

**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB96)**

Received: 01/06/2000

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Judy Robson (608) 266-2253**

By/Representing: **kathy**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Fin. Inst. - int. rates/loans**  
**Fin. Inst. - miscellaneous**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Payday loans

**Instructions:**

See Attached. Same as LRBs0117/3 except include both fees and interest in maximum charge.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 01/06/2000	ygeller 01/06/2000		_____			
/1			martykr 01/07/2000	_____	lrb_docadmin 01/07/2000	lrb_docadmin 01/07/2000	

FE Sent For:

<END>

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1?	rmarchan	1/10 jlg	Km/1/9	<i>[Signature]</i>			

FE Sent For:

<END>

1-6-00

T of Kathy in Sen. Robson's office.

Re: Payday loan sub

Wants to limit fees AND INTEREST to  
5% of amount of PDLs

Needed soon.

Lost the stripes for LRBs 0117

Issued new LRB # LRBs 0232

Same as LRBs 0117 except for  
change requested above.

**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB96)**

Received: 09/08/1999

Received By: **rmarchan**

Wanted: 09/10/1999

Identical to LRB:

For: **Judy Robson (608) 266-2253**

By/Representing: **Ron Sklansky**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies: **Ron Sklansky at Leg. Council**

**Pre Topic:**

No specific pre topic given

**Topic:**

Payday loans

**Instructions:**

See Attached. Substitute amendment to SB-96 (LRB-2294), identical to LRBs0109, except delete rule-making provisions and clarify that payday loan provider is any person required to be licensed under s. 38.09 who makes payday loans in the ordinary course of business.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 09/08/1999	jgeller 09/08/1999		_____			
/1	rmarchan 09/15/1999	jgeller 09/17/1999	martykr 09/08/1999	_____	lrb_docadmin 09/08/1999	lrb_docadmin 09/08/1999	
/2	rmarchan 12/10/1999	jgeller 12/10/1999	jfrantze 09/17/1999	_____	lrb_docadmin 09/17/1999	lrb_docadmin 09/17/1999	
/3		<i>1/4 1/2 jg</i>	jfrantze	_____	lrb_docadmin	lrb_docadmin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			12/13/1999 _____		12/13/1999	12/13/1999	
			hhagen _____				
			12/13/1999 _____				

FE Sent For:

<END>

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Received By: rmarchan

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This file may be shown to any legislator: NO

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May Contact:

Alt. Drafters:

Subject: Fin. Inst. - int. rates/loans

Extra Copies: Ron Sklansky at Leg. Council

**Pre Topic:**

No specific pre topic given

**Topic:**

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/?	rmarchan 09/08/1999	jgeller 09/08/1999		_____			
/1	rmarchan 09/15/1999	jgeller 09/17/1999	martykr 09/08/1999	_____	lrb_docadmin 09/08/1999	lrb_docadmin 09/08/1999	
/2		<sup>13</sup> 12/10 jlg	jfrantze 09/17/1999	_____	lrb_docadmin 09/17/1999	lrb_docadmin 09/17/1999	

cmr  
 7/4/3  
 12/13  
 12/10  
 12/10  
 12/10  
 12/13  
 12/13

FE Sent For:

**<END>**

1999 DRAFTING REQUEST

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Received: 09/08/1999

Received By: rmarchan

Wanted: 09/10/1999

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By/Representing: Ron Sklansky

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Alt. Drafters:

Subject: Fin. Inst. - int. rates/loans

Extra Copies: Ron Sklansky at Leg. Council

Pre Topic:

No specific pre topic given

Topic:

Payday loans

Instructions:

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/?	rmarchan 09/08/1999	jgeller 09/08/1999					
/1		129/17jg	martykr 09/08/1999		lrb_docadmin 09/08/1999	lrb_docadmin 09/08/1999	

FE Sent For:

Jb 9/17  
Jb/mc  
9/17  
<END>



**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB96)**

Received: 09/08/1999

Received By: rmarchan

Wanted: 09/10/1999

Identical to LRB:

For: Judy Robson (608) 266-2253

By/Representing: Ron Sklansky

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact:

Alt. Drafters:

Subject: Fin. Inst. - int. rates/loans

Extra Copies: Ron Sklansky at Leg. Council

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Payday loans

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**Instructions:**

See Attached. Substitute amendment to SB-96 (LRB-2294), identical to LRBs0109, except delete rule-making provisions and clarify that payday loan provider is any person required to be licensed under s. 38.09 who makes payday loans in the ordinary course of business.

---

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1?	rmarchan	1 9/8 jg	rm 9/8	HH 9/8 rm 9/8			

FE Sent For:

<END>

99s0109

Tot Cory at Sen. Robson's office

Need to redraft to clarify definition of PDL  
provider as person REQUIRED to be licensed  
under 138.09.

Requested Jacket back. Hold draft until  
jacket is returned.

**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB96)**

Received: 08/17/1999

Received By: rmarchan

Wanted: As time permits

Identical to LRB:

For: Judy Robson (608) 266-2253

By/Representing: Ron Sklansky

This file may be shown to any legislator: NO

Drafter: rmarchan

May Contact: Ron Sklansky

Alt. Drafters:

Subject: Fin. Inst. - int. rates/loans

Extra Copies:

*Ron Sklansky  
LC*

**Pre Topic:**

No specific pre topic given

**Topic:**

Payday loans

**Instructions:**

See Attached. Substitute amendment to SB-96 (LRB-2294) limiting application to payday loans, changing maximum interest rate to 36% and exempting payday loans from minimum finance charge allowed under s. 422.209.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rmarchan 08/24/1999	ygeller 08/25/1999	martykr 08/26/1999	_____	lrb_docadmin 08/26/1999	lrb_docadmin 08/26/1999	

FE Sent For:

<END>

October 25, 1998

**CFA/NCLC MODEL DEFERRED DEPOSIT LOAN ACT**

**Section 1A. TITLE; PURPOSE**

This Act shall be known as the Deferred Deposit Loan Act. This Act shall be liberally construed to effectuate its purpose. The purpose of the Act is to protect consumers who enter into short-term, high rate loans from abuses that occur in the credit marketplace when such lenders are unregulated. This Act is to be construed as a consumer protection statute for all purposes.

**Section 1. DEFINITIONS**

- (a) Deferred deposit loan includes any arrangement in which a person accepts a check dated on the date it was written and agrees to hold it for a period of days prior to deposit or presentment, or accepts a check dated subsequent to the date it was written, and agrees to hold the check for deposit until the date written on the check.
- (b) Licensee means any person licensed by the Commissioner of \_\_\_ under the provisions of this Act to engage in deferred deposit loans or any facilitator as defined in Section 2(b). For purposes of all sections of this Act with the exception of Section 4, a licensee includes any bank, savings and loan association, credit union, or other state or federally regulated financial institution.
- (c) Commissioner shall mean the Commissioner of \_\_\_.
- (d) Person shall include any natural person, firm, partnership, association or corporation, or other entity who makes a deferred deposit loan in this state or any facilitator as defined in Section 2(b).
- (e) Consumer shall mean any natural person who, singly or jointly with another consumer, enters into a deferred deposit loan.
- (f) Check as used in this Act shall mean a negotiable instrument as defined in Article 3 of the Uniform Commercial Code which is drawn on a bank and is to be payable on demand at maturity of the deferred deposit loan.

**Section 2. APPLICABILITY**

- (a) In General. Except as otherwise provided in this section, this Act applies to any person who, for a fee, service charge or other consideration, accepts a check dated on the date it was written and agrees to hold it for a period of days prior to deposit or presentment, or accepts a check dated subsequent to the date it was written, and agrees to hold the check for deposit until the date written on the check.
- (b) Facilitators. This Act applies to any person who facilitates, enables, or acts as a conduit for another person, who is or may be exempt from licensing, who makes deferred deposit loans.
- (c) Financial Institutions. To the extent that banks, savings and loan associations, credit unions, or other state or federally regulated financial institution are exempt by virtue of other state or federal laws from the provisions of this Act regarding limitations on interest

9/8/99 of Copy at Robert's office

Debate rule-making provisions

3) - in copy. Review new set Need to

review new / after request = 10/1/99

LRB #



State of Wisconsin  
1999 - 2000 LEGISLATURE

LEB 50117/1

LRB 01/07

RJM/gjk/m

9-10-99  
Noon

Stays  
PMNYC

DWOTE

SENATE SUBSTITUTE AMENDMENT,  
TO 1999 SENATE BILL 96

Regen

1 AN ACT to amend 422.201 (3); to repeal and recreate 138.09 (title); and to  
2 create 138.14 of the statutes; relating to: maximum interest rates, ~~granting~~  
3 ~~rule-making authority~~ and providing a penalty.

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

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

5 138.09 (title) **Licensed lenders.**

6 SECTION 2. 138.14 of the statutes is created to read:

7 138.14 **Payday loan providers.** (1) DEFINITIONS. In this section:

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

9 (b) "Payday loan" means a transaction between a person and the issuer of a

10 check in which the person agrees to do all of the following:

11 1. Accept a check from the issuer.

1           2. Hold the check for a period of time before negotiating or presenting the check  
2 for payment.

3           3. Pay to the issuer the amount of the check, less any applicable fee, upon  
4 accepting the check.

5           (c) "Payday loan provider" means a person <sup>who is</sup> licensed under s. 138.09 <sup>is required to be</sup> who makes  
6 payday loans in the ordinary course of business. <sup>and</sup>

7           (2) MAXIMUM FEES AND INTEREST FOR PAYDAY LOANS. Notwithstanding ss. 138.09  
8 and 422.201 (9), a payday loan provider may charge, contract for or receive fees and  
9 interest in any amount for a payday loan, except that the total of all fees and interest  
10 for a payday loan may not exceed the equivalent of 36% per year on the amount of  
11 the payday loan, calculated according to the actuarial method.

12           (3) PENALTY. Any person who violates this section may be fined not more than  
13 \$500 or imprisoned not more than 6 months or both.

14           (4) ADMINISTRATION. The department of financial institutions shall promulgate  
15 rules to ensure the efficient administration of this section. The rules shall include  
16 a method for determining whether a payday loan complies with sub. (2).

17           SECTION 3. 422.201 (3) of the statutes is amended to read:

18           422.201 (3) For Notwithstanding sub. (2), for licensees under s. 138.09 and  
19 under s. 218.01, the finance charge, calculated according to those sections, may not  
20 exceed the applicable maximums permitted in and calculated under ss. 138.09,  
21 138.14 and 218.01, respectively.

22           SECTION 4. Nonstatutory provisions.

23           (1) SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN PROVIDERS. No later  
24 than the first day of the 3rd month beginning after publication, the department of  
25 financial institutions shall submit in proposed form the rules governing payday loan

1 providers under section 138.14 (4) of the statutes, as created by this act, to the  
2 legislative council staff under section 227.15 (1) of the statutes.

3 **SECTION 5. Initial applicability.**

4 (1) This act first applies to payday loans made on the effective date of this  
5 subsection.

Fix component

6 **SECTION 6. Effective dates.** This act takes effect on the day after publication.

7 except as follows:

Fix component

8 (1) ~~The creation of section 138.14 of the statutes and SECTION 5 (1) of this act~~

9 take effect on the first day of the 6th month beginning after publication.

10 (END)



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs01177?da

RJM: a:...

JLg

Senator Robson:

Attached is the substitute amendment you requested regarding payday loan providers. Please note that the attached substitute amendment replaces the substitute amendment you previously requested (LRBs0109).<sup>✓</sup> Because your office is unable to locate the jacket for LRBs0109, I have drafted the attached substitute amendment under a new LRB number. If you have any questions, please feel free to call.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0117/1dn  
RJM;jlg:km

September 8, 1999

Senator Robson:

Attached is the substitute amendment you requested regarding payday loan providers. Please note that the attached substitute amendment replaces the substitute amendment you previously requested (LRBs0109). Because your office is unable to locate the jacket for LRBs0109, I have drafted the attached substitute amendment under a new LRB number. If you have any questions, please feel free to call.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us

7-14-99 Tefy Sen. Rhoads' office

1) Amend mortgage foreclosure to allow  
preliminary...

2) Change interest rate provisions to cover all loans  
& interest for pdt. together with...  
...of pdt. and new pdt. that  
is used to pay off existing pdt.

Marchant, Robert

---

**From:** Marchant, Robert  
**Sent:** Thursday, September 16, 1999 10:57 AM  
**To:** Sklansky, Ron  
**Subject:** Payday loan substitute amendment (LRBs0117/1)

Ron--

I have discussed this amendment with Senator Robson's office and together we have identified a potential loophole. As a result, the Senator's office has requested a redraft of the amendment. If you can make the time, I would appreciate any ideas you may have on addressing this problem.

Currently, in proposed s. 138.14 (2), stats., the draft reads: "Notwithstanding ss. 138.09 and 422.201 (9), a payday loan provider may charge, contract for or receive fees and interest in any amount for a payday loan, except that the total of all fees and interest for a payday loan may not exceed the equivalent of 36% per year on the amount of the payday loan, calculated according to the actuarial method."

First, the Senator's office would like me to change the wording to simply prohibit interest and fees on a payday loan in excess of 36%. This change is simple. However, the Senator also wants to prevent a payday loan provider from avoiding the 36% cap by refinancing a payday loan or by consolidating the payday loan with another payday loan.

I would propose that s. 138.14 (2) read as follows: "Notwithstanding ss. 138.09 and 422.201 (9), no payday loan provider may charge, contract for or receive fees and interest for a payday loan in an aggregate amount that exceeds the equivalent of 36% per year on the amount of the payday loan, calculated according to the actuarial method. For the purposes of determining compliance with this subsection, each refinancing or consolidation of a payday loan shall be considered a new payday loan."

This language clarifies that fees or interest collected for a refinancing or consolidation of a payday loan are subject to the 36% limit. Any other fees charged for a particular payday loan (for example, deferral fees or late payment fees) would be included in calculating the 36% limitation for that particular payday loan.

Do you agree that this language works? If you have any other ideas, please let me know. I plan on sending this draft to our editors late Friday.

**Robert J. Marchant**  
Legislative Attorney  
State of Wisconsin Legislative Reference Bureau  
robert.marchant@legis.state.wi.us



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBs0117/L  
RJM:jlq:km

2

2000

EMNK

DUOTE

SENATE SUBSTITUTE AMENDMENT,  
TO 1999 SENATE BILL 96

Reger

1 AN ACT to amend 422.201 (3); to repeal and recreate 138.09 (title); and to  
2 create 138.14 of the statutes; relating to: maximum interest rates and  
3 providing a penalty.

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

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

5 138.09 (title) Licensed lenders.

6 SECTION 2. 138.14 of the statutes is created to read:

7 138.14 Payday loan providers. (1) DEFINITIONS. In this section:

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

9 (b) "Payday loan" means a transaction between a person and the issuer of a  
10 check in which the person agrees to do all of the following:

11 1. Accept a check from the issuer.

Except as provided under sub. (2),

NOTE

applies to

⌘ Attached is the document you requested, which includes the  
the minimum interest rate for payday loans and which states that  
the minimum interest rate ~~cannot exceed 9.00%~~ a refinance or ~~loan~~  
consolidation ~~at the same time as a payday loan~~ ~~at the~~  
~~same time as a payday loan~~ Please feel free to call if you have any further  
questions or suggested changes.

[Name: RJM]

---

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0117/2dn  
RJM;jlg:jf

September 17, 1999

Attached is the redraft you requested, which more directly states the maximum interest rate for payday loans and which clarifies that the maximum interest rate applies to a refinanced or consolidated payday loan. Please feel free to call if you have any further questions or suggested changes.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us

12-9-99

T of Kathy @ Present office

Redraft 5/117

1) Remove all prohibitions re insurance

2) Limit all fees for PDL to 5% of base amount

3) Maximum required base amount of 30 days

12-9-99



Monday, 12-13

KMMR

SENATE SUBSTITUTE AMENDMENT,  
TO 1999 SENATE BILL 96

✓  
payday loan providers

Regen

1 AN ACT to amend 422.201 (3); to repeal and recreate 138.09 (title); and to  
2 create 138.14 of the statutes; relating to: ~~maximum interest rates~~ and  
3 providing a penalty.

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

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6 SECTION 2. 138.14 of the statutes is created to read:

7 138.14 Payday loan providers. (1) DEFINITIONS. In this section:

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

9 (b) ~~Except as provided under sub. (2),~~ "payday loan" means a transaction  
10 between a person and the issuer of a check in which the person agrees to ~~do all of the~~

11 following

(NO P)

12 (b) Accept a check from the issuer,

(NO P)



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

1 ~~Hold~~ Hold the check for a period of time before negotiating or presenting the check  
2 for payment, ~~and~~

3 ~~Pay to the issuer~~ Pay to the issuer the amount of the check, less any applicable fee, upon <sup>accepting</sup>  
4 ~~accepting the check~~ the check

5 (c) "Payday loan provider" means a person who is required to be licensed under  
6 s. 138.09 and who makes payday loans in the ordinary course of business.

7 (2) MAXIMUM FEES ~~AND INTEREST~~ FOR PAYDAY LOANS. Notwithstanding ss. 138.09  
8 and 422.201 (9), no payday loan provider may charge, contract for or receive fees ~~AND~~  
9 ~~interest~~ for a payday loan in an aggregate amount that exceeds the equivalent of 36%  
10 ~~per year on~~ the amount of the payday loan, <sup>5% of</sup> calculated according to the actuarial  
11 ~~method~~. For the purposes of determining compliance with this subsection, each  
12 ~~refinancing or consolidation of a payday loan shall be considered a new payday loan.~~

13 (3) PENALTY. Any person who violates this section may be fined not more than  
14 \$500 or imprisoned not more than 6 months or both.

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

422.201 (3) ~~For Notwithstanding sub. (2), for~~ licensees under s. 138.09 and  
under s. 218.01, the finance charge, ~~calculated according to these sections,~~ may not  
exceed the applicable maximums permitted in and calculated under ss. 138.09,  
138.14 and 218.01, respectively.

SECTION 4. Initial applicability.

(1) This act first applies to payday loans made on the effective date of this  
subsection.

SECTION 5. Effective date.



1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBs0117/3ins  
RJM:.....

2-12

(3) MINIMUM TERM FOR PAYDAY LOANS. ✓ No payday loan provider may make a payday loan with a term of less than 30 days. ~~For the purposes of determining compliance with this subsection, each refinancing or consolidation of a payday loan shall be considered a new payday loan.~~

9950117

Kathy - Harris office

→ AB 612

Add requirement from Harris bill re: disclosure.

① Amend: only require PDK co. to provide educational materials relating to: ~~PDK~~

Wisconsin Consumer Act Parent Guide

Parent Loans

There exists  
now. What  
to describe.

② RE JUDGE Dept. to change fee for making pamphlets

③ Require disclosure only to ~~the~~ person for first PDK from that provider.

## 1999 ASSEMBLY BILL 612

December 1, 1999 - Introduced by Representatives HOVEN, KAUFERT, LADWIG, MUSSER, MEYER, M. LEHMAN, ZIEGELBAUER, STONE, HUEBSCH, KREUSER, AINSWORTH, ALBERS, SCHOOFF, PETROWSKI, MILLER, SUDER, KEDZIE, KREIBICH, OLSEN, VRAKAS and GUNDERSON, cosponsored by Senators FITZGERALD, COWLES, BRESKE, GEORGE, SHIBILSKI and WIRCH. Referred to Committee on Financial Institutions.

- 1 **AN ACT to create** 138.14 of the statutes; relating to: payday loan providers and  
2 granting rule-making authority.

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### *Analysis by the Legislative Reference Bureau*

Currently, state and federal law contain numerous provisions regulating consumer loans (generally, loans of \$25,000 or less made to individuals for personal, family or household purposes). For example, under current law, a creditor in a consumer loan must provide the borrower under the loan with certain information before the loan is consummated. Among other things, the creditor must disclose the total amount financed in the transaction, the amount of the finance charge assessed in the transaction and the cost of the credit calculated as a yearly rate. The creditor must also provide the borrower with a notice that encourages the borrower to examine the loan documentation and that advises the borrower of certain rights.

This bill creates additional notice requirements that specifically apply to payday loans. In a typical payday loan transaction, the creditor 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. Under this bill, before disbursing funds pursuant to a payday loan, the payday loan provider must provide the borrower with a notice that compares the cost of the payday loan if it is paid in full when due with the cost of the payday loan if it is paid in full after being refinanced eight times. Furthermore, the payday loan provider must notify the borrower that a payday loan is not intended to meet long-term financial needs, that a payday loan should be used only in a financial emergency, that the borrower will be required to pay additional fees if the payday

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loan is not paid in full when due and that refinancing the payday loan, or entering into consecutive payday loans to pay an existing payday loan, may cause financial hardship.

This bill also requires the payday loan provider to notify the borrower that the borrower may cancel the payday loan at any time before receiving the loan funds. In addition, the payday loan provider must provide the borrower with materials, obtained from the department of financial institutions, that inform the borrower of the potential costs of entering into a payday loan and of other options for borrowing funds that may be available.

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.** 138.14 of the statutes is created to read:

2           **138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

3           (a) "Applicant" means an individual who obtains or seeks to obtain a payday  
4 loan.

5           (b) "Check" has the meaning given in s. 403.104 (6).

6           (c) "Department" means the department of financial institutions.

7           (d) "Financial establishment" means any organization that is authorized to do  
8 business under state or federal law and that holds a demand deposit, savings deposit  
9 or other asset account belonging to an individual.

10          (e) "Organization" has the meaning given in s. 19.42 (11).

11          (f) "Payday loan" means any of the following:

12           1. A transaction between an individual with an account at a financial  
13 establishment and another person, in which the person agrees to accept from the  
14 individual a check that draws on the account, to hold the check for a period of time  
15 before negotiating or presenting the check for payment and to pay to the individual,

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1 at any time before negotiating or presenting the check for payment, an amount that  
2 is agreed to by the individual.

3 2. A transaction between an individual with an account at a financial  
4 establishment and another person, in which the person agrees to accept the  
5 individual's authorization to initiate an electronic fund transfer from the account, to  
6 wait for a period of time before initiating the electronic fund transfer and to pay to  
7 the individual, at any time before initiating the electronic fund transfer, an amount  
8 that is agreed to by the individual.

9 (g) "Payday loan provider" means a person who is required to be licensed under  
10 s. 138.09 and who makes payday loans in the ordinary course of business.

11 ~~(2) DISCLOSURE REQUIREMENTS.~~ Before disbursing funds pursuant to a payday  
12 loan, a payday loan provider shall provide all of the following to the applicant:

13 (a) A clear and conspicuous printed or typewritten notice indicating all of the  
14 following:

- 15 1. That a payday loan is not intended to meet long-term financial needs.
- 16 2. That an applicant should use a payday loan only to provide funds in a  
17 financial emergency.
- 18 3. That the applicant will be required to pay additional fees if the loan is  
19 refinanced rather than paid in full when due.
- 20 4. That refinancing a payday loan or entering into consecutive payday loans to  
21 pay an existing payday loan may cause financial hardship for the applicant.

22 (b) A clear and conspicuous printed or typewritten notice comparing the cost  
23 to the applicant if the applicant pays the payday loan in full at the end of the loan  
24 term with the cost to the applicant if the applicant pays the payday loan in full after



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1 financing the amount of the payday loan at the end of the loan term 8 consecutive  
2 times.

3 (c) A clear and conspicuous printed or typewritten notice that the applicant  
4 may cancel the transaction, at no cost to the applicant, at any time before receiving  
5 the funds pursuant to the payday loan.

6 (d) Educational materials provided by the department under sub. (4).

7 (3) ~~POSTING REQUIREMENT. A payday loan provider shall post a copy of each~~  
8 notice required under sub. (2) (a) and (c) in a conspicuous location at each place  
9 where, in the ordinary course of business, an applicant signs a contract for a payday  
10 loan.

11 (4) ADMINISTRATION. (a) The department shall promulgate rules and prescribe  
12 forms to ensure the efficient administration of this section. The rules shall include  
13 a method for calculating the amounts required to be disclosed under sub. (2) (b). In  
14 addition, the department shall develop educational materials to inform an applicant  
15 of the potential costs of entering into a payday loan and of other options for borrowing  
16 funds that may be available to the applicant.

17 (b) Upon the request of a payday loan provider, the department shall supply  
18 the payday loan provider with copies of the educational materials developed under  
19 par. (a). The department <sup>shall</sup> may charge a payday loan provider a reasonable fee for  
20 educational materials supplied under this subsection.

21 **SECTION 2. Nonstatutory provisions.**

22 (1) SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN PROVIDERS. No later  
23 than the first day of the 6th month beginning after publication, the department of  
24 financial institutions shall submit in proposed form the rules governing payday loan

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1 providers under section 138.14 (4) of the statutes, as created by this act, to the  
2 legislative council staff under section 227.15 (1) of the statutes.

3 **SECTION 3. Initial applicability.**

4 (1) The creation of section 138.14 of the statutes first applies to payday loans  
5 made on the effective date of this subsection.

6 **SECTION 4. Effective date.**

7 (1) The creation of section 138.14 of the statutes and SECTION 3 (1) of this act  
8 take effect on the first day of the 12th month beginning after publication.

9 (END)



State of Wisconsin  
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SENATE SUBSTITUTE AMENDMENT,  
TO 1999 SENATE BILL 96

(b) "Department" means the department of financial institutions.

1 **AN ACT** <sup>repeal</sup> *to amend* 422.201 (3); *to repeal and recreate* 138.09 (title); and *to*  
2 *create* 138.14 of the statutes; **relating to:** payday loan providers and providing  
3 a penalty.

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

4 **SECTION 1.** 138.09 (title) of the statutes is repealed and recreated to read:  
5 **138.09 (title) Licensed lenders.**

6 **SECTION 2.** 138.14 of the statutes is created to read:  
7 **138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

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

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

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

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

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

4 (d) (b) "Payday loan provider" means a person who is required to be licensed under  
5 s. 138.09 and who makes payday loans in the ordinary course of business.

6 (2) MAXIMUM FEES FOR PAYDAY LOANS. Notwithstanding ss. 138.09 and 422.201

7 (9), no payday loan provider may charge, contract for or receive fees for a payday loan  
8 in an aggregate amount that exceeds 5% ~~per year on~~ <sup>of</sup> the amount of the payday loan.

9 (3) MINIMUM TERM FOR PAYDAY LOANS. No payday loan provider may make a  
10 payday loan with a term of less than 30 days.

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11 (B) (C) (b) PENALTY. Any person who violates <sup>sub. (2), (3) or (4)</sup> this section may be fined not more than  
12 \$500 or imprisoned not more than 6 months or both.

13 SECTION 3. 422.201 (3) of the statutes is amended to read:

14 422.201 (3) ~~For Notwithstanding sub. (2), for licensees under s. 138.09 and~~  
15 ~~under s. 218.01, the finance charge, calculated according to those sections,~~ may not  
16 exceed the applicable maximums permitted in and calculated under ss. 138.09,  
17 138.14 and 218.01, respectively.

18 SECTION 4. Initial applicability.

19 (1) This act first applies to payday loans made on the effective date of this  
20 subsection.

21 SECTION 5. Effective date.

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

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(4) DISCLOSURE REQUIREMENTS. (a) Except as provided in par. (b), before disbursing funds pursuant to a payday loan, a payday loan provider shall provide the person obtaining the payday loan with a copy of each brochure provided by the department under sub. (5).

(b) Paragraph (a) does not apply if the person obtaining the payday loan has previously received a copy of each brochure from the payday loan provider. provide

(5) ADMINISTRATION. The department shall ~~develop~~ provide brochures to educate individuals regarding the operation and potential costs of payday loans and regarding the laws of this state relating to consumer credit. Upon the request of a payday loan provider, the department shall supply the payday loan provider with copies of the brochures <sup>provided</sup> ~~developed~~ under this subsection. The department shall charge a payday loan provider a reasonable fee for brochures supplied under this subsection.

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**SENATE SUBSTITUTE AMENDMENT ,  
TO 1999 SENATE BILL 96**

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1 **AN ACT to amend 422.201 (3); to repeal and recreate 138.09 (title); and to**  
2 **create 138.14 of the statutes; relating to: payday loan providers and providing**  
3 **a penalty.**

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

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7 **138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

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

9 (b) "Department" means the department of financial institutions.

10 (c) "Payday loan" means any of the following:

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

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 applicable fee.

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

4 (d) "Payday loan provider" means a person who is required to be licensed under  
5 s. 138.09 and who makes payday loans in the ordinary course of business.

6 (2) MAXIMUM FEES <sup>AND INTEREST ← CS</sup> FOR PAYDAY LOANS. Notwithstanding ss. 138.09 and 422.201

7 (9), no payday loan provider may charge, contract for or receive fees <sup>and interest ✓</sup> for a payday loan  
8 in an aggregate amount that exceeds 5% of the amount of the payday loan.

9 (3) MINIMUM TERM FOR PAYDAY LOANS. No payday loan provider may make a  
10 payday loan with a term of less than 30 days.

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12 disbursing funds pursuant to a payday loan, a payday loan provider shall provide the  
13 person obtaining the payday loan with a copy of each brochure provided by the  
14 department under sub. (5).

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16 previously received a copy of each brochure from the payday loan provider.

17 (5) ADMINISTRATION. The department shall provide brochures to educate  
18 individuals regarding the operation and potential costs of payday loans and  
19 regarding the laws of this state relating to consumer credit. Upon the request of a  
20 payday loan provider, the department shall supply the payday loan provider with  
21 copies of the brochures provided under this subsection. The department shall charge  
22 a payday loan provider a reasonable fee for brochures supplied under this subsection.

23 (6) PENALTY. Any person who violates sub. (2), (3) or (4) may be fined not more  
24 than \$500 or imprisoned not more than 6 months or both.

25 SECTION 3. 422.201 (3) of the statutes is amended to read:

1           422.201 (3) ~~For Notwithstanding sub. (2), for licensees under s. 138.09 and~~  
2           under s. 218.01, the finance charge, ~~calculated according to these sections~~, may not  
3           exceed the applicable maximums permitted in and calculated under ss. 138.09,  
4           138.14 and 218.01, ~~respectively~~.

5           **SECTION 4. Initial applicability.**

6           (1) This act first applies to payday loans made on the effective date of this  
7           subsection.

8           **SECTION 5. Effective date.**

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

11

(END)