



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0304/1
CMH&JK:cjs:ch

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 665**

January 20, 2004 – Offered by Representative JESKEWITZ.

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).

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

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

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

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

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

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

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

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

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

24 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 cancel the transaction, at no cost to the applicant, at any time before the close
14 of the next business day.

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

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

21 **(4) CANCELLATION REQUIREMENTS.** A payday loan provider shall cancel the
22 transaction at no cost to the applicant if the applicant cancels the transaction at any
23 time before the close of the next business day.

24 **(5) PAYDAY LOAN PROVIDER PROHIBITION.** (a) No payday loan provider may
25 threaten or pursue criminal action against an applicant because the applicant's

1 check or electronic fund transfer has not been paid by the financial establishment
2 from which it is drawn or transferred.

3 (b) If an applicant defaults on his or her payday loan, no payday loan provider
4 may increase an existing fee or add a new fee related to the applicant's payday loan
5 after the applicant defaults.

6 (c) 1. No payday loan provider may provide a payday loan that exceeds \$5,000,
7 adjusted annually by the department to reflect changes in price levels due to
8 inflation.

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

12 (6) MAXIMUM TERM FOR PAYDAY LOANS. No payday loan provider may make a
13 payday loan with a term of more than 35 days.

14 (7) ADMINISTRATION. The department shall promulgate rules to ensure the
15 efficient administration of this section. The rules shall include a method for
16 calculating the amounts required to be disclosed under sub. (2) (b). In addition, the
17 rules shall prescribe the form and content of educational materials designed to
18 inform an applicant of the potential costs of entering into a payday loan and of other
19 options for borrowing funds that may be available to the applicant.

20 **SECTION 3. Nonstatutory provisions.**

21 (1) SUBMISSION OF PROPOSED RULES GOVERNING PAYDAY LOAN PROVIDERS. No later
22 than the first day of the 6th month beginning after publication, the department of
23 financial institutions shall submit in proposed form the rules governing payday loan
24 providers under section 138.14 (7) of the statutes, as created by this act, to the
25 legislative council staff under section 227.15 (1) of the statutes.

