STATE OF NEW YORK

10133--A

IN ASSEMBLY

February 3, 2026

Introduced by M. of A. VANEL -- read once and referred to the Committee on Banks -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the banking law, in relation to personal loans and short-term lending conditions

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 3 to read as follows:

§ 3. True lender; personal loans; short-term lending conditions. 1. As used in this section, the following terms shall have the following meanings:

(a) (i) "Personal loan" shall mean any extension of money or credit made to a natural person for household or personal use in exchange for such natural person's agreement to a certain set of terms, including, but not limited to, any finance charges, fees, interest, other consideration, or other conditions.

(ii) "Personal loan" includes closed-end and open-end credit and any transaction conducted via any medium, including paper or electronic means, facsimile, internet, or telephone.

(iii) The term "personal loan" shall not include:

(A) open-end credit plans subject to the federal Truth in Lending Act and Regulation Z that are accessed by the use of a credit card or similar device and that contemplate repeated transactions;

(B) any extension of credit secured by a mortgage, deed of trust, or other consensual security interest in real property, including home equity lines of credit; or

(C) any other extension of credit that is subject to a charter, license, or regulatory regime under this chapter or other provisions of New York state law that provides for ongoing supervision, examination, and enforcement authority by the superintendent, as determined by the superintendent pursuant to rules establishing objective criteria.

(b) "Lender" shall mean:

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

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(i) Any person, including any affiliate or subsidiary of such person, that:

(A) offers or makes a personal loan;

(B) purchases or acquires a whole or partial interest in a personal loan or any receivable arising from a personal loan;

(C) arranges, brokers, or facilitates a personal loan for a third party; or

(D) acts as an agent for a third party in making a personal loan, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party.

(ii) A person is a lender notwithstanding that such person purports to act as an agent, service provider, or in another capacity for another person that is exempt from this section or the laws of this state if any of the following apply:

(A) such person holds, acquires, or maintains, directly or indirectly, the predominant economic interest in a personal loan;

(B) such person markets, brokers, arranges, or facilitates a personal loan and holds the right, requirement, or first right of refusal to purchase or acquire a personal loan or any receivable or interest in a personal loan; or

(C) the totality of the circumstances indicate that such person is a lender, and the personal loan is structured to evade the requirements of this section. Circumstances that weigh in favor of such a finding include, without limitation, where such person:

(1) indemnifies, insures, or protects a person that is not subject to this section for any costs or risks related to such personal loan;

(2) predominantly designs, controls, or operates the program for such personal loan; or

(3) holds the trademark or intellectual property rights in the brand, underwriting system, or other core aspects of a lender.

(c) "Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting stock, the ownership of voting stock of any person which possess such power or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, or holds the power to vote ten per centum or more of the voting stock of another person, but no person shall be deemed to control another person solely by reason of being an officer or director of such other person.

(d) "Exempt organization" shall mean any of the following:

(i) Any bank, savings bank, savings and loan association, trust company, private banker, credit union, investment company organized under article twelve of this chapter, national bank, federal savings association, federal savings and loan association, federal credit union, federal trust company, and foreign banking corporation licensed by the comptroller of the currency to transact business in this state or by the United States.

(ii) Any person organized under and conducting transactions subject to article nine, nine-A or ten of the personal property law, unless credit is extended to purchase merchandise certificates, coupons, open or closed loop stored value, or other similar items issued and redeemable by a retail seller other than the retail seller extending the credit, or under article eleven of the personal property law.

(iii) Any person organized under and conducting transactions subject to articles nine, twelve-B, twelve-D, twelve-E and fourteen-B of this chapter.

(iv) Any person making loans under programs of the United States Department of Agriculture, Department of Housing and Urban Development, or any other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing.

(v) Nonprofit housing organizations making loans, or loans made under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of such programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income New York state residents.

(vi) Any person that extends money or credit to another person on a nonrecourse basis in exchange for a contingent right to receive an amount of the potential proceeds of any award, judgment, settlement, verdict, or other resolution from a pending legal action, unless such person requires repayment in the event that such other person does not prevail in their civil proceeding.

(e) "Short-term loan" shall mean:

(i) a closed-end personal loan;

(ii) in the principal amount of three thousand dollars or less;

(iii) with a scheduled term of not less than three months and not more than twelve months;

(iv) repayable in substantially equal periodic installments with no payment resulting in a material increase in principal balance, deferral of principal repayment, or negative amortization;

(v) that amortize the principal balance over the scheduled term; and

(vi) that is unsecured by real property, a motor vehicle title, or any other collateral other than the borrower's personal obligation to repay.

2. (a) Any personal loan made by a lender, other than an exempt organization, to a resident of or person physically located in the state of New York is subject to the authority and restrictions of this chapter and applicable provisions of the financial services law, the general obligations law, the penal law, and the laws of this state.

(b) The provisions of this section apply to any person, other than an exempt organization, that the superintendent determines is a lender seeking to evade its applicability by any device, subterfuge, or pretense, including by exercising control over the origination, underwriting, servicing, or collection of a personal loan through another person.

(c) The provisions of this section shall not apply to any loan made before the effective date of this section.

(d) The provisions of this section shall not apply to any loan made for a commercial or business purpose.

3. It shall be unlawful for any lender to engage in any device, subterfuge, or pretense to evade the requirements of this section or to designate another person as the lender in name or form for the purpose of such evasion.

4. Where a lender, other than an exempt organization, makes a personal loan to a person who is physically located in or a resident of this state, the interest rate of such personal loan shall not exceed the rates permitted in section 5-501 of the general obligations law or sections 190.40 and 190.42 of the penal law.

5. (a) Notwithstanding subdivision four of this section, section 5-501 of the general obligations law or sections 190.40 and 190.42 of the penal law, a lender may extend a short-term loan pursuant to the following requirements:

(i) The total cost of credit, inclusive of all interest, finance charges, fees, administrative charges, and any other consideration retained by the lender or its affiliates in connection with a short-term loan, whether charged upfront, periodically, or as a condition of obtaining or maintaining such short-term loan, shall not exceed an amount equal to twenty-five percent per annum of the principal amount advanced, calculated based on the scheduled term of the loan.

(ii) A lender may impose a one-time, non-recurring administrative charge, provided that:

(A) such administrative charge is flat in amount and is imposed no more than once per short-term loan;

(B) such administrative charge is included in, and counts toward, the total cost of credit permitted under subparagraph (i) of this paragraph;

(C) no such administrative charge may be imposed in connection with any refinancing, renewal, extension, or modification of a short-term loan, and short-term loans made in a pattern that functionally replicate refinancing or extension may be treated as a single loan for purposes of this section; and

(D) such administrative charge shall not exceed five dollars for a short-term loan with a principal amount of five hundred dollars or less, ten dollars for a short-term loan with a principal amount exceeding five hundred dollars but not exceeding one thousand dollars, or fifteen dollars for a short-term loan with a principal amount exceeding one thousand dollars but not exceeding three thousand dollars.

(iii) Upon prepayment of a short-term loan prior to the scheduled maturity date, a lender may retain an administrative fee lawfully imposed pursuant to clause (D) of subparagraph (ii) of this paragraph, provided that the total cost of credit, including such administrative fee, retained by the lender does not exceed the maximum amount permitted under subparagraph (i) of this paragraph.

(b) A borrower may prepay a short-term loan in whole or in part at any time without penalty. No fee, charge, or additional consideration may be imposed solely as a result of such prepayment, except as expressly permitted pursuant to subparagraph (iii) of paragraph (a) of this subdivision.

(c) With regard to a short-term loan, a lender shall not:

(i) accelerate the maturity of a short-term loan, declare a short-term loan immediately due and payable, or otherwise require immediate payment of the entire unpaid balance;

(ii) impose any fee, charge or additional consideration in connection with a forbearance, deferment or extension of repayment, other than the continued accrual of interest on the unpaid principal balance at a rate not exceeding the rate otherwise permitted under this subdivision;

(iii) structure, label, or administer a transaction in a manner that circumvents or attempts to circumvent the requirements of this subdivision; or

(iv) make a short-term loan prior to performing, or causing to be performed, reasonable risk-based underwriting, subject to regulations to be promulgated by the superintendent.

(d) (i) Late fees imposed pursuant to this paragraph shall not be considered part of the total cost of credit for purposes of paragraph (a) of this subdivision.

(ii) A lender may impose a late fee in connection with a short-term loan only if an installment payment is not received within a reasonable grace period prescribed by regulation, and only as follows:

(A) no more than one late fee may be imposed for any missed or late installment payment;

(B) a late fee shall be flat in amount and shall not exceed five dollars for a short-term loan with a principal amount of five hundred dollars or less, ten dollars for a short-term loan with a principal amount exceeding five hundred dollars but not exceeding one thousand dollars, or fifteen dollars for a short-term loan with a principal amount exceeding one thousand dollars but not exceeding three thousand dollars;

(C) such late fee shall not compound, be assessed on a per-day basis, or be imposed more than once with respect to the same installment payment.

(iii) In no event shall the aggregate amount of late fees imposed pursuant to this paragraph over the life of a short-term loan exceed fifteen dollars for short-term loans of five hundred dollars or less, thirty dollars for short-term loans exceeding five hundred dollars but not exceeding one thousand dollars, or forty-five dollars for short-term loans exceeding one thousand dollars but not exceeding three thousand dollars.

(iv) A lender shall not design or administer a short-term loan in a manner intended or reasonably expected to generate late fees as a regular or anticipated source of revenue.

(e) (i) Upon a borrower's default, interest may continue to accrue on the unpaid principal balance of a short-term loan; provided, however, that such interest shall not accrue at a rate greater than the rate otherwise permitted under this subdivision, and no increased or default rate of interest shall be imposed as a result of such default.

(ii) Except as expressly permitted by this subdivision, no lender shall impose or collect, directly or indirectly, any fee, charge, or consideration in connection with a borrower's default, including but not limited to default fees, acceleration fees, collection fees, convenience fees, or any fee calculated as a percentage of the unpaid balance.

(f) A short-term loan that is in compliance with this subdivision at the time it is made shall not be deemed to violate this subdivision solely because the actual time required for repayment exceeds twelve months due to late payment, default, forbearance, deferment, or other borrower noncompliance, provided that the lender does not renew, refinance, or modify such short-term loan in a manner that extends the scheduled term beyond twelve months or imposes any charge or consideration not otherwise permitted under this subdivision.

(g) Nothing in this subdivision shall be construed to prohibit the recovery of court-awarded costs, statutory interest on a judgment, or attorneys' fees to the extent otherwise permitted by law.

(h) A short-term loan that complies with this subdivision shall not be deemed civilly or criminally usurious solely by reason of the annualized equivalent rate of interest or fees. Nothing in this subdivision shall be construed to authorize any charge or practice not expressly permitted herein, or to limit the applicability of the usury laws of this state to any personal loan that does not meet the requirements of this subdivision.

6. (a) No lender shall have any right to collect, attempt to collect, receive, or retain any fee, interest, charges, or other consideration in excess of the principal related to a personal loan that violates the provisions of this section.

(b) Violation of the provisions of this section may be subject to civil penalties, restitution, injunctive relief and other corrective action or enforcement measures imposed by the superintendent.

7. (a) The superintendent shall promulgate, and may from time to time amend, rules and regulations as necessary to implement this section, including, but not limited to, rules and regulations relating to the reasonable risk based underwriting of short-term loans, the disclosure of personal and short-term loan terms and conditions, grace periods for late payments, and the establishment of objective criteria for determining whether an extension of credit is subject to a charter, license, or regulatory regime providing for ongoing supervision, examination, and enforcement authority for purposes of subparagraph (iii) of paragraph (a) of subdivision one of this section.

(b) The superintendent may, by regulation, adjust the dollar amounts specified in subdivision five of this section to reflect changes in the Consumer Price Index, or a successor index, as published by the United States Bureau of Labor Statistics, provided that:

(i) any such adjustment shall apply prospectively only to short-term loans made on or after the effective date of such adjustment;

(ii) no such adjustment shall occur more frequently than once every three years;

(iii) adjusted dollar amounts shall be rounded to the nearest whole dollar; and

(iv) the superintendent shall publish notice of any adjustment made pursuant to this paragraph in the state register and on the department of financial services' website.

8. (a) If any provision of this section or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end, the provisions of this section are severable.

(b) This section shall not apply to the extent that it is preempted by federal law. Nothing in this section shall be construed to require any act prohibited, or prohibit any act required, by federal law.

§ 2. The superintendent of financial services shall promulgate rules and regulations necessary to implement the provisions of section one of this act no later than one year after this section shall have become a law.

§ 3. This act shall take effect immediately; provided, however, that:

(a) section one of this act shall take effect on the one hundred eightieth day after the superintendent of financial services has promulgated the rules and regulations required under section two of this act; and

(b) the superintendent of financial services shall notify the legislative bill drafting commission upon the occurrence of the promulgation of the rules and regulations provided for in section two of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of section one of this act on its effective date are authorized to be made and completed on or before such effective date.