

SB

272

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSSB 272 (FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title: Deferred Deposit Advances BRU: Banking, Securities & Corp.
Component: Banking, Securities & Corp.
Sponsor: Sen. Rules
Requester: House Finance Committee Component No.: 1233

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	78.0	78.0	78.0	78.0	78.0	78.0
Travel	12.0	12.0	12.0	12.0	12.0	12.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	1.5	1.5	1.5	1.5	1.5	1.5
Equipment	4.0	4.0	4.0	4.0	4.0	4.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	95.5	95.5	95.5	95.5	95.5	95.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	94.5	52.5	119.3	84.0	150.8	115.5
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)	95.5	95.5	95.5	95.5	95.5	95.5
TOTAL	95.5	95.5	95.5	95.5	95.5	95.5

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation requires the Division of Banking, Securities and Corporations to license and supervise Alaska's payday lending establishments. The division anticipates two additional staff will be needed to implement these provisions.

Personal Services: One Financial Institution Examiner I working 3/4 time (\$46.3) and one Administrative Clerk III working 3/4 time (\$31.7) will conduct examinations of the new licensees. Regulation of these new licensees is expected to generate a significant number of consumer complaints and inquiries which will necessitate the need for a new clerk.

Prepared by:

Rep. Williams, Co-Chair

Rep. Harris, Co-Chair

Phone 465-3424

Date/Time 5/6/04 4:50 PM

Date 5/6/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. _____

ANALYSIS CONTINUATION

STATE OF ALASKA BILL NO. HCS CSSB 272(FIN)
2004 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

Travel: In-state and out-of-state travel to verify establishments have licenses and to examine licensed establishments

Contractual: There is no funding for contractual costs.

Supplies: Miscellaneous contractual expenses for two new employees (\$2.5)

Equipment: Computer equipment for new staff (\$4.0)

Change in Revenues: The total revenue for the first year would be an estimated \$94.5.

The division anticipates an increase in revenues (Receipt Supported Services/RSS) as a result of collecting new licensing fees required by this legislation. This estimate is based on the assumption that there are 20 establishments who will each pay \$3.0 for a biennial license which equates to \$60.0 in revenues on an annual basis in FY05. We estimate that the number of establishments would increase by 6 establishments in each of the next five years and then level off at 50 establishments.

The division also estimates there will be additional revenues collected to recover the cost of examining establishments for compliance with the provisions of this legislation. We estimate that we would recoup approximately \$1.125 per examination. This is based on the assumption that each examination would require an average of 15 examination hours at a cost of \$75 per hour. The division estimates that the cost of travel to be reimbursed will be \$12.0.

2004 HOUSE FINANCE
COMMITTEE VOTE SHEET

Motion to move bill
SB 272

DATE: 5.6.04

Amendment: _____

MEMBER	Favor	Oppose
FATE	✓	
FOSTER	✓	
HAWKER	✓	
JOULE		
MEYER	✓	
MOSES	✓	
STOLTZE	✓	
CHENAULT	✓	
CROFT		✓
HARRIS	✓	
WILLIAMS		

Yea 8

Nay 1

CS SB 272 (FIN)

5.6.04

Amendment 1

by Croft

Page 7, line 24

moved by Fate

Insert the following and renumber accordingly:

Failed 4-5

- (11) the total amount of fees received per AS 06.50.460;
- (12) the total amount of fees, costs, and other income received per AS 06.50.550;
- (13) the total number of recipients offered a payment plan;
- (14) the average length of the payment plans;
- (15) the total number of recipients whose payment obligation was assigned to a third party for collection;
- (16) the total number of recipients that had a court action initiated against them;

Fate
moved

amend Am # 1 include (13)-(16)
delete (11) + (12)

2004 HOUSE FINANCE COMMITTEE VOTE SHEET

DATE: 5.6.04

Amendment to Amendment: #1 Croft
moved by Fate

MEMBER

Favor

Oppose

MEMBER	Favor	Oppose
CHENAULT		✓
CROFT	✓	
FATE	✓	
FOSTER		✓
HAWKER		✓
JOULE	✓	
MEYER		✓
MOSES	✓	
STOLTZE		✓
HARRIS		
WILLIAMS		

Yea 4

Nay 5

CS SB 272(FIN)

5.6.04

by Croft

Amendment 2

Page 10, line 28

Delete [TWO CONSECUTIVE TIMES]

Insert once

Failed 3-6

2004 HOUSE FINANCE COMMITTEE VOTE SHEET

Failed

DATE: 5.6.04

Amendment: # 2 Croft

MEMBER	Favor	Oppose
CROFT	✓	
FATE		✓
FOSTER		✓
HAWKER		✓
JOULE	✓	
MEYER		✓
MOSES	✓	
STOLTZE		✓
CHENAULT		✓
WILLIAMS		
HARRIS		

Yea 3

Nay 6

CS SB 272(FIN)

5.6.04

Amendment 3

by Croft

Page 4, line 4

Moved and
Withdrawn by

Delete [\$3,000]

Insert \$5,000

Rep. Hawker

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSSB 272(FIN)
 (S) Publish Date: 4/29/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Deferred Deposit Advances RDU Banking, Securities & Corporations (115)
 (Payday Loans) Component Banking, Securities & Corporations
 Sponsor Senate Rules
 Requester Senate Finance Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	78.0	78.0	78.0	78.0	78.0	78.0
Travel	12.0	12.0	12.0	12.0	12.0	12.0
Contractual	35.0	45.0	50.0	55.0	65.0	70.0
Supplies	1.5	1.5	1.5	1.5	1.5	1.5
Equipment	4.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	130.5	136.5	141.5	146.5	156.5	161.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (1156)	94.5	52.5	119.3	84.0	150.8	115.5
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Increase in Revenues (RSS)	130.5	136.5	141.5	146.5	156.5	161.5
TOTAL	130.5	136.5	141.5	146.5	156.5	161.5

Estimate of any current year (FY2004) cost: 0 0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	2					
Part-time	0					
Temporary	0					

ANALYSIS: (Attach a separate page if necessary)

This legislation requires the Division of Banking, Securities and Corporations to license and supervise Alaska's payday lending establishments. The division anticipates two additional staff will be needed to implement these provisions.

Personal Services: One Financial Institution Examiner I working 3/4 time (\$46.3) and one Administrative Clerk III working 3/4 time (\$31.7) will conduct examinations of the new licensees. Regulation of these new licensees is expected to generate a significant number of consumer complaints and inquiries which will necessitate the need for a new clerk.

Prepared by: Mark Davis, Director Phone (907) 465-2521
 Division: Banking, Securities & Corporations Date/Time 4/28/04 6:29 PM
 Approved by: Edgar Blatchford, Commissioner Date 4/28/2004
 Agency: Department of Community & Economic Development

Amended Fiscal
note zeroing out
contractual in
FY 2005 — FY 2010

FISCAL NOTE #2

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSSB 272(FIN)

ANALYSIS CONTINUATION

Travel: In-state and out-of-state travel to verify establishments have licenses and to examine licensed establishments

Contractual: Hearings for applicants who file formal complaints regarding the denial of applications or revocation of a license (\$35.0), rent (\$1.2), and miscellaneous contractual expenses for two new employees (\$2.5)

Supplies: Miscellaneous contractual expenses for two new employees (\$2.5)

Equipment: Computer equipment for new staff (\$4.0)

Change in Revenues: The total revenue for the first year would be an estimated \$94.5.

The division anticipates an increase in revenues (Receipt Supported Services/RSS) as a result of collecting new licensing fees required by this legislation. This estimate is based on the assumption that there are 20 establishments who will each pay \$3.0 for a biennial license which equates to \$60.0 in revenues on an annual basis in FY05. We estimate that the number of establishments would increase by 6 establishments in each of the next five years and then level off at 50 establishments.

The division also estimates there will be additional revenues collected to recover the cost of examining establishments for compliance with the provisions of this legislation. We estimate that we would recoup approximately \$1.125 per examination. This is based on the assumption that each examination would require an average of 15 examination hours at a cost of \$75 per hour. The division estimates that the cost of travel to be reimbursed will be \$12.0.

SENATOR
JOHN J. COWDERY

Anchorage

Committees

Chair: Rules
Chair: Transportation
Chair: World Trade &
State/Federal Relations
Legislative Council
State Affairs



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Senator_John_Cowdery@legis.state.ak.us

SPONSOR STATEMENT FOR SB 272

"An Act relating to certain monetary advances in which the deposit or other negotiation of certain instruments to pay the advances is delayed until a later date ..."

The deferred deposit advance industry, recognizing consumer demand for small, short-term credit, has rapidly expanded across the United States. Thirty-nine states and the District of Columbia specifically regulate this service; Alaska is currently unregulated.

The purpose of SB 272 is to regulate deferred deposit/payroll advance businesses in two ways. One is consumer protection – requiring reasonable fees and preventing predatory lending tactics. The second is to protect deferred deposit/payroll advance businesses from unreasonable regulatory burdens.

SB 272 proposes licensing and record-keeping requirements, limits on terms and the number of allowable renewals, fees, and reasonable limits on the amount of the advances. It would provide the consumer detailed information about the type of service and require full disclosure for all fees and costs incurred during the advance process.

Additionally, provisions of the bill create a next day "change of mind" provision allowing the consumer time to reconsider their decision for any reason. Also included is a requirement that the borrower be offered a repayment installment plan.

Additionally, SB 272 clearly states that businesses may not threaten customers with criminal action as a result of a payment deficit.

I urge your support for this legislation.

ALASKA STATE LEGISLATURE
SENATE DISTRICT 0

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John J. Cowdery
Senate Rules, Chair
Senate Transportation Committee, Chair
World Trade State & Federal Relations, Chair
State Affairs, Legislative Council

**Differences between the original bill (SB 272) and CS
(version LS1516\Q)**

1. \$500 cap (vs. \$1,000 cap in original bill)
2. Only 2 rollovers allowed (4 in original bill)
3. Lender must post a bond to get a license (no bond in original bill)
4. Lender will be subject to closer scrutiny by Division of Banking
5. Lender must offer consumer a payment plan option before initiating legal action to collect against a consumer in default, including sending a certified letter offering to assist consumer.
6. There is a \$700 cap on total damages lender can recover (in addition to face value of check) for collection efforts (\$1,000 in original bill).
7. Lender can only charge \$15 per \$100 loaned and NO OTHER FEES, CHARGES OR INTEREST OF ANY KIND (original bill allowed for additional interest).
8. There are specific disclosure requirements concerning fees, charges, penalties that were not in the original bill.
9. Language referring to \$25 NSF fee was changed to reflect possible changes in that amount, for example to \$30. So, new language refers to: "NSF fee allowed (by law)"

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 19, 2004

SUBJECT: Sectional summary of CSSB 272() relating to certain monetary advances (Work Order No. 23-LS1516\Q)

TO: Senator John Cowdery
Attn: Richard

FROM:  Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Adds licensees under the new chapter to the list of persons who are not covered by the authority of the Department of Community and Economic Development to authorize state financial institutions to exercise the powers of, or be subject to the limitations of, a federally chartered financial institution.

Section 2. Adds deferred deposit licensees to the definition of "financial institution" for the administration chapter of title on banks and financial institutions.

Section 3. Establishes a new chapter relating to deferred deposit advances.

Sec. 06.50.010. Requires a license for engaging in the business of making or offering deferred deposit advances.

Sec. 06.50.020. Lists the qualifications for a license.

Sec. 06.50.030. Requires an application for a license to be written, under oath, and on the Department's form, and identifies what it must include. Requires submission of an application fee and the bond required by sec. 06.50.040.

Sec. 06.50.040. Requires a bond. Sets the amount. Indicates what it must state regarding the obligation of the obligor. Requires the bond to remain in effect for three years after denial of a renewal of a license, or after the expiration of a license. Allows the department to require additional bonding if the filed bond is unsatisfactory.

Sec. 06.50.050. Directs the department to investigate the applicant and to issue the license if it finds the applicant satisfies the qualifications.

Sec. 06.50.060. Makes the requirements of certain statutes conditions precedent to the license.

Sec. 06.50.070. States that a license is valid for two calendar years.

Sec. 06.50.080. Indicates when and how a license is renewed.

Sec. 06.50.090. Requires the department to notify an applicant who is not qualified for a license or a license renewal. Allows for review of the denial under the Administrative Procedure Act. Requires a licensee to return a license to the department after the licensee receives notice that the denial of a renewal was upheld. When a license renewal is denied, or a license is surrendered, suspended, or revoked, subjects a licensee's accounts to this chapter until paid in full.

Sec. 06.50.200. Generally prohibits the transfer of a license, except to a new location.

Sec. 06.50.210. Requires the prior written approval of the department for a change in control of the licensee.

Sec. 06.50.220. Requires a licensee to notify the department before a proposed change in the business location or name.

Sec. 06.50.230. Allows a licensee to conduct other business at the licensed location except to evade or violate the chapter.

Sec. 06.50.300. Allows the department to suspend or revoke a license under certain conditions.

Sec. 06.50.310. Requires a licensee to file an annual report with the department. Lists what the report must include. Requires a licensee to file a report when certain events occur. Indicates that the department may consider one of the events to constitute grounds for suspension or revocation of a license.

Sec. 06.50.320. Requires a licensee to maintain its records at the location for which the licensee has the license. Establishes certain criteria for the records. Allows the department access to the records. Requires the licensee to retain advance records for two years after the last entry on the advance. Requires a licensee to retain advance records for at least two years after judgment in or settlement of a court action on the advance.

Sec. 06.50.330. Directs the department to examine the records of a licensee. Allows the department to examine a licensee's advances, business transactions, and records. Requires the licensee to provide the department with access to the licensee's offices,

places of business, and records. Requires a licensee to pay for an hourly examination rate. Gives the department certain other investigative powers. Allows the department to apply to the superior court to compel compliance with a subpoena or to compel testimony.

Sec. 06.50.400. Establishes certain requirements for advances, including a written signed agreement, a form approved by the department, certain disclosures, and prohibition of a particular waiver.

Sec. 06.50.410. Sets a maximum amount that a licensee may advance to one recipient at one time.

Sec. 06.50.420. Prohibits a licensee from inducing or permitting a recipient to divide advance amounts or to become indebted for more than one advance at one time in order to obtain more origination fees.

Sec. 06.50.430. Prohibits a licensee from accepting collateral or services as security or payment for an advance.

Sec. 06.50.440. Sets the minimum length of an advance.

Sec. 06.50.450. Prohibits a licensee from making an advance to someone acting on another's behalf.

Sec. 06.50.460. Establishes the fees that a licensee may charge. States that these fees are considered earned at the time of the advance and may not be prorated. Prohibits a fee to access the advance money.

Sec. 06.50.470. Sets the minimum term of an advance renewal. Prohibits renewing an advance more than two consecutive times. Prohibits a renewal fee from being greater than the fee under (a) of the section.

Sec. 06.50.480. Permits a recipient to rescind an advance without cause. Sets the conditions for the rescission.

Sec. 06.50.490. Prohibits requiring a recipient to agree to mandatory arbitration.

Sec. 06.50.500. Requires a licensee to post a notice in each business location that discloses the licensee's fees. Establishes some criteria for the notice.

Sec. 06.50.510. Requires a licensee to provide a disclosure statement before disbursing funds. States what the disclosure must contain.

Sec. 06.50.520. Indicates how a licensee may pay the advance amount to the recipient.

Sec. 06.50.530. Indicates how a recipient may repay an advance. States when the advance is paid in full. Prohibits a licensee from accepting payment from the proceeds of another advance by the same licensee.

Sec. 06.50.540. Sets the conditions for a licensee collecting certain fees when a recipient's payment is returned unpaid.

Sec. 06.50.550. When a recipient defaults, requires a licensee to take certain steps before assigning the payment obligation for collection and before initiating a court action. Allows a licensee to initiate a court action to recover damages and costs allowed under AS 09.68.115 if the licensee satisfies with certain conditions. Sets a maximum on the damages and costs that may be recovered.

Sec. 06.50.560. Prohibits a licensee from threatening a recipient with criminal action as a result of the recipient's default.

Sec. 06.50.600. Authorizes the department to adopt regulations for the chapter.

Sec. 06.50.610. Limits the application of the chapter if it is preempted by or conflicts with federal law. States that this chapter governs if it conflicts with another state law.

Sec. 06.50.900. Defines terms for the chapter.

Section 4. Adds the department's licensing and regulation of persons making advances to the administrative adjudication portion of the Administrative Procedure Act.

Section 5. Establishes some transitional provisions for the new chapter to cover current persons who are in the business of making advances.

Section 6. Establishes some transitional provisions for the department to start adopting regulations for the new chapter.

Section 7. Gives sec. 6 an immediate effective date.

Section 8. Gives secs. 1 - 5 an effective date.

If you may be of further assistance, please advise.

TLB:med
04-424.med

Facts and Fiction

Some consumer groups have fought the growth of the Deferred Deposit industry across the country calling us predatory lenders who prey on the poor and uneducated, charge ridiculous rates, and cause people to sink into a cycle of debt. The following is a response to that concern.

Fiction: Deferred Deposit/Payday Advance companies prey on poor, uneducated or older consumers.

Fact: Deferred Deposit customers represent the heart of the working middle class.

- Majority has income between \$25K and \$50K
- 72% are under 45 years old; only 2% are over 65, compared to 20% of the population
- 85% have a high school diploma or better, with 55% having some college or a degree
- 34% own their own homes
- 100% have a steady income and an active checking account (required for advances)

Facts and Fiction

Fiction: They charge outrageous rates.

Fact: Deferred Deposit Advance fees typically cost less than other alternatives.

- Bank/merchant fees on a bounced check can cost 2 times that of a \$100 advance
- APR's are often lower than customer's alternatives (on same 2 week term)
 - ▶ \$100 payday advance with \$15 fee = 365% APR
 - ▶ \$100 bounced check with \$47 NSF/merchant fees = 564% APR
 - ▶ \$100 utility bill with \$50 late/reconnect fees = 564% APR
 - ▶ \$100 credit card balance with \$29 late fee = 348% APR

Fiction: They force customers into a cycle of debt.

Fact: Most customers use Deferred Deposit Advances responsibly and moderately.

- It's a closed-end, short-term transaction with a one-time flat fee. No revolving debt and no additional fees or accruing interest if not paid when due
- 66% use Advances to cover unexpected expenses/temporary reduction in income
- 34% use it for planned expenses or other discretionary uses
- 60% either don't renew over a 12 month period or renew only 1-4 times
- Research and regulators confirm more than 70% use the service about once a month or less.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Facts and Fiction

Fiction: They take advantage of unsuspecting customers.

Fact: Deferred Deposit Advance customers make informed decisions and receive consumer protections under law.

- Millions choose Deferred Deposit Advances as a dignified, discreet solution for temporary cash flow problems without asking family for money
- 70% choose them for reasons of convenience (quick, easy, & fast approval)
- 96% are aware of the charges and 78% recalled it being disclosed as an APR
- 92% believe it is a useful service, only 12% were dissatisfied w/their last advance
- 35 States and the D.C. provide balanced, responsible regulation of Deferred Deposit Advances, most of them also providing the following:
 - ▶ Educational brochure that encourages consumer responsibility and warns against long-term use
 - ▶ Full disclosure on in-store signage and in Agreement (with TILA disclosure)
 - ▶ Privacy notice
 - ▶ Limit on rollovers
 - ▶ Cost-free right of rescission
 - ▶ Professional, fair and lawful collection practices and no threat or use of criminal prosecution

REFERENCES

All the information was taken from the following.

1. Financial Services of America (FiSCA), A National Trade Association
www.fiscal.org. Various reports available on website.
2. Community Financial Services Association of America (CFSA)
www.cfsa.net. Various reports available on website.
3. PAYDAY ADVANCE CREDIT IN AMERICA: An analysis of customer demand. Monogram #35, April 2001. Credit Research Center, McDonough School of Business, Georgetown University, Wash DC. Authors: Gregory Eliehausen, PhD, and Edward C. Lawrence, PhD.
4. UPDATE ON the PAYDAY LOAN INDUSTRY: OBSERVATIONS on RECENT INDUSTRY DEVELOPMENTS, September 2003. Stephen, Inc. Investment Bankers. Authors: Jerry L. Robinson, and John D. Wheeler.
5. PAYDAY ADVANCE CUSTOMER RESEARCH CUMULATIVE STATE RESEARCH REPORT, September 2002, Io Data Corporation, Salt Lake City, Utah.

The Growth of Internet Deferred Deposit Advances

- A 2000 survey commissioned by FiSCA found over 50 separate websites offering payroll/Deferred Deposit advances. Today a Google search for “Payday Loans Online” will bring up 775,000 websites.
- Internet fee rates range from 15% to as high as 35%; median rate is 25% per \$100
- Most sites offered loans of up to \$500; a few sites offering up to \$1000
- Many online lenders are based in California, Delaware or offshore locations such as Costa Rica
- Limited customer service; over 30% of the sites fail to provide a phone number for customer service support.

How a Deferred Deposit Works

A Deferred Deposit Advance provides a small, unsecured, short-term cash advance until payday. Customers chose Deferred Deposit Advances to cover small expenses and avoid costly bounced-check or late payment penalties and other less desirable short-term credit option.

- A customer with an active checking account and regular income simply supplies a State ID, a current pay stub, and reads and signs an agreement that discloses transaction terms.
- The customer writes a personal check drawn on their local bank for the loan amount plus a fee of \$15 per \$100 borrowed.
- The lender immediately cashes the check and gives the money, less the fee, to the customer.
- The check is held for an agreed-upon time, up to 15 days, at the end of which time the check is deposited or the customer returns with cash to reclaim the check.
- If a customer chooses to defer this deposit for an additional 15 days, s/he may choose to “rollover” the deposit.

Deferred Deposit Fees

Businesses offering Deferred Deposit service take a risk that traditional financial institutions are unwilling to assume. Thus fees charged by the industry are higher than the interest rates charged by banks and credit card companies.

- The industry believes fees should be reasonable, cover the cost of the service and provide a reasonable profit to the business. The standard fee nation-wide is \$15 to \$20 per \$100 advance. Some Internet online providers can charge up to \$60 per advance.
- Competition is the key and, within the confines of state regulation, the market itself assures customers of a competitive service fee.
- Critics of Deferred Deposit Advances have raised concerns about the fees being charged by the industry. The Deferred Deposit Advance industry reports the Annual Percentage Rates (APR) of the advance as required by the federal Truth in Lending Act. However, using the APR to evaluate the costs of Deferred Deposits is not accurate because of the short-term nature of the cash advance. The industry considers the charge for the service a fee rather than interest.

STATE LAW GOVERNING DEFERRED DEPOSIT SERVICES/PAYDAY ADVANCE

STATES	Deferred Deposit Available under Law	Permitted Fees	Permitted Period	Max. Amount of Check
Alabama	Yes	17.5% of the amount advanced	min. of 10 days and max. of 31 days	\$500
Arizona	Yes	15% of the check	min. of 5 days	\$500
Arkansas	Yes	10% of the check + \$10 charge + \$5 fee on 1st transaction	min. of 6 days and max. of 31 days	\$400
California	Yes	15% of the check	max of 30 days	\$300
Colorado	Yes	20% of the 1st \$300 - 7.5% on amt greater than \$300	max. of 40 days	\$500
Delaware	Yes	rate determined by parties	max. of 60 days	\$500
DC	Yes	scale of fees	max. of 31 days	\$1,000
Florida	Yes	10% of advance + \$5 verification fee	min. of 7 days and max. of 31 days	\$500
Hawaii	Yes	15% of the check	max. of 32 days	\$600
Idaho	Yes	rate determined by parties	term determined by parties	\$1,000
Illinois	Yes	N/A	max of 30 days	\$400
Indiana	Yes	15% of the check on the 1st \$100; 10% over \$100; fee cannot exceed \$35	min. of 14 days	\$400
Iowa	Yes	15% of the check on 1st \$100; 10% on subsequent \$100 increments	max. of 31 days	\$500
Kansas	Yes	scale of fees	max. of 30 days	\$860
Kentucky	Yes	\$15 per \$100 on face amt of check	min. of 14 days and max. of 60 days	\$500
Louisiana	Yes	16.75% of the check	max. of 30 days	\$350
Michigan	Yes *	n/a	n/a	n/a
Minnesota	Yes	scale of fees	max. of 30 days	\$350
Mississippi	Yes	18% of the check	max. of 30 days	\$400
Missouri	Yes	no limit, but total fees, inc rollovers, can't exceed 75% of loan	min. of 14 days and max. of 31 days	\$500
Montana	Yes	cannot exceed 25% of amount advanced	max. of 31 days	\$300
Nebraska	Yes	\$15 per \$100 on face amt of check	max. of 31 days	\$500

Nevada	Yes	rate determined by parties	term determined by parties	1/3 of borrower's
New Hampshire	Yes	rate determined by parties, however, after initial term of loan interest can't be > 6% per yr.	min. of 7 days and max. of 30 days	\$500
New Mexico	Yes *	rate determined by parties	term determined by parties	\$2,500
N. Dakota	Yes	20% of amount borrowed	max. of 45 days inc rollover period	\$500
Ohio	Yes	\$5 per \$50 + 5% per month	cannot exceed 6 months	\$500
Oklahoma	Yes	\$15% of the 1st \$300 + 10% on amount greater than \$300	min. of 13 days and max. of 45 days	\$500
Oregon	Yes	rate of loan determined by parties	max. of 60 days	\$50,000
Rhode Island	Yes	10% of the check or \$5, whichever is greater	fixed term of 14 days	\$300
S. Carolina	Yes	15% of the check	max. of 31 days	\$300
S. Dakota	Yes *	rate determined by parties	term determined by parties	N/A
Tennessee	Yes	15% of check or \$30, whichever is lesser	max of 31 days	\$500
Texas	Yes	scale of fees	no less than 7 days	N/A
Utah	Yes	rate determined by parties	term determined by parties	N/A
Virginia	Yes	15% of advance amt	min. of 7 days	\$500
Washington	Yes	15% of the principal on first \$500 borrowed; 10% on amount of \$500	max. of 45 days	\$700
Wisconsin	Yes *	rate determined by parties	term determined by parties	\$25,000
Wyoming	Yes	\$30 or 20% per mo. on the principal balance of check	one calendar month	no statutory cap
Alaska Proposed Draft	Yes	15% of the amount advanced	min. of 15 days	\$1,000

Deferred deposit services are not permitted under state law in the following jurisdictions: Connecticut, Georgia, Maine, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, Vermont, and West Virginia.

* States regulated by Small Loan Acts or Dept of Commerce
Data current as of 10/03 per Financial Services of America (FiSCA)

Cash Alaska submission for Compass Piece, Anchorage Daily News, March 9, 2004.
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Payroll Advance Loans Can Prevent Bigger Problems

In my opinion, the Executive Director of AkPIRG, made an excellent case in his Compass article for passing the newly amended bill, CSHB389, regulating payday lending in Alaska. Although I am not personally aware of any payday lending nightmares such as he mentions in his article, I've read of similar situations that have occurred Outside prior to regulation. Currently 38 states are regulated by state statute. This new version, which has been worked on by the Attorney Generals office and the Alaska State Division of Banking and Securities, would go a long way toward eliminating potential abuses in Alaska.

Because the bill would limit rollovers to just two, fees would be held to a reasonable limit, and payday lending would be in line with it's stated intent of small, short-term cash advances against a person's next pay check. Generally people use these advances for an unexpected bill or to cover a temporary cash shortfall. In our experience at Cash Alaska, we find that most people don't rollover their advances but pay them off within the 15 day term. The majority of our customers utilize payday advances 5 or fewer times total over the course of 12 months, below the national average.

Most of us have bounced a check at one time or another and are aware that the average Alaskan NSF bank charge is \$18 with an additional merchant charge of \$25. Not only is the \$30 fee for a \$200 advance, as mentioned in the Compass article, a good financial alternative to paying the total of \$43 NSF charges occurring from just one bounced check but it can also prevent additional financial problems. In Alaska, paying rent late by 3 days can cost up to \$100; a credit card late fee can start at \$29; and late payment on a utility bill could result in a temporary loss of service, a late fee, and new hook-up charges. *For most people facing a temporary cash shortage, a payday advance is the best alternative available in the marketplace.*

AkPIRG suggests people could take ATM advances against their credit cards or take out a small loan from a bank or credit union. Although most payday advance customers have credit cards, they are often maxxed out. In Alaska and across the country, most banks and credit unions simply don't offer the small loans of \$500 and under because they aren't economically feasible for them, as they are far riskier and present more collection problems. In fact, the growth of the payday lending industry is a direct result of meeting a consumer demand in the financial services market that wasn't being met by more traditional lending institutions.

The article accurately reported that payday lending is unregulated in the State of Alaska. However, Cash Alaska operates under the \$500 exemption in the Small Loans Act which has been affirmed by both a court case and in writing by the Division of Banking and Securities. The industry could continue to operate legally regardless of whether a law passes this year or not. Isn't it better that Alaska, like other states, enact these consumer protections and regulate the industry rather than continue to allow unsupervised lending?

By passing the recently amended CSHB389 and regulating the payday lending industry, consumers will receive protections against abusive lenders and have the choice of a financial service that can help them out until their next payday while preventing the expensive consequences of late payments and the resulting bad credit rating. They won't find that the only alternative for short term cash might be an Internet site operating from Outside and charging up to \$60 for a \$200 loan. They will have the choice of an efficient financial service, employing Alaskans locally, under the supervision of the Alaska Division of Banking and Securities.