

State Corporation Commission 2008 Fiscal Impact Statement

1. **Bill Number:** SB588

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

2. **Patron:** Puckett

3. **Committee:** Passed Both Houses

4. **Title:** **Payday Loan Act.**

5. **Summary:** Payday Loan Act. Requires the State Corporation Commission to certify and contract with one or more third parties to develop, implement, and maintain an Internet-accessible database. Requires payday lenders to query the database prior to making any loan to determine whether the loan is permissible. The database is to be operational by January 1, 2009. Licensees are required to pay a database inquiry fee calculated in accordance with a schedule set by the State Corporation Commission. The schedule shall bear a reasonable relationship to the actual cost of the database. A payday lender is prohibited from making a payday loan to a person if the loan would cause the borrower to have more than one payday loan outstanding at the same time and from making a payday loan on the same day that the person has paid a previous payday loan. Payday lenders are permitted to charge, on any payday loan, interest at an annual rate of 36 percent, a loan fee of not more than 20 percent of the loan proceeds, and a \$ 5 verification fee. The verification fee shall be used in part to defray the costs of submitting a database inquiry. Payday lenders are prohibited from knowingly making loans to a member of the military service or to the spouse or dependent of such person. Loan documents shall include verification the borrower is not a member of the United States military services or the spouse of a member. A borrower may enter into an extended payment plan, which allows the borrower to repay the loan in at least four equal installments over a period of not less than 60 days; however, there are additional requirements and prohibitions regarding participation in an extended payment plan. Other provisions of the legislation (i) prohibit a lender from engaging in any unfair, misleading, deceptive, or fraudulent acts or practices in the making or collecting of a payday loan; (ii) require a lender, when collecting or attempting to collect a payday loan when the check given as security for such loan is dishonored, to comply with certain restrictions and prohibitions contained in the Fair Debt Collection Practices Act; (iii) provide that any provision of a written loan agreement that violates the Payday Loan Act is unenforceable against the borrower; (iv) state that the provisions of the Payday Loan Act apply to Internet lenders. The State Corporation Commission's Bureau of Financial Institutions must report to the Chairmen of the House and Senate Commerce and Labor Committees regarding the utilization of payday loans, including patterns of repeat and consecutive borrowing, use of extended payment plans, compliance with restrictions on lending by licensees, and effectiveness of the prohibitions on military lending. Certain provisions of the bill become effective on July 1, 2008, while the remainder of the bill will become effective on January 1, 2009.

- 6. Fiscal Impact Estimates:** Not available. See Item # 8.
- 7. Budget Amendment Necessary:** Not at this time.
- 8. Fiscal Implications:** There is an estimate that the bill will have a moderate fiscal impact on the State Corporation Commission and its Bureau of Financial Institutions. In addition to computer system modifications, the Bureau believes it would need to employ one additional analyst to adequately monitor the data provided by licensed payday lenders to the database on a regular basis, to determine the effectiveness of the database. It is estimated that the additional annual expense to the Bureau for this added full time position would be moderate. This expense will be recovered from the licensed industry as prescribed in § 6.1-457 of the Code of Virginia.
- 9. Specific Agency or Political Subdivisions Affected:** State Corporation Commission and its Bureau of Financial Institutions and Office of General Counsel
- 10. Technical Amendment Necessary:**
- 11. Other Comments:** House Bill 12 is identical.

Date: 3/11/2008 ejf

cc: Secretary of Commerce and Trade