Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 632 (as passed by the Senate)
Sponsor: Senator Sarah Anthony
Committee: Finance, Insurance, and Consumer Protection

Date Completed: 10-9-24

RATIONALE

Individuals in dire financial straits may turn to payday loans, which are advertised as short-term cash relief; however, testimony before the Senate Committee on Finance, Insurance, and Consumer Protection indicates that payday loans may do more harm than good. Reportedly, payday stores do not assess whether loans are affordable for borrowers and may charge fees equivalent to a 370% annual percentage rate (APR). Individuals who resort to payday loans may not have the capital to repay the principal and additional fees by the end of their loan period. Additionally, payday lenders receive access to borrowers' bank accounts, from which they may withdraw money owed, potentially leading to overdraft fees. Unable to repay the loan and additional fees, consumers may feel it best to take out another payday loan, only to begin the cycle of debt over again. This may lead to serious financial consequences, such as bank penalty fees, bank account closures, bankruptcy, and lowered credit scores. Some believe more should be done to protect vulnerable, low-income residents from high payday loan service fees. Capping the service fee rate at 36% would align Michigan with 27 other states that have similar regulations while allowing lenders to remain in business.

CONTENT

The bill would amend the Deferred Presentment Service Transactions Act to allow a deferred presentment service transaction (payday loan) provider to charge as part of a service fee an APR of 36% instead of the current graduated rate.

Generally, the Act requires licensure of payday loan providers and allows a licensee to enter one payday loan transaction of up to $600 with a customer. The Act allows a licensee to charge a service fee for each transaction.

Currently, a service fee is earned by the licensee on the date of the transaction and is not interest. A licensee may charge as part of the service fee an amount that does not exceed the aggregate of the following, as applicable:

-- Fifteen percent of the first $100 of the deferred presentment service transaction.
-- Fourteen percent of the second $100 of the deferred presentment service transaction.
-- Thirteen percent of the third $100 of the deferred presentment service transaction.
-- Twelve percent of the fourth $100 of the deferred presentment service transaction.
-- Eleven percent of the fifth $100 of the deferred presentment service transaction.
-- Eleven percent of the sixth $100 of the deferred presentment service transaction.

The bill would delete the specific language governing service fees described above and instead would allow a licensee to charge an APR of 36%. ("Annual percentage rate" would mean a rate calculated for a military annual percentage under 32 CFR 232.4, which generally caps an APR at 36% and specifies that the rate includes any credit insurance premium or fee, any finance charge, and any add-on products sold in connection with the credit.)

The bill also specifies that a transaction that violated the bill would be void and uncollectable as to any principal, fee, or charge.

The bill would take effect 90 days after its enactment.

MCL 487.2153

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would protect vulnerable Michigan consumers and the economy from predatory practices. Testimony indicates that payday loan venders target members of marginalized communities, who face barriers when attempting to access financial resources and may find payday loans attractive. A 2017 report by the Center for Responsible Lending (CRL) found that, while there were 5.6 payday stores per 100,000 people in Michigan, census tracts that had over 25% and 50% African American and Latino residents had 7.6 and 6.6 payday stores per 100,000 people, respectively.[1] Rural and low-income areas also see a significant payday loan store presence. The CRL found that rural census tracts had 7.1 payday stores per 100,000 people and census tracts categorized as low-income (below 80% of the State median household income[2]) had 9.1 payday stores per 100,000 people.[3] Payday lenders target marginalized communities, potentially harming those already vulnerable.

Payday loans also harm the economy. According to testimony, in 2017 over two-thirds of payday loan stores were owned by out-of-state companies. These companies profit from Michigan communities, funneling an estimated $100.0 million, derived from high service fee rates, out-of-state.[4] Michiganders, in the meantime, are left to seek aid from the State and charitable organizations, draining resources. Enacting a payday loan rate cap would protect the State's consumers and the economy. Many other states, as well as Washington, D.C., have adopted similar caps, with widespread support. In 2021, the Illinois General Assembly enacted the Predatory Loan Prevention Act (PLPA), which capped payday loan fees at 36%. Colorado, Nebraska, New Hampshire, and more also cap payday loan fees at 36%.[5] The Federal Military Lending Act also prescribes a 36% interest rate cap on payday loans for active-duty service members, as well as their spouses and dependents. Like these states and institutions, Michigan should protect its vulnerable residents and its economy from predatory lending practices.

Response: Payday loans do not accrue interest. An individual may take out a payday loan with a 15- or 30-day loan period, but the fee remains the same. As such, equating the fees charged to take out a payday loan with APR is disingenuous. Additionally, payday loans help borrowers avoid fees they might otherwise be charged, such as overdraft, bounced check, and late fees, which may be more expensive than the fees charged by payday lenders. Lastly, while many payday stores are owned by out-of-state companies, most of the money these stores earn remains in the State, covering the cost of operation. Michigan landlords,

---

[1] Davis, Delvin and Lisa Stifler, "Payday Lenders Targeting Vulnerable Michigan Communities", *Center for Responsible Lending*, p. 4, August 2018.
[2] In 2017, the State's median household income was $54,909, 80% of which was $43,927. According to 2016 census data, median household income was $38,145 in the state's 12 "completely rural" counties.
[3] Davis and Stifler, "Payday Lenders Targeting Vulnerable Michigan Communities", pg. 6.
[4] Black Leadership Advisory Council, *2022 Report to Gov. Whitmer*, p. 5, 2022.
[5] Morton, Heather, "Payday Lending State Statutes", *NCSL*, February 28, 2023.

Michigan workers, and Michigan businesses connected to payday stores benefit from the existence of the industry and would be harmed by this legislation.

Opposing Argument
The bill would force legitimate lenders out of business, cutting off individuals in-need from a vital resource. More than 41% of Michigan households live paycheck-to-paycheck, unable to fall back on savings should the need arise.[6] While some may have friends or family to support them, many seek financial aid from traditional institutions, like banks or credit unions; however, some individuals may be unable to access this aid, such as those who have a poor credit score or are unbanked. Some individuals may distrust traditional financial institutions or do not wish to take out a long-term loan. Under such circumstances, individuals may turn to payday lenders, who offer small, short-term loans. Payday loans are a valuable option for many families, providing flexibility and a safety net for those dealing with financial crises.

The 36% rate cap proposed by the bill could effectively end this option. Testimony before the Senate Committee on Finance, Insurance, and Consumer Protection indicates that the revenue a payday lender earned from 36% interest would not cover the cost of business, such as rent, employee pay, marketing expenses, regulatory compliance costs, and defaulted loans. States that have imposed a similar rate cap have seen a precipitous decline in payday stores and loans. For example, after Illinois enacted the PLPA in 2021, the number of entities licensed by the Consumer Credit Section (Division of Financial Institutions), including payday stores as well as entities licensed to offer title-secured and small consumer loans, fell from 1,813 to 900.[7] Total payday transactions declined 43.8% from 2020 to 2021, from 91,952 to 49,954.[8] While the number of licensed lenders and transactions decreased, there is no indication that the *need* for payday loans decreased in Illinois. Testimony also indicates that other states with a rate cap have zero payday lenders.

In the absence of payday lenders, traditional financial institutions and charitable organizations likely couldn't innovate to fulfill credit needs. Testimony indicates that, while these institutions and organizations may *offer* these loans, they may not actually accept applications due to risk or could be unable to cover the need. Enacting a rate cap in Michigan would prevent individuals in-need from accessing credit, potentially forcing them to rack up credit card debt or turn to unregulated, exploitive sources for aid.

Response: According to testimony, payday loans do not help the unbanked, as most payday loans require a checking account. Additionally, other states that have imposed a rate cap have benefited from competition in the absence of payday loans. Reportedly, charitable organizations and financial institutions such as credit unions have filled the gap to offer short-term, *low*-interest loans.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Nathan Leaman
Michael Siracuse

---

[6] East, Zack, "Despite Bigger Paychecks, the Number of Struggling Households Continues to Rise in Southwest Michigan and Across the State", *United Way Southeast Michigan*, May 22, 2024.
[7] Illinois Department of Financial and Professional Regulation, *Illinois Trends Report Select Consumer Loan Products Through December 21*, p. 4, 2022.
[8] *Id.*, p. 17.

SAS\S2324\s632a
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.