



## Legislation Text

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Int. No. 177-A

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, Moskowitz, Addabbo, Barron, Gentile, Martinez, McMahon, Recchia, Liu, Gioia, James and The Public Advocate (Ms. Gotbaum)

A Local Law to amend the administrative code of the city of New York, in relation to requiring institutions that provide payday loan or grant services and that conduct business with the city or its agencies, to provide clear and conspicuous disclosure of interest rates and other charges in advertisements.

Be it enacted by the Council as follows:

Section one. Subchapter 5 of Chapter 5 of Title 20 of the administrative code of the city of New York is hereby amended by adding a new section 20-723.1 to read as follows:

§ 20-723.1. Advertising Disclosure Requirements for Lenders Promoting Payday Loan Services.

a. Definitions. For purposes of this section:

(1) "Payday loan", also known as, among other terms, "deferred deposit advances," "cash on demand" or "cash advance," shall mean any transaction in which funds are provided to a consumer for a limited time period in exchange for (i) a consumer's personal check or share draft, in the amount of the funds provided to the consumer 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 (ii) a consumer's authorization to debit the consumer's transaction account, in the amount of the funds provided to the consumer plus a fee, where such account will be debited on or after a designated future date.

(2) "Unit of advertising space" shall mean any real property, space, facility or instrumentality, or any portion thereof, owned or operated by the city of New York, or which is located or operates on real property owned or operated by the city of New York, and which is the subject of the same contract, lease, rental

agreement, franchise, revocable consent, concession or other similar written agreement with the city of New York which allows the placement or display of advertisements, but not including any real property, space or facility leased from the city of New York for a term of thirty years or more during the entire term of the lease or any real property, space or facility leased from or to the industrial development agency.

b. Any lender, bank or other financial institution that provides payday loan or grant services and which promotes its payday loan or grant services, however described or designated, via a unit or units of advertising space, and which, because of the application of other state or federal law, is exempt from the fee limitations of New York state, and charge interest, fees and other charges greater than those authorized in New York state, shall comply with the following disclosure requirements with respect to a unit or units of advertising space:

Advertisements shall disclose, in clear and prominent letter type, in a print color that contrasts with the background against which it appears, of at least a 20-point type size:

- i. the maximum annual percentage rates (APR) of the institution's payday loans, computed in accordance with regulations adopted pursuant to the federal Truth-in-Lending Act; and
- ii. any membership fees, finance charges, annual fees, transaction fees, rollover costs, lender's fees or any other possible charges that may be incurred by a consumer in relation to the institution's payday loans, including any interest, fees and other charges due at the time of any loan renewal;
- iii. the state in which the lender/financial institution is chartered;
- iv. the fact that the consumer will be required to supply personal information to receive the institution's payday loan, including information regarding his or her personal financial history;
- v. the fact that a fee schedule for all charges related to the institution's payday loans will be available upon request;
- vi. a contact number, such as the New York state banking department's Consumer Hotline, where a consumer/applicant can direct complaints against the lender/financial institution;
- vii. the name of the lender/financial institution offering the payday loan.

c. Any person who is a party to an otherwise valid agreement with the city of New York in effect on the date of enactment of the local law that added this section shall not be subject to the requirements of this section for the term of such agreement. However, where such agreement provides for a right or rights of renewal for one or more periods upon the same terms and conditions or terms and conditions set forth in such agreement, the holder who is a party to such agreement or any agreements entered into pursuant to such right or rights of renewal shall be subject to the requirements of this section at the commencement of the first renewal period.

d. (1) Notwithstanding any other provision of law, the department shall be authorized upon due notice and hearing, to impose civil penalties for the violation of any provision of this section. The department shall have the power to render decisions and orders and to impose civil penalties not to exceed the amounts specified in section 20-726 of this subchapter for each such violation. All proceedings authorized pursuant to this paragraph shall be conducted in accordance with rules promulgated by the commissioner. The remedies and penalties provided for in this paragraph shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.

(2) All such proceedings shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

§2. This local law shall take effect ninety days after its enactment into law.