



General Assembly

February Session, 2012

Raised Bill No. 5419

LCO No. 1676

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Referred to Committee on Banks

Introduced by:
(BA)

AN ACT CONCERNING CASH ADVANCE CONTRACTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) As used in this
2 section:

3 (1) "Cash advance contract" means any financial transaction
4 resulting in an advance of compensation to a consumer who has a
5 pending personal injury or wrongful death claim or civil action in
6 exchange for the contractual right to receive any funds in excess of the
7 amount of that advance from the proceeds of any realized settlement,
8 judgment or verdict resulting from such claim or action, including, but
9 not limited to, any nonrecourse capital advances made for such
10 purposes.

11 (2) "Consumer" means any person, estate, legal representative or
12 assignee of a person or estate, who has any financial interest in a
13 pending personal injury or wrongful death claim or civil action or has
14 a reasonable expectation of the receipt of compensation from such a
15 claim or action.

16 (3) "Cash advance company" means a person or entity that offers to
17 provide or provides to a consumer in this state a nonrecourse capital
18 advance, based on the consumer's status as a plaintiff in a pending
19 personal injury or wrongful death claim or civil action.

20 (b) All cash advance companies, their employees, agents,
21 subsidiaries, successors and assigns, who enter into cash advance
22 contracts with consumers, shall comply with the following: (1) All cash
23 advance contracts shall comply with sections 42-152 to 42-158,
24 inclusive, of the general statutes; and (2) such contracts shall be filled
25 in completely and contain the following disclosures on the first page,
26 in twelve-point or larger bold type, with a heading entitled "Disclosure
27 Statement" and in a form approved by the Department of Consumer
28 Protection: (A) The total amount to be advanced to the consumer; (B)
29 itemization of all fees; (C) percentage fee or rate of return, and stated
30 on an annualized basis, including frequency of compounding; and (D)
31 the total amount to be repaid by the consumer, calculated at six-month
32 intervals, carried forward to thirty-six months, including all fees and
33 any minimum required payment amount.

34 (c) (1) All cash advance contracts shall provide that the consumer
35 may cancel the contract within five business days following the
36 consumer's receipt of funds, without penalty or further obligation.
37 Such contracts shall contain the following notice, written in a clear and
38 conspicuous manner: "CONNECTICUT CONSUMER'S RIGHT TO
39 CANCELLATION: YOU MAY CANCEL THIS CONTRACT
40 WITHOUT PENALTY OR FURTHER OBLIGATION NOT LATER
41 THAN FIVE BUSINESS DAYS AFTER THE DATE YOU RECEIVE
42 FUNDING AFTER (insert the name of the cash advance company)".
43 (2) Such contracts shall specify that, in order for the cancellation to be
44 effective, the consumer must either (A) return the full amount of the
45 disbursed funds to the cash advance company by delivering the cash
46 advance company's uncashed check to the office address designated
47 on the disclosure statement, or (B) mail a notice of cancellation and
48 include with the mailing a return of the full amount of disbursed

49 funds, in the form of the cash advance company's check, a registered or
50 certified check or a money order, by insured, registered or certified
51 United States mail, postmarked within five business days of receiving
52 the funds from the cash advance company, at the address specified for
53 such cancellation in the cash advance contract.

54 (d) The consumer shall initial each page of a cash advance contract.
55 All cash advance contracts shall contain a legend, immediately above
56 the consumer's signature, in twelve-point or larger bold type, reading:
57 "DO NOT SIGN THIS CASH ADVANCE CONTRACT BEFORE YOU
58 READ IT COMPLETELY OR IF IT CONTAINS ANY BLANK SPACE.
59 YOU SHOULD OBTAIN THE ADVICE OF AN ATTORNEY BEFORE
60 YOU SIGN THIS CONTRACT. YOU ARE ENTITLED TO A
61 COMPLETELY FILLED IN COPY OF THIS CONTRACT."

62 (e) All cash advance contracts shall contain a written certification by
63 the consumer's attorney of record stating the attorney has reviewed the
64 contract and explained its terms to the consumer, including the
65 annualized rate of return used to calculate the amount to be paid by
66 the consumer.

67 (f) Except when oral negotiations are conducted in another
68 language, all cash advance contracts shall be printed in both English
69 and Spanish. In the event oral negotiations are conducted in any other
70 language (1) the principal terms of the contract shall be translated in
71 writing into the consumer's native language; (2) the consumer shall
72 sign the translated document containing the principal terms and initial
73 each page; and (3) the translator shall sign a notarized affirmation
74 confirming that the principal terms have been presented to the
75 consumer in his or her native language and acknowledged by the
76 consumer, in writing. For purposes of this subsection, "principal terms"
77 includes all of the items required by subsections (b) to (e), inclusive, of
78 this section.

79 (g) If a cash advance contract provides for attorney's fees and costs
80 in the case of a breach of the contract by either party, the contract shall

81 provide that such attorney's fees and costs shall be reasonable and may
82 be recovered by the prevailing party. Any limitation placed on such
83 attorney's fees and costs shall apply equally to both parties.

84 (h) A cash advance contract shall not require mandatory arbitration
85 to resolve disputes between the parties.

86 (i) A cash advance company shall register its name, address and
87 principal place of business with the Department of Consumer
88 Protection and shall submit any proposed cash advance contract form
89 to be used in this state to the Commissioner of Consumer Protection at
90 least ninety days before entering into the contract with a consumer.

91 (j) A cash advance contract shall be considered a loan and subject to
92 the provisions of section 37-4 of the general statutes.

93 (k) Any action on the part of a cash advance company that arises out
94 of a cash advance contract with a Connecticut consumer shall be
95 subject to the jurisdiction of this state.

96 (l) Failure to comply with any provision of subsections (a) to (k),
97 inclusive, of this section shall (1) be an unfair trade practice pursuant
98 to subsection (a) of section 42-110b of the general statutes, and (2)
99 render the cash advance contract void with regard to any rights or
100 claims of the cash advance company.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section

Statement of Purpose:

To regulate cash advance contracts and prohibit a cash advance company from charging a consumer a rate of interest on a cash advance contract that is greater than twelve per cent per annum.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]