

2001 ASSEMBLY BILL 266

March 30, 2001 – Introduced by Representatives HOVEN, ALBERS, BERCEAU, BOYLE, GUNDERSON, HAHN, KESTELL, KRAWCZYK, LADWIG, LEIBHAM, MUSSER, OTT, OWENS, PETROWSKI, POWERS, SERATTI, STONE, TOWNSEND, VRAKAS and WASSERMAN, cosponsored by Senators GEORGE, BAUMGART, DARLING, ROESSLER and ROSENZWEIG. 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.

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, the creditor must provide the borrower under the consumer 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.

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 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)