

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0393

HOUSE ENGROSSED NO. **HB 1049** - 01/21/2004

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to establish the definition of a payday loan and to establish
2 limitations on such transactions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-4-36 be amended to read as follows:

5 54-4-36. Terms used in §§ 54-4-36 to 54-4-63, inclusive, and sections 2 and 3 of this Act
6 mean:

7 (1) "Advertisement," a commercial message in any medium that aids, promotes, or
8 assists, directly or indirectly, the sale of products or services;

9 (1A) "Commission," the State Banking Commission;

10 (1B) "Director," the director of the Division of Banking of the Department of Commerce
11 and Regulation;

12 (1C) "Division," the Division of Banking;

13 (3) "Finance charge," the amount, however denominated, which is paid or payable for
14 the privilege of paying for goods or services in one or more installments at the
15 beginning of the transaction;



- 1 (4) "Financing institutions," any person engaged in the business of creating and holding
- 2 or purchasing or acquiring retail installment contracts;
- 3 (6) "Installment loan," a loan made to be repaid in specified amounts over a certain
- 4 number of months;
- 5 (7) "License," a license provided by §§ 54-4-36 to 54-4-63, inclusive;
- 6 (8) "Installment loan contract" or "contract," an agreement evidencing a installment loan
- 7 transaction;
- 8 (9) "Licensee," any person holding a license;
- 9 (10) "Loan," any installment loan, single pay loan, or open-end loan which may be
- 10 unsecured or secured by real or personal property; and
- 11 (11) "Payday loan," any small, short-maturity loan on the security of a check, any
- 12 assignment of an interest in the account of a person at a depository institution, any
- 13 authorization to debit the person's deposit account, or any assignment of salary or
- 14 wages payable to a person. A short-maturity loan made in anticipation of an income
- 15 tax refund is not a payday loan for purposes of this chapter.

16 Section 2. That § 54-4-65 be amended to read as follows:

17 54-4-65. No licensee may renew, rollover, or flip a ~~deferred presentment service transaction~~
18 payday loan more than four times. No renewal, rollover, or flip ~~may be allowed~~ is valid unless
19 the ~~maker of the check~~ debtor pays the outstanding fee at the time of the renewal.

20 Section 3. That § 54-4-66 be amended to read as follows:

21 54-4-66. A licensee may not disburse more than five hundred dollars to the maker of a check
22 ~~in a deferred presentment service transaction.~~ No payday loan disbursed by a licensee may
23 exceed five hundred dollars. A violation of this section is a Class 1 misdemeanor.