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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 257

Sponsor: Senator Doug Cruce

Committee: Commerce and Technology

Date Completed: 4-25-89

SUMMARY OF SENATE BILL 257 as introduced 3-16-89:

The bill would amend the Regulatory Loan Act to increase the regulatory loan ceiling; provide for biannual, rather than annual examinations of licensed lenders; provide for examination, loan processing, and check handling fees; and change the Act's provisions concerning disclosure statements, license eligibility criteria, credit life insurance, and interest rates.

Examinations

Currently, the Commissioner of the Financial Institutions Bureau is required to examine each licensee annually and may investigate the loans and business and examine the books, accounts, records, and files of every licensee and anyone engaged in the business of making loans. Further, the Commissioner may require the attendance and testimony of persons relative to loans or to the lending business or to the subject matter of any examination, investigation, or hearing. The bill would delete these provisions and instead specify only that the Commissioner --at least once during every two-year period--would have to examine the place of business of each licensee and could make investigations and examine a licensee's books, accounts, records, and files. These provisions could not be construed to prohibit the keeping of records by electronic data processing methods. Further, the bill would allow books and accounts to be kept at a location other than the licensee's principal place of business, provided they were made available to the Commissioner upon request.

Under the bill, the annual license fee would no longer cover examinations. Instead, the examination fee would be based on a rate of not less than \$20 nor more than \$40 per hour for each examiner engaged in the examination or a rate of 20 cents per open account, whichever was less. The minimum fee for an examination would be \$150. Each examination fee would be invoiced upon completion of the examination and would be due and payable upon receipt of the invoice by the licensee. The licensee would not be required to pay for more than one examination in a calendar year.

In addition, the bill specifies that the Commissioner could maintain a cause of action in the Court of Claims to recover any fees a licensee failed to pay. The fees would be paid into the State Treasury and credited to the Financial Institutions Bureau. (Currently, any fees collected under the Act are credited

to the General Fund.)

Interest

The Act currently allows a licensee to charge a monthly interest fee of up to one-twelfth of either:

- 18% per year of the unpaid principal balance up to the regulatory loan ceiling.
- A combination of 31% per year on the unpaid principal balance up to \$500 and 13% per year on the unpaid principal balance over \$500 up to the regulatory loan ceiling.

The bill would delete these provisions and provide for an interest rate of up to 22% per year on the unpaid balance. Further, the bill would prohibit interest charges on loans from being paid, deducted or received in advance, or compounded; the Act prohibits this for all charges on loans. The bill would delete provisions requiring that loan charges be paid only as a percentage per month of the unpaid principal balance and that a licensee who advertises aggregate, combination or graduated rates first to state the higher rate applicable to a portion of the loan and give the highest rate equal prominence with the lower rate applicable to the remainder of the loan.

Fees

The bill would allow lenders to charge a loan processing fee of \$25 for each loan made and include the fee in the loan principal. Further, the bill would allow a licensee to charge a handling fee of \$5 and the amount of the actual charge made to the licensee by a depository institution for the return of an unpaid and dishonored check, draft, negotiable order or similar instrument given to the licensee in full or partial repayment of a loan.

The bill would delete language specifying that a loan contract would be void and the licensee would be prohibited from collecting any principal, charges or recompense if fees in excess of those authorized by the Act were charged. Instead, the bill specifies only that the licensee could not collect interest.

Criteria for Granting a License or Permission to Relocate

The bill would remove the provision that before granting a license or allowing a licensee to relocate, the Commissioner must find that allowing an applicant to engage in the lending business or relocate would "promote the convenience and advantage of the community". Further, the bill would delete the prohibition against allowing a business to move outside of its original county under the same license.

Other Provisions

The bill would:

- Increase the regulatory loan ceiling from \$3,000 to \$15,000 and the application fee for a regulatory loan license from \$150 to \$300.
- Allow licensees to provide credit life insurance for co-borrowers; the Act currently restricts licensees to offering credit life to only one borrower even if there are co-borrowers.

- Require licensees to deliver to the borrower disclosure statements in compliance with Federal Regulation Z. Currently, the Act specifies that the licensee must provide the borrower with a statement of the amount and date of the loan and its maturity, the nature of any security for the loan, rate of charge, and name and address of the borrower.
- Require licensees, if requested, to give the borrower a receipt for noncash payments on a loan.
- Change from February 15 to March 15 the filing deadline for the reports licensees must submit to the Commissioner every three years.
- Specifically allow licensees to make loans by mail.
- Delete language prohibiting a licensee from inducing or permitting a borrower to split up or divide a loan.

Repeal

The bill would repeal sections of the Act that require licensees to file their promotional plans with the Commissioner, provide for the assignment of wages and salaries to secure a loan, provide for the "grandfathering in" of persons licensed under Public Act 317 of 1921, a former regulatory loan act that was repealed and superseded by Public Act 21 of 1939, and repeal earlier regulatory acts.

MCL 493.1 et al.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would have a minimal fiscal impact on State government and no fiscal impact on local government.

Currently, the Financial Institutions Bureau (FIB) licenses approximately 60 regulatory loan establishments. If no additional business started making regulatory loans, the bill would have no fiscal impact on State government. Assuming that the provisions of the bill would cause a 50% increase in the number of regulatory loan establishments, the additional revenue that would be generated would be \$7,500 annual revenue (30 businesses x \$250 annual license fee) and \$9,000 one-time revenue (30 business x \$300 application processing fee).

The provision that would change the required examination of each regulatory loan establishment from an annual basis to a biannual basis would not reduce the FIB staff expense. The provision that the FIB may charge these establishments for the examination, rather than absorb the cost, would save the State a minimum of \$4,500 annually (30 exams per year x \$150 minimum charge).

Fiscal Analyst: J. Schultz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.