
A BILL FOR AN ACT

RELATING TO SHORT-TERM LOANS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The legislature finds that:
- 2 (1) Credit and liquidity are essential to modern
- 3 consumers;
- 4 (2) Consumers with lower credit scores or no credit files
- 5 have great difficulty in obtaining affordable credit;
- 6 (3) Current credit options for this market segment are
- 7 expensive, can lead to cycles of debt, are only
- 8 minimally supervised by the State, and have the
- 9 potential for significant abuse; and
- 10 (4) There is a need for alternative forms of credit that
- 11 are both affordable to borrowers yet adequately
- 12 compensate lenders for the enhanced risk of default in
- 13 the repayment of these loans.
- 14 The purpose of this Act is to authorize short-term loans
- 15 that are affordable for borrowers with limited access to credit
- 16 but provide a sufficient yield for lenders to compensate for the



1 risks associated with making credit available to this currently
2 underserved portion of the credit spectrum.

3 SECTION 2. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 SHORT-TERM LOANS

8 § -1 Definitions. As used in this chapter, unless the
9 context otherwise requires:

10 "Commissioner" means the commissioner of financial
11 institutions.

12 "Division" means the division of financial institutions
13 within the department of commerce and consumer affairs.

14 "Precomputed loan" means a loan in which the debt is a sum
15 comprising the principal amount and the amount of fees and
16 interest computed in advance on the assumption that all
17 scheduled payments will be made when due.

18 "Short-term lender" means a lender that makes a short-term
19 loan.

20 "Short-term loan" means a loan made pursuant to and in
21 compliance with this chapter.



1 § -2 **Short-term loans.** (a) A short-term lender may
2 engage in the business of making short-term loans provided that
3 each short-term loan meets all of the requirements of this
4 chapter.

5 (b) The principal amount of the short-term loan shall not
6 exceed two thousand dollars.

7 (c) The minimum duration of the short-term loan is the
8 number of months equal to the sum of the originally contracted
9 loan amount and all applicable charges divided by the total
10 monthly payment. The maximum duration of the short-term loan
11 shall not exceed thirty months.

12 (d) The total monthly payment on the short-term loan shall
13 not exceed an amount that is eight per cent of the borrower's
14 verified gross monthly income.

15 (e) Before making a short-term loan to a borrower, a
16 short-term lender shall make a reasonable attempt to verify the
17 borrower's income for purposes of subsection (d). At a minimum,
18 the short-term lender shall obtain from the borrower one or more
19 recent pay stubs or other written evidence of recurring income,
20 such as a bank statement. The written evidence shall include at
21 least one document that, when presented to the short-term



1 lender, is dated not earlier than forty-five days prior to the
2 initiation of the short-term loan transaction.

3 (f) The short-term loan shall be made pursuant to a written
4 loan contract that sets forth the terms and conditions of the
5 short-term loan. A copy of the loan contract shall be provided
6 to the borrower. The loan contract shall disclose in a clear
7 and concise manner all of the following:

8 (1) The total amount of fees and charges the borrower will
9 be required to pay in connection with the short-term
10 loan pursuant to the loan contract;

11 (2) The total amount of each payment, when each payment is
12 due, and the total number of payments that the
13 borrower will be required to make under the loan
14 contract;

15 (3) A statement, printed in boldface type of the minimum
16 size of ten points, as follows: "WARNING: The cost of
17 this loan is higher than the average cost charged by
18 financial institutions on substantially similar
19 loans.";

20 (4) A statement, printed in a minimum font size of ten
21 points, which informs the borrower that complaints



1 regarding the short-term loan or lender may be
2 submitted to the commissioner and includes the correct
3 telephone number and mailing address for the
4 commissioner;

5 (5) A statement, printed in a minimum font size of ten
6 points, as follows: "You have the right to rescind or
7 cancel this loan if you do so by five p.m. of the
8 business day immediately following the day you receive
9 this contract.";

10 (6) A statement, printed in a minimum font size of ten
11 points, as follows: "Electronic payment is optional.
12 You have the right to revoke or remove your
13 authorization for electronic payment at any time.";
14 and

15 (7) Any disclosures required under the federal Truth in
16 Lending Act (15 U.S.C. 1601, et seq.).

17 (g) The short-term loan shall be a precomputed loan and
18 shall be payable in substantially equal installments of
19 principal, fees, and interest combined.

20 (h) The short-term loan may be rescinded or canceled on or
21 before five p.m. of the business day immediately following the



1 day of the short-term loan transaction; provided that, at the
2 time of the rescission, all funds received by the borrower are
3 returned to the short-term lender at the location of the
4 original transaction in United States currency. In the event
5 the original transaction was not transacted in person, then any
6 attempted rescission shall be not be valid unless the borrower
7 returns the funds either:

8 (1) By automated clearing house (ACH) transaction from an
9 insured depository institution if ACH time-stamped on
10 or before the date and time of expiration of the
11 rescission period; or

12 (2) By United States mail if postmarked on or before the
13 date and time of expiration of the rescission period.

14 (i) A short-term lender may charge, collect, and receive
15 only the following fees and charges in connection with a short-
16 term loan:

17 (1) Interest at a rate not exceeding thirty-six per cent;
18 provided that the monthly maintenance fee described in
19 subsection (i)(2) shall not be included in the
20 calculation of interest;



- 1 (2) A monthly maintenance fee that does not exceed the
2 lesser of six dollars per each one hundred dollars of
3 the originally contracted loan amount, or thirty
4 dollars, provided that the fee is not added to the
5 loan balance on which interest is charged; provided,
6 further, that a short-term lender shall not charge,
7 collect, or receive a monthly maintenance fee if the
8 borrower is a person on active duty in the armed
9 forces of the United States or a dependent of that
10 person;
- 11 (3) One check collection charge per loan not exceeding an
12 amount equal to twenty-five dollars per calendar year
13 plus any amount passed on from a financial
14 institutions for each check, negotiable order of
15 withdrawal, share draft, or other negotiable
16 instrument returned or dishonored for any reason,
17 provided that the terms and conditions upon which
18 check collection charges will be charged to the
19 borrower are set forth in the written loan contract
20 described in subsection (f); and



1 (4) Damages, costs, and disbursements to which the short-
2 term lender may become entitled to by law in
3 connection with any civil action to collect a loan
4 after default, provided that the total amount of
5 damages and costs shall not exceed the originally
6 contracted loan amount.

7 (j) A short-term lender may refinance a short-term loan
8 provided that all of the following apply to the refinanced loan:

- 9 (1) The loan is a short-term loan;
- 10 (2) Interest on the loan does not exceed a rate of thirty-
11 six per cent; and
- 12 (3) The short-term lender does not charge, collect, or
13 receive the monthly maintenance fee described in
14 subsection (i) (2).

15 (k) For purposes of this section, the monthly maintenance
16 fee is considered to be fully earned at the beginning of each
17 calendar month.

18 (l) No short-term lender shall make a short-term loan to a
19 borrower that includes a demand feature that permits the short-
20 term lender, in the event the borrower fails to meet the
21 repayment terms for any outstanding balance, to terminate the

1 short-term loan in advance of the original maturity date and to
2 demand repayment of the entire outstanding balance, unless both
3 of the following requirements are met:

4 (1) Not earlier than ten days after the borrower's payment
5 was due, the short-term lender provides written notice
6 to the borrower of the termination of the short-term
7 loan; and

8 (2) In addition to the outstanding balance, the short-term
9 lender collects only prorated interest and the fees
10 earned up to the termination of the short-term loan.

11 For purposes of this subsection, the outstanding
12 balance and prorated interest and fees shall be
13 calculated as if the borrower had voluntarily prepaid
14 the short-term loan in full on the date of
15 termination.

16 (m) A short-term lender shall not charge, collect, or
17 receive in connection with a short-term loan a total amount of
18 fees and charges that exceeds fifty per cent of the originally
19 contracted loan amount. For purposes of this section, all
20 charges made in connection with the short-term loan shall be



1 included when calculating the total loan charges except for both
2 of the following:

- 3 (1) The check collection charge authorized under
4 subsection (i)(3); and
- 5 (2) The interest charges on a loan that is refinanced in
6 accordance with subsection (j).
- 7 (n) Any interest, fees, and charges charged for a short-
8 term loan in compliance with this section shall be exempt from
9 chapter 478.

10 § -3 Prohibition on multiple loans. Except as otherwise
11 provided in section -2(j), no short-term lender shall make a
12 short-term loan to a borrower if there exists an outstanding
13 loan between the borrower and any of the following:

- 14 (1) A short-term lender;
- 15 (2) A person related to a short-term lender by common
16 ownership or control;
- 17 (3) A person in whom a short-term lender has any financial
18 interest of ten per cent or more; or
- 19 (4) Any employee or agent of a short-term lender.

20 § -4 Limitation on collection attempts. A short-term
21 lender shall not attempt to collect from a borrower's account



1 after two consecutive attempts have failed, unless the short-
2 term lender obtains new written authorization from the borrower
3 to electronically transfer or withdraw funds from the borrower's
4 account.

5 **§ -5 Registration.** (a) A short-term lender shall
6 register with the commissioner prior to engaging in the business
7 of making short-term loans.

8 (b) Each short-term lender agency shall renew its
9 registration on or before December 31 of each odd-numbered year.

10 (c) In addition to any other action authorized by law, the
11 commissioner may revoke, suspend, or refuse to renew the
12 registration of any short-term lender that violates this
13 chapter.

14 **§ -6 Maintenance of books and records.** (a) Every
15 short-term lender shall keep and use in the short-term lender's
16 business such books, accounts, records, and loan documents as
17 will enable the commissioner to determine whether the short-term
18 lender is complying with the requirements of this chapter
19 relating to short-term loans.

20 (b) Every short-term lender shall preserve the books,
21 accounts, records, and loan documents pertaining to short-term



1 loans made under this chapter for at least one year after making
2 the final entry on, or final revision of any loan document
3 relative to, any short-term loan recorded therein.

4 (c) Accounting systems maintained in whole or in part by
5 mechanical or electronic data processing methods that provide
6 information equivalent to that otherwise required are acceptable
7 for this purpose.

8 § -7 **Civil penalties.** The commissioner may assess a
9 fine against a person who violates this chapter or a rule
10 adopted under this chapter in an amount not to exceed \$
11 per day for each day the violation is outstanding, plus the
12 State's costs and expenses for the investigation and prosecution
13 of the matter, including reasonable attorneys' fees.

14 § -8 **Administrative procedures.** All administrative
15 proceedings under this chapter shall be conducted in accordance
16 with chapter 91.

17 § -9 **Hearings.** The commissioner may not assess a civil
18 penalty without notice and an opportunity to be heard.

19 § -10 **Division functions.** (a) The division shall
20 exercise all administrative functions of the State in relation
21 to the regulation of short-term loans pursuant to this chapter.



1 (b) The division shall interpret and carry out the
2 provisions of this chapter.

3 § -11 Rules. The commissioner may adopt rules pursuant
4 to chapter 91 to implement this chapter."

5 SECTION 3. The commissioner of financial institutions
6 shall review short-term loans made pursuant to this Act for a
7 period of two years following the effective date of this Act,
8 and shall submit a report of its findings and recommendations,
9 including any proposed legislation, to the legislature no later
10 than twenty days prior to the convening of the regular session
11 of 2021 on the availability and affordability of short-term
12 loans, and on whether the existing authorization for payday
13 loans in section 480F-4, Hawaii Revised Statutes, should be
14 repealed.

15 SECTION 4. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 5. This Act shall take effect on July 1, 2018;
19 provided that section 2 of this Act shall be repealed on June



1 30, 2020. The repeal of section 2 of this Act shall not affect
2 the validity of any short-term loan made prior to June 30, 2020.

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H.B. NO. 2609

Report Title:

Short-Term Loans; Division of Financial Institutions; PayDay Lending

Description:

Authorizes and regulates short-term lending in the State such that short-term loans shall not exceed a term of thirty months, require payments not to exceed eight per cent of the borrower's gross monthly income, and other conditions.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

