**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.

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:

“(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, unsecured by any interest in the consumer’s personal property and excluding any credit card transaction under an open‑end consumer credit plan with a finance charge exceeding an annual percentage rate of thirty‑six percent, 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.”

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 perform deferred presentment services, or a person that is affiliated with the deferred presentment licensee, may not conduct the business of making supervised loans. A deferred presentment licensee or any person affiliated with the deferred presentment licensee who violates this section is permanently prohibited from making deferred presentment loans and supervised loans. For purposes of this subsection, ‘affiliated with’ means a parent company, a wholly or partially owned subsidiary, or a person that controls, is controlled, or is under common control with another company.

(2) The provisions of this subsection apply to any person or his affiliates licensed to conduct business pursuant to the South Carolina Deferred Presentment Services Act as of June 1, 2009, and to any person and his affiliates licensed pursuant to the South Carolina Deferred Presentment Services Act after that date.”

SECTION 3. This act takes effect upon approval by the Governor. Any person that is in violation of SECTION 2 must surrender his license within thirty days of the effective date of this act.

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