

## **Amendment No. 4**

Senator HAWKINS proposed the following Amendment No. 4 (398R009.JDH), which was tabled:

Amend the bill as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 17 of Title 16 of the 1976 Code is amended by adding:

### **"ARTICLE 6**

#### **PAYDAY LOANS**

Section 16-17-330. As used in this article:

- (1) "Check" has the same meaning as in Section 36-3-104;
- (2) "Payday loan" means a transaction pursuant to a written agreement involving the following combination of activities in exchange for a fee:
  - (a) a person accepting a check from the maker; and
  - (b) holding the check for a period of time before presentment for payment or deposit.
- (3) "Person" means an individual, group of individuals, partnership, association, corporation, or other business unit or legal entity.
- (4) "Location" means the entire space in which payday loans are provided.

Section 16-17-340. It is unlawful for a person to provide payday loans. A person found guilty of a violation of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars and imprisoned for not more than three years. The court may also order the violator to pay restitution to each person to whom the violator provided payday loans. The restitution must include the principal amount of the loan and any charges, fees, or interest that the violator collected.

Section 16-17-350. In addition to any other penalties imposed on a person convicted of a violation of this article, the State may recover a civil penalty equal to three times the amount of any interest or charges associated with all payday loans the violator provided. A civil action to collect the penalty provided for in this section may be initiated by the Attorney General or the solicitor for the circuit in which the violation occurred.

Section 16-17-360. The proceeds of all payday loans made by a person convicted of a violation of this article are taxable to the violator as income at the rate of seventy-five percent times the amount of the proceeds.

Section 16-17-370. The location of a place of business engaged in payday lending is declared a public nuisance.

Section 16-17-380. A person who provides payday loans is prohibited from maintaining or obtaining any certificate of authority from the Secretary of State or a license to operate any lawful business by any licensing authority in the State."

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph,

sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of payday loans as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 4. Chapter 39 of Title 34 is repealed.

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.