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

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## 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.

Proposed law adds to the definition of "deferred presentment transaction" that no consumer shall enter into more than ten deferred presentment transactions within twelve consecutive months.

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 adds to the definition of "small loans" that no consumer shall enter into more than ten small loan transactions within twelve consecutive months.

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.

Proposed law provides that the commissioner of the Office of Financial Institutions shall implement as provided in proposed law a single common database with real-time access through an Internet connection for licensed lenders who make deferred presentment transactions and small loans pursuant to present law. Provides that the database shall be accessible to the commissioner and to the licensees so that the commissioner shall be able to verify the number and nature of transactions that are outstanding for a particular consumer. Provides that on or before August 1, 2015, the commissioner shall provide by rules and regulations through the Administrative Procedures Act for the implementation of this real-time access common database.

Proposed law provides that no licensee shall engage in lending activity with a consumer who has taken out more than ten loans under present law in the previous twelve consecutive month.

Proposed law provides that licensees shall submit such loan transaction data before entering into each transaction in such format as required by the commissioner, including but not limited to the borrower's name, social security number of employment authorization alien number, address, driver's license number, amount of transaction, date of transaction, the date the transaction is closed, data reporting requirements of R.S. 9:3554(A)(6) and such additional information as required by the commissioner.

Proposed law removes the exemption in present law for the applicability of the Louisiana Unfair Trade Practices and Consumer Protection Act to deferred presentment transactions and small loans.

Effective August 1, 2014.

(Amends R.S. 9:3560(A), 3578.3, 3578.5 and 3578.6, and R.S. 51:1406(1); adds R.S. 9:3537 and

3578.8(E))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the engrossed bill

1. Provides that no consumer shall enter into more than ten deferred presentment transactions within twelve consecutive months.
2. Provides that no consumer shall enter into more than ten small loans within twelve consecutive months.
3. Deletes proposed definition of "interest."
4. Deletes proposed changes to current finance charges allowed in deferred presentment transactions and small loans.
5. Adds law providing that the commissioner of the Office of Financial Institutions shall implement a single common database with real-time access through an Internet connection for licensed lenders who make deferred presentment transactions and small loans.
6. Adds that no licensed lender shall engage in lending activity with a consumer who has taken out more than ten loans under the Louisiana Deferred Presentment and Small Loans Act in the previous twelve consecutive months.
7. Removes the current exemption in the Louisiana Unfair Trade Practices and Consumer Protection Act for deferred presentment transactions and small loans.