Bill Number:	S. 0518 Introduced on February 9, 2023
Author:	Shealy
Subject:	Unfair Trade Practice - Consumer Loans
Requestor:	Senate Labor, Commerce, and Industry
RFA Analyst(s):	Boggs
Impact Date:	March 14, 2023

Fiscal Impact Summary

This bill establishes that it is an unfair trade practice for deferred presentment lenders, consumer lenders, supervised lenders, supervised financial organizations, and consumer finance companies to charge fees or interest rates that exceed a 36 percent annual percentage rate (APR). This bill also provides classifications for lenders who are subject to the requirements of this article.

This bill will have no expenditure impact on the Attorney General, Commission on Indigent Defense (CID), and the Commission on Prosecution Coordination (CPC) because these agencies will manage any costs related to the implementation of the bill within existing appropriations. Also, Judicial anticipates enactment of the bill may increase caseloads in the court of common pleas and magistrate courts by an unknown amount but believes resultant costs can be managed using existing General Fund resources.

This bill will decrease Other Fund expenses for the Board of Financial Institutions (BOFI) by $762,456 beginning in FY 2023-24 since there will be fewer supervised companies and branches to examine. The agency anticipates it will no longer need 7.0 FTEs for professional auditors and 1.0 FTE for a senior auditor, with salaries and fringe totaling $616,990. In addition, BOFI reports that the reduced travel expenses are expected to total $145,556.

Additionally, this bill may increase caseloads in the court of common pleas and magistrate courts due to the increase in the number of actions brought against non-compliant businesses relative to the newly established 36 percent limit. This may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, the Revenue and Fiscal Affairs Office (RFA) anticipates this bill may result in an undetermined increase to General Fund revenue, Other Funds revenue, and local revenue due to the increase in fines and fees collected in court.

This bill will result in an undetermined reduction of Other Funds revenue for BOFI beginning in FY 2023-24. BOFI anticipates this bill will eliminate the Deferred Presentment Services industry. Therefore, BOFI will have a reduction in Other Fund revenue received from renewal fees and exam fees. The agency projects a reduction in revenue of approximately $38,000. Further, this bill will have a significant impact on the Supervised Lending industry. Therefore, there will be a reduction in revenue received from renewal fees and new application fees received from applicants. Total Other Fund revenue received from supervised lending totaled $853,400 in FY 2021-22. This represents approximately 22 percent of the agency's overall revenue for FY 2021-22.

The Department of Consumer Affairs states that, based on the most recent rate filings, there are approximately 1,663 locations that currently have a maximum APR above 36 percent. It is unknow whether these businesses would reduce their maximum rates or decide to stop operating in South Carolina. If these businesses stop operating in the state, Consumer Affairs anticipates it would experience a reduction in annual revenue related to filings for consumer credit grantor notifications and maximum rate schedules. Consumer Affairs states that revenue could be reduced by as much as $266,000, or approximately 5.5 percent of their total budget.

Explanation of Fiscal Impact

Introduced on February 9, 2023
State Expenditure
This bill establishes that it is an unfair trade practice for deferred presentment lenders, consumer lenders, supervised lenders, supervised financial organizations, and consumer finance companies to charge fees or interest rates that exceed a 36 percent APR. This bill also provides classifications for lenders who are subject to the requirements of this article.

This bill will have no expenditure impact on the Attorney General, CID, and CPC because these agencies will manage any costs related to the implementation of the bill within existing appropriations. Also, Judicial anticipates enactment of the bill may increase caseloads in the court of common pleas and magistrate courts by an unknown amount but believes resultant costs can be managed using existing General Fund resources.

Board Of Financial Institutions. BOFI anticipates this bill will reduce the number of supervised companies operating in the state, and therefore, reduce the number of branches to examine. The agency anticipates it will no longer need additional auditors. This includes salary and fringe for 7.0 FTEs for professional auditors and 1.0 FTEs for a senior auditor, totaling $616,990. In addition, BOFI reports that costs for the reduced travel expenses for the FTEs are expected to total $145,556. The agency indicates this will create a decrease in Other Funds expenses. Therefore, this bill will decrease expenses for BOFI by $762,456 beginning in FY 2023-24.

Consumer Affairs. Consumer Affairs states that, based on the most recent rate filings, there are approximately 1,663 locations that currently have a maximum APR above 36 percent. It is unknow whether these existing businesses would reduce their maximum rates or decide to stop operating in South Carolina. If these businesses stop operating in the state, Consumer Affairs would experience a reduction in the number of filings for consumer credit grantor notifications and maximum rate schedules. This would not reduce the software, equipment, or supplies currently used to process these filings. If personnel are no longer needed to review these filings, the department would likely utilize that personnel or time to focus on other areas that are currently not staffed or are understaffed.

State Revenue
This bill establishes that it is as unfair trade practice for deferred presentment lenders, consumer lenders, supervised lenders, supervised financial organizations, and consumer finance companies to charge fees or interest rates that exceed a 36 percent APR.

This bill may increase caseloads in the court of common pleas and magistrate courts due to the increase in the number of actions brought against non-compliant businesses relative to the newly established 36 percent limit. This may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined impact to General Fund revenue and Other Funds revenue due to the increase in fines and fees collections in court.

BOFI anticipates this bill will eliminate the Deferred Presentment Services industry. Therefore, BOFI will have a reduction in the revenue received from renewal fees and exam fees from Deferred Presentment licensees. The agency projects a loss of revenue of $38,000. Further, this bill will have a significant impact on the Supervised Lending industry. Therefore, there will be a reduction in revenue received from renewal fees and new application fees received from applicants. Total revenue received from Supervised Lending in FY 2021-22 totals $853,400. This represents approximately 22 percent of the agency's overall revenue for FY 2021-22. Therefore, this bill will reduce Other Funds revenue for BOFI by an undetermined amount beginning in FY 2023-24, depending on the ultimate impact on the industry overall.

Consumer Affairs states that, based on the most recent rate filings, there are approximately 1,663 locations that currently have a maximum APR above 36 percent. It is unknow whether these existing businesses would reduce their maximum rates or decide to stop operating in South Carolina. If these businesses stop operating in the state, Consumer Affairs would experience a reduction in annual revenue related to filings for consumer credit grantor notifications and maximum rate schedules. Consumer Affairs states that Other Funds revenue could reduce as much as $266,000, or approximately 5.5 percent of their total budget.

Local Expenditure
N/A

Local Revenue
This bill may increase caseloads in the court of common pleas and magistrate courts due to the increase in the number of actions brought against non-compliant businesses relative to the newly established 36 percent limit. This may result in an increase in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in an undetermined increase in local revenue due to the increase in fines and fees collections in court.

Frank A. Rainwater

Frank A. Rainwater, Executive Director