

**93RD GENERAL ASSEMBLY****State of Illinois****2003 and 2004**

Introduced 2/4/2004, by Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 1205/6

from Ch. 17, par. 106

205 ILCS 670/21

from Ch. 17, par. 5427

815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Creates the Illinois Short-Term Loan and Title Loan Regulation Act. Provides that the Department of Financial Institutions shall license and regulate entities that offer short-term loans (loans under which a lender accepts either: a post-dated check; authorization to debit a borrower's bank account; or future wages by the wage assignment) or title loans (loans wherein, at commencement, a borrower provides to the lender, as security for the loan, physical possession of the obligor's title to a motor vehicle, a boat, or any other personal property). Establishes requirements and restrictions applicable to license applications and licensing. Sets forth limitations, requirements, and disclosures applicable to loan agreements, terms of loans, finance charges, and renewal of loans. Provides for: revocation, suspension, and surrender of licenses; information to be available to the public; complaint handling; hearings; books and records; reports; advertising; prohibited acts; requirements and restrictions applicable to vehicle and boat titles; liens; penalties; enforcement; bonding; administrative rules; and other matters. Amends the Financial Institutions Code to provide that the Department of Financial Institutions shall administer the Illinois Short-Term and Title Loan Regulation Act. Amends the Consumer Installment Loan Act to provide that the Act does not apply to short-term and title loans. Provides that a violation of the Illinois Short-Term and Title Loan Regulation Act constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act. Effective January 1, 2005.

LRB093 20809 SAS 46732 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning loans.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Illinois Short-Term Loan and Title Loan Regulation Act.

6 Section 5. Purpose and construction. The purpose of this
7 Act is to protect borrowers who enter into any short-term,
8 high-rate loan or title loan from abuses that occur in the
9 credit marketplace when lenders of these loans are unregulated.
10 This Act shall be liberally construed to effectuate its
11 purpose. This Act shall be construed as a borrower protection
12 statute for all purposes.

13 Section 10. Definitions. As used in this Act:

14 "Account" means a depositor relationship between a
15 borrower and a financial institution that is funded by cash or
16 cash equivalents.

17 "Borrower" and "obligor" mean any natural person who,
18 singly or jointly with another borrower, enters into a
19 short-term loan or title loan.

20 "Check" means a negotiable instrument as defined in Article
21 3 of the Uniform Commercial Code that is drawn on a financial
22 institution and is to be payable on demand at maturity of the
23 short-term or title loan.

24 "Department" means the Department of Financial
25 Institutions.

26 "Director" means the Director of Financial Institutions.

27 "Gross monthly income" means a borrower's gross monthly
28 income as demonstrated by all of the borrower's pay stubs for
29 the period 30 days prior to the short-term loan application.

30 "Lender" and "licensee" mean any person or entity that
31 offers or makes a short-term loan or title loan, arranges a

1 short-term loan or title loan for a third party, or acts as an
2 agent for a third party, regardless of whether the third party
3 is exempt from licensing under this Act or whether approval,
4 acceptance, or ratification by the third party is necessary to
5 create a legal obligation for the third party; and any person
6 or entity where the Department determines that a transaction is
7 in substance a disguised loan or the application of subterfuge
8 for the purpose of avoiding this Act.

9 "Local government authorization form" means a form
10 prescribed by the Director and signed by the clerk or chief
11 executive officer of the county or municipality in which the
12 licensee is to be located certifying that the licensed location
13 complies with the zoning and all other applicable county or
14 municipal ordinances and regulations.

15 "Principal balance" means the balance due and owed on a
16 short-term loan exclusive of any interest, service charges, or
17 other loan-related charges.

18 "Short-term loan" means a loan transacted via any medium
19 whatsoever, including but not limited to, mail, telephone,
20 internet, or at a location licensed under this Act, in which
21 the lender does any of the following:

22 (1) accepts a check from the borrower and agrees to
23 hold it for one or more days prior to deposit or
24 presentment, or

25 (2) accepts a post-dated check from the borrower, or

26 (3) accepts authorization to debit a borrower's
27 account, or

28 (4) accepts future wages by wage assignment or by any
29 other method which would result in the deduction of the
30 borrower's wages.

31 "Short-term loan" includes, but is not limited to, the
32 refinancing, rollover, extension, or renewal of a short-term
33 loan.

34 "Title loan" means a loan wherein, at commencement, a
35 borrower provides to the lender, as security for the loan,
36 physical possession of the obligor's title to a motor vehicle,

1 a boat, or any other personal property.

2 "Total payable amount of the loan" means the total amount
3 owed by the borrower, including all associated fees, interest,
4 service charges, and all other loan-related charges, such that
5 payment in full of the total payment amount of the loan would
6 cause the debt occasioned by the short-term loan to be
7 satisfied entirely and forever.

8 Section 15. Applicability.

9 (a) Except as otherwise provided in this Section, this Act
10 applies to any lender that offers or makes a short-term or
11 title loan.

12 (b) The provisions of this Act apply to any person or
13 entity that seeks to evade its applicability by any device,
14 subterfuge, or pretense whatsoever.

15 (c) Retail sellers who cash checks incidental to or
16 independent of a sale and who charge no more than \$2 per check
17 for the service are exempt from the provisions of this Act.

18 Section 25. Loan terms.

19 (a) A short-term loan or title loan must have a minimum
20 term of no less than 10 days and a maximum of no more than 1
21 year.

22 (b) No short-term or title loan may be executed if the
23 total payable amount of the loan exceeds 15% of the borrower's
24 monthly gross income. A copy of all pay stubs used to calculate
25 the borrower's monthly gross income must be attached to the
26 loan application.

27 (c) A borrower shall be permitted to make partial payments
28 (in amounts equal to no less than \$5 increments) on the
29 short-term or title loan at any time, without charge.

30 (d) A borrower may rescind a short-term loan or title loan
31 agreement without cost no later than the end of the business
32 day immediately following the day on which the loan was made.
33 To rescind the short-term or title loan, the borrower must
34 inform the lender that the borrower wants to rescind the loan

1 and return cash in an amount equal to the amount loaned under
2 the written agreement.

3 (e) After each payment made in full or in part, on any
4 loan, the licensee shall give to the borrower making the
5 payment a signed, dated receipt showing the amount paid and the
6 balance due on the loan.

7 (f) The check written by the borrower in a short-term loan
8 must be made payable to the licensee.

9 (g) Upon receipt of the check from the borrower for a
10 short-term loan, the licensee must immediately stamp the back
11 of the check with an endorsement that states: "This check is
12 being negotiated as part of a short-term loan under the
13 Illinois Short-Term Loan and Title Loan Regulation Act, and any
14 holder of this check takes it subject to all claims and
15 defenses of the maker.".

16 (h) The licensee must provide the borrower, or each
17 borrower if there is more than one, with a copy of the loan
18 documents described in Section 45 before the commencement of
19 the short-term or title loan.

20 (i) The holder or assignee of any check written by a
21 borrower in connection with a short-term loan takes the
22 instrument subject to all claims and defenses of the borrower.

23 Section 30. Permissible charges and fees.

24 (a) The licensee shall be permitted to charge interest on
25 the amount of cash delivered to the borrower in a short-term
26 loan in an amount not greater than 36% per annum (defined as a
27 365-day year). The rate charged on the outstanding balance
28 after maturity shall not be greater than the rate charged
29 during the loan term. Charges on short-term or title loans
30 shall be computed and paid only as a percentage of the unpaid
31 principal balance.

32 (b) No other fees may be charged for any other purpose.

33 Section 32. Cooling-off periods; renewals.

34 (a) A short-term or title loan may be refinanced, renewed,

1 or extended a maximum number of 2 times, but only when the
2 principal balance has been reduced by at least 20% at the time
3 of each refinancing, renewal, or extension.

4 (b) Upon termination of a short-term or title loan, no
5 loan, other than the refinancing, renewal, or extension of an
6 existing short-term or title loan may be made to a borrower who
7 has had an outstanding short-term or title loan within the
8 preceding 30 days.

9 (c) The licensee shall verify the existence of a prior loan
10 as specified in subsection (b) of this Section by using a
11 database created by or approved by the Director for that
12 purpose.

13 (d) A lender may renew the short-term or title loan only if
14 the lender has received a statement (not a pre-printed form)
15 from the borrower, initialed at each provision, signed, and
16 dated by the borrower, stating:

17 (1) that the borrower is unable to repay the current
18 loan;

19 (2) a specific reason that arose after the date of the
20 origination or renewal of the current loan that makes the
21 borrower unable to repay the loan; and

22 (3) that the borrower will be able to repay the loan at
23 the new maturity date.

24 Section 35. Licensing.

25 (a) A license to make a short-term or title loan shall
26 state the address, including city and state, at which the
27 business is to be conducted and shall state fully the name of
28 the licensee. The license shall be conspicuously posted in the
29 place of business of the licensee and shall not be transferable
30 or assignable.

31 (b) An application for a license shall be in writing and in
32 a form prescribed by the Director. No person or entity shall
33 engage in or offer to engage in the business regulated by this
34 Act unless and until a license has been issued by the Director.
35 The Director may not issue or renew any such license unless and

1 until the following findings are made:

2 (1) that authorizing the applicant to engage in the
3 business will promote the convenience and advantage of the
4 community in which the applicant proposes to engage in
5 business;

6 (2) that the financial responsibility, experience,
7 character, and general fitness of the applicant are such as
8 to command the confidence of the public and to warrant the
9 belief that the business will be operated lawfully and
10 fairly, and within the provisions and purposes of this Act;

11 (3) that the location has conformed to local zoning
12 laws with respect to location, structural, aesthetic, or
13 other requirements;

14 (4) that the applicant has submitted a completed local
15 government authorization form; and

16 (5) that the applicant has submitted such other
17 information as the Director may deem necessary.

18 (c) A license shall be issued for no longer than one year,
19 and no renewal of a license may be provided if a licensee has
20 violated this Act.

21 (d) A licensee shall appoint, in writing, the Director as
22 attorney-in-fact upon whom all lawful process against the
23 licensee may be served with the same legal force and validity
24 as if served on the licensee. A copy of the written
25 appointment, duly certified, shall be filed in the office of
26 the Director, and a copy thereof certified by the Director
27 shall be sufficient evidence. This appointment shall remain in
28 effect while any liability remains outstanding in this State
29 against the licensee. When summons is served upon the Director
30 as attorney-in-fact for a licensee, the Director shall
31 immediately notify the licensee by registered mail, enclosing
32 the summons and specifying the hour and day of service.

33 (e) A public hearing shall be held for each original
34 application and for renewals if one is requested in writing by
35 the Director.

36 (f) A licensee must pay an annual fee of \$300. In addition

1 to the license fee, the reasonable expense of any examination
2 or hearing by the Director under any provisions of this Act
3 shall be borne by the licensee. If a licensee fails to renew
4 his or her license by December 31, it shall automatically
5 expire; however, the Director, in his or her discretion, may
6 reinstate an expired license upon:

7 (1) payment of the annual renewal fee within 30 days of
8 the date of expiration; and

9 (2) proof of good cause for failure to renew.

10 (g) Not more than one place of business shall be maintained
11 under the same license, but the Director may issue more than
12 one license to the same licensee upon compliance with all the
13 provisions of this Act governing issuance of a single license.
14 The location, except those locations already in existence as of
15 January 1, 2004, may not be within one mile of a facility
16 operated by an inter-track wagering location licensee or an
17 organization licensee subject to the Illinois Horse Racing Act
18 of 1975, within one mile of a facility at which gambling is
19 conducted under the Riverboat Gambling Act, within one mile of
20 the location at which a riverboat subject to the Riverboat
21 Gambling Act docks, or within one mile of any State of Illinois
22 or United States military base or installation.

23 (h) No licensee shall conduct the business of making loans
24 under this Act within any office, suite, room, or place of
25 business in which any other business is solicited or engaged in
26 unless, in the opinion of the Director, the other business
27 would not be contrary to the best interests of borrowers and is
28 authorized by the Director in writing.

29 (i) If the Director finds, after due notice and hearing, or
30 opportunity for hearing, that a licensee, or an officer, agent,
31 employee, or representative of a licensee, has violated any of
32 the provisions of this Act, has failed to comply with the
33 rules, instructions, or orders promulgated by the Director, has
34 failed or refused to make its reports to the Director, or has
35 furnished false information to the Director, the Director may
36 issue an order revoking or suspending the right of the licensee

1 and the officer, agent, employee, or representative to do
2 business in this State as a licensee. No revocation,
3 suspension, or surrender of any license shall relieve the
4 licensee from civil or criminal liability for acts committed
5 before the revocation, suspension, or surrender.

6 (j) The Director shall maintain a list of licensees that
7 shall be available to interested borrowers and lenders and the
8 public. The Director shall establish a toll-free number whereby
9 borrowers may obtain information about licensees. The Director
10 shall also establish a complaint process under which an
11 aggrieved borrower or any member of the public may file a
12 complaint against a licensee or non-licensee who violates any
13 provision of this Act. The Director may hold hearings upon the
14 request of a party to the complaint, make findings of fact,
15 conclusions of law, issue cease and desist orders, refer the
16 matter to the appropriate law enforcement agency for
17 prosecution under this Act, and suspend or revoke a license
18 granted under this Act. All proceedings shall be open to the
19 public.

20 Section 40. Information and reporting.

21 (a) A licensee shall keep and use books, accounts, and
22 records that will enable the Director to determine if the
23 licensee is complying with the provisions of this Act and
24 maintain any other records as required by the Director.

25 (b) A licensee shall collect information annually for a
26 report that shall disclose in detail and under appropriate
27 headings:

28 (1) the total number of short-term or title loans, or
29 both, made during the preceding calendar year;

30 (2) The total number of renewals of short-term or title
31 loans, or both, made during the preceding calendar year;

32 (3) the total number of such loans outstanding as of
33 December 31 of the preceding calendar year;

34 (4) the minimum, maximum, and average dollar amount of
35 checks whose deposits were deferred during the preceding

1 calendar year;

2 (5) the average annual percentage rate and the average
3 number of days a deposit of a check is deferred during the
4 preceding calendar year;

5 (6) the total of returned checks, the total of checks
6 recovered, and the total of checks charged off during the
7 preceding calendar year;

8 (7) the total number of loans made that were secured by
9 the title to a motor vehicle or a boat during the preceding
10 calendar year;

11 (8) the total number of vehicle or boat repossessions
12 as a result of default on a loan secured by a title to a
13 motor vehicle or a boat during the preceding calendar year.

14 The report shall be verified by the oath or affirmation of
15 the owner, manager, or president of the licensee. The report
16 must be filed with the Director no later than January 31 of the
17 year following the year for which the report discloses the
18 information specified in this subsection (b). The Director may
19 impose upon the licensee a fine of \$25 per day for each day
20 beyond the filing deadline that the report is not filed.

21 (c) A licensee shall file a copy of the contract and the
22 fee schedule described in Section 45 with the Director before
23 the date of commencement of business at each location, at the
24 time any changes are made to the documents or schedule, and
25 annually thereafter upon renewal of the license. These
26 documents shall be available to interested parties and to the
27 general public.

28 (d) The Department shall compile data in the form of an
29 annual report of the short-term and title lending industry and
30 shall make the report available to the Governor, the General
31 Assembly, and the general public.

32 Section 45. Required disclosures.

33 (a) Before entering into a short-term loan or title loan, a
34 licensee shall deliver to the borrower a pamphlet prepared by
35 the Director that:

1 (1) explains, in simple English and Spanish, all of the
2 borrower's rights and responsibilities in a short-term or
3 title loan transaction;

4 (2) includes a toll-free number to the Director's
5 office to handle concerns or provide information about
6 whether a lender is licensed, whether complaints have been
7 filed with the Director, and the resolution of those
8 complaints; and

9 (3) provides information regarding the availability of
10 debt management services at the time of default.

11 (b) Licensees shall provide borrowers with a written
12 agreement on a form specified or approved by the Director that
13 may be kept by the borrower. The written agreement must include
14 the following information in English and in the language in
15 which the loan was negotiated:

16 (1) the name and address of the licensee making the
17 short-term loan or title loan, and the name and title of
18 the individual employee who signs the agreement on behalf
19 of the licensee;

20 (2) an itemization of the fees and interest charges to
21 be paid by the borrower;

22 (3) disclosures required by the federal Truth in
23 Lending Act and the information required by the Federal
24 Consumer Credit Protection Act;

25 (4) disclosures required under any other State law;

26 (5) a clear description of the borrower's payment
27 obligations under the loan;

28 (6) a notice that the licensee may take possession of a
29 vehicle or a boat used to secure a loan if the borrower
30 fails to repay the loan and that the borrower shall be
31 entitled to any proceeds from the sale of the vehicle or
32 the boat in excess of the amount owed on the loan;

33 (7) the following statement, in at least 14-point bold
34 type face: "You cannot be prosecuted in criminal court to
35 collect this loan.". The information required to be
36 disclosed under this subdivision (7) must be conspicuously

1 disclosed in the loan document and shall be located
2 immediately preceding the signature of the borrower; and

3 (8) the following statement, in at least 14-point bold
4 type face:

5 "WARNING: A loan is not intended to meet long-term
6 financial needs. A loan should be used only to meet
7 short-term cash needs. Renewing the loan rather than paying
8 the debt in full will require additional finance charges.
9 The cost of your loan may be higher than loans offered by
10 other lending institutions. Loans are regulated by the
11 Illinois Department of Financial Institutions."

12 (c) The following notices in English and Spanish, as well
13 as other languages in which a significant amount of short-term
14 loan or title loan business is conducted, must be conspicuously
15 posted by a licensee in each location of a business providing
16 short-term loans or title loans:

17 (1) A notice that informs borrowers that the licensee
18 cannot use the criminal process against a borrower to
19 collect any short-term loan or title loan.

20 (2) The schedule of all interest and fees to be charged
21 on loans with an example of the amounts that would be
22 charged on a \$100 loan payable in 14 days and a \$400 loan
23 payable in 30 days, giving the corresponding annual
24 percentage rate.

25 (3) In one-inch bold type, a notice to the public both
26 in the lending area of each business location containing
27 the following statement:

28 "WARNING: A loan is not intended to meet long-term
29 financial needs. A loan should be used only to meet
30 short-term cash needs. Renewing the loan rather than paying
31 the debt in full will require additional finance charges.
32 The cost of your loan may be higher than loans offered by
33 other lending institutions. Loans are regulated by the
34 Illinois Department of Financial Institutions."

35 Section 50. Advertising.

1 (a) Advertising for loans transacted under this Act may not
2 be false, misleading, or deceptive. That advertising, if it
3 states a rate or amount of charge for a loan, must state the
4 rate as an annual percentage rate. No licensee may advertise in
5 any manner so as to indicate or imply that its interest rates
6 or charges for loans are in any way recommended, approved, set
7 or established by the State government or by this Act.

8 (b) If any advertisement to which this Section applies
9 states the amount of any installment payment, the dollar amount
10 of any finance charge, or the number of installments or the
11 period of repayment, then the advertisement shall state all of
12 the following items:

13 (1) The amount of the loan.

14 (2) The number, amount, and due dates or period of
15 payments scheduled to repay the indebtedness if the credit
16 is extended.

17 (3) The rate of the finance charge expressed as an
18 annual percentage rate.

19 Section 55. Permitted charges.

20 (a) No licensee shall charge or receive, directly or
21 indirectly, any interest, fees, or charges except where
22 specifically authorized by this Section and Section 30. Any
23 agreement, provision, or act by a licensee providing for
24 unauthorized fees in violation of this Section is
25 unenforceable.

26 (b) If there are insufficient funds to pay a check on the
27 date of presentment, a licensee may charge a fee, not to exceed
28 the fee imposed upon the licensee by the financial institution.
29 Only one such fee may be collected with respect to a particular
30 check even if it has been redeposited and returned more than
31 once. A licensee may only present the check for payment twice.
32 A fee charged under this subsection (b) is a licensee's
33 exclusive charge for late payment.

34 (c) When a loan is repaid before its due date, unearned
35 interest charges must be rebated to the borrower based on a

1 method at least as favorable to the borrower as the actuarial
2 method.

3 Section 60. Prohibited acts. A licensee or unlicensed
4 person or entity making short-term loans or title loans may not
5 commit, or have committed on behalf of the licensee or
6 unlicensed person or entity, any of the following acts:

7 (1) Threatening to use or using the criminal process in
8 this or any other state to collect on the loan.

9 (2) Using any device or agreement that would have the
10 effect of charging or collecting more fees, charges, or
11 interest than allowed by this Act including, but not
12 limited to, entering into a different type of transaction
13 with the borrower.

14 (3) Engaging in unfair, deceptive, or fraudulent
15 practices in the making or collecting of a short-term or
16 title loan.

17 (4) Charging to cash a check representing the proceeds
18 of the short-term or title loan.

19 (5) Using or attempting to use the check provided by
20 the borrower in a short-term loan as collateral for a
21 transaction not related to a short-term loan.

22 (6) Knowingly accepting payment in whole or in part of
23 the short-term loan through the proceeds of another
24 short-term loan provided by any licensee.

25 (7) Knowingly accepting any security, other than that
26 specified in the definition of short-term loan in Section
27 10, for a short-term loan.

28 (8) Charging any interest, fees, or charges other than
29 those specifically authorized by this Act.

30 (9) Threatening to take any action against a borrower
31 that is prohibited by this Act, or making any misleading or
32 deceptive statements regarding the short-term or title
33 loan or any consequences thereof.

34 (10) Making a misrepresentation of a material fact by
35 an applicant in obtaining or attempting to obtain a

1 license.

2 (11) Including any of the following provisions in loan
3 documents required by subsection (b) of Section 45:

4 (A) a confession of judgment clause;

5 (B) a waiver of the right to a jury trial, if
6 applicable, in any action brought by or against a
7 borrower;

8 (C) a mandatory arbitration clause that is
9 oppressive, unfair, unconscionable, or substantially
10 in derogation of the rights of borrowers;

11 (D) any assignment of or order for payment of wages
12 or other compensation for services;

13 (E) a provision in which the borrower agrees not to
14 assert any claim or defense arising out of the
15 contract.

16 (12) Selling any insurance of any kind whether or not
17 sold in connection with the making or collecting of a
18 short-term or title loan.

19 (13) Taking any power of attorney.

20 (14) Taking any security interest in real estate.

21 (15) Collecting a delinquency or collection charge on
22 any installment regardless of the period in which it
23 remains in default.

24 (16) Collecting treble damages on an amount owing from
25 a short-term or title loan.

26 Section 63. Vehicle and boat titles.

27 (a) A licensee making title loans may not take possession
28 of a vehicle or a boat without first giving written notice by
29 regular and certified mail to the borrower, affording the
30 borrower the opportunity to make the vehicle or boat available
31 to the lender at a place, date, and time reasonably convenient
32 to the lender and borrower, and permitting the borrower to
33 remove from the vehicle or boat any personal belongings without
34 charge or additional cost to the borrower.

35 (b) If a licensee repossesses a motor vehicle that was used

1 as security and which is used primarily for the obligor's
2 personal, family, or household purposes, the licensee shall be
3 subject to the requirements of and shall transfer the
4 certificate of title in accordance with Section 3-114 of the
5 Illinois Vehicle Code.

6 (c) If a licensee repossesses a boat that was used as
7 security and which is used primarily for the borrower's
8 personal, family, or household, the licensee shall be subject
9 to the requirements of and shall transfer the certificate of
10 title in accordance with Section 3A-15 of the Boat Registration
11 and Safety Act.

12 (d) A licensee making title loans may not dispose of the
13 vehicle or the boat without first giving at least 10 days
14 written notice to the borrower before the sale and the
15 opportunity to cure. The notice shall state the date, time, and
16 place of the sale and provide the borrower with a written
17 accounting of the amount owed on the loan. A loan contract
18 shall advise the borrower that matters involving improprieties
19 in the making of the loan or in loan collecting practices may
20 be referred to the Department and shall prominently disclose
21 the Department's address and telephone number.

22 (e) A licensee making title loans may not take possession
23 of a vehicle or a boat for a loan default and lease the vehicle
24 or the boat back to the borrower.

25 (f) A licensee making title loans may not use any appraisal
26 to secure a loan other than one in a nationally recognized
27 guide such as the Kelley Blue Book Used Car Guide.

28 Section 64. Recording or releasing a lien.

29 (a) Upon making a loan secured by a title to a motor
30 vehicle, the licensee must immediately take into possession
31 evidence of the borrower's ownership in the motor vehicle that
32 has been registered with the Office of the Illinois Secretary
33 of State and shall note on the face of the loan contract the
34 vehicle's make, model, year of manufacture, and vehicle
35 identification number.

1 (b) Upon making a loan secured by a title to a boat, the
2 licensee must immediately take into possession evidence of the
3 borrower's ownership in the boat that has been registered with
4 the Illinois Department of Natural Resources and shall note on
5 the face of the loan contract the boat's make, model, year of
6 manufacture, and identification number.

7 (c) Within 24 hours after payment in full, the licensee
8 must release any filed liens, provide evidence of the release
9 to the borrower, and return the title to the borrower or cause
10 the title to be returned to the borrower.

11 (d) A licensee may not charge, directly or indirectly, fees
12 associated with the repossession of a motor vehicle or a boat.

13 Section 65. Enforcement and remedies.

14 (a) The remedies provided in this Act are cumulative and
15 apply to persons or entities subject to this Act.

16 (b) Any violation of this Act constitutes a violation of
17 the Consumer Fraud and Deceptive Business Practices Act.

18 (c) If any provision of the written agreement described in
19 subsection (a) of Section 45 violates this Act, then that
20 provision is unenforceable against the borrower.

21 (d) Any loan executed in violation of this Act shall render
22 the loan null and void as a matter of law.

23 Section 66. Voluntary Payment. A borrower may pay a debt
24 owed a lender and the lender shall accept as satisfaction of
25 the debt an amount equal to the sum of the amount owed,
26 incurred court costs, and attorney's fees.

27 Section 70. Closing of business; surrender of license. At
28 least 10 days before a licensee ceases operations, closes the
29 business, or files for bankruptcy, the licensee shall:

30 (1) Notify the Department of its action in writing.

31 (2) With the exception of filing for bankruptcy,
32 surrender its license to the Director for cancellation. The
33 surrender of the license shall not affect the licensee's

1 civil or criminal liability for acts committed before the
2 surrender or entitle the licensee to a return of any part
3 of the annual license fee.

4 (3) Notify the Department of the location where the
5 books, accounts, contracts, and records will be maintained
6 and the procedure to ensure prompt return of contracts,
7 titles, and releases to the obligors.

8 The accounts, books, records, and contracts shall be
9 maintained and serviced by the licensee, another licensee under
10 this Act, or an entity exempt from licensing under this Act.

11 The Department shall have the authority to conduct
12 examinations of the books, records, and loan documents at any
13 time after surrender of the license, filing of bankruptcy, or
14 the cessation of operations.

15 Section 75. Bonding.

16 (a) A person or entity engaged in making short-term or
17 title loans under this Act shall post a bond to the Department
18 in the amount of \$50,000 for each location where loans will be
19 made, up to a maximum bond amount of \$500,000.

20 (b) A bond posted under subsection (a) must continue in
21 effect for 3 years after the lender ceases operation in
22 Illinois. The bond must be available to pay damages and
23 penalties to a borrower harmed by a violation of this Act.

24 Section 85. Those who may not make a short-term or title
25 loan. No Illinois State bank, mortgage banking company, or
26 savings and loan association covered by any financial
27 regulation laws of Illinois may make a short-term loan or title
28 loan, as those terms are defined in this Act, in Illinois.

29 Section 90. Lenders associated with national banks. If a
30 lender who makes short-term or title loans as defined in and
31 allowed by this Act and who is otherwise required to be
32 licensed by this Act associates with a national bank, the
33 lender must be licensed with the Department as specified in

1 this Act to make a short-term or title loan through its
2 association with the national bank just as it would be if it
3 were making the short-term or title loan without that
4 association.

5 Section 95. Preemption of administrative rules. Any
6 administrative rule or regulation promulgated prior to the
7 effective date of this Act by the Department regarding
8 short-term loans or title loans is preempted.

9 Section 97. Reporting of violations. The Department shall
10 report to the Attorney General all violations of this Act of
11 which it becomes aware.

12 Section 100. Rulemaking. The Department may adopt
13 reasonable rules to implement and administer this Act.

14 Section 105. Judicial review. All final administrative
15 decisions of the Department under this Act are subject to
16 judicial review pursuant to the provisions of the
17 Administrative Review Law and any rules adopted pursuant
18 thereto.

19 Section 110. No waivers. There shall be no waiver of any
20 provision of this Act.

21 Section 115. Superiority of Act. To the extent this Act
22 conflicts with any other Illinois State financial regulation
23 laws, this Act is superior and supersedes those laws for the
24 purposes of regulating short-term and title loans in Illinois.

25 Section 120. Severability. The provisions of this Act are
26 severable under Section 1.31 of the Statute on Statutes.

27 Section 900. The Financial Institutions Code is amended by
28 changing Section 6 as follows:

1 (20 ILCS 1205/6) (from Ch. 17, par. 106)

2 Sec. 6. In addition to the duties imposed elsewhere in this
3 Act, the Department has the following powers:

4 (1) To exercise the rights, powers and duties vested by law
5 in the Auditor of Public Accounts under "An Act to provide for
6 the incorporation, management and regulation of pawners'
7 societies and limiting the rate of compensation to be paid for
8 advances, storage and insurance on pawns and pledges and to
9 allow the loaning of money upon personal property", approved
10 March 29, 1899, as amended.

11 (2) To exercise the rights, powers and duties vested by law
12 in the Auditor of Public Accounts under "An Act in relation to
13 the definition, licensing and regulation of community currency
14 exchanges and ambulatory currency exchanges, and the operators
15 and employees thereof, and to make an appropriation therefor,
16 and to provide penalties and remedies for the violation
17 thereof", approved June 30, 1943, as amended.

18 (3) To exercise the rights, powers, and duties vested by
19 law in the Auditor of Public Accounts under "An Act in relation
20 to the buying and selling of foreign exchange and the
21 transmission or transfer of money to foreign countries",
22 approved June 28, 1923, as amended.

23 (4) To exercise the rights, powers, and duties vested by
24 law in the Auditor of Public Accounts under "An Act to provide
25 for and regulate the business of guaranteeing titles to real
26 estate by corporations", approved May 13, 1901, as amended.

27 (5) To exercise the rights, powers and duties vested by law
28 in the Department of Insurance under "An Act to define,
29 license, and regulate the business of making loans of eight
30 hundred dollars or less, permitting an interest charge thereon
31 greater than otherwise allowed by law, authorizing and
32 regulating the assignment of wages or salary when taken as
33 security for any such loan or as consideration for a payment of
34 eight hundred dollars or less, providing penalties, and to
35 repeal Acts therein named", approved July 11, 1935, as amended.

1 (6) To administer and enforce "An Act to license and
2 regulate the keeping and letting of safety deposit boxes,
3 safes, and vaults, and the opening thereof, and to repeal a
4 certain Act therein named", approved June 13, 1945, as amended.

5 (7) Whenever the Department is authorized or required by
6 law to consider some aspect of criminal history record
7 information for the purpose of carrying out its statutory
8 powers and responsibilities, then, upon request and payment of
9 fees in conformance with the requirements of Section 2605-400
10 of the Department of State Police Law (20 ILCS 2605/2605-400),
11 the Department of State Police is authorized to furnish,
12 pursuant to positive identification, such information
13 contained in State files as is necessary to fulfill the
14 request.

15 (8) To administer the Illinois Short-Term Loan and Title
16 Loan Regulation Act.

17 (Source: P.A. 91-239, eff. 1-1-00.)

18 Section 905. The Consumer Installment Loan Act is amended
19 by changing Section 21 as follows:

20 (205 ILCS 670/21) (from Ch. 17, par. 5427)

21 Sec. 21. Application of act. This Act does not apply to any
22 person, partnership, association, limited liability company,
23 or corporation doing business under and as permitted by any law
24 of this State or of the United States relating to banks,
25 savings and loan associations, savings banks, credit unions, or
26 licensees under the Residential Mortgage License Act for
27 residential mortgage loans made pursuant to that Act. This Act
28 does not apply to business loans. This Act does not apply to
29 short-term or title loans. For the purposes of this Section,
30 "short-term loan" and "title loan" have the meanings ascribed
31 to those terms in the Illinois Short-Term Loan and Title Loan
32 Regulation Act.

33 (Source: P.A. 90-437, eff. 1-1-98.)

1 Section 910. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by changing Section 2Z as follows:

3 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

4 Sec. 2Z. Violations of other Acts. Any person who knowingly
5 violates the Automotive Repair Act, the Home Repair and
6 Remodeling Act, the Dance Studio Act, the Physical Fitness
7 Services Act, the Hearing Instrument Consumer Protection Act,
8 the Illinois Union Label Act, the Job Referral and Job Listing
9 Services Consumer Protection Act, the Travel Promotion
10 Consumer Protection Act, the Credit Services Organizations
11 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
12 Services Consumer Protection Act, the Telephone Solicitations
13 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
14 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
15 Sales Act, the High Risk Home Loan Act, the Illinois Short-Term
16 Loan and Title Loan Regulation Act, subsection (a) or (b) of
17 Section 3-10 of the Cigarette Tax Act, subsection (a) or (b) of
18 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
19 Act, or paragraph (6) of subsection (k) of Section 6-305 of the
20 Illinois Vehicle Code commits an unlawful practice within the
21 meaning of this Act.

22 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04.)

23 Section 999. Effective date. This Act takes effect January
24 1, 2005.