HB5523

LRB101 17905 JLS 67341 b

101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5523

by Rep. Emanuel Chris Welch

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.

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A BILL FOR

AN ACT concerning business.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

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

(815 ILCS 122/2-5)

Sec. 2-5. Loan terms.

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

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

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

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

$15.50 per $100 of the original principal balance divided by the number of days in a regularly scheduled installment period and multiplied by the number of extra days determined by subtracting the number of days in a regularly scheduled installment period from the number of days in the first installment period.

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

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

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

(d) (Blank).

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

(1) $1,000; or

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

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

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

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

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

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

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

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

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

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

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

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