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FISCAL IMPACT REPORT

SPONSOR Lente ORIGINAL DATE 02/19/17
LAST UPDATED _____ HB 368
SHORT TITLE Small Loan Act Reporting Requirements SB _____
ANALYST Amacher

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY17 | FY18 | FY19 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|------|------|----------------------|------------------------------|------------------|
| Total | | NFI | NFI | NFI | | |

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with: HB 26, HB 100, HB 347, HB 438; and SB 15, SB 414
Duplicates: SB 398

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Mortgage Finance Authority (MFA)
Regulation & Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 368 amends the reporting requirements for licensees pursuant to the New Mexico Small Loan Act of 1955. This bill, if enacted, would become effective June 16, 2017.

FISCAL IMPLICATIONS

There are no known fiscal impacts.

SIGNIFICANT ISSUES

House Bill 368 amends the reporting requirements for licensees pursuant to the Small Loan Act. As outlined in this bill, reporting on transactions in specified dollar amounts is shifted to a more comprehensive reporting by loan product, addressing the interest and fees charged in each contract.

HB 368 requires licensees to provide an annual report on all loan products made in the previous calendar year. This annual report is due to the director of the Financial Institutions Division (FID) no later than March 31st of each year. A licensee may have its license suspended for failure to report to FID on time, in addition to facing a fine of \$1,500 per day until the report is filed.

The annual report must include certain items as outlined in this bill, including the report must address the total loan amounts and terms; total interest and fees; total annual percentage rate (APR); the total number of loans in default; and the number of repossessed vehicles or other property.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 368 duplicates SB 398.

The following bills relate to HB 368 through the amendments to the New Mexico Small Loan Act and the New Mexico Bank Installment Loan Act.:

“Small Loan Interest Rate Caps”, SB 15 and HB 26, effectively cap the Annual Percentage Rate to 36% applicable to all loans.

HB 100, “Short Term-Loan Positive Credit Reporting”, requires reporting solely for positive loan performance.

HB 347, “Installment Loan Fee Limits & Literacy Fund”, limits fees and charges for certain installment loans and providing for reporting to credit agencies on all loan performance. HB 347 substitutes a fee-based financing structure for all small loans under \$5,000; eliminates payday loans; and exempts refund anticipation loans from its coverage. HB 347 outlines a monthly handling fee capped at 7.75 percent.

“Disclosure of Tax Refund Loan Fees”, HB 438 and SB 414, require disclosure of fees and interest associated with tax refund anticipation loans. This legislation establishes requirements, permitted charges and prohibited acts for tax refund anticipation loans.

HB 368 has a unique conflict with HB 347. HB 368 requires each SLA licensee to report the total dollar amount of “interest”. HB 347 refers to a capped monthly “handling fee” at 7.75 percent. If both bills were to pass as written, licensees would be required to report the proposed “processing fee” and may be exempt from reporting the proposed “handling fee”.

OTHER SUBSTANTIVE ISSUES

The New Mexico Mortgage Finance Authority (MFA) makes low-interest mortgage loans for affordable homeownership and also administers a number of loan programs, including interim construction financing, for affordable housing development and rehabilitations. MFA notes it does not anticipate any performance implications as a result of this bill.

The Regulation and Licensing Department (RLD) notes that provisions in this bill remove the current reporting exemptions concerning payday loans or any loan product with an APR of 175 percent or less. Small Loan Act (SLA) licensees are required to input all payday loan

transactions at the time a loan is made, along with any updates, through the Veritec Solutions (Veritec) database. Veritec is the certified New Mexico payday loan database provider. RLD notes that currently, SLA licensees are not required to report payday loan information directly to FID. The FID compiles an annual report of payday loans for the Legislature using information from the Veritec database. Removal of the payday loan exemption, as noted by RLD, for reporting to the FID imposes a new requirement on licensees to compile and submit an additional report.

RLD comments that for however many licensees that have been in business, regardless of the number of years, many may have only hand-written records regarding prior consumers/loans. In such cases, these licensees may not be able to accurately determine if any single consumer was borrowing for the first time. RLD expresses concern that on page 5, lines 15 through 16, this bill requires all SLA licensees to report their total number of first time borrowers.

JMA/sb