

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 266**

July 10, 2001 – Offered by Representative HOVEN.

1 **AN ACT** *to create* 138.09 (8) (f) and 138.14 of the statutes; **relating to:** payday
2 loan providers and granting rule-making authority.

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

3 **SECTION 1.** 138.09 (8) (f) of the statutes is created to read:

4 138.09 **(8)** (f) When making a payday loan, as defined in s. 138.14 (1) (f), comply
5 with s. 138.14 (2) and (3) and rules promulgated under s. 138.14 (4).

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) “Applicant” means an individual who obtains or seeks to obtain a payday
9 loan.

10 (b) “Check” has the meaning given in s. 403.104 (6).

11 (c) “Department” means the department of financial institutions.

1 (d) “Financial establishment” means any organization that is authorized to do
2 business under state or federal law and that holds a demand deposit, savings deposit,
3 or other asset account belonging to an individual.

4 (e) “Organization” has the meaning given in s. 19.42 (11).

5 (f) “Payday loan” means any of the following:

6 1. A transaction between an individual with an account at a financial
7 establishment and another person, in which the person agrees to accept from the
8 individual a check that draws on the account, to hold the check for a period of time
9 before negotiating or presenting the check for payment, and to pay to the individual,
10 at any time before negotiating or presenting the check for payment, an amount that
11 is agreed to by the individual.

12 2. A transaction between an individual with an account at a financial
13 establishment and another person, in which the person agrees to accept the
14 individual’s authorization to initiate an electronic fund transfer from the account, to
15 wait for a period of time before initiating the electronic fund transfer, and to pay to
16 the individual, at any time before initiating the electronic fund transfer, an amount
17 that is agreed to by the individual.

18 (g) “Payday loan provider” means a person who is required to be licensed under
19 s. 138.09 and who makes payday loans.

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

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

24 1. That a payday loan is not intended to meet long-term financial needs.

1 2. That an applicant should use a payday loan only to provide funds in a
2 financial emergency.

3 3. That the applicant will be required to pay additional interest if the loan is
4 refinanced rather than paid in full when due.

5 4. That refinancing a payday loan or entering into consecutive payday loans to
6 pay an existing payday loan may cause financial hardship for the applicant.

7 (b) A clear and conspicuous printed or typewritten notice comparing the cost
8 to the applicant if the applicant pays the payday loan in full at the end of the loan
9 term with the cost to the applicant if the applicant pays the payday loan in full after
10 financing the amount of the payday loan at the end of the loan term 3 consecutive
11 times.

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

15 (d) A copy of the educational materials prescribed by the department under
16 sub. (4).

17 **(3) POSTING REQUIREMENT.** A payday loan provider shall post a copy of each
18 notice required under sub. (2) (a) and (c) in a conspicuous location at each place
19 where, in the ordinary course of business, an applicant signs a contract for a payday
20 loan.

21 **(4) ADMINISTRATION.** The department shall promulgate rules to ensure the
22 efficient administration of this section. The rules shall include a method for
23 calculating the amounts required to be disclosed under sub. (2) (b). In addition, the
24 rules shall prescribe the form and content of educational materials designed to

1 inform an applicant of the potential costs of entering into a payday loan and of other
2 options for borrowing funds that may be available to the applicant.

3 **SECTION 3. Nonstatutory provisions.**

4 (1) SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN PROVIDERS. No later
5 than the first day of the 6th month beginning after publication, the department of
6 financial institutions shall submit in proposed form the rules governing payday loan
7 providers under section 138.14 (4) of the statutes, as created by this act, to the
8 legislative council staff under section 227.15 (1) of the statutes.

9 **SECTION 4. Initial applicability.**

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

12 **SECTION 5. Effective date.**

13 (1) The creation of section 138.14 of the statutes and SECTION 4 (1) of this act
14 take effect on the first day of the 12th month beginning after publication.

15 (END)