



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5387

Introduced 2/15/2012, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Currency Exchange Act, the Consumer Installment Loan Act, and the Payday Loan Reform Act. Provides that a business licensed under one of those Acts may offer any product or service that is permitted under any of those Acts, so long as the business is licensed under the appropriate Act. Further amends the Currency Exchange Act. Provides that a licensee who holds more than one community currency exchange license may hold the aggregate minimum liquid funds required for all the licensee's locations in a single account in the licensee's name. Further amends the Consumer Installment Loan Act. Provides that the Director of Financial Institutions may fine a licensee an amount not exceeding \$500 (now, \$10,000) per violation. Provides that an examination of the books and records of a licensee by the Director shall take no more than 4 hours to complete and must occur during a single business day. Repeals provisions concerning a limited purpose branch and the prohibition against accepting certain checks. Makes other changes. Further amends the Payday Loan Reform Act. Provides that an examination of the books and records of a licensee by the Secretary of Financial and Professional Regulation shall take no more than 4 hours to complete and must occur during a single business day. Provides that a licensee must pay an annual fee of \$450 (now \$1,000). Provides that the Secretary may fine a licensee an amount not exceeding \$500 (now, \$10,000) per violation. Provides that the Secretary may approve the conduct of other businesses in a licensee's place of business, unless the Secretary finds that the conduct will conceal or facilitate evasion of violation of the Act. Repeals a provision concerning the superiority of the Act over any other State financial regulation laws. Makes other changes.

LRB097 20089 PJG 65459 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Currency Exchange Act is amended by changing  
5 Sections 1, 3, and 7 and by adding Section 3.4 as follows:

6 (205 ILCS 405/1) (from Ch. 17, par. 4802)

7 Sec. 1. Definitions; application of Act.

8 (a) For the purposes of this Act:

9 "Community currency exchange" means any person, firm,  
10 association, partnership, limited liability company, or  
11 corporation, except an ambulatory currency exchange as  
12 hereinafter defined, banks incorporated under the laws of this  
13 State and National Banks organized pursuant to the laws of the  
14 United States, engaged in the business or service of, and  
15 providing facilities for, cashing checks, drafts, money orders  
16 or any other evidences of money acceptable to such community  
17 currency exchange, for a fee or service charge or other  
18 consideration, or engaged in the business of selling or issuing  
19 money orders under his or their or its name, or any other money  
20 orders (other than United States Post Office money orders,  
21 Postal Telegraph Company money orders, or Western Union  
22 Telegraph Company money orders), or engaged in both such  
23 businesses, or engaged in performing any one or more of the

1 foregoing services.

2 "Department" means the Department of Financial and  
3 Professional Regulation.

4 "Director" means the Director of the Division of Financial  
5 Institutions of the Department of Financial and Professional  
6 Regulation.

7 "Division of Financial Institutions" means the Division of  
8 Financial Institutions of the Department of Financial and  
9 Professional Regulation.

10 "Ambulatory Currency Exchange" means any person, firm,  
11 association, partnership, limited liability company, or  
12 corporation, except banks organized under the laws of this  
13 State and National Banks organized pursuant to the laws of the  
14 United States, engaged in one or both of the foregoing  
15 businesses, or engaged in performing any one or more of the  
16 foregoing services, solely on the premises of the employer  
17 whose employees are being served.

18 "Location" when used with reference to an ambulatory  
19 currency exchange means the premises of the employer whose  
20 employees are or are to be served by an ambulatory currency  
21 exchange.

22 "Secretary" means the Secretary of Financial and  
23 Professional Regulation or a person authorized by the Secretary  
24 or this Act to act in the Secretary's stead. All references in  
25 this Act to the Secretary shall be deemed to include the  
26 Director, as a person authorized by the Secretary or this Act

1 to assume responsibility for the oversight of the functions of  
2 the Department relative to the regulatory supervision of  
3 community currency exchanges and ambulatory currency exchanges  
4 under this Act.

5 (b) Nothing in this Act shall be held to apply to any  
6 person, firm, association, partnership, limited liability  
7 company, or corporation who is engaged primarily in the  
8 business of transporting for hire, bullion, currency,  
9 securities, negotiable or non-negotiable documents, jewels or  
10 other property of great monetary value and who in the course of  
11 such business and only as an incident thereto, cashes checks,  
12 drafts, money orders or other evidences of money directly for,  
13 or for the employees of and with the funds of and at a cost only  
14 to, the person, firm, association, partnership, limited  
15 liability company, or corporation for whom he or it is then  
16 actually transporting such bullion, currency, securities,  
17 negotiable or non-negotiable documents, jewels, or other  
18 property of great monetary value, pursuant to a written  
19 contract for such transportation and all incidents thereof, nor  
20 shall it apply to any person, firm, association, partnership,  
21 limited liability company, or corporation engaged in the  
22 business of selling tangible personal property at retail who,  
23 in the course of such business and only as an incident thereto,  
24 cashes checks, drafts, money orders or other evidences of money  
25 and does not hold itself out as a check cashing service.

26 (Source: P.A. 97-315, eff. 1-1-12.)

1 (205 ILCS 405/3) (from Ch. 17, par. 4804)

2 Sec. 3. Powers of community currency exchanges. No  
3 community or ambulatory currency exchange shall be permitted to  
4 accept money or evidences of money as a deposit to be returned  
5 to the depositor or upon the depositor's order. No community or  
6 ambulatory currency exchange shall be permitted to act as  
7 bailee or agent for persons, firms, partnerships, limited  
8 liability companies, associations or corporations to hold  
9 money or evidences thereof or the proceeds therefrom for the  
10 use and benefit of the owners thereof, and deliver such money  
11 or proceeds of evidence of money upon request and direction of  
12 such owner or owners. A community or ambulatory currency  
13 exchange is permitted to engage in, and charge a fee for, the  
14 following activities, either directly or as a third-party  
15 agent: (i) cashing of checks, drafts, money orders, or any  
16 other evidences of money acceptable to the currency exchange,  
17 (ii) selling or issuing money orders, (iii) obtaining reports,  
18 certificates, governmental permits, licenses, and vital  
19 statistics and the preparation of necessary applications to  
20 obtain the same, (iv) the sale and distribution of bond cards,  
21 (v) obtaining, distributing, providing, or selling: State  
22 vehicle registration renewals, title transfers and tax  
23 remittance forms, city vehicle licenses, and other  
24 governmental services, (vi) photocopying and sending and  
25 receiving facsimile transmissions, (vii) notary service either

1 by the proprietor of the currency exchange or any currency  
2 exchange employee, authorized by the State to act as a notary  
3 public, (viii) issuance of travelers checks obtained by the  
4 currency exchange from a banking institution under a trust  
5 receipt, (ix) accepting for payment utility and other  
6 companies' bills, (x) issuance and acceptance of any  
7 third-party debit, credit, or stored value card and loading or  
8 unloading, (xi) on-premises automated cash dispensing  
9 machines, (xii) sale of rolled coin and paper money, (xiii)  
10 exchange of foreign currency through a third-party, (xiv) sale  
11 of cards, passes, or tokens for public transit, (xv) providing  
12 mail box service, (xvi) sale of phone cards and other pre-paid  
13 telecommunication services, (xvii) on-premises public  
14 telephone, (xviii) sale of U.S. postage, (xix) money  
15 transmission through a licensed third-party money transmitter,  
16 (xx) sale of candy, gum, other packaged foods, soft drinks, and  
17 other products and services by means of on-premises vending  
18 machines, (xxi) any financial service, provided that the  
19 licensee holds any license required for that service, and  
20 (xxii) ~~(xxi)~~ other products and services as may be approved by  
21 the Secretary. Any community or ambulatory currency exchange  
22 may enter into agreements with any utility and other companies  
23 to act as the companies' agent for the acceptance of payment of  
24 utility and other companies' bills without charge to the  
25 customer and, acting under such agreement, may receipt for  
26 payments in the names of the utility and other companies. Any

1 community or ambulatory currency exchange may also receive  
2 payment of utility and other companies' bills for remittance to  
3 companies with which it has no such agency agreement and may  
4 charge a fee for such service but may not, in such cases, issue  
5 a receipt for such payment in the names of the utility and  
6 other companies. However, funds received by currency exchanges  
7 for remittance to utility and other companies with which the  
8 currency exchange has no agency agreement shall be forwarded to  
9 the appropriate utility and other companies by the currency  
10 exchange before the end of the next business day.

11 For the purpose of this Section, "utility and other  
12 companies" means any utility company and other company with  
13 which the currency exchange may or may not have a contractual  
14 agreement and for which the currency exchange accepts payments  
15 from consumers for remittance to the utility or other company  
16 for the payment of bills.

17 (Source: P.A. 97-315, eff. 1-1-12.)

18 (205 ILCS 405/3.4 new)

19 Sec. 3.4. Other products or services. Notwithstanding any  
20 other law to the contrary, a currency exchange may offer any  
21 product or service that is permitted under the Consumer  
22 Installment Loan Act, the Payday Loan Reform Act, or the Sales  
23 Finance Agency Act, so long as the licensee is also licensed  
24 under the appropriate Act.

1 (205 ILCS 405/7) (from Ch. 17, par. 4814)

2 Sec. 7. Available funds; minimum amount. Each community  
3 currency exchange shall have, at all times, a minimum of \$5,000  
4 of its own cash funds available for the uses and purposes of  
5 its business and said minimum sum shall be exclusive of and in  
6 addition to funds received for exchange or transfer; and in  
7 addition thereto each such licensee shall at all times have on  
8 hand an amount of liquid funds sufficient to pay on demand all  
9 outstanding money orders issued by it. Whenever the same  
10 licensee holds more than one community currency exchange  
11 license, the aggregate of the minimum liquid funds required  
12 under this Section for all of the licensee's locations may be  
13 held by the licensee in a single account in the licensee's  
14 name; provided that the total liquid funds equal a minimum of  
15 the number of the licensee's licenses multiplied by the minimum  
16 sum required for each location.

17 In the event a receiver is appointed in accordance with  
18 Section 15.1 of this Act, and the Secretary determines that the  
19 business of the currency exchange should be liquidated, and if  
20 it shall appear that the said minimum sum was not on hand or  
21 available at the time of the appointment of the receiver, then  
22 the receiver shall have the right to recover in any court of  
23 competent jurisdiction from the owner or owners of such  
24 currency exchange, or from the stockholders and directors  
25 thereof if such currency exchange was operated by a  
26 corporation, or from the members if the currency exchange was



1 operated as a limited liability company, said sum or that part  
2 thereof which was not on hand or available at the time of the  
3 appointment of such receiver. Nothing contained in this Section  
4 shall limit or impair the liability of any bonding or insurance  
5 company on any bond or insurance policy relating to such  
6 community currency exchange issued pursuant to the  
7 requirements of this Act, nor shall anything contained herein  
8 limit or impair such other rights or remedies as the receiver  
9 may otherwise have.

10 (Source: P.A. 97-315, eff. 1-1-12.)

11 Section 10. The Consumer Installment Loan Act is amended by  
12 changing Sections 1, 9, and 10 and by adding Section 0.5 as  
13 follows:

14 (205 ILCS 670/0.5 new)

15 Sec. 0.5. Director of Financial Institutions; Secretary of  
16 Financial and Professional Regulation. All references in this  
17 Act to the Director of Financial Institutions are deemed, in  
18 appropriate contexts, to be the Secretary of Financial and  
19 Professional Regulation, or his or her designee.

20 (205 ILCS 670/1) (from Ch. 17, par. 5401)

21 Sec. 1. License required to engage in business. No person,  
22 partnership, association, limited liability company, or  
23 corporation shall engage in the business of making loans of

1 money in a principal amount not exceeding \$40,000, and charge,  
2 contract for, or receive on any such loan a greater rate of  
3 interest, discount, or consideration therefor than the lender  
4 would be permitted by law to charge if he were not a licensee  
5 hereunder, except as authorized by this Act after first  
6 obtaining a license from the Director of Financial Institutions  
7 (hereinafter called the Director). Notwithstanding any other  
8 law to the contrary, licensees may offer any product or service  
9 that is permitted under the Payday Loan Reform Act or the  
10 Currency Exchange Act, so long as the licensee is also licensed  
11 under the appropriate Act. ~~No licensee, or employee or~~  
12 ~~affiliate thereof, that is licensed under the Payday Loan~~  
13 ~~Reform Act shall obtain a license under this Act except that a~~  
14 ~~licensee under the Payday Loan Reform Act may obtain a license~~  
15 ~~under this Act for the exclusive purpose and use of making~~  
16 ~~title secured loans, as defined in subsection (a) of Section 15~~  
17 ~~of this Act and governed by Title 38, Section 110.300 of the~~  
18 ~~Illinois Administrative Code. For the purpose of this Section,~~  
19 ~~"affiliate" means any person or entity that directly or~~  
20 ~~indirectly controls, is controlled by, or shares control with~~  
21 ~~another person or entity. A person or entity has control over~~  
22 ~~another if the person or entity has an ownership interest of~~  
23 ~~25% or more in the other.~~

24 (Source: P.A. 96-936, eff. 3-21-11; 97-420, eff. 1-1-12.)

25 (205 ILCS 670/9) (from Ch. 17, par. 5409)

1           Sec. 9. Fines, Suspension or Revocation of license.

2           (a) The Director may, after 10 days notice by registered  
3 mail to the licensee at the address set forth in the license,  
4 stating the contemplated action, ~~and in general~~ the particular  
5 grounds therefor, the action required by the licensee to  
6 correct the violation, and that the licensee has 30 days in  
7 which to correction the violation, fine such licensee, for the  
8 purpose of obtaining compliance with this Act, an amount not  
9 exceeding \$500 ~~\$10,000~~ per violation type annually, but only  
10 after the licensee fails to correct the cause of the violation  
11 within 30 days after notification, or revoke or suspend any  
12 license issued hereunder if, on good cause shown, he or she  
13 finds that ~~the:~~ (1) The licensee has materially failed to  
14 comply with any provision of this Act or any order, decision,  
15 finding, rule, regulation or direction of the Director lawfully  
16 made pursuant to the authority of this Act. Any notice of a  
17 contemplated action by the Director under this Section that is  
18 based upon findings of an examination conducted under Section  
19 10 shall be served within 60 days after the date of the  
20 examination ; or (2) Any fact or condition exists which, if it  
21 had existed at the time of the original application for the  
22 license, clearly would have warranted the Director in refusing  
23 to issue the license.

24           (b) (Blank) ~~The Director may fine, suspend, or revoke only~~  
25 ~~the particular license with respect to which grounds for the~~  
26 ~~fine, revocation or suspension occur or exist, but if the~~

1 ~~Director shall find that grounds for revocation are of general~~  
2 ~~application to all offices or to more than one office of the~~  
3 ~~licensee, the Director shall fine, suspend, or revoke every~~  
4 ~~license to which such grounds apply.~~

5 (c) (Blank).

6 (d) No revocation, suspension, or surrender of any license  
7 shall impair or affect the obligation of any pre-existing  
8 lawful contract between the licensee and any obligor.

9 (e) The Director may issue a new license to a licensee  
10 whose license has been revoked when facts or conditions which  
11 clearly would have warranted the Director in refusing  
12 originally to issue the license no longer exist.

13 (f) (Blank).

14 (g) In every case in which a license is suspended or  
15 revoked or an application for a license or renewal of a license  
16 is denied, the Director shall serve the licensee with notice of  
17 his or her action, including a statement of the reasons for his  
18 or her actions, either personally, or by certified mail, return  
19 receipt requested. Service by certified mail shall be deemed  
20 completed when the notice is deposited in the U.S. Mail.

21 (h) An order assessing a fine, an order revoking or  
22 suspending a license, ~~or~~ an order denying renewal of a license  
23 shall take effect 15 business days after ~~upon~~ service of the  
24 order unless the licensee requests, in writing, within 15  
25 business ~~10~~ days after the date of service, a hearing. In the  
26 event a hearing is requested, the order shall be stayed until a

1 final administrative order is entered.

2 (i) If the licensee requests a hearing, the Director shall  
3 conduct ~~schedule~~ a hearing within 30 days after the request for  
4 a hearing unless otherwise agreed to by the parties. If the  
5 Director fails to conduct the hearing within 30 days after the  
6 date of service of a hearing request, the Director may take no  
7 further action against the licensee on the matter, and the  
8 issue shall be considered closed. The hearing shall be held at  
9 the time and place designated by the Director and agreed to by  
10 the licensee.

11 (j) ~~The hearing shall be held at the time and place~~  
12 ~~designated by the Director.~~ The Director and any administrative  
13 law judge designated by him or her shall have the power to  
14 administer oaths and affirmations, subpoena witnesses and  
15 compel their attendance, take evidence, and require the  
16 production of books, papers, correspondence, and other records  
17 or information that he or she considers relevant or material to  
18 the inquiry.

19 (k) The costs for the administrative hearing shall be  
20 limited to \$100 and shall be paid by the licensee ~~set by rule.~~

21 (l) The Director shall have the authority to prescribe  
22 rules for the administration of this Section.

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

24 (205 ILCS 670/10) (from Ch. 17, par. 5410)

25 Sec. 10. Investigation of conduct of business. For the

1 purpose of discovering violations of this Act or securing  
2 information lawfully required by it, the Director shall have  
3 the authority to schedule examinations of the books, records,  
4 and loan documents of each licensee at a time convenient to the  
5 licensee ~~may at any time investigate the loans and business and~~  
6 ~~examine the books, accounts, records, and files used therein,~~  
7 ~~of every licensee and of every person, partnership,~~  
8 ~~association, limited liability company, and corporation~~  
9 ~~engaged in the business described in Section 1 of this Act,~~  
10 ~~whether such person, partnership, association, limited~~  
11 ~~liability company, or corporation shall act or claim to act as~~  
12 ~~principal or agent or within or without the authority of this~~  
13 ~~Act. For such purpose the Director shall have free access to~~  
14 ~~the offices and places of business, books, accounts, papers,~~  
15 ~~records, files, safes, and vaults of such persons,~~  
16 ~~partnerships, associations, limited liability companies, and~~  
17 ~~corporations. The Director may require the attendance of and~~  
18 ~~examine under oath all persons whose testimony he or she may~~  
19 ~~require relative to such loans or such business, and in such~~  
20 ~~eases the Director shall have power to administer oaths to all~~  
21 ~~persons called as witnesses; and the Director may conduct such~~  
22 ~~examinations.~~

23 The Director shall make an examination of the affairs,  
24 business, office and records of each licensee at least once  
25 each year. No examination may take more than 4 hours to  
26 complete and must occur during a single business day. Remote

1 examinations are permitted by using information contained in  
2 the consumer reporting service. The licensee shall pay no more  
3 than \$250 annually for all examinations under this Act ~~The~~  
4 ~~Director shall by rule and regulation set the fee to be charged~~  
5 ~~for each examination day, including travel expenses for~~  
6 ~~out of state licensed locations. The fee shall reasonably~~  
7 ~~reflect actual costs.~~ The Director shall also have authority to  
8 examine the books and records of any business made by a former  
9 licensee which is being liquidated, as the Director deems  
10 necessary, and may charge the examination fees otherwise  
11 required for licensees.

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

13 (205 ILCS 670/12.5 rep.)

14 (205 ILCS 670/19.2 rep.)

15 Section 15. The Consumer Installment Loan Act is amended by  
16 repealing Sections 12.5 and 19.2.

17 Section 20. The Payday Loan Reform Act is amended by  
18 changing Sections 2-55, 3-5, 4-5, and 4-10 and by adding  
19 Section 3-7 as follows:

20 (815 ILCS 122/2-55)

21 Sec. 2-55. Information, reporting, and examination.

22 (a) A licensee shall keep and use books, accounts, and  
23 records that will enable the Secretary to determine if the

1 licensee is complying with the provisions of this Act and  
2 maintain any other records as required by the Secretary.

3 (b) A licensee shall collect and maintain information  
4 annually for a report that shall disclose in detail and under  
5 appropriate headings:

6 (1) the total number of payday loans made during the  
7 preceding calendar year;

8 (2) the total number of payday loans outstanding as of  
9 December 31 of the preceding calendar year;

10 (3) the minimum, maximum, and average dollar amount of  
11 payday loans made during the preceding calendar year;

12 (4) the average annual percentage rate and the average  
13 term of payday loans made during the preceding calendar  
14 year; and

15 (5) the total number of payday loans paid in full, the  
16 total number of loans that went into default, and the total  
17 number of loans written off during the preceding calendar  
18 year.

19 The report shall be verified by the oath or affirmation of  
20 the owner, manager, or president of the licensee. The report  
21 must be filed with the Secretary no later than March 1 of the  
22 year following the year for which the report discloses the  
23 information specified in this subsection (b). The Secretary may  
24 impose upon the licensee a fine of \$25 per day for each day  
25 beyond the filing deadline that the report is not filed.

26 (c) No later than July 31 of the second year following the



1 effective date of this Act, the Department shall publish a  
2 biennial report that contains a compilation of aggregate data  
3 concerning the payday lending industry and shall make the  
4 report available to the Governor, the General Assembly, and the  
5 general public.

6 (d) The Department shall have the authority to schedule  
7 ~~conduct~~ examinations of the books, records, and loan documents  
8 at a ~~any~~ time convenient to the licensee. No examination may  
9 take more than 4 hours to complete and must occur during a  
10 single business day. Remote examinations are permitted by using  
11 information contained in the consumer reporting service.

12 (Source: P.A. 94-13, eff. 12-6-05.)

13 (815 ILCS 122/3-5)

14 Sec. 3-5. Licensure.

15 (a) A license to make a payday loan shall state the  
16 address, including city and state, at which the business is to  
17 be conducted and shall state fully the name of the licensee.  
18 The license shall be conspicuously posted in the place of  
19 business of the licensee and shall not be transferable or  
20 assignable.

21 (b) An application for a license shall be in writing and in  
22 a form prescribed by the Secretary. The Secretary may not issue  
23 a payday loan license unless and until the following findings  
24 are made:

25 (1) that the financial responsibility, experience,

1 character, and general fitness of the applicant are such as  
2 to command the confidence of the public and to warrant the  
3 belief that the business will be operated lawfully and  
4 fairly and within the provisions and purposes of this Act;  
5 and

6 (2) that the applicant has submitted such other  
7 information as the Secretary may deem necessary.

8 (c) A license shall be issued for no longer than one year,  
9 and no renewal of a license may be provided if a licensee has  
10 substantially violated this Act and has not cured the violation  
11 to the satisfaction of the Department.

12 (d) A licensee shall appoint, in writing, the Secretary as  
13 attorney-in-fact upon whom all lawful process against the  
14 licensee may be served with the same legal force and validity  
15 as if served on the licensee. A copy of the written  
16 appointment, duly certified, shall be filed in the office of  
17 the Secretary, and a copy thereof certified by the Secretary  
18 shall be sufficient evidence to subject a licensee to  
19 jurisdiction in a court of law. This appointment shall remain  
20 in effect while any liability remains outstanding in this State  
21 against the licensee. When summons is served upon the Secretary  
22 as attorney-in-fact for a licensee, the Secretary shall  
23 immediately notify the licensee by registered mail, enclosing  
24 the summons and specifying the hour and day of service.

25 (e) A licensee must pay an annual fee of \$450 ~~\$1,000~~. In  
26 addition to the license fee, the reasonable expense of any

1 examination or hearing by the Secretary under any provisions of  
2 this Act shall be borne by the licensee, except that the  
3 licensee shall pay no more than \$250 annually for all  
4 examinations under this Act and no more than \$100 per hearing.

5 If a licensee fails to renew its license by December 31, its  
6 license shall automatically expire; however, the Secretary, in  
7 his or her discretion, may reinstate an expired license upon:

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

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

11 (f) Not more than one place of business shall be maintained  
12 under the same license, but the Secretary may issue more than  
13 one license to the same licensee upon compliance with all the  
14 provisions of this Act governing issuance of a single license.  
15 The location, except those locations already in existence as of  
16 June 1, 2005, may not be within one mile of a horse race track  
17 subject to the Illinois Horse Racing Act of 1975, within one  
18 mile of a facility at which gambling is conducted under the  
19 Riverboat Gambling Act, within one mile of the location at  
20 which a riverboat subject to the Riverboat Gambling Act docks,  
21 or within one mile of any State of Illinois or United States  
22 military base or naval installation.

23 (g) Notwithstanding any other law to the contrary,  
24 licensees may offer any product or service that is permitted  
25 under the Consumer Installment Loan Act, the Currency Exchange  
26 Act, or the Sales Finance Agency Act, so long as the licensee

1 is also licensed under the appropriate Act ~~No licensee shall~~  
2 ~~conduct the business of making loans under this Act within any~~  
3 ~~office, suite, room, or place of business in which (1) any~~  
4 ~~loans are offered or made under the Consumer Installment Loan~~  
5 ~~Act other than title secured loans as defined in subsection (a)~~  
6 ~~of Section 15 of the Consumer Installment Loan Act and governed~~  
7 ~~by Title 38, Section 110.330 of the Illinois Administrative~~  
8 ~~Code or (2) any other business is solicited or engaged in~~  
9 ~~unless the other business is licensed by the Department or, in~~  
10 ~~the opinion of the Secretary, the other business would not be~~  
11 ~~contrary to the best interests of consumers and is authorized~~  
12 ~~by the Secretary in writing.~~

13 (g-5) (Blank) ~~Notwithstanding subsection (g) of this~~  
14 ~~Section, a licensee may obtain a license under the Consumer~~  
15 ~~Installment Loan Act (CILA) for the exclusive purpose and use~~  
16 ~~of making title secured loans, as defined in subsection (a) of~~  
17 ~~Section 15 of CILA and governed by Title 38, Section 110.300 of~~  
18 ~~the Illinois Administrative Code. A licensee may continue to~~  
19 ~~service Consumer Installment Loan Act loans that were~~  
20 ~~outstanding as of the effective date of this amendatory Act of~~  
21 ~~the 96th General Assembly.~~

22 (h) The Secretary shall maintain a list of licensees that  
23 shall be available to interested consumers and lenders and the  
24 public. The Secretary shall maintain a toll-free number whereby  
25 consumers may obtain information about licensees. The  
26 Secretary shall also establish a complaint process under which

1 an aggrieved consumer may file a complaint against a licensee  
2 or non-licensee who violates any provision of this Act.

3 (Source: P.A. 96-936, eff. 3-21-11.)

4 (815 ILCS 122/3-7 new)

5 Sec. 3-7. Other business.

6 (a) Upon application by the licensee and approval by the  
7 Secretary, the Secretary may approve the conduct of other  
8 businesses not specifically permitted by this Act in the  
9 licensee's place of business, unless the Secretary finds that  
10 the conduct will conceal or facilitate evasion or violation of  
11 this Act. The Secretary's approval shall be in writing and  
12 shall describe the other businesses which may be conducted in  
13 the licensed office.

14 (b) A licensee may, without notice to or approval of the  
15 Secretary, in addition to the business permitted by this Act,  
16 conduct the following business:

17 (1) the business of a sales finance agency as defined  
18 in the Sales Finance Agency Act;

19 (2) the business of soliciting or selling any type of  
20 insurance provided that all insurance transactions are  
21 conducted in accordance with and are regulated under the  
22 Illinois Insurance Code;

23 (3) the business of financing premiums for insurance;  
24 and

25 (4) making loans pursuant to the Illinois Financial

1           Services Development Act.

2           The Secretary shall make and enforce reasonable rules and  
3 regulations in accordance with the Illinois Administrative  
4 Procedure Act for the conduct of business under this Act in the  
5 same office with other businesses as may be necessary to  
6 prevent evasions or violations of this Act. The Secretary may  
7 investigate any business conducted in the licensed office to  
8 determine whether any evasion or violation of this Act has  
9 occurred.

10           (815 ILCS 122/4-5)

11           Sec. 4-5. Prohibited acts. A licensee or unlicensed person  
12 or entity making payday loans may not commit, or have committed  
13 on behalf of the licensee or unlicensed person or entity, any  
14 of the following acts:

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

17           (2) Using any device or agreement that would have the  
18 effect of charging or collecting more fees or charges than  
19 allowed by this Act, including, but not limited to,  
20 entering into a different type of transaction with the  
21 consumer.

22           (3) Engaging in unfair, deceptive, or fraudulent  
23 practices in the making or collecting of a payday loan.

24           (4) Using or attempting to use the check provided by  
25 the consumer in a payday loan as collateral for a

1 transaction not related to a payday loan.

2 (5) Knowingly accepting payment in whole or in part of  
3 a payday loan through the proceeds of another payday loan  
4 provided by any licensee, except as provided in subsection  
5 (c) of Section 2.5.

6 (6) Knowingly accepting any security, other than that  
7 specified in the definition of payday loan in Section 1-10,  
8 for a payday loan.

9 (7) Charging any fees or charges other than those  
10 specifically authorized by this Act.

11 (8) Threatening to take any action against a consumer  
12 that is prohibited by this Act or making any misleading or  
13 deceptive statements regarding the payday loan or any  
14 consequences thereof.

15 (9) Making a misrepresentation of a material fact by an  
16 applicant for licensure in obtaining or attempting to  
17 obtain a license.

18 (10) Including any of the following provisions in loan  
19 documents required by subsection (b) of Section 2-20:

20 (A) a confession of judgment clause;

21 (B) a waiver of the right to a jury trial, if  
22 applicable, in any action brought by or against a  
23 consumer, unless the waiver is included in an  
24 arbitration clause allowed under subparagraph (C) of  
25 this paragraph (11);

26 (C) a mandatory arbitration clause that is

1           oppressive, unfair, unconscionable, or substantially  
2           in derogation of the rights of consumers; or

3           (D) a provision in which the consumer agrees not to  
4           assert any claim or defense arising out of the  
5           contract.

6           (11) Selling any insurance of any kind whether or not  
7           sold in connection with the making or collecting of a  
8           payday loan.

9           (12) Taking any power of attorney.

10          (13) Taking any security interest in real estate.

11          (14) Collecting a delinquency or collection charge on  
12          any installment regardless of the period in which it  
13          remains in default.

14          (15) Collecting treble damages on an amount owing from  
15          a payday loan.

16          (16) Refusing, or intentionally delaying or  
17          inhibiting, the consumer's right to enter into a repayment  
18          plan pursuant to this Act.

19          (17) Charging for, or attempting to collect,  
20          attorney's fees, court costs, or arbitration costs  
21          incurred in connection with the collection of a payday  
22          loan.

23          (18) Making a loan in violation of this Act.

24          (19) Garnishing the wages or salaries of a consumer who  
25          is a member of the military.

26          (20) Failing to suspend or defer collection activity



1           against a consumer who is a member of the military and who  
2           has been deployed to a combat or combat-support posting.

3           (21) Contacting the military chain of command of a  
4           consumer who is a member of the military in an effort to  
5           collect on a payday loan.

6           (22) (Blank) ~~Making or offering to make any loan other~~  
7           ~~than a payday loan or a title secured loan, provided~~  
8           ~~however, that to make or offer to make a title secured~~  
9           ~~loan, a licensee must obtain a license under the Consumer~~  
10          ~~Installment Loan Act.~~

11          (Source: P.A. 96-936, eff. 3-21-11.)

12          (815 ILCS 122/4-10)

13          Sec. 4-10. 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) (Blank) ~~Any material violation of this Act, including~~  
17          ~~the commission of an act prohibited under Section 4-5,~~  
18          ~~constitutes a violation of the Consumer Fraud and Deceptive~~  
19          ~~Business Practices Act.~~

20          (c) If any provision of the written agreement described in  
21          subsection (b) of Section 2-20 violates this Act, then that  
22          provision is unenforceable against the consumer.

23          (d) Subject to the Illinois Administrative Procedure Act,  
24          the Secretary may hold hearings, make findings of fact,  
25          conclusions of law, issue cease and desist orders, have the

1 power to issue fines, for the purpose of obtaining compliance  
2 with this Act, of up to \$500 ~~\$10,000~~ per violation type  
3 annually, but only after the licensee fails to correct the  
4 cause of the violation within 30 days after service of the  
5 notification described in subsection (f) of this Section, ~~refer~~  
6 ~~the matter to the appropriate law enforcement agency for~~  
7 ~~prosecution under this Act,~~ and suspend or revoke a license  
8 granted under this Act. All proceedings shall be open to the  
9 public.

10 (e) The Secretary may issue a cease and desist order to any  
11 licensee or other person doing business without the required  
12 license, when in the opinion of the Secretary the licensee or  
13 other person is violating or is about to violate any provision  
14 of this Act or any rule or requirement imposed in writing by  
15 the Department as a condition of granting any authorization  
16 permitted by this Act. The cease and desist order permitted by  
17 this subsection (e) may be issued prior to a hearing.

18 The Secretary shall serve notice of his or her action,  
19 including, but not limited to, a statement of the reasons for  
20 the action, either personally or by certified mail, return  
21 receipt requested. Service by certified mail shall be deemed  
22 completed when the notice is deposited in the U.S. Mail.

23 Within 10 days of service of the cease and desist order,  
24 the licensee or other person may request a hearing in writing.  
25 The Secretary shall schedule a hearing within 30 days after the  
26 request for a hearing unless otherwise agreed to by the

1 parties.

2 If it is determined that the Secretary had the authority to  
3 issue the cease and desist order, he or she may issue such  
4 orders as may be reasonably necessary to correct, eliminate, or  
5 remedy the conduct.

6 The powers vested in the Secretary by this subsection (e)  
7 are additional to any and all other powers and remedies vested  
8 in the Secretary by law, and nothing in this subsection (e)  
9 shall be construed as requiring that the Secretary shall employ  
10 the power conferred in this subsection instead of or as a  
11 condition precedent to the exercise of any other power or  
12 remedy vested in the Secretary.

13 (f) The Secretary may, after 10 days notice by registered  
14 mail to the licensee at the address set forth in the license  
15 stating the contemplated action, ~~and in general~~ the particular  
16 grounds therefore, the action required by the licensee to  
17 correct the violation, and that the licensee has 30 days in  
18 which to correct the violation, fine the licensee, for the  
19 purpose of obtaining compliance with this Act, an amount not  
20 exceeding \$500 ~~\$10,000~~ per violation type annually, but only  
21 after the licensee fails to correct the cause of the violation  
22 within 30 days after notification, or revoke or suspend any  
23 license issued hereunder if, on good cause shown, he or she  
24 finds that: ~~(1)~~ the licensee has materially failed to comply  
25 with any provision of this Act or any order, decision, finding,  
26 rule, regulation, or direction of the Secretary lawfully made

1 pursuant to the authority of this Act. Any notice of a  
2 contemplated action by the Secretary under this subsection (f)  
3 that is based upon findings of an examination conducted under  
4 subsection (d) of Section 2-55 shall be served within 60 days  
5 after the date of the examination  ~~; or (2) any fact or~~  
6 ~~condition exists which, if it had existed at the time of the~~  
7 ~~original application for the license, clearly would have~~  
8 ~~warranted the Secretary in refusing to issue the license.~~

9 The Secretary may fine, suspend, or revoke only the  
10 particular license with respect to which grounds for the fine,  
11 revocation, or suspension occur or exist, ~~but if the Secretary~~  
12 ~~finds that grounds for revocation are of general application to~~  
13 ~~all offices or to more than one office of the licensee, the~~  
14 ~~Secretary shall fine, suspend, or revoke every license to which~~  
15 ~~the grounds apply.~~

16 No revocation, suspension, or surrender of any license  
17 shall impair or affect the obligation of any pre-existing  
18 lawful contract between the licensee and any obligor.

19 The Secretary may issue a new license to a licensee whose  
20 license has been revoked when facts or conditions which clearly  
21 would have warranted the Secretary in refusing originally to  
22 issue the license no longer exist.

23 In every case in which a license is suspended or revoked or  
24 an application for a license or renewal of a license is denied,  
25 the Secretary shall serve the licensee with notice of his or  
26 her action, including a statement of the reasons for his or her

1 actions, either personally, or by certified mail, return  
2 receipt requested. Service by certified mail shall be deemed  
3 completed when the notice is deposited in the U.S. Mail.

4 An order assessing a fine, an order revoking or suspending  
5 a license, or an order denying renewal of a license shall take  
6 effect 15 business days after ~~upon~~ service of the order unless  
7 the licensee requests a hearing, in writing, within 15 business  
8 ~~10~~ days after the date of service. In the event a hearing is  
9 requested, the order shall be stayed until a final  
10 administrative order is entered.

11 If the licensee requests a hearing, the Secretary shall  
12 conduct ~~schedule~~ a hearing within 30 days after the request for  
13 a hearing unless otherwise agreed to by the parties. If the  
14 Secretary fails to conduct the hearing within 30 days after the  
15 date of service of a hearing request, the Secretary may take no  
16 further action against the licensee on the matter, and the  
17 issue shall be considered closed.

18 The hearing shall be held at the time and place designated  
19 by the Secretary and agreed to by the licensee. The Secretary  
20 and any administrative law judge designated by him or her shall  
21 have the power to administer oaths and affirmations, subpoena  
22 witnesses and compel their attendance, take evidence, and  
23 require the production of books, papers, correspondence, and  
24 other records or information that he or she considers relevant  
25 or material to the inquiry.

26 (g) The costs of administrative hearings conducted

1 pursuant to this Section are limited to \$100 and shall be paid  
2 by the licensee.

3 (Source: P.A. 94-13, eff. 12-6-05.)

4 (815 ILCS 122/4-45 rep.)

5 Section 25. The Payday Loan Reform Act is amended by  
6 repealing Section 4-45.

1		INDEX
2		Statutes amended in order of appearance
3	205 ILCS 405/1	from Ch. 17, par. 4802
4	205 ILCS 405/3	from Ch. 17, par. 4804
5	205 ILCS 405/3.4 new	
6	205 ILCS 405/7	from Ch. 17, par. 4814
7	205 ILCS 670/0.5 new	
8	205 ILCS 670/1	from Ch. 17, par. 5401
9	205 ILCS 670/9	from Ch. 17, par. 5409
10	205 ILCS 670/10	from Ch. 17, par. 5410
11	205 ILCS 670/12.5 rep.	
12	205 ILCS 670/19.2 rep.	
13	815 ILCS 122/2-55	
14	815 ILCS 122/3-5	
15	815 ILCS 122/3-7 new	
16	815 ILCS 122/4-5	
17	815 ILCS 122/4-10	
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