

**2013 DRAFTING REQUEST**

**Bill**

Received: 1/21/2014 Received By: agary  
Wanted: As time permits Same as LRB: -4251  
For: Glenn Grothman (608) 266-7513 By/Representing: Rachel VerVelde  
May Contact: Drafter: agary  
Subject: Fin. Inst. - int. rates/loans Addl. Drafters:  
Extra Copies:

Submit via email: YES  
Requester's email: Sen.Grothman@legis.wisconsin.gov  
Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Limiting maximum interest rate on payday loans and loans by licensed lenders

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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>
/?	agary 1/22/2014	csicilia 1/29/2014	jfrantze 1/29/2014	_____			
/P1	agary 2/17/2014			_____	mbarman 1/29/2014		State
/1	mbarman 3/21/2014	kfollett 2/17/2014	rschluet 2/17/2014	_____	srose 2/17/2014	mbarman 3/21/2014	State

FE Sent For:

at  
intro

<END>

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/P1	agary 2/17/2014			_____	mbarman 1/29/2014		State
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/?	agary 1/22/2014	csicilia 1/29/2014	jfrantze 1/29/2014	_____			
/P1		1/15/17 2/17	 2/17/14	_____	mbarman 1/29/2014		State

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1/?	agary	PI cjs 1/21/14	Jb	JM			

FE Sent For:

<END>

**Gary, Aaron**

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**From:** VerVelde, Rachel  
**Sent:** Tuesday, January 21, 2014 2:01 PM  
**To:** Gary, Aaron  
**Subject:** Draft Needed

Aaron,

Senator Grothman would like to re-draft 2011 LRB 1974/1. Let me know if you have any questions.

Thanks,

*Rachel A. VerVelde*

Chief of Staff - Office of Senator Glenn Grothman  
20<sup>th</sup> Senate District  
[Rachel.VerVelde@legis.wi.gov](mailto:Rachel.VerVelde@legis.wi.gov)  
608-266-7513



WED or THUR

State of Wisconsin  
2011 - 2012 LEGISLATURE

base is from 2011 session  
LRB-10741-4056/P1  
ARG:kjf:jf

2011 SENATE BILL 99

P.W.F.

May 20, 2011 - Introduced by Senators GROTHMAN, TAYLOR, WANGGAARD, ELLIS, T. CULLEN, HANSEN and CARPENTER, cosponsored by Representatives WYNN, NASS, HINTZ, BERNIER, SPANBAUER, PETRYK, RIVARD, BIES, PETROWSKI, PASCH, HEBL, MOLEPSKE JR and KNILANS. Referred to Committee on Financial Institutions and Rural Issues.

Gen Cat

PB

stat comp  
SA 13  
11

1 AN ACT *to renumber and amend* 138.14 (10) (a) 1.; *to amend* 138.09 (1m) (a),  
2 138.09 (7) (bp), 138.14 (13) (d) and 422.201 (3); and *to create* 138.09 (7) (bs) and  
3 138.14 (10) (a) 1g. of the statutes; **relating to:** interest rates on payday loans  
4 and loans by licensed lenders.

**Analysis by the Legislative Reference Bureau**

Under current law, as created in 2009 Wisconsin Act 405, a person must be licensed by the Division of Banking (division) in the Department of Financial Institutions to originate or service a payday loan involving a Wisconsin resident. Current law does not impose a limit on the interest that a payday loan licensee may charge, before the maturity date, on a payday loan. However, current law prohibits a licensee from charging interest after the maturity date of a payday loan, when the loan is not paid in full by this maturity date. A payday loan under which interest is charged after the maturity date is not enforceable.

This bill limits the interest rate that a payday loan licensee may charge, before the maturity date, on a payday loan to an annual percentage rate of 36 percent. A payday loan on which a greater rate of interest is charged is not enforceable.

Under current law, a lender other than a bank, savings bank, savings and loan association, or credit union (financial institution) generally must obtain a license from the division to assess a finance charge for a consumer loan that is greater than 18 percent. This type of lender is generally referred to as a "licensed lender." A "consumer loan" is a loan made to an individual for personal, family, or household purposes that is payable in installments or for which a finance charge may be

that may be charged

but  
hurts the

to 2.75 percent per month.

for its affiliate



**SENATE BILL 99**

imposed and includes most transactions under an open-end credit plan such as most credit card debt. A "finance charge" is the sum of all charges payable by the customer as an incident to or condition of the extension of credit, including interest and other costs and fees to the extent not specifically designated by statute as permissible charges of the creditor. Consumer loans are largely regulated under the Wisconsin Consumer Act. With certain limited exceptions, current law provides no maximum interest rate or finance charge for a consumer loan, including those made by a licensed lender.

This bill expands the class of creditors that are considered "licensed lenders" and are subject to the licensing requirements as such. Under the bill, a lender other than a financial institution that makes consumer loans exceeding \$5,000 in principal amount must also obtain a license from the division and is a licensed lender.

The bill also prohibits a licensed lender from charging an annual percentage rate of interest greater than 36 percent. However, this maximum interest rate does not apply to an open-end credit plan, including most credit card debt, or to a consumer loan secured by a first lien security interest in a mobile home or manufactured home. The bill also does not affect the maximum interest rate under current law of 12 percent per year for consumer loans after their final scheduled maturity date. If a licensed lender violates the 36 percent interest limitation, the loan is not enforceable.

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:***

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

138.09 **(1m)** (a) Before any person may do business under this section, charge the interest authorized by sub. (7), or assess a finance charge on a consumer loan in excess of 18% per year, or make a consumer loan exceeding \$5,000 in principal amount, that person shall first obtain a license from the division. Applications for a license shall be in writing and upon forms provided for this purpose by the division. An applicant at the time of making an application shall pay to the division a nonrefundable \$300 fee for investigating the application and a \$500 annual license fee for the period terminating on the last day of the current calendar year. If the cost of the investigation exceeds \$300, the applicant shall upon demand of the division

**SENATE BILL 99**

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

3 **SECTION 2.** 138.09 (7) (bp) of the statutes is amended to read:

4 138.09 (7) (bp) A loan, whether precomputed or based upon the actuarial  
5 method, made after October 31, 1984, and prior to the effective date of this paragraph  
6 ... [LRB inserts date], is not subject to any maximum interest rate limit.

7 **SECTION 3.** 138.09 (7) (bs) of the statutes is created to read:

8 138.09 (7) (bs) 1. For purposes of this paragraph, “annual percentage rate”  
9 shall be determined consistent with the provisions of section 107 of the federal Truth  
10 in Lending Act, 15 USC 1606, and federal Regulation Z adopted under that act, 12  
11 CFR 226.

12 2. Notwithstanding sub. (9) (a) and ss. 138.05 (8) (c) and 422.201 (2) (bn) and  
13 (9), and except as provided in ss. 422.201 (10s) and (11), 422.202 (2m) (b), and 422.203  
14 (4) (c), a licensee may not charge, contract for, or receive an annual percentage rate  
15 of interest for a loan or forbearance made on or after the effective date of this  
16 subdivision ... [LRB inserts date], that is greater than 36 percent. This subdivision  
17 does not apply to an open-end credit plan or any consumer loan described in s.  
18 422.201 (12m).

19 **SECTION 4.** 138.14 (10) (a) 1. of the statutes is renumbered 138.14 (10) (a) 1r.  
20 and amended to read:

21 138.14 (10) (a) 1r. ~~Except as provided in~~ Subject to subd. 2. and sub. (12) (b),  
22 ~~this section imposes no limit on the interest that a licensee may not charge before the~~  
23 ~~maturity date of an annual percentage rate of interest greater than 36 percent on a~~  
24 payday loan.

25 **SECTION 5.** 138.14 (10) (a) 1g. of the statutes is created to read:

**SENATE BILL 99****SECTION 5**

1           138.14 (10) (a) 1g. For purposes of this paragraph, “annual percentage rate”  
2 shall be determined consistent with the provisions of section 107 of the federal Truth  
3 in Lending Act, 15 USC 1606, and federal Regulation Z adopted under that act, 12  
4 CFR 226.

✓  
5           **SECTION 6.** 138.14 (13) (d) of the statutes is amended to read:

6           138.14 (13) (d) No payday loan, wherever made, for which a greater rate or  
7 amount of interest than is allowed under sub. (10) (a) 2~~r~~ has been contracted for or  
8 received, may be enforced in this state, and every person in any way participating  
9 therein in this state shall be subject to this section. If a licensee makes an excessive  
10 charge of such interest as the result of an unintentional mistake, but upon demand  
11 makes correction of such mistake, the loan shall be enforceable and treated as if no  
12 violation occurred at the agreed rate. Nothing in this paragraph shall limit any  
13 greater rights or remedies afforded in chs. 421 to 427 to a customer in a consumer  
14 credit transaction.

✓  
15           **SECTION 7.** 422.201 (3) of the statutes is amended to read:

16           422.201 (3) ~~For~~ Notwithstanding sub. (2), for licensees under s. 138.09 or  
17 138.14 or under ss. 218.0101 to 218.0163, the finance charge or rate of interest,  
18 calculated according to those sections, may not exceed the maximums permitted in  
19 ss. 138.09, 138.14, and 218.0101 to 218.0163, respectively.

20           **SECTION 8. Nonstatutory provisions.**

21           (1) This act first applies to loans made, refinanced, or consolidated on the  
22 effective date of this subsection.

23           **SECTION 9. Effective date.**



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4056/P1dn

ARG: /:....

43

- date -

Please review the attached draft carefully to ensure that it is consistent with your intent.

This is a redraft of 2011 SB-99 (LRB-1974). The 2011 Budget Act was enacted after I drafted 2011 LRB-1974 and provisions in the Budget Act require me to make certain changes in the analysis (but not in the text) of this redraft. Most notably, the 2011 Budget Act lifted the ban on payday lenders imposing interest after loan maturity and instead allowed them to impose post-maturity interest not exceeding 2.75 percent per month. See s. 138.14 (10) (a) 2., stats. I believe this equates to an annual interest rate of 33 percent. Because this interest rate is less than the 36 percent interest rate cap under this bill, I have not made any changes to s. 138.14 (10) (a) 2. in this redraft.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4056/P1dn  
ARG:cjs:jf

January 29, 2014

Please review the attached draft carefully to ensure that it is consistent with your intent.

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Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

**Gary, Aaron**

---

**From:** VerVelde, Rachel  
**Sent:** Friday, February 14, 2014 4:25 PM  
**To:** Gary, Aaron  
**Subject:** RE: Draft review: LRB -4056/P1 Topic: Limiting maximum interest rate on payday loans and loans by licensed lenders

Aaron,

Could you send an introducible draft for this bill?

Thanks,

*Rachel A. VerVelde*

Chief of Staff - Office of Senator Glenn Grothman  
20<sup>th</sup> Senate District  
[Rachel.VerVelde@legis.wi.gov](mailto:Rachel.VerVelde@legis.wi.gov)  
608-266-7513

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**From:** LRB.Legal  
**Sent:** Wednesday, January 29, 2014 2:52 PM  
**To:** Sen.Grothman  
**Subject:** Draft review: LRB -4056/P1 Topic: Limiting maximum interest rate on payday loans and loans by licensed lenders

**Following is the PDF version of draft LRB -4056/P1 and drafter's note.**



TODAY



LRB-4056/11

ARG:kjf:jf

in 2/17

RMN

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

No changes  
Regen

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2 138.09 (7) (bp), 138.14 (13) (d) and 422.201 (3); and **to create** 138.09 (7) (bs) and  
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most credit card debt. A “finance charge” is the sum of all charges payable by the customer as an incident to or condition of the extension of credit, including interest and other costs and fees to the extent not specifically designated by statute as permissible charges of the creditor. Consumer loans are largely regulated under the Wisconsin Consumer Act. With certain limited exceptions, current law provides no maximum interest rate or finance charge for a consumer loan, including those made by a licensed lender.

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21           (1) This act first applies to loans made, refinanced, or consolidated on the  
22 effective date of this subsection.

23           **SECTION 9. Effective date.**



**Rose, Stefanie**

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**From:** Sen.Grothman  
**Sent:** Friday, March 21, 2014 10:42 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -4056/1 Topic: Limiting maximum interest rate on payday loans and loans by licensed lenders

Please Jacket LRB -4056/1 for the SENATE.