



## 2005 ASSEMBLY BILL 914

January 17, 2006 - Introduced by Representatives SCHNEIDER, BOYLE, TRAVIS, MUSSER, ALBERS, HAHN and SHERIDAN, cosponsored by Senators JAUCH and MILLER. Referred to Committee on Financial Institutions.

1     **AN ACT to amend** 138.09 (1m) (a) and 422.201 (3); **to repeal and recreate**  
2             138.09 (title); and **to create** 138.14 of the statutes; **relating to:** finance charges  
3             for payday loans.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a lender other than a bank, savings bank, savings and loan association, or credit union generally must obtain a license from the Division of Banking in the Department of Financial Institutions (division) in order to assess a finance charge greater than 18 percent per year. This type of lender is generally referred to as a “licensed lender.” With certain limited exceptions, current law provides no maximum finance charge for a loan entered into by a licensed lender.

Currently, a lender who makes payday loans is typically required to be a licensed lender. In a standard payday loan transaction, the lender accepts a personal check from the borrower, pays the borrower the amount of the check less any applicable finance charge, and agrees to wait a short time, such as two weeks, before depositing the check. Current law does not specifically regulate payday loan transactions.

This bill creates a maximum finance charge for payday loans. Under the bill, a lender, other than a bank, saving bank, savings and loan association, or credit union, who makes payday loans in the regular course of business, which the bill defines as a “payday loan provider,” may not assess a finance charge that exceeds 2 percent per month. In addition, a payday loan provider must obtain the license described above. Also, the bill requires the division to enforce the bill’s prohibition.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 138.09 (title) of the statutes is repealed and recreated to read:

2           **138.09 (title) Licensed lenders.**

3           **SECTION 2.** 138.09 (1m) (a) of the statutes is amended to read:

4           138.09 **(1m)** (a) Before any person may do business under this section or charge  
5 the interest authorized by sub. (7) and before any creditor other than a bank, savings  
6 bank, savings and loan association or credit union may assess a finance charge on  
7 a consumer loan in excess of 18% per year or assess a finance charge subject to s.  
8 138.14, that person shall first obtain a license from the division. Applications for a  
9 license shall be in writing and upon forms provided for this purpose by the division.  
10 An applicant at the time of making an application shall pay to the division a  
11 nonrefundable \$300 fee for investigating the application and a \$500 annual license  
12 fee for the period terminating on the last day of the current calendar year. If the cost  
13 of the investigation exceeds \$300, the applicant shall upon demand of the division  
14 pay to the division the amount by which the cost of the investigation exceeds the  
15 nonrefundable fee.

16           **SECTION 3.** 138.14 of the statutes is created to read:

17           **138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

18           (a) "Check" has the meaning given in s. 403.104 (6).

19           (b) "Payday loan" means any of the following:

20           1. A transaction between a person and the issuer of a check in which the person  
21 agrees to accept a check from the issuer, hold the check for a period of time before

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1 negotiating or presenting the check for payment, and pay to the issuer, upon  
2 accepting the check, the amount of the check less any finance charge.

3 2. A refinancing or consolidation of a transaction described in subd. 1.

4 (c) "Payday loan provider" means a person, other than a bank, savings bank,  
5 savings and loan association, or credit union, who makes payday loans in the  
6 ordinary course of business.

7 **(2) FINANCE CHARGES.** Notwithstanding ss. 138.09 and 422.201 (9), no payday  
8 loan provider may assess a finance charge on a payday loan that exceeds 2 percent  
9 per month. The division of banking shall enforce this subsection.

10 **SECTION 4.** 422.201 (3) of the statutes is amended to read:

11 422.201 (3) ~~For~~ Notwithstanding sub. (2), for licensees under s. 138.09 and  
12 under ss. 218.0101 to 218.0163, the finance charge, ~~calculated according to those~~  
13 ~~sections,~~ may not exceed the applicable maximums permitted in and calculated  
14 under ss. 138.09, 138.14, and 218.0101 to 218.0163, ~~respectively.~~

15 **SECTION 5. Initial applicability.**

16 (1) This act first applies to payday loans made, refinanced, or consolidated on  
17 the effective date of this subsection.

18 **SECTION 6. Effective date.**

19 (1) This act takes effect on the first day of the 6th month beginning after  
20 publication.

21 (END)