

2018 Regular Session

SENATE BILL NO. 365

BY SENATOR WARD

LOANS. Creates the Louisiana Installment Loan Act. (1/1/19)

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§1371. Short title

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

§1372. Definitions

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

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

4 (2) "Licensee" means any person who offers installment loans and is
5 licensed pursuant to Chapter 2-A of Title 9 of the Louisiana Revised Statutes of
6 1950, comprised of R.S. 9:3578.1 through 3578.8.

7 (3) "Commissioner" means the commissioner of the office of financial
8 institutions.

9 §1373. Installment loan; terms; restrictions

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

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

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

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

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

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

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

29 (a) For the purposes of determining a borrower's gross monthly income

1 pursuant to this Paragraph, a licensee shall obtain and maintain third-party
2 verification of all income considered in making the determination.

3 (b) For the purposes of this Paragraph, "monthly" means a period
4 extending from a given date in one calendar month to the same date in the
5 succeeding calendar month, or if there is no same date in the succeeding
6 calendar month, the last day of the succeeding calendar month.

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

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

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

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

16 §1374. Finance charge; payment plan; conditions

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

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

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

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

29 B. In conjunction with an installment loan, a borrower may do the

1 following:

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

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

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

13 §1375. Default; penalty

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

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

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

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

29 (2) Any court costs or court-awarded damages, including those incurred

indicated in the most recent Consumer Price Index (CPI) as published by the Bureau of Labor Statistics of the Dept. of Labor.

- (b) The intent of proposed law is 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, a licensee shall 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 one 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 provides that an installment loan shall 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 not in excess of 7.5% of the original loan amount that is calculated on the original loan amount and divided over the lifetime of the loan.
- (2) A charge in an amount not in excess of 45% APR that is calculated on the original loan amount and divided over the lifetime of the loan for a period not to exceed one 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 one consecutive unsecured loan; however, the borrower shall not be 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 plan shall 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 that 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 payment 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 that 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, provide that such penalties are clearly disclosed in the installment loan agreement:

- (1) A reasonable collection charge and attorney's 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 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)