

SB0085



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0085

Introduced 1/23/2019, by Sen. Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

205 ILCS 670/1	from Ch. 17, par. 5401
205 ILCS 670/15	from Ch. 17, par. 5415
205 ILCS 670/15f new	

Amends the Consumer Installment Loan Act. Defines "title-secured loan". Provides that for title-secured loans entered into or renewed on or after the effective date of the Act: (i) a licensee shall not contract for or receive a charge exceeding 36% annual percentage rate on the unpaid balance of the amount financed for a title-secured loan; (ii) the loan contract shall provide for repayment of the principal and charges within specified maximum loan terms; (iii) upon or after default, a licensee shall not charge a borrower any finance charges, interest, fees, or charges of any kind; and (iv) the loan may be refinanced if the original principal of the loan has been reduced by at least 60%. Provides that nothing in these provisions abrogates a borrower's right to collect any surplus arising from the sale of a motor vehicle under the Uniform Commercial Code.

LRB101 06777 JRG 51804 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 Sections 1 and 15 and by adding Section 15f as
6 follows:

7 (205 ILCS 670/1) (from Ch. 17, par. 5401)

8 Sec. 1. License required to engage in business. No person,
9 partnership, association, limited liability company, or
10 corporation shall engage in the business of making loans of
11 money in a principal amount not exceeding \$40,000, and charge,
12 contract for, or receive on any such loan a greater rate of
13 interest, discount, or consideration therefor than the lender
14 would be permitted by law to charge if he were not a licensee
15 hereunder, except as authorized by this Act after first
16 obtaining a license from the Director of Financial Institutions
17 (hereinafter called the Director). No licensee, or employee or
18 affiliate thereof, that is licensed under the Payday Loan
19 Reform Act shall obtain a license under this Act except that a
20 licensee under the Payday Loan Reform Act may obtain a license
21 under this Act for the exclusive purpose and use of making
22 title-secured loans, as defined in ~~subsection (a) of~~ Section
23 15f 15 of this Act and governed by Title 38, Section 110.300 of

1 the Illinois Administrative Code. For the purpose of this
2 Section, "affiliate" means any person or entity that directly
3 or indirectly controls, is controlled by, or shares control
4 with another person or entity. A person or entity has control
5 over another if the person or entity has an ownership interest
6 of 25% or more in the other.

7 (Source: P.A. 96-936, eff. 3-21-11; 97-420, eff. 1-1-12.)

8 (205 ILCS 670/15) (from Ch. 17, par. 5415)

9 Sec. 15. Charges permitted.

10 (a) Every licensee may lend a principal amount not
11 exceeding \$40,000 and, except as to small consumer loans as
12 defined in this Section, may charge, contract for and receive
13 thereon interest at an annual percentage rate of no more than
14 36%, subject to the provisions of this Act; ~~provided, however,~~
15 ~~that the limitation on the annual percentage rate contained in~~
16 ~~this subsection (a) does not apply to title secured loans,~~
17 ~~which are loans upon which interest is charged at an annual~~
18 ~~percentage rate exceeding 36%, in which, at commencement, an~~
19 ~~obligor provides to the licensee, as security for the loan,~~
20 ~~physical possession of the obligor's title to a motor vehicle,~~
21 ~~and upon which a licensee may charge, contract for, and receive~~
22 ~~thereon interest at the rate agreed upon by the licensee and~~
23 ~~borrower.~~ For purposes of this Section, the annual percentage
24 rate shall be calculated in accordance with the federal Truth
25 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 15f or a payday loan as defined by the Payday
6 Loan Reform Act.

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

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

21 (d-5) No licensee or other person may condition an
22 extension of credit to a consumer on the consumer's repayment
23 by preauthorized electronic fund transfers. Payment options,
24 including, but not limited to, electronic fund transfers and
25 Automatic Clearing House (ACH) transactions may be offered to
26 consumers as a choice and method of payment chosen by the

1 consumer.

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

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

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

23 (3) Loans must be fully amortizing and be repayable in
24 substantially equal and consecutive weekly, biweekly,
25 semimonthly, or monthly installments. Notwithstanding this
26 requirement, rates may vary according to an index that is

1 independently verifiable and beyond the control of the
2 licensee.

3 (4) The lender or creditor may, if the contract
4 provides, collect a delinquency or collection charge on
5 each installment in default for a period of not less than
6 10 days in an amount not exceeding 5% of the installment on
7 installments in excess of \$200, or \$10 on installments of
8 \$200 or less, but only one delinquency and collection
9 charge may be collected on any installment regardless of
10 the period during which it remains in default.

11 (f) With respect to precomputed loans:

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

22 (2) Payments may be applied to the combined total of
23 principal and precomputed interest until the loan is fully
24 paid. Payments shall be applied in the order in which they
25 become due, except that any insurance proceeds received as
26 a result of any claim made on any insurance, unless

1 sufficient to prepay the contract in full, may be applied
2 to the unpaid installments of the total of payments in
3 inverse order.

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

21 (4) The lender or creditor may, if the contract
22 provides, collect a delinquency or collection charge on
23 each installment in default for a period of not less than
24 10 days in an amount not exceeding 5% of the installment on
25 installments in excess of \$200, or \$10 on installments of
26 \$200 or less, but only one delinquency or collection charge

1 may be collected on any installment regardless of the
2 period during which it remains in default.

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

24 (6) If two or more installments are delinquent one full
25 month or more on any due date, and if the contract so
26 provides, the licensee may reduce the unpaid balance by the

1 refund credit which would be required for prepayment in
2 full on the due date of the most recent maturing
3 installment in default. Thereafter, and in lieu of any
4 other default or deferment charges, the agreed rate of
5 interest or, in the case of small consumer loans, interest
6 at the rate of 18% per annum, may be charged on the unpaid
7 balance until fully paid.

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

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

20 (205 ILCS 670/15f new)

21 Sec. 15f. Title-secured loans.

22 (a) This Section applies exclusively to title-secured
23 loans entered into or renewed on or after the effective date of
24 this amendatory Act of the 101st General Assembly.

25 (b) As used in this Section, "title-secured loan" means a

1 loan in which, at commencement, an obligor provides to a
 2 licensee, as security for the loan, physical possession of the
 3 obligor's title to a motor vehicle, and upon which a licensee
 4 may charge, contract for, and receive thereon interest at the
 5 rate agreed upon by the licensee and the obligor.

6 (c) Notwithstanding any other provision of law:

7 (1) a licensee shall not contract for or receive a
 8 charge exceeding a 36% annual percentage rate on the unpaid
 9 balance of the amount financed for a title-secured loan;
 10 for the purposes of this paragraph (1), the annual
 11 percentage rate shall be calculated as such rate is
 12 calculated using the system for calculating a military
 13 annual percentage rate under Section 232.4 of Title 32 of
 14 the Code of Federal Regulations, as in effect on the
 15 effective date of this amendatory Act of the 101st General
 16 Assembly; and

17 (2) the loan contract shall provide for repayment of
 18 the principal and charges within the following maximum loan
 19 terms from the date of the loan contract or the last
 20 advance, if any, required by the loan contract:

<u>Amount financed</u>	<u>Maximum loan term</u>
<u>\$0-\$1,000</u>	<u>12 months</u>
<u>\$1,000.01-\$2,000</u>	<u>18 months</u>
<u>\$2,000.01-\$3,000</u>	<u>24 months</u>
<u>\$3,000.01-\$4,000</u>	<u>30 months</u>

1 (3) upon and after default, a licensee shall not charge
2 a borrower any finance charges, interest, fees, or charges
3 of any kind.

4 (4) the loan may be refinanced, but only when the
5 original principal of the loan has been reduced by at least
6 60%. The principal amount of the new title-secured loan may
7 not exceed the total outstanding balance of the refinanced
8 loan.

9 Nothing in this Section abrogates a borrower's right to
10 collect any surplus arising from the sale of a motor vehicle
11 pursuant to Article 9 of the Uniform Commercial Code.

12 (d) The Director shall, within one year after the effective
13 date of this amendatory Act of the 101st General Assembly,
14 adopt rules consistent with this Section and repeal or amend
15 rules that are inconsistent with this Section. The adoption,
16 amendment, or repeal of rules shall be in conformity with the
17 requirements of the Illinois Administrative Procedure Act.