



SPONSOR: Rep. Stone & Sen. Adams ;
Reps. DiPinto, Hudson, Roy, Smith,
Spence, Valihura, Van Sant, Wagner;
Sens. Amick, Bonini, Cook,
McDowell, Winslow

HOUSE OF REPRESENTATIVES

141st GENERAL ASSEMBLY

HOUSE BILL NO. 480

AN ACT TO AMEND TITLE 5 OF THE DELAWARE CODE RELATING TO FINANCIAL INSTITUTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend §961 of Title 5 of the Delaware Code by adding thereto the following new subsections to
2 read:

3 "(4) 'Short-term consumer loan' means a loan of \$500 or less made to an individual borrower that
4 charges interest and/or fees for which the stated repayment period is less than 60 days and is not secured by title to a
5 motor vehicle.

6 (5) 'Rollover' means, with respect to any short-term consumer loan, the extension of an outstanding
7 and unpaid indebtedness beyond the stated repayment period solely on the basis of the payment of a fee, without approval
8 of a new loan application.

9 (6) 'Workout agreement' means an agreement between an individual borrower and a bank, trust
10 company, or savings bank for the repayment of an outstanding and unpaid indebtedness which requires a net reduction of
11 not less than 10% of such indebtedness per payment period.

12 (7) 'Right of rescission' means, with respect to any short-term consumer loan, the right to return any
13 amount borrowed, in full, on or before the close of business of the business day following the day on which such sum has
14 been disbursed or advanced, without the incursion of any fee or other charges.

15 (8) 'Business day' means, with respect to rescission under §976 of this subchapter, all calendar days
16 except Sundays and legal public holidays.

17 (9) 'Conspicuously displayed' means highlighted through the use of capitalization, bold print,
18 underlining, or some combination thereof."

Section 2. Amend Chapter 9 of Title 5 of the Delaware Code by redesignating §976 and §977 as §977 and §978 respectively, and by adding thereto a new section to read:

"§976. Short-term consumer loans.

(a) In addition to such other limitations and requirements as are imposed pursuant to other provisions of this subchapter, short-term consumer loans shall be subject to the following:

(1) No bank, trust company, or savings bank shall make more than four (4) rollovers of an existing short-term consumer loan. A bank, trust company, or savings bank may, following not more than the maximum allowable number of rollovers, enter into a workout agreement with the borrower or take such other actions as are lawful to collect any outstanding and unpaid indebtedness.

(2) No bank, trust company, or savings bank shall make a short-term consumer loan, unless such loan is subject to a right of rescission on the part of the individual borrower.

(3) No bank, trust company, or savings bank shall pursue or threaten to pursue criminal action against an individual borrower in connection with the non-payment of any amount due, including the unpaid return of any check or automated clearinghouse transaction.

(b) In addition to such other disclosure requirements as are imposed pursuant to other provisions of this subchapter, short-term consumer loans shall be subject to the following: No bank, trust company, or savings bank shall make a short-term consumer loan unless the application for such loan contains a written disclosure, conspicuously displayed, that

(1) the loan is designed as a short-term cash flow solution and not designed as a solution for longer term financial problems;

(2) additional fees may accrue if the loan is rolled over; and

(3) credit counseling services are available to consumers experiencing financial problems.

(c) Nothing in this section prohibits a lender from refinancing the principal amount of a short-term consumer loan, subject to the limitations and requirements imposed herein.

(d) The Commissioner is authorized to promulgate rules and regulations to exempt certain loans or classes of loans from the requirements of this section."

45 Section 3. Amend §2227 of Title 5 of the Delaware Code by adding thereto the following new subsections to
46 read:

47 "(3) 'Short-term consumer loan' means a loan of \$500 or less made to an individual borrower that
48 charges interest and/or fees for which the stated repayment period is less than 60 days and is not secured by title to a
49 motor vehicle.

50 (4) 'Rollover' means, with respect to any short-term consumer loan, the extension of an outstanding
51 and unpaid indebtedness beyond the stated repayment period solely on the basis of the payment of a fee, without approval
52 of a new loan application.

53 (5) 'Workout agreement' means an agreement between an individual borrower and a licensee for the
54 repayment of an outstanding and unpaid indebtedness which requires a net reduction of not less than 10% of such
55 indebtedness per payment period.

56 (6) 'Right of rescission' means, with respect to any short-term consumer loan, the right to return any
57 amount borrowed, in full, on or before the close of business of the business day following the day on which such sum has
58 been disbursed or advanced, without the incursion of any fee or other charges.

59 (7) 'Business day' means, with respect to rescission under §2235A of this subchapter, all calendar days
60 except Sundays and legal public holidays.

61 (8) 'Conspicuously displayed' means highlighted through the use of capitalization, bold print,
62 underlining, or some combination thereof."

63 Section 4. Amend Chapter 22 of Title 5 of the Delaware Code by adding thereto a new section to read:

64 "§2235A. Short-term consumer loans.

65 (a) In addition to such other limitations and requirements as are imposed pursuant to other provisions of this
66 subchapter, short-term consumer loans shall be subject to the following:

67 (1) No licensee shall make more than four (4) rollovers of an existing short-term consumer loan. A
68 licensee may, following not more than the maximum allowable number of rollovers, enter into a workout agreement with
69 the borrower or take such other actions as are lawful to collect any outstanding and unpaid indebtedness.

70 (2) No licensee shall make a short-term consumer loan, unless such loan is subject to a right of
71 rescission on the part of the individual borrower.

72 (3) No licensee shall pursue or threaten to pursue criminal action against an individual borrower in
73 connection with the non-payment of any amount due, including the unpaid return of any check or automated clearing
74 house transaction.

75 (b) In addition to such other disclosure requirements as are imposed pursuant to other provisions of this
76 subchapter, short-term consumer loans shall be subject to the following: No licensee shall make a short-
77 term consumer loan unless the application for such loan contains a written disclosure, conspicuously
78 displayed, that

79 (1) the loan is designed as a short-term cash flow solution and not designed as a solution for longer
80 term financial problems;

81 (2) additional fees may accrue if the loan is rolled over; and

82 (3) credit counseling services are available to consumers who are experiencing financial problems.

83 (c) Nothing in this section prohibits a licensee from refinancing the principal amount of a short-term consumer
84 loan, subject to the limitations and requirements imposed herein.

85 (d) The Commissioner is authorized to promulgate rules and regulations to exempt certain loans or classes of
86 loans from the requirements of this section."

SYNOPSIS

This legislation provides significant protections for consumers of certain short-term loan products, while still allowing consumers to utilize this service when necessary. The bill regulates the (non-title loan) short-term loan practice by requiring full and conspicuous disclosures. Under this legislation, such disclosures must make it clear that these loans are designed as short-term cash flow solutions only and are not a fix for long-term financial problems.

Should a consumer have second thoughts about taking out the loan, the bill requires that certain short-term loan agreements include a right of rescission. In addition, the bill limits the number of extensions or "rollovers" that any consumer can receive, thereby ensuring that consumers do not mistakenly attempt to utilize these loans as a fix for long-term financial problems.