



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4873

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

815 ILCS 122/2-10
815 ILCS 122/2-15

Amends the Payday Loan Reform Act. Authorizes a lender to charge a borrower for the verification that the proposed loan agreement is permissible: a fee not to exceed \$1 for a payday loan or a fee not to exceed \$1 for each month that a balance is scheduled to be outstanding on an installment payday loan (rather than a fee not to exceed \$1). Authorizes a certified consumer reporting service to charge the following verification fees upon a loan being made or entered into a certified database: a fee not to exceed \$1 for a payday loan or a fee not to exceed \$1 for each month that a balance is scheduled to be outstanding on an installment payday loan (rather than a fee not to exceed \$1). Effective immediately.

LRB100 18031 JLS 33219 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Payday Loan Reform Act is amended by
5 changing Sections 2-10 and 2-15 as follows:

6 (815 ILCS 122/2-10)

7 Sec. 2-10. Permitted fees.

8 (a) If there are insufficient funds to pay a check,
9 Automatic Clearing House (ACH) debit, or any other item
10 described in the definition of payday loan under Section 1-10
11 on the day of presentment and only after the lender has
12 incurred an expense, a lender may charge a fee not to exceed
13 \$25. Only one such fee may be collected by the lender with
14 respect to a particular check, ACH debit, or item even if it
15 has been deposited and returned more than once. A lender shall
16 present the check, ACH debit, or other item described in the
17 definition of payday loan under Section 1-10 for payment not
18 more than twice. A fee charged under this subsection (a) is a
19 lender's exclusive charge for late payment.

20 (a-5) A lender may charge a borrower the following fees ~~a~~
21 ~~fee not to exceed \$1~~ for the verification required under
22 Section 2-15 of this Act: (1) a fee not to exceed \$1 for a
23 payday loan or (2) a fee not to exceed \$1 for each month that a

1 balance is scheduled to be outstanding on an installment payday
2 loan. In no event may a fee be greater than the amount charged
3 by the certified consumer reporting service. Only one such fee
4 may be collected by the lender with respect to a particular
5 loan.

6 (b) Except for the finance charges described in Section 2-5
7 and as specifically allowed by this Section, a lender may not
8 impose on a consumer any additional finance charges, interest,
9 fees, or charges of any sort for any purpose.

10 (Source: P.A. 96-936, eff. 3-21-11.)

11 (815 ILCS 122/2-15)

12 Sec. 2-15. Verification.

13 (a) Before entering into a loan agreement with a consumer,
14 a lender must use a commercially reasonable method of
15 verification to verify that the proposed loan agreement is
16 permissible under this Act.

17 (b) Within 6 months after the effective date of this Act,
18 the Department shall certify that one or more consumer
19 reporting service databases are commercially reasonable
20 methods of verification. Upon certifying that a consumer
21 reporting service database is a commercially reasonable method
22 of verification, the Department shall:

23 (1) provide reasonable notice to all licensees
24 identifying the commercially reasonable methods of
25 verification that are available; and

1 (2) immediately upon certification, require each
2 licensee to use a commercially reasonable method of
3 verification as a means of complying with subsection (a) of
4 this Section.

5 (c) Except as otherwise provided in this Section, all
6 personally identifiable information regarding any consumer
7 obtained by way of the certified database and maintained by the
8 Department is strictly confidential and shall be exempt from
9 disclosure under Section 7(1)(b)(i) of the Freedom of
10 Information Act.

11 (d) Notwithstanding any other provision of law to the
12 contrary, a consumer seeking a payday loan may make a direct
13 inquiry to the consumer reporting service to request a more
14 detailed explanation of the basis for a consumer reporting
15 service's determination that the consumer is ineligible for a
16 new payday loan.

17 (e) In certifying a commercially reasonable method of
18 verification, the Department shall ensure that the certified
19 database:

20 (1) provides real-time access through an Internet
21 connection or, if real-time access through an Internet
22 connection becomes unavailable to lenders due to a consumer
23 reporting service's technical problems incurred by the
24 consumer reporting service, through alternative
25 verification mechanisms, including, but not limited to,
26 verification by telephone;

1 (2) is accessible to the Department and to licensees in
2 order to ensure compliance with this Act and in order to
3 provide any other information that the Department deems
4 necessary;

5 (3) requires licensees to input whatever information
6 is required by the Department;

7 (4) maintains a real-time copy of the required
8 reporting information that is available to the Department
9 at all times and is the property of the Department;

10 (5) provides licensees only with a statement that a
11 consumer is eligible or ineligible for a new payday loan
12 and a description of the reason for the determination; and

13 (6) contains safeguards to ensure that all information
14 contained in the database regarding consumers is kept
15 strictly confidential.

16 (f) The licensee shall update the certified database by
17 inputting all information required under item (3) of subsection
18 (e):

19 (1) on the same day that a payday loan is made;

20 (2) on the same day that a consumer elects a repayment
21 plan, as provided in Section 2-40; and

22 (3) on the same day that a consumer's payday loan is
23 paid in full, including the refinancing of an installment
24 payday loan as permitted under subsection (c) of Section
25 2-5.

26 (g) A licensee may rely on the information contained in the

1 certified database as accurate and is not subject to any
2 administrative penalty or liability as a result of relying on
3 inaccurate information contained in the database.

4 (h) The certified consumer reporting service shall
5 indemnify the licensee against all claims and actions arising
6 from illegal or willful or wanton acts on the part of the
7 certified consumer reporting service.

8 (i) The certified consumer reporting service may charge the
9 following a verification fees ~~fee not to exceed \$1~~ upon a loan
10 being made or entered into in the database: (1) a fee not to
11 exceed \$1 for a payday loan or (2) a fee not to exceed \$1 for
12 each month that a balance is scheduled to be outstanding on an
13 installment payday loan. The certified consumer reporting
14 service shall not charge any additional fees or charges.

15 (Source: P.A. 96-936, eff. 3-21-11.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.