



Sen. Jacqueline Y. Collins

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10200HB3968sam001

LRB102 13385 SPS 42357 a

1 AMENDMENT TO HOUSE BILL 3968

2 AMENDMENT NO. _____. Amend House Bill 3968 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Pawnbroker Regulation Act is amended by
5 changing Section 2 as follows:

6 (205 ILCS 510/2) (from Ch. 17, par. 4652)

7 Sec. 2. Pursuant to Section 15-10-30 of the Predatory Loan
8 Prevention Act, it ~~it~~ shall be unlawful for any pawnbroker to
9 charge or collect a greater benefit or percentage upon money
10 advanced, and for the use and forbearance thereof, than
11 permitted under Section 15-5-5 of the Predatory Loan
12 Prevention Act ~~than the rate of 3% per month. Nothing in this~~
13 ~~Section shall be construed so as to conflict with the law~~
14 ~~pertaining to usury and the person receiving money so advanced~~
15 ~~may hold such moneys to pay any fees in addition to interest as~~
16 ~~herein provided.~~

1 Each pawnbroker, when making a loan under this Section,
2 must disclose in printed form on the pawn contract the
3 following information to the persons receiving the loan:

4 (1) the amount of money advanced, which must be
5 designated as the amount financed;

6 (2) the maturity date of the pawn, which must be at
7 least 30 days after the date of the pawn;

8 (3) the total pawn interest and service charge payable
9 on the maturity date, which must be designated as the
10 finance charge;

11 (4) the total of payments that must be paid to redeem
12 the pledged goods on the maturity date, which must be
13 designated as the total of payments; and

14 (5) the annual percentage rate, computed according to
15 the regulations adopted by the Board of Governors of the
16 Federal Reserve System under the Federal Truth in Lending
17 Act.

18 ~~Each pawnbroker may contract for and receive a monthly~~
19 ~~finance charge including interest and fees not to exceed~~
20 ~~one fifth of the loan amount, as set forth herein, for~~
21 ~~appraising, investigating title, storing and insuring the~~
22 ~~collateral, closing the loan, making daily reports to local~~
23 ~~law enforcement officers including enhanced computerized~~
24 ~~reporting, complying with regulatory requirements, and for~~
25 ~~other expenses and losses of every nature whatsoever and for~~
26 ~~all other services. Such fees, when made and collected, shall~~

1 ~~not be deemed interest for any purpose of law.~~

2 (Source: P.A. 90-477, eff. 7-1-98.)

3 Section 10. The Predatory Loan Prevention Act is amended
4 by changing Sections 15-1-5, 15-1-10, 15-5-10, and 15-10-5 as
5 follows:

6 (815 ILCS 123/15-1-5)

7 Sec. 15-1-5. Purpose and construction. ~~Illinois families~~
8 ~~pay over \$500,000,000 per year in consumer installment,~~
9 ~~payday, and title loan fees. As reported by the Department in~~
10 ~~2020, nearly half of Illinois payday loan borrowers earn less~~
11 ~~than \$30,000 per year, and the average annual percentage rate~~
12 ~~of a payday loan is 297%. The purpose of this Act is to protect~~
13 consumers from all types of predatory loans, including, but
14 not limited to, the types of loans covered under consistent
15 ~~with federal law and the federal~~ Military Lending Act, which
16 protects active duty members of the military and their
17 dependents. This Act shall be construed as a consumer
18 protection law for all purposes. This Act shall be liberally
19 construed to effectuate its purpose.

20 (Source: P.A. 101-658, eff. 3-23-21.)

21 (815 ILCS 123/15-1-10)

22 Sec. 15-1-10. Definitions. As used in this Act:

23 "Consumer" means any natural person, including consumers

1 acting jointly.

2 "Department" means the Department of Financial and
3 Professional Regulation.

4 "Lender" means any person or entity, including any
5 affiliate or subsidiary of a lender, that offers or makes a
6 loan, buys a whole or partial interest in a loan, arranges a
7 loan for a third party, or acts as an agent for a third party
8 in making a loan, regardless of whether approval, acceptance,
9 or ratification by the third party is necessary to create a
10 legal obligation for the third party, and includes any other
11 person or entity if the Department determines that the person
12 or entity is engaged in a transaction that is in substance a
13 disguised loan or a subterfuge for the purpose of avoiding
14 this Act.

15 "Person" means any natural person.

16 "Secretary" means the Secretary of Financial and
17 Professional Regulation or a person authorized by the
18 Secretary.

19 "Loan" means money or credit provided to a consumer in
20 exchange for the consumer's agreement to a certain set of
21 terms, including, but not limited to, any finance charges,
22 interest, or other conditions. "Loan" includes closed-end and
23 open-end credit, retail installment sales contracts, motor
24 vehicle retail installment sales contracts, transactions
25 subject to the Pawnbroker Regulation Act, and any transaction
26 conducted via any medium whatsoever, including, but not

1 limited to, paper, facsimile, Internet, or telephone. "Loan"
2 does not include a commercial loan.

3 (Source: P.A. 101-658, eff. 3-23-21.)

4 (815 ILCS 123/15-5-10)

5 Sec. 15-5-10. Violation.

6 (a) Any loan made in violation of this Act is null and void
7 and no person or entity shall have any right to collect,
8 attempt to collect, receive, or retain any principal, fee,
9 interest, or charges related to the loan.

10 (b) It is a violation of this Act for any person or entity
11 to solicit, broker, or otherwise engage in any other activity
12 intended to facilitate or result in, or that in fact
13 facilitates or results in, the origination of a loan that
14 violates Section 15-5-5 of this Act.

15 (c) It is a violation of this Act for any person or entity
16 to advertise or cause to be advertised a loan that violates
17 Section 15-5-5 of this Act.

18 (Source: P.A. 101-658, eff. 3-23-21.)

19 (815 ILCS 123/15-10-5)

20 Sec. 15-10-5. Enforcement and remedies.

21 (a) The remedies provided in this Act are cumulative and
22 apply to persons or entities subject to this Act.

23 (b) Any violation of this Act, including the commission of
24 an act prohibited under Article 5, constitutes a violation of

1 the Consumer Fraud and Deceptive Business Practices Act.

2 (c) Subject to the Illinois Administrative Procedure Act,
3 the Secretary may hold hearings, make findings of fact,
4 conclusions of law, issue cease and desist orders, have the
5 power to issue fines of up to \$10,000 per violation, and refer
6 the matter to the appropriate law enforcement agency for
7 prosecution under this Act. All proceedings shall be open to
8 the public.

9 (d) The Secretary may issue a cease and desist order to any
10 person or entity, when in the opinion of the Secretary the
11 person or entity is violating or is about to violate any
12 provision of this Act. The cease and desist order permitted by
13 this subsection (d) may be issued prior to a hearing.

14 The Secretary shall serve notice of the action, including,
15 but not limited to, a statement of the reasons for the action,
16 either personally or by certified mail. Service by certified
17 mail shall be deemed completed when the notice is deposited in
18 the U.S. Mail.

19 Within 10 days of service of the cease and desist order,
20 the person or entity may request a hearing in writing.

21 If it is determined that the Secretary had the authority
22 to issue the cease and desist order, the Secretary may issue
23 such orders as may be reasonably necessary to correct,
24 eliminate, or remedy the conduct.

25 The powers vested in the Secretary by this subsection (d)
26 are additional to any and all other powers and remedies vested

1 in the Secretary by law, and nothing in this subsection (d)
2 shall be construed as requiring that the Secretary shall
3 employ the power conferred in this subsection instead of or as
4 a condition precedent to the exercise of any other power or
5 remedy vested in the Secretary.

6 (e) After 10 days' notice by certified mail to the person
7 or entity stating the contemplated action and in general the
8 grounds therefor, the Secretary may fine the person or entity
9 an amount not exceeding \$10,000 per violation if the person or
10 entity has failed to comply with any provision of this Act or
11 any order, decision, finding, rule, regulation, or direction
12 of the Secretary lawfully made in accordance with the
13 authority of this Act. Service by certified mail shall be
14 deemed completed when the notice is deposited in the U.S.
15 Mail.

16 (f) A violation of this Act by a person or entity licensed
17 under another Act including, but not limited to, the
18 Pawnbroker Regulation Act, the Consumer Installment Loan Act,
19 the Payday Loan Reform Act, and the Sales Finance Agency Act
20 shall subject the person or entity to discipline in accordance
21 with the Act or Acts under which the person or entity is
22 licensed.

23 (Source: P.A. 101-658, eff. 3-23-21.)

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