

# STATE OF COLORADO

## Colorado General Assembly

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## 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 #183, concerning Interest Rates for 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 interest rate chargeable on payday loans from forty-five percent, the amount currently allowed by statute, to thirty-six percent.

## 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](mailto:BallotImpactEstimates.ga@state.co.us).
3. The following questions relate to the proposed amendment to section 5-3.1-105, Colorado Revised Statutes:
  - a. Why is there a need to change the maximum per annum interest rate from forty-five percent to thirty-six percent?
  - b. Do lenders typically use the maximum allowable interest rate?
  - c. How was the thirty-six percent figure determined, as opposed to, say, simply a reduction of five or ten percent from the current rate?
    - i. Do you know the financial impact this will have on the short-term loan market? How will this affect lenders? Borrowers?
    - ii. In regard to lenders, have you considered phasing in the nine percent decrease in order to allow the market to absorb the change gradually and adjust accordingly?
    - iii. In regard to the borrowers, have you considered that fewer borrowers may be eligible for a short-term loan with a lower

- interest rate and that this amendment might negatively impact borrowers' ability to secure short-term loans?
- d. Will this interest rate change 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?
4. The following questions relate to the proposed amendment to section 5-3.1-108, Colorado Revised Statutes:
- a. Why is there a need to change the maximum allowable finance charge upon renewal from forty-five percent to thirty-six percent?
  - b. Do lenders typically charge the maximum allowable finance charge upon renewal?
  - c. How was a nine percent decrease on the maximum allowable finance charge rate determined, as opposed to, say, simply a reduction of five or ten percent from the current rate?
    - i. Do you know the financial impact this will have on the short-term loan market? How will this affect lenders? Borrowers?
    - ii. In regard to the lenders, have you considered phasing in the nine percent decrease in order to allow the market to absorb the change gradually and adjust accordingly?
    - iii. In regard to the borrowers, have you considered that fewer borrowers may be eligible to renew a short-term loan with a lower maximum allowable finance charge rate and that this amendment might negatively impact borrowers' ability to secure short-term loans?
  - d. Will this change to the finance charge apply to loans renewed after the effective date, or to all payments due after the effective date, regardless of when the initial loan was finalized?
5. Is there a need for the per annum interest rate and the maximum allowable finance charge rate to be the same? What would happen if one were changed and not the other, or if they were reduced by different amounts?
6. 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. When drafting, SMALL CAPS letters indicate new text while lowercase letters indicate existing text. Proposed deletions should be shown in stricken type. In section 2 of the proposed initiative, the word "PERCENT" should be shown in lowercase letters, as it is currently part of section 5-3.1-108, Colorado Revised Statutes.
2. In each of the statutory sections shown in the measure, there is at least one word of the existing text missing. In section 5-3.1-105, Colorado Revised Statutes, 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"). In section 5-3.1-108, Colorado Revised Statutes, the word "an" has been omitted from the second line ("the lender may assess an additional finance charge" becomes "the lender may assess additional finance charge").
  - 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 the word 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).