

Regular Session, 2014

HOUSE BILL NO. 1187

BY REPRESENTATIVE HUNTER

CONSUMERS: Provides relative to consumer credit transactions

1 AN ACT

2 To amend and reenact R.S. 9:3560(A)(8), 3578.4(A)(1), 3578.5, and 3578.6(A)(7) and to  
3 enact R.S. 9:3537, 3578.4(A)(3), and 3578.6(A)(9) and (C), relative to consumer  
4 credit transactions; to prohibit preliminary check holding in certain municipalities;  
5 to provide for definitions; to modify relative to refunds and deferred presentment  
6 transactions or small loans made in certain municipalities; to provide modifications  
7 relative to creditor provisions and chargeable interest in conjunction with  
8 transactions in certain municipalities; to provide for creditor and transactional  
9 prohibitions in conjunction with transactions in certain municipalities; and to provide  
10 for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 9:3560(A)(8), 3578.4(A)(1), 3578.5, and 3578.6(A)(7) are hereby  
13 amended and reenacted and R.S. 9:3537, 3578.4(A)(3), and 3578.6(A)(9) and (C) are hereby  
14 enacted to read as follows:

15 §3537. Prohibition; check holding

16 With respect to a consumer credit transaction in a municipality with a  
17 population in excess of forty-eight thousand seven hundred and less than fifty  
18 thousand as determined by the latest federal decennial census, an extender of credit  
19 shall not accept a check, as defined in R.S. 9:3516, from the issuer and agree to hold  
20 the check for a period of time in exchange for payment to the issuer.

21 \* \* \*

1 §3560. Licenses not required

2 A. Notwithstanding R.S. 9:3557, the following persons shall be exempt from  
3 the consumer loan licensing requirements under this Part:

4 \* \* \*

5 (8) ~~A~~ Except in conjunction with transactions in a municipality with a  
6 population in excess of forty-eight thousand seven hundred and less than fifty  
7 thousand as determined by the latest federal decennial census, a creditor having no  
8 office within this state offering credit to Louisiana consumers through the mails and  
9 other means of interstate commerce.

10 \* \* \*

11 §3578.4. Finance charge and fees

12 A.(1) ~~In~~ Except as provided in Paragraph (3) of this Subsection, in  
13 conjunction with a deferred presentment transaction or small loan, a licensee may  
14 charge a fee not to exceed sixteen and seventy-five one hundredths percent of the  
15 face amount of the check issued or in the case of a small loan, the equivalent rate of  
16 interest, provided however that such fee or interest does not exceed forty-five dollars,  
17 regardless of the name or type of charge.

18 \* \* \*

19 (3)(a) Notwithstanding any other provision of law, in conjunction with a  
20 deferred presentment transaction or small loan in a municipality with a population  
21 in excess of forty-eight thousand seven hundred and less than fifty thousand as  
22 determined by the latest federal decennial census, a licensee may charge a fee not to  
23 exceed thirty-six percent interest annually. Any transaction or loan made or  
24 collected in violation of this Paragraph is void and the licensee shall not have the  
25 right to collect, receive, or retain any principal, interest, fees, or other charges.

26 (b) For the purposes of this Paragraph, "interest" means all charges and fees  
27 assessed, payable directly or indirectly, including fees pursuant to R.S. 9:3530(C) in  
28 connection with or as a condition of a deferred presentment transaction or small loan.

29 \* \* \*

1 §3578.5. Rebate upon prepayment

2 ~~Upon~~ Except as provided in Subsection B of this Section, upon the  
3 prepayment in full of a deferred presentment transaction or small loan, during the  
4 first five days of the term of such transaction or loan only, the licensee shall refund  
5 any and all unearned charges by a method no less favorable to the consumer than the  
6 actuarial method, less twenty dollars of the original fee, which shall be considered  
7 earned and shall not be subject to refund. Should the consumer make prepayment  
8 after the first five days of the term of the transaction or loan, the licensee shall not  
9 be required to make any refund.

10 B. In conjunction with a transaction in a municipality with a population in  
11 excess of forty-eight thousand seven hundred and less than fifty thousand as  
12 determined by the latest federal decennial census, upon the prepayment in full of a  
13 deferred presentment transaction or small loan, the licensee shall refund any and all  
14 unearned charges by a method no less favorable to the consumer than the actuarial  
15 method.

16 §3578.6. Prohibited acts

17 A. A licensee shall not:

18 \* \* \*

19 (7) Renew or roll over a deferred presentment transaction or small loan.  
20 However, except in a municipality with a population in excess of forty-eight  
21 thousand seven hundred and less than fifty thousand as determined by the latest  
22 federal decennial census, a licensee may accept a partial payment of twenty-five  
23 percent of the amount advanced plus fees charged and enter into a new deferred  
24 presentment transaction or renew the small loan for the remaining balance owed.  
25 Once a deferred presentment transaction or small loan has been completed, a  
26 consumer may enter into a new transaction or loan with the licensee. A deferred  
27 presentment transaction or small loan shall be considered completed when the  
28 amount advanced has been paid in full by the consumer.

29 \* \* \*



Proposed law provides that, with respect to a consumer transaction in a municipality with a population in excess of 48,700 and less than 50,000, an extender of credit shall not accept an issuer's check as defined in present law (R.S. 9:3516) from the issuer and agree to hold the check for a period of time in exchange for payment to the issuer.

Present law provides that a creditor having no office in the state of La. offering credit to La. consumers through mail and other means of interstate commerce is exempt from consumer loan licensing requirements. Proposed law retains present law but provides that the exception to licensure does not apply to creditors participating in transactions in a municipality with a population in excess of 48,700 and less than 50,000.

Present law provides that in conjunction with a deferred presentment transaction or small loan, a licensee may charge a fee not to exceed 16.75% of the face amount of the check issued or, in the case of a small loan, the equivalent rate of interest, provided that such fee or interest does not exceed \$45, regardless of the name or type of charge.

Proposed law retains present law but prohibits a licensee in a municipality with a population in excess of 48,700 and less than 50,000 from charging a fee in excess of 36% interest annually. Proposed law further voids any transaction or loan made or collected in violation of proposed law and further provides that a licensee in violation has no right to collect, receive, or retain any principal, interest, fees, or other charges.

Proposed law defines "interest" as all charges and fees assessed, payable directly or indirectly, including a documentation fee not to exceed \$10 under present law (R.S. 9:3530(C)) in connection with or as a condition of a deferred presentment transaction or small loan.

Present law provides that upon the consumer's prepayment in full of a deferred presentment transaction or small loan during the first five days of the term of the transaction or loan, a licensee shall refund any and all unearned charges by a method no less favorable to the consumer than the actuarial method, minus \$20 of the original fee, which shall be considered earned by the licensee and not subject to refund.

Proposed law retains present law but removes the time limit for transactions in a municipality with a population in excess of 48,700 and less than 50,000 and requires the licensee to refund any and all unearned charges by a method no less favorable than the actuarial method upon the consumer's prepayment in full of a deferred presentment transaction or small loan.

Present law prohibits a licensee from renewing or rolling over a deferred presentment transaction or small loan; however, present law provides that a licensee may accept a partial payment of 25% of the amount advanced plus fees charged and enter into a new deferred presentment transaction or renew the small loan for the remaining balance owed.

Proposed law deletes the authorization in present law to accept a partial payment before entering into a new deferred presentment transaction for transactions in a municipality with a population in excess of 48,700 and less than 50,000.

Proposed law adds that a licensee in a municipality with a population in excess of 48,700 and less than 50,000 shall not engage in any device or subterfuge intended to evade the requirements of law through any method, including but not limited to mail, telephone, Internet, or any electronic means, or by doing any of the following:

- (1) Offering, making, assisting a borrower to obtain, or brokering a deferred presentment transaction or small loan at a rate of interest prohibited by La. law, or acting as an agent for a third party in such a transaction.

- (2) Making deferred presentment transactions or small loans disguised as personal property sales, consumer credit sales, and leaseback transactions.
- (3) Disguising deferred presentment transactions or small loan proceeds as cash rebates for the pretextual installment sale of goods or services.
- (4) Disguising a deferred presentment transaction or small loan as a revolving line of credit, or making or assisting a borrower to obtain a revolving line of credit for the purpose of avoiding the licensee's provision under present law (R.S. 9:3578.6(A)(1)) pursuant to proposed law (R.S. 9:3578.4(A)(1)).

Proposed law further provides that a violation of the provisions relative to prohibited acts, in conjunction with a transaction in a municipality with a population in excess of 48,700 and less than 50,000, is a violation of the Unfair Trade Practices and Consumer Protection Law (R.S. 51:1401 et seq.).

(Amends R.S. 9:3560(A)(8), 3578.4(A)(1), 3578.5, and 3578.6(A)(7); Adds R.S. 9:3537, 3578.4(A)(3), and 3578.6(A)(9) and (C))