FREQUENTLY ASKED QUESTIONS
Pertaining to Payday Loan Products under the
Small Loan Act of 1955

PROCEDURES

1. Can an individual licensee have multiple loans with the same customer?

Yes. However, the total amount of all loans cannot exceed 25% of the customer's gross monthly income.

2. Are licensees required to read the Disclosure statement aloud to each customer even though customers are given a written copy of the Disclosure statement?

Yes. Each licensee **MUST** read the Disclosure statement aloud to each customer every time a customer enters a payday loan agreement. An audio file may be used for the oral reading of the disclosure. A licensee may request an approved Audio Wave file from Veritec in both English and Spanish.

3. How does a licensee prove the Disclosure statement has been read aloud to each customer when FID audits payday records?

The licensee must have a signed DISCLOSURE OF CONSUMER'S RIGHT TO PAYMENT PLAN on file for every payday loan agreement entered into with each customer. By signing the Disclosure statement, the customer affirms that the Disclosure statement has been read aloud to them.

4. Can a licensee have more than one customer's name on a payday loan agreement?

No. There is only one customer name per payday loan agreement. There is only one name per payday loan agreement regardless of the relationship between the parties. The database system will reject any payday loan agreement that contains more than one customer name.

5. Can a customer rescind a payday loan after executing an agreement?

Yes. A customer may rescind a payday loan after executing the agreement.

6. How much time does the customer have to rescind the agreement?

The customer has until 5:00 p.m. on the business day following the date the payday loan agreement was executed to rescind a payday loan agreement. For example, if the customer completes a payday loan at 4:00 p.m. on Thursday, the customer has until 5:00 p.m. on Friday to rescind the agreement by returning 100 percent of the funds that were provided by the licensee pursuant to the payday loan agreement.

7. If a customer executes a payday loan agreement on Friday where the licensee closes their business at 2:00 p.m. on Saturday, what is the latest time that a customer may rescind the payday loan agreement?

The customer has until 5:00 p.m. on Monday to rescind the payday loan agreement.

The statute states, in pertinent part:

"58-15-32. REQUIREMENTS FOR PAYDAY LOANS.—

C. A payday loan agreement shall include a provision granting the consumer the right to rescind the transaction by returning in cash, or through certified funds, one hundred percent of the amount advanced by a licensee for a payday loan no later than 5:00 p.m. on the first day of business conducted by the licensee following the execution of the payday loan agreement."

In order for the licensee to comply with the law, the licensee would need to stay open till 5:00 PM on Saturday or the licensee would need to allow the consumer to rescind the transaction on Monday up to 5:00 PM.

8. For customer's that are not eligible on the database will the declined notice be sufficient as opposed to providing an Adverse Action notice?

No. The licensee will still need to comply with Federal Law in regards to the Adverse Action notice.

9. Will payday loans entered before November 1, 2007 be a part of the database?

No. Payday loans entered before November 1, 2007 will not be entered into the database.

GROSS MONTHLY INCOME

10. What guidelines should licensees use to determine a customer's Gross Monthly Income (GMI)?

GMI calculation examples:

Consumer presents a pay stub showing earnings of $500.00 for a one-week period. GMI calculation would be as follows:

$500.00 times 4.33 equals a GMI of $2165.00.

Consumer presents a pay stub showing earnings of $500.00 for a two-week period. GMI calculation would be as follows:

$500.00 times 2.16 equals a GMI of $1080.00.

Consumer presents a pay stub showing earnings of $500.00 for a bi-monthly period. GMI calculation would be as follows:

$500.00 times 2 equals a GMI of $1000.00.

11. Can GMI be determined by considering the total income of the household where the applicant resides?

No. GMI is based solely on the amount of income attributable to the individual loan applicant.

PAYMENTS/COLLECTION

12. Are licensees required to deposit the check on the Agreement date if the customer has not paid the transaction in full?

No.

13. If a customer makes partial payments, but does not pay the loan in full by the Agreement date are licensees allowed to deposit the check?

Only if the check held by the licensee does not exceed the amount of the remaining loan balance.

14. If licensees deposit the customers check causing the total amount paid to be greater than the total amount owed, what responsibility does the licensee have in returning the collected overage?

N/A see above.

15. Are licensees allowed to deposit a customer's payment check multiple times if the customer's check does not have enough funds in their bank account at the time the initial check is deposited?

Yes, but the licensee may only assess one NSF Fee against the customer.

PAYMENT PLANS

16. Can customers reverse a payment plan?

No.

17. Are customer's allowed to enter a Payment Plan prior to the Due Date?

Yes.

18. Are there guidelines or specifics on the terms of the Payment Plan that licensees must offer?

The Financial Institutions Division will not be providing guidelines or specific language on the terms of the Payment Plan. The licensee shall ensure compliance with the statute, which states, in pertinent part:

"58-15-35. PAYDAY LOANS--PAYMENT PLANS.—

A. At the time a consumer enters into a payday loan agreement, the licensee shall offer the consumer the opportunity to enter into an unsecured payment plan for any unpaid administrative fees and principal balance of the payday loan. The consumer may elect, and a licensee shall permit, entry into a payment plan for any unpaid administrative fees and principal balance of the payday loan.

B. No fees, charges or interest may be charged for a payment plan.

C. A payment plan shall provide for:

(1) a minimum of one hundred thirty days for the repayment of the unpaid principal balance of a payday loan; and

(2) relatively equal installment payments based upon the consumer's schedule of pay periods.

19. Are licensees allowed to accept multiple checks when a customer enters into payment plans?

No.

20. If a customer defaults on a scheduled payment while on the Payment Plan what action may a licensee take?

The licensee may declare the Payment Plan to be in default. The Payment Plan should clearly disclose what actions the licensee will take when the consumer has defaulted on the Payment Plan Agreement.