

# State Corporation Commission

## 2002 Fiscal Impact Statement

**1. Bill Number** HB940

**House of Origin** ☐ Introduced ☐ Substitute ☐ Engrossed  
**Second House** ☐ In Committee ☐ Substitute ☒ Enrolled

**2. Patron** Morgan

**3. Committee** Passed Both Houses

**4. Title** Payday lending; usury, penalties.

**5. Summary/Purpose:**

Payday lending; usury; penalties. Establishes requirements for the conduct of payday lending. A "payday loan" is a transaction where the lender (i) accepts a check or similar instrument from the borrower; (ii) agrees to hold the check for a period of time prior to negotiation or presentment; and (iii) gives the borrower the amount of the check less the permitted interest charge. If the borrower does not pay the loan by the due date, the lender may obtain repayment by cashing the borrower's check. The measure caps the fee that a payday lender may charge at \$15 per \$100 advanced to the borrower. The maximum term of a payday loan is 30 days; the minimum term is 7 days. Lenders are prohibited from renewing or "rolling over" such loans. Payday lenders are required to be licensed with the State Corporation Commission. A violation of the measure is a prohibited practice under the Consumer Protection Act. Violators are subject to civil and criminal penalties. Making unlicensed loans, or arranging or brokering payday loans, is punishable as a Class 6 felony.

**6. Fiscal Impact Estimates are:** Not available. See Item #8 for fiscal implications on the State Corporation Commission and the Department of Agriculture and Consumer Services.

**7. Budget amendment necessary:** None.

**8. Fiscal implications:** The number of possible payday lending licensees is unknown. However, based on conversations with North Carolina and Tennessee regulators, two bordering states with experience in this area, the Bureau of Financial Institutions might expect the first year 200-250 license applicants operating over 1000 locations. If this is the case, the Bureau will need a minimum of four additional mid-range level examiners and one clerical position. Examiners will investigate applications for licenses and examine licensees (at least once every three years) for compliance with law and regulation. Based on current salary and benefits structure and estimated travel expenses and equipment, the additional annual costs to the Bureau of Financial Institutions for additional employees would be approximately \$260,000. The expense of regulating and supervising payday loan licensees will be assessed the licensed industry as prescribed in proposed §6.1-457 of the Code of Virginia, under a fee schedule set by the State Corporation Commission.

Because a violation of the legislation is a prohibited practice under the Consumer Protection Act, the Department of Agriculture and Consumer Services may incur additional costs for

investigation of violations. The first year of implementation will be used to determine the costs, and if they are significant, a budget amendment may be submitted for consideration in the 2003 General Assembly Session.

9. Specific agency or political subdivisions affected: State Corporation Commission's Bureau of Financial Institutions, and the Department of Agriculture and Consumer Services

10. Technical amendment necessary: None

11. Other comments: None

**Date:** 03/12/02EJF

Cc: Secretary of Commerce and Trade