CO-SPONSORSHIP MEMORANDUM

TO: **All Legislators**

FROM: **Sen. André Jacque**
Sen. Lena Taylor
Sen. Steve Nass

DATE: **January 2, 2019**

RE: Co-Sponsorship of LRB 1179, relating to: Limiting interest rates on payday loans and loans by licensed lenders

DEADLINE: January 13, 2020 at 5:00 p.m.

Payday loans in Wisconsin come with an average annual interest rate of 486%. These loans trap thousands of Wisconsin residents each year in an endless cycle of debt through their predatory lending practices.

This bill limits the maximum interest rate that may be charged on a payday loan or a consumer loan by a licensed lender.

This bill expands the class of creditors that are considered "licensed lenders" and are subject to the licensing requirements. Under the bill, a lender other than a financial institution that makes consumer loans exceeding $5,000 in principal amount must also obtain a license from the Division of Banking and is a licensed lender.

The bill also prohibits a licensed lender from charging an annual percentage rate of interest greater than 36 percent. In 2006, Congress passed the bipartisan Military Lending Act which required the Department of Defense to institute a 36 percent rate cap when active duty service members and their families take out predatory loans. This wildly successful rule has protected service members and their families from falling into a cycle of debt that would harm themselves, their families and/or make them unable to perform their duties in the military. Unfortunately, this 36 percent rate cap does not apply to veterans, Gold Star Families or anyone else.

This Protection from Predatory Lending Proposal will extend this 36 percent rate cap on predatory payday loans, auto-title loans and similar forms of toxic credit not only to our nation's veterans and Gold Star families, but to all Wisconsinites.

If a licensed lender violates the 36 percent interest limitation, the loan is not enforceable.

To be added as a co-sponsor of this legislation, please reply to this email or contact Sen. Jacque's office at 6-3512 by 5:00 p.m. on January 13, 2020.

Analysis by the Legislative Reference Bureau

This bill limits the maximum interest rate that may be charged on a payday loan or a consumer loan by a licensed lender and modifies the criteria under which a person that makes consumer loans must be licensed by the Department of Financial Institutions.

Under current law, a person must be licensed by the Division of Banking (division) in DFI to originate or service a payday loan involving a Wisconsin resident. 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 limits the interest rate that a payday loan licensee 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.

Under current law, a lender other than a bank, savings bank, savings and loan association, credit union, or any of their affiliates (financial institution) generally must obtain a license from the division to assess a finance charge for a consumer loan that is greater than 18 percent. This type of lender is generally referred to as a “licensed lender." A “consumer loan" is a loan made to an individual for personal, family, or household purposes 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. A “finance charge" is the sum of all charges payable by the customer as an incident to or condition of the extension of credit, including interest and other costs and fees to the extent not specifically designated by statute as permissible charges of the creditor. Consumer loans are largely 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.

This bill expands the class of creditors that are considered “licensed lenders" and are subject to the licensing requirements as such. Under the bill, a lender other than a financial institution that makes consumer loans exceeding $5,000 in principal amount must also obtain a license from the division and is a licensed lender.

The bill also prohibits a licensed lender from charging an annual percentage rate of interest greater than 36 percent. However, this maximum interest rate does not apply to an open-end credit plan, including most credit card debt, or to a consumer loan secured by a first lien security interest in a mobile home or manufactured home. The bill also 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 interest limitation, the loan is not enforceable.