



Report on Impact of CFPB Proposals Under Consideration  
on the State of South Carolina Consumer Lending Market  
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Prepared for the State of South Carolina  
Board of Financial Institutions  
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## About the Information in this Report

All information used in assembling this report is publicly available including, but not limited to, the following sources:

1. March 26, 2015 Small Business Advisory Review Panel For Potential Rulemakings for Payday, Vehicle Title, and Similar Loans, Outline of Proposals Under Consideration And Alternatives Considered, Consumer Financial Protection Bureau
2. Report on South Carolina Deferred Presentment Transaction Activity for the Year Ending December 31, 2014, Prepared for the State of South Carolina Board of Financial Institutions Consumer Finance Division By Veritec Solutions, LLC
3. Annual Report of Supervised Licensees, Consumer Finance Division, S.C. Board of Financial Institutions, January 1st through December 31st, 2013
4. Licensed lender information available on-line from the South Carolina Board of Financial Institutions, Consumer Finance Division website at <http://www.consumerfinance.sc.gov>

## **Abstract**

The CFPB Outline of Proposals Under Consideration published on March 26, 2015 provide proposed Federal regulations of “Covered Products” which are defined as both short-term (term of 45 days or less) and longer-term (> 45 day term) credit products with an all-in APR greater than 36 percent with access to repayment through a consumer’s account or paycheck. The CFPB intends to establish regulations based on these proposals that will serve as a “floor” for State regulations of consumer credit products that fall under the definition of Covered Products. The proposals, if enacted, will have a substantial impact on the availability of small-dollar credit in South Carolina and the licensed providers of these products. This Overview provides an estimate on the level of this impact to the current lending market in South Carolina.

## **Executive Summary**

The South Carolina small-dollar loan market place is dominated by two primary lending groups. The Deferred presentment community consists of approximately 309 lenders who conducted 948,000 loans, totaling \$385 million of small-dollar credit to 122,000 borrowers in 2014. The Supervised Lenders consist of approximately 1,500 licensees who advanced \$2.25 billion of small-dollar credit to borrowers in 2013. Supervised Lenders also loaned \$636 million under the Sales Financing category. Total activity for these two groups was over 2.5 million loans and \$3.2 billion in loan principal. Deferred presentment accounts for 12% of this total, with Supervised lending (Consumer Loans) generating 69% and the Sales Financing portion of Supervised Lending the remaining 19%. There are other products available, but they do not come near the volumes that these two collective entities generate. The most notable of these lower volume providers are the “Restricted” lenders defined in state law and the specific regulations that govern them. These are predominantly lower interest rate loans that may fall outside of the CFPB definition of Covered Products.

The Deferred Presentment product is a “standard” regulated deferred presentment offering. The loan limit is \$550 with permitted fees of \$15 per \$100 advanced and a database verification fee of \$0.40, rollovers are prohibited and an optional extended repayment plan is available to borrowers.

A licensed Supervised lender can offer a low-dollar and relative short-term loan products as well as higher principal loans (currently up to \$90,000 for non-mortgage loans) with payment periods extending multiple years. The Finance Charge structure for loans of \$600 and less are governed by the Restricted rules. For loans more than \$600 any rate is allowable as long as the lender files and

posts that rate. The most frequent APR's fall between 35% and 130%; however, loans above 400% are common. The Supervised Lenders can offer title loans, lines of credit, "Sales and Finance" loans (which are reported separately) as well as the more traditional Installment product offerings. Sales of credit and other types of insurance are a prevalent practice in the South Carolina market space.

A summary of the current small-dollar credit market in South Carolina is illustrated in the figure below:

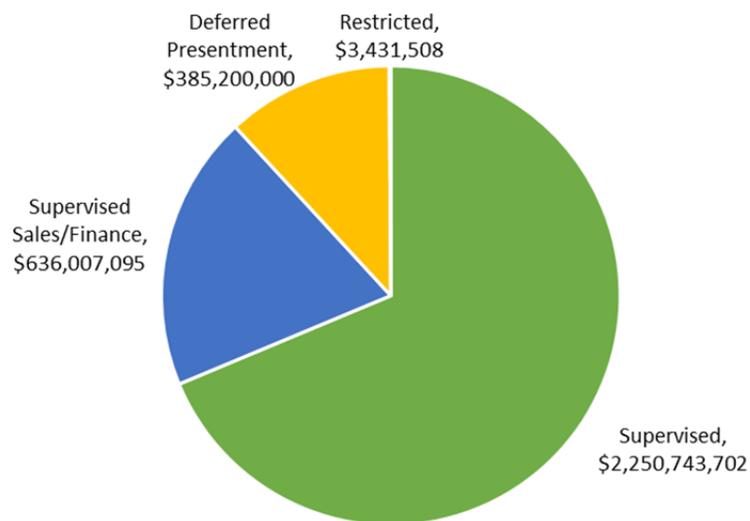


Figure 1 - Current South Carolina Small-Dollar Credit Market

If the CFPB proposals are enacted, the Deferred Presentment market will contract by an estimated \$161 million in short-term credit and 42% of the loan volume. The proposals will impact an estimated 52% of the over 120,000 borrowers who use this product more than 6 times in the course of a twelve-month period. Licensee average per store monthly fee income would likely fall proportionally from \$187,000 to \$108,500.

The Supervised market would also be materially impacted, but from a different perspective. Supervised loans will fall under both the Bureau's definition of "Short Term" products as well as "Longer Term" Covered Products. For the longer period loans, with APR's considerably higher than the 36% threshold, lenders would need to adopt the "Ability to Repay" criteria set by the CFPB in

order to maintain even close-to-comparable margins. The “Presumed Inability to Repay” consideration would limit renewal loans to only those borrowers who had a favorable change in economic circumstances. This will impact the 66% of loans made in South Carolina in 2013 which were renewal loans. If these loan renewals were not available to borrowers, an estimated \$1.3 billion in small-dollar credit would not be available to borrowers in the South Carolina credit marketplace as it operates today.

The estimated impact of the CFPB proposals on the small-dollar lending market in South Carolina is summarized in the figure below.

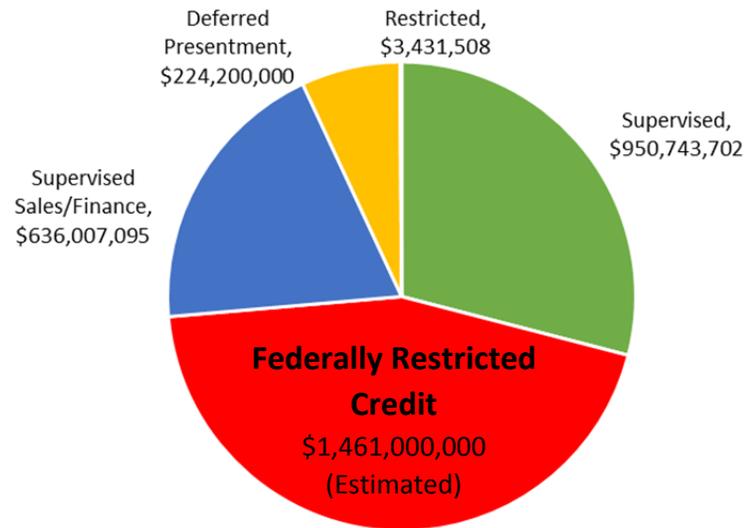


Figure 2 - Estimated Impact of CFPB Proposals on Current Small-Dollar Lending in South Carolina

The impact of the CFPB proposals on each segment of the current South Carolina small-dollar lending market is discussed in further detail in the following sections of this document.

## CFPB Proposal Basics

The CFPB proposes to separate the small dollar lending environment into two product categories (the “**Covered Products**”):

- Short Term Credit Products (such as Deferred Presentment, Title, Deposit Advance, and some open lines of credit and consumer loans). These products have a loan term of 45 days or less and can be single or multiple payments by the borrower
- Longer Term Credit Products have terms of more than 45 days, have an “all in” APR of more than 36% and the lender has access to the borrowers bank account for payment or the lender uses a security such as the borrower’s vehicle.

For **Short-Term Loans**, Lenders have 2 options:

- Under the “Ability to Repay” (or “ATR”) criteria, the lender must determine that the borrower has sufficient income to make the required payments on the loan after taking care of basic living expense. The borrower’s income, financial obligations and borrowing history must be verified
  - If the borrower qualifies for the “ATR”, there must be a 60 cooling off period between loans, unless the borrower’s financial condition (e.g., a raise) changes. If the 60 day period is waived, then only 2 more loans are allowed before the mandatory 60 day cooling off period applies
  - The alternative to ATR is that the borrower can only take out 6 loans in a 12 month period and cannot be in short-term debt for more than 90 days during that 12 month period.

For **Long-Term Loans**, Lenders have 3 options:

- The ATR criteria is substantially the same for long term loans, i.e., the borrower has sufficient income to cover necessities as well as all the payments on this loan. In addition, refinancing the original loan can only be done if the borrower’s circumstances have changed
- One Alternative to ATR is the Credit Union Loan (28% APR, \$20 admin fee) for loan amounts  $\leq$  \$1000 and only 2 loans per 6 months
- The other Alternative is that the Monthly Payment on the loan is less than or equal to 5% of the borrowers monthly gross income.

A factsheet summarizing the proposals under consideration is available at: [http://files.consumerfinance.gov/f/201503\\_cfpb-proposal-under-consideration.pdf](http://files.consumerfinance.gov/f/201503_cfpb-proposal-under-consideration.pdf). A more complete discussion of the proposals under consideration is available at:

[http://files.consumerfinance.gov/f/201503\\_cfpb\\_outline-of-the-proposals-from-small-business-review-panel.pdf](http://files.consumerfinance.gov/f/201503_cfpb_outline-of-the-proposals-from-small-business-review-panel.pdf)

## Product Summary

The table below provides an overview of Consumer Lending products in South Carolina.

| Product                          | Licensed Locations                   | Loan Count                                | Principal Extended | Covered Status                |
|----------------------------------|--------------------------------------|---|--------------------|-------------------------------|
| Deferred Presentment             | 309                                  | 122,128 borrowers<br>948,545 loans (2014) | \$385 million      | Short term Definitely         |
| Title                            | 352 (included in Supervised Lenders) |   |                    | Short or long term Definitely |
| Line of Credit                   | Included in Supervised               |   |                    | Short or long term Definitely |
| Restricted Lending               | 6                                    | 3,723 (2013)                              | \$3.4 million      | Some in, most not             |
| Supervised Lending               | 1500                                 | 1.5 million (2013) <sup>(1)</sup>         | \$2.25 billion     | Long term Definitely          |
| Supervised Sales Finance Lending | Included in Supervised count         | 38,255 (2013)                             | \$636 million      | Possibly not                  |
| Rent to Own                      | Not reported                         |   |                    | No                            |
| Pawnshop                         | 245                                  |   |                    | No – pawn explicitly excluded |

<sup>(1)</sup> 22% of the loans and 7% of the principal advanced by Supervised Lenders are under \$600 and therefore subject to Restricted regulations.

## Regulatory Environment Summary

The State Board of Financial Institutions – Consumer Finance Division is the regulator for these products that are summarized in the table below.

| Product              | Statute                | Base Product Features  |
|----------------------|------------------------|--|
| Deferred Presentment | Section 34, Chapter 39 | \$550 maximum loan amount<br>31 day maximum term<br>Rollover prohibited<br>Cooling off period of 1-2 days<br>Extended Repayment available once in a 12 month period  |
| Title (Supervised)   | Section 37             | Made as a Supervised lender<br>Loam amounts < \$601 are governed by Restricted rules   |
| Line of Credit       | Section 37 Chapter 3   | Cash advances < \$600 have the fee structure of Restricted Loans<br>Cash advances > \$600 have the fee structure of Supervised Loans<br>Any issued credit card must good at over 100 businesses  |
| Restricted           | Section 34, Chapter 29 | Loan limit of \$7500<br>Maximum loan terms vary from 24.5 months to 60.5 months depending on loan amount<br>Payments must be equal amounts and not less than \$10 per month  |
| Supervised           | Sections 37 and 34     | Loans under \$600 are governed by Restricted rules, over \$600 by Supervised rules<br>The minimum loan term is 120 days<br>Sales Finance loans are typically significantly lower APRs (mid to low 20's)<br>If rates are not posted and filed, the cap is 18%<br>Loans not related to real estate can currently be as much as \$90,000. |
| Rent to Own          | Section 37, Chapter 6  | Limits on fees and a mechanism to pay off early to secure ownership  |
| Pawnshops            | Title 40               | Loans are for 30 days  |

## Product Fee Structures

The table below provides an overview of product fee structures.

| Product              | Initial Fee  | Service Fee or Interest Rate   | Maintenance Fee           | Insurance       | Delinquency   | Other  |
|----------------------|--|--|---------------------------|-----------------|---|--|
| Deferred Presentment | \$0  | \$15 per \$100 advanced  | None                      | None            | Returned check fee not allowed                            | \$0.40 database fee  |
| Title (Supervised)   | See Supervised Fees  |  |                           |                 |   |  |
| Line of Credit       | Restricted or Supervised fees, PLUS:   |  | Annual charge permissible |                 | Over-limit charge of \$10 if exceed limit by 10% or \$100 |  |
| Restricted           | <p>Lesser of 7% or \$56 for loans &lt; \$2,400</p> <p>Lesser of 5% or \$200 for loans &gt; \$2,400</p> | <p>\$2.50 /month for each \$100 for loans &lt; \$150</p> <p>Regardless of loan term:<br/>                     \$25 per \$100 for first \$720<br/>                     \$18 per \$100 for \$721 to \$1,200<br/>                     \$12 per \$100 for \$1,201-\$2,400<br/>                     \$9 per \$100 for loans \$2,401 - \$7,500</p> | \$2 per month             | Can be required | 5 cents per \$1 if 10 days late (minimum of \$5)          | <p>Deferral charge of 1% per month for amounts &lt; \$500</p> <p>2% per month for amounts &gt; \$500</p> |

| Product    | Initial Fee                        | Service Fee or Interest Rate  | Maintenance Fee | Insurance  | Delinquency   | Other   |
|------------|------------------------------------|---|-----------------|--|---|---|
| Supervised | Loans < \$600 use Restricted Rates | Finance Charge can be any rate that is posted and filed with the state, otherwise cannot exceed 18% |                 | Insurance can be sold for loss protection, property and consumer life / health coverage<br>65% of loans have Credit Life Insurance, 29% have Health and 63% have Property polices purchased for the borrower | If 10 days late, can charge lesser of \$5 or 5% of the unpaid installment | Official fees or taxes<br><br>For loans secured with land:<br>Title fees<br>Deed prep fees<br>Escrow fees<br>Notary fees<br>Appraisal fees<br><br>For mortgages:<br>Broker fees |

### Sample Advertised Supervised Lending Offers

The table below provides a summary of actual product offerings by a sample of licensed lenders in South Carolina.

|                   | Lender A      | Lender B |           | Lender C      |               | Lender D      |               |
|-------------------|---------------|----------|-----------|---------------|---------------|---------------|---------------|
| Term              | Advance       | Advance  | Auto      | Advance       | Advance       | Advance       | Advance       |
| Loan Amount       | \$601         | \$335    | \$1,500   | \$1,250       | \$2,000       | \$300         | \$800         |
| Term              | 12 months     | 7 months | 24 months | 7 months      | 8 months      | 140 days      | 140 days      |
| Payment Amount    | \$85.97       | \$68     | \$103     | \$161.85      | \$219.83      | \$60          | \$80          |
| Payment Frequency | Every 14 days | Monthly  | Monthly   | Every 14 days | Every 14 days | Every 14 days | Every 14 days |
| Advertised APR    |               |          |           | 324.10%       | 274.23%       | 390%          | 390%          |
| Estimated APR     | 372%          | 72%      | 32%       |               |               |               |               |

## **Impact on Credit Availability - Deferred Presentment**

### **Key Product Statistics:**

- There were approximately 948,000 deferred presentment transactions conducted with 122,000 borrowers in 2014
  - The average number of loans per borrower is 7.67
  - 59% of the borrowers took out 8 or fewer loans per year, and 85% took out 12 or fewer than 12
  - The average advance amount is \$406.10 with fees of \$60.94
- Only 351 (0.04%) loans last year resulted in the lender pursuing collection activity
- There were 309 licensed locations in South Carolina at the end of the year
  - The average store advanced \$1.246 million in 2014 and earned \$187,000 in fees.

### **Impact of CFPB proposals under consideration:**

The limit of 6 loans in a 12 month period will have a major impact on the availability of short-term credit for South Carolina.

- 52% of borrowers (approximately 63,000) use the product 7 or more times in a 12-month period and would be denied this access to credit under the proposed rule
- These impacted borrowers will save, on average, over the course of the 12-month period approximately \$382 in fees. The impact on their exposure to potentially occurring alternatives (NSF, overdraft and late fees) is unknown
- The proposed rule will cause a decrease in the loans made to consumers by \$161 million or 42% (the volume of loans currently made at the > 6 threshold), which will likely result in the same level of lost revenue for the 300+ lenders licensed in South Carolina, with average fees per store likely decreasing from the current \$187,000 to approximately \$108,500.

## Impact on Credit Availability - Supervised Lending

### Key Product Statistics:

- There were approximately 1.57 million Consumer loans made in 2013 conducted with over 500,000 borrowers
  - Approximately \$2.25 billion was loaned through the Consumer Loan channel in 2013 (\$636 million was loaned through the “Sales and Finance” channel)
  - The average loan amount was \$1428
- For loans of \$600 or less, the terms are governed by the Restricted loan regulations. These constitute 21% of the loans made and 6% of the principal advanced
- The 90 day delinquency rate for Consumer loans is 4.20%
- There are 1500 Supervised lending locations in South Carolina that offer a variety of products including Title lending, lines of credit, and installment loans
  - These stores earned \$637 million in Charges Collected or Earned for the year, averaging \$424,000 per store
  - The stores paid over \$150 million in salaries, wages and fees to their employees.

### Impact of CFPB proposals under consideration:

Since the Supervised Lending (Consumer Loan Business) industry charges in excess of an “all in” APR of 36%, they will either need to:

- Operate under the “Ability to Repay” rules (or “ATR”) if they wish to retain their Finance Charge structure
  - The borrower may qualify for the first loan under these parameters
  - The borrower cannot renew the loan without a “change in circumstances” (e.g., a pay raise)
  - 66% of Consumer Loans made in 2013 were renewals
    - A significant portion of this renewal volume will not be able to be extended
    - This potentially will result in a \$1.3 billion credit retraction for South Carolina borrowers
    - Per store Charges Earned could proportionally decrease by \$279,000
- The other option is to severely decrease fees to operate under the “Credit Bureau” product structure or loan under the Maximum of 5% of gross monthly income parameters (Payment to Income)
  - With the Credit Bureau model of 28% (with \$20 administrative fees and loan maximum of \$1000), 41% of the loans and 72% of the total Consumer Loan principal amount would not be able to be made since they are over \$1000
  - For the Payment to Income model, the impact on credit retraction is unknown
  - The ability to provide various insurance products to consumers will be severely limited since it would appear that the premiums for these products are to be calculated in the “all in APR” equation.

## **Impact on Credit Availability - Restricted Lending**

### **Key Product Statistics:**

- There are only 6 Restricted Lenders currently operating in South Carolina
- In 2011, \$3.4 million was borrowed as a result of 3,723 loans
- This represents a less than .2 of 1% of Consumer Lending volume
- The fee structures that regulate Restricted lending are significantly lower than the Supervised environment
- Sales of insurance (which will need to be included in any “all-in” APR calculation) might be limited, but there is probably enough room to accommodate this expense to the borrower
- At loan amounts greater than \$1000 and terms of 12 months or more the current Restricted model will most likely not be considered a covered product even with the inclusion of insurance sales as part of the loan transaction.

### **Impact of CFPB proposals under consideration:**

- It is not anticipated that the CFPB’s considered proposals will have a material impact on the availability of Restricted loans over \$600 to South Carolina consumers
- The vast majority of longer-term loans have APR’s that are well under the CFPB definition of a “Covered Product”
- Most of the very short term (under two months) may be included as short term products
- For some of the shorter term and smaller dollar loans (less than three months, and less than \$600), these will likely be covered products, depending on the length of the term of the loan. If insurance is sold with the product, these loans will most likely be considered covered.