

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1878

To prohibit predatory payday loans, and for other purposes.

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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

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## 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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