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FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/09

SPONSOR Wirth LAST UPDATED _____ HB _____

SHORT TITLE Bank and Payday Loan Interest and Disclosure SB 331

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)
Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 331 amends the New Mexico Bank Installment Loan Act and the New Mexico Small Loan Act.

Key amendments to the Installment Loan Act:

- Amends the Installment Loan Act so that only pre-computed loans may be made under that Act (page 2 lines 1-5).
- Adds definitions for “installment loans” and “pre-computed loans” (page 2 lines 12-19).

Key amendments to the Small Loan Act:

- Requires that any loan of \$10,000.00 or less be made pursuant to the Small Loan Act (page 9 lines 5-7).
- Adds a new section to the Small Loan Act capping the rate of interest for consumer loans and requiring minimum loan terms (page 18 line 4-page 19 lines 9). A summary of the provisions:

1) For a loan with a principal amount of two thousand five hundred dollars (\$2,500) or less, no greater than 45 % per annum; and

2) For a loan with a principal amount greater than two thousand five hundred dollars (\$2,500) but not greater than ten thousand dollars (\$10,000), no greater than 36% per annum.

- A loan made pursuant to the New Mexico Small Loan Act of 1955 shall be an installment loan payable in substantially equal monthly payments and have the following minimum loan periods: sixty days for a loan with a principal amount of two thousand five hundred dollars (\$2,500) or less; and one hundred twenty days for a loan with a principal amount greater than two thousand five hundred dollars (\$2,500) but not greater than ten thousand dollars (\$10,000).
- Amends the Small Loan Act to have a required 60 point size type for the signage that is to be displayed by a payday lender (page 21 lines 22-25).

FISCAL IMPLICATIONS

NFI

SIGNIFICANT ISSUES

SB 331 aims to reduce the incidence of predatory lending. Critics such as Consumers Union blame payday lenders for exploiting people's financial hardship for profit. They say lenders target the young and the poor, particularly those near military bases and in low-income communities. They also say that borrowers may not understand that the high interest rates are likely to trap them in a "debt-cycle," where they have to repeatedly renew the loan and pay associated fees every two weeks until they can finally save enough to pay off the principal and get out of debt. Critics also say that payday lending unfairly disadvantages the poor, compared to the middle class who pay at most 25% or so on their credit cards.

According to RLD, there is no definition of a consumer loan. It appears that the intent of the legislation is to regulate small loans made to consumers and not to regulate all loans for any purpose.

ADMINISTRATIVE IMPLICATIONS

The Small Loan Act section 58-15-9 NMSA 1978 requires an annual examination be performed for each licensed place of business. If it is the intent of the Bill to have all types of lenders licensed, it may bring in additional licensees. Without an appropriation for the Financial Institutions Division to hire examiners, the Financial Institutions Division could have a hard time meeting its statutory mandate of annual examinations for every licensee.

TECHNICAL ISSUES

There is no definition for "consumer loan."

OTHER SUBSTANTIVE ISSUES

Amendment should be made to clarify “consumer loans”.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A cap will not be imposed on predatory interest rates and fees. Payday Loan disclosure requirements will not be amended.

CS/svb