

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

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0284.02 Kristen Forrestal

HOUSE BILL 10-1351

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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.*

HOUSE
Amended 2nd Reading
April 15, 2010

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 forty-five percent annually or less and that Congress
8 has enacted laws capping rates on loans made to military families at
9 forty-five 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 forty-five 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~~ FORTY-FIVE
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.~~
15 EXCEPT THAT A LENDER MAY ALSO CHARGE A FINANCE CHARGE OF NOT
16 MORE THAN TEN DOLLARS FOR EACH ONE HUNDRED DOLLARS LOANED FOR
17 THE INITIAL LOAN IN A TWELVE-MONTH PERIOD. The lender shall charge
18 only ~~those charges~~ THE ANNUAL PERCENTAGE RATE AND FINANCE
19 CHARGE authorized in this article AND NO OTHER CHARGES OTHER THAN
20 THOSE AUTHORIZED IN THIS ARTICLE in connection with a deferred deposit
21 loan OR PAYDAY LOAN.

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

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

1 loan shall exceed five hundred ~~seventy-five~~ TWENTY dollars.

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

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

7 (2) A PERSON VIOLATES THE REQUIREMENTS OF THIS ARTICLE BY
8 ENGAGING IN ANY ACT THAT LIMITS OR RESTRICTS THE APPLICATION OF
9 THIS ARTICLE, INCLUDING MAKING LOANS DISGUISED AS PERSONAL
10 PROPERTY, PERSONAL SALES, AND LEASEBACK TRANSACTIONS OR BY
11 DISGUISED LOAN PROCEEDS AS CASH REBATES FOR THE PRETEXTUAL
12 INSTALLMENT SALE OF GOODS AND SERVICES.

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

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