

April 10, 2003

**H 1005. AUTHORIZE AND REGULATE DEFERRED DEPOSIT LOANS. TO AUTHORIZE AND REGULATE DEFERRED DEPOSIT LOANS BY PROVIDING CONSUMER PROTECTIONS AND DISCLOSURES.**

Amends GS 53-275 to define such transactions as check-cashing or similar services in which lender pays cash to borrower and borrower provides post-dated check or lender agrees to hold check (or authorization to debit account electronically) for a specified period of time. Amends GS 53-276 to require license to engage in these transactions. Amends GS 53-278 to impose a license application fee on lenders who intend to offer deferred deposit loans in the amount of \$500, an investigation fee of \$1,000, and a renewal fee of \$500 plus \$250 per branch location. Requires that Comm'r of Banks prepare brochure and conduct consumer education and research related to direct deposit transactions and authorizes the Comm'r to allocate up to one-half of licensing fees collected for this purpose. Adds new GS 53-281.1 and 53-281.2 to regulate transactions as follows: (1) Amount of loan may not exceed \$300 and must have minimum 90 day term; (2) Amount of fee may not exceed 15% of loan; (3) Transaction must be in writing and contain information and disclosures specified in bill; (4) Prohibits lender from allowing customer to repay loan from proceeds of another deferred deposit loan or from renewing or extending loan, and requires that lender allow customer to rescind loan before close of business on the day following the loan; (5) Upon establishment of database by Comm'r, lender may not make loan to customer who has had four such loans within the past 12 months or has an outstanding deferred deposit loan; (6) Provides that loan shall be payable in installments in accordance with specified procedures; (7) Establishes maximum fee for returned checks of \$15.00 or fee charged licensee by financial institution; (8) Provides that agreement provisions that require customer to waive constitutional rights or limit available remedies and forums is void; (9) Requires that licensee keep certain transaction records and submit annual reports to Comm'r by last day of February for preceding year and details content of required reports; and (10) Requires that lender transact business from a principal place of business in NC. Amends GS 53-283 to prohibit licensees from violating requirements set forth in GS 53-181.1 or to threaten customers with criminal or civil process. Adds new GS 53-284(a)(6) and (7) to authorize Comm'r to suspend or revoke lender's license for failure to cooperate in complaint investigations. Amends GS 53-286 to raise penalty limit under that section to \$10,000 (was, \$1,000) per violation, and adds new subsection voiding any agreements that violate art. and providing that customers who bring civil actions enforcing art. may recover attorney's fees and \$1,000 per violation. Amends GS 53-287 to authorize the Attorney General to investigate violations and to impose criminal penalties for attempts to evade requirements of art. Adds new GS 53-291 requiring that Comm'r establish a database for tracking deferred deposit transactions and compile an annual report by April of each year, beginning with April 1, 2005, that includes information listed. Makes conforming changes. Effective Oct. 1, 2003, and applies to transactions on or after that date.

**Intro. by Barnhart, Howard, Miller, Glazier.**

Ref. to Rules

GS 53