

# SB3450



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB3450

Introduced 2/14/2020, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

815 ILCS 122/2-5

Amends the Payday Loan Reform Act. Provides that lenders must verify the identity of borrowers before making a loan under the Act. Requires inspection and copying of a government-issued identification document. Allows identifications to be made by licensees under the Currency Exchange Act and other licensees approved by the Department of Financial and Professional Regulation on behalf of lenders under the Payday Loan Reform Act.

LRB101 17906 JLS 67342 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.

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           \$15.50 per \$100 of the original principal balance divided  
2           by the number of days in a regularly scheduled installment  
3           period and multiplied by the number of extra days  
4           determined by subtracting the number of days in a regularly  
5           scheduled installment period from the number of days in the  
6           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 March 21, 2011 (the effective date of Public Act  
18 96-936), consumers with an existing CILA loan may be issued an  
19 installment loan issued under this Act from the company from  
20 which their CILA loan was issued.

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

1 Section 2-25, this charge is considered fully earned as of the  
2 date on which the loan is made. For purposes of determining the  
3 finance charge earned on an installment payday loan, the  
4 disclosed annual percentage rate shall be applied to the  
5 principal balances outstanding from time to time until the loan  
6 is paid in full, or until the maturity date, whichever occurs  
7 first. No finance charge may be imposed after the final  
8 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 (h) For the purpose of this Section, "substantially equal  
26 installment" includes a last regularly scheduled payment that

1 may be less than, but no more than 5% larger than, the previous  
2 scheduled payment according to a disclosed payment schedule  
3 agreed to by the parties.

4 (i) No lender may make a loan permitted under this Act to a  
5 consumer unless the consumer has first verified his or her  
6 identity in person at the lender's or another licensee's  
7 physical location, a currency exchange licensed under the  
8 Currency Exchange Act, or another physical location in this  
9 State licensed and approved in writing by the Department. The  
10 original identity verification shall be maintained as part of  
11 the loan file. Verification of a consumer's identity must  
12 include the inspecting and copying of a government-issued  
13 identification recorded on a form, established by the  
14 Department, that includes the consumer's name, address,  
15 telephone number, and other identifying information, as the  
16 Department determines is not inconsistent with this Act, and an  
17 original signature of the consumer attesting to the accuracy of  
18 the information. No fee may be charged to a consumer for  
19 identity verification. Completed identity verification forms  
20 may be delivered in any reasonable manner by the party  
21 performing the verification directly to a lender designated by  
22 the consumer. A party authorized to perform identity  
23 verification may contract with any lender for performance of  
24 identity verification and delivery of the verification form to  
25 the lender on terms as agreed by the parties.

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