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## DIGEST

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James

HB No. 239

**Abstract:** Modifies various provisions relative to consumer credit loans and creditors.

Present law (R.S. 9:3516) defines "check" as any check, draft, item, orders or requests for payment of money, negotiable orders, withdrawal, or any other instrument used to pay a debt or transfer money from one to another.

Proposed law provides that 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.

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 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 deletes present law.

Present law defines "partial payment" as a payment of \$50 or more on a deferred presentment transaction or small loan. Proposed law deletes "partial payment" as a definition.

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 deletes present law and provides that a licensee may charge a fee not to exceed 36% interest annually.

Proposed law 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.

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 deletes present law.

Proposed law provides that a licensee shall 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 present law.

Proposed law adds that a licensee 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 provides that a violation of a provision under R.S. 9:3578.6 is a violation of the Unfair Trade Practices and Consumer Protection Law (R.S. 51:1401 et seq.).

(Amends R.S. 9:3578.3(3)-(6), 3578.4(A)(1), 3578.5, and 3578.6(A)(7); Adds R.S. 9:3537, 3578.3(7), and 3578.6(A)(9) and (C); Repeals R.S. 9:3560(A)(8) and 3578.3(4))