

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **SB 84** SLS 14RS 85

Bill Text Version: **REENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: April 29, 2014 6:56 AM	Author: NEVERS
Dept./Agy.: Office of Financial Institutions (OFI)	Analyst: Travis McIlwain
Subject: Consumer Credit Transactions	

CONSUMERS

RE NO IMPACT See Note

Page 1 of 1

Provides relative to consumer credit transactions.

Proposed legislation provides that an extender of credit shall not accept a check from the issuer and agree to hold the check for a period of time in exchange for payment to the issuer. Proposed legislation no longer exempts a creditor having no office within Louisiana from the consumer loan licensing requirements in Title 9. Proposed legislation provides that no consumer shall enter into more than 10 small loans within 12 consecutive months. Current law defines a small to mean a consumer loan of \$350 or less made for a term of 60 days or less. Proposed legislation prohibits a deferred presentment licensee from making deferred presentment transactions or small loans disguised as personal property sales, consumer credit sales and leaseback transactions, from disguising a deferred presentment transaction or small loan as a revolving line of credit. Proposed legislation provides that the performance of the prohibited acts under LA's Deferred Presentment & Small Loan Act shall constitute a violation of LA's Unfair Trade Practices & Consumer Protection Law. Proposed legislation provides for the OFI to approve the use of a single common database with real-time access through the internet for licensed lenders who make deferred presentment transactions and small loans. Proposed legislation provides for the database shall be accessible to the commissioner of OFI shall be able to verify the number and nature of transactions that are outstanding for a particular consumer. Proposed legislation gives authority to the licensees to charge up to a \$1 per transaction fee to the consumer to offset the costs of the real time database to be operated by a vendor.

EXPENDITURES	2014-15	2015-16	2016-17	2017-18	2018-19	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2014-15	2015-16	2016-17	2017-18	2018-19	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

There is no anticipated direct material effect on governmental expenditures as a result of this measure. This legislation requires the commissioner of financial institutions to approve a real time database that will be utilized by licensees to verify eligibility for consumers requesting deferred presentment loans. This database will be operated by a third-party service with the costs of the database being offset by transaction fees, which will be paid by the consumer. This legislation allows licensed lenders to charge the consumer any actual database costs incurred not to exceed \$1 per transaction. According to the OFI, typical transactional costs may average approximately \$0.50/transaction.

NOTE: According to the OFI, although the agency is required to approve the real time database and that the specific third-party contract will be with OFI, no monies will be collected or expended by OFI. The third-party vendor will have the ability to charge a transaction fee to the consumer. Thus, the cost of the database will ultimately be borne by the consumer. To the extent this legislation is enacted, the OFI anticipates promulgating an administrative rule relative to this proposed legislation.

Proposed legislation requires that the database vendor post a \$5 million bond to secure any possible liabilities as a result of any breach of security and requires that the database vendor protect the identity of all borrowers. To the extent a database vendor does not already meet these requirements, there will likely be a fiscal impact to the third-party database vendor.

REVENUE EXPLANATION

This bill provides that businesses which violate the Deferred Presentment & Small Loan Act will be considered violators of Louisiana's Unfair Trade Practices & Consumer Protection Law. Pursuant to R.S. 51:52, any violation of the Unfair Trade Practices & Consumer Protection Law results in a fine of not more than \$2,500 or imprisonment for not more than 90 days, or both. Decisions on where these fines and penalties are deposited will be made by the courts.

As mentioned in the expenditure explanation above, this legislation allows licensees to charge a transaction fee (not to exceed \$1) to the consumer to offset the cost of a real time database to be provided by a third-party. This fee will not be collected by OFI or any other state agency.

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| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S} |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | | <input type="checkbox"/> 6.8(F)(2) >= \$500,000 State Rev. Reduc. {H & S} |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |

Evan Brasseaux

Evan Brasseaux
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