97TH GENERAL ASSEMBLY
State of Illinois
2011 and 2012
HB5022

Introduced 2/7/2012, by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:
815 ILCS 122/1-10

Amends the Payday Loan Reform Act to provide that "official documentation of income" includes documentation of tax returns, government benefits, credit reports, and other documents in addition to pay stubs. Effective immediately.
AN ACT concerning business.

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

Section 5. The Payday Loan Reform Act is amended by changing Section 1-10 as follows:

(815 ILCS 122/1-10)
Sec. 1-10. Definitions. As used in this Act:
"Check" means a "negotiable instrument", as defined in Article 3 of the Uniform Commercial Code, that is drawn on a financial institution.
"Commercially reasonable method of verification" or "certified database" means a consumer reporting service database certified by the Department as effective in verifying that a proposed loan agreement is permissible under this Act, or, in the absence of the Department's certification, any reasonably reliable written verification by the consumer concerning (i) whether the consumer has any outstanding payday loans, (ii) the principal amount of those outstanding payday loans, and (iii) whether any payday loans have been paid in full by the consumer in the preceding 7 days.
"Consumer" means any natural person who, singly or jointly with another consumer, enters into a loan.
"Consumer reporting service" means an entity that provides
a database certified by the Department.

"Department" means the Department of Financial and Professional Regulation.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Gross monthly income" means monthly income as demonstrated by official documentation of the income, including, but not limited to, a pay stub or a receipt reflecting payment of government benefits, for the period 30 days prior to the date on which the loan is made.

"Lender" and "licensee" mean any person or entity, including any affiliate or subsidiary of a lender or licensee, that offers or makes a payday loan, buys a whole or partial interest in a payday loan, arranges a payday loan for a third party, or acts as an agent for a third party in making a payday loan, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, and includes any other person or entity if the Department determines that the person or entity is engaged in a transaction that is in substance a disguised payday loan or a subterfuge for the purpose of avoiding this Act.

"Loan agreement" means a written agreement between a lender and consumer to make a loan to the consumer, regardless of whether any loan proceeds are actually paid to the consumer on the date on which the loan agreement is made.
"Member of the military" means a person serving in the armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States. "Member of the military" includes those persons engaged in (i) active duty, (ii) training or education under the supervision of the United States preliminary to induction into military service, or (iii) a period of active duty with the State of Illinois under Title 10 or Title 32 of the United States Code pursuant to order of the President or the Governor of the State of Illinois.

"Official documentation of income" includes, but is not limited to, a recent pay stub, a receipt reflecting payment of government benefits, a tax return, documentation prepared by the source of income, the consumer's credit report from a consumer reporting agency as part of the licensee's underwriting process, or other official documentation.

"Outstanding balance" means the total amount owed by the consumer on a loan to a lender, including all principal, finance charges, fees, and charges of every kind.

"Payday loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

(1) A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days
before deposit or presentment, or accepts one or more
checks dated subsequent to the date written and agrees to
hold them for deposit; or

(2) A lender accepts one or more authorizations to
debit a consumer's bank account; or

(3) A lender accepts an interest in a consumer's wages,
including, but not limited to, a wage assignment.

The term "payday loan" includes "installment payday loan",
unless otherwise specified in this Act.

"Principal amount" means the amount received by the
consumer from the lender due and owing on a loan, excluding any
finance charges, interest, fees, or other loan-related
charges.

"Rollover" means to refinance, renew, amend, or extend a
loan beyond its original term.

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

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