S T A T E O F N E W Y O R K

4036

2013-2014 Regular Sessions

I N S E N A T E

March 5, 2013

Introduced by Sen. SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Banks

AN ACT to amend the banking law and the general obligations law, in relation to prohibiting foreign banking corporations from engaging in high-cost payday loans

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The banking law is amended by adding a new section 202-k to read as follows:

S 202-K. PROHIBITION OF PAYDAY LOANS. 1. NO FOREIGN BANKING CORPORATION SHALL MAKE ANY PAYDAY LOAN, EITHER DIRECTLY OR INDIRECTLY, OR MAKE ANY LOAN TO ANY OTHER LENDER FOR PURPOSES OF FINANCING A PAYDAY LOAN OR REFINANCING OR EXTENDING ANY PAYDAY LOAN.

2. FOR PURPOSES OF THIS SECTION "PAYDAY LOAN" MEANS ANY TRANSACTION IN WHICH A SHORT-TERM CASH ADVANCE IS MADE TO A CONSUMER IN EXCHANGE FOR (I) A CONSUMER'S PERSONAL CHECK OR SHARE DRAFT, IN THE AMOUNT OF AN ADVANCE PLUS A FEE, WHERE PRESENTMENT OR NEGOTIATION OF SUCH CHECK OR SHARE DRAFT IS DEFERRED BY AGREEMENT OF THE PARTIES UNTIL A DESIGNATED FUTURE DATE; OR (II) A CONSUMER'S AUTHORIZATION TO DEBIT THE CONSUMER'S TRANSACTION ACCOUNT, IN THE AMOUNT OF THE ADVANCE PLUS A FEE, WHERE SUCH ACCOUNT WILL BE DEBITED ON OR AFTER A DESIGNATED FUTURE DATE.

S 2. The general obligations law is amended by adding a new section 5-532 to read as follows:

S 5-532. PROHIBITION ON PAYDAY LOANS. 1. A CREDITOR MAY NOT MAKE A PAYDAY LOAN TO ANY PERSON IF THE CREDITOR KNOWS OR HAS REASONABLE CAUSE TO BELIEVE THAT:

A. THE PERSONAL CHECK OR SHARE DRAFT THE CREDITOR RECEIVES FROM THE PERSON, IN EXCHANGE FOR THE LOAN, IS DRAWN ON AN INSURED DEPOSITORY INSTITUTION OR INSURED CREDIT UNION; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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B. THE ACCOUNT THE CREDITOR RECEIVES PERMISSION FROM THE PERSON TO DEBIT, IN EXCHANGE FOR THE LOAN, IS A TRANSACTION ACCOUNT OR SHARE DRAFT ACCOUNT AT AN INSURED DEPOSITORY INSTITUTION OR AN INSURED CREDIT UNION.

2. FOR PURPOSES OF THIS SECTION:

A. "INSURED CREDIT UNION" SHALL MEAN ANY CREDIT UNION CHARTERED BY THE FEDERAL GOVERNMENT OR FEDERALLY INSURED CREDIT UNION CHARTERED BY A STATE.

B. "PAYDAY LOAN" SHALL MEAN ANY TRANSACTION IN WHICH A SHORT-TERM CASH ADVANCE IS MADE TO A CONSUMER IN EXCHANGE FOR (I) A CONSUMER'S PERSONAL CHECK OR SHARE DRAFT, IN THE AMOUNT OF THE ADVANCE PLUS A FEE, WHERE PRESENTMENT OR NEGOTIATION OF SUCH CHECK OR SHARE DRAFT IS DEFERRED BY AGREEMENT OF THE PARTIES UNTIL A DESIGNATED FUTURE DATE; OR (II) A CONSUMER'S AUTHORIZATION TO DEBIT THE CONSUMER'S TRANSACTION OR SHARE DRAFT ACCOUNT, IN THE AMOUNT OF THE ADVANCE PLUS A FEE, WHERE SUCH ACCOUNT WILL BE DEBITED ON OR AFTER A DESIGNATED FUTURE DATE.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.