



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3192

Introduced 2/19/2021, by Rep. Jonathan Carroll

SYNOPSIS AS INTRODUCED:

10100SB1792enr., Sec. 15-1-5

10100SB1792enr., Sec. 15-5-5

205 ILCS 670/15

from Ch. 17, par. 5415

205 ILCS 670/17.5

If and only if Senate Bill 1792 of the 101st General Assembly becomes law, amends the Predatory Loan Prevention Act. In provisions concerning purpose and construction of the Predatory Loan Prevention Act, removes a reference to the Military Lending Act. In provisions concerning an annual percentage rate cap, provides that the annual percentage rate shall be calculated as such rate is calculated using the system for calculating the annual percentage rate under the federal Truth in Lending Act and Part 226 of Title 12 of the Code of Federal Regulations (rather than a military annual percentage rate). Amends the Consumer Installment Loan Act. Provides that licensees shall enter information regarding each loan that is repayable in less than 12 months into the certified database, and for every title-secured loan made, the licensee shall input information as provided in the Illinois Administrative Code. Defines "title-secured loan". Removes provisions concerning small consumer loans and the certified database. Removes a provision stating that all personally identifiable information regarding any consumer obtained by way of the certified database is strictly confidential and shall be exempt from disclosure under the Freedom of Information Act. Effective immediately or on the date Senate Bill 1792 of the 101st General Assembly takes effect, whichever is later.

LRB102 14899 BMS 22376 b

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. If and only if Senate Bill 1792 of the 101st
5 General Assembly becomes law, then the Predatory Loan
6 Prevention Act is amended by changing Sections 15-1-5 and
7 15-5-5 as follows:

8 (10100SB1792enr., Sec. 15-1-5)

9 Sec. 15-1-5. Purpose and construction. Illinois families
10 pay over \$500,000,000 per year in consumer installment,
11 payday, and title loan fees. As reported by the Department in
12 2020, nearly half of Illinois payday loan borrowers earn less
13 than \$30,000 per year, and the average annual percentage rate
14 of a payday loan is 297%. The purpose of this Act is to protect
15 consumers from predatory loans consistent with federal law ~~and~~
16 ~~the Military Lending Act which protects active duty members of~~
17 ~~the military.~~ 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: 10100SB1792enr.)

21 (10100SB1792enr., Sec. 15-5-5)

22 Sec. 15-5-5. Rate cap. Notwithstanding any other provision

1 of law, for loans made or renewed on and after the effective
2 date of this Act, a lender shall not contract for or receive
3 charges exceeding a 36% annual percentage rate on the unpaid
4 balance of the amount financed for a loan. For purposes of this
5 Section, the annual percentage rate shall be calculated as
6 such rate is calculated using the system for calculating an
7 annual percentage rate under the federal Truth in Lending Act
8 and Part 226 of Title 12 of the Code of Federal Regulations, ~~a~~
9 ~~military annual percentage rate under Section 232.4 of Title~~
10 ~~32 of the Code of Federal Regulations~~ as in effect on the
11 effective date of this Act. Nothing in this Act shall be
12 construed to permit a person or entity to contract for or
13 receive a charge exceeding that permitted by the Interest Act
14 or other law.

15 (Source: 10100SB1792enr.)

16 Section 10. The Consumer Installment Loan Act is amended
17 by changing Sections 15 and 17.5 as follows:

18 (205 ILCS 670/15) (from Ch. 17, par. 5415)

19 Sec. 15. Charges permitted.

20 (a) Every licensee may lend a principal amount not
21 exceeding \$40,000 and, ~~except as to small consumer loans as~~
22 ~~defined in this Section,~~ may charge, contract for, and receive
23 thereon interest at an annual percentage rate of no more than
24 36%, subject to the provisions of this Act, ~~provided, however,~~

1 ~~that the limitation on the annual percentage rate contained in~~
2 ~~this subsection (a) does not apply to title secured loans,~~
3 ~~which are loans upon which interest is charged at an annual~~
4 ~~percentage rate exceeding 36%, in which, at commencement, an~~
5 ~~obligor provides to the licensee, as security for the loan,~~
6 ~~physical possession of the obligor's title to a motor vehicle,~~
7 ~~and upon which a licensee may charge, contract for, and~~
8 ~~receive thereon interest at the rate agreed upon by the~~
9 ~~licensee and borrower.~~ For purposes of this Section, the
10 annual percentage rate shall be calculated as such rate is
11 calculated using the system for calculating an annual
12 percentage rate under the federal Truth in Lending Act and
13 Part 226 of Title 12 of the Code of Federal Regulations, as in
14 effect on the effective date of this amendatory Act of the
15 102nd General Assembly in accordance with the federal Truth in
16 Lending Act.

17 (b) For purpose of this Section, the following terms shall
18 have the meanings ascribed herein.

19 "Applicable interest" for a precomputed loan contract
20 means the amount of interest attributable to each monthly
21 installment period. It is computed as if each installment
22 period were one month and any interest charged for extending
23 the first installment period beyond one month is ignored. The
24 applicable interest for any monthly installment period is, for
25 loans other than small consumer loans as defined in this
26 Section, that portion of the precomputed interest that bears

1 the same ratio to the total precomputed interest as the
2 balances scheduled to be outstanding during that month bear to
3 the sum of all scheduled monthly outstanding balances in the
4 original contract. With respect to a small consumer loan, the
5 applicable interest for any installment period is that portion
6 of the precomputed monthly installment account handling charge
7 attributable to the installment period calculated based on a
8 method at least as favorable to the consumer as the actuarial
9 method, as defined by the federal Truth in Lending Act.

10 "Interest-bearing loan" means a loan in which the debt is
11 expressed as a principal amount plus interest charged on
12 actual unpaid principal balances for the time actually
13 outstanding.

14 "Precomputed loan" means a loan in which the debt is
15 expressed as the sum of the original principal amount plus
16 interest computed actuarially in advance, assuming all
17 payments will be made when scheduled.

18 "Small consumer loan" means a loan upon which interest is
19 charged at an annual percentage rate exceeding 36% and with an
20 amount financed of \$4,000 or less. "Small consumer loan" does
21 not include a title-secured loan as defined by subsection (a)
22 of this Section or a payday loan as defined by the Payday Loan
23 Reform Act.

24 "Substantially equal installment" includes a last
25 regularly scheduled payment that may be less than, but not
26 more than 5% larger than, the previous scheduled payment

1 according to a disclosed payment schedule agreed to by the
2 parties.

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

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

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

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

25 (1) Interest shall be computed on unpaid principal
26 balances outstanding from time to time, for the time

1 outstanding, until fully paid. Each payment shall be
2 applied first to the accumulated interest and the
3 remainder of the payment applied to the unpaid principal
4 balance; provided however, that if the amount of the
5 payment is insufficient to pay the accumulated interest,
6 the unpaid interest continues to accumulate to be paid
7 from the proceeds of subsequent payments and is not added
8 to the principal balance.

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

19 (3) Loans must be fully amortizing and be repayable in
20 substantially equal and consecutive weekly, biweekly,
21 semimonthly, or monthly installments. Notwithstanding this
22 requirement, rates may vary according to an index that is
23 independently verifiable and beyond the control of the
24 licensee.

25 (4) The lender or creditor may, if the contract
26 provides, collect a delinquency or collection charge on

1 each installment in default for a period of not less than
2 10 days in an amount not exceeding 5% of the installment on
3 installments in excess of \$200, or \$10 on installments of
4 \$200 or less, but only one delinquency and collection
5 charge may be collected on any installment regardless of
6 the period during which it remains in default.

7 (f) With respect to precomputed loans:

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

18 (2) Payments may be applied to the combined total of
19 principal and precomputed interest until the loan is fully
20 paid. Payments shall be applied in the order in which they
21 become due, except that any insurance proceeds received as
22 a result of any claim made on any insurance, unless
23 sufficient to prepay the contract in full, may be applied
24 to the unpaid installments of the total of payments in
25 inverse order.

26 (3) When any loan contract is paid in full by cash,

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

17 (4) The lender or creditor may, if the contract
18 provides, collect a delinquency or collection charge on
19 each installment in default for a period of not less than
20 10 days in an amount not exceeding 5% of the installment on
21 installments in excess of \$200, or \$10 on installments of
22 \$200 or less, but only one delinquency or collection
23 charge may be collected on any installment regardless of
24 the period during which it remains in default.

25 (5) If the parties agree in writing, either in the
26 loan contract or in a subsequent agreement, to a deferment

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

21 (6) If two or more installments are delinquent one
22 full month or more on any due date, and if the contract so
23 provides, the licensee may reduce the unpaid balance by
24 the refund credit which would be required for prepayment
25 in full on the due date of the most recent maturing
26 installment in default. Thereafter, and in lieu of any

1 other default or deferment charges, the agreed rate of
2 interest or, in the case of small consumer loans, interest
3 at the rate of 18% per annum, may be charged on the unpaid
4 balance until fully paid.

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

16 (Source: P.A. 101-563, eff. 8-23-19.)

17 (205 ILCS 670/17.5)

18 Sec. 17.5. Consumer reporting service.

19 (a) For the purpose of this Section:7

20 "Certified ~~certified~~ database" means the consumer
21 reporting service database established pursuant to the
22 Payday Loan Reform Act.

23 "Title-secured loan" means a loan that is repayable in
24 less than 12 months in which, at commencement, a consumer
25 provides to the licensee physical possession of the

1 consumer's title to a motor vehicle as security for the
2 loan.

3 ~~(b) (Blank). Within 90 days after making a small consumer~~
4 ~~loan, a licensee shall enter information about the loan into~~
5 ~~the certified database.~~

6 (b-5) Licensees shall enter information regarding each
7 loan that is repayable in less than 12 months into the
8 certified database and shall follow the Department's related
9 rules.

10 (c) For every title-secured loan ~~small consumer loan~~ made,
11 the licensee shall input information as provided in 38 Ill.
12 Adm. Code 110.420. ~~the following information into the~~
13 ~~certified database within 90 days after the loan is made:~~

14 ~~(i) the consumer's name and official identification~~
15 ~~number (for purposes of this Act, "official identification~~
16 ~~number" includes a Social Security Number, an Individual~~
17 ~~Taxpayer Identification Number, a Federal Employer~~
18 ~~Identification Number, an Alien Registration Number, or an~~
19 ~~identification number imprinted on a passport or consular~~
20 ~~identification document issued by a foreign government);~~

21 ~~(ii) the consumer's gross monthly income;~~

22 ~~(iii) the date of the loan;~~

23 ~~(iv) the amount financed;~~

24 ~~(v) the term of the loan;~~

25 ~~(vi) the acquisition charge;~~

26 ~~(vii) the monthly installment account handling charge;~~

1 ~~(viii) the verification fee;~~

2 ~~(ix) the number and amount of payments; and~~

3 ~~(x) whether the loan is a first or subsequent~~
4 ~~refinancing of a prior small consumer loan.~~

5 (d) (Blank). ~~Once a loan is entered with the certified~~
6 ~~database, the certified database shall provide to the licensee~~
7 ~~a dated, time stamped statement acknowledging the certified~~
8 ~~database's receipt of the information and assigning each loan~~
9 ~~a unique loan number.~~

10 (e) (Blank). ~~The licensee shall update the certified~~
11 ~~database within 90 days if any of the following events occur:~~

12 ~~(i) the loan is paid in full by cash;~~

13 ~~(ii) the loan is refinanced;~~

14 ~~(iii) the loan is renewed;~~

15 ~~(iv) the loan is satisfied in full or in part by~~
16 ~~collateral being sold after default;~~

17 ~~(v) the loan is cancelled or rescinded; or~~

18 ~~(vi) the consumer's obligation on the loan is~~
19 ~~otherwise discharged by the licensee.~~

20 (f) (Blank). ~~To the extent a licensee sells a product or~~
21 ~~service to a consumer, other than a small consumer loan, and~~
22 ~~finances any portion of the cost of the product or service, the~~
23 ~~licensee shall, in addition to and at the same time as the~~
24 ~~information inputted under subsection (d) of this Section,~~
25 ~~enter into the certified database:~~

26 ~~(i) a description of the product or service sold;~~

1 ~~(ii) the charge for the product or service; and~~

2 ~~(iii) the portion of the charge for the product or~~
3 ~~service, if any, that is included in the amount financed~~
4 ~~by a small consumer loan.~~

5 (g) (Blank). ~~The certified database provider shall~~
6 ~~indemnify the licensee against all claims and actions arising~~
7 ~~from illegal or willful or wanton acts on the part of the~~
8 ~~certified database provider. The certified database provider~~
9 ~~may charge a fee not to exceed \$1 for each loan entered into~~
10 ~~the certified database under subsection (d) of this Section.~~
11 ~~The database provider shall not charge any additional fees or~~
12 ~~charges to the licensee.~~

13 (h) (Blank). ~~All personally identifiable information~~
14 ~~regarding any consumer obtained by way of the certified~~
15 ~~database and maintained by the Department is strictly~~
16 ~~confidential and shall be exempt from disclosure under~~
17 ~~subsection (c) of Section 7 of the Freedom of Information Act.~~

18 (i) (Blank). ~~A licensee who submits information to a~~
19 ~~certified database provider in accordance with this Section~~
20 ~~shall not be liable to any person for any subsequent release or~~
21 ~~disclosure of that information by the certified database~~
22 ~~provider, the Department, or any other person acquiring~~
23 ~~possession of the information, regardless of whether such~~
24 ~~subsequent release or disclosure was lawful, authorized, or~~
25 ~~intentional.~~

26 (j) (Blank). ~~To the extent the certified database becomes~~

1 ~~unavailable to a licensee as a result of some event or events~~
2 ~~outside the control of the licensee or the certified database~~
3 ~~is decertified, the requirements of this Section and Section~~
4 ~~17.4 of this Act are suspended until such time as the certified~~
5 ~~database becomes available.~~

6 (Source: P.A. 96-936, eff. 3-21-11; 97-813, eff. 7-13-12.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law or on the date Senate Bill 1792 of the 101st
9 General Assembly takes effect, whichever is later.