



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5022

Introduced 2/7/2012, by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

815 ILCS 122/1-10

Amends the Payday Loan Reform Act to provide that "official documentation of income" includes documentation of tax returns, government benefits, credit reports, and other documents in addition to pay stubs. Effective immediately.

LRB097 18641 JLS 63875 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 1-10 as follows:

6 (815 ILCS 122/1-10)

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

8 "Check" means a "negotiable instrument", as defined in  
9 Article 3 of the Uniform Commercial Code, that is drawn on a  
10 financial institution.

11 "Commercially reasonable method of verification" or  
12 "certified database" means a consumer reporting service  
13 database certified by the Department as effective in verifying  
14 that a proposed loan agreement is permissible under this Act,  
15 or, in the absence of the Department's certification, any  
16 reasonably reliable written verification by the consumer  
17 concerning (i) whether the consumer has any outstanding payday  
18 loans, (ii) the principal amount of those outstanding payday  
19 loans, and (iii) whether any payday loans have been paid in  
20 full by the consumer in the preceding 7 days.

21 "Consumer" means any natural person who, singly or jointly  
22 with another consumer, enters into a loan.

23 "Consumer reporting service" means an entity that provides

1 a database certified by the Department.

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

4 "Secretary" means the Secretary of Financial and  
5 Professional Regulation.

6 "Gross monthly income" means monthly income as  
7 demonstrated by official documentation of the income,  
8 ~~including, but not limited to, a pay stub or a receipt~~  
9 ~~reflecting payment of government benefits,~~ for the period 30  
10 days prior to the date on which the loan is made.

11 "Lender" and "licensee" mean any person or entity,  
12 including any affiliate or subsidiary of a lender or licensee,  
13 that offers or makes a payday loan, buys a whole or partial  
14 interest in a payday loan, arranges a payday loan for a third  
15 party, or acts as an agent for a third party in making a payday  
16 loan, regardless of whether approval, acceptance, or  
17 ratification by the third party is necessary to create a legal  
18 obligation for the third party, and includes any other person  
19 or entity if the Department determines that the person or  
20 entity is engaged in a transaction that is in substance a  
21 disguised payday loan or a subterfuge for the purpose of  
22 avoiding this Act.

23 "Loan agreement" means a written agreement between a lender  
24 and consumer to make a loan to the consumer, regardless of  
25 whether any loan proceeds are actually paid to the consumer on  
26 the date on which the loan agreement is made.

1 "Member of the military" means a person serving in the  
2 armed forces of the United States, the Illinois National Guard,  
3 or any reserve component of the armed forces of the United  
4 States. "Member of the military" includes those persons engaged  
5 in (i) active duty, (ii) training or education under the  
6 supervision of the United States preliminary to induction into  
7 military service, or (iii) a period of active duty with the  
8 State of Illinois under Title 10 or Title 32 of the United  
9 States Code pursuant to order of the President or the Governor  
10 of the State of Illinois.

11 "Official documentation of income" includes, but is not  
12 limited to, a recent pay stub, a receipt reflecting payment of  
13 government benefits, a tax return, documentation prepared by  
14 the source of income, the consumer's credit report from a  
15 consumer reporting agency as part of the licensee's  
16 underwriting process, or other official documentation.

17 "Outstanding balance" means the total amount owed by the  
18 consumer on a loan to a lender, including all principal,  
19 finance charges, fees, and charges of every kind.

20 "Payday loan" or "loan" means a loan with a finance charge  
21 exceeding an annual percentage rate of 36% and with a term that  
22 does not exceed 120 days, including any transaction conducted  
23 via any medium whatsoever, including, but not limited to,  
24 paper, facsimile, Internet, or telephone, in which:

- 25 (1) A lender accepts one or more checks dated on the  
26 date written and agrees to hold them for a period of days

1 before deposit or presentment, or accepts one or more  
2 checks dated subsequent to the date written and agrees to  
3 hold them for deposit; or

4 (2) A lender accepts one or more authorizations to  
5 debit a consumer's bank account; or

6 (3) A lender accepts an interest in a consumer's wages,  
7 including, but not limited to, a wage assignment.

8 The term "payday loan" includes "installment payday loan",  
9 unless otherwise specified in this Act.

10 "Principal amount" means the amount received by the  
11 consumer from the lender due and owing on a loan, excluding any  
12 finance charges, interest, fees, or other loan-related  
13 charges.

14 "Rollover" means to refinance, renew, amend, or extend a  
15 loan beyond its original term.

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

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.