
The original instrument was prepared by Nancy Vicknair. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy Wells.

DIGEST

SB 365 Reengrossed 2018 Regular Session Ward

Proposed law enacts the Louisiana Credit Access Loan Act.

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

Proposed law provides that any credit access loan offered by a licensee shall adhere to the following requirements:

- (1) The term of the loan shall not be less than three months and shall not exceed 12 months.
- (2) The amount of the loan shall not be less than \$500 and shall not exceed \$875.
 - (a) The restriction imposed by proposed law, relative to maximum loan amounts, shall be adjusted every other year by the Commissioner (commissioner) of the Office of Financial Institutions (OFI) to reflect the percentage changes 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 credit access 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 a credit access loan. At the time of prepayment all remaining full monthly service charges are considered unearned. The extender of credit shall refund or credit to the borrower's account all unearned service charges. Proposed law required the refund to be calculated by the number of full months remaining in the contract after prepayment times the monthly service charge that is calculated in accordance with law.
- (4) A licensee is prohibited from offering credit access loans that requires the aggregate of payments coming due in a month to exceed twenty percent 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 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.
- (5) Scheduled repayment of a credit access loan is permitted on a biweekly, bimonthly or monthly basis, and in substantially equal installments.

Proposed law provides that a credit access loan may be either unsecured or secured by personal property of the borrower. Proposed law prohibits household goods from being used to secure a loan.

Proposed law provides that a credit access 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 credit access loan at no cost to the borrower.
- (2) Disclosures printed on loan documents specifying the procedure necessary for borrower to cancel or enter into an extended payment plan and the refusal of lender to enter into an extended payment plan.

Proposed law states that, in conjunction with a credit access loan, a licensee may impose a monthly service charge not in excess of 9% of the original loan amount.

Proposed law provides that upon maturity of a loan, a borrower may opt into an extended payment plan at no cost imposed by the licensee. Proposed law requires the extended payment plan provides 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 four separate payments.

Proposed law prohibits a borrower from having more than one credit access loan outstanding at a time.

Proposed law requires a licensee to rely on a private third-party database approved by the commissioner to verify borrower's eligibility before entering into a credit access loan agreement. Requires the commissioner to identify and contract with a private third-party database provider who can provide real-time access through an internet connection for licensees offering credit access loans pursuant to law. Proposed law authorizes the commissioner to adopt rules and regulations to assure the database is used by licensees pursuant to law.

Proposed law requires third-party database provider to maintain an accurate database and be accessible to the OFI and licensees. Proposed law requires licensees to submit data before entering into each credit access loan in such format as the commissioner requires by rule.

Proposed law authorizes a per transaction fee to be paid to the third-party database provider and

authorizes such fee to be collected from the borrower; however, the amount collected is prohibited from exceeding the actual amount paid to database provider.

Proposed law provides that licensees may rely on information contained in the third-party database and shall not be subject to any penalty or civil liability as a result of relying on inaccurate information contained in the database.

Proposed law provides that, in the event a borrower is delinquent in a 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 provides that any credit access loan agreement may provide for the payment by the consumer of all costs awarded by a court and attorney fees not in excess of 25% of the unpaid debt after default and referral to an attorney for collection.

Proposed law further provides that a licensee shall not:

- (1) Except for reasonable attorney fees and costs awarded by a court, charge, contract for, receive, or collect a loan finance charge or credit service charge, or any other fee or charge other than as provided in proposed law.
- (2) Refuse a partial loan payment of \$50 or greater.
- (3) Divide a credit access loan into multiple agreements for the purpose of obtaining a higher fee or charge.
- (4) Threaten any customer with prosecution or refer for prosecution any check accepted as payment of a credit access loan and returned by the lender's depository institution for reason of insufficient funds.
- (5) Structure the repayment of a loan in such a manner as to attempt to circumvent the provisions of proposed law.

Proposed law requires each licensed credit access loan lender to post a visible notice at each of his locations and on each homepage of the licensee's website a notice stating if consumer is unable to repay a credit access loan, the consumer may enter into an extended payment plan if the consumer notifies the licensee before the payment is due.

Proposed law provides that the commissioner may provide a notice, which includes a toll-free number to the commissioner's office, which shall be posted, along with the fees as allowed under

proposed law, in a conspicuous place and manner by the licensee at the lending location or on the homepage of the website of the licensee, or both if the licensee has a physical location in the state and a website.

Proposed law further provides that commissioner may adopt rules and apply certain present law for purposes of administering and regulating the activities of licensees and the provisions of proposed law.

Proposed law exempts from the provisions of proposed law any federally insured depository institution, or a subsidiary of any state chartered or federally chartered entity in which 80% or more of the ownership rests with such parent entity, any loan subject to the provisions of the LA Motor Vehicles Sale Finance Act, and deferred presentment transactions or small loans governed by the LA Deferred Presentment and Small Loan Act, or installment loans pursuant to the LA Consumer Credit Law.

Effective August 1, 2019.

(Adds R.S. 6:1371-1379)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Changes name of Act to Louisiana Credit Access Loan Act.
2. Changes effective date from Jan. 1, 2019, to Aug. 1, 2019.
3. Revises provisions relative to installment loan terms, restrictions, and exemptions.

Senate Floor Amendments to engrossed bill

1. Changes terminology from "installment" to "credit access" loans.
2. Removes requirement for lender to obtain and maintain third-party income verification.
3. Specifies types of acceptable forms of income verification that may be used.
4. Authorizes lender to accept a statement and certification of income signed by the borrower if income cannot be verified.

5. Prohibits household goods from being used to secure a loan.
6. Adds disclosure language concerning cancelling loan, paying off loan, or entering to extended payment option that is required to be printed by lender on loan documents.
7. Prohibits a borrower from having more than one credit access loan outstanding at a time.
8. Authorizes credit access loan agreements to provide for the payment by the consumer of all costs awarded by a court and attorney fees not in excess of 25% of the unpaid debt after default and referral to an attorney for collection.
9. Exempts certain loans and deferred presentment transactions from provisions of proposed law.