SENATE BILL REPORT
SB 5199

As Passed Senate, March 7, 2007

Title: An act relating to adding enforcement provisions regarding fraud, deception, and unlicensed internet lending to the chapter governing check cashers and sellers.

Brief Description: Restricting small loan practices.

Sponsors: Senators Berkey, Prentice, Benton, Hobbs, Hatfield, Schoesler, Parlette, Franklin and Keiser; by request of Department of Financial Institutions.

Brief History:
Committee Activity: Financial Institutions & Insurance: 1/17/07 [DP].
Passed Senate: 3/07/07, 48-0.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass.
Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton, Ranking Minority Member; Franklin, Hatfield, Parlette, Prentice and Schoesler.

Staff: Diane Smith (786-7410)

Background: The business of check cashing and selling is regulated by the Department of Financial Institutions (DFI) under the Check Cashers and Sellers Act. Check cashing and selling businesses issue payday loans, among other services.

These loans are called payday loans because consumers tend to obtain them as a form of cash advance on a forthcoming paycheck. They are small, short-term, cash loans. The loan is secured by the borrower's post-dated check and includes the original loan principal plus a fee. The maturity date usually coincides with the borrower's next payday. On the maturity date the lender may process the check. The borrower may also repay the loan in person with cash.

The maximum term of the loan is 45 days. The licensee may charge up to 15 percent for the first $500 and up to 10 percent on the amount over $500, up to the $700 limit. This $700 limit applies to a single borrower at any one time. If the full $700 were borrowed and the maximum amounts were charged, the interest or fees would total $95.

The Director of DFI must exercise his or her enforcement authority under the Administrative Procedure Act by issuing statements of charges and imposing sanctions. The charges to which an applicant or licensee may be subject are certain enumerated acts. Some of these acts

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include damage caused to a person who relies on the applicant's or licensee's knowing, material, fraudulent misrepresentation; engagement in conduct demonstrating the applicant's or licensee's incompetence or untrustworthiness; conversion; and engagement in unsafe or unsound financial practice.

Sanctions to which an applicant or licensee may be subject are also specifically enumerated. Some of these sanctions include license revocation, denial, or suspension; issuance of a cease and desist order; imposition of a fine of not more than $100 per day; and restitution.

Summary of Bill: Four activities of check cashers and sellers render the transactions during which they are conducted uncollectible and unenforceable. These activities are fraud, deception, misrepresentation, and unlicensed small-loan lending using electronic or telephonic means.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill makes the enforcement tools for the check cashers and sellers law identical to those for all other non-depository laws that DFI enforces. There is no opposition to the bill. The enforcement tool of making the loan uncollectible is a great benefit to the public.

Persons Testifying: Catherine Mele-Hetter, Legislative liaison for DFI; Jerry Farley for the payday lending industry.