

2001 DRAFTING REQUEST

Bill

Received: 03/01/2001

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Tim Hoven (608) 267-2369**

By/Representing: **Michael Welsh**

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

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - banking inst.**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Payday loans

Instructions:

See Attached. Per 1999 AB-612.

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 03/02/2001	wjackson 03/07/2001		_____			State
/1			jfrantze 03/07/2001	_____	lrb_docadmin 03/07/2001	lrb_docadmin 03/26/2001	

FE Sent For:

<END>

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/?	rmarchan	4 WLj 3/7	3/7	<i>[Handwritten initials]</i> 3/7			

FE Sent For:

<END>

RJM

LEGISLATIVE REFERENCE BUREAU

BILL REQUEST FORM

Legal Section, 5th Floor, 100 N. Hamilton St.
(608) 266-3561

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: 28 FEB 2001	Legislator or agency requesting this draft: REP HOVEN
Name/phone number of person submitting request: REP. HOVEN - 7-2370	
Persons to contact for questions about this draft (names and phone numbers please): Michael Welch - 7-2370	
Describe the problem, including any helpful examples. How do you want to solve the problem? PLEASE REDRAFT 1999 AB 612 AS A NEW LRB (PAYDAY LOANS)	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy.	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67):

Requests are confidential unless stated otherwise.

May we tell others that we are working on this for you? YES NO

If yes, anyone who asks? YES NO

Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?

YES NO If yes, please sign your name here:

IN 3-2-01

RoNR

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.

REGEN

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 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.

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.

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

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

March 7, 2001

MEMORANDUM

To: Representative Hoven

From: Robert J. Marchant, Legislative Attorney

Re: LRB-2696 Payday loans

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-4454 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.