

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 914
Version: Second engrossment
Authors: Davnie and others
Subject: Payday lending regulation
Analyst: Tom Pender, 651-296-1885

DATE: April 9, 2009

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill strengthens regulation of payday lending. Payday lending consists of an industry that makes very short-term consumer loans.

Section

- 1 Books of account; annual report; schedule of charges; disclosures.** Ties information required under section 3, subdivision 5, to an existing annual report required of payday lenders.
- 2 Penalties for violation.** Makes technical changes. References the new section 47.601 created in the rest of this bill. Makes a violation of section 47.60 subject to enforcement as consumer fraud under a statute that allows enforcement by the attorney general or by a private cause of action by a person harmed by violation of the statute.
- 3 Consumer short-term loans.**
 - Subd. 1. Definitions.** Defines four terms used in this section. Includes specifying the commissioner of commerce as the regulator.
 - Subd. 2. Consumer short-term loan contract.** (a) Specifies three features that are not allowed to be used in consumer short-term loans.
 - (b) Makes provisions that violate paragraph (a) unenforceable by the lender.
 - (c) Requires the lender to provide the borrower with a copy of the loan agreement and specifies the information it must contain. Requires the agreement to be in the language that was used to negotiate the loan.
 - (d) Provides that a check given by the borrower as collateral for repayment of the loan is subject to any claims and defenses the borrower has against the lender. This is an exception to the "holder in due course doctrine."

Subd. 3. Debt collection. Prohibits the lender from using certain debt collection practices to collect a consumer short-term loan. Those are the practices that state law prohibits professional debt collectors to use.

Subd. 4. Criminal prosecution. Prohibits criminal prosecution for writing a dishonored check if it was given to a payday lender as collateral for a payday loan.

Subd. 5. Record keeping; annual reports; notifications. Requires payday lenders to keep detailed records of their transactions to demonstrate compliance with this law.

Subd. 6. Jurisdiction. Provides that a payday loan made to a Minnesota resident is deemed to take place in Minnesota, if the borrower completes the transaction while in Minnesota, either in person or electronically.

Subd. 7. Penalties for violation; private right of action. Makes a lender who violates this law liable for damages to the borrower for money paid to the lender; damages caused to the borrower; statutory damages of up to \$1,000; costs of recovering damages, including reasonable attorney fees; and a court injunction against the lender. Provides that a borrower is not liable for repayment of a loan that violates this section, or if other specified conditions exist.

Subd. 8. Attorney general enforcement. Requires the attorney general to enforce this law under section 8.31.

Subd. 9. Remedies cumulative. Says that the remedies provided in the bill do not eliminate any other remedies available.

4 Annual report. Amends the chapter of law that regulates industrial loan and thrifts to match section 1.