



Senate

General Assembly

File No. 291

January Session, 2025

Substitute Senate Bill No. 1396

Senate, March 27, 2025

The Committee on Banking reported through SEN. MILLER of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING EARNED BUT UNPAID WAGE OR SALARY INCOME ADVANCES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-555 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2025*):

3 As used in this section, [and] sections 36a-556 to 36a-573, inclusive,
4 and section 2 of this act:

5 (1) "Advertise" or "advertising" means any announcement, statement,
6 assertion or representation that is placed before the public in a
7 newspaper, magazine or other publication, in the form of a notice,
8 circular, pamphlet, letter or poster, over any radio or television station,
9 by means of the Internet, by other electronic means of distributing
10 information, by personal contact, or in any other way or medium;

11 (2) "APR" means the annual percentage rate for the loan calculated
12 according to the provisions of the federal Military Lending Act, 10 USC

13 987, as amended from time to time, and the regulations promulgated
14 thereunder. For the purpose of calculating the APR, each [of the
15 following shall be deemed to be a finance charge: (A) A charge set forth
16 in 32 CFR 232.4(c)(1), as amended from time to time, (B) a charge for any
17 ancillary product, membership or service sold in connection or
18 concurrent with a small loan, (C) any amount offered or agreed to by a
19 borrower in furtherance of obtaining credit or as compensation for the
20 use of money, and (D) any fee, voluntarily or otherwise, charged, agreed
21 to or paid by a borrower in connection or concurrent with a small loan]
22 finance charge shall be included;

23 (3) "Bona fide services" (A) means a financial benefit, product or
24 service provided to or on behalf of a Connecticut borrower that has
25 demonstrable market value and for which the Connecticut borrower
26 may be separately billed in the absence of a membership or subscription,
27 and (B) includes, but is not limited to, identity theft protection, credit
28 monitoring and budgeting software;

29 [(3)] (4) "Branch office" means a location other than the main office
30 where the licensee, or any person on behalf of the licensee, will engage
31 in activities that require a small loan license;

32 [(4)] (5) "Connecticut borrower" means any borrower who resides in
33 or maintains a domicile in this state and who (A) negotiates or agrees to
34 the terms of the small loan in person, by mail, by telephone or via the
35 Internet while physically present in this state, (B) enters into or executes
36 a small loan agreement with the lender in person, by mail, by telephone
37 or via the Internet while physically present in this state, or (C) makes a
38 payment on the loan in this state. For purposes of this subdivision,
39 "payment on the loan" includes a debit on an account the borrower holds
40 in a branch of a financial institution or the use of a negotiable instrument
41 drawn on an account at a financial institution. For purposes of this
42 subdivision, "financial institution" means any bank or credit union
43 chartered or licensed under the laws of this state, any other state or the
44 United States;

45 [(5)] (6) "Control person" means an individual that directly or

46 indirectly exercises control over another person, and includes any
47 person that (A) is a director, general partner or executive officer, (B) in
48 the case of a corporation, directly or indirectly has the right to vote ten
49 per cent or more of a class of any voting security or has the power to sell
50 or direct the sale of ten per cent or more of any class of voting securities,
51 (C) in the case of a limited liability company, is a managing member, or
52 (D) in the case of a partnership, has the right to receive upon dissolution,
53 or has contributed, ten per cent or more of the capital. For purposes of
54 this subdivision, "control" means the power, directly or indirectly, to
55 direct the management or policies of a company, whether through
56 ownership of securities, by contract or otherwise;

57 (7) "Earned but unpaid wage or salary income" means the wage,
58 salary, compensation or other income earned on an hourly, project-
59 based, piecework or other basis by a Connecticut borrower for the
60 provision of labor or services to, or on behalf of, an employer, which (A)
61 is owed by the employer but has not yet been paid to the Connecticut
62 borrower, and (B) has been verified by an earned but unpaid wage or
63 salary income advance provider;

64 (8) "Earned but unpaid wage or salary income advance" means a
65 small loan that is an advance to a Connecticut borrower for earned but
66 unpaid wage or salary income in an original principal amount that is
67 not greater than the amount of earned but unpaid wage or salary income
68 for any particular pay period;

69 (9) "Earned but unpaid wage or salary income advance provider"
70 means any person that engages in any of the activities set forth in
71 subsection (a) of section 36a-556 with regard to an earned but unpaid
72 wage or salary income advance;

73 (10) "Employer" means (A) an employer, as defined in section 31-58,
74 who employs a Connecticut borrower and is obligated to pay the
75 Connecticut borrower earned but unpaid wage or salary income, or (B)
76 any other person who, in exchange for the provision of services to, or on
77 behalf of, such person by a Connecticut borrower acting as an
78 independent contractor, is contractually obligated to pay earned but

79 unpaid wage or salary income to the Connecticut borrower ;

80 (11) "Finance charge" means: (A) A charge set forth in 32 CFR
81 232.4(c)(1), as amended from time to time, (B) a charge for any ancillary
82 product, membership or service sold in connection or concurrent with a
83 small loan, (C) any amount offered or agreed to by a Connecticut
84 borrower in furtherance of obtaining credit or as compensation for the
85 use of money, and (D) any fee, voluntarily or otherwise, charged, agreed
86 to or paid by a Connecticut borrower in connection or concurrent with
87 a small loan;

88 [(6)] (12) "Generating leads" means (A) engaging in the business of
89 selling leads for small loans, (B) generating or augmenting leads for
90 small loans for other persons for or with the expectation of
91 compensation or gain, or (C) referring consumers to other persons for a
92 small loan for or with the expectation of compensation or gain for such
93 referral, except "generating leads" shall not include generating or
94 augmenting leads for small loans for an exempt person, as described in
95 subsection (b) of section 36a-557, using the exempt person's data or
96 customer information;

97 (13) "Independent contractor" has the same meaning as provided in
98 section 36a-485;

99 [(7)] (14) "Lead" means any information identifying a potential
100 consumer of a small loan;

101 [(8)] (15) "Main office" means the main address designated on the
102 system;

103 [(9)] (16) "Open-end small loan" has the same meaning as "open-end
104 credit", as defined in 12 CFR 1026.2, as amended from time to time;

105 [(10)] (17) "Person" means a natural person, corporation, company,
106 limited liability company, partnership or association;

107 [(11)] (18) "Small loan" (A) means any loan of money or extension of
108 credit, or the purchase of, or an advance of money on, a borrower's

109 future potential source of money, including, but not limited to, future
110 pay, salary, earned but unpaid wage or salary income, pension income
111 or a tax refund, if (i) the amount or value is fifty thousand dollars or less,
112 and (ii) the APR is greater than twelve per cent, and (B) does not include
113 (i) a retail installment contract made in accordance with section 36a-772,
114 (ii) a loan or extension of credit for agricultural, commercial, industrial
115 or governmental use, (iii) a residential mortgage loan, as defined in
116 section 36a-485, [or] (iv) an open-end credit account that is accessed by
117 a credit card issued by an exempt entity, as described in subdivision (1)
118 of subsection (b) of section 36a-557, or (v) a wage, as defined in section
119 31-58, paid by an employer directly to an employee prior to a regular
120 pay day in accordance with title 31;

121 [(12)] (19) "Trigger lead" means a consumer report obtained pursuant
122 to Section 604(C)(1)(B) of the Fair Credit Reporting Act, 15 USC 1681b,
123 where the issuance of the report is triggered by an inquiry made with a
124 consumer reporting agency in response to an application for credit.
125 "Trigger lead" does not include a consumer report obtained by a small
126 loan lender that holds or services existing indebtedness of the applicant
127 who is the subject of the report; and

128 [(13)] (20) "Unique identifier" means a number or other identifier
129 assigned by protocols established by the system.

130 Sec. 2. (NEW) (*Effective October 1, 2025*) (a) An earned but unpaid
131 wage or salary income advance provider required to be licensed under
132 sections 36a-555 to 36a-573, inclusive, of the general statutes, as
133 amended by this act, shall:

134 (1) Develop and implement policies and procedures to respond to
135 questions and complaints from Connecticut borrowers in an expedient
136 manner;

137 (2) Offer each Connecticut borrower at least one option per
138 transaction to obtain an earned but unpaid wage or salary income
139 advance at no cost and clearly explain how to elect to utilize such no-
140 cost option with respect to any offer of an earned but unpaid wage or

141 salary income advance;

142 (3) If the provider charges or receives a finance charge, offer each
143 Connecticut borrower who the provider approves to receive an earned
144 but unpaid wage or salary income advance from such provider an
145 earned but unpaid wage or salary income advance in an amount equal
146 to not less than seventy-five per cent of the amount of the Connecticut
147 borrower's earned but unpaid wage or salary income for the pay period;

148 (4) Prior to offering or providing a Connecticut borrower an earned
149 but unpaid wage or salary income advance:

150 (A) Fully and clearly disclose to the borrower all finance charges
151 associated with the earned but unpaid wage or salary income advance;

152 (B) Inform the borrower that the borrower may submit complaints
153 concerning the provider to the Department of Banking via the
154 department's Internet web site and provide a link to such Internet web
155 site; and

156 (C) Verify that the borrower's earned but unpaid wage or salary
157 income does not exceed the amount of the earned but unpaid wage or
158 salary income advance by using (i) payroll data of the borrower's
159 employer, (ii) electronic payroll data that the borrower affirmatively
160 authorizes the provider to access, or (iii) any other method approved by
161 the Banking Commissioner;

162 (5) Clearly explain the provider's cancellation procedure to
163 Connecticut borrowers and allow such borrowers to cancel the earned
164 but unpaid wage or salary income advance application, service,
165 subscription or program at any time without incurring a fee;

166 (6) Clearly and conspicuously disclose to the Connecticut borrower,
167 for each time that the provider solicits, charges or receives a finance
168 charge purporting to be voluntarily charged, agreed to or paid, that:

169 (A) Such borrower may elect a finance charge of zero dollars;

170 (B) The finance charge is voluntary; and

171 (C) The amount and frequency of the earned but unpaid wage or
172 salary income advances that a borrower is eligible to request or receive
173 are not contingent on whether the borrower pays or agrees to the
174 voluntary finance charge or whether the borrower has previously paid
175 a finance charge;

176 (7) Reimburse a Connecticut borrower the full amount of any
177 overdraft or nonsufficient funds fee imposed on the borrower by the
178 borrower's depository institution that is caused by the provider
179 attempting to seek payment of any earned but unpaid wage or salary
180 income advance amount or finance charge on a date before the payment
181 date disclosed to the borrower or in an amount other than the payment
182 amount disclosed to the borrower; and

183 (8) Schedule payment of any earned but unpaid wage or salary
184 income advance amount, or finance charge, in a single payment on a
185 date that (A) corresponds to the date of the Connecticut borrower's next
186 scheduled employer paycheck or direct deposit payment, and (B) is not
187 more than thirty-four days after the provider provides the earned but
188 unpaid wage or salary income advance to the borrower.

189 (b) An earned but unpaid wage or salary income advance provider
190 required to be licensed under sections 36a-555 to 36a-573, inclusive, of
191 the general statutes, as amended by this act, shall not:

192 (1) Share with an employer any portion of a finance charge;

193 (2) Require a credit report, credit score or other credit-related
194 information to determine the eligibility of a Connecticut borrower for
195 an earned but unpaid wage or salary income advance;

196 (3) Accept payment for an earned but unpaid wage or salary income
197 advance or finance charge from a Connecticut borrower by means of a
198 credit card or charge card;

199 (4) Charge a late fee, deferral fee, interest or any other penalty or

200 charge for the failure to pay for an earned but unpaid wage or salary
201 income advance or finance charge;

202 (5) Report to a consumer reporting agency or consumer collection
203 agency any information about a Connecticut borrower regarding
204 nonpayment for any earned but unpaid wage or salary income advance
205 or finance charge;

206 (6) Compel or attempt to compel payment by a Connecticut borrower
207 for any earned but unpaid wage or salary income advance or finance
208 charge through any of the following means:

209 (A) The use of unsolicited outbound telephone calls;

210 (B) A lawsuit against a borrower in any court in any jurisdiction;

211 (C) The use of a third party to pursue collection from a borrower on
212 the provider's behalf; or

213 (D) The sale of an outstanding amount to a consumer collection
214 agency, as defined in section 36a-800 of the general statutes, for
215 collection from a borrower;

216 (7) Charge or receive a total finance charge in excess of the amount
217 permitted by subdivision (1) of subsection (d) of section 36a-558 of the
218 general statutes, as amended by this act;

219 (8) Include any voluntary finance charge amount greater than zero
220 dollars as a default option offered to a Connecticut borrower;

221 (9) Solicit a voluntary finance charge prior to informing the
222 Connecticut borrower of how much earned but unpaid wage or salary
223 income such borrower is approved to request; or

224 (10) Request payment for an earned but unpaid wage or salary
225 income advance or finance charge from a Connecticut borrower prior to
226 the date of the borrower's next scheduled employer paycheck or direct
227 deposit payment.

228 Sec. 3. Subsections (a) to (e), inclusive, of section 36a-558 of the
229 general statutes are repealed and the following is substituted in lieu
230 thereof (*Effective October 1, 2025*):

231 (a) Except as provided in subsection (c) of section 36a-557, no person
232 licensed or required to be licensed under section 36a-556 shall engage in
233 any of the activities described in subsection (a) of section 36a-556 for any
234 small loan that contains any condition or provision inconsistent with the
235 requirements in subsections (d) to (g), inclusive, of this section or section
236 2 of this act.

237 (b) No person exempt from licensure under section 36a-557 shall
238 engage in any of the activities described in subdivision (4), (5) or (6) of
239 subsection (a) of section 36a-556 for any small loan made by a person
240 who was licensed or who was required to be licensed under section 36a-
241 556 that contains any condition or provision inconsistent with the
242 requirements in subsections (d) to (g), inclusive, of this section or section
243 2 of this act.

244 (c) (1) Except as the result of a bona fide error or as set forth in
245 subdivision (2) of this subsection, any small loan described in subsection
246 (a) or (b) of this section that contains any condition or provision
247 inconsistent with the requirements in subsections (d) to (g), inclusive, of
248 this section or section 2 of this act shall not be enforced in this state. Such
249 small loan shall be void and no person shall have the right to collect or
250 receive any principal, interest, charge or other consideration thereon.
251 Any person attempting to collect or receive principal, interest, charge or
252 other consideration on such small loan shall be subject to the provisions
253 of section 36a-570.

254 (2) Subdivision (1) of this subsection shall not apply when: (A) The
255 inconsistent condition or provision is the result of a bona fide error; or
256 (B) the small loan was lawfully made in compliance with a validly
257 enacted licensed loan law of another state to a borrower who was not,
258 at the time of the making of such loan, a Connecticut borrower but who
259 has since become a Connecticut borrower.

260 (3) For the purposes of this subsection, the term "bona fide error"
261 includes, but is not limited to, clerical, calculation and computer
262 malfunction, programming and printing errors, but does not include an
263 error of legal judgment with respect to a person's obligations under
264 sections 36a-555 to 36a-573, inclusive, as amended by this act, or under
265 regulations implemented pursuant to section 36a-573.

266 (d) Small loans that are the subject of the activities set forth in
267 subsections (a) and (b) of this section shall not contain:

268 (1) (A) For a small loan that is under five thousand dollars, except for
269 an earned but unpaid wage or salary income advance, an APR that
270 exceeds the lesser of thirty-six per cent or the maximum annual
271 percentage rate for interest that is permitted with respect to the
272 consumer credit extended under the Military Lending Act, 10 USC 987,
273 as amended from time to time, or for a small loan that is between five
274 thousand and fifty thousand dollars, an APR that exceeds twenty-five
275 per cent; or

276 (B) For an earned but unpaid wage or salary income advance, a total
277 finance charge that exceeds (i) five dollars per advance, or (ii) if the
278 advance is part of a suite of bona fide services included in a membership
279 or subscription, thirty dollars per thirty-day period;

280 (2) For other than an open-end small loan, a provision that increases
281 the interest rate due to payment default;

282 (3) A payment schedule with regular periodic payments that when
283 aggregated do not fully amortize the outstanding principal balance;

284 (4) A payment schedule with regular periodic payments that cause
285 the principal balance to increase;

286 (5) A payment schedule that consolidates more than two periodic
287 payments and pays them in advance from the proceeds, unless such
288 payments are required to be escrowed by a governmental agency;

289 (6) A prepayment penalty;

- 290 (7) An adjustable rate provision;
- 291 (8) A waiver of participation in a class action or a provision requiring
292 a borrower, whether acting individually or on behalf of others similarly
293 situated, to assert any claim or defense in a nonjudicial forum that: (A)
294 Utilizes principles that are inconsistent with the law as set forth in the
295 general statutes or common law; or (B) limits any claim or defense the
296 borrower may have;
- 297 (9) A call provision that permits the lender, in its sole discretion, to
298 accelerate the indebtedness, except when repayment of the loan is
299 accelerated by a bona fide default pursuant to a due-on-sale clause;
- 300 (10) A security interest, except as provided in subsection (e) of this
301 section; or
- 302 (11) Fees or charges of any kind, except as expressly permitted by
303 subsection (e) of this section or section 2 of this act.
- 304 (e) [Small] Except as provided in section 2 of this act, small loans as
305 described in subsections (a) and (b) of this section may contain
306 provisions:
- 307 (1) For late fees, if: (A) Such fees are assessed after an installment
308 remains unpaid for ten or more consecutive days, including Sundays
309 and holidays; (B) such fees do not exceed five per cent of the outstanding
310 installment payment, excluding any previously assessed late fees, or a
311 total of twenty-five dollars per month, whichever is less; and (C) no
312 interest is charged on such fees;
- 313 (2) Allowing charges for a dishonored check or any other form of
314 returned payment, provided the total fee for such returned payment
315 shall not exceed twenty dollars;
- 316 (3) Allowing for collection of deferral charges, but only upon the
317 specific written authorization of the borrower and in a total amount not
318 to exceed the interest due during the applicable billing cycle;

319 (4) Allowing for the accrual of interest after the maturity date or the
 320 deferred maturity date, provided such interest shall not exceed twelve
 321 per cent per annum computed on a daily basis on the respective unpaid
 322 balances;

323 (5) Providing for reasonable attorney's fees subject to the conditions
 324 and restrictions set forth in section 42-150aa;

325 (6) Including credit life insurance or credit accident and health
 326 insurance subject to the conditions and restrictions set forth in section
 327 36a-559; and

328 (7) Taking a security interest in a motor vehicle in connection with a
 329 closed-end small loan made solely for the purchase or refinancing of
 330 such motor vehicle, provided the APR of such loan shall not exceed the
 331 rates indicated for the respective classifications of motor vehicles as
 332 follows: (A) New motor vehicles, fifteen per cent; (B) used motor
 333 vehicles of a model designated by the manufacturer by a year not more
 334 than two years prior to the year in which the sale is made, seventeen per
 335 cent; and (C) used motor vehicles of a model designated by the
 336 manufacturer by a year more than two years prior to the year in which
 337 the sale is made, nineteen per cent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2025	36a-555
Sec. 2	October 1, 2025	New section
Sec. 3	October 1, 2025	36a-558(a) to (e)

Section 1	October 1, 2025	36a-555
Sec. 2	October 1, 2025	New section
Sec. 3	October 1, 2025	36a-558(a) to (e)

Statement of Legislative Commissioners:

In Section 1, the definitions of "bona fide services", "earned but unpaid wage or salary income", "earned but unpaid wage or salary income advance" and "employer" in Subdivs. (3), (7), (8) and (10), respectively, were rewritten for clarity and conciseness; in Section 2(a)(7), "the date disclosed" was changed to "the payment date disclosed" and "the amount disclosed" was changed to "the payment amount disclosed" for clarity; in Section 2(b)(6), "Use" was changed to "The use" in Subparas. (A) and (C) and "Sale" was changed to "The sale" in Subpara. (D) for

clarity and consistency with standard drafting conventions; and in Section 3(d)(1)(A), "or" was added at the end of the Subpara. for clarity and consistency with standard drafting conventions.

BA *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 26 \$	FY 27 \$
Banking Dept.	BF - Cost	112,456	145,608
Banking Dept.	BF - Revenue Gain	6,000 - 8,000	6,000 - 8,000

Note: BF=Banking Fund

Municipal Impact: None

Explanation

The bill, which exempts certain salary advances from the small loan law's annual percentage rate (APR) and finance charge requirements, while adding additional requirements for providers of such advances, results in a cost of \$112,456 in FY 26 and \$145,608 in FY 27 and a revenue gain of approximately \$6,000 to \$8,000 in FY 26 and FY 27.

It is expected that approximately 15 to 20 companies will apply for a small loan license or renewal annually as a result of this bill. To review these applications and provide ongoing enforcement of the bill's provisions, the Department of Banking will need to hire one Financial Examiner for about \$80,000 per year¹ with an estimated fringe benefits rate of \$66,608.² There is also a one-time cost of \$2,500 in FY 26 for equipment. The small loan license application and annual renewal fee is

¹ FY 26's total salary cost is adjusted to reflect partial year implementation.

² The fringe benefit costs for employees funded out of other appropriated funds are budgeted within the fringe benefit account of those funds, as opposed to the fringe benefit accounts within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 83.26% of payroll in FY 26.

\$400. With the anticipated 15 to 20 companies, a total annual revenue gain of \$6,000 to \$8,000 is estimated.

The fiscal impacts described above may be greater or lesser depending on the exact number of companies that apply for the small loan license as a result of this bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of small loan license applications and renewals.

OLR Bill Analysis**sSB 1396*****AN ACT CONCERNING EARNED BUT UNPAID WAGE OR SALARY INCOME ADVANCES.*****SUMMARY**

Subject to certain restrictions, this bill exempts salary advances to Connecticut employees (i.e. “earned but unpaid wage or salary income advances”) from the small loan law’s annual percentage rate (APR) and finance charge requirements. It applies to advances for wage, salary, compensation, or other income on an hourly, project-based, piecework, or other basis that borrowers earn for working for an employer or acting as an independent contractor for someone obligated to pay them for their services.

In doing so, the bill allows for these transactions, though they may exceed the small loan law’s 36% APR cap. However, the bill caps the total finance charge for these income advances at (1) \$5 per advance or (2) \$30 per 30-day period if it is part of a suite of bona fide services as part of a membership or subscription. (Bona fide services are financial benefits, services, or products, for which a borrower could be separately billed and that have provable market value, like identity theft protection, credit monitoring, or budget software.)

The bill obligates providers of these advances to, among other things, give borrowers certain disclosures, verify information, offer ways to receive no-cost advances, and reimburse certain banking fees. It also prohibits the income advance provider from taking certain actions, generally concerning fees or charges, borrower payments, and collection practices.

Lastly, the bill makes minor, technical, and conforming changes, including explicitly exempting a wage that an employer directly pays to

an employee before a regular pay day from the small loan lending law's scope.

EFFECTIVE DATE: October 1, 2025

EARNED BUT UNPAID WAGE OR SALARY ADVANCE PROVIDERS

The state's small loan lending law generally applies to loans, extensions of credit, or the purchase of, or an advance of money on, a borrower's future source of money (e.g., future pay or salary) of up to \$50,000 and with an APR exceeding 12%. In calculating the APR, it includes charges and fees assessed to a borrower as part of the transaction (e.g., finance charges).

The bill exempts an earned but unpaid wage or salary income advance from the law's provisions on APR and finance charges (e.g., the 36% cap), but imposes advance and subscription caps of \$5 and \$30, as applicable. This applies to an advance to a Connecticut borrower that is (1) less than \$5,000 and (2) made by an earned but unpaid wage or salary income advance provider licensed under the small loan lending law. But the amount advanced cannot exceed the amount of unpaid income the consumer earned in a particular pay period.

Provider Responsibilities

The bill obligates income advance providers to give borrowers certain disclosures, verify borrower income, reimburse overdraft or nonsufficient funds (NSF) fees in certain situations, and schedule payments for income advances or finance charges on a single date within a certain timeframe after the advance.

It requires the providers to develop and implement policies and procedures to quickly respond to questions and complaints from borrowers.

Borrower Disclosures. Under the bill, before offering or providing an income advance to a borrower, the provider must (1) clearly and fully disclose all associated finance charges and (2) inform the borrower of how to submit complaints about the provider to the banking

department on the department's website, including giving its link. A provider must also explain its cancellation procedure to borrowers.

And each time a provider solicits, charges, or receives a finance charge claimed to be voluntarily charged, agreed to, or paid, the bill requires it to clearly and conspicuously inform the borrower of the following:

1. the borrower can select a finance charge of zero dollars;
2. the finance charge is voluntary; and
3. the amount and frequency of income advances that a borrower may request or receive is not contingent on paying or agreeing to the voluntary finance charge, or having previously paid a finance charge.

Income Verification. The bill requires providers to verify that a borrower's earned but unpaid income does not exceed the amount of the income advance. They can do this by using one of the following:

1. payroll data from the borrower's employer,
2. electronic payroll data the borrower affirmatively authorizes the provider to access, or
3. another method the banking commissioner approves.

Finance Charges and Fees. The bill requires that providers allow borrowers to cancel an income advance application, service, subscription, or program for free at any time.

It also requires them to (1) offer to all borrowers at least one way per transaction to get the advance at no cost and (2) clearly explain how to use the no-cost option. If the provider charges or receives a finance charge, it must offer an approved borrower an advance that is at least 75% of the borrower's earned but unpaid income for the pay period.

Bank Fee Reimbursement and Payment Scheduling. Under the

bill, a provider must reimburse a borrower for any overdraft or NSF fee the borrower is charged by a depository institution that the provider caused by trying to be paid an income advance amount or finance charge before the date or in a different amount than it told the borrower.

Relatedly, the bill requires providers to schedule payment of an income advance amount or finance charge in a single payment on a date that corresponds with the date of the borrower's next scheduled employer paycheck or direct deposit. However, this date cannot be more than 34 days after the borrower received the income advance.

Prohibited Actions

The bill prohibits certain actions by these income advance providers, generally concerning fees or charges, borrower payments, and collection practices.

For violations of the small loan lending laws, existing law authorizes the banking commissioner to suspend, revoke, or refuse to renew a license; issue cease and desist orders; issue civil penalties; order restitution; or seek an injunction in court. The actions are generally subject to prior notice and a hearing.

Fees or Charges. The bill disallows (1) charging or receiving a total finance charge that exceeds the bill's \$5 or \$30 caps; (2) charging a late or deferral fee, interest, or any other penalty or charge for a borrower's failure to pay for an income advance or finance charge; (3) having a voluntary finance charge of greater than zero as a default option; or (4) seeking a voluntary finance charge before telling the borrower how much he or she is approved to request. It also bars sharing any part of a finance charge with an employer.

Borrower Payments. The bill prohibits (1) requesting payment for an income advance or finance charge from a borrower before the date of the borrower's next scheduled employer paycheck or direct deposit or (2) accepting payment for an income advance or finance charge by a credit or charge card.

Credit Review & Collection Practices. The bill prohibits requiring a credit report or score or other credit-related information to determine a borrower's eligibility for an income advance. It also prohibits reporting any information about a borrower's nonpayment for an income advance or finance charge to a consumer reporting or consumer collection agency.

Under the bill, the following actions by an income advance provider to compel or try to compel a borrower to pay for an income advance or finance charge are banned:

1. using unsolicited telephone calls,
2. filing a lawsuit against a borrower,
3. using a third party for collection on the provider's behalf, and
4. selling an outstanding amount to a consumer collection agency for collection.

COMMITTEE ACTION

Banking Committee

Joint Favorable

Yea 13 Nay 0 (03/11/2025)