

South Australia

Consumer Credit (South Australia) (Pay Day Lending) Amendment Bill 2009

A BILL FOR

An Act to amend the *Consumer Credit (South Australia) Act 1995*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Consumer Credit (South Australia) (Pay Day Lending) Amendment Act 2009*.

5 2—Commencement

- (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.
- (2) If a provision of this Act has not been brought into operation sooner, it will, by force of this subsection, come into operation 3 months after assent.

10 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Consumer Credit (South Australia) Act 1995*

15 4—Amendment of section 3—Definitions

Section 3—after its present contents (now to be designated as subsection (1)) insert:

- (2) Words and expressions used in this Act and also in the *Consumer Credit (South Australia) Code* have the same meanings in this Act as they have in the Code.

5—Substitution of section 12

Section 12—delete the section and substitute:

12—Maximum annual percentage rate

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- (1) The maximum annual percentage rate for any credit contract is 48%.
- (2) For the purposes of calculating a maximum annual percentage rate under subsection (1), interest charges and credit fees and charges must be included.
- (3) However, the regulations may exclude prescribed classes of credit fees or charges from the operation of subsection (2).
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- (4) Division 2 of Part 2 of the Code (which limits the debtor's monetary obligations) applies in relation to the rate specified by subsection (1) as if that rate had been prescribed by the Code.
- (3) Nothing in this section affects the powers of the Court under Division 3 of Part 4 of the Code in relation to a contract, or a provision of a contract, that is not, by reason of this section, void.
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Schedule 1—Transitional provisions

1—Transitional provisions

- (1) In this clause—
- principal Act* means the *Consumer Credit (South Australia) Act 1995*.
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- (2) Subject to subclause 3, section 12 of the principal Act, as enacted by this Act, applies to any credit contract entered into after the commencement of this Act.
- (3) Section 12 of the principal Act, as enacted by this Act, extends to a credit contract entered into before the commencement of this Act if, after that commencement—
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- (a) the interest charges or credit fees or charges under the credit contract are increased, or a new fee or charge is imposed, whether or not the increase is made, or a new fee or charge is imposed, under the contract; or
- (b) the period of the credit contract is extended, whether or not under the contract, other than under section 66 of the Code.
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- (4) Except as provided by subclause 3, section 12 of the principal Act, as in existence immediately before the commencement of this Act, and any regulations in force under that section immediately before that commencement, will continue to apply to a credit contract entered into before the commencement of this Act as if this Act had not been enacted.