

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0284.02 Kristen Forrestal

HOUSE BILL 10-1351

HOUSE SPONSORSHIP

Ferrandino, Apuan, Casso, Curry, Gagliardi, Hullinghorst, Kerr A., McCann, Merrifield, Miklosi, Pace, Pommer, Ryden, Scanlan, Solano, Tyler, Vigil

SENATE SPONSORSHIP

Romer, Carroll M., Foster, Keller, Morse

House Committees
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Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE MAXIMUM AUTHORIZED INTEREST RATE FOR A**
102 **PAYDAY LOAN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill limits the charge a lender may charge a consumer for a payday loan to 36% per year. The question of the allowable rate of interest will be referred to the electors of Colorado at the next general election.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** The general assembly
3 finds and declares that payday lenders are charging more than an average
4 of three hundred percent interest annually and that excessive interest rates
5 can lead Colorado families into a debt trap of repeat borrowing. The
6 general assembly further finds that responsible small loans are available
7 at interest rates of thirty-six percent annually or less and that Congress
8 has enacted laws capping rates on loans made to military families at
9 thirty-six percent. Therefore, it is the intent of the general assembly to
10 limit the maximum authorized interest rate for a payday loan charged to
11 a consumer by a lender to a maximum rate of thirty-six percent per year.

12 **SECTION 2.** The introductory portion to 5-3.1-102 (3) and
13 5-3.1-102 (5) (a), Colorado Revised Statutes, are amended, and the said
14 5-3.1-102 is further amended BY THE ADDITION OF A NEW
15 SUBSECTION, to read:

16 **5-3.1-102. Definitions.** As used in this article, unless the context
17 otherwise requires:

18 (1.5) "ANNUAL PERCENTAGE RATE" MEANS AN ANNUAL
19 PERCENTAGE RATE AS DETERMINED PURSUANT TO SECTION 107 OF THE
20 FEDERAL "TRUTH IN LENDING ACT", 15 U.S.C. SEC. 1601 ET SEQ. ALL
21 FINANCE CHARGES SHALL BE INCLUDED IN THE CALCULATION OF THE
22 ANNUAL PERCENTAGE RATE.

23 (3) "Deferred deposit loan" OR "PAYDAYLOAN" means a consumer
24 loan whereby the lender, for a fee, finance charge, or other consideration,
25 does the following:

26 (5) (a) "Lender" means any person who offers, or makes a

1 deferred deposit loan, who arranges a deferred deposit loan for a third
2 party, or who acts as an agent for a third party, regardless of whether the
3 third party is exempt from licensing under this article or whether
4 approval, acceptance, or ratification by the third party is necessary to
5 create a legal obligation for the third party, THROUGH ANY METHOD
6 INCLUDING MAIL, TELEPHONE, INTERNET, OR ANY ELECTRONIC MEANS.

7 **SECTION 3.** 5-3.1-105, Colorado Revised Statutes, is amended
8 to read:

9 **5-3.1-105. Authorized interest rate.** A lender may charge a
10 ~~finance charge~~ AN ANNUAL PERCENTAGE RATE for each deferred deposit
11 loan OR PAYDAY LOAN that ~~may~~ SHALL not exceed ~~twenty~~ THIRTY-SIX
12 percent. ~~of the first three hundred dollars loaned plus seven and one-half~~
13 ~~percent of any amount loaned in excess of three hundred dollars. Such~~
14 ~~charge shall be deemed fully earned as of the date of the transaction.~~ The
15 lender shall charge only ~~those charges~~ THE ANNUAL PERCENTAGE RATE
16 authorized in this article AND NO OTHER CHARGES OTHER THAN THOSE
17 AUTHORIZED IN THIS ARTICLE in connection with a deferred deposit loan
18 OR PAYDAY LOAN.

19 **SECTION 4.** 5-3.1-106 (1), Colorado Revised Statutes, is
20 amended to read:

21 **5-3.1-106. Maximum loan amount - right to rescind.** (1) A
22 lender shall not lend an amount greater than five hundred dollars nor shall
23 the amount financed exceed five hundred dollars by any one lender at any
24 time to a consumer. No instrument held as a result of a deferred deposit
25 loan shall exceed five hundred ~~seventy-five~~ TWENTY dollars.

26 **SECTION 5.** 5-3.1-121, Colorado Revised Statutes, is amended
27 to read:

1 **5-3.1-121. Unfair or deceptive practices.** (1) No person shall
2 engage in unfair or deceptive acts, practices, or advertising in connection
3 with a deferred deposit loan.

4 (2) A PERSON DOES NOT EVADE THE REQUIREMENTS OF THIS
5 ARTICLE BY ENGAGING IN ANY ACT, INCLUDING MAKING LOANS DISGUISED
6 AS PERSONAL PROPERTY, PERSONAL SALES, AND LEASEBACK
7 TRANSACTIONS OR BY DISGUIISING LOAN PROCEEDS AS CASH REBATES FOR
8 THE PRETEXTUAL INSTALLMENT SALE OF GOODS AND SERVICES.

9 **SECTION 6. Act subject to petition - effective date -**
10 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
11 following the expiration of the ninety-day period after final adjournment
12 of the general assembly (August 11, 2010, if adjournment sine die is on
13 May 12, 2010); except that, if a referendum petition is filed pursuant to
14 section 1 (3) of article V of the state constitution against this act or an
15 item, section, or part of this act within such period, then the act, item,
16 section, or part shall not take effect unless approved by the people at the
17 general election to be held in November 2010 and shall take effect on the
18 date of the official declaration of the vote thereon by the governor.

19 (2) The provisions of this act shall apply to loans made or renewed
20 on or after the applicable effective date of this act.