

STAFF MEASURE SUMMARY

House Committee On Consumer Protection and Government Effectiveness

Fiscal: No Fiscal Impact

Revenue: No Revenue Impact

Action Date: 05/19/15

Action: Do Pass As Amended And Be Printed Engrossed.

Meeting Dates: 05/05, 05/12, 05/19

Vote:

Yeas: 5 - Fagan, Holvey, McLain, Nearman, Rayfield

Nays: 1 - Stark

Exc: 1 - Buehler

Prepared By: Patrick Brennan, Committee Administrator

WHAT THE MEASURE DOES:

Voids payday loans, title loans and consumer finance loans of \$50,000 or less if, at the time the loan in question is made, the person making the loan was not licensed to issue the loan. Prohibits unlicensed persons, or their successors, assignees or affiliates, from collecting, receiving or retaining principal, interest, fees, or charges related to, or in connection with, payday loans, title loans or consumer finance loans of \$50,000 or less. Applies to loans originated on or after measure's effective date. Becomes operative 91 days after measure's effective date. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Changes in the payday loan industry
- Difficulty for consumers in preventing collection methods of unlicensed lenders
- Most unlicensed/illegal lending activity occurs online via offshore lenders
- Whether measure would affect existing licensure requirements
- Equity remedies
- Typically involves loans of \$500 or less
- Whether measure should be retroactive

EFFECT OF COMMITTEE AMENDMENT:

Deletes provision making measure retroactive to loans originated before effective date of measure.

BACKGROUND:

Since January 2010, there have been more than 250 complaints against unlicensed, online payday lenders and consumer finance lenders, resulting in 24 enforcement orders. Most of these complaints and orders are in relation to foreign or tribal-based entities that have issued loans with annual percentage rates (APRs) that exceed Oregon's 36-percent APR cap, as well as violating other short-term lending protection statutes. The Department of Consumer and Business Services (DCBS) and the Oregon Department of Justice have pursued actions in some such cases.

Online consumer lenders generally utilize automated clearinghouse authorizations to receive direct loan payments and fees from consumers. Currently, violations by unlicensed consumer lenders do not automatically render the transaction null and void; rather, the lender may demonstrate that they are unaware of the licensure requirement and may collect on the loan if they obtain a license within 90 days of receiving a violation notice. The nine-percent default judgment rate of interest found in statute may also apply while the lender obtains a license during that period. DCBS currently lacks authority to void and to join into cooperative enforcements with other federal and state agencies.