

109TH CONGRESS
1ST SESSION

S. 1878

To prohibit predatory payday loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2005

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To prohibit predatory payday loans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Predatory Payday
5 Loan Prohibition Act of 2005”.

6 **SEC. 2. PROHIBITION ON CREDITORS MAKING PAYDAY**
7 **LOANS.**

8 The Truth in Lending Act (15 U.S.C. 1601 et seq.)
9 is amended by inserting after section 109 the following:

1 **“SEC. 110. PROHIBITION ON PAYDAY LOANS.**

2 “(a) IN GENERAL.—A creditor may not make a pay-
3 day loan to any person, if the creditor knows or has rea-
4 sonable cause to believe that—

5 “(1) the personal check or share draft that the
6 creditor receives from the person in exchange for the
7 loan is drawn on an insured depository institution or
8 an insured credit union; or

9 “(2) the account that will be debited in ex-
10 change for the loan is a transaction account or share
11 draft account at an insured depository institution or
12 an insured credit union.

13 “(b) DEFINITIONS.—In this section, the following
14 definitions shall apply:

15 “(1) INSURED INSTITUTIONS.—The terms ‘in-
16 sured depository institution’ and ‘insured credit
17 union’ have the meanings given those terms in sec-
18 tion 3 of the Federal Deposit Insurance Act and sec-
19 tion 101 of the Federal Credit Union Act, respec-
20 tively.

21 “(2) PAYDAY LOAN.—The term ‘payday loan’
22 means any transaction in which a short-term cash
23 advance is made to a consumer in exchange for—

24 “(A) the personal check or share draft of
25 the consumer, in the amount of the advance
26 plus a fee, where presentment or negotiation of

1 such check or share draft is deferred by agree-
 2 ment of the parties until a designated future
 3 date; or

4 “(B) the authorization of a consumer to
 5 debit the transaction account or share draft ac-
 6 count of the consumer, in the amount of the ad-
 7 vance plus a fee, where such account will be
 8 debited on or after a designated future date.”.

9 **SEC. 3. PROHIBITION ON INSURED DEPOSITORY INSTITU-**
 10 **TIONS MAKING PAYDAY LOANS.**

11 Section 18 of the Federal Deposit Insurance Act (12
 12 U.S.C. 1828) is amended by adding at the end the fol-
 13 lowing:

14 “(x) PROHIBITION ON CERTAIN UNSAFE AND UN-
 15 SOUND BANKING PRACTICES.—

16 “(1) IN GENERAL.—An insured depository in-
 17 stitution may not—

18 “(A) make any payday loan, either directly
 19 or indirectly; or

20 “(B) make any loan to any other lender
 21 for purposes of financing a payday loan or refi-
 22 nancing or extending any payday loan.

23 “(2) PAYDAY LOAN DEFINED.—For purposes of
 24 this subsection, the term ‘payday loan’ means any

1 transaction in which a short-term cash advance is
2 made to a consumer in exchange for—

3 “(A) the personal check or share draft of
4 the consumer, in the amount of the advance
5 plus a fee, where presentment or negotiation of
6 such check or share draft is deferred by agree-
7 ment of the parties until a designated future
8 date; or

9 “(B) the authorization of the consumer to
10 debit the transaction account or share draft ac-
11 count of the consumer, in the amount of the ad-
12 vance plus a fee, where such account will be
13 debited on or after a designated future date.”.

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