

SB1758



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1758

Introduced 2/15/2019, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

205 ILCS 670/15
815 ILCS 122/2-5

from Ch. 17, par. 5415

Amends the Consumer Installment Loan Act and the Payday Loan Reform Act. Provides that "substantially equal installment" includes a last regularly scheduled payment that is no more than 5% as large as the previous scheduled payment according to a disclosed payment schedule agreed to by the parties. Effective immediately.

LRB101 10278 AMC 55383 b

A BILL FOR

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 Consumer Installment Loan Act is amended by
5 changing Section 15 as follows:

6 (205 ILCS 670/15) (from Ch. 17, par. 5415)

7 Sec. 15. Charges permitted.

8 (a) Every licensee may lend a principal amount not
9 exceeding \$40,000 and, except as to small consumer loans as
10 defined in this Section, may charge, contract for and receive
11 thereon interest at an annual percentage rate of no more than
12 36%, subject to the provisions of this Act; provided, however,
13 that the limitation on the annual percentage rate contained in
14 this subsection (a) does not apply to title-secured loans,
15 which are loans upon which interest is charged at an annual
16 percentage rate exceeding 36%, in which, at commencement, an
17 obligor provides to the licensee, as security for the loan,
18 physical possession of the obligor's title to a motor vehicle,
19 and upon which a licensee may charge, contract for, and receive
20 thereon interest at the rate agreed upon by the licensee and
21 borrower. For purposes of this Section, the annual percentage
22 rate shall be calculated in accordance with the federal Truth
23 in Lending Act.

1 (b) For purpose of this Section, the following terms shall
2 have the meanings ascribed herein.

3 "Applicable interest" for a precomputed loan contract
4 means the amount of interest attributable to each monthly
5 installment period. It is computed as if each installment
6 period were one month and any interest charged for extending
7 the first installment period beyond one month is ignored. The
8 applicable interest for any monthly installment period is, for
9 loans other than small consumer loans as defined in this
10 Section, that portion of the precomputed interest that bears
11 the same ratio to the total precomputed interest as the
12 balances scheduled to be outstanding during that month bear to
13 the sum of all scheduled monthly outstanding balances in the
14 original contract. With respect to a small consumer loan, the
15 applicable interest for any installment period is that portion
16 of the precomputed monthly installment account handling charge
17 attributable to the installment period calculated based on a
18 method at least as favorable to the consumer as the actuarial
19 method, as defined by the federal Truth in Lending Act.

20 "Interest-bearing loan" means a loan in which the debt is
21 expressed as a principal amount plus interest charged on actual
22 unpaid principal balances for the time actually outstanding.

23 "Precomputed loan" means a loan in which the debt is
24 expressed as the sum of the original principal amount plus
25 interest computed actuarially in advance, assuming all
26 payments will be made when scheduled.

1 "Small consumer loan" means a loan upon which interest is
2 charged at an annual percentage rate exceeding 36% and with an
3 amount financed of \$4,000 or less. "Small consumer loan" does
4 not include a title-secured loan as defined by subsection (a)
5 of this Section or a payday loan as defined by the Payday Loan
6 Reform Act.

7 "Substantially equal installment" includes a last
8 regularly scheduled payment that is no more than 5% as large as
9 the previous scheduled payment according to a disclosed payment
10 schedule agreed to by the parties.

11 (c) Loans may be interest-bearing or precomputed.

12 (d) To compute time for either interest-bearing or
13 precomputed loans for the calculation of interest and other
14 purposes, a month shall be a calendar month and a day shall be
15 considered 1/30th of a month when calculation is made for a
16 fraction of a month. A month shall be 1/12th of a year. A
17 calendar month is that period from a given date in one month to
18 the same numbered date in the following month, and if there is
19 no same numbered date, to the last day of the following month.
20 When a period of time includes a month and a fraction of a
21 month, the fraction of the month is considered to follow the
22 whole month. In the alternative, for interest-bearing loans,
23 the licensee may charge interest at the rate of 1/365th of the
24 agreed annual rate for each day actually elapsed.

25 (d-5) No licensee or other person may condition an
26 extension of credit to a consumer on the consumer's repayment

1 by preauthorized electronic fund transfers. Payment options,
2 including, but not limited to, electronic fund transfers and
3 Automatic Clearing House (ACH) transactions may be offered to
4 consumers as a choice and method of payment chosen by the
5 consumer.

6 (e) With respect to interest-bearing loans:

7 (1) Interest shall be computed on unpaid principal
8 balances outstanding from time to time, for the time
9 outstanding, until fully paid. Each payment shall be
10 applied first to the accumulated interest and the remainder
11 of the payment applied to the unpaid principal balance;
12 provided however, that if the amount of the payment is
13 insufficient to pay the accumulated interest, the unpaid
14 interest continues to accumulate to be paid from the
15 proceeds of subsequent payments and is not added to the
16 principal balance.

17 (2) Interest shall not be payable in advance or
18 compounded. However, if part or all of the consideration
19 for a new loan contract is the unpaid principal balance of
20 a prior loan, then the principal amount payable under the
21 new loan contract may include any unpaid interest which has
22 accrued. The unpaid principal balance of a precomputed loan
23 is the balance due after refund or credit of unearned
24 interest as provided in paragraph (f), clause (3). The
25 resulting loan contract shall be deemed a new and separate
26 loan transaction for all purposes.

1 (3) Loans must be fully amortizing and be repayable in
2 substantially equal and consecutive weekly, biweekly,
3 semimonthly, or monthly installments. Notwithstanding this
4 requirement, rates may vary according to an index that is
5 independently verifiable and beyond the control of the
6 licensee.

7 (4) The lender or creditor may, if the contract
8 provides, collect a delinquency or collection charge on
9 each installment in default for a period of not less than
10 10 days in an amount not exceeding 5% of the installment on
11 installments in excess of \$200, or \$10 on installments of
12 \$200 or less, but only one delinquency and collection
13 charge may be collected on any installment regardless of
14 the period during which it remains in default.

15 (f) With respect to precomputed loans:

16 (1) Loans shall be repayable in substantially equal and
17 consecutive weekly, biweekly, semimonthly, or monthly
18 installments of principal and interest combined, except
19 that the first installment period may be longer than one
20 month by not more than 15 days, and the first installment
21 payment amount may be larger than the remaining payments by
22 the amount of interest charged for the extra days; and
23 provided further that monthly installment payment dates
24 may be omitted to accommodate borrowers with seasonal
25 income.

26 (2) Payments may be applied to the combined total of

1 principal and precomputed interest until the loan is fully
2 paid. Payments shall be applied in the order in which they
3 become due, except that any insurance proceeds received as
4 a result of any claim made on any insurance, unless
5 sufficient to prepay the contract in full, may be applied
6 to the unpaid installments of the total of payments in
7 inverse order.

8 (3) When any loan contract is paid in full by cash,
9 renewal or refinancing, or a new loan, one month or more
10 before the final installment due date, a licensee shall
11 refund or credit the obligor with the total of the
12 applicable interest for all fully unexpired installment
13 periods, as originally scheduled or as deferred, which
14 follow the day of prepayment; provided, if the prepayment
15 occurs prior to the first installment due date, the
16 licensee may retain 1/30 of the applicable interest for a
17 first installment period of one month for each day from the
18 date of the loan to the date of prepayment, and shall
19 refund or credit the obligor with the balance of the total
20 interest contracted for. If the maturity of the loan is
21 accelerated for any reason and judgment is entered, the
22 licensee shall credit the borrower with the same refund as
23 if prepayment in full had been made on the date the
24 judgement is entered.

25 (4) The lender or creditor may, if the contract
26 provides, collect a delinquency or collection charge on

1 each installment in default for a period of not less than
2 10 days in an amount not exceeding 5% of the installment on
3 installments in excess of \$200, or \$10 on installments of
4 \$200 or less, but only one delinquency or collection charge
5 may be collected on any installment regardless of the
6 period during which it remains in default.

7 (5) If the parties agree in writing, either in the loan
8 contract or in a subsequent agreement, to a deferment of
9 wholly unpaid installments, a licensee may grant a
10 deferment and may collect a deferment charge as provided in
11 this Section. A deferment postpones the scheduled due date
12 of the earliest unpaid installment and all subsequent
13 installments as originally scheduled, or as previously
14 deferred, for a period equal to the deferment period. The
15 deferment period is that period during which no installment
16 is scheduled to be paid by reason of the deferment. The
17 deferment charge for a one month period may not exceed the
18 applicable interest for the installment period immediately
19 following the due date of the last undeferred payment. A
20 proportionate charge may be made for deferment for periods
21 of more or less than one month. A deferment charge is
22 earned pro rata during the deferment period and is fully
23 earned on the last day of the deferment period. Should a
24 loan be prepaid in full during a deferment period, the
25 licensee shall credit to the obligor a refund of the
26 unearned deferment charge in addition to any other refund

1 or credit made for prepayment of the loan in full.

2 (6) If two or more installments are delinquent one full
3 month or more on any due date, and if the contract so
4 provides, the licensee may reduce the unpaid balance by the
5 refund credit which would be required for prepayment in
6 full on the due date of the most recent maturing
7 installment in default. Thereafter, and in lieu of any
8 other default or deferment charges, the agreed rate of
9 interest or, in the case of small consumer loans, interest
10 at the rate of 18% per annum, may be charged on the unpaid
11 balance until fully paid.

12 (7) Fifteen days after the final installment as
13 originally scheduled or deferred, the licensee, for any
14 loan contract which has not previously been converted to
15 interest-bearing under paragraph (f), clause (6), may
16 compute and charge interest on any balance remaining
17 unpaid, including unpaid default or deferment charges, at
18 the agreed rate of interest or, in the case of small
19 consumer loans, interest at the rate of 18% per annum,
20 until fully paid. At the time of payment of said final
21 installment, the licensee shall give notice to the obligor
22 stating any amounts unpaid.

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

24 Section 10. The Payday Loan Reform Act is amended by
25 changing Section 2-5 as follows:

1 (815 ILCS 122/2-5)

2 Sec. 2-5. Loan terms.

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

6 (b) Except for an installment payday loan as defined in
7 this Section, no payday loan may be made to a consumer if the
8 loan would result in the consumer being indebted to one or more
9 payday lenders for a period in excess of 45 consecutive days.
10 Except as provided under subsection (c) of this Section and
11 Section 2-40, if a consumer has or has had loans outstanding
12 for a period in excess of 45 consecutive days, no payday lender
13 may offer or make a loan to the consumer for at least 7
14 calendar days after the date on which the outstanding balance
15 of all payday loans made during the 45 consecutive day period
16 is paid in full. For purposes of this subsection, the term
17 "consecutive days" means a series of continuous calendar days
18 in which the consumer has an outstanding balance on one or more
19 payday loans; however, if a payday loan is made to a consumer
20 within 6 days or less after the outstanding balance of all
21 loans is paid in full, those days are counted as "consecutive
22 days" for purposes of this subsection.

23 (c) Notwithstanding anything in this Act to the contrary, a
24 payday loan shall also include any installment loan otherwise
25 meeting the definition of payday loan contained in Section

1 1-10, but that has a term agreed by the parties of not less
2 than 112 days and not exceeding 180 days; hereinafter an
3 "installment payday loan". The following provisions shall
4 apply:

5 (i) Any installment payday loan must be fully
6 amortizing, with a finance charge calculated on the
7 principal balances scheduled to be outstanding and be
8 repayable in substantially equal and consecutive
9 installments, according to a payment schedule agreed by the
10 parties with not less than 13 days and not more than one
11 month between payments; except that the first installment
12 period may be longer than the remaining installment periods
13 by not more than 15 days, and the first installment payment
14 may be larger than the remaining installment payments by
15 the amount of finance charges applicable to the extra days.
16 In calculating finance charges under this subsection, when
17 the first installment period is longer than the remaining
18 installment periods, the amount of the finance charges
19 applicable to the extra days shall not be greater than
20 \$15.50 per \$100 of the original principal balance divided
21 by the number of days in a regularly scheduled installment
22 period and multiplied by the number of extra days
23 determined by subtracting the number of days in a regularly
24 scheduled installment period from the number of days in the
25 first installment period.

26 (ii) An installment payday loan may be refinanced by a

1 new installment payday loan one time during the term of the
2 initial loan; provided that the total duration of
3 indebtedness on the initial installment payday loan
4 combined with the total term of indebtedness of the new
5 loan refinancing that initial loan, shall not exceed 180
6 days. For purposes of this Act, a refinancing occurs when
7 an existing installment payday loan is paid from the
8 proceeds of a new installment payday loan.

9 (iii) In the event an installment payday loan is paid
10 in full prior to the date on which the last scheduled
11 installment payment before maturity is due, other than
12 through a refinancing, no licensee may offer or make a
13 payday loan to the consumer for at least 2 calendar days
14 thereafter.

15 (iv) No installment payday loan may be made to a
16 consumer if the loan would result in the consumer being
17 indebted to one or more payday lenders for a period in
18 excess of 180 consecutive days. The term "consecutive days"
19 does not include the date on which a consumer makes the
20 final installment payment.

21 (d) (Blank).

22 (e) No lender may make a payday loan to a consumer if the
23 total of all payday loan payments coming due within the first
24 calendar month of the loan, when combined with the payment
25 amount of all of the consumer's other outstanding payday loans
26 coming due within the same month, exceeds the lesser of:

- 1 (1) \$1,000; or
- 2 (2) in the case of one or more payday loans, 25% of the
3 consumer's gross monthly income; or
- 4 (3) in the case of one or more installment payday
5 loans, 22.5% of the consumer's gross monthly income; or
- 6 (4) in the case of a payday loan and an installment
7 payday loan, 22.5% of the consumer's gross monthly income.

8 No loan shall be made to a consumer who has an outstanding
9 balance on 2 payday loans, except that, for a period of 12
10 months after March 21, 2011 (the effective date of Public Act
11 96-936), consumers with an existing CILA loan may be issued an
12 installment loan issued under this Act from the company from
13 which their CILA loan was issued.

14 (e-5) Except as provided in subsection (c)(i), no lender
15 may charge more than \$15.50 per \$100 loaned on any payday loan,
16 or more than \$15.50 per \$100 on the initial principal balance
17 and on the principal balances scheduled to be outstanding
18 during any installment period on any installment payday loan.
19 Except for installment payday loans and except as provided in
20 Section 2-25, this charge is considered fully earned as of the
21 date on which the loan is made. For purposes of determining the
22 finance charge earned on an installment payday loan, the
23 disclosed annual percentage rate shall be applied to the
24 principal balances outstanding from time to time until the loan
25 is paid in full, or until the maturity date, whichever occurs
26 first. No finance charge may be imposed after the final

1 scheduled maturity date.

2 When any loan contract is paid in full, the licensee shall
3 refund any unearned finance charge. The unearned finance charge
4 that is refunded shall be calculated based on a method that is
5 at least as favorable to the consumer as the actuarial method,
6 as defined by the federal Truth in Lending Act. The sum of the
7 digits or rule of 78ths method of calculating prepaid interest
8 refunds is prohibited.

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

12 (g) A consumer has the right to redeem a check or any other
13 item described in the definition of payday loan under Section
14 1-10 issued in connection with a payday loan from the lender
15 holding the check or other item at any time before the payday
16 loan becomes payable by paying the full amount of the check or
17 other item.

18 (h) For the purpose of this Section, "substantially equal
19 installment" includes a last regularly scheduled payment that
20 is no more than 5% as large as the previous scheduled payment
21 according to a disclosed payment schedule agreed to by the
22 parties.

23 (Source: P.A. 100-201, eff. 8-18-17.)

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