or debit or credit card to consumers in specific targeted zip codes and without performing a current assessment of the customer’s ability to repay constitutes a willful violation of this item and subjects violators to enhanced penalties at the discretion of the court;

 (4) renewing a consumer installment loan for a third time, or more, within one hundred and eighty days of the previous loan renewal from the same lender;

 (5) making a deferred presentment loan or a paycheck advance loan within one hundred and eighty days of the previous loan renewal from the same lender;

 (6) making a payday or paycheck advance loan within thirty days of the original loan;

 (7) making an installment or payday loan without proper licensing by the State or local governing body;

 (8) adding an additional set of fees to each loan; and

 (9) targeted marketing of a consumer installment loan, a deferred presentment loan, or targeted mailing of an unsolicited check or credit card to a low‑income community. For the purposes of this item “low‑income community” means any population census tract if the poverty rate for tract is at least twenty percent, in the case of a tract not located within a metropolitan area, the median income for the tract does not exceed eighty percent of statewide median income, or in the case of a tract located within a metropolitan area, the median family income for the tract does not exceed eighty percent of the greater statewide median family income or the metropolitan area median family income.

 (B) Nothing in this section shall apply to any actions or transactions of a state or federally chartered depository institution insured by the Federal Deposit Insurance Corporation and doing business in this State or to any actions or transactions of a state or federally chartered credit union insured by the National Credit Union Administration doing business in this State.

 (C) Violations of this section shall be enforced by the Attorney General. Individuals who were subjected to these prohibited practices may pursue all remedies provided by law, including but not limited to, remedies provided for in this chapter.

SECTION 2. This act takes effect upon approval by the Governor.

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