



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB3410

Introduced 2/14/2014, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

815 ILCS 122/2-5
815 ILCS 122/3-5

Amends the Payday Loan Reform Act. Authorizes a municipality to limit the number of licensees located in the municipality beginning January 1, 2015. Provides that the limit established by a municipality may be no less than 5. Provides for the Department of Financial and Professional Regulation to randomly nonrenew licenses if the renewed license would result in a number of licenses in excess of the municipal limit. Reduces maximum permissible finance charges.

LRB098 19960 JLS 55513 b

1 AN ACT concerning regulation.

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 2-5 and 3-5 as follows:

6 (815 ILCS 122/2-5)

7 Sec. 2-5. Loan terms.

8 (a) Without affecting the right of a consumer to prepay at
9 any time without cost or penalty, no payday loan may have a
10 minimum term of less than 13 days.

11 (b) Except for an installment payday loan as defined in
12 this Section, no payday loan may be made to a consumer if the
13 loan would result in the consumer being indebted to one or more
14 payday lenders for a period in excess of 45 consecutive days.
15 Except as provided under subsection (c) of this Section and
16 Section 2-40, if a consumer has or has had loans outstanding
17 for a period in excess of 45 consecutive days, no payday lender
18 may offer or make a loan to the consumer for at least 7
19 calendar days after the date on which the outstanding balance
20 of all payday loans made during the 45 consecutive day period
21 is paid in full. For purposes of this subsection, the term
22 "consecutive days" means a series of continuous calendar days
23 in which the consumer has an outstanding balance on one or more

1 payday loans; however, if a payday loan is made to a consumer
2 within 6 days or less after the outstanding balance of all
3 loans is paid in full, those days are counted as "consecutive
4 days" for purposes of this subsection.

5 (c) Notwithstanding anything in this Act to the contrary, a
6 payday loan shall also include any installment loan otherwise
7 meeting the definition of payday loan contained in Section
8 1-10, but that has a term agreed by the parties of not less
9 than 112 days and not exceeding 180 days; hereinafter an
10 "installment payday loan". The following provisions shall
11 apply:

12 (i) Any installment payday loan must be fully
13 amortizing, with a finance charge calculated on the
14 principal balances scheduled to be outstanding and be
15 repayable in substantially equal and consecutive
16 installments, according to a payment schedule agreed by the
17 parties with not less than 13 days and not more than one
18 month between payments; except that the first installment
19 period may be longer than the remaining installment periods
20 by not more than 15 days, and the first installment payment
21 may be larger than the remaining installment payments by
22 the amount of finance charges applicable to the extra days.
23 In calculating finance charges under this subsection, when
24 the first installment period is longer than the remaining
25 installment periods, the amount of the finance charges
26 applicable to the extra days shall not be greater than

1 \$7.75 ~~\$15.50~~ per \$100 of the original principal balance
2 divided by the number of days in a regularly scheduled
3 installment period and multiplied by the number of extra
4 days determined by subtracting the number of days in a
5 regularly scheduled installment period from the number of
6 days in the first installment period.

7 (ii) An installment payday loan may be refinanced by a
8 new installment payday loan one time during the term of the
9 initial loan; provided that the total duration of
10 indebtedness on the initial installment payday loan
11 combined with the total term of indebtedness of the new
12 loan refinancing that initial loan, shall not exceed 180
13 days. For purposes of this Act, a refinancing occurs when
14 an existing installment payday loan is paid from the
15 proceeds of a new installment payday loan.

16 (iii) In the event an installment payday loan is paid
17 in full prior to the date on which the last scheduled
18 installment payment before maturity is due, other than
19 through a refinancing, no licensee may offer or make a
20 payday loan to the consumer for at least 2 calendar days
21 thereafter.

22 (iv) No installment payday loan may be made to a
23 consumer if the loan would result in the consumer being
24 indebted to one or more payday lenders for a period in
25 excess of 180 consecutive days. The term "consecutive days"
26 does not include the date on which a consumer makes the

1 final installment payment.

2 (d) (Blank).

3 (e) No lender may make a payday loan to a consumer if the
4 total of all payday loan payments coming due within the first
5 calendar month of the loan, when combined with the payment
6 amount of all of the consumer's other outstanding payday loans
7 coming due within the same month, exceeds the lesser of:

8 (1) \$1,000; or

9 (2) in the case of one or more payday loans, 25% of the
10 consumer's gross monthly income; or

11 (3) in the case of one or more installment payday
12 loans, 22.5% of the consumer's gross monthly income; or

13 (4) in the case of a payday loan and an installment
14 payday loan, 22.5% of the consumer's gross monthly income.

15 No loan shall be made to a consumer who has an outstanding
16 balance on 2 payday loans, except that, for a period of 12
17 months after the effective date of this amendatory Act of the
18 96th General Assembly, consumers with an existing CILA loan may
19 be issued an installment loan issued under this Act from the
20 company from which their CILA loan was issued.

21 (e-5) Except as provided in subsection (c)(i), no lender
22 may charge more than \$7.75 ~~\$15.50~~ per \$100 loaned on any payday
23 loan, or more than \$7.75 ~~\$15.50~~ per \$100 on the initial
24 principal balance and on the principal balances scheduled to be
25 outstanding during any installment period on any installment
26 payday loan. Except for installment payday loans and except as

1 provided in Section 2-25, this charge is considered fully
2 earned as of the date on which the loan is made. For purposes
3 of determining the finance charge earned on an installment
4 payday loan, the disclosed annual percentage rate shall be
5 applied to the principal balances outstanding from time to time
6 until the loan is paid in full, or until the maturity date,
7 which ever occurs first. No finance charge may be imposed after
8 the final scheduled maturity date.

9 When any loan contract is paid in full, the licensee shall
10 refund any unearned finance charge. The unearned finance charge
11 that is refunded shall be calculated based on a method that is
12 at least as favorable to the consumer as the actuarial method,
13 as defined by the federal Truth in Lending Act. The sum of the
14 digits or rule of 78ths method of calculating prepaid interest
15 refunds is prohibited.

16 (f) A lender may not take or attempt to take an interest in
17 any of the consumer's personal property to secure a payday
18 loan.

19 (g) A consumer has the right to redeem a check or any other
20 item described in the definition of payday loan under Section
21 1-10 issued in connection with a payday loan from the lender
22 holding the check or other item at any time before the payday
23 loan becomes payable by paying the full amount of the check or
24 other item.

25 (Source: P.A. 96-936, eff. 3-21-11; 97-421, eff. 1-1-12.)

1 (815 ILCS 122/3-5)

2 Sec. 3-5. Licensure.

3 (a) A license to make a payday loan shall state the
4 address, including city and state, at which the business is to
5 be conducted and shall state fully the name of the licensee.
6 The license shall be conspicuously posted in the place of
7 business of the licensee and shall not be transferable or
8 assignable.

9 (b) An application for a license shall be in writing and in
10 a form prescribed by the Secretary. The Secretary may not issue
11 a payday loan license unless and until the following findings
12 are made:

13 (1) that the financial responsibility, experience,
14 character, and general fitness of the applicant are such as
15 to command the confidence of the public and to warrant the
16 belief that the business will be operated lawfully and
17 fairly and within the provisions and purposes of this Act;
18 ~~and~~

19 (2) that the applicant has submitted such other
20 information as the Secretary may deem necessary; ~~and~~

21 (3) that the issuance of the license would not result
22 in the number of licenses being issued for locations in a
23 municipality exceeding any limit upon the number of
24 licensed locations authorized by the municipality.

25 (c) A license shall be issued for no longer than one year,
26 and no renewal of a license may be provided if a licensee has

1 substantially violated this Act and has not cured the violation
2 to the satisfaction of the Department or if the renewal of the
3 license would result in a number of licenses in a municipality
4 exceeding the limit upon the number of licensed locations
5 authorized by the municipality. If a municipality establishes a
6 limit on the number of licensed locations that is less than the
7 number of licenses sought to be renewed, the Department shall
8 randomly determine which licenses to refuse to renew.

9 (d) A licensee shall appoint, in writing, the Secretary as
10 attorney-in-fact upon whom all lawful process against the
11 licensee may be served with the same legal force and validity
12 as if served on the licensee. A copy of the written
13 appointment, duly certified, shall be filed in the office of
14 the Secretary, and a copy thereof certified by the Secretary
15 shall be sufficient evidence to subject a licensee to
16 jurisdiction in a court of law. This appointment shall remain
17 in effect while any liability remains outstanding in this State
18 against the licensee. When summons is served upon the Secretary
19 as attorney-in-fact for a licensee, the Secretary shall
20 immediately notify the licensee by registered mail, enclosing
21 the summons and specifying the hour and day of service.

22 (e) A licensee must pay an annual fee of \$1,000. In
23 addition to the license fee, the reasonable expense of any
24 examination or hearing by the Secretary under any provisions of
25 this Act shall be borne by the licensee. If a licensee fails to
26 renew its license by December 31, its license shall

1 automatically expire; however, the Secretary, in his or her
2 discretion, may reinstate an expired license upon:

3 (1) payment of the annual fee within 30 days of the
4 date of expiration; and

5 (2) proof of good cause for failure to renew.

6 (f) Not more than one place of business shall be maintained
7 under the same license, but the Secretary may issue more than
8 one license to the same licensee upon compliance with all the
9 provisions of this Act governing issuance of a single license.
10 The location, except those locations already in existence as of
11 June 1, 2005, may not be within one mile of a horse race track
12 subject to the Illinois Horse Racing Act of 1975, within one
13 mile of a facility at which gambling is conducted under the
14 Riverboat Gambling Act, within one mile of the location at
15 which a riverboat subject to the Riverboat Gambling Act docks,
16 or within one mile of any State of Illinois or United States
17 military base or naval installation.

18 (g) No licensee shall conduct the business of making loans
19 under this Act within any office, suite, room, or place of
20 business in which (1) any loans are offered or made under the
21 Consumer Installment Loan Act other than title secured loans as
22 defined in subsection (a) of Section 15 of the Consumer
23 Installment Loan Act and governed by Title 38, Section 110.330
24 of the Illinois Administrative Code or (2) any other business
25 is solicited or engaged in unless the other business is
26 licensed by the Department or, in the opinion of the Secretary,

1 the other business would not be contrary to the best interests
2 of consumers and is authorized by the Secretary in writing.

3 (g-5) Notwithstanding subsection (g) of this Section, a
4 licensee may obtain a license under the Consumer Installment
5 Loan Act (CILA) for the exclusive purpose and use of making
6 title secured loans, as defined in subsection (a) of Section 15
7 of CILA and governed by Title 38, Section 110.300 of the
8 Illinois Administrative Code. A licensee may continue to
9 service Consumer Installment Loan Act loans that were
10 outstanding as of the effective date of this amendatory Act of
11 the 96th General Assembly.

12 (h) The Secretary shall maintain a list of licensees that
13 shall be available to interested consumers and lenders and the
14 public. The Secretary shall maintain a toll-free number whereby
15 consumers may obtain information about licensees. The
16 Secretary shall also establish a complaint process under which
17 an aggrieved consumer may file a complaint against a licensee
18 or non-licensee who violates any provision of this Act.

19 (i) A municipality may by ordinance limit the number of
20 licensees under this Act that may be located in the
21 municipality on and after January 1, 2015. The limit
22 established by the municipality may not be fewer than 5
23 licenses.

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