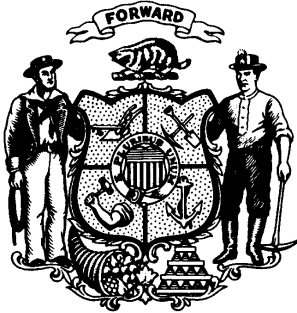


# State of Wisconsin



2003 Assembly Bill 665

Date of enactment:  
Date of publication\*:

## 2003 WISCONSIN ACT

AN ACT *to create* 138.09 (8) (f) and 138.14 of the statutes; **relating to:** payday loan providers and granting rule-making authority.

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

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

138.09 (8) (f) When making a payday loan, as defined in s. 138.14 (1) (f), comply with s. 138.14 (2), (3), (4), (5), and (6) and rules promulgated under s. 138.14 (7).

**SECTION 2.** 138.14 of the statutes is created to read:  
**138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

(a) "Applicant" means an individual who obtains or seeks to obtain a payday loan.

(am) "Business day" has the meaning given in s. 421.301 (6).

(b) "Check" has the meaning given in s. 403.104 (6).

(c) "Department" means the department of financial institutions.

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

(e) "Organization" has the meaning given in s. 19.42 (11).

(f) "Payday loan" means any of the following:

1. A transaction between an individual with an account at a financial establishment and another person,

in which the person agrees to accept from the individual a check, to hold the check for at least 3 days before negotiating or presenting the check for payment, and to pay to the individual, at any time before negotiating or presenting the check for payment, an amount that is agreed to by the individual subject to sub. (5) (c).

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

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

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

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

1. That a payday loan is not intended to meet long-term financial needs.

2. That an applicant should use a payday loan only to provide funds in a financial emergency.

\* Section 991.11, WISCONSIN STATUTES 2001-02 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

3. That the applicant will be required to pay additional interest if the loan is refinanced rather than paid in full when due.

4. That refinancing a payday loan or entering into consecutive payday loans to pay an existing payday loan may cause financial hardship for the applicant.

(b) A clear and conspicuous printed or typewritten notice comparing the cost to the applicant if the applicant pays the payday loan in full at the end of the loan term with the cost to the applicant if the applicant pays the payday loan in full after financing the amount of the payday loan at the end of the loan term 3 consecutive times.

(c) A clear and conspicuous printed or typewritten notice that the applicant may be relieved of all interest, fees, and payment obligations related to the payday loan if the applicant returns the principal amount of the payday loan to the payday loan provider at any time before the close of the next business day following the transaction.

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

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

(4) **CANCELLATION OF PAYMENT OBLIGATIONS.** A payday loan applicant shall have no obligation to pay interest and fees related to the applicant's payday loan and shall have no payment obligations related to the payday loan if the applicant returns the principal amount of the payday loan to the payday loan provider at any time before the close of the next business day following the transaction.

(5) **PAYDAY LOAN PROVIDER PROHIBITION.** (a) No payday loan provider may initiate or threaten to initiate criminal prosecution against an applicant because the applicant's check or electronic fund transfer has not been paid by the financial establishment from which it is drawn or transferred. This section does not prohibit a payday loan provider from cooperating in good faith with a law enforcement agency that initiates or prosecutes an independent criminal action against an applicant.

(b) A payday loan provider may not enter into more than 4 consecutive transactions with an applicant in which the amount financed by the payday loan provider is applied to the outstanding balance on a separate payday loan between the applicant and the payday loan provider.

(c) 1. No payday loan provider may provide a payday loan that exceeds \$5,000 of principal. This \$5,000 limit shall be adjusted annually by the department to reflect changes in price levels due to inflation.

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

(6) **MAXIMUM TERM FOR PAYDAY LOANS.** No payday loan provider may make a payday loan with an original scheduled payment date more than 35 days after the payday loan origination date.

(7) **ADMINISTRATION.** The department shall promulgate rules for calculating the amounts required to be disclosed under sub. (2) (b) and the adjustment under sub. (5) (c) and prescribing the form and content of educational materials designed to inform an applicant of the potential costs of entering into a payday loan and of other options for borrowing funds that may be available to the applicant.

### **SECTION 3. Nonstatutory provisions.**

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

### **SECTION 4. Initial applicability.**

(1) The creation of section 138.14 of the statutes first applies to payday loans made on the effective date of this subsection.

### **SECTION 5. Effective date.**

(1) The creation of section 138.14 of the statutes and SECTION 4 (1) of this act take effect on the first day of the 12th month beginning after publication.