

## 1 SENATE BILL NO. 99

2 INTRODUCED BY J. MANGAN

3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE MONTANA DEFERRED DEPOSIT  
6 LOAN ACT; PROVIDING THAT THE DEPARTMENT OF ADMINISTRATION MAY NOT ISSUE OR RENEW  
7 THE LICENSE OF AN APPLICANT FOR LICENSURE IF THE CRIMINAL HISTORY OF THE EMPLOYEES OF  
8 THE APPLICANT DEMONSTRATES ANY CONVICTIONS INVOLVING FRAUD OR FINANCIAL DISHONESTY  
9 OR IF THE DEPARTMENT'S FINDINGS SHOW ADVERSE CIVIL JUDGMENTS INVOLVING FRAUDULENT  
10 OR DISHONEST FINANCIAL DEALINGS; REDUCING THE PERIOD FOR THE RETENTION OF CERTAIN  
11 RECORDS BY A LICENSEE FROM 4 YEARS TO 2 YEARS; AND AMENDING SECTIONS 31-1-705 AND  
12 31-1-714, MCA."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16 **Section 1.** Section 31-1-705, MCA, is amended to read:

17 **"31-1-705. License -- business locations -- rules.** (1) A person may not engage in or offer to engage  
18 in the business of making deferred deposit loans unless licensed by the department.

19 (2) An applicant for a license to engage in the business of making deferred deposit loans shall pay to  
20 the department a license application fee of \$375.

21 (3) (a) The department may not issue or renew a license unless findings are made that:

22 ~~(a)~~(i) the financial responsibility, experience, character, and general fitness of the applicant warrant the  
23 belief that the business will be operated lawfully and fairly and within the provisions of this part;

24 ~~(b)~~(ii) the applicant has unencumbered assets of at least \$25,000 for each location;

25 ~~(c)~~(iii) the applicant has provided a sworn statement that the applicant will not in the future, directly or  
26 indirectly, use a criminal process to collect the payment of deferred deposit loans or any civil process to collect  
27 the payment of deferred deposit loans not generally available to creditors to collect on loans in default; and

28 ~~(d)~~(iv) other information that the department considers necessary has been provided.

29 (b) The department may not issue or renew a license if the criminal history of the employees of the  
30 applicant demonstrates any convictions involving fraud or FINANCIAL dishonesty or if the department's findings

1 show adverse civil judgments involving fraudulent or dishonest FINANCIAL dealings.

2 (4) A license may not be issued for longer than 1 year. The license year must coincide with the calendar  
3 year, and the license fee for any period less than 6 months is \$187.50.

4 (5) Each licensee shall post a bond in the amount of \$10,000 for each location. The bond must continue  
5 in effect for 2 years after the licensee ceases operation in the state. The bond must be available to pay damages  
6 and penalties to consumers harmed by any violation of this part.

7 (6) More than one place of business may not be maintained under the same license, but the department  
8 may issue more than one license to the same licensee upon compliance with the provisions of this section  
9 governing issuance of a single license."

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11 **Section 2.** Section 31-1-714, MCA, is amended to read:

12 **"31-1-714. Information and annual reports.** (1) Each licensee shall keep and use books, accounts,  
13 and records that will enable the department to determine if the licensee is complying with the provisions of this  
14 part and maintain any other records required by the department. The department is authorized to examine the  
15 records at any reasonable time. The records must be kept for 4 2 years following the last entry on a loan and  
16 must be kept according to generally accepted accounting procedures that include an examiner being able to  
17 review the recordkeeping and reconcile each consumer loan with documentation maintained in the consumer's  
18 loan file records.

19 (2) Each licensee shall file, on forms prescribed by the department, an annual report with the  
20 department on or before March 31 for the 12-month period in the preceding year ending as of December 31. The  
21 report must disclose in detail and under appropriate headings:

22 (a) the resources, assets, and liabilities of the licensee at the beginning and the end of the period;

23 (b) the income, expense, gain, loss, and balance sheets;

24 (c) the total number of deferred deposit loans made in the year ending as of December 31 of the  
25 previous year;

26 (d) the total number of deferred deposit loans outstanding as of December 31 of the previous year;

27 (e) the minimum and maximum amount of checks for which deposits were deferred in the year ending  
28 as of December 31 of the previous year;

29 (f) the total number and dollar amount of returned checks, the total number and dollar amount of checks  
30 recovered, and the total number and dollar amount of checks charged off during the year ending as of December

1 31 of the previous year;

2 (g) the total number and dollar amount of agreements involving electronic transactions or deductions,  
3 the total number and dollar amount of electronic deductions made by the licensee, and the total number and  
4 dollar amount of electronic deductions for insufficient funds charged off during the year ending as of December  
5 31 of the previous year; and

6 (h) verification that the licensee has not used a criminal process or caused a criminal process to be  
7 used in the collection of any deferred deposit loans or used any civil process to collect the payment of deferred  
8 deposit loans not generally available to creditors to collect on loans in default during the year ending as of  
9 December 31 of the previous year.

10 (3) A report must be verified by the oath or affirmation of the owner, manager, or president of the  
11 deferred deposit lender.

12 (4) (a) If a licensee conducts another business or is affiliated with other licensees under this part or if  
13 any other situation exists under which allocations of expense are necessary, the licensee shall make the  
14 allocation according to appropriate and reasonable accounting principles as approved by the department.

15 (b) Information about any other business conducted on the same premises where deferred deposit  
16 loans are made must be provided as required by the department.

17 (5) Each licensee shall file a copy of the disclosure documents described in 31-1-721 with the  
18 department prior to the date of commencement of business at each location, at the time any changes are made  
19 to the documents, and annually upon renewal of the license. These documents must be available to interested  
20 parties and to the general public through the department."

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