F I S C A L I M P A C T R E P O R T

SPONSOR Herrera/Roybal Caballero **ORIGINAL DATE** 2/1/21
LAST UPDATED **HB** 99

SHORT TITLE Small Loan Act Max Annual Percentage Rate **SB**

ANALYST Nichols

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	**FY22**	**FY23**		
	Indeterminate	Indeterminate	Recurring	General Fund
	Indeterminate	Indeterminate	Recurring	Financial Literacy Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files
Pew Charitable Trusts
National Consumer Law Center
Federal Deposit Insurance Corporation

Responses Received From
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 99 amends the New Mexico Bank Installment Loan Act (Section 58-7-7 NMSA 1978) to limit the maximum allowed annual percentage rate (APR) for a loan issued pursuant to the Act to 36 percent. The current maximum allowed APR is 175 percent.

Similarly, HB 99 also amends the New Mexico Small Loan Act (Section 58-15-17 NMSA 1978) to limit the maximum allowed APR for a loan issued pursuant to the Act to 36 percent. The current maximum allowed APR is 175 percent.

APRs would continue to be calculated as defined by federal regulations (12 CFR 1026, commonly known as Regulation Z).

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

HB 99 does not contain an appropriation. RLD does not anticipate any additional operating budget impact as a result of this bill.

RLD notes that HB99 has the potential to result in reduced licensing fee revenue if the number of licensed loan companies declines. RLD's Financial Institutions Division licenses lenders that make loans under the Small Loan Act. Annual license renewal fees are a minimum of $500 plus $0.75 per $1,000 of outstanding loans. Each licensee also pays an annual $200 examination fee and a $200 fee to finance financial literacy programs in New Mexico. It is not clear if the bill would lead to a reduction in licensed lenders, and if so, by how much, but it is possible that some lenders would no longer operate under a reduced APR cap.

SIGNIFICANT ISSUES

Installment loans are loans of $5 thousand or less that are repaid in four or payments of principal and interest with at least 120 days to maturity. According to the Pew Charitable Trusts, approximately 10 million Americans use installment loans annually in 44 states. Pew notes that the pricing, affordability, and structure of installment loans are more consumer-friendly than those of other subprime credit products, such as payday and auto title loans. Installment lenders can provide access to credit for borrowers with subprime credit scores who may not be able to access conventional bank loans or credit cards. However, Pew also notes that many installment lenders use practices detrimental to consumers, such as front-loaded fees, stated APRs that do not reflect the total costs of the loans, and selling of credit insurance and other low-value products with upfront premiums. According to Pew, existing research is mixed on the overall impact of small credit on consumer well-being.

According to the National Consumer Law Center, as of early 2020, 45 states and the District of Columbia have rate caps for at least some installment loans, with a median rate cap of 38.5 percent. Twenty states cap the APR for a $500, six-month loan at 36 percent or less, while 12 states cap the rate at between 36 percent and 60 percent, and 13 states cap the rate at over 60 percent. New Mexico implemented its current APR cap of 175 percent in 2017. Previously, the state did not have any APR cap. Nationally, the Military Lending Act caps the APR on most consumer loans to service members and their dependents at 36 percent.

A 2018 Pew report on installment lending found that New Mexico had one of the highest rates of installment lending stores per capita, with over 7 stores per 100 thousand people. By comparison, most states had less than 2 stores per 100 thousand people.

In 2010, the Federal Deposit Insurance Corporation (FDIC) released a report on a pilot project of banks that made small dollar loans of up to $2.5 thousand with APRs of 36 percent of less. The report found that interest and fees generated for lenders from small loans with APRs of 36 percent or less were not always sufficient to achieve robust short-term profitability, and that most participating banks sought to generate long-term profitability through volume and by using small-dollar loans to cross-sell additional products. However, the report concluded that banks can feasibly offer affordable small dollar loan products as an alternative to high-cost credit products, like payday loans and fee-based overdraft protection.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB99 is similar to SB66, which makes the same changes to the maximum allowable APR under the Bank Installment Loan Act and Small Loan Act, and also increases the covered loan amount from $5 thousand to $10 thousand, as well as modifying the calculation of the APR and expanding the definition of persons subject to the lending acts.

AN/al/rl