



General Assembly

February Session, 2024

Raised Bill No. 5140

LCO No. 762



Referred to Committee on BANKING

Introduced by:

(BA)

AN ACT CONCERNING EARNED WAGE ACCESS.

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

1 Section 1. Section 36a-558 of the 2024 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2024*):

4 (a) Except as provided in subsection (c) of section 36a-557, no person
5 licensed or required to be licensed under section 36a-556 shall engage in
6 any of the activities described in subsection (a) of section 36a-556 for any
7 small loan that contains any condition or provision inconsistent with the
8 requirements in subsections (d) to (g), inclusive, or subsection (i) of this
9 section.

10 (b) No person exempt from licensure under section 36a-557 shall
11 engage in any of the activities described in subdivision (4), (5) or (6) of
12 subsection (a) of section 36a-556 for any small loan made by a person
13 who was licensed or who was required to be licensed under section 36a-
14 556 that contains any condition or provision inconsistent with the
15 requirements in subsections (d) to (g), inclusive, or subsection (i) of this

16 section.

17 (c) (1) Except as the result of a bona fide error or as set forth in
18 subdivision (2) of this subsection, any small loan described in subsection
19 (a) or (b) of this section that contains any condition or provision
20 inconsistent with the requirements in subsections (d) to (g), inclusive, or
21 subsection (i) of this section shall not be enforced in this state. Such small
22 loan shall be void and no person shall have the right to collect or receive
23 any principal, interest, charge or other consideration thereon. Any
24 person attempting to collect or receive principal, interest, charge or
25 other consideration on such small loan shall be subject to the provisions
26 of section 36a-570.

27 (2) Subdivision (1) of this subsection shall not apply when: (A) The
28 inconsistent condition or provision is the result of a bona fide error; or
29 (B) the small loan was lawfully made in compliance with a validly
30 enacted licensed loan law of another state to a borrower who was not,
31 at the time of the making of such loan, a Connecticut borrower but who
32 has since become a Connecticut borrower.

33 (3) For the purposes of this subsection, the term "bona fide error"
34 includes, but is not limited to, clerical, calculation and computer
35 malfunction, programming and printing errors, but does not include an
36 error of legal judgment with respect to a person's obligations under
37 sections 36a-555 to 36a-573, inclusive, or under regulations
38 implemented pursuant to section 36a-573.

39 (d) Small loans that are the subject of the activities set forth in
40 subsections (a) and (b) of this section shall not contain:

41 (1) [For] Except for an employer-integrated advance, as defined in
42 subsection (i) of this section, for a small loan that is under five thousand
43 dollars, an APR that exceeds the lesser of thirty-six per cent or the
44 maximum annual percentage rate for interest that is permitted with
45 respect to the consumer credit extended under the Military Lending Act,
46 10 USC 987, as amended from time to time, or for a small loan that is
47 between five thousand and fifty thousand dollars, an APR that exceeds

48 twenty-five per cent;

49 (2) For other than an open-end small loan, a provision that increases
50 the interest rate due to payment default;

51 (3) A payment schedule with regular periodic payments that when
52 aggregated do not fully amortize the outstanding principal balance;

53 (4) A payment schedule with regular periodic payments that cause
54 the principal balance to increase;

55 (5) A payment schedule that consolidates more than two periodic
56 payments and pays them in advance from the proceeds, unless such
57 payments are required to be escrowed by a governmental agency;

58 (6) A prepayment penalty;

59 (7) An adjustable rate provision;

60 (8) A waiver of participation in a class action or a provision requiring
61 a borrower, whether acting individually or on behalf of others similarly
62 situated, to assert any claim or defense in a nonjudicial forum that: (A)
63 Utilizes principles that are inconsistent with the law as set forth in the
64 general statutes or common law; or (B) limits any claim or defense the
65 borrower may have;

66 (9) A call provision that permits the lender, in its sole discretion, to
67 accelerate the indebtedness, except when repayment of the loan is
68 accelerated by a bona fide default pursuant to a due-on-sale clause;

69 (10) A security interest, except as provided in subsection (e) of this
70 section; or

71 (11) Fees or charges of any kind, except as expressly permitted by
72 [subsection] subsections (e) and (i) of this section.

73 (e) [Small] Except for employer-integrated advances, as defined in
74 subsection (i) of this section, small loans as described in subsections (a)
75 and (b) of this section may contain provisions:

76 (1) For late fees, if: (A) Such fees are assessed after an installment
77 remains unpaid for ten or more consecutive days, including Sundays
78 and holidays; (B) such fees do not exceed five per cent of the outstanding
79 installment payment, excluding any previously assessed late fees, or a
80 total of twenty-five dollars per month, whichever is less; and (C) no
81 interest is charged on such fees;

82 (2) Allowing charges for a dishonored check or any other form of
83 returned payment, provided the total fee for such returned payment
84 shall not exceed twenty dollars;

85 (3) Allowing for collection of deferral charges, but only upon the
86 specific written authorization of the borrower and in a total amount not
87 to exceed the interest due during the applicable billing cycle;

88 (4) Allowing for the accrual of interest after the maturity date or the
89 deferred maturity date, provided such interest shall not exceed twelve
90 per cent per annum computed on a daily basis on the respective unpaid
91 balances;

92 (5) Providing for reasonable attorney's fees subject to the conditions
93 and restrictions set forth in section 42-150aa;

94 (6) Including credit life insurance or credit accident and health
95 insurance subject to the conditions and restrictions set forth in section
96 36a-559; and

97 (7) Taking a security interest in a motor vehicle in connection with a
98 closed-end small loan made solely for the purchase or refinancing of
99 such motor vehicle, provided the APR of such loan shall not exceed the
100 rates indicated for the respective classifications of motor vehicles as
101 follows: (A) New motor vehicles, fifteen per cent; (B) used motor
102 vehicles of a model designated by the manufacturer by a year not more
103 than two years prior to the year in which the sale is made, seventeen per
104 cent; and (C) used motor vehicles of a model designated by the
105 manufacturer by a year more than two years prior to the year in which
106 the sale is made, nineteen per cent.

107 (f) Open-end small loans as described in subsections (a) and (b) of this
108 section shall, in addition to the requirements set forth in subsections (d)
109 and (e) of this section:

110 (1) Not provide for an advance of money exceeding at any one time
111 an unpaid principal of fifty thousand dollars;

112 (2) Provide for payments and credits to be made to the same
113 borrower's account from which advances, interests, charges and costs
114 on such loan are debited;

115 (3) Provide for interest to be computed on any unpaid principal
116 balance of the account in each billing cycle by one of the following
117 methods: (A) By converting the APR to a daily rate and multiplying
118 such daily rate by the daily unpaid principal balance of the account, in
119 which case the daily rate is determined by dividing the APR by three
120 hundred sixty-five; or (B) by converting the APR to a monthly rate and
121 multiplying the monthly rate by the average daily unpaid principal
122 balance of the account in the billing cycle, in which case (i) the monthly
123 rate is determined by dividing the APR by twelve, and (ii) the average
124 daily unpaid principal balance is the sum of the amount unpaid each
125 day during the cycle divided by the number of days in the cycle. In
126 either of such computations, the billing cycle shall be monthly and the
127 unpaid principal balance on any day shall be determined by adding to
128 any balance unpaid as of the beginning of such day all advances and
129 other permissible amounts charged to the borrower and deducting all
130 payments and other credits made or received that day;

131 (4) Not compound interest or charges by adding any unpaid interest
132 or charges authorized by sections 36a-555 to 36a-573, inclusive, to the
133 unpaid principal balance of the borrower's account; or

134 (5) Not include any other fees or charges of any kind, except as
135 expressly permitted by subsection (g) of this section.

136 (g) Open-end small loans as described in subsections (a) and (b) of
137 this section, in addition to the requirements set forth in subsections (d)

138 to (f), inclusive, of this section, may:

139 (1) Provide for an annual fee for the privileges made available to the
140 borrower under the open-end loan agreement, provided such annual fee
141 shall not exceed fifty dollars; and

142 (2) Include credit life insurance or credit accident and health
143 insurance, subject to the conditions and restrictions set forth in section
144 36a-559.

145 (h) No person licensed or required to be licensed under sections 36a-
146 555 to 36a-573, inclusive, who is engaged in generating leads shall in
147 connection with lead generation activities:

148 (1) Initiate any outbound telephone call using an automatic telephone
149 dialing system or an artificial or prerecorded voice without the prior
150 express written consent of the recipient;

151 (2) Fail to transmit or cause to transmit the lead generator's name and
152 telephone number to any caller identification service in use by a
153 consumer;

154 (3) Initiate an outbound telephone call to a consumer's residence
155 between nine o'clock p.m. and eight o'clock a.m. local time at the
156 consumer's location;

157 (4) Fail to clearly and conspicuously identify the lead generator and
158 the purpose of the contact in its written and oral communications with
159 a consumer;

160 (5) Fail to provide the ability to opt out of any unsolicited
161 advertisement communicated to a consumer via an electronic mail
162 address;

163 (6) Initiate an unsolicited advertisement via electronic mail to a
164 consumer more than ten business days after the receipt of a request from
165 such consumer to opt out of such unsolicited advertisements;

166 (7) Use a subject heading or electronic mail address in a commercial
167 electronic mail message that would likely mislead a recipient, acting
168 reasonably under the circumstances, about a material fact regarding the
169 sender, contents or subject matter of the message;

170 (8) Sell, lease, exchange or otherwise transfer or release the electronic
171 mail address or telephone number of a consumer who has requested to
172 be opted out of future solicitations;

173 (9) Collect, buy, lease, exchange or otherwise transfer or receive an
174 individual's Social Security number or bank account number;

175 (10) Use information from a trigger lead to solicit consumers who
176 have opted out of firm offers of credit under the federal Fair Credit
177 Reporting Act;

178 (11) Initiate a telephone call to a consumer who has placed his or her
179 contact information on a federal or state Do Not Call list, unless the
180 consumer has provided express written consent;

181 (12) Represent to the public, through advertising or other means of
182 communicating or providing information, including, but not limited to,
183 the use of business cards or stationery, brochures, signs or other
184 promotional items, that such lead generator can or will perform any
185 other activity requiring licensure under this title, unless such lead
186 generator is duly licensed to perform such other activity or exempt from
187 such licensure requirements;

188 (13) Refer applicants to, or receive a fee from, any person who is
189 required to be licensed under this title, but was not so licensed as of the
190 time of the performance of such lead generator's services; or

191 (14) Assist or aid and abet any person in the conduct of business
192 requiring licensure under this title when such person does not hold the
193 license required.

194 (i) (1) On and after October 1, 2024, any person licensed under section
195 36a-565 may engage in the activities set forth in subsection (a) of section

196 36a-556 for any employer-integrated advance that imposes an
197 associated expedited transfer fee paid by the consumer, provided:

198 (A) The amount of such employer-integrated advance shall not
199 exceed the lesser of five dollars per advance or ten dollars per thirty-day
200 period, without regard to the provisions of subdivision (1) of subsection
201 (d) of this section, which prohibit a small loan that is under five
202 thousand dollars from containing an APR that exceeds the lesser of
203 thirty-six per cent or the maximum annual percentage rate for interest
204 that is permitted with respect to the consumer credit extended under the
205 Military Lending Act, 10 USC 987, as amended from time to time;

206 (B) The expedited transfer fee is the only finance charge imposed by
207 the licensee for the employer-integrated advance. For purposes of this
208 subdivision, the finance charge shall: (i) Be calculated in accordance
209 with the provisions of the federal Military Lending Act, 10 USC 987, and
210 the regulations promulgated thereunder, as amended from time to time;
211 and (ii) include, but need not be limited to, (I) the charges set forth in 32
212 CFR 232.4(c)(1), as amended from time to time, (II) any charge for an
213 ancillary product, membership or service sold in connection or
214 concurrent with the employer-integrated advance, (III) any amount
215 offered or agreed to by the consumer in furtherance of obtaining the
216 employer-integrated advance or as compensation for the use of money,
217 and (IV) any fee, voluntarily or otherwise, charged, agreed to or paid by
218 the consumer in connection or concurrent with the employer-integrated
219 advance;

220 (C) The licensee shall only be repaid for any advanced amount and
221 expedited transfer fee by way of a payroll deduction; and

222 (D) The licensee shall not charge any additional fee, including, but
223 not limited to, a late fee, if the employer-integrated advance is not repaid
224 on the scheduled pay date.

225 (2) For purposes of this section:

226 (A) "Employer-integrated advance" means any small loan that is: (i)

227 In an original principal amount that is less than five thousand dollars,
228 and (ii) made by a person that (I) is licensed under section 36a-565, and
229 (II) maintains a contract with a consumer's employer under which an
230 amount is advanced by such licensed person to the consumer, which
231 amount represents not more than fifty per cent of the amount of the
232 income or wages earned by the consumer for any particular pay period,
233 as verified by such licensed person with the consumer's employer prior
234 to any advance disbursement under such small loan and contract; and

235 (B) "Expedited transfer fee" means any amount offered or paid by a
236 consumer in connection with an employer-integrated advance: (i) To
237 instantaneously complete the transfer of funds to the consumer as part
238 of the employer-integrated advance, or (ii) on or before the day the
239 consumer requests such advance.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | October 1, 2024 | 36a-558 |

Statement of Purpose:

To: (1) Define "employer-integrated advance" and "expedited transfer fee"; and (2) establish exceptions to certain small loan lending laws for employer-integrated advances that meet various requirements.

[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.]