

State Corporation Commission 2008 Fiscal Impact Statement

1. Bill Number: SB588

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

2. Patron: Puckett

3. Committee: Commerce and Labor

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

5. Summary: Payday Loan Act. Requires the State Corporation Commission, by January 1, 2009, to certify and contract with one or more third parties to develop, implement, and maintain an Internet-accessible database, and requires payday lenders to query the database prior to making any loan to determine whether the loan is permissible. Licensees are required to pay a database inquiry fee of not more than \$1. 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 loans 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 10 percent of the loan proceeds, and a \$10 verification fee. The Commission is prohibited from licensing a new payday lending office within 1.5 miles of an existing payday loan office. Payday lenders are prohibited from knowingly making loans to a member of the military service or to the spouse or dependent of such person. 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. A borrower may not enter into more than two extended payment plans in any 12-month period. A payday loan may not be made to a borrower in an extended payment plan or within 90 days after payment of an extended payment plan, or to a borrower within 90 days after the person has paid a payday loan by means other than an extended payment plan if that person was in default on such loan for 60 or more days. Other provisions (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.

6. Fiscal Impact Estimates: Moderate impact. See Item # 8.

7. Budget Amendment Necessary: See Item # 8.

8. Fiscal Implications: The State Corporation Commission's Bureau of Financial Institutions 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

10. Technical Amendment Necessary:

11. Other Comments: None.

Date: 2/20/2008 ejf

cc: Secretary of Commerce and Trade