

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

INTRODUCED

LLS NO. 10-0284.02 Kristen Forrestal

HOUSE BILL 10-1351

HOUSE SPONSORSHIP

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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, the general assembly submits to a vote of
10 the people of Colorado the question of whether the maximum authorized
11 interest rate for a payday loan charged to a consumer by a lender should
12 be reduced to a maximum rate of thirty-six percent per year.

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

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

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

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

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

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

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

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

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

27 **SECTION 5.** 5-3.1-121, Colorado Revised Statutes, is amended

1 to read:

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

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

10 **SECTION 6. Refer to people under referendum.** This act shall
11 be submitted to a vote of the registered electors of the state of Colorado
12 at the next biennial regular general election, for their approval or
13 rejection, under the provisions of the referendum as provided for in
14 section 1 of article V of the state constitution, and in article 40 of title 1,
15 Colorado Revised Statutes. Each elector voting at said election and
16 desirous of voting for or against said act shall cast a vote as provided by
17 law either "Yes" or "No" on the proposition: "SHALL THE MAXIMUM
18 AUTHORIZED ANNUAL PERCENTAGE RATE FOR A PAYDAY LOAN CHARGED
19 TO A CONSUMER BY A LENDER BE REDUCED FROM OVER THREE HUNDRED
20 PERCENT TO A MAXIMUM ANNUAL PERCENTAGE RATE OF THIRTY-SIX
21 PERCENT?" The votes cast for the adoption or rejection of said act shall
22 be canvassed and the result determined in the manner provided by law for
23 the canvassing of votes for representatives in Congress.