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FISCAL IMPACT REPORT

SPONSOR HRPAC **ORIGINAL DATE** 2/24/15
LAST UPDATED 3/4/15 **HB** 356/HRPACS/aHBEC

SHORT TITLE License Tax Refund Loan Providers **SB** _____

ANALYST Elkins

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 527

Conflicts with HB 24, HB 36, HB 425, SB 72, and SB 579

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Administrative Office of the Court (AOC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of House Business and Employment Committee Amendment

House Business and Employment Committee Amendment to House Regulatory and Public Affairs Committee Substitute for House Bill 356 revises the definition of "creditor" to mean, any person who makes a refund anticipation loan or takes an assignment of a refund anticipation loan.

Synopsis of Original Bill

House Regulatory and Public Affairs Committee Substitute for House Bill 356 amends the Small Loan Act of 1955 (SLA) by: requiring small loan licensees engaged in the business of making loans secured by proceeds of an income tax refund or tax credits to disclose fees and interest associated with tax refund anticipation loans; limiting refund anticipation loans to 85 percent of a consumer's anticipated federal and state income tax refund; imposing a cap on charges, fees, and interest of \$18 per every \$100 in principal, and requiring refund anticipation loans to have a stated maturity greater than 31 days or less than 15 days.

FISCAL IMPLICATIONS

The Financial Institutions Division of RLD currently licenses and examines entities making refund anticipation loans of \$2,500 or less under the provisions of the New Mexico Small Loan Act. As such, HB 356 will not require additional FTE or other expenditures. The bill provides a right of rescission of 5:00 pm of the next business day with a full refund of fees.

SIGNIFICANT ISSUES

House Bill 356 caps the interest rate at \$18.00 per \$100.00 refund. The calculated APR for the minimum term is 438% and the calculated APR for the maximum term is 212%.

The Attorney General's Office offers the following commentary:

The Comptroller of the Currency issued rules disallowing banks from using refund anticipation loan products. The National Consumer Law Center recently testified before the U.S. Senate Committee on Finance about the dangerousness of this product to consumers.

Sections 3 and 4 of this bill discuss permitted loan amounts and fees for refund anticipation loan businesses. These sections may conflict with existing law that prohibits unconscionable fees and interest rates on small loans products.

According to AOC, predatory lending laws have been proposed recently imposing license requirements and caps on interest rates under the premise that these short-term, high interest loans prey on members of society with the least means to ever pay them back. This bill may give rise to more case filings related to licensing or criminal unlicensed lending. Beyond that, this bill does not create significant issues for the judicial branch of government.

CONFLICT

House Bill 425 and Senate Bill 579 establish a minimum maturity term of 90 days for all loan products with the exception of payday loans.

House Bill 24, House Bill 36, and Senate Bill 72 impose a cap on the total fees, charges, and interest of 36 percent per year.

CE/bb/je