Filed: 4/4/2018

1   AMENDMENT TO HOUSE BILL 4873

2   AMENDMENT NO. _____. Amend House Bill 4873 by replacing

3   everything after the enacting clause with the following:

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

1   definition of payday loan under Section 1-10 for payment not

2   more than twice. A fee charged under this subsection (a) is a

3   lender's exclusive charge for late payment.

4   (a-5) A lender may charge a borrower the following fees a

5   fee not to exceed $1 for the verification required under

6   Section 2-15 of this Act: (1) a fee not to exceed $1 for a

7   payday loan or (2) a fee not to exceed $3 for an installment

8   payday loan. In no event may a fee be greater than the amount

9   charged by the certified consumer reporting service. Only one

10   such fee may be collected by the lender with respect to a

11   particular loan.

12   (b) Except for the finance charges described in Section 2-5

13   and as specifically allowed by this Section, a lender may not

14   impose on a consumer any additional finance charges, interest,

15   fees, or charges of any sort for any purpose.

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

17   (815 ILCS 122/2-15)

18   Sec. 2-15. Verification.

19   (a) Before entering into a loan agreement with a consumer,

20   a lender must use a commercially reasonable method of

21   verification to verify that the proposed loan agreement is

22   permissible under this Act.

23   (b) Within 6 months after the effective date of this Act,

24   the Department shall certify that one or more consumer

25   reporting service databases are commercially reasonable

1   methods of verification. Upon certifying that a consumer
2   reporting service database is a commercially reasonable method
3   of verification, the Department shall:

4   (1) provide reasonable notice to all licensees
5   identifying the commercially reasonable methods of
6   verification that are available; and

7   (2) immediately upon certification, require each
8   licensee to use a commercially reasonable method of
9   verification as a means of complying with subsection (a) of
10   this Section.

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

17   (d) Notwithstanding any other provision of law to the
18   contrary, a consumer seeking a payday loan may make a direct
19   inquiry to the consumer reporting service to request a more
20   detailed explanation of the basis for a consumer reporting
21   service's determination that the consumer is ineligible for a
22   new payday loan.

23   (e) In certifying a commercially reasonable method of
24   verification, the Department shall ensure that the certified
25   database:

26   (1) provides real-time access through an Internet

1   connection or, if real-time access through an Internet

2   connection becomes unavailable to lenders due to a consumer

3   reporting service's technical problems incurred by the

4   consumer reporting service, through alternative

5   verification mechanisms, including, but not limited to,

6   verification by telephone;

7   (2) is accessible to the Department and to licensees in

8   order to ensure compliance with this Act and in order to

9   provide any other information that the Department deems

10   necessary;

11   (3) requires licensees to input whatever information

12   is required by the Department;

13   (4) maintains a real-time copy of the required

14   reporting information that is available to the Department

15   at all times and is the property of the Department;

16   (5) provides licensees only with a statement that a

17   consumer is eligible or ineligible for a new payday loan

18   and a description of the reason for the determination; and

19   (6) contains safeguards to ensure that all information

20   contained in the database regarding consumers is kept

21   strictly confidential.

22   (f) The licensee shall update the certified database by

23   inputting all information required under item (3) of subsection

24   (e):

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

26   (2) on the same day that a consumer elects a repayment

1   plan, as provided in Section 2-40; and

2   (3) on the same day that a consumer's payday loan is

3   paid in full, including the refinancing of an installment

4   payday loan as permitted under subsection (c) of Section

5   2-5.

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

7   certified database as accurate and is not subject to any

8   administrative penalty or liability as a result of relying on

9   inaccurate information contained in the database.

10   (h) The certified consumer reporting service shall

11 indemnify the licensee against all claims and actions arising

12 from illegal or willful or wanton acts on the part of the

13 certified consumer reporting service.

14   (i) The certified consumer reporting service may charge the

15 following a verification fees fee not to exceed $1 upon a loan

16 being made or entered into in the database: (1) a fee not to

17 exceed $1 for a payday loan or (2) a fee not to exceed $3 for an

18 installment payday loan. The certified consumer reporting

19 service shall not charge any additional fees or charges.

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