HLS 22RS-1028 ORIGINAL

2022 Regular Session

HOUSE BILL NO. 675

BY REPRESENTATIVE JORDAN

COMMERCE: Provides relative to consumer credit loans and transactions

1	AN ACT
2	To amend and reenact R.S. 9:3578.3(3) through (6), 3578.4(A)(1), 3578.5, and 3578.6(A)(7)
3	and to enact R.S. 9:3537, 3578.3(7), and 3578.6(A)(9) and (C), relative to consumer
4	credit transactions; to prohibit preliminary check holding; to provide for definitions;
5	to modify relative to refunds and deferred presentment transactions or small loans;
6	to provide modifications relative to creditor provisions and chargeable interest; to
7	provide for creditor and transactional prohibitions; and to provide for related matters.
8	Be it enacted by the Legislature of Louisiana:
9	Section 1. R.S. 9:3578.3(3) through (6), 3578.4(A)(1), 3578.5, and 3578.6(A)(7) are
0	hereby amended and reenacted and R.S. 9:3537, 3578.3(7), and 3578.6(A)(9) and (C) are
1	hereby enacted to read as follows:
12	§3537. Prohibition; check holding
13	With respect to a consumer credit transaction, an extender of credit shall not
14	accept a check, as defined in R.S. 9:3516, from the issuer and agree to hold the check
15	for a period of time in exchange for payment to the issuer.
16	* * *
17	§3578.3. Definitions
18	As used in this Chapter, the following terms have the following meanings
9	ascribed to them:
20	* * *

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(3) "Interest" means all charges and fees assessed, payable directly or
2	indirectly, including fees pursuant to R.S. 9:3530(C) in connection with or as a
3	condition of a deferred presentment transaction or small loan.
4	(3)(4) "Licensee" means a person licensed pursuant to this Chapter that
5	offers deferred presentment transactions or small loans, or both.
6	(4)(5) "Partial payment" means a payment of fifty dollars or more on a
7	deferred presentment transaction or small loan.
8	(5)(6) "Prepayment" means payment in full of the deferred presentment
9	transaction or small loan amount prior to the end of the term of that transaction or
10	loan.
11	(6)(7) "Small loan" means a consumer loan, as defined in R.S. 9:3516, of
12	three hundred fifty dollars or less, made for a term of sixty days or less.
13	§3578.4. Finance charge and fees
14	A.(1) In conjunction with a deferred presentment transaction or small loan
15	Notwithstanding any other provision of law, a licensee may charge a fee not to
16	exceed sixteen and seventy-five one hundredths percent of the face amount of the
17	check issued or in the case of a small loan, the equivalent rate of interest, provided
18	however that such fee or interest does not exceed forty-five dollars, regardless of the
19	name or type of charge thirty-six percent interest annually. Any transaction or loan
20	made or collected in violation of this Paragraph is void and the licensee shall not
21	have the right to collect, receive, or retain any principal, interest, fees, or other
22	charges.
23	* * *
24	§3578.5. Rebate upon prepayment
25	Upon the prepayment in full of a deferred presentment transaction or small
26	loan, during the first five days of the term of such transaction or loan only, the
27	licensee shall refund any and all unearned charges by a method no less favorable to
28	the consumer than the actuarial method, less twenty dollars of the original fee, which
29	shall be considered earned and shall not be subject to refund. Should the consumer

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3 §3578.6. Prohibited acts 4 A. A licensee sh 5 6 (7) Renew or ro 7 However, a licensee ma 8 amount advanced plus 9 transaction or renew the s 10 presentment transaction or 11 into a new transaction or 12 or small loan shall be co 13 paid in full by the consum 14 15 (9) Engage in an 16 of this Chapter through s 17 internet, or any electroni 18 (a) Offering, mal 19 presentment transaction 20 law, or acting as an agen 21 (b) Making defe 22 personal property sales, or 23 (c) Disguising d 24 cash rebates for the prete 25 (d) Disguising	
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24 <u>cash rebates for the prete</u> 25 <u>(d) Disguising</u> 26 <u>revolving line of credit, of credit for the purpose</u>	consumer credit sales, and leaseback transactions.
25 (d) Disguising 26 revolving line of credit, of credit for the purpose	leferred presentment transaction or small loan proceeds as
26 revolving line of credit, of of credit for the purpose	extual installment sale of goods or services.
27 of credit for the purpose	a deferred presentment transaction or small loan as a
	or making or assisting a borrower to obtain a revolving line
28	of avoiding the provisions of Subsection A of this Section.
20	* * *

make prepayment after the first five days of the term of the transaction or loan, the

1 C. A violation of this Section is a violation of the Unfair Trade Practices and

Consumer Protection Law, Chapter 13 of Title 51 of the Louisiana Revised Statutes

3 <u>of 1950.</u>

2

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 675 Original

2022 Regular Session

Jordan

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

<u>Present law</u> (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.

<u>Proposed law</u> provides that an extender of credit shall not accept an issuer's check as defined in <u>present law</u> (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.

<u>Proposed law</u> defines "interest" as all charges and fees assessed, payable directly or indirectly, including a documentation fee not to exceed \$10 under <u>present law</u> (R.S. 9:3530(C)) in connection with or as a condition of a deferred presentment transaction or small loan.

<u>Present law</u> 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 the fee or interest does not exceed \$45, regardless of the name or type of charge. <u>Proposed law</u> deletes <u>present law</u> and provides that a licensee may charge a fee not to exceed 36% interest annually.

<u>Proposed law</u> voids any transaction or loan made or collected in violation of <u>proposed law</u> and further provides that a licensee in violation has no right to collect, receive, or retain any principal, interest, fees, or other charges.

<u>Present law</u> 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. <u>Proposed law</u> extends <u>present law</u> by removing the five day limit to require a refund at any point in time of the loan period.

<u>Proposed law</u> 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.

<u>Present law</u> prohibits a licensee from renewing or rolling over a deferred presentment transaction or small loan; however, <u>present law</u> 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. <u>Proposed</u> law deletes present law.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

<u>Proposed law</u> 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 proposed law (R.S. 9:3578.6(A)(1)).

<u>Proposed law</u> provides that a violation of a provision of <u>proposed law</u> (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))