

# HB5341



## 101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5341

by Rep. Mary Edly-Allen

### SYNOPSIS AS INTRODUCED:

815 ILCS 122/2-5

Amends the Payday Loan Reform Act. Provides that the finance charge for a payday loan shall not exceed an annual percentage rate of 39%.

LRB101 18979 JLS 68438 b

A BILL FOR

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 Section 2-5 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. Notwithstanding any other  
11 provision of this Act, the finance charge for a payday loan,  
12 including an installment payday loan, shall not exceed an  
13 annual percentage rate of 39%.

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

1 is paid in full. For purposes of this subsection, the term  
2 "consecutive days" means a series of continuous calendar days  
3 in which the consumer has an outstanding balance on one or more  
4 payday loans; however, if a payday loan is made to a consumer  
5 within 6 days or less after the outstanding balance of all  
6 loans is paid in full, those days are counted as "consecutive  
7 days" for purposes of this subsection.

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

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

1 ~~the first installment period is longer than the remaining~~  
2 ~~installment periods, the amount of the finance charges~~  
3 ~~applicable to the extra days shall not be greater than~~  
4 ~~\$15.50 per \$100 of the original principal balance divided~~  
5 ~~by the number of days in a regularly scheduled installment~~  
6 ~~period and multiplied by the number of extra days~~  
7 ~~determined by subtracting the number of days in a regularly~~  
8 ~~scheduled installment period from the number of days in the~~  
9 ~~first installment period.~~

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

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

25 (iv) No installment payday loan may be made to a  
26 consumer if the loan would result in the consumer being

1           indebted to one or more payday lenders for a period in  
2           excess of 180 consecutive days. The term "consecutive days"  
3           does not include the date on which a consumer makes the  
4           final installment payment.

5           (d) (Blank).

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

11                 (1) \$1,000; or

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

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

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

18          No loan shall be made to a consumer who has an outstanding  
19          balance on 2 payday loans, except that, for a period of 12  
20          months after March 21, 2011 (the effective date of Public Act  
21          96-936), consumers with an existing CILA loan may be issued an  
22          installment loan issued under this Act from the company from  
23          which their CILA loan was issued.

24          ~~(e-5) Except as provided in subsection (c)(i), no lender~~  
25          ~~may charge more than \$15.50 per \$100 loaned on any payday loan,~~  
26          ~~or more than \$15.50 per \$100 on the initial principal balance~~

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

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

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

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

1 other item.

2 (h) For the purpose of this Section, "substantially equal  
3 installment" includes a last regularly scheduled payment that  
4 may be less than, but no more than 5% larger than, the previous  
5 scheduled payment according to a disclosed payment schedule  
6 agreed to by the parties.

7 (Source: P.A. 100-201, eff. 8-18-17; 101-563, eff. 8-23-19.)