

# STATE OF NEW YORK

10133--A

## IN ASSEMBLY

February 3, 2026

Introduced by M. of A. VANDEL -- 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:

1 Section 1. The banking law is amended by adding a new section 3 to  
2 read as follows:

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

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

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

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

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

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

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

26 (b) "Lender" shall mean:

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

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

3 (A) offers or makes a personal loan;

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

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

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

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

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

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

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

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

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

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

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

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

41 (i) Any bank, savings bank, savings and loan association, trust compa-  
42 ny, private banker, credit union, investment company organized under  
43 article twelve of this chapter, national bank, federal savings associ-  
44 ation, federal savings and loan association, federal credit union,  
45 federal trust company, and foreign banking corporation licensed by the  
46 comptroller of the currency to transact business in this state or by the  
47 United States.

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

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

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

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

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

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

18 (i) a closed-end personal loan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (iii) structure, label, or administer a transaction in a manner that  
45 circumvents or attempts to circumvent the requirements of this subdivi-  
46 sion; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (a) section one of this act shall take effect on the one hundred  
41 eightieth day after the superintendent of financial services has promul-  
42 gated the rules and regulations required under section two of this act;  
43 and

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

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