



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0057 Introduced on January 10, 2023
Author: Malloy
Subject: Unfair Trade Practices
Requestor: Senate Labor, Commerce, and Industry
RFA Analyst(s): Tipton and Gardner
Impact Date: February 2, 2023

Fiscal Impact Summary

This bill designates the acceptance of a check for deferred presentment as an unfair trade practice pursuant to §39-5-20, and repeals Chapter 39, Title 34 of code, which is the South Carolina Deferred Presentment Services Act, and thereby, eliminates the licensure of deferred presentment service providers as well as oversight responsibilities of the Board of Financial Institutions and prosecutorial responsibilities of the Office of Attorney General (AG).

This bill will decrease expenditures for the Board of Financial Institutions (Board) by \$14,807 beginning in FY 2023-24 due to the elimination of 0.20 Professional Auditor FTE as a result of the bill's removal of examination requirements for deferred presentment providers.

This bill eliminates both civil and criminal actions due to the repeal of South Carolina Deferred Presentment Services Act and establishes a new violation under the South Carolina Unfair Trade Practices Act (SCUPTA). This bill will have no expenditure impact for Judicial as it can manage any additional responsibilities related to the designation of deferred presentment services as an unfair trade practice under SCUPTA with existing staff and resources. Further, Judicial indicates that the elimination of the Deferred Presentment Services Act will have no significant impact on caseloads as there are so few cases brought under this cause of action.

The expenditure impact of this bill on the Office of Attorney General is pending, contingent upon a response from the agency.

This bill will reduce total Other Funds fee revenue for the Board of Financial Institutions by \$38,000 and the Office of Attorney General by \$13,000 beginning in FY 2023-24. Annual license renewal fees for deferred presentment providers eliminated by the bill total approximately \$26,000 per year and are divided equally between the AG and Board. Elimination of deferred presentment provider location examinations by the Board and the accompanying charge paid by the providers will reduce fee revenue for the Board by \$25,000 per year.

This bill may increase General Fund, and Other Funds fine and fee revenue generated by cases in the Court of Common Pleas related to the bill's designation of deferred presentment as an unfair trade practice under SCUPTA. However, as the number of the future cases related to this violation is currently unknown, the revenue impact is undetermined.

This bill will have no local expenditure impact, as we anticipate any increase in the number of cases heard in Magistrate Court related to the designation of deferred presentment services as an unfair trade practice under SCUPTA will be managed within the existing budgets of local courts.

This bill may increase local court fine and fee revenue generated by cases in Magistrate Court related to the bill's designation of deferred presentment as an unfair trade practice under SCUPTA. However, as the number of the future cases related to this violation is currently unknown, the revenue impact is undetermined.

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill designates the acceptance of a check for deferred presentment as an unfair trade practice pursuant to §39-5-20, and repeals Chapter 39, Title 34 of code, which is the South Carolina Deferred Presentment Services Act, and thereby, eliminates the licensure of deferred presentment service providers as well as oversight responsibilities of the Board of Financial Institutions and prosecutorial responsibilities of the AG. Oversight activities in accordance with the repealed section include the financial examination of licensed deferred presentment providers, administration of the licensing process, and the enforcement of statutory rules and regulations.

Board of Financial Institutions. This bill repeals Chapter 39, Title 34 of code requiring the Board's oversight of licensed deferred presentment providers as well as financial examination of the provider locations. The Board indicates that this will result in the elimination of 0.20 Professional Auditor FTE at an annual salary of \$9,320 and fringe of \$5,577 including mileage reimbursement and meals. In total, this bill will decrease expenditures for the Board by \$14,807 beginning in FY 2023-24.

Office of Attorney General. This bill eliminates the prosecutorial responsibilities the Office of Attorney General for deferred presentment service providers and requires the prosecution of deferred presentment under unfair trade practices. The expenditure impact of this bill on the Office of Attorney General is pending, contingent upon a response from the agency.

Judicial. This bill eliminates criminal and civil actions under the Deferred Presentment Services Act and creates a violation for deferred presentment services under SCUPTA. Judicial indicates that the elimination of the criminal cause of action under the repealed section will have no impact on the number of cases heard in court, as there are so few cases brought under this cause of action, and therefore, will result in no expenditure impact. Judicial further indicates that the establishment of a violation under SCUPTA for deferred presentment services may bring an unknown number of new cases to the Court of Common Pleas. However, Judicial reports that any increase in caseloads will be managed within existing appropriations and will have no expenditure impact.

State Revenue

This bill designates the acceptance of a check for deferred presentment as an unfair trade practice pursuant to §39-5-20, and repeals Chapter 39, Title 34 of code, the South Carolina Deferred Presentment Services Act, and thereby eliminates the licensure of deferred presentment service providers as well as oversight responsibilities of the Board of Financial Institutions and prosecutorial responsibilities of the AG.

This bill eliminates the licensure of deferred presentment providers, and consequently eliminates the cumulative \$1,500 license application fee and \$1,000 annual license renewal fee for one location and \$250 for each additional location. Under the chapter repealed by the bill, the Attorney General receives half of all annual license renewal fees for the purposes of prosecuting actions brought for violations of the chapter. According to the Board of Financial Institutions, annual license renewal fees total approximately \$26,000 and are divided equally between the AG and the Board. In addition, the Board anticipates annual fee revenue from examination of 25 deferred presentment providers of \$25,000. In total, this bill will reduce Other Funds fee revenue by \$38,000 for the Board of Financial Institutions and \$13,000 for the Office of Attorney General beginning in FY 2023-24.

Additionally, this bill may increase General Fund and Other Funds fine and fee revenue for Judicial generated by cases in the Court of Common Pleas under the bill's designation of deferred presentment as an unfair trade practice under SCUPTA. However, as the number of the future cases related to this violation is currently unknown, the revenue impact is undetermined.

Local Expenditure

This bill designates the acceptance of a check for deferred presentment as an unfair trade practice pursuant to §39-5-20, and repeals Chapter 39, Title 34 of code, which is the South Carolina Deferred Presentment Services Act, and thereby, eliminates the licensure of deferred presentment service providers as well as oversight responsibilities of the Board of Financial Institutions and prosecutorial responsibilities of the Office of Attorney General (AG).

According to Judicial, this bill may increase the number of cases heard in Magistrate Court related to the designation of deferred presentment services as an unfair trade practice under SCUPTA. However, we anticipate that this increase in caseload will be managed within the existing court budgets and will have no local expenditure.

Local Revenue

This bill designates the acceptance of a check for deferred presentment as an unfair trade practice pursuant to §39-5-20, and repeals Chapter 39, Title 34 of code, which is the South Carolina Deferred Presentment Services Act, and thereby, eliminates the licensure of deferred presentment service providers as well as oversight responsibilities of the Board of Financial Institutions and prosecutorial responsibilities of the Office of Attorney General (AG).

This bill may affect local court fines and fees revenue, as it may eliminate civil cases heard under the Deferred Presentment Services Act, but may bring new cases related to deferred presentment

as an unfair trade practice under SCUPTA. Therefore, the local revenue impact of this bill is undetermined.



Frank A. Rainwater, Executive Director