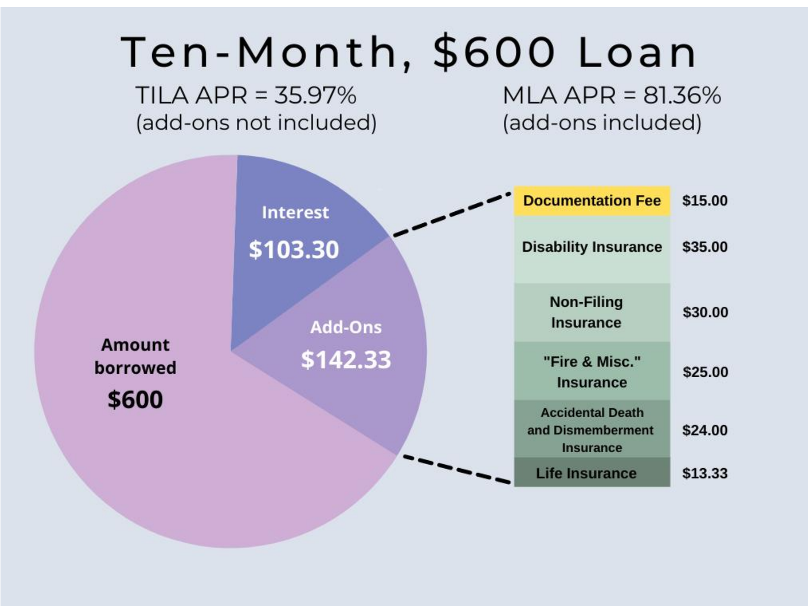
Oppose SB 2306 / HB 3192 – Rate Cap Loophole

SB 2306 and HB 3192 would throw a loophole into the Predatory Loan Prevention Act (PLPA). The PLPA, part of the Black Caucus Agenda, would establish a 36% annual percentage rate (APR) cap on consumer loans in Illinois.

There are two primary ways to calculate an APR. The first is based on a disclosure law from the 1960s called the Truth in Lending Act (TILA). TILA includes some fees like interest in the APR but excludes other charges like fees for credit insurance. **Excluding these other charges, commonly called "add-on" products and fees, is called the "TILA Loophole" because the TILA APR does not reflect the *actual* cost of the loan to the consumer.**

The second way to calculate an APR was adopted in 2006 in the Military Lending Act (MLA). **The MLA closed the TILA Loophole and established an "all-in" 36% APR cap on loans made to active-duty military and their dependents**. "All-in" means the cap encompasses all fees, including add-on fees and products**.** This is also referred to as the "MLA APR."



SB 2306 and HB 3192 would insert the TILA Loophole into the PLPA. The TILA Loophole would allow lenders to charge an unlimited amount of hidden fees in the form of add-on fees and products like credit insurance. Under a TILA APR, there is no limit to what a lender can charge for add-on products and fees, allowing predatory lenders to continue charging excessive fees including unwanted and unnecessary add-on products and costs.

This sample loan—based on a real loan—illustrates the TILA Loophole. The TILA APR, which includes only the interest, would be 35.97%. The MLA APR captures the actual cost to the consumer and would be 81.36%. While this loan would violate the PLPA, it would be permitted by the TILA Loophole!

COL Paul Kantwill, USA (Ret.), one of the architects of the MLA states:
"Backsliding from the MLA's 'all-in' interest rate calculation would throw open the door to predatory lenders to continue charging excessive fees and including unwanted and unnecessary add-on products and costs."

The sale of "add-on" products saps millions of dollars from Illinois consumers. The consumer's monthly bill reflects a single amount due, which includes loan principal, interest, and add-on fees. Add-ons are often sold at inflated prices. For example, in a 2017 study, "Guaranteed Asset Protection" (GAP) Insurance sold by an auto dealer cost an average of $655 while a GAP Insurance policy offered by credit union cost $275.

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