

CITY OF BLOOMINGTON

EXECUTIVE SESSION

109 E. OLIVE ST.

MONDAY, SEPTEMBER 26, 2011, 5:00 P.M.

AGENDA

Claims Settlement – Section 2 (c) (8)

Pending Litigation – Section 2 (c) (11)

Collective Bargaining- Section 2 (c) (2)

A light dinner will be available starting at 4:15 p.m.

CITY OF BLOOMINGTON

CITY COUNCIL WORK SESSION

109 E. OLIVE ST.

MONDAY, SEPTEMBER 26, 2011, 5:45 P.M.

City Hall – Council Chamber/Conference Room

AGENDA

Pay Day Loans

To: Mayor and City Council

From: Todd Greenburg, Corporation Counsel

Date: September 21, 2011

Re: Talking Points- Regulation of "Payday Loans"

On September 26, 2011, proponents and opponents of municipal regulation of "payday loans" by the City of Bloomington will present their views. I am attaching to this memo a copy of the proposed ordinance submitted by Central Illinois Organizing Project (CIOP), as well as some accompanying materials. I am also submitting a copy of a press release issued by Governor Quinn's office on June 21, 2010, when he signed into law a bill amending the Consumer Installment Loan Act by imposing limits on consumer installment loans. The state law which went into effect on March 21, 2011, basically placed a cap in short-term loans by capping the rate for loans of \$4,000.00 and less at 99%, and imposing a cap of 36% on loans greater than \$4,000.00. It also included provisions limiting monthly payments to 22.5% of the borrower's gross monthly income and setting the minimum loan term at six months.

The recently enacted state law may be found online at <http://www.ilga.gov/legislation/publicacts/96/PDF/096-0936.pdf>.

It is the position of CIOP that the state legislation, while a good first step, continues to place low-income persons at risk of diverting a large proportion of their income to payment of high interest rates so long as the principal of the loan amount is \$4,000.00 or less. CIOP points out that in 2006 Congress prohibited loans to military families which charge interest of more than 36% (the Fiscal Year 2007 Military Authorization Act) and the same arguments in favor of protecting military families apply to persons with low income.

It is the position of the installment loan industry that the industry is usually the only option left for the individuals seeking loans; if the City passes the ordinance suggested by CIOP, it will not only remove the last option for credit for those individuals, it may also increase unemployment for persons currently working in the installment loan industry. In addition, they point out that the bill passed last year by the General Assembly was an "agreed" bill, meaning both sides agreed to it before it was passed by the legislature.

Although the debate has been framed around the phrase "payday loans", the regulation proposed is broader than the classic "payday loan" in which a person pledges their paycheck or car title as collateral for a loan (in fact, federal law prohibits a lender from accepting a pledge of a military paycheck or a vehicle title as collateral for a loan to a serviceman).

According to the most recent telephone directory, two businesses in Bloomington and one in Normal with a physical presence in the community advertise themselves as offering “payday loans”. Several more installment loan companies with a physical presence in the community advertise in the “loans” section of the telephone book without reference to payday loans.

Among the unknowns at this time is how an ordinance would be enforced if it is passed by the Council; the great majority of municipal ordinances are enforced either on a “complaint only” basis, a “sting” basis (e.g., underage liquor sales), or flagrant violations which come to the attention of City staff.

Because this is the first occasion for this issue to be placed before the City Council, the City staff does not take an advocacy position at this time. At the conclusion of the information received at the work session, it would be in order for the Council to take one of the following actions:

- Decide to do nothing at this time;
- Request the General Assembly to enact legislation at a state-wide level to address the concerns raised by consumer advocacy groups;
- Request the staff to perform more research on the issue; or
- Request the staff to prepare an ordinance for Council consideration.

To: Don Carlson
From: Andrea Kovach
Date: December 6, 2010
Re: Draft ordinance

DRAFT ORDINANCE:

- Be it ordained by the City Council of the City of Bloomington: This is an ordinance concerning payday loans and consumer installment loans; to establish obligations, responsibilities, liabilities; creates a new city code chapter; provides an effective date.
- City Code amended to create a new Chapter 46, Payday loan Practices) to read as follows:
CHAPTER 46. PAYDAY LOAN AND CONSUMER INSTALLMENT LOAN PRACTICES.

Article 1.00: Short Title

is @ Section 1.1: Title. This Chapter of the Bloomington City Code, 1960, as amended, shall be known, cited and referred to as the Payday Lending Ordinance of the City of Bloomington, Illinois and at times referred to as "this Ordinance" in this Chapter.

- **Article 2.00: Purpose and Intent**

- Section 2.1: Purpose. It is the purpose of this Ordinance to address the negative impacts associated with payday lending businesses, as identified in the legislative findings made and cited in Section 2.2 of this Ordinance to reduce or prevent bankruptcy among residents; to protect and preserve the quality of life in the City; and to promote the health, safety, morals and general welfare of the citizens of the City.

- WHEREAS, there exist business lending practices, commonly referred to as "payday" lending practices, whereby lending businesses advance money on paychecks of low and financially challenged persons, subject to very high interest rates; and

- WHEREAS, payday lending practices in general have proven to be detrimental to numerous individuals who use these loans as a way of overcoming immediate needs for cash; and

- WHEREAS, payday lending practices often have an unreasonable adverse effect upon the elderly, the economically disadvantaged, and other citizens of Bloomington; and payday lending involves relatively small loans; and

- WHEREAS, the regulation of payday lenders would serve an important public interest;

- Section 2.2: Findings. The City Council of the City of Bloomington, McLean County, Illinois makes the following legislative findings:

- A. The City has a substantial governmental interest in protecting the public health, safety and welfare of its citizens and all persons within the City and of propounding standards to mitigate the incidence of bankruptcy, foreclosure; and

- B. There is convincing documented evidence, including statistics and studies performed in a substantial number of communities in the State of Illinois and in the United States concerning negative effects of high-cost payday loans. The City Council finds that these studies are relevant to the problems addressed by the City in enacting ordinances to regulate these effects of high-cost payday loans.

- C. There exist business lending practices involving deferred presentment of checks, commonly referred to as "payday" lending practices, whereby lending

businesses advance money on paychecks of low and financially challenged persons, subject to very high interest rates; and

- D. Payday lending practices in general are recognized and have proven to be detrimental to the elderly, the economically disadvantaged, and to other citizens who have chosen these loans as a way of overcoming immediate needs for cash; and
- E. Payday lending practices often have an unreasonable adverse effect upon the elderly, the economically disadvantaged, and other citizens of Bloomington; and
- F. Payday lending involves relatively small loans and does not encompass loans that involve interstate commerce; and
- G. The Council intends to take action where permissible

• Article 3.00: Definitions:

○ Section 3.1: Definitions. For the purposes of this Ordinance, the words, terms and phrases set forth shall have the meanings given them herein.

- "Annual percentage rate" means the nominal annual percentage rate of finance charge determined in accordance with the actuarial method of computation with an accuracy at least to the nearest 1/4 of 1%; or at the option of the licensee by application of the United States rule so that it may be disclosed with an accuracy at least to the nearest 1/4 of 1%. [NOTE: definition was taken from the Illinois Consumer Installment Loan Act, 205 ILCS 670/1 (2010)].
- "Consumer" means any natural person who, singly or jointly with another consumer, enters into a loan. [NOTE: definition is from the Payday Loan Reform Act, 815 ILCS 122/1-5 (2010)].
- "Lender" and "licensee" mean any person or entity, including any affiliate or subsidiary of a lender or licensee, that offers or makes a payday loan or small consumer loan, buys a whole or partial interest in a payday loan or small consumer loan, arranges a payday loan or small consumer loan for a third party, or acts as an agent for a third party in making a payday loan, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, and includes any other person or entity if the Illinois Department of Financial and Professional Regulation determines that the person or entity is engaged in a transaction that is in substance a disguised payday loan or a subterfuge for the purpose of avoiding the Illinois Payday Loan Reform Act or Illinois Consumer Installment Loan Act. [NOTE: definition is from the Payday Loan Reform Act, 815 ILCS 122/1-5 (2010) with addition of the phrases "or small consumer loan" and "or Illinois Consumer Installment Loan Act"].
- "Payday loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which: (1) A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or (2) A lender accepts one or more authorizations to debit a consumer's bank account; or (3) A lender accepts an interest in a consumer's wages, including, but not limited to, a

wage assignment. [NOTE: definition is from the Payday Loan Reform Act, 815 ILCS 122/1-5 (2010). Also, effective March 21, 2011, the term "payday loan" includes "installment payday loan",ⁱ unless otherwise specified in the Illinois Payday Loan Reform Act.]

- "Small consumer loan"ⁱⁱ means a loan upon which interest is charged at an annual percentage rate exceeding 36% and with an amount financed of \$ 4,000 or less. "Small consumer loan" does not include a title-secured loan as defined by the Illinois Consumer Installment Loan Act or a payday loan as defined by the Payday Loan Reform Act. A small consumer loan shall be fully amortizing and be repayable in its entirety in a minimum of 6 substantially equal and consecutive payments with a period of not less than 180 days to maturity. [NOTE: definition is from the Illinois Consumer Installment Loan Act, 205 ILCS 670/1 (2010); definition is effective March 21, 2011].

- Article 4.00: Applicability:

- Section 4.1: Applicability. (a) Except as otherwise provided in this Section, this Ordinance applies to any lender that offers or makes a payday loan or a small consumer loan to a consumer in Bloomington. (b) The provisions of this Ordinance apply to any person or entity that seeks to evade its applicability by any device, subterfuge, or pretense whatsoever. (c) Banks, savings banks, savings and loan associations, credit unions, and insurance companies organized, chartered, or holding a certificate of authority to do business under the laws of Illinois or any other state or under the laws of the United States are exempt from the provisions of this Ordinance.

- Article 5.00: Loan terms:

- Section 5.1: the parties (lender and consumer) to a payday loan or small consumer loan may contract therein for the payment of interest on the principal amount thereof at an annual percentage rate not exceeding 36.5%.

- Article 6.00: Self-Report Requirementⁱⁱⁱ and Licensee Cooperation:

- Section 6.1: Self-Report Requirement. Payday loan and small consumer loan businesses shall self-report monthly their compliance with the provisions of this Ordinance to the City;
- Section 6.2: Licensee Cooperation: A payday loan and small consumer loan licensee shall permit representatives of the City to inspect the licensed premises for the purpose of determining compliance with the provisions of this Ordinance and all other applicable laws at any time during which the licensed premises is open for business. It shall be unlawful for any Licensee, any payday loan or small consumer loan business employee or any other person to prohibit, interfere with the, or refuse to allow, any lawful inspection conducted by the City pursuant to this ordinance or any other authority.

- Article 7.0: State licensing required-compliance with state law: Any lender holding a business license in the City to operate a payday loan business (as defined in the Illinois Payday Loan reform Act) or small consumer loan business (as defined in the Illinois Consumer Installment Loan act) must also hold a license to operate from the State of Illinois (whenever such license is

required pursuant to the Payday Loan reform Act and the Consumer Installment Loan Act, or pursuant to any other licensing provision of the State of Illinois) and must show that such state license is current and active. In addition, any such lender operating such business within the City must at all times be in full compliance with all State laws, rules and/or regulations pertaining to the operation of such business.

- **Article 8.0: Violations, Penalty:** Any payday loan business or small consumer loan business who violates one or more of the provisions of this Ordinance shall be guilty of an ordinance violation, and upon conviction shall be fined Two Thousand Dollars (\$2000.00) for each such violation.
- **Article 9.0: Severability.** In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity or effectiveness of any of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance or of said provision as applied to any other person or circumstance. It is hereby declared to be legislative intent of the City that this Ordinance would have been adopted had such unconstitutional, invalid or ineffective provisions not been included herein.

Appendix A.

City of Bloomington

Ordinance Style and Procedural Requirements

The Code of the City of Bloomington, Illinois, 1960

Selected provision taken from: <http://www.cityblm.org/code.asp?show=codemain>

Chapter 1 - General Provisions

Section 11 : Filing of Proposed Ordinances Prior to Introduction to Council.

Ten copies of all ordinances of a general and permanent nature shall be submitted to the City Clerk prior to the introduction of such Ordinances to the City Council. One copy of such Ordinance shall be delivered to the Legal Department of the City by the City Clerk, one to the City Manager and one each to the members of the Council.

Section 12 : Enacting Style of Ordinances.

The enacting style of all Ordinances shall be: "Be it ordained by the City Council of the City of Bloomington".

Chapter 2: Administration

Article II: City Council

Section 20 : Procedure for Passage of Ordinances.

Every ordinance, upon its introduction, shall be read in full in Council meeting; except those applying to annexation or subdivision which may be read by title only; provided, however, that any other ordinance, copies of which have been supplied to the members of the Council in advance, shall not be required to read in full but shall be read by title only.

Every ordinance may be put on its final passage at the same meeting at which it is introduced.

Section 21 : Preparation of Ordinances, Etc.

The Corporation Counsel shall cause to be prepared all ordinances, resolutions, and other instruments pertaining to Council business, pursuant to the direction of the Council, or which he is requested to prepare by any member of the Council, by the City Manager, by any department head with the approval of the City Manager, or which he shall prepare on his own initiative.

Section 22 : Sponsorship of Ordinances, Etc.

Ordinances, resolutions, and other matters or subjects requiring action by the Council must be introduced and sponsored by a member of the Council, except that the City Manager or Corporation Counsel may present ordinances, resolutions, and other matters or subjects to the council, and any Councilman may assume sponsorship thereof by moving that such ordinances, resolutions, matter or subjects be adopted; otherwise, they shall not be considered.

(23 is omitted from the official code)

Section 24 : Submission of Matters for Council Consideration.

All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Council shall, not be later than 9:00 a.m. on Monday preceding each Council meeting, be delivered to the City Clerk whereupon the City Clerk shall immediately arrange a list of such matters according to the order of business and furnish each member of the Council, the Mayor, the City Manager, and the Corporation Counsel with a copy of the same prior to the Council meeting and as far in advance of the meeting as time for preparation will permit. None of the foregoing matters shall be presented to the Council by administrative officials, except those of urgent nature and the same, when so presented, shall have the written approval of the City Manager, before presentation. (Ordinance No. 2008-82)

Section 25 : Filing of Resolutions, Etc.

All petitions and resolutions shall be filed with the City Clerk and entered on the minutes.

Section 26 : Final Action of Matters After Public Hearing - Limitation of Rehearing.

(a) Except as otherwise provided by law or ordinance, the City Council shall not rehear matters which matters which have been referred to any body, agency, or person for public hearing. (Ordinance No. 1981-71)

(b) The provisions of subsection (a) notwithstanding, the City Council may, upon passage of a proper motion to suspend the rules, permit one spokesman for each side a limited period of time not to exceed five (5) minutes to summarize his or her side's position to the City Council. (Ordinance No. 1981-71)

(c) When, in the judgment of the City Council, unique circumstances require, the Council may upon a proper motion to do so suspend the operation of this Section. (Ordinance No. 1981-71)

(d) This provision is directory, and the failure of the City Council to follow its provisions in any matter before it shall not be grounds for invalidation of any action taken on such matter. (Ordinance No. 1981-71)

Appendix B.

Anticipating and Countering payday lender arguments:

- **A certain type of business cannot be singled out for special zoning restrictions. That's illegal/unfair/restricting free commerce.** Certain types of business are probably already restricted in the community. Among them may be liquor stores, bars, strip clubs, and adult bookstores.
- **Payday Lenders contribute to the local economy by providing jobs and 410(k) benefits to their employees.** The amount these storefronts add to local economies is miniscule compared to the amount of money they take out of communities (see Financial Quicksand CRL Report for exact dollar amounts being extracted from your state <http://www.responsiblelending.org/issues/payday/>). The vast majority of these storefronts are owned by major corporations whose corporate offices are located out of state.
- **Payday lenders are either banks or branch banks, when the State of Illinois strictly limits their purpose and authorization to providing payday loans and they do not operate on behalf of chartered banks. And since the State preempts municipal regulation of branch banks (People ex rel. Lignoul v. City of Chicago, 67 Ill. 2d 480 (1977)) and therefore payday lending as well. No. Payday lenders are not banks because Illinois classifies payday lenders as consumer credit companies, which are non-banking institutions. In addition, payday lenders are not branch banks because branch banks operate as an extension of a chartered bank, whereas payday lenders do not operate on behalf of a bank.**

More detail: First, payday lenders are not branch-banks because they are not themselves banks. Under federal law, the term "bank" includes "trust companies, savings banks, or other such corporations or institutions carrying on the banking business under the authority of State laws." 12 U.S.C.A. § 36 (l). The statute does not define "bank business." However, Mark Flannery, former co-director of the Center for Financial Research at the Federal Deposit Insurance Corporation, describes describe payday loans as "perhaps the most notorious example of a *non-bank* credit product," or what he calls an "alternative financial service." Payday Lending: Do the costs justify the price? FDIC Center for Fin. Res. Working Paper 2005-09 at 2 (italics added) (June 2005) (Accessed on Nov. 12, 2010 at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=771624). Other alternative financial services include pawn shops and rent-to-own companies. *Id.* at 1.

Similarly, the State of Illinois classifies payday lenders as consumer credit companies, which are "non-bank financial institutions." Ill. Dept. of Fin. Reg., Div. of Fin. Inst., (accessed on Nov. 12, 2010 at <http://www.idfpr.com/dfi/default2.asp> and http://www.idfpr.com/dfi/CCD/ccd_main.asp). Indeed, the payday loan license only authorizes a business to provide a very specific type of loan, totaling no more than the lesser of \$1,000 or %25 of the loanee's monthly income. 815 ILCS 122/2-5. Also, the length of the loan must be between thirteen and forty-five days in length. *Id.* A payday lender would have to obtain a separate license in order to engage in any business outside these parameters. 38 IL ADC 210.150.

Second, payday lenders are not branch banks because they do not operate on behalf of banks. The federal government has exclusive power to determine the meaning of "branch" in the context of banks. *First Natnl. Bank in Plant City, Flor. v. Dickinson*, 90 S.Ct. 337, 343 (1969). The federal government defines "branch" as including "any branch bank, branch office, branch agency, additional office, or any branch place of business . . .

. at which deposits are received, or checks paid, or money lent." 12 U.S.C.A. § 36(j). While the activities of receiving deposits, paying checks, and lending money are each sufficient to establish a location as a branch bank, the activity must be performed on behalf of a chartered bank. See 12 U.S.C.A. § 36(j); *Dickinson*, 90 S.Ct. 337 at 344.

There are two main factors that generally apply when determining whether or not an establishment is a branch bank operating on behalf of a chartered bank. D.E. Evins, What is a "branch bank" within statutes regulating the establishment of branch banks, 23 A.L.R.3d 683, Par. 2. (Originally published in 1969). The first factor is whether an establishment relies on a bank for capital, and the second is whether an establishment has management structure distinct from the bank. *Id.* For example, in *First National Bank in Plant City, Florida v. Dickinson*, where the Supreme Court held that an armored car picking up cash from bank customers qualified as branch banking, funds were not deemed deposited until arriving at the chartered bank's premises. 90 S.Ct. 337, at 341. Thus, the armored car did not have a separate management structure from the chartered bank. Likewise, the bank took complete financial responsibility for the armored car service, including providing insurance. *Id.* at 340. Here, payday lenders' management structure is separate from any chartered bank. Moreover, payday lenders are financially independent from banks. Thus, payday lenders are not affiliated with banks and therefore cannot branch-banks.

Appendix D. Examples of Payday Lending Reform Resolutions:

Virginia resolutions: <http://www.stoppaydayloans.org/id16.html>

Mississippi resolutions: <http://msfairlending.com/?p=639>

Appendix C. Town of Normal ordinance procedures and policies:

Town of Normal

Title V

Section 27. The town council shall have power to make and enforce all ordinances necessary and proper for carrying into effect all the powers specified in the is act: Provided, That such ordinances are not repugnant to, nor inconsistent with, the Constitution of the United States or of this state.

Section 33. The style of the ordinances of the town shall be, "Be It ordained by the town council of the town of Normal."

Section 34. All ordinances passed by the town council shall within one month after they shall have been passed be published in some newspaper, published in the town, or in some other way, to be provided by ordinances, in case no newspaper is published in the town; and shall not be in force until they shall have been published as aforesaid.

Section 35. All ordinances of the town may be provided by the seal of the corporation, and where printed or published in book or pamphlet form, and purporting to be printed or published by the authority of the corporation, the same shall be received in evidence in all courts and places without further proof.

ⁱ Under the Payday Loan reform Act, § 815 ILCS 122/2-5. (As amended by P.A. 96-936, effective March 21, 2011) Loan terms Sec. 2-5.

...

(c) Notwithstanding anything in this Act to the contrary, a payday loan shall also include any installment loan otherwise meeting the definition of payday loan contained in Section 1-10 [815 ILCS 122/1-10], but that has a term agreed by the parties of not less than 112 days and not exceeding 180 days; hereinafter an "installment payday loan".

...

ⁱⁱ Under the Consumer Installment Loan Act, § 205 ILCS 670/17.2. (Effective March 21, 2011) Small consumer loans; charges permitted, Sec. 17.2.

(a) With respect to a small consumer loan of \$ 1,500 or less:

(1) A licensee may charge, contract for and receive interest at an annual percentage rate of no more than 99% calculated in accordance with the federal Truth In Lending Act [15 U.S.C. § 1601 et seq.].

(2) A licensee may charge an acquisition charge not to exceed 10% of the amount financed. The acquisition charge is in lieu of the fee permitted under Section 15d(5) and is fully earned at the time the loan is made and shall not be subject to refund.

(b) With respect to a small consumer loan over \$ 1,500:

(1) A licensee may charge the following finance charges:

(A) an acquisition charge for making the original loan, not to exceed \$ 100; for purposes of this subsection (b), "original loan" means a loan in which none of the proceeds are used by the licensee to pay off the outstanding balance of another small consumer loan made to the same consumer by the same licensee or any employee or affiliate of the licensee;

(B) an acquisition charge for the first time that an original loan is refinanced, not to exceed \$ 50;

(C) an acquisition charge for any subsequent refinancing not to exceed \$ 25; for purposes of this subsection (b), "refinancing" occurs when an existing small consumer loan is satisfied and replaced by a new small consumer loan made to the same consumer by the same licensee or any employee or affiliate of the licensee; and

(D) a monthly installment account handling charge, not to exceed the following amounts:

Amount financed	Per month charge
\$ 1,500.01 – \$ 1,600	\$ 69
\$ 1,600.01 – \$ 1,700	\$ 72
\$ 1,700.01 – \$ 1,800	\$ 75
\$ 1,800.01 – \$ 1,900	\$ 78
\$ 1,900.01 – \$ 2,000	\$ 81

\$ 2,000.01 -- \$ 2,100	\$ 84
\$ 2,100.01 -- \$ 2,200	\$ 87
\$ 2,200.01 -- \$ 2,300	\$ 90
\$ 2,300.01 -- \$ 2,400	\$ 92
\$ 2,400.01 -- \$ 2,500	\$ 94
\$ 2,500.01 -- \$ 2,600	\$ 96
\$ 2,600.01 -- \$ 2,700	\$ 98
\$ 2,700.01 -- \$ 2,800	\$ 100
\$ 2,800.01 -- \$ 2,900	\$ 102
\$ 2,900.01 -- \$ 3,000 =SR \$ 104	
\$ 3,000.01 -- \$ 3,100	\$ 106
\$ 3,100.01 -- \$ 3,200	\$ 108
\$ 3,200.01 -- \$ 3,300	\$ 110
\$ 3,300.01 -- \$ 3,400	\$ 112
\$ 3,400.01 -- \$ 3,500	\$ 114
\$ 3,500.01 -- \$ 3,600	\$ 116
\$ 3,600.01 -- \$ 3,700	\$ 118
\$ 3,700.01 -- \$ 3,800	\$ 120
\$ 3,800.01 -- \$ 3,900	\$ 122
\$ 3,900.01 -- \$ 4,000	\$ 124

(2) The acquisition charge is in lieu of the fee permitted under Section 15d(5) and is fully earned at the time the loan is made and shall not be subject to refund; except that, if the loan is paid in full within the first 60 days of the loan term, the first \$ 25 of the acquisition charge may be retained by the licensee and the remainder of the acquisition charge shall be refunded at a rate of one-sixtieth of the remainder of the acquisition charge per day, beginning on the day after the date of the prepayment and ending on the sixtieth day after the loan was made.

(3) In no event shall the annual percentage rate on the loan transaction as calculated in accordance with the federal Truth in Lending Act exceed 99%.

(c) In addition to the charges permitted in subsections (a) and (b) of this Section, a licensee may charge a consumer a fee not to exceed \$ 1 to cover the licensee's cost of submitting loan information into the consumer reporting service, as required under Section 17.5 of this Act [205 ILCS 670/17.5]. Only one such fee may be collected by the licensee with respect to a particular loan.

(d) When any loan contract is paid in full by cash, renewal, or refinancing, or a new loan, the licensee shall refund any unearned interest or unearned portion of the monthly installment account handling charge, whichever is applicable. The unearned interest or unearned portion of the monthly installment account handling charge that is refunded shall be calculated based on a method that is at least as favorable to the consumer as the actuarial method, as defined by the federal Truth in Lending Act [15 U.S.C. § 1601 et seq.]. The sum of the digits or rule of 78ths method of calculating prepaid interest refunds is prohibited.

(e) The maximum acquisition charges that are expressed as flat dollar amounts under this Section shall be subject to an annual adjustment as of the first day of each year following the effective date of this amendatory Act of the 96th General Assembly [P.A. 96-936] equal to the percentage change in the Consumer Price Index compiled by the Bureau of Labor Statistics, United States Department of Labor, or, if that index is canceled or superseded, the index chosen by the Bureau of Labor Statistics as most accurately reflecting the changes in the purchasing power of the dollar for consumers, or, if no such index is chosen by the Bureau of Labor Statistics, the index chosen by the Department as most accurately reflecting the changes in the purchasing power of the dollar for consumers. The adjusted amounts shall take effect on July 1 of the year of the computations.

HISTORY: Source: P.A. 96-936, § 5.

EFFECTIVE DATE. Section 99 of P.A. 96-936, made this section effective 9 months after becoming law. The Act was approved June 21, 2010, and is effective March 21, 2011.

¹² This is per your request to have a self-report requirement with the onus on the loan business versus having a pro-active enforcement provision with the onus on the City



Governor Quinn signs landmark payday loan reforms

Written by Monsignor John Egan Campaign for Payday Loan Reform
June 21, 2010

In a crackdown on 700 percent interest rate payday loans, Governor Quinn signed HB 537, capping rates and closing the legal loophole that has allowed some payday loan companies in Illinois to operate almost completely unregulated. Starting in March 2011, the law caps rates for nearly every short-term credit product in the state, prevents the cycle of debt caused by frequent refinancing, and gives regulators the tools necessary to identify potentially predatory lending practices before they become widespread.

Sponsored by Sen. Kimberly Lightford (D-4) and Rep. Lou Lang (D-16), the proposal passed the Illinois Senate on May 5 by 58-1 and the House by 118-1 on May 26.

"Under the law adopted today, Illinois lenders would be able to offer two types of products: long-term loans with APRs under 99 percent and higher-cost, shorter-term loans with additional protections for the most credit-challenged borrowers," said Lynda DeLaForgue, co-director at Citizen Action/Illinois. "We thank Governor Quinn for nearly a decade of leadership on this issue and his support of these important reforms."

For loans with terms of six months or less, the law:

- Caps rates at \$15.50 per \$100 borrowed every two weeks;
- Breaks the cycle of debt by ensuring that any borrower choosing to use a payday loan is completely out of debt after 180 consecutive days of indebtedness;
- Prohibits balloon payments;
- Keeps loans repayable by limiting monthly payments to 25% of a borrower's gross monthly income;
- Eliminates additional fees such as post-default interest, court costs, and attorney's fees.

For loans with terms of six months or more, the law:

- Caps rates at 99% for loans less than \$4,000 and at 36% for loans more than \$4,000. Previously, these loans were completely unregulated, with some lenders charging in excess of 1,000 percent;
- Keeps loans repayable by limiting monthly payments to 22.5% of a borrower's gross monthly income;
- Prohibits balloon payments;
- Creates a consumer reporting service to ensure that lenders comply with all consumer protections.

"Capping rates for short-term loans was our number one priority," said Tom Feltner, Woodstock Institute Vice President. "These reforms succeed in doing this and will ensure that borrowers are not stuck in long-term, 700 percent APR loans."

The new consumer protections were advanced by Illinois Attorney General Lisa Madigan and the Monsignor John Egan Campaign, a broad-based coalition of consumer, community and labor groups including:

AARP, Action Now, AFSCME Council 31, Amalgamated Transit Union Illinois Joint Conference Board, Business and Professional People for the Public Interest, Catholic Conference of Illinois, Central Illinois Organizing Project/Illinois People's Action, Chicago Appleseed Fund for Justice, Citizen Action/Illinois, Community Reinvestment Organizing Project, Heartland Alliance for Human Needs and Human Rights, Housing

Discussion topics

access to banking
services affordable housing
asset limit reform bankruptcy
building savings CDFIs
CFPA consumer loan
reform CRA credit cards
credit scores credit unions debt
settlement EITC
federal reg
reform
foreclosures
from the president global
Guest post HAMP
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Latest Comments

Leaders come together to find solutions ...

Shane, thanks for your kind words and interest in our work. We don't currently have any volunteer opportunities, though we will send any opportuniti...

Leaders come together to find solutions ...

Action Illinois, Illinois AFL-CIO, Illinois Coalition for Immigrant and Refugee Rights, Illinois PIRG, Latin United Community Housing Association, Lutheran Social Services of Illinois, Metropolitan Family Services, North Side Community Federal Credit Union, Oak Park Regional Housing Center, Partners in Community Building, Project IRENE, Protestants for the Common Good, SEIU Illinois State Council, Sargent Shriver National Center on Poverty Law, Spanish Coalition for Housing, United Auto Workers Region 4, Voices for Illinois Children, and Woodstock Institute.

I have been following you guys since September of this year, and you all are tremendous. It is refreshing to see individuals going to great lengths to...

Photo Album:



Receive email updates

First Name

Last Name

Email

Company

Get Updates

A member of:

NATIONAL COMMUNITY REINVESTMENT COALITION

REGIONAL HOME OWNERSHIP PRESERVATION INITIATIVE
Forging Solutions to the Foreclosure Crisis in the Chicago Metro Area

EXPAND CRA Community Reinvestment Act

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Focus Areas: [consumer loan reform](#) [photo](#) [policy](#)

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Write comment

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Comparing Quick Cash Options

What does \$500 cost after 2 months?



Type Loan	Interest Rate	Interest after 2 months	Payment due after 2 mo.
Credit Union or Bank Loan	18%	\$11	\$511
Credit Card Advance	28%	\$18	\$518
Pay Day Loan	390%	\$300	\$800

\$500 after 3 "Rollovers"

- **First Loan:** **\$500 + \$75**
- **Second Loan:** **\$575 + \$86**
- **Third Loan:** **\$661 + \$99**
- **Fourth Loan:** **\$760 + \$114**
- **Total** **\$874**

Monday, June 21, 2010

Quinn signs payday loan regulation

By Jamey Dunn

Gov. Pat Quinn signed legislation today that is intended to keep payday lenders from slipping through a regulatory loophole.

The bill changes both the Consumer Installment Loan Act and the Payday Loan Reform Act. The General Assembly passed the latter in 2005 to place tighter controls on payday lenders.

The Payday Loan Reform defined such loans as lasting only 120 days. The idea being that a customer, who might be in a financial pinch, takes out the loan and pays it off out of his or her next few paychecks.

But according to consumer advocates, some in the industry used that definition as a way to skirt regulation. Extending the terms of payday loans meant they no longer fell under the regulatory power of the 2005 act. Instead, they could be defined as installment loans, which are regularly secured with collateral such as a car title and had no interest caps.

The legislation, which Quinn signed at a Chicago news conference, caps interest levels for installment loans at 99 percent for loans under \$4,000 and 36 percent for loans

above that threshold.

Payday lenders will not be able to charge more than \$15.50 per \$100 loaned out every two weeks. Brent Adams, secretary of the Illinois Department of Financial and Professional Regulation, says that is the most important aspect of the law because no matter how a loan is categorized, there will be limits on what lenders can charge for it.

Companies offering loans will have to determine a customer's ability to repay the debt. They will also no longer be able to penalize customers for paying off loans early or require large lump-sum "balloon" payments at the end of a payment cycle.

During the news conference William McNary, co-director of the advocacy group Citizen Action Illinois, held up a contract for a loan at what he said was made at 700 percent interest. He said the new law will "set the stage for bringing an end to the era of legalized loan sharking here in Illinois." McNary ripped the contract to pieces while concluding his statement.

Maywood Democratic Sen. Kimberly Lightford and Skokie Democratic Rep. Lou Lang, sponsors of the bill, said the negotiation process was long and arduous, but they were able to garner support from lenders. "The industry, I've got to tell you, wow, they're tough. And we were able to negotiate and bring them all on board," Lightford said.

However Attorney General Lisa Madigan said those

strapped for cash still need to be wary of payday and installment loans and should exhaust all other options first.

“This law will help consumers who find that there is nowhere else to turn except a payday or installment loan. But please remember, extreme caution still has to be exercised when taking out a short-term high-cost loan. ... People should only consider those types of loans in an emergency as a last resort.”

The new regulations take effect nine months from today.

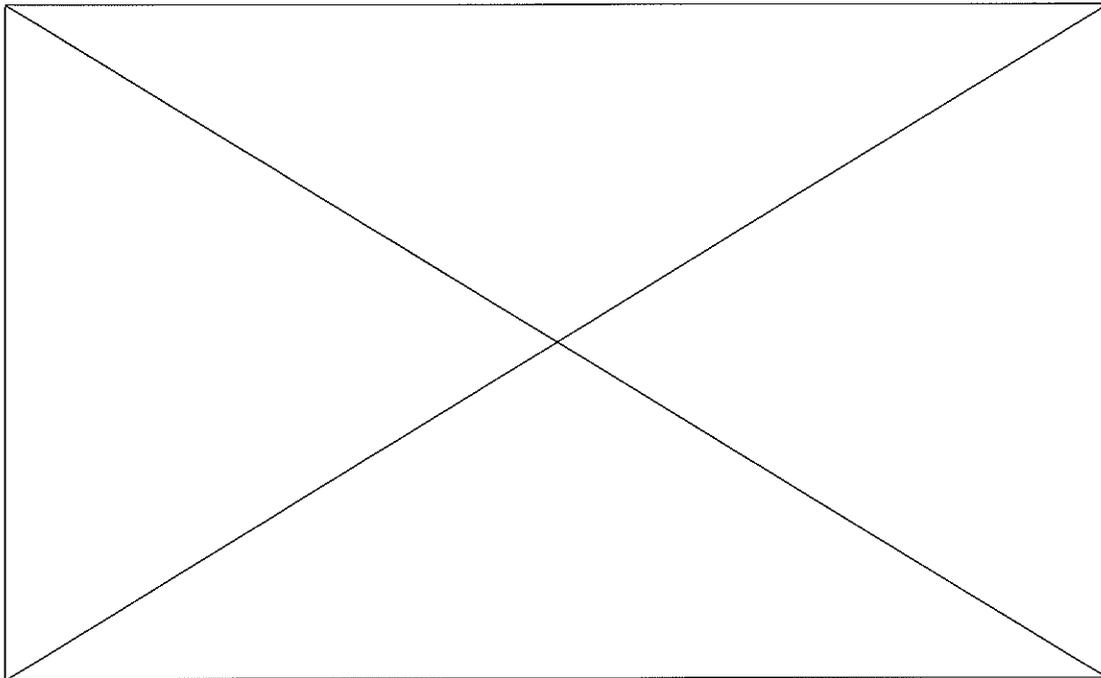
an appeal for cash still need to be way of payday and
installment loans and should extend all other options
first.

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nowhere else to turn except a payday or installment loan.
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People should only consider those types of loans in an
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The new regulation takes effect nine months from today.

FOR IMMEDIATE RELEASE

June 21, 2010

Governor Quinn Signs Law to Protect Individuals Obtaining Consumer Loans
Law Caps Loan Interest Rates, Closes Loopholes

CHICAGO – June 21, 2010. Governor Pat Quinn today signed a bill into law that will increase protections for Illinois residents obtaining consumer installment loans. The new law caps interest rates charged by consumer finance companies, which can sometimes be as high as 1,000 percent.

“Many consumers who take out short-term loans are doing so as a last resort to pay their bills and provide for their families. It is all too easy for lenders to take advantage of them by raising interest rates and setting very short repayment periods,” said Governor Quinn. “It is important that we do everything we can to protect these consumers who are already hurting, by helping to make these loans more affordable.”

House Bill 537 sponsored by Rep. Lou Lang (D-Skokie) and Sen. Kimberly Lightford (D-Westchester) protects consumers by setting reasonable interest rates for loans. Current interest rates for consumer installment loans can be exorbitantly high. Under the new law, rates on consumer installment loans will be capped at 99 percent rate for loans \$4,000 and less and 36 percent for loans greater than \$4,000.

"For too long, Wild West lending practices have dominated the marketplace in Illinois and consumers have suffered as a result - saddled with costly loans that they could

never repay," said Attorney General Madigan. "Now that has changed. House Bill 537 reigns in abusive and predatory lending practices and protects consumers. I want to thank Senator Lightford, Representative Lang, the Governor's Office and consumer advocates for their hard work on this important consumer protection legislation."

The new law also includes provisions to help borrowers repay loans more easily. For example, lending is based upon the borrower's ability to repay the loan. Monthly payments on consumer installment loans are limited to 22.5 percent of the borrower's gross monthly income. In order to give borrowers enough time to repay the loan, the new minimum loan term will be set at six months – an increase from the previous four month term.

"We look forward to working with licensed lenders and their customers to make sure this law is strictly enforced," said Secretary of Financial and Professional Regulation Brent Adams. "For too long, Illinois borrowers have been at the mercy of lenders who were free to charge quadruple-digit interest rates."

The law expands the existing statewide database that tracks payday loans to also track consumer installment loans, which will enable the state to ensure that lenders are complying with the new law. The law also eliminates balloon payments and prevents lenders from penalizing borrowers for paying off loans early.

House Bill 537 was supported by numerous consumer groups and lenders alike, and it passed through the Illinois General Assembly almost unanimously.

Governor Quinn signed the legislation in Chicago. It goes into effect nine months after becoming law.

» **RAW TAPE:** [Governor signs pay day loan law.](#)



Illinois Guide to Payday Loans

CONSUMER RESPONSIBILITIES:

- **PAY BACK YOUR LOAN!** Know when each payment is due and be sure to repay the loan on time and in full.
- Borrow only as much money as you can afford to fully repay on the repayment date.
- Read the contract thoroughly and be sure that you understand all the terms and conditions of the loan.
- Be sure that you have money in your checking account on the due date of the loan so that your check does not bounce when it is deposited.

BEWARE: Other Loans You May See in a Payday Loan Office

You may see other types of loans being offered in a payday store. Be **very careful** before borrowing money using these types of loans. When taking an installment loan, a title loan or any other loan be sure to understand the contract **BEFORE** you sign it. Installment Loans and title loans are not regulated by the Payday Loan Reform Act. These loans can have high interest rates, excessive and hidden fees and few if any consumer protections. Be sure to carefully read the contract and understand what you are agreeing to.

Consumer Counseling and Debt Management Services:

If you are having financial difficulty or a serious financial setback, you may wish to get help from a consumer credit counselor or a debt management company. To obtain a list of licensed debt management companies, contact the Department of Financial Institutions at 1-888-298-8089.

Illinois Department of Financial & Professional Regulation
 Division of Financial Institutions
 Consumer Credit Section
 100 W. Randolph, Suite 9-100
 Chicago, IL 60601
 1 - 888/ 298-8089
www.idfpr.com

CONSUMER RIGHTS AND PROTECTIONS:

- You cannot be charged fees of more than \$15.50 per \$100 borrowed
- You have the right to full disclosure in your contract of all fees and the annual percentage rate (APR)
- You cannot borrow more than \$1000 or 25% of your gross monthly income, whichever is less
- You can only have two payday loans at a time
- You can request a repayment plan after 35 days of outstanding debt. Once in the repayment plan you cannot be charged interest, finances charges or fees of any kind
- A lender cannot sue you until 28 days after the loan was due or the repayment plan ended
- A lender cannot charge you for attorney's fees or court costs to collect the outstanding debt
- A lender may not take an interest in any of your personal property
- A rollover of a payday loan is prohibited
- Members of the military have additional protections including: a ban on wage garnishment, deferral of collection activity for personnel deployed to a combat area, and a prohibition on contacting a consumer's commanding officer
- You can cancel a wage assignment at any time by contacting the lender
- For a complete copy of all your rights go to www.idfpr.com to view the entire Payday Loan Reform Act.

How to Cancel a Payday Loan Without Paying Fees or Interest

You can cancel your future obligations on a payday loan **WITHOUT** cost or finance charge if you cancel the loan by the end of the second business day immediately following the day your payday loan was executed. To cancel future obligations fill out the following form and submit it to the lender. When you submit your written cancellation, you must also pay the lender an amount equal to the principal amount of the loan.

I _____ do hereby cancel my future obligations on
 payday loan account #: _____.

Signature _____ Date _____

**CITY OF BLOOMINGTON
COUNCIL MEETING AGENDA
109 E. OLIVE
MONDAY, SEPTEMBER 26, 2011, 7:30 P.M.**

- 1. Call to order**
- 2. Pledge of Allegiance to the Flag**
- 3. Remain Standing for a Moment of Silent Prayer**
- 4. Roll Call**
- 5. Appointments:**
- 6. “Consent Agenda”**

(All items under the Consent Agenda are considered to be routine in nature and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda, which is Item #8.

The City’s Boards and Commissions hold Public Hearings prior to some Council items appearing on the Council’s Meeting Agenda. Persons who wish to address the Council should provide new information which is pertinent to the issue before them.

The Council may vote to suspend the rules to allow citizen input on Regular Agenda items. If this occurs, public input will be limited to three (3) persons in support of and three (3) persons in opposition to said item. Input will be limited to five (5) minutes per person. Said person must provide their name and address for the record.)

- A. Council Proceedings of September 12, 2011. (Recommend that the reading of the minutes of the previous Council Meeting of September 12, 2011 be dispensed with and the minutes approved as printed.)**
- B. Bills and Payroll. (Recommend that the Bills and Payroll be allowed and orders drawn on the Treasure for the various amounts as funds are available.)**

- C. Reschedule Regular Council Meeting of December 27, 2011. (Recommend that the December 27, 2011 Council meeting be rescheduled to Monday, December 19, 2011.)**
- D. Request to Pay GA Rich & Sons, Inc. for Emergency Repair of City Sewer in the 1600 Block of East Oakland Avenue. (Recommend that the payment to GA Rich & Sons, Inc. in the amount of \$37,724.99 for emergency repair of City Sewer in the 1600 block of E. Oakland Ave. be approved.)**
- E. Purchase of Lime, Water Treatment Chemical. (Recommend that Lime, the water treatment chemical, be purchased from Mississippi Lime, Inc., in the amount of \$160/ton, the Purchasing Agent be authorized to issue a Purchase Order for same and the Resolution adopted.)**
- F. Bid Analysis for Water Treatment Chemicals. (Recommend that the bids be awarded to the various vendors and the Purchasing Agent be authorized to issue a Purchase Order for same.)**
- G. Renewal of the 2010 Contract with Calgon Carbon Corporation, Pittsburg, PA for a Twenty-Four (24) Month Lease of Calgon Filtrasorb 300 Granular Activated Carbon (GAC). (That the contract renewal with Calgon Carbon Corporation for leasing Calgon Filtrasorb 300 GAC be approved for the amount of \$14,751 per month for twenty-four (24) months, the Mayor and City Clerk be authorized to execute the necessary documents and the Resolution adopted.)**
- H. Amendment to Purchase of Replacement Tactical Vests for Police SWAT Team. (Recommend that additional \$1,695 be approved for the purchase of fifteen (15) tactical vests for a total of \$34,845, and the Purchasing Agent be authorized to issue a Purchase Order for same.)**
- I. Approval of Cable Television Franchise Agreement with Comcast of Illinois/Indiana/Ohio LLC. (Recommend that the Agreement be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)**
- J. Fiscal Year 2012 Enterprise Resource Planning (ERP) Project Funding. (Recommend that FY 2012 ERP related funds totaling \$820,078 for continuation of the Enterprise Resource Planning (ERP) implementation project be approved.)**
- K. Professional Services Contract with Client First Consulting Group (CFCG) to Provide Project Management Oversight for the Empower Software Timekeeping Implementation Project. (Recommend that the contract with CFCG to provide project management oversight for the Empower implementation in the amount of \$29,635 be approved, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.)**

- L. **Agreement with Midwest Fiber for Providing Single Stream Processing Services. (Recommend that the agreement with Midwest Fiber for single stream processing be approved until May 1, 2012 and the Mayor and City Clerk be authorized to execute the necessary documents.)**
- M. **Petition for a Special Use Permit to allow a Two (2) Unit (duplex) in an R-1C Single Family Residence District. (Recommend that the Special Use Permit for 203 Union St. be approved with the stipulation that not more than two (2) occupants per dwelling unit be permitted and the Ordinance passed.)**
- N. **Petition for a Special Use Permit to allow a Two (2) Unit (duplex) in an R-1C Single Family Residence District. (Recommend that the Special Use Permit for 1302 N. Center St. be approved with the stipulation that not more than two (2) occupants per dwelling unit be permitted and the Ordinance passed.)**

7. "Public Hearings "

8. "Regular Agenda"

- A. **Resolution for Approval of the Project Scope and Approach for Updating the City's Comprehensive Plan. (Recommend that the Resolution for the Project Scope and approach for updating the City's Comprehensive Plan as prepared by the McLean County Regional Planning Commission (MCRPC) be adopted.)**
- B. **Presentation Concerning the City's Possible Participation in "Municipal Aggregation"**
- C. **Appeal to the City Council for Review of an Administrative Determination on a request for a Certificate of Public Convenience (Vehicle for Hire License). (Recommend that the decision of the Deputy City Manager be upheld and the appeal be denied.)**
- D. **Presentation Regarding BCPA Subsidy/Fund Balance & Creativity Center Update**

9. Mayor's Discussion

10. City Manager's Discussion

11. City Aldermen's Discussion

12. Executive Session - cite section

13. Adjournment

14. Notes