

2018 Regular Session

HOUSE BILL NO. 501

BY REPRESENTATIVE CHAD BROWN

CREDIT/CONSUMER: Provides for the Louisiana Installment Loan Act

1 AN ACT

2 To enact Chapter 20 of Title 6 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 6:1371 through 1376, relative to the regulation of installment loans; to
4 provide for a short title; to provide for definitions; to provide for terms and
5 restrictions; to provide for certain finance charges; to provide for a payment plan; to
6 provide for limitations; to provide for default; to provide for penalties; to provide for
7 rules and regulations; to provide for effectiveness; to provide for exemptions; and
8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 20 of Title 6 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 6:1371 through 1376, is hereby enacted to read as follows:

12 §1371. Short title

13 This Chapter shall be known and may be cited as the "Louisiana Installment
14 Loan Act".

15 §1372. Definitions

16 As used in this Chapter, the following terms and phrases have the meanings
17 herein ascribed to them:

18 (1) "Commissioner" means the commissioner of the office of financial
19 institutions.

1 (2) "Installment loan" means any loan offered by a licensee that is subject
2 to and meets the requirements imposed by the provisions of this Chapter.

3 (3) "Licensee" means any person who offers installment loans and is licensed
4 pursuant to Chapter 2-A of Title 9 of the Louisiana Revised Statutes of 1950,
5 comprised of R.S. 9:3578.1 through 3578.8.

6 §1373. Installment loan; terms; restrictions

7 A. Any installment loan offered by a licensee shall adhere to the following
8 requirements:

9 (1) The term of the loan shall not be less than six months and shall not
10 exceed twelve months.

11 (2) The amount of the loan shall not be less than five hundred dollars and
12 shall not exceed one thousand five hundred dollars.

13 (a) The restriction imposed by this Paragraph shall be adjusted every other
14 year by the commissioner to reflect the percentage changes indicated in the most
15 recent Consumer Price Index as published by the Bureau of Labor Statistics of the
16 Department of Labor.

17 (b) The intent of Subparagraph (a) of this Paragraph is to allow for
18 installment loan limits to increase in conjunction with increases in the cost of living
19 and other market fluctuations as represented by the Consumer Price Index.

20 (3) A licensee is prohibited from imposing any penalty for the prepayment
21 of an installment loan.

22 (4) A licensee is prohibited from offering any installment loan that requires
23 a total of monthly scheduled payments that exceeds twenty percent of the gross
24 monthly income of the borrower.

25 (a) For the purposes of determining a borrower's gross monthly income
26 pursuant to this Paragraph, a licensee shall obtain and maintain third-party
27 verification of all income considered in making the determination.

28 (b) For the purposes of this Paragraph, "monthly" means a period extending
29 from a given date in one calendar month to the same date in the succeeding calendar

1 month, or if there is no same date in the succeeding calendar month, the last day of
2 the succeeding calendar month.

3 B. An installment loan may be either unsecured or secured by personal
4 property of the borrower.

5 C. An installment loan shall include, along with any other applicable state
6 or federal law requirements, the following:

7 (1) A next-business-day customer's right of rescission for any installment
8 loan.

9 (2) A notice informing the customer that complaints may be made to the
10 commissioner, including the telephone number and address of the office of the
11 commissioner.

12 §1374. Finance charge; payment plan; conditions

13 A.(1) In conjunction with an installment loan, a licensee may impose an
14 origination charge, to be collected upon origination, up to a maximum of twenty
15 percent on the first three hundred dollars of the loan and an additional seven and one-
16 half percent on any remaining loan amount not to exceed the maximum amount
17 allowed pursuant to the provisions of this Chapter.

18 (2) The licensee may also impose any of the following:

19 (a) A monthly service charge not in excess of seven and one-half percent of
20 the original loan amount that is calculated on the original loan amount and divided
21 over the lifetime of the loan.

22 (b) A charge in an amount not in excess of forty-five percent per annum that
23 is calculated on the original loan amount and divided over the lifetime of the loan for
24 a period not to exceed one year.

25 B. In conjunction with an installment loan, a borrower may do the following:

26 (1) After entering into an initial installment loan, a borrower may enter into
27 one consecutive unsecured loan; however, the borrower shall not be permitted to
28 enter into any additional consecutive unsecured loan until at least thirty days have
29 lapsed from the conclusion of the consecutive unsecured loan.

1 (2)(a) Relative to any consecutive unsecured loan described in Paragraph (1)
2 of this Subsection, a borrower may opt into an extended payment plan at no cost
3 imposed by the licensee.

4 (b) The extended payment plan shall provide the borrower with an additional
5 sixty days in which to pay the remainder of the consecutive unsecured loan amount
6 and allow the borrower to pay such amount in up to a maximum of four separate
7 payments.

8 §1375. Default; penalty

9 A.(1) In the event a borrower is delinquent in the payment of a monthly
10 payment pursuant to the terms of an installment loan, the licensee may charge and
11 collect from the borrower a late charge of ten percent of the delinquent amount,
12 provided that the terms of such a charge are clearly disclosed in the installment loan
13 agreement.

14 (2) No such charge as described in Paragraph (1) of this Subsection may be
15 imposed against a borrower unless the borrower has failed to pay the delinquent
16 amount within ten business days after the due date.

17 B. In the event that a borrower is delinquent in the payment of a monthly
18 payment for more than sixty days, the licensee may charge and collect from the
19 borrower any of the following, provided that such penalties are clearly disclosed in
20 the installment loan agreement:

21 (1) A reasonable collection charge and attorney fees if the licensee is
22 required to employ a third party, including but not limited to an attorney, to collect
23 from the borrower.

24 (2) Any court costs or court-awarded damages, including those incurred in
25 any appellate proceeding, relating to collection from the borrower.

26 (3) Any fees and costs incurred relating to the repossession or sale of
27 collateral of the borrower.

1 §1376. Exemptions2 The provisions of this Chapter shall not apply to the following:3 (1) A bank, savings bank, savings and loan association, or similar financial
4 institution organized, certified, and supervised, or chartered, by an agency of either
5 the United States of America, or the state of Louisiana, any other state or territory
6 of the United States of America, or the District of Columbia pursuant to the banking,
7 currency, and related laws of the United States of America, or the state of Louisiana,
8 any other state or territory of the United States of America, or the District of
9 Columbia.10 (2) A subsidiary of any state chartered or federally chartered entity described
11 in Paragraph (1) of this Section in which eighty percent or more of the ownership
12 rests with such parent entity.13 Section 2. The office of financial institutions shall promulgate any rules and
14 regulations necessary to implement the provisions of this Act.

15 Section 3. The provisions of this Act shall become effective January 1, 2019.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 501 Original

2018 Regular Session

Chad Brown

Abstract: Creates the Louisiana Installment Loan Act and regulates installment loans.

Proposed law enacts the Louisiana Installment Loan Act.

Proposed law enumerates definitions for the purposes of proposed law in order to provide for clarification.

Installment Loans

Proposed law requires any installment loan offered by a licensee to adhere to the following:

- (1) The term of the loan can be no less than 6 months and no more than 12 months.
- (2) The amount of the loan can be no less than \$500.00 and no more than \$1500.00.
- (a) Requires the restriction imposed, relative to maximum loan amounts, to be adjusted every other year by the commissioner of the office of financial institutions (hereinafter "commissioner" and "OFI", respectively) to reflect the percentage

- changes indicated in the most recent Consumer Price Index (hereinafter "CPI") as published by the Bureau of Labor Statistics of the Dept. of Labor.
- (b) Intends to allow for installment loan limits to increase in conjunction with increases in the cost of living and other market fluctuations as represented by the CPI.
 - (3) A licensee is prohibited from imposing any penalty for the prepayment of an installment loan.
 - (4) A licensee is prohibited from offering any installment loan that requires a total of monthly scheduled payments that exceeds 20% of the gross monthly income of the borrower.
 - (a) For the purposes of determining a borrower's gross monthly income pursuant to proposed law, proposed law requires a licensee to obtain and maintain third-party verification of all income considered in making the determination.
 - (b) For the purposes of proposed law, "monthly" means a period extending from a given date in 1 calendar month to the same date in the succeeding calendar month, or if there is no same date in the succeeding calendar month, the last day of the succeeding calendar month.

Proposed law provides that an installment loan may be either unsecured or secured by personal property of the borrower.

Proposed law requires an installment loan to include, along with any other applicable present law requirements, the following:

- (1) A next-business-day customer's right of rescission for any installment loan.
- (2) A notice informing the customer that complaints may be made to the commissioner, including the telephone number and address of the office of the commissioner.

Proposed law states that, in conjunction with an installment loan, a licensee may impose an origination charge, to be collected upon origination, up to a maximum of 20% on the first \$300 of the loan and an additional 7.5% on any remaining loan amount not to exceed the maximum amount allowed pursuant to the provisions of proposed law.

Proposed law states that the licensee may also impose any of the following:

- (1) A monthly service charge to be collected on the 1st day of each month, not to exceed 7.5%.
- (2) A charge in an amount not to exceed 45% APR for a period not to exceed 1 year.

Proposed law states that, in conjunction with an installment loan, a borrower may do the following:

- (1) After entering into an initial installment loan, a borrower may enter into 1 consecutive unsecured loan; however, the borrower is not allowed to enter into any additional consecutive unsecured loan until at least 30 days have lapsed from the conclusion of the consecutive unsecured loan.
- (2)(a) Relative to any consecutive unsecured loan described in proposed law, a borrower may opt into an extended payment plan at no cost imposed by the licensee.

- (b) The extended payment must provide the borrower with an additional 60 days in which to pay the remainder of the consecutive unsecured loan amount and allow the borrower to pay such amount in up to a maximum of 4 separate payments.

Proposed law provides that in the event a borrower is delinquent in the payment of a monthly payment pursuant to the terms of an installment loan, the licensee may charge and collect from the borrower a late charge of 10% of the delinquent amount provided that the terms of such a charge are clearly disclosed in the installment loan agreement.

Proposed law states that no such charge as described in proposed law may be imposed against a borrower unless the borrower has failed to pay the delinquent amount within 10 business days after the due date.

Proposed law further states that in the event a borrower is delinquent in the payment of a monthly payment for more than 60 days, the licensee may charge and collect from the borrower any of the following, provided that such penalties are clearly disclosed in the installment loan agreement:

- (1) A reasonable collection charge and attorney fees if the licensee is required to employ a third party, including but not limited to an attorney, to collect from the borrower.
- (2) Any court costs or court-awarded damages, including those incurred in any appellate proceeding, relating to collection from the borrower.
- (3) Any fees and costs incurred relating to the repossession or sale of collateral of the borrower.

Proposed law states the provisions of proposed law are not applicable to the following:

- (1) Certain banks and financial institutions and associations organized, certified, and supervised or chartered by an agency of either the U.S. or the state of La., any other state or territory of the U.S., or D.C. pursuant to banking, currency, and related laws of the U.S. or the state of La., any other state or territory of the U.S., or D.C.
- (2) A subsidiary of any state or federally chartered entity of the above referenced entities in which 80% or more of the ownership rests with such parent entity.

Proposed law directs OFI to promulgate any rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of proposed law.

Effective January 1, 2019.

(Adds R.S. 6:1371-1376)