

Department of Planning and Budget 2010 Fiscal Impact Statement

1. Bill Number: SB250

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Reynolds

3. Committee: Commerce and Labor

4. Title: Open-end credit plan loans; penalties.

- 5. Summary:** This bill establishes requirements for open-end credit plan loans that track many of the provisions of the Payday Loan Act. Currently, lenders and sellers making open-end loans are not required to be licensed and may charge interest at any rate agreed to by the borrower if the balance is not repaid in full within a 25-day grace period. Under this measure, the maximum amount of an open-end credit plan loan is \$500. Interest may not exceed an annual rate of 36 percent, plus a loan fee of 20 percent of the initial advance and a \$5 verification fee. The maximum term of a revolving loan agreement is 24 months. Open-end credit plan lenders are required to be licensed by the State Corporation Commission. A violation of the measure is a prohibited practice under the Consumer Protection Act. Violations are subject to civil and criminal penalties.

6. Fiscal Impact Estimates: Indeterminate.

7. Budget Amendment Necessary: No.

- 8. Fiscal Implications:** Lenders and sellers making open-end loans are not required to be licensed, however any application to obtain a license must be accompanied by a payment of \$1,000 and submitted to the State Corporation Commission (SCC). The fiscal impact of this license application fee is indeterminate. Further, criminal and civil penalties for violations under the Consumer Protection Act are indeterminate.

In addition, based on information derived from other state regulatory departments which currently license these lenders, the SCC's Bureau of Financial Institutions (BFI) anticipates it may need to employ up to four additional individuals to (i) process and investigate approximately 50-100 expected applications for license, (ii) examine licensees for compliance with the law, and (iii) perform other related tasks required by legislation. It is estimated that the additional annual expense to the BFI for these full time employees would be moderate (including salary, benefits, training, etc.). These expenses will be recovered from the licensed industry via annual fees as prescribed in proposed § 6.1-493, and by application fees as proposed by § 6.1-483.

Projected annual revenue should more than adequately cover all annual expenses associated with supervision and regulation of the industry.

9. Specific Agency or Political Subdivisions Affected: Department of Agriculture and Consumer Services; State Corporation Commission.

10. Technical Amendment Necessary: No.

11. Other Comments: The second enactment clause states that nothing in this act shall prohibit the collection of any outstanding loan or extension of credit made under § 6-1.330.78 of the Code of Virginia in accordance with the terms of a loan agreement made prior to the effective date of this act; however, no additional extensions of credit or advances shall be under such a loan agreement on or after the effective date of this act.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2009), the estimated total state support for local jails averaged \$32.66 per inmate, per day in FY 2008.

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