



2009 ASSEMBLY BILL 311

June 8, 2009 – Introduced by Representatives ZEPNICK, COLON, A. WILLIAMS and CULLEN, cosponsored by Senator PLALE. Referred to Committee on Financial Institutions.

1 **AN ACT** *to create* 138.09 (8) (f) and 138.14 of the statutes; **relating to:** payday
2 loans.

Analysis by the Legislative Reference Bureau

Under current law, a lender other than a bank, savings bank, savings and loan association, or credit union generally must obtain a license from the Department of Financial Institutions (DFI) to assess a finance charge greater than 18 percent per year. This type of lender is generally referred to as a “licensed lender.” A licensed lender must have a separate license for each place of business it maintains.

This bill creates certain requirements applicable to payday loan transactions. Under the bill, a “payday loan provider” is a licensed lender that makes payday loans. A “payday loan” is a transaction between an individual with an account at a financial establishment and the payday loan provider in which the provider agrees to either: 1) accept from the individual a check, hold the check for at least three days before negotiating it, and before negotiating the check pay the individual an agreed amount; or 2) accept the individual’s authorization to initiate an electronic fund transfer (EFT) from the individual’s account, wait for at least three days before initiating the EFT, and before initiating the EFT pay the individual an agreed amount. A payday loan provider may not make a payday loan in a principal amount that exceeds \$800 or 50 percent of the applicant’s next paycheck, whichever is greater. The bill also limits a consumer’s ability to “rollover” a payday loan. The bill defines “rollover” as the refinancing, renewal, amendment, or extension of a payday loan. Under the bill, a payday loan provider may enter into no more than one rollover of a consumer’s payday loan and, before entering into such a rollover, the consumer

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must make payment, applied to the existing payday loan, that reduces the outstanding balance on the existing payday loan by at least 50 percent.

The bill also prohibits DFI, or any other state agency, from establishing or maintaining a database of individuals who enter into payday loans.

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

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

2 138.09 **(8)** (f) With respect to any payday loan, as defined in s. 138.14 (1) (h),
3 made or offered by the licensee, comply with s. 138.14 (2) and (3).

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

5 **138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

6 (a) “Agency” has the meaning given in s. 13.62 (2).

7 (b) “Applicant” means an individual who seeks to obtain a payday loan.

8 (c) “Check” has the meaning given in s. 403.104 (6).

9 (d) “Consumer” means an individual who enters into a payday loan with a
10 payday loan provider.

11 (e) “Department” means the Department of Financial Institutions.

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

15 (g) “Organization” has the meaning given in s. 19.42 (11).

16 (h) “Payday loan” means any of the following:

17 1. A transaction between an individual with an account at a financial
18 establishment and another person, in which the person agrees to accept from the
19 individual a check, to hold the check for at least 3 days before negotiating or
20 presenting the check for payment, and to pay to the individual, at any time before

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1 negotiating or presenting the check for payment, an amount that is agreed to by the
2 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 at least 3 days 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 (i) "Payday loan provider" means a person who is required to be licensed under
10 s. 138.09 and who makes payday loans.

11 (j) "Rollover" means the refinancing, renewal, amendment, or extension of a
12 payday loan beyond its original term.

13 **(2) MAXIMUM PAYDAY LOAN AMOUNT.** No payday loan provider may make a
14 payday loan that exceeds, in principal amount, \$800 or 50 percent of the applicant's
15 next paycheck, whichever is greater.

16 **(3) ROLLOVER LIMITATIONS.** (a) Subject to par. (b), a payday loan provider may
17 enter into not more than one rollover of a consumer's payday loan. After a payday
18 loan provider enters into a rollover of a consumer's payday loan, the payday loan
19 provider may not, until the consumer pays the loan in full, enter into another payday
20 loan with the consumer.

21 (b) A payday loan provider may enter into a rollover of a consumer's payday
22 loan only if, at or prior to the time of the rollover, the consumer makes payment,
23 applied to the existing payday loan, that reduces the outstanding balance on the
24 existing payday loan by at least 50 percent.

