

3288

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 24, 2011

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Introduced by M. of A. WRIGHT, CLARK, O'DONNELL, ROBINSON -- Multi-Sponsored by -- M. of A. BRENNAN, McENENY, PERRY, TOWNS -- read once and referred 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:

1     Section 1. The banking law is amended by adding a new section 202-k to  
2     read as follows:  
3     S 202-K. PROHIBITION OF PAYDAY LOANS. 1. NO FOREIGN BANKING CORPO-  
4     RATION SHALL MAKE ANY PAYDAY LOAN, EITHER DIRECTLY OR INDIRECTLY, OR  
5     MAKE ANY LOAN TO ANY OTHER LENDER FOR PURPOSES OF FINANCING A PAYDAY  
6     LOAN OR REFINANCING OR EXTENDING ANY PAYDAY LOAN.  
7     2. FOR PURPOSES OF THIS SECTION "PAYDAY LOAN" MEANS ANY TRANSACTION IN  
8     WHICH A SHORT-TERM CASH ADVANCE IS MADE TO A CONSUMER IN EXCHANGE FOR  
9     (I) A CONSUMER'S PERSONAL CHECK OR SHARE DRAFT, IN THE AMOUNT OF AN  
10    ADVANCE PLUS A FEE, WHERE PRESENTMENT OR NEGOTIATION OF SUCH CHECK OR  
11    SHARE DRAFT IS DEFERRED BY AGREEMENT OF THE PARTIES UNTIL A DESIGNATED  
12    FUTURE DATE; OR (II) A CONSUMER'S AUTHORIZATION TO DEBIT THE CONSUMER'S  
13    TRANSACTION ACCOUNT, IN THE AMOUNT OF THE ADVANCE PLUS A FEE, WHERE SUCH  
14    ACCOUNT WILL BE DEBITED ON OR AFTER A DESIGNATED FUTURE DATE.  
15    S 2. The general obligations law is amended by adding a new section  
16    5-532 to read as follows:  
17    S 5-532. PROHIBITION ON PAYDAY LOANS. 1. A CREDITOR MAY NOT MAKE A  
18    PAYDAY LOAN TO ANY PERSON IF THE CREDITOR KNOWS OR HAS REASONABLE CAUSE  
19    TO BELIEVE THAT:  
20    A. THE PERSONAL CHECK OR SHARE DRAFT THE CREDITOR RECEIVES FROM THE  
21    PERSON, IN EXCHANGE FOR THE LOAN, IS DRAWN ON AN INSURED DEPOSITORY  
22    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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1 B. THE ACCOUNT THE CREDITOR RECEIVES PERMISSION FROM THE PERSON TO  
2 DEBIT, IN EXCHANGE FOR THE LOAN, IS A TRANSACTION ACCOUNT OR SHARE DRAFT  
3 ACCOUNT AT AN INSURED DEPOSITORY INSTITUTION OR AN INSURED CREDIT UNION.

4 2. FOR PURPOSES OF THIS SECTION:

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

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

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