



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5833

Introduced 09/21/06, by Rep. Edward J. Acevedo

SYNOPSIS AS INTRODUCED:

205 ILCS 670/12.10 new

Amends the Consumer Installment Loan Act. Provides provisions concerning consumer protections, prohibited acts, required disclosures, and members of the military for loans under the Act with a finance charge exceeding an annual percentage rate of 36% for which the lender accepts any of the following as security for the loan: (1) one or more checks dated on the date written with an agreement to hold them for a period of days before deposit or presentment or one or more checks dated subsequent to the date written with an agreement to hold them for deposit; (2) one or more authorizations to debit a consumer's bank account; or (3) an interest in a consumer's wages, including, but not limited to, a wage assignment.

LRB094 21348 MJR 59696 b

FISCAL NOTE ACT
MAY APPLY

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 adding Section 12.10 as follows:

6 (205 ILCS 670/12.10 new)

7 Sec. 12.10. Consumer loans; Consumer protections;
8 prohibited acts; required disclosures; members of the
9 military.

10 (a) This Section applies to any loan under this Act with a
11 finance charge exceeding an annual percentage rate of 36% for
12 which the lender accepts any of the following as security for
13 the loan:

14 (1) One or more checks dated on the date written with
15 an agreement to hold them for a period of days before
16 deposit or presentment or one or more checks dated
17 subsequent to the date written with an agreement to hold
18 them for deposit.

19 (2) One or more authorizations to debit a consumer's
20 bank account.

21 (3) An interest in a consumer's wages, including, but
22 not limited to, a wage assignment.

23 (b) A lender making a loan under this Section must use a
24 consumer reporting service database certified under Article 2
25 of the Payday Loan Reform Act to verify that the loan would be
26 allowed under the Payday Loan Reform Act. No loan under this
27 Section may be made if the consumer has an existing loan made
28 under the Payday Loan Reform Act, if the consumer is in a
29 repayment plan under the Payday Loan Reform Act, or if the
30 consumer is in a cooling-off period under the Payday Loan
31 Reform Act, and no loan under this Section may be used to pay
32 off an existing loan made under the Payday Loan Reform Act.

1 (c) A lender making a loan under this Section must itemize
2 all fees and interest on the loan document. Other than a
3 one-time, non-sufficient funds fee of no more than \$25, no
4 additional fees or penalties may be charged. The database fee
5 incurred when a loan is executed may not be passed on to the
6 consumer. Interest on the loan must stop accruing at the date
7 of default.

8 (d) A lender making a loan under this Section may not do
9 any of the following:

10 (1) Threaten to use or use the criminal process in this
11 or any other state to collect on the loan.

12 (2) Include any of the following provisions in the loan
13 documents:

14 (A) A confession of judgment clause.

15 (B) A waiver of the right to a jury trial, if
16 applicable, in any action brought by or against the
17 consumer, unless the waiver is included in an allowed
18 arbitration clause.

19 (C) A mandatory arbitration clause that is
20 oppressive, unfair, unconscionable, or substantially
21 in derogation of the rights of consumers.

22 (D) A provision in which the consumer agrees not to
23 assert any claim or defense arising out of the
24 contract.

25 (3) Take any security interest in real estate.

26 (4) Charge for or attempt to collect attorney's fees,
27 court costs, or arbitration costs incurred in connection
28 with the collection of a loan under this Section.

29 (e) Before a consumer loan is made, a lender shall deliver
30 to the consumer a pamphlet prepared by the Secretary that does
31 all of the following:

32 (1) Explains, in simple English and Spanish, all of the
33 consumer's rights and responsibilities in a consumer loan
34 transaction.

35 (2) Includes a toll-free number to the Secretary's
36 office to handle concerns or provide information about

1 whether a lender is licensed, whether complaints have been
2 filed with the Secretary, and the resolution of those
3 complaints.

4 (3) Provides information regarding the availability of
5 debt management services.

6 (f) A lender making a loan under this Section shall provide
7 consumers with a written agreement that may be kept by the
8 consumer. The written agreement must include the following
9 information in English and in the language in which the loan
10 was negotiated:

11 (1) the name and address of the lender making the
12 consumer loan and the name and title of the individual
13 employee who signs the agreement on behalf of the licensee;

14 (2) disclosures required by the federal Truth in
15 Lending Act;

16 (3) a clear description of the consumer's payment
17 obligations under the loan;

18 (4) the following statement, in at least 14-point bold
19 typeface: "You cannot be prosecuted in criminal court to
20 collect this loan.". The information required to be
21 disclosed under this subdivision (4) must be conspicuously
22 disclosed in the loan document and must be located
23 immediately preceding the signature of the consumer; and

24 (5) the following statement, in at least 14-point bold
25 typeface: "WARNING: This loan is not intended to meet
26 long-term financial needs. This loan should be used only to
27 meet short-term cash needs. The cost of your loan may be
28 higher than loans offered by other lending institutions.
29 This loan is regulated by the Department of Financial and
30 Professional Regulation."

31 (g) The following shall apply to loans under this Section
32 made to members of the military:

33 (1) A lender may not garnish the wages or salaries of a
34 consumer who is a member of the military.

35 (2) In addition to any rights and obligations provided
36 under the federal Servicemembers Civil Relief Act, a lender

1 shall suspend and defer collection activity against a
2 consumer who is a member of the military and who has been
3 deployed to a combat or combat-support posting for the
4 duration of the deployment.

5 (3) A lender may not knowingly contact the military
6 chain of command of a consumer who is a member of the
7 military in an effort to collect on a consumer loan.

8 (4) A lender must honor the terms of any repayment plan
9 that they have entered into with a consumer, including a
10 repayment agreement negotiated through military counselors
11 or third-party credit counselors.