

State of Wisconsin



2003 Assembly Bill 665

Date of enactment:
Date of publication*:

2003 WISCONSIN ACT

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

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

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

138.09 (8) (f) When making a payday loan, as defined in s. 138.14 (1) (f), comply with s. 138.14 (2), (3), (4), (5), and (6) and rules promulgated under s. 138.14 (7).

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

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

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

(am) "Business day" has the meaning given in s. 421.301 (6).

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

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

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

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

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

1. A transaction between an individual with an account at a financial establishment and another person,

in which the person agrees to accept from the individual a check, to hold the check for at least 3 days before negotiating or presenting the check for payment, and to pay to the individual, at any time before negotiating or presenting the check for payment, an amount that is agreed to by the individual subject to sub. (5) (c).

2. A transaction between an individual with an account at a financial establishment and another person, in which the person agrees to accept the individual's authorization to initiate an electronic fund transfer from the account, to wait for at least 3 days before initiating the electronic fund transfer, and to pay to the individual, at any time before initiating the electronic fund transfer, an amount that is agreed to by the individual subject to sub. (5) (c).

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2001-02: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

(c) A clear and conspicuous printed or typewritten notice that the applicant may be relieved of all interest, fees, and payment obligations related to the payday loan if the applicant returns the principal amount of the payday loan to the payday loan provider at any time before the close of the next business day following the transaction.

(d) A copy of the educational materials prescribed by the department under sub. (7).

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

(4) **CANCELLATION OF PAYMENT OBLIGATIONS.** A payday loan applicant shall have no obligation to pay interest and fees related to the applicant's payday loan and shall have no payment obligations related to the payday loan if the applicant returns the principal amount of the payday loan to the payday loan provider at any time before the close of the next business day following the transaction.

(5) **PAYDAY LOAN PROVIDER PROHIBITION.** (a) No payday loan provider may initiate or threaten to initiate criminal prosecution against an applicant because the applicant's check or electronic fund transfer has not been paid by the financial establishment from which it is drawn or transferred. This section does not prohibit a payday loan provider from cooperating in good faith with a law enforcement agency that initiates or prosecutes an independent criminal action against an applicant.

(b) A payday loan provider may not enter into more than 4 consecutive transactions with an applicant in which the amount financed by the payday loan provider is applied to the outstanding balance on a separate payday loan between the applicant and the payday loan provider.

(c) 1. No payday loan provider may provide a payday loan that exceeds \$5,000 of principal. This \$5,000 limit shall be adjusted annually by the department to reflect changes in price levels due to inflation.

2. The department shall make the first adjustment under subd. 1. on the first day of the 13th month beginning after the effective date of this paragraph [revisor inserts date].

(6) **MAXIMUM TERM FOR PAYDAY LOANS.** No payday loan provider may make a payday loan with an original scheduled payment date more than 35 days after the payday loan origination date.

(7) **ADMINISTRATION.** The department shall promulgate rules for calculating the amounts required to be disclosed under sub. (2) (b) and the adjustment under sub. (5) (c) and prescribing the form and content of educational materials designed to inform an applicant of the potential costs of entering into a payday loan and of other options for borrowing funds that may be available to the applicant.

SECTION 3. Nonstatutory provisions.

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

SECTION 4. Initial applicability.

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

SECTION 5. Effective date.

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

ASSEMBLY BILL 665 (LRB -0645)

An Act to create 138.09 (8) (f) and 138.14 of the statutes; relating to: payday loan providers and granting rule-making authority.
(FE)

2003

- 01-28. A. Introduced by Representatives **Jeskewitz, M. Lehman, Musser, Boyle, Taylor, Owens, Ziegelbauer, Hahn, Gronemus, Olsen, Plouff, Van Roy, Gielow, Berceau, Ott, Gunderson and Powers**, cosponsored by Senators **Schultz and Stepp**.
- 11-13. A. Read first time and referred to committee on Financial Institutions 535
- 12-05. A. Fiscal estimate received.

2004

- 01-13. A. Public hearing held.
- 01-20. A. Assembly substitute amendment 1 offered by Representative Jeskewitz (**LRB s0304**) 615
- 01-21. A. Executive action taken.
- 01-28. A. Report Assembly Substitute Amendment 1 adoption recommended by committee on Financial Institutions, Ayes 15, Noes 0 650
- 01-28. A. Report passage as amended recommended by committee on Financial Institutions, Ayes 15, Noes 0 651
- 01-28. A. Referred to committee on Rules 651
- 03-02. A. Placed on calendar 3-4-2004 by committee on Rules.
- 03-04. A. Assembly amendment 1 to Assembly substitute amendment 1 offered by Representative Jeskewitz (**LRB a2250**) 781
- 03-04. A. Assembly amendment 2 to Assembly substitute amendment 1 offered by Representative Richards (**LRB a2565**) 781
- 03-04. A. Assembly amendment 3 to Assembly substitute amendment 1 offered by Representative Richards (**LRB a2566**) 781
- 03-04. A. Assembly amendment 4 to Assembly substitute amendment 1 offered by Representative Richards (**LRB a2567**) 781
- 03-04. A. Made a special order of business at 10:13 A.M. on 3-9-2004 pursuant to Assembly Resolution 37 799
- 03-09. A. Made a special order of business at 11:41 A.M. on 3-10-2004 pursuant to Assembly Resolution 38 817
- 03-10. A. Read a second time 839
- 03-10. A. Assembly amendment 1 to Assembly substitute amendment 1 **adopted** 839
- 03-10. A. Assembly amendment 2 to Assembly substitute amendment 1 laid on table, Ayes 59, Noes 40 839
- 03-10. A. Assembly amendment 3 to Assembly substitute amendment 1 laid on table, Ayes 58, Noes 41 839
- 03-10. A. Assembly amendment 4 to Assembly substitute amendment 1 laid on table, Ayes 59, Noes 40 839
- 03-10. A. Assembly substitute amendment 1 **adopted** 839
- 03-10. A. Ordered to a third reading 840
- 03-10. A. Rules suspended 840
- 03-10. A. Read a third time and **passed**, Ayes 66, Noes 33 840
- 03-10. A. Ordered immediately messaged 840
- 03-11. S. Received from Assembly.
- 03-11. S. Read first time and referred to committee on Senate Organization.
- 03-11. S. Available for scheduling.
- 03-11. S. Rules suspended and taken up.
- 03-11. S. Read a second time.
- 03-11. S. Senate amendment 1 offered by Senator Robson (**LRB a2928**).
- 03-11. S. Senate amendment 2 offered by Senator Robson (**LRB a2925**).
- 03-11. S. Senate amendment 3 offered by Senator Robson (**LRB a2924**).
- 03-11. S. Senate amendment 4 offered by Senator Robson (**LRB a2937**).
- 03-11. S. Senate amendment 4 considered for action at this time.
- 03-11. S. Senate amendment 4 laid on table, Ayes 20, Noes 13.
- 03-11. S. Senate amendment 1 laid on table, Ayes 20, Noes 12.
- 03-11. S. Senate amendment 2 laid on table, Ayes 19, Noes 13.
- 03-11. S. Senate amendment 3 laid on table, Ayes 19, Noes 12.
- 03-11. S. Ordered to a third reading.
- 03-11. S. Rules suspended.
- 03-11. S. Read a third time and **concurred in**.
- 03-16. S. Ordered immediately messaged.
- 03-17. A. Received from Senate concurred in.

**2003
ENROLLED BILL**

03en A B- 665

ADOPTED DOCUMENTS:

Orig Engr

SubAmtdt 1

03 50 304/1

Amendments to above (if none, write "NONE"): AA1

Corrections - show date (if none, write "NONE"): None

Topic

Wiley MWS RMA

3/18/04
Date

[Signature]
Enrolling Drafter

ELECTRONIC PROCEDURE:

Follow automatic or manual enrolling procedures in *TEXT2000 Reference Guide*, Document Specific Procedures, Ch. 20, Engrossing and Enrolling

DISTRIBUTION:

HOUSE OF ORIGIN:

- 11 copies plus bill jacket
- Secretary of State's envelope containing 4 copies plus newspaper notice

REVISOR OF STATUTES:

- 5 copies

DEPARTMENT OF ADMINISTRATION:

- 2 copies

LRB:

- Drafting file original
- Drafting attorney 1 copy
- Legislative editors 1 copy each
- Reference section 1 copy
- Bill index librarian 1 copy

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 665**

January 20, 2004 - Offered by Representative JESKEWITZ.

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), (3), (4), (5), and (6) and rules promulgated under s. 138.14 (7).

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 (am) "Business day" has the meaning given in s. 421.301 (6).

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

12 (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, to hold the check for at least 3 days before negotiating or
9 presenting the check for payment, and to pay to the individual, at any time before
10 negotiating or presenting the check for payment, an amount that is agreed to by the
11 individual subject to sub. (5) (c).

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 at least 3 days 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 subject to sub. (5) (c).

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 the close
14 of the next business day.

15 (d) A copy of the educational materials prescribed by the department under
16 sub. (7).

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) CANCELLATION REQUIREMENTS. A payday loan provider shall cancel the
22 ~~transaction at no cost to the applicant if the applicant cancels the transaction at any~~
23 time before the close of the next business day.

24 (5) PAYDAY LOAN PROVIDER PROHIBITION. (a) No payday loan provider may
25 threaten or pursue criminal action against an applicant because the applicant's

3-13

3-14

3-21

3-23

3-22

3-25

4-3

4-6

1 check or electronic fund transfer has not been paid by the financial establishment
2 from which it is drawn or transferred *4-2*

3 (b) If an applicant defaults on his or her payday loan, no payday loan provider
4 may increase an existing fee or add a new fee related to the applicant's payday loan
5 after the applicant defaults.

6 (c) 1. No payday loan provider may provide a payday loan that exceeds ~~\$5,000~~,
7 adjusted annually by the department to reflect changes in price levels due to
8 inflation. *4-16*

9 2. The department shall make the first adjustment under subd. 1. on the first
10 day of the 13th month beginning after the effective date of this paragraph [revisor
11 inserts date]. *4-13*

12 (6) MAXIMUM TERM FOR PAYDAY LOANS. No payday loan provider may make a
13 payday loan with a term of more than 35 days. *4-13 B*

14 (7) ADMINISTRATION. The department shall promulgate rules to ensure the
15 efficient administration of this section. The rules shall include a method for
16 calculating the amounts required to be disclosed under sub. (2). In addition, the
17 rules shall prescribe the form and content of educational materials designed to
18 inform an applicant of the potential costs of entering into a payday loan and of other
19 options for borrowing funds that may be available to the applicant.

20 **SECTION 3. Nonstatutory provisions.**

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

and prescribing

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 665**

March 4, 2004 - Offered by Representative JESKEWITZ.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 3, line 13: delete "cancel the transaction, at no cost to the applicant,"
3 and substitute "be relieved of all interest, fees, and payment obligations related to
4 the payday loan if the applicant returns the principal amount of the payday loan to
5 the payday loan provider".

6 **2.** Page 3, line 14: after "day" insert "following the transaction".

7 **3.** Page 3, line 21: delete "REQUIREMENTS" and substitute "OF PAYMENT
8 OBLIGATIONS".

9 **4.** Page 3, line 21: delete "provider shall cancel the".

10 **5.** Page 3, line 22: delete that line and substitute "applicant shall have no
11 obligation to pay interest and fees related to the applicant's payday loan and shall

3-13
3-14
3-21
3-22

3-22 cont

1 have no payment obligations related to the payday loan if the applicant returns the
2 principal amount of the payday loan to the payday loan provider at any".

3 **6.** Page 3, line 23: after "day" insert "following the transaction".

3-23

4 **7.** Page 3, line 25: delete "threaten or pursue criminal action" and substitute
5 "initiate or threaten to initiate criminal prosecution".

3-25

6 **8.** Page 4, line 2: after "transferred." insert "This section does not prohibit a
7 payday loan provider from cooperating in good faith with a law enforcement agency
8 that initiates or prosecutes an independent criminal action against an applicant.".

4-2

9 **9.** Page 4, line 3: delete lines 3 to 5 and substitute:

10 "(b) A payday loan provider may not enter into more than 4 consecutive
11 transactions with an applicant in which the amount financed by the payday loan
12 provider is applied to the outstanding balance on a separate payday loan between the
13 applicant and the payday loan provider.".

4-3

14 **10.** Page 4, line 6: delete "\$5,000," and substitute "\$5,000 of principal. This
15 \$5,000 limit shall be".

4-6

16 **11.** Page 4, line 13: delete "a term of" and substitute "an original scheduled
17 payment date".

4-13

18 **12.** Page 4, line 13: after "days" insert "after the payday loan origination date".

4-13B

19 **13.** Page 4, line 14: delete "to ensure the".

20 **14.** Page 4, line 15: delete that line and substitute "for".

21 **15.** Page 4, line 16: delete "(2) (b). In addition, the" and substitute "(2) (b) and
22 the adjustment under sub. (5) (c)".

4-16

