

**2009 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB447)**

Received: **02/15/2010**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Cory Mason (608) 266-0634**

By/Representing:

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Rep.Mason@legis.wisconsin.gov**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Licensed lender requirements

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**Instructions:**

See attached

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**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>
/?	mkunkel 02/15/2010	bkraft 02/15/2010		_____			
/1			jfrantze 02/15/2010	_____	mbarman 02/15/2010	mbarman 02/15/2010	

FE Sent For:

<END>

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*J*  
2/15

*J/BK*  
A 15

FE Sent For:

<END>

Date (time) needed today

LRBa 1566 / 11

# AMENDMENT

MDK :bjk:snwn: \_\_\_\_\_

See form **AMENDMENTS — COMPONENTS & ITEMS.**

## S (A) AMENDMENT

Inserts

~~TO S A AMENDMENT~~ (LRBa / ),

TO S (A) SUBSTITUTE AMENDMENT ASA1 (LRBs / ),

TO ~~2005~~ SB SJR SR (AB) AJR AR 447 (LRB- / )

2009

At the locations indicated, amend the substitute amendment as follows:  
(fill ONLY if "engrossed ...." or "as shown by ....." )

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

#. Page . . . . ., line . . . . .:

**ASSEMBLY BILL 392**

addition, the bill allows a borrower to bring an action against a lender who violates the prohibition to recover damages in an amount equal to the greater of the following: 1) twice the amount of the finance charge in connection with the loan made to the borrower; or 2) the actual damages, including incidental and consequential damages, sustained by the borrower by reason of the violation. The bill also allows the borrower to recover the costs of the action, including reasonable attorney fees.

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:*

*at Page 5 line 2 after that line insert*

1 SECTION 138.09 (1d) of the statutes is renumbered 138.09 (1d) (intro.) and  
2 amended to read:

3 138.09 (1d) (intro.) In this section, "division":

4 (a) "Division" means the division of banking.

5 SECTION 138.09 (1d) (b) of the statutes is created to read:

6 138.09 (1d) (b) "Finance charge" has the meaning given in s. 421.301 (20).

7 SECTION 138.09 (1m) (a) of the statutes is amended to read:

8 138.09 (1m) (a) Before any person may do business under this section or charge

9 the interest authorized by sub. (7) and before any creditor other than a bank, savings

10 bank, savings and loan association or credit union may assess a finance charge on

11 make a consumer loan in excess of 18% per year \$5,000 or less, that person shall first

12 obtain a license from the division. Applications for a license shall be in writing and

13 upon forms provided for this purpose by the division. An applicant at the time of

14 making an application shall pay to the division a nonrefundable \$300 fee for

15 investigating the application and a \$500 annual license fee for the period

16 terminating on the last day of the current calendar year. If the cost of the

17 investigation exceeds \$300, the applicant shall upon demand of the division pay to

*INSERT 2-1*

ASSEMBLY BILL 392

1 the division the amount by which the cost of the investigation exceeds the  
2 nonrefundable fee.

3 SECTION 138.09 (7m) of the statutes is created to read:

4 138.09 (7m) (a) No creditor who is licensed under sub. (1m) may assess a  
5 finance charge on a consumer loan that is more than 36 percent per year.

6 (b) If a creditor makes a consumer loan that violates par. (a), the borrower may  
7 bring an action against the creditor for an amount equal to twice the amount of the  
8 finance charge in connection with the loan, or the actual damages, including any  
9 incidental and consequential damages, sustained by the borrower by reason of the  
10 violation, whichever is greater, and, notwithstanding s. 814.04 (1), the costs of the  
11 action, including reasonable attorney fees.

12 ~~SECTION 5. Initial applicability.~~

13 ~~(1) This section first applies to loans made, refinanced, or consolidated on the~~  
14 ~~effective date of this subsection.~~ *applies* *INSEAT 3-13*

15 ~~SECTION 6. Effective date.~~

16 ~~(1) This section takes effect on the first day of the 3rd month beginning after~~  
17 ~~publication.~~ *INSEAT 3-16*

18 (END)

*# Page 15 line 20  
insert*

*INSEAT 3-11*

1

**INSERT 2-1:**

2

**1.** Page 1, line 2: before “regulating” insert “finance charges for licensed lenders.”

3

4

5

**INSERT 3-11:**

6

**2.** Page 7, line 18: after “less.” insert “In addition, the finance charge on a payday loan is subject to s. 138.09 (7m) (a).”.

7

8

**3.** Page 15, line 13: after that line insert:

9

**INSERT 3-13:**

10

The treatment of section 138.09 (1m) (a) and (7m) of the statutes, the renumbering and amendment of section 138.09 (1d) of the statutes, and the creation of section 138.09 (1d) (b) of the statutes

11

12

13

**INSERT 3-16:**

14

The treatment of section 138.09 (1m) (a) and (7m) of the statutes, the renumbering and amendment of section 138.09 (1d) of the statutes, and the creation of section

15

16

138.09 (1d) (b) of the statutes