

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2003 SENATE BILL 338**

March 3, 2004 – Offered by COMMITTEE ON AGRICULTURE, FINANCIAL INSTITUTIONS  
AND INSURANCE.

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).

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

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

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

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

7 1. A transaction between an individual with an account at a financial  
8 establishment and another person, in which the person agrees to accept from the  
9 individual a check, to hold the check for at least 3 days before negotiating or  
10 presenting the check for payment, and to pay to the individual, at any time before  
11 negotiating or presenting the check for payment, an amount that is agreed to by the  
12 individual subject to sub. (5) (c).

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

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

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

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

25 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 be relieved of all interest, fees, and payment obligations related to the payday  
14 loan if the applicant returns the principal amount of the payday loan to the payday  
15 loan provider at any time before the close of the next business day following the  
16 transaction.

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

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

23           **(4) CANCELLATION OF PAYMENT OBLIGATIONS.** A payday loan applicant shall have  
24 no obligation to pay interest and fees related to the applicant's payday loan and shall  
25 have no payment obligations related to the payday loan if the applicant returns the

1 principal amount of the payday loan to the payday loan provider at any time before  
2 the close of the next business day following the transaction.

3 **(5) PAYDAY LOAN PROVIDER PROHIBITION.** (a) No payday loan provider may initiate  
4 or threaten to initiate criminal prosecution against an applicant because the  
5 applicant's check or electronic fund transfer has not been paid by the financial  
6 establishment from which it is drawn or transferred. This section does not prohibit  
7 a 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.

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

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

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

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

22 **(7) ADMINISTRATION.** The department shall promulgate rules for calculating the  
23 amounts required to be disclosed under sub. (2) (b) and the adjustment under sub.  
24 (5) (c) and prescribing 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 (7) 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)