



2007 ASSEMBLY BILL 211

March 27, 2007 - Introduced by Representatives NELSON, MASON, SEIDEL, VAN AKKEREN, KESSLER, POCAN, BERCEAU, TRAVIS, BOYLE, SHERIDAN, VRUWINK, SINICKI, POPE-ROBERTS, HEBL, SMITH, HIXSON, HRAYCHUCK and A. WILLIAMS, cosponsored by Senators HANSEN, A. LASEE and CARPENTER. Referred to Committee on Financial Institutions.

1 **AN ACT** *to renumber and amend* 138.09 (1d); *to amend* 138.09 (1m) (a); and
2 *to create* 138.09 (1d) (b) and 138.09 (7m) of the statutes; **relating to:** finance
3 charges for licensed lenders.

Analysis by the Legislative Reference Bureau

Under current law, a lender other than a bank, savings bank, savings and loan association, or credit union (financial institution) generally must obtain a license from the Division of Banking in the Department of Financial Institutions (DFI) to assess a finance charge for a consumer loan that is greater than 18 percent. 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 consumer loan made by a licensed lender.

The bill changes the licensing requirement so that it is based on the amount of a loan, rather than the finance charge. Under the bill, a lender other than a financial institution must obtain a license if the lender makes a consumer loan of \$5,000 or less.

The bill also prohibits a lender who is so licensed from assessing a finance charge on a consumer loan that exceeds 36 percent per year. The bill also creates a definition for "finance charge," which includes all cost elements associated with an extension of credit, including fees, service charges, renewal charges, credit insurance premiums, the cost of any ancillary product sold with an extension of credit, and any other charge or premium. Under the bill, DFI enforces the foregoing prohibition. A person who violates the prohibition is subject to the same penalty that applies under

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current law to a licensed lender who does not obtain a license, which is a fine of not more than \$500, imprisonment for not more than six months, or both.

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

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

1 **SECTION 1.** 138.09 (1d) of the statutes is renumbered 138.09 (1d) (intro.) and
2 amended to read:

3 138.09 (1d) (intro.) In this section, “division”:

4 (a) “Division” means the division of banking.

5 **SECTION 2.** 138.09 (1d) (b) of the statutes is created to read:

6 138.09 (1d) (b) “Finance charge” includes all cost elements associated with an
7 extension of credit, including fees, service charges, renewal charges, credit insurance
8 premiums, the cost of any ancillary product sold with an extension of credit, and any
9 other charge or premium.

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

11 138.09 (1m) (a) Before any person may do business under this section or charge
12 the interest authorized by sub. (7) and before any creditor other than a bank, savings
13 bank, savings and loan association or credit union may assess a finance charge on
14 make a consumer loan ~~in excess of 18% per year~~ \$5,000 or less, that person shall first
15 obtain a license from the division. Applications for a license shall be in writing and
16 upon forms provided for this purpose by the division. An applicant at the time of
17 making an application shall pay to the division a nonrefundable \$300 fee for
18 investigating the application and a \$500 annual license fee for the period
19 terminating on the last day of the current calendar year. If the cost of the
20 investigation exceeds \$300, the applicant shall upon demand of the division pay to

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1 the division the amount by which the cost of the investigation exceeds the
2 nonrefundable fee.

3 **SECTION 4.** 138.09 (7m) of the statutes is created to read:

4 138.09 (**7m**) No creditor who is licensed under sub. (1m) may assess a finance
5 charge on a consumer loan that is more than 36 percent per year.

6 **SECTION 5. Effective date.**

7 (1) This act takes effect on the first day of the 3rd month beginning after
8 publication.

9 (END)