

URGENT MEMO

TO: All check-cashing business licensees now engaged in "payday lending"

FROM: Hal D. Lingerfelt, Commissioner of Banks

DATE: August 30, 2001

RE: N.C.G.S. § 53-281 **not** extended; it will **sunset on August 31, 2001**

Sunset of statute. In 1997, the NC Legislature enacted N.C.G.S. § 53-281 as the sole statutory basis for a check-cashing business to engage in post-dated or delayed deposit check-cashing transactions in this state. That **law was set to expire on July 31, 2001, but the General Assembly extended the sunset for thirty (30) days, until August 31, 2001.** The General Assembly has now adjourned this week without taking action to either extend the sunset again or to reform the current law and re-enact some form of "payday lending" authorization. Consequently, N.C.G.S. § 53-281 will expire on Friday, August 31, 2001, and there is no lawful basis for "payday lending" without such a law, including "payday lending" transactions effected by "agents" or "facilitators" of out-of-state lending institutions.

Effect of sunset on delayed deposit transactions of licensees. Check-cashing businesses which engage in transactions involving postdated or delayed deposit checks should be prepared to **cease all such new agreements after August 31, 2001.** Any delayed deposit checks that a licensee is holding as of August 31, 2001 may, of course, be held and then deposited in accordance with the licensee's lawful contract with its customer. However, licensees should **make no further payday loans after August 31, 2001,** either directly or as agent for another, since they are without legal authority to enter such transactions.

"Regular check cashing" business is unaffected. The only portion of the law on "Check-cashing Businesses" that is affected by the sunset is delayed deposit check-cashing. The sunset does not affect in any way the authority of a licensee to cash a check for a customer according to the fee structure set forth in the law. License renewals for these licenses have now been mailed out to all check cashing business licensees. We will continue to license, regulate, and examine check cashing businesses as before under the remaining provisions of Article 22 of Chapter 53.

LICENSEES SHOULD VISIT THE OFFICE OF THE COMMISSIONER OF BANKS WEB SITE OR CALL (919) 733-2978 FOR FURTHER INFORMATION CONCERNING THE SUNSET OF THIS LAW! Our website is: www.banking.state.nc.us.