CO-SPONSORSHIP MEMORANDUM

To: Legislative Colleagues

From: Rep. Scott Allen and Rep. Amaad Rivera-Wagner

Sen. André Jacque

Date: November 25, 20235

RE: Co-sponsorship of LRB-2249 relating to payday loans and LRB-4308 relating to interest rates on consumer loans and activities of consumer lenders.

DEADLINE: Thursday, December 4, 2025 at 12pm

Preventing Harmful Lending

Imagine taking out a loan for $500 with a 6-month repayment plan. How much do you think you might pay in total? Well, with a 500% effective interest rate, your total payback would be $1400. If that same loan was for a term of 12 months, you'd pay back $2500. This scenario is reality for many Wisconsin borrowers.

There are times when regulation improves a market by increasing participation. This may well be one of those circumstances. LRB-2249 and LRB-4308 are bills that work together to create a framework for healthy lending.

Too many Wisconsinites are trapped in short-term loans with outrageously high interest rates. We often refer to these as payday loans, but most loans done by short-term lenders occur under Wisconsin statute 138.09 and are known as "installment loans." According to a report from the Department of Financial Institutions (DFI), some of these lenders charge as much as 850% interest. There is no need for such a high interest rate. There are 17 companies in Wisconsin that operate as installment lenders who provide loans at a maximum interest rate of 36%. There is a market for short-term loans that do not charge exorbitant interest rates.

Both bills would cap the annual percentage rate (APR) for payday and installment loans at 36%. This matches the Federal law that limits APR for short-term loans to veterans. If the Federal government has recognized that an APR above 36% is harmful for veterans then it makes sense to recognize it as adverse for Wisconsinites in general.

According to the National Consumer Law Center, forty-three states already have a cap on annual percentage rates for installment loans, with the majority being at 36% or lower. In the past ten years, Arizona, Colorado, Montana, Ohio, and South Dakota have all instituted a rate cap of 36%.

LRB-4308 requires lending under 138.09 to be reported in a similar manner as payday loans under 138.14. Licensed lenders will be required to report the average APR of their loans, the number of loans that were refinanced or resulted in a money judgement or vehicle repossession. This will help provide transparency in short-term lending.

LRB-2249 changes payday loans so that so that they would become short-term loans for 90 days to no more than 6 months with equal payments that must have a portion going to principal. This short length would still have payday loans playing a unique role in the market, while allowing consumers to be consistently paying down debt and thus freeing themselves from a poverty trap.

The bill would also require payday lenders to disclose the amount of interest that will be paid over the course of the loan term and the amount of each payment. This would allow consumers to know the true cost of taking out a payday loan and thus make better financial decisions.

Finally, and maybe most consequentially, the bill also requires that the payday lender disclose to the applicant the availability of a basic financial literacy course that the Department of Financial Institution would make available to the public. DFI could work with existing organizations or the technical college system to create the course. We know that financial literacy is key to getting people out of poverty.

These bills would remove the worst aspects of payday and installment loans while still leaving a viable business that can serve those who cannot take out traditional loans. Financial struggle does not belong to any political party or any one community, which is why this bipartisan fix matters

To co-sponsor either or both bills, please respond to this email or contact the office of Rep. Allen at x9182 or Sen. Jacque at x6-3512. Cosponsors will be added to both the Assembly and Senate versions of the bills unless otherwise specified.

LRB-2249 Analysis by the Legislative Reference Bureau

This bill redefines a payday loan and makes other changes related to the regulation of payday loans. The bill also limits the maximum interest rate that may be charged on a payday loan.

Under current law, a person other than a financial institution or its affiliate must be licensed by the Division of Banking (division) in the Department of Financial Institutions to originate or service a payday loan involving a Wisconsin resident. A "payday loan" is defined as a transaction between an individual with an account at a financial establishment and *another person (payday lender) in which the payday lender agrees to accept a check or electronic fund transfer (EFT) authorization from the individual, to delay negotiating the check or initiating the EFT for a period of time, and to extend a loan to the individual for a term of 90 days or less. Current law imposes various requirements and restrictions on payday loans and licensed payday lenders. For example, a payday lender may not make a payday loan that results in the customer having an outstanding liability in principal, interest, and fees on all payday loans held at the same time by the customer of more than $1,500 or 35 percent of the customer's gross monthly income, whichever is less. A payday lender must also provide to an applicant certain information before entering into a payday loan, including disclosing fees and costs and the loan's annual percentage rate and providing written materials prepared by the division.*

Current law does not impose a limit on the interest that a payday loan licensee may charge, before the maturity date, on a payday loan. If a payday loan is not paid in full by the maturity date, current law prohibits a licensee from charging interest after the maturity date in excess of 2.75 percent per month. A payday loan under which a greater rate of interest is charged after the maturity date is not enforceable.

This bill eliminates the foregoing definition of a payday loan and instead defines a payday loan as a loan to which all of the following apply: 1) the loan's maturity date is not more than six months after the loan's origination date; and 2) the loan is not secured by real property or other collateral. The bill prohibits a payday lender from making or offering to make a payday loan having a maturity date less than 90 days after the loan's origination date.

The bill also limits the interest rate that a payday lender may charge, before the maturity date, on a payday loan to an annual percentage rate of 36 percent. A payday loan on which a greater rate of interest is charged is not enforceable.

The bill imposes the following additional restrictions and requirements on payday loans:

1. A payday lender may not make or offer to make a payday loan unless the loan agreement requires the loan to be repaid in substantially equal periodic payments over substantially equal intervals.

2. All payday loans must be precomputed, which is defined as a transaction in which the debt is expressed as a single sum comprised of the amount financed and the finance charge computed in advance.

3. Before entering into a payday loan, a payday lender must undertake a reasonable underwriting process to verify the applicant's ability to repay the payday loan. The payday lender may not make a payday loan in an amount that exceeds the amount the applicant is *capable of repaying, as determined by the payday lender's underwriting process, or the maximum amount established under current law (as described above), whichever is less.*

4. Before entering into a payday loan, a payday lender must disclose to the applicant, in a clear and conspicuous manner, the payment plan and the amount of interest that will be paid over the course of the loan. The payday lender must also disclose to the applicant the availability of a financial literacy course of no more than three hours' duration that the bill requires the division to develop or make available to the public.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

LRB-4308 Analysis by the Legislative Reference Bureau

This bill limits the maximum interest rate that may be charged on a consumer loan and makes other changes related to the Department of Financial Institutions' regulation of consumer lenders.

Under current law, with certain exceptions, a person must be licensed by the Division of Banking (division) in DFI to make, take an assignment of, or collect payments on a consumer loan with a finance charge of more than 18 percent per year. A "consumer loan" is defined as a loan made by any person to a customer that is payable in installments or for which a finance charge may be imposed and includes most transactions under an open-end credit plan such as most credit card debt. This type of lender is generally referred to as a "licensed lender." Under the exceptions, financial institutions and their affiliates, payday lenders, collection agencies, payment processors, and certain others are exempt from regulation as licensed lenders. Consumer loans are also regulated under the Wisconsin Consumer Act. With certain limited exceptions, current law provides no maximum interest rate or finance charge for a consumer loan, including those made by a licensed lender.

The bill generally prohibits a licensed lender from charging an annual percentage rate (APR) greater than 36 percent on a consumer loan. However, the bill does not affect pawnbrokers' loans and does not affect the maximum interest rate under current law of 12 percent per year for consumer loans after their final scheduled maturity date. If a licensed lender violates the 36 percent APR limitation, the consumer loan is not enforceable.

Current law specifies that a person makes a consumer loan, for purposes of the requirement to be licensed by the division, if the person is named as the lender in the consumer loan agreement.

The bill specifies that a person also makes a consumer loan, regardless of whether the person purports to act as an agent, service provider, or in another capacity, if 1) the person holds, acquires, or maintains the predominant economic interest in the consumer loan; 2) the person markets, brokers, arranges, or facilitates the consumer loan and holds the right or first right of refusal to purchase the consumer loan or any interest in or receivable from the consumer loan; or 3) the totality of the circumstances indicate that the person is the lender with respect to the consumer loan and the transaction is structured to circumvent or evade the requirements applicable to licensed lenders. The bill specifies circumstances weighing in favor of a person being considered the lender on a consumer loan. The bill also specifies that a person may not engage in any device, subterfuge, or pretense to circumvent or evade requirements applicable to licensed lenders.

The bill further requires the annual report of a licensed lender to include specified additional information, including the number of consumer loans with an APR exceeding 18 percent that it made or serviced during the preceding year; the average APR of these loans; and the number of these loans that, during the preceding year, were refinanced, were accelerated due to default, or resulted in a money judgment or vehicle repossession. The division must submit an annual report to the legislature summarizing the aggregated data reported by licensed lenders.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.