

SENATE BILL No. 439

By Committee on Financial Institutions and Insurance

2-4

AN ACT concerning payday loans; pertaining to loan amounts and fees therefor; amending K.S.A. 2003 Supp. 16a-2-404 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2003 Supp. 16a-2-404 is hereby amended to read as follows: 16a-2-404. (1) On consumer loan transactions in which cash is advanced:

- (a) With a short term,
- (b) a single payment repayment is anticipated, and
- (c) such cash advance is equal to or less than ~~860~~ \$500, a licensed or supervised lender may charge in lieu of the loan finance charges specified in K.S.A. 16a-2-401, and amendments thereto, ~~the following amounts:~~
 - ~~(i) on any amount up to and including \$50, a charge of \$5.50~~ \$500, a charge of not more than \$15 per \$100 loaned may be added;
 - ~~(ii) on amounts in excess of \$50, but not more than \$100, a charge may be added equal to 10% of the loan proceeds plus a \$5 administrative fee;~~
 - ~~(iii) on amounts in excess of \$100, but not more than \$250 a charge may be added equal to 7% of the loan proceeds with a minimum of \$10 plus a \$5 administrative fee;~~
 - ~~(iv) for amounts in excess of \$250 and not greater than the maximum defined in this section, a charge may be added equal to 6% of the loan proceeds with a minimum of \$17.50 plus a \$5 administrative fee.~~

(2) The maximum term of any loan made under this section shall be 30 days.

(3) A lender and related interest shall not have more than two loans made under this section outstanding to the same borrower at any one time.

(4) Each loan agreement made under this section shall contain the following notice in at least 10 point bold face type: NOTICE TO BORROWER: KANSAS LAW PROHIBITS THIS LENDER AND THEIR RELATED INTEREST FROM HAVING MORE THAN TWO LOANS OUTSTANDING TO YOU AT ANY ONE TIME. A LENDER CAN-

1 NOT DIVIDE THE AMOUNT YOU WANT TO BORROW INTO
2 MULTIPLE LOANS IN ORDER TO INCREASE THE FEES YOU
3 PAY.

4 (5) The contract rate of any loan made under this section shall not
5 be more than 3% per month of the loan proceeds after the maturity date.
6 No insurance charges or any other charges of any nature whatsoever shall
7 be permitted, except as stated in subsection (7), including any charges
8 for cashing the loan proceeds if they are given in check form.

9 (6) Any loan made under this section shall not be repaid by proceeds
10 of another loan made under this section by the same lender or related
11 interest. The proceeds from any loan made under this section shall not
12 be applied to any other loan from the same lender or related interest.

13 (7) On a consumer loan transaction in which cash is advanced in
14 exchange for a personal check, a return check charge may be charged if
15 the check is deemed insufficient as defined in paragraph (e) of subsection
16 (1) of K.S.A. 16a-2-501, and amendments thereto.

17 (8) In determining whether a consumer loan transaction made under
18 the provisions of this section is unconscionable conduct under K.S.A. 16a-
19 5-108, and amendments thereto, consideration shall be given, among
20 other factors, to:

21 (a) The ability of the borrower to repay within the terms of the loan
22 made under this section; or

23 (b) the original request of the borrower for amount and term of the
24 loan are within the limitations under this section.

25 (9) This section shall be supplemental to and a part of the uniform
26 consumer credit code.

27 Sec. 2. K.S.A. 2003 Supp. 16a-2-404 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.

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