



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3257

Introduced 2/24/2011, by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

815 ILCS 122/2-51 new
815 ILCS 122/4-5
815 ILCS 122/2-50 rep.

Amends the Payday Loan Reform Act. Provides that notwithstanding any other provision of law, a violation of any provision of Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007, Public Law 109-364, or any regulation adopted pursuant thereto shall be deemed to be a violation of the Payday Loan Reform Act. Strikes language regarding limiting collection efforts of payday loan lenders against consumers who are members of the military.

LRB097 10949 AEK 51532 b

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 4-5 and by adding Section 2-51 as follows:

6 (815 ILCS 122/2-51 new)

7 Sec. 2-51. Violation of Federal law constitutes a violation
8 of this Act with respect to practices concerning members of the
9 military and their dependents. Notwithstanding any other
10 provision of law, a violation of any provision of Section 670
11 of the John Warner National Defense Authorization Act for
12 Fiscal Year 2007, Public Law 109-364, or any regulation adopted
13 pursuant thereto shall be deemed to be a violation of this Act.

14 (815 ILCS 122/4-5)

15 (Text of Section after amendment by P.A. 96-936)

16 Sec. 4-5. Prohibited acts. A licensee or unlicensed person
17 or entity making payday loans may not commit, or have committed
18 on behalf of the licensee or unlicensed person or entity, any
19 of the following acts:

20 (1) Threatening to use or using the criminal process in
21 this or any other state to collect on the loan.

22 (2) Using any device or agreement that would have the

1 effect of charging or collecting more fees or charges than
2 allowed by this Act, including, but not limited to,
3 entering into a different type of transaction with the
4 consumer.

5 (3) Engaging in unfair, deceptive, or fraudulent
6 practices in the making or collecting of a payday loan.

7 (4) Using or attempting to use the check provided by
8 the consumer in a payday loan as collateral for a
9 transaction not related to a payday loan.

10 (5) Knowingly accepting payment in whole or in part of
11 a payday loan through the proceeds of another payday loan
12 provided by any licensee, except as provided in subsection
13 (c) of Section 2.5.

14 (6) Knowingly accepting any security, other than that
15 specified in the definition of payday loan in Section 1-10,
16 for a payday loan.

17 (7) Charging any fees or charges other than those
18 specifically authorized by this Act.

19 (8) Threatening to take any action against a consumer
20 that is prohibited by this Act or making any misleading or
21 deceptive statements regarding the payday loan or any
22 consequences thereof.

23 (9) Making a misrepresentation of a material fact by an
24 applicant for licensure in obtaining or attempting to
25 obtain a license.

26 (10) Including any of the following provisions in loan

1 documents required by subsection (b) of Section 2-20:

2 (A) a confession of judgment clause;

3 (B) a waiver of the right to a jury trial, if
4 applicable, in any action brought by or against a
5 consumer, unless the waiver is included in an
6 arbitration clause allowed under subparagraph (C) of
7 this paragraph (11);

8 (C) a mandatory arbitration clause that is
9 oppressive, unfair, unconscionable, or substantially
10 in derogation of the rights of consumers; or

11 (D) a provision in which the consumer agrees not to
12 assert any claim or defense arising out of the
13 contract.

14 (11) Selling any insurance of any kind whether or not
15 sold in connection with the making or collecting of a
16 payday loan.

17 (12) Taking any power of attorney.

18 (13) Taking any security interest in real estate.

19 (14) Collecting a delinquency or collection charge on
20 any installment regardless of the period in which it
21 remains in default.

22 (15) Collecting treble damages on an amount owing from
23 a payday loan.

24 (16) Refusing, or intentionally delaying or
25 inhibiting, the consumer's right to enter into a repayment
26 plan pursuant to this Act.

1 (17) Charging for, or attempting to collect,
2 attorney's fees, court costs, or arbitration costs
3 incurred in connection with the collection of a payday
4 loan.

5 (18) (Blank). ~~Making a loan in violation of this Act.~~

6 (19) (Blank). ~~Garnishing the wages or salaries of a
7 consumer who is a member of the military.~~

8 (20) (Blank). ~~Failing to suspend or defer collection
9 activity against a consumer who is a member of the military
10 and who has been deployed to a combat or combat support
11 posting.~~

12 (Blank). ~~(21) Contacting the military chain of command
13 of a consumer who is a member of the military in an effort
14 to collect on a payday loan.~~

15 (22) Making or offering to make any loan other than a
16 payday loan or a title-secured loan, provided however, that
17 to make or offer to make a title-secured loan, a licensee
18 must obtain a license under the Consumer Installment Loan
19 Act.

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

21 (815 ILCS 122/2-50 rep.)

22 Section 10. The Payday Loan Reform Act is amended by
23 repealing Section 2-50.