
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Julie J. Baxter.

DIGEST

Nevers (SB 84)

Proposed law provides that, with respect to a consumer credit transaction, an extender of credit shall not accept a check, as defined by 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 this state offering credit to Louisiana consumers through the mails and other means of interstate commerce shall be exempt from the consumer loan licensing requirements under the licensing provisions of the Louisiana Consumer Credit Law.

Proposed law deletes present law.

Present law in Louisiana's Deferred Presentment and Small Loan Act defines "partial payment" as a payment of fifty dollars or more on a deferred presentment transaction or small loan.

Proposed law deletes the definition of "partial payment" in present law.

Proposed law in Louisiana's Deferred Presentment and Small Loan Act defines "interest" to mean all charges and fees assessed, payable directly or indirectly, including fees allowed under R.S. 9:5530 in connection with or as a condition of a deferred presentment transaction or small loan.

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 however that such fee or interest does not exceed \$45, regardless of the name or type of charge.

Proposed law provides that notwithstanding any other provision of law, a licensee may charge a fee not to exceed 36% interest annually. Proposed law further provides that any transaction or loan made or collected in violation of proposed law is void, and the licensee shall not have the right to collect, receive, or retain any principal, interest, fees or other charges.

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

Proposed law provides that upon the prepayment in full of a deferred presentment transaction or small loan, the licensee shall refund any and all unearned charges by a method no less favorable to the consumer than the actuarial method.

Present law provides that a licensee under Louisiana's Deferred Presentment and Small Loan Act shall not renew or roll over a deferred presentment transaction or small loan, but 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 provides that a licensee under Louisiana's Deferred Presentment and Small Loan Act shall not renew or roll over a deferred presentment transaction or small loan.

Proposed law provides that a licensee under Louisiana's Deferred Presentment and Small Loan Act shall not engage in any device or subterfuge intended to evade the requirements of the Act through any means, including but not limited to mail, telephone, Internet or any electronic means, by offering, making, assisting a borrower to obtain, or brokering a deferred presentment transaction or small loan at a rate of interest prohibited by Louisiana law, or acting as an agent for a third party in such a transaction; making deferred presentment transactions or small loans disguised as personal property sales, consumer credit sales, and leaseback transactions; disguising preferred presentment transactions or small loan proceeds as cash rebates for the pretextual installment sale of goods or services; or disguising a preferred 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 requirements of present law.

Proposed law provides that the performance of one of the prohibited acts under Louisiana's Deferred Presentment and Small Loan Act shall constitute a violation of Louisiana's Unfair Trade Practices and Consumer Protection Law.

Effective August 1, 2014.

(Amends R.S. 9:3560(A), 3578.3, 3578.4(A), 3578.5 and 3578.6; adds R.S. 9:3537)