

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 381

2022 Regular Session

Ward

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

LOANS. Creates the "Louisiana Credit Access Loan Act". (gov sig)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

- 1. Clarifies that proposed law does not apply to any extension of credit made pursuant to or permissible under the La. Consumer Credit Law.
- 2. Removes authority for attorney fees.
- 3. Technical amendments.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

DIGEST

SB 381 Engrossed

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Proposed law creates the "Louisiana Credit Access Loan Act".

Proposed law provides exceptions to applicability and provides definitions. Proposed law provides for a consumer to gain access to a credit access loan from a licensee.

Proposed law does not apply to deferred presentment transactions or small loans governed by the La. Deferred Presentment and Small Loan Act or any extension of credit made pursuant to or permissible under the La. Consumer Credit Law.

Proposed law defines a "credit access loan" as any interest-bearing loan payable in substantially equal installments, which satisfies all of the following criteria:

- (1) The loan is offered by a licensee to a borrower.
- (2) The loan includes a principal amount not exceeding \$1,500.
- (3) The loan includes a loan term of fewer than 90 days and not more than 365 days.

Proposed law provides that the terms of a credit access loan agreement shall satisfied all of the following criteria:

- (1) The agreement authorize the borrower to rescind the agreement within one business day at no cost.
- (2) The agreement contains a disclosure notice to be written in at least 12-point, bold font stating that the borrower is entitled to cancel the transaction at no cost by notifying the lender of his intent to cancel the transaction by close of the business day immediately following the date the agreement is signed and by returning to the lender all loan proceeds.
- (3) The agreement contains a disclosure notice to be written in at least 16-point, bold font on the first page of each credit access loan agreement stating that the borrower may request an extended payment plan once every 12 months, if unable to pay the loan in full when due and provides the process to request an extended payment plan.

Proposed law provides that the disclosure notices shall also be visibly posted at each licensee location and on the homepage of the licensee's website.

Proposed law authorizes the licensee to contract for and receive the following from a borrower:

- (1) A loan finance charge, calculated according to the actuarial method, not exceeding 36% per year on the unpaid balances of the principal.
- (2) A monthly maintenance fee not exceeding 13% of the principal amount originally contracted under certain circumstances.
- (3) Delinquency charges as authorized in present law.
- (4) Non-sufficient funds (NSF) charges.
- (5) An underwriting fee not exceeding \$50 but only when the principal amount originally contracted for is at least \$400.

Proposed law provides that all fees and charges imposed, except delinquency and NSF charges, shall be included in the calculation of the total amount of fees and charges and shall not exceed 100% of the original loan. Prohibits any other charges not specifically authorized by proposed law.

Proposed law provides requirements for verifying a borrower's income.

Proposed law provides that certain acts are prohibited by a licensee including the execution of a second device or agreement intended or designed to evade requirements, the inclusion of a hold harmless clause and confession of judgment clause in an agreement, electronic draft of funds from a borrower's account without specific consent, refusal of a partial loan payment of \$50 or more, and others. Proposed law provides the authority for enforcement with the office of financial institutions (OFI).

Proposed law provides that a licensee may charge and collect from the borrower a late penalty of no more than 10% of the delinquent amount but only when the terms of the penalty are clearly disclosed, in writing, in the credit access loan agreement and the borrower has failed to pay the delinquent amount within 10 days following the applicable due date.

Proposed law provides that the agreement may require that the borrower pay all costs awarded by a court, but only when the borrower has defaulted and the licensee has referred the matter to an attorney for collection.

Proposed law requires OFI to promulgate rules necessary to implement and effectuate the purposes of proposed law within 180 days of proposed law becoming effective.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 51:1501-1506)

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