State Regulators Move to Strengthen Rules on Title Loans

Proposal designed to protect borrowers from predatory lending practices

CHICAGO – To solidify the consumer protections of customers who need to borrow money against the value of their car, the Illinois Department of Financial and Professional Regulation (IDFPR) forwarded revised rules on title loans to the Joint Committee on Administrative Rules (JCAR). Title loans are short-term loans with interest rates that often exceed 300% per year and can, if unpaid, allow the lender to repossess the vehicle and leave the borrower without the means to get to and from work. Families across the state have turned to these non-traditional types of loans as credit card and other lending options have become more restricted.

"Our goal is to make sure that people who use title loans are able to repay the loan successfully. We think these rules make important changes that protect consumers so that they can keep their vehicles," said Dean Martinez, Secretary, IDFPR. "We received comments from community groups and lenders and made changes based on the information we received."

After the first 45 day comment period, IDFPR strengthened the proposed rule to better protect Illinois families who borrow against the value of their car or truck. The changes that were made reflect comments from both consumer groups and industry representatives. The rules, if they take effect, would: 1) cover all title loans regardless of the length of term of the loan, 2) require the loan to be cleared through a statewide database before it could be made, and 3) structure loan payments so that the borrower made progress on reducing the principal with each payment instead of only paying interest costs.

In 2001, Governor Ryan filed a similar rule but had included a provision that defined title loans as being for 60 days or less. At that time the average length of title loans was 30-60 days. Much as members of the payday loan industry changed the terms of its loans to avoid consumer protections encompassed in the Payday Loan Reform Act, the title lending industry responded by extending the length of the loan to 61 days or longer to circumvent a rule that had tried to protect consumers. Additionally, industry representatives sued the state to overturn the rule, arguing that it was an unconstitutional encroachment by the governor on the powers of the legislature. In 2004, the Illinois Supreme Court affirmed a lower court's ruling which upheld the rule.

Once a rule has been filed with the Secretary of State, there is a 45-day 1st Notice period, during which industry groups, advocates and other concerned members of the public may file comments or request a public hearing. During the 2nd Notice period, also 45 days long, the rule, and any modifications or amendments, will be reviewed by JCAR. JCAR can request additional clarification or information from the Department that must be supplied during JCAR's review. At the end of that time, if JCAR takes no action, the rule becomes permanent and any further changes must be filed through a new rulemaking process. In order to stop a rule from becoming permanent, 3/5 of panel must vote to block the rule.

The text of the revised rule:

Section 110.300 Definitions

"Interest bearing loan" shall mean a loan in which interest is charged upon the principal amount borrowed.

"Refinance" shall mean to renew or extend a loan beyond its original term.

"Motor vehicle" shall mean a motor vehicle as defined in the Illinois Vehicle Code.

"Short-term lender" shall mean any lender engaged in making any short-term loans.

"Short-term loan" means a title-secured loan.

"Title-secured loan" shall mean a loan upon which interest is charged at an annual percentage rate exceeding 36 percent ~~and for a term of not more than 60 days~~ in which, at commencement, an obligor provides to the licensee, as security for the loan, physical possession of the obligor's title to a motor vehicle.

Section 110.340 Simple Interest and Repayment

a) *A short-term lender must compute interest on all short-term loans as simple interest, as defined in Section 110.80(c) of this Part.*

b) *Short-term loans must be fully amortized and repayable in substantially equal installments.*

Section 110.370 Lending Limits and Refinancing

a) *A short-term title-secured loan may not exceed $~~2~~4,000 in principal amount. However, no loan shall be made in such amount that the principal and interest payments for the stated duration of the loan exceed 50% of the obligor's gross income for that period.*

b) *A short-term loan may be refinanced ~~a maximum number of 2 times~~, but only if:*

i) the obligor has reduced the principal of the loan by at least 20% of the amount financed by the loan; or

ii) ~~outstanding balance of the loan has been reduced by at least 20%~~ if the obligor is unable to reduce the principal of the loan by at least 20% of the amount financed by the loan, the lender reduces the principal of the loan by at least 20% of the amount financed by the outstanding loan.

The principal amount of the new short-term loan may not exceed the total outstanding balance of the refinanced loan.

c) *No loan, other than the refinancing of an existing short-term loan, may be made to an obligor who has had an outstanding short-term loan within the preceding 15 days.*

d) *The loan agreement must include a separate statement signed by the obligor attesting that the obligor has not had an outstanding short-term loan within the preceding 15 days. The lender shall further verify the statement by means of any database created by or approved by the Director for that purpose.*

e) *The loan agreement shall advise the obligor that matters involving improprieties in the making of the loan or in loan collection practices may be referred to the Division and shall prominently disclose the Division's address and telephone number.*

f) *Each short-term loan refinancing agreement executed by a licensee shall include a statement, which shall be initialed by the obligor, as follows: "I have received from (name of lender) a toll free number from the Department of Financial and Professional Regulation-Division of Financial Institutions that I can call for information regarding debt management service."*

g) *Before entering into a loan agreement or refinancing agreement with an obligor, the lender shall use a database approved by the Director to verify that the proposed loan agreement or refinancing agreement is permissible under this Section.*