



Legislation Text

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Int. No. 461

By Council Members Comrie, Nelson, Sears and The Speaker (Council Member Miller), Baez, Brewer, Clarke, Felder, Fidler, Gennaro, Gerson, Jackson, Jennings, Katz, Koppell, Lopez, Monserrate, Perkins, Quinn, Reed, Rivera, Sanders, Seabrook, Stewart, Weprin, Yassky and Moskowitz

A Local Law to amend the administrative code of the city of New York, in relation to payday loans.

Be it enacted by the Council as follows:

Section 1. Legislative declaration. The Council finds that payday lenders are exploiting New Yorkers throughout the City. Such lenders, which may do business as storefront establishments or kiosks in working-class communities, are charging exorbitant, often illegally high interest rates and fees for short-term loans. Though State law restricts the interest rates and fees that can be levied in most circumstances, payday lenders often import rates from other states to evade these protective caps or even ignore these limitations altogether. Ultimately, these lenders trap hard-working, low-income New Yorkers into unconscionable and burdensome high-interest loans.

The Council finds that if a bank or company elects to engage in the legally and professionally questionable practice of payday lending, such a lender must at the very least disclose the terms of its loans to otherwise uninformed consumers. As such, the Council is requiring that lenders provide a disclosure notice to each would-be borrower so that he or she has a clear sense of the lender's operations and intentions. In addition, the Council is requiring payday lenders to provide both the Department of Consumer Affairs and the Council with demographic information on the individuals taking out payday loans to ensure better tracking and public education in the future. Though these measures by no means absolve the lender of either legal or professional responsibility, they will empower and protect New York City's consumers.

§2. Chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 14 to read as follows:

SUBCHAPTER 14

PAY DAY LOANS

§20-770 Definitions. a. "Person" shall mean any individual, firm, partnership, trust, association, corporation or other legal entity.

b. "Payday loan," also known as, among other terms, "deferred deposit advances," "cash on demand" or "cash advance," shall mean any transaction in which a short-term cash advance is made to a consumer in exchange for (1) the consumer's personal check or share draft, in the amount of an advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or (2) a consumer's authorization to debit the consumer's transaction account, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.

§20-771. **Disclosure of loan information.** Before any consumer enters into a payday loan, the person offering, providing, or facilitating such loan shall provide the following disclosure to the consumer in writing, in English and Spanish, in at least 14-point type:

- YOU ARE NOT REQUIRED TO ENTER INTO THIS PAYDAY LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS INFORMATION.

- IF YOU DO SIGN A CONTRACT FOR A PAYDAY LOAN, YOU WILL BE TAKING OUT A LOAN. YOU WILL BE RESPONSIBLE FOR REPAYMENT OF THE ENTIRE LOAN AMOUNT AND ALL RELATED COSTS AND FEES.

- IF YOU CANNOT PAY OFF THIS LOAN IN FULL, THE LENDER MIGHT NOT PERMIT YOU TO MAKE A PARTIAL PAYMENT. IN THAT SITUATION, YOU WILL LIKELY BE REQUIRED TO TAKE OUT AN ADDITIONAL PAYDAY LOAN TO PAY OFF YOUR INITIAL DEBT.

- EACH TIME YOU EXTEND THIS PAYDAY LOAN OR TAKE OUT AN ADDITIONAL PAYDAY LOAN, YOU WILL BE CHARGED ADDITIONAL COSTS AND FEES.

- IF YOU DO TAKE OUT THIS PAYDAY LOAN, YOU WILL BE RESPONSIBLE TO PAY \$ [insert amount] IN FEES FOR THE LOAN. AFTER THESE FEES ARE PAID, YOU WILL RECEIVE APPROXIMATELY \$ [insert amount] AS YOUR LOAN.
- THE ESTIMATED ANNUAL PERCENTAGE RATE OF YOUR PAYDAY LOAN IS [insert amount]%. THIS IS BASED ON THE ACTUAL AMOUNT OF TIME YOU WILL BE LENT MONEY THROUGH THIS PAYDAY LOAN.

It shall be the obligation of the person offering, providing, or facilitating the payday loan to complete the required disclosure accurately with all relevant information for each consumer and to ensure that the completed disclosure form is signed by the consumer before he or she enters into the payday loan.

§20-772. **Consumer information.** Not later than the first day of August of the year two thousand and three and on a quarterly basis thereafter, not later than February first, May first, August first, and November first of each year, any person offering, providing, or facilitating a payday loan in New York City shall submit to the Department of Consumer Affairs and the Council the residential zipcode of each consumer who lives within the city boundaries and has entered into a payday loan during the immediately preceding quarter.

§20-773 **Penalties.** Any person who shall violate any of the provisions of this subchapter shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars for each violation.

§2. This local law shall take effect forty-five days after its enactment.

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