

STATE OF COLORADO

Colorado General Assembly

Mike Mauer, Director
Legislative Council Staff

Colorado Legislative Council
200 East Colfax Avenue Suite 029
Denver, Colorado 80203-1716
Telephone 303-866-3521
Facsimile 303-866-3855
TDD 303-866-3472



Sharon L. Eubanks, Director
Office of Legislative Legal Services

Office of Legislative Legal Services
200 East Colfax Avenue Suite 091
Denver, Colorado 80203-1716
Telephone 303-866-2045
Facsimile 303-866-4157
Email: olls.ga@state.co.us

MEMORANDUM

TO: Bill Fritts and Trista Gibson
FROM: Legislative Council Staff and Office of Legislative Legal Services
DATE: April 4, 2018
SUBJECT: Proposed initiative measure 2017-2018 #184, concerning Maintenance Fees on Payday Loans

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado constitution. We hereby submit our comments to you regarding the appended proposed initiative.

The purpose of this statutory requirement of the directors of Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in determining the language of their proposal and to avail the public of knowledge of the contents of the proposal. Our first objective is to be sure we understand your intent and your objective in proposing the amendment. We hope that the statements and questions contained in this memorandum will provide a basis for discussion and understanding of the proposal.

Purpose

The major purpose of the proposed amendment to the Colorado Revised Statutes appears to be to change the allowable monthly maintenance fee for a payday loan from seven dollars and fifty cents per one hundred dollars loaned, up to thirty dollars per month (the amount currently allowed by statute) to five dollars per one hundred dollars loaned, up to twenty-five dollars per month.

Substantive Comments and Questions

The substance of the proposed initiative raises the following comments and questions:

1. Article V, section 1 (5.5) of the Colorado constitution requires all proposed initiatives to have a single subject. What is the single subject of the proposed initiative?
2. Under section 1-40-105.5, Colorado Revised Statutes, the director of research of the Legislative Council is required to prepare an initial fiscal impact statement, which includes an abstract that appears on petition sections, for each initiative that is submitted to the Title Board. In preparing the statement, the director is required to consider any fiscal impact estimate prepared by the proponents.
 - a. Will you submit the initiative to the Title Board? If so, when do you intend to do so?
 - b. Are you submitting a fiscal impact estimate today? If not, do you plan to submit an estimate in the future, and if so, when do you intend to do so?
 - c. To ensure that there is time for consideration, you are strongly encouraged to submit your estimate, if any, at least twelve days before the measure is scheduled for a Title Board hearing. The estimate should be submitted to the Legislative Council staff at BallotImpactEstimates.ga@state.co.us.
3. The following questions relate to changing the maximum allowable monthly maintenance fee from seven dollars and fifty cents to five dollars per one hundred dollars loaned:
 - a. Why is there a need to change the maximum allowable monthly maintenance fee from seven dollars and fifty cents to five dollars per one hundred dollars loaned?
 - b. Do lenders typically charge the maximum allowable monthly maintenance fee?
 - c. How was the amount of the reduction decided?
4. The following questions relate to changing the maximum allowable monthly maintenance fee from thirty dollars per month to twenty-five dollars per month:
 - a. Why is there a need for this change?

- b. How often do borrowers reach the maximum now, and do you anticipate that after reducing the maintenance fee from seven dollars and fifty cents to five dollars per one hundred dollars loaned, fewer borrowers will reach the existing maximum of thirty dollars per month?
 - c. How was the amount of the reduction decided?
 5. Do you know the financial impact this will have on the short-term loan market? How will this affect lenders? Borrowers?
 6. Will this change to the maintenance fee apply to loans taken out and finalized after the effective date, or to all payments due after the effective date, regardless of when the initial loan was finalized?
 7. As a statutory change, the proposed initiative may be amended by subsequent legislation enacted by the General Assembly. Is this your intention?

Technical Comments

The following comments address technical issues raised by the form of the proposed initiative. These comments will be read aloud at the public meeting only if the proponents so request. You will have the opportunity to ask questions about these comments at the review and comment meeting. Please consider revising the proposed initiative as suggested below.

1. Proposed additions to current law should be shown in SMALL CAPITALS and proposed deletions should be shown in ~~stricken type~~. In section 5-3.1-105, Colorado Revised Statutes, as reproduced in the text of the initiative, there is at least one word missing from the existing statutory language: The word "percent" has been omitted from the second line ("twenty percent of the first three hundred dollars loaned" becomes "twenty of the first three hundred dollars loaned").
 - a. If the deletion was unintentional, please restore the existing statutory text. If the deletion was intended to indicate a change to the statutory text, please show it in stricken type.
 - b. We suggest that you carefully go over every word of the measure to ensure that you have not accidentally made major changes to the meaning of the statutes, such as in the instance cited above (twenty percent of three hundred dollars equals sixty dollars, not twenty dollars).