



Rep. Bill Mitchell

Filed: 3/21/2013

09800HB1737ham001

LRB098 06693 JLS 42510 a

1 AMENDMENT TO HOUSE BILL 1737

2 AMENDMENT NO. _____. Amend House Bill 1737 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Payday Loan Reform Act is amended by
5 changing Sections 1-10 and 2-5 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

1 concerning (i) whether the consumer has any outstanding payday
2 loans, (ii) the principal amount of those outstanding payday
3 loans, and (iii) whether any payday loans have been paid in
4 full by the consumer in the preceding 7 days.

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

7 "Consumer reporting service" means an entity that provides
8 a database certified by the Department.

9 "Department" means the Department of Financial and
10 Professional Regulation.

11 "Secretary" means the Secretary of Financial and
12 Professional Regulation.

13 "Gross monthly income" means monthly income as
14 demonstrated by official documentation of the income,
15 including, but not limited to, a pay stub or a receipt
16 reflecting payment of government benefits, for the period 30
17 days prior to the date on which the loan is made.

18 "Lender" and "licensee" mean any person or entity,
19 including any affiliate or subsidiary of a lender or licensee,
20 that offers or makes a payday loan, buys a whole or partial
21 interest in a payday loan, arranges a payday loan for a third
22 party, or acts as an agent for a third party in making a payday
23 loan, regardless of whether approval, acceptance, or
24 ratification by the third party is necessary to create a legal
25 obligation for the third party, and includes any other person
26 or entity if the Department determines that the person or

1 entity is engaged in a transaction that is in substance a
2 disguised payday loan or a subterfuge for the purpose of
3 avoiding this Act.

4 "Loan agreement" means a written agreement between a lender
5 and consumer to make a loan to the consumer, regardless of
6 whether any loan proceeds are actually paid to the consumer on
7 the date on which the loan agreement is made.

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

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

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

26 (1) A lender accepts one or more checks dated on the

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

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

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

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

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

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

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

18 (815 ILCS 122/2-5)

19 Sec. 2-5. Loan terms.

20 (a) Without affecting the right of a consumer to prepay at
21 any time without cost or penalty, no payday loan may have a
22 minimum term of less than 13 days.

23 (b) Except for an installment payday loan as defined in
24 this Section, no payday loan may be made to a consumer if the
25 loan would result in the consumer being indebted to one or more

1 payday lenders for a period in excess of 45 consecutive days.
2 Except as provided under subsection (c) of this Section and
3 Section 2-40, if a consumer has or has had loans outstanding
4 for a period in excess of 45 consecutive days, no payday lender
5 may offer or make a loan to the consumer for at least 7
6 calendar days after the date on which the outstanding balance
7 of all payday loans made during the 45 consecutive day period
8 is paid in full. For purposes of this subsection, the term
9 "consecutive days" means a series of continuous calendar days
10 in which the consumer has an outstanding balance on one or more
11 payday loans; however, if a payday loan is made to a consumer
12 within 6 days or less after the outstanding balance of all
13 loans is paid in full, those days are counted as "consecutive
14 days" for purposes of this subsection.

15 (c) Notwithstanding anything in this Act to the contrary, a
16 payday loan shall also include any installment loan otherwise
17 meeting the definition of payday loan contained in Section
18 1-10, but that has a term agreed by the parties of not less
19 than 112 days and not exceeding 180 days; hereinafter an
20 "installment payday loan". The following provisions shall
21 apply:

22 (i) Any installment payday loan must be fully
23 amortizing, with a finance charge not exceeding an annual
24 percentage rate of 36% calculated on the principal balances
25 scheduled to be outstanding and be repayable in
26 substantially equal and consecutive installments,

1 according to a payment schedule agreed by the parties with
2 not less than 13 days and not more than one month between
3 payments; except that the first installment period may be
4 longer than the remaining installment periods by not more
5 than 15 days, and the first installment payment may be
6 larger than the remaining installment payments by the
7 amount of finance charges applicable to the extra days. ~~In~~
8 ~~calculating finance charges under this subsection, when~~
9 ~~the first installment period is longer than the remaining~~
10 ~~installment periods, the amount of the finance charges~~
11 ~~applicable to the extra days shall not be greater than~~
12 ~~\$15.50 per \$100 of the original principal balance divided~~
13 ~~by the number of days in a regularly scheduled installment~~
14 ~~period and multiplied by the number of extra days~~
15 ~~determined by subtracting the number of days in a regularly~~
16 ~~scheduled installment period from the number of days in the~~
17 ~~first installment period.~~

18 (ii) An installment payday loan may be refinanced by a
19 new installment payday loan one time during the term of the
20 initial loan; provided that the total duration of
21 indebtedness on the initial installment payday loan
22 combined with the total term of indebtedness of the new
23 loan refinancing that initial loan, shall not exceed 180
24 days. For purposes of this Act, a refinancing occurs when
25 an existing installment payday loan is paid from the
26 proceeds of a new installment payday loan.

1 (iii) In the event an installment payday loan is paid
2 in full prior to the date on which the last scheduled
3 installment payment before maturity is due, other than
4 through a refinancing, no licensee may offer or make a
5 payday loan to the consumer for at least 2 calendar days
6 thereafter.

7 (iv) No installment payday loan may be made to a
8 consumer if the loan would result in the consumer being
9 indebted to one or more payday lenders for a period in
10 excess of 180 consecutive days. The term "consecutive days"
11 does not include the date on which a consumer makes the
12 final installment payment.

13 (d) (Blank).

14 (e) No lender may make a payday loan to a consumer if the
15 total of all payday loan payments coming due within the first
16 calendar month of the loan, when combined with the payment
17 amount of all of the consumer's other outstanding payday loans
18 coming due within the same month, exceeds the lesser of:

19 (1) \$1,000; or

20 (2) in the case of one or more payday loans, 25% of the
21 consumer's gross monthly income; or

22 (3) in the case of one or more installment payday
23 loans, 22.5% of the consumer's gross monthly income; or

24 (4) in the case of a payday loan and an installment
25 payday loan, 22.5% of the consumer's gross monthly income.

26 No loan shall be made to a consumer who has an outstanding

1 balance on 2 payday loans, except that, for a period of 12
2 months after the effective date of this amendatory Act of the
3 96th General Assembly, consumers with an existing CILA loan may
4 be issued an installment loan issued under this Act from the
5 company from which their CILA loan was issued.

6 (e-5) ~~No~~ Except as provided in subsection (c)(i), no lender
7 may impose a finance charge exceeding an annual percentage rate
8 of 36% more than \$15.50 per \$100 loaned on any payday loan, or
9 ~~more than \$15.50 per \$100 on the initial principal balance and~~
10 ~~on the principal balances scheduled to be~~ outstanding during
11 any installment period on any installment payday loan. Except
12 for installment payday loans and except as provided in Section
13 2-25, this charge is considered fully earned as of the date on
14 which the loan is made. For purposes of determining the finance
15 charge earned on an installment payday loan, the disclosed
16 annual percentage rate shall be applied to the principal
17 balances outstanding from time to time until the loan is paid
18 in full, or until the maturity date, which ever occurs first.
19 No finance charge may be imposed after the final scheduled
20 maturity date.

21 When any loan contract is paid in full, the licensee shall
22 refund any unearned finance charge. The unearned finance charge
23 that is refunded shall be calculated based on a method that is
24 at least as favorable to the consumer as the actuarial method,
25 as defined by the federal Truth in Lending Act. The sum of the
26 digits or rule of 78ths method of calculating prepaid interest

1 refunds is prohibited.

2 (f) A lender may not take or attempt to take an interest in
3 any of the consumer's personal property to secure a payday
4 loan.

5 (g) A consumer has the right to redeem a check or any other
6 item described in the definition of payday loan under Section
7 1-10 issued in connection with a payday loan from the lender
8 holding the check or other item at any time before the payday
9 loan becomes payable by paying the full amount of the check or
10 other item.

11 (Source: P.A. 96-936, eff. 3-21-11; 97-421, eff. 1-1-12.)".