



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3060

Introduced 2/15/2018, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Credit Union Act, the Currency Exchange Act, the Transmitters of Money Act, the Sales Finance Agency Act, the Debt Management Service Act, the Title Insurance Act, the Debt Settlement Consumer Protection Act, the Payday Loan Reform Act, and the Consumer Installment Loan Act. Defines "email address of record". Eliminates references to "certified mail". Provides that a chartered institution, licensee, or applicant shall provide the Department of Financial and Professional Regulation with an accurate and up-to-date email address. Permits the Department to send official notices to the chartered institution, licensee, or applicant's email address of record. Provides that service to the email address of record is completed when sent. Provides that service by mail is completed when the notice is deposited in the U.S. Mail. Makes other changes. Effective immediately.

LRB100 18641 XWW 33868 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 Illinois Credit Union Act is amended by
5 changing Sections 1.1, 2, 21, and 61 as follows:

6 (205 ILCS 305/1.1) (from Ch. 17, par. 4402)

7 Sec. 1.1. Definitions.

8 Credit Union - The term "credit union" means a cooperative,
9 non-profit association, incorporated under this Act, under the
10 laws of the United States of America or under the laws of
11 another state, for the purposes of encouraging thrift among its
12 members, creating a source of credit at a reasonable rate of
13 interest, and providing an opportunity for its members to use
14 and control their own money in order to improve their economic
15 and social conditions. The membership of a credit union shall
16 consist of a group or groups each having a common bond as set
17 forth in this Act.

18 Common Bond - The term "common bond" refers to groups of
19 people who meet one of the following qualifications:

20 (1) Persons belonging to a specific association, group
21 or organization, such as a church, labor union, club or
22 society and members of their immediate families which shall
23 include any relative by blood or marriage or foster and

1 adopted children.

2 (2) Persons who reside in a reasonably compact and well
3 defined neighborhood or community, and members of their
4 immediate families which shall include any relative by
5 blood or marriage or foster and adopted children.

6 (3) Persons who have a common employer or who are
7 members of an organized labor union or an organized
8 occupational or professional group within a defined
9 geographical area, and members of their immediate families
10 which shall include any relative by blood or marriage or
11 foster and adopted children.

12 Shares - The term "shares" or "share accounts" means any
13 form of shares issued by a credit union and established by a
14 member in accordance with standards specified by a credit
15 union, including but not limited to common shares, share draft
16 accounts, classes of shares, share certificates, special
17 purpose share accounts, shares issued in trust, custodial
18 accounts, and individual retirement accounts or other plans
19 established pursuant to Section 401(d) or (f) or Section 408(a)
20 of the Internal Revenue Code, as now or hereafter amended, or
21 similar provisions of any tax laws of the United States that
22 may hereafter exist.

23 Credit Union Organization - The term "credit union
24 organization" means any organization established to serve the
25 needs of credit unions, the business of which relates to the
26 daily operations of credit unions.

1 Department - The term "Department" means the Illinois
2 Department of Financial and Professional Regulation.

3 Secretary - The term "Secretary" means the Secretary of
4 Financial and Professional Regulation or a person authorized by
5 the Secretary or this Act to act in the Secretary's stead.

6 Division of Financial Institutions - The term "Division of
7 Financial Institutions" means the Division of Financial
8 Institutions of the Department of Financial and Professional
9 Regulation.

10 Director - The term "Director of Financial Institutions"
11 means the Director of the Division of Financial Institutions of
12 the Department of Financial and Professional Regulation.

13 Office - The term "office" means the Division of Financial
14 Institutions of the Department of Financial and Professional
15 Regulation.

16 NCUA - The term "NCUA" means the National Credit Union
17 Administration, an agency of the United States Government
18 charged with the supervision of credit unions chartered under
19 the laws of the United States of America.

20 Central Credit Union - The term "central credit union"
21 means a credit union incorporated primarily to receive shares
22 from and make loans to credit unions and directors, officers,
23 committee members and employees of credit unions. A central
24 credit union may also accept as members persons who were
25 members of credit unions which were liquidated and persons from
26 occupational groups not otherwise served by another credit

1 union.

2 Corporate Credit Union - The term "corporate credit union"
3 means a credit union which is a cooperative, non-profit
4 association, the membership of which is limited primarily to
5 other credit unions.

6 Insolvent - "Insolvent" means the condition that results
7 when the total of all liabilities and shares exceeds net assets
8 of the credit union.

9 Danger of insolvency - For purposes of Section 61, a credit
10 union is in "danger of insolvency" if its net worth to asset
11 ratio falls below 2%. In calculating the danger of insolvency
12 ratio, secondary capital shall be excluded. For purposes of
13 Section 61, a credit union is also in "danger of insolvency" if
14 the Department is unable to ascertain, upon examination, the
15 true financial condition of the credit union.

16 Net Worth - "Net worth" means the retained earnings balance
17 of the credit union, as determined under generally accepted
18 accounting principles, and forms of secondary capital approved
19 by the Secretary and the Director pursuant to rulemaking.

20 Charitable Donation Account - The term "charitable
21 donation account" means an account owned by a credit union that
22 is held in a segregated custodial account or special purpose
23 entity and specifically identified as a charitable donation
24 account whereby, no less frequently than every 5 years and upon
25 termination of the account, at least 51% of the total return on
26 assets in the account is distributed to one or more charitable

1 organizations or non-profit entities.

2 Email address of record - The term "email address of
3 record" means an accurate and current email address designated
4 by a credit union and recorded by the Division of Financial
5 Institutions in the credit union's file maintained by the
6 Division of Financial Institutions.

7 (Source: P.A. 97-133, eff. 1-1-12; 98-784, eff. 7-24-14.)

8 (205 ILCS 305/2) (from Ch. 17, par. 4403)

9 Sec. 2. Organization procedure.

10 (1) Any 9 or more persons of legal age, the majority of
11 whom shall be residents of the State of Illinois, who have a
12 common bond referred to in Section 1.1 may organize a credit
13 union or a central credit union by complying with this Section.

14 (2) The subscribers shall execute in duplicate Articles of
15 Incorporation and agree to the terms thereof, which Articles
16 shall state:

17 (a) The name, which shall include the words "credit
18 union" and which shall not be the same as that of any other
19 existing credit union in this state, and the location where
20 the proposed credit union is to have its principal place of
21 business;

22 (b) The common bond of the members of the credit union;

23 (c) The par value of the shares of the credit union,
24 which must be at least \$1;

25 (d) The names, addresses and Social Security numbers of

1 the subscribers to the Articles of Incorporation, and the
2 number and the value of shares subscribed to by each;

3 (e) That the credit union may exercise such incidental
4 powers as are necessary or requisite to enable it to carry
5 on effectively the purposes for which it is incorporated,
6 and those powers which are inherent in the credit union as
7 a legal entity;

8 (f) That the existence of the credit union shall be
9 perpetual.

10 (3) The subscribers shall prepare and adopt bylaws for the
11 general government of the credit union, consistent with this
12 Act, and execute same in duplicate.

13 (4) The subscribers shall forward the articles of
14 incorporation and the bylaws to the Secretary in duplicate,
15 along with the required charter fee. If they conform to the
16 law, and such rules and regulations as the Secretary and the
17 Director may prescribe, if the Secretary determines that a
18 common bond exists, and that it is economically advisable to
19 organize the credit union, he or she shall within 60 days issue
20 a certificate of approval attached to the articles of
21 incorporation and return a copy of the bylaws and the articles
22 of incorporation to the applicants or their representative,
23 which shall be preserved in the permanent files of the credit
24 union. The subscribers shall file the certificate of approval,
25 with the articles of incorporation attached, in the office of
26 the recorder (or, if there is no recorder, in the office of the

1 county clerk) of the county in which the credit union is to
2 locate its principal place of business. The recorder or the
3 county clerk, as the case may be, shall accept and record the
4 documents if they are accompanied by the proper fee. When the
5 documents are so recorded, the credit union is incorporated
6 under this Act.

7 (5) The subscribers for a credit union charter shall not
8 transact any business until the certificate of approval has
9 been received.

10 (6) At the time of executing the articles of incorporation,
11 subscriber will provide the Department with an email address of
12 record.

13 (Source: P.A. 100-361, eff. 8-25-17.)

14 (205 ILCS 305/21) (from Ch. 17, par. 4422)

15 Sec. 21. Record of board and committee members. Within 30
16 days after election or appointment, the names and addresses of
17 the members of the board of directors, committees and all
18 officers of the credit union shall be filed with the Department
19 on forms provided by the Department. The form shall also
20 include the email address of record of the credit union.

21 (Source: P.A. 97-133, eff. 1-1-12.)

22 (205 ILCS 305/61) (from Ch. 17, par. 4462)

23 Sec. 61. Suspension.

24 (1) If the Secretary determines that any credit union is

1 bankrupt, insolvent, impaired or that it has violated this Act,
2 or is operating in an unsafe or unsound manner, he shall issue
3 an order temporarily suspending the credit union's operations
4 for not more than 60 days. The board of directors shall be
5 given notice of the suspension by first class mail, postage
6 prepaid, or electronic transmission to the credit union's email
7 address of record ~~by registered or certified mail of such~~
8 ~~suspension~~, which notice shall include the reasons for such
9 suspension and a list of specific violations of the Act.
10 Service by mail is completed if the notice is deposited in the
11 U.S. Mail. Service to the email address of record is completed
12 when sent. The Secretary shall also notify the members of the
13 credit union board of advisors of any suspension. The Director
14 may assess to the credit union a penalty, not to exceed the
15 regulatory fee as set forth in this Act, to offset costs
16 incurred in determining the condition of the credit union's
17 books and records.

18 (2) Upon receipt of such suspension notice, the credit
19 union shall cease all operations, except those authorized by
20 the Secretary, or the Secretary may appoint a manager-trustee
21 to operate the credit union during the suspension period. The
22 board of directors shall, within 10 days of the receipt of the
23 suspension notice, file with the Secretary a reply to the
24 suspension notice by submitting a corrective plan of action or
25 a request for formal hearing on said action pursuant to the
26 Department's rules and regulations.

1 (3) Upon receipt from the suspended credit union of
2 evidence that the conditions causing the order of suspension
3 have been corrected, and after determining that the proposed
4 corrective plan of action submitted is factual, the Secretary
5 shall revoke the suspension notice, permit the credit union to
6 resume normal operations, and notify the board of credit union
7 advisors of such action.

8 (4) If the Secretary determines that the proposed
9 corrective plan of action will not correct such conditions, he
10 may take possession and control of the credit union. The
11 Secretary may permit the credit union to operate under his
12 direction and control and may appoint a manager-trustee to
13 manage its affairs until such time as the condition requiring
14 such action has been remedied, or in the case of insolvency or
15 danger of insolvency where an emergency requiring expeditious
16 action exists, the Secretary may involuntarily merge the credit
17 union without the vote of the suspended credit union's board of
18 directors or members (hereafter involuntary merger) subject to
19 rules promulgated by the Secretary. No credit union shall be
20 required to serve as a surviving credit union in any
21 involuntary merger. Upon the request of the Secretary, a credit
22 union by a vote of a majority of its board of directors may
23 elect to serve as a surviving credit union in an involuntary
24 merger. If the Secretary determines that the suspended credit
25 union should be liquidated, he may appoint a liquidating agent
26 and require of that person such bond and security as he

1 considers proper.

2 (5) Upon receipt of a request for a formal hearing, the
3 Secretary shall conduct proceedings pursuant to rules and
4 regulations of the Department. The credit union may request the
5 appropriate court to stay execution of such action. Involuntary
6 liquidation or involuntary merger may not be ordered prior to
7 the conclusion of suspension procedures outlined in this
8 Section.

9 (6) If, within the suspension period, the credit union
10 fails to answer the suspension notice or fails to request a
11 formal hearing, or both, the Secretary may then (i)
12 involuntarily merge the credit union if the credit union is
13 insolvent or in danger of insolvency and an emergency requiring
14 expeditious action exists or (ii) revoke the credit union's
15 charter, appoint a liquidating agent and liquidate the credit
16 union.

17 (Source: P.A. 97-133, eff. 1-1-12.)

18 Section 10. The Currency Exchange Act is amended by
19 changing Sections 1, 4, 10, and 29.5 as follows:

20 (205 ILCS 405/1) (from Ch. 17, par. 4802)

21 Sec. 1. Definitions; application of Act.

22 (a) For the purposes of this Act:

23 "Community currency exchange" means any person, firm,
24 association, partnership, limited liability company, or

1 corporation, except an ambulatory currency exchange as
2 hereinafter defined, banks incorporated under the laws of this
3 State and National Banks organized pursuant to the laws of the
4 United States, engaged in the business or service of, and
5 providing facilities for, cashing checks, drafts, money orders
6 or any other evidences of money acceptable to such community
7 currency exchange, for a fee or service charge or other
8 consideration, or engaged in the business of selling or issuing
9 money orders under his or their or its name, or any other money
10 orders (other than United States Post Office money orders,
11 Postal Telegraph Company money orders, or Western Union
12 Telegraph Company money orders), or engaged in both such
13 businesses, or engaged in performing any one or more of the
14 foregoing services.

15 "Controlling person" means an officer, director, or person
16 owning or holding power to vote 10% or more of the outstanding
17 voting securities of a licensee or the power to vote the
18 securities of another controlling person of the licensee. For
19 the purposes of determining the percentage of a licensee
20 controlled by a controlling person, the person's interest shall
21 be combined with the interest of any other person controlled,
22 directly or indirectly, by that person or by a spouse, parent,
23 or child of that person.

24 "Department" means the Department of Financial and
25 Professional Regulation.

26 "Director" means the Director of the Division of Financial

1 Institutions of the Department of Financial and Professional
2 Regulation.

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

6 "Email address of record" means the designated email
7 address recorded by the Division in the applicant's applicant
8 file or the licensee's license file maintained by the
9 Division's licensure unit.

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 "Licensee" means any person, firm, association,
19 partnership, limited liability company, or corporation issued
20 one or more licenses by the Secretary under this Act.

21 "Licensed location" means the premises at which a licensee
22 is authorized to operate a community currency exchange to offer
23 to the public services, products, or activities under this Act.

24 "Location" when used with reference to an ambulatory
25 currency exchange means the premises of the employer whose
26 employees are or are to be served by an ambulatory currency

1 exchange.

2 "Principal office" means the physical business address,
3 which shall not be a post office box, of a licensee at which
4 the (i) Department may contact the licensee and (ii) records
5 required under this Act are maintained.

6 "Secretary" means the Secretary of Financial and
7 Professional Regulation or a person authorized by the Secretary
8 or this Act to act in the Secretary's stead. All references in
9 this Act to the Secretary shall be deemed to include the
10 Director, as a person authorized by the Secretary or this Act
11 to assume responsibility for the oversight of the functions of
12 the Department relative to the regulatory supervision of
13 community currency exchanges and ambulatory currency exchanges
14 under this Act.

15 (b) Nothing in this Act shall be held to apply to any
16 person, firm, association, partnership, limited liability
17 company, or corporation who is engaged primarily in the
18 business of transporting for hire, bullion, currency,
19 securities, negotiable or non-negotiable documents, jewels or
20 other property of great monetary value and who in the course of
21 such business and only as an incident thereto, cashes checks,
22 drafts, money orders or other evidences of money directly for,
23 or for the employees of and with the funds of and at a cost only
24 to, the person, firm, association, partnership, limited
25 liability company, or corporation for whom he or it is then
26 actually transporting such bullion, currency, securities,

1 negotiable or non-negotiable documents, jewels, or other
2 property of great monetary value, pursuant to a written
3 contract for such transportation and all incidents thereof, nor
4 shall it apply to any person, firm, association, partnership,
5 limited liability company, or corporation engaged in the
6 business of selling tangible personal property at retail who,
7 in the course of such business and only as an incident thereto,
8 cashes checks, drafts, money orders or other evidences of
9 money.

10 (Source: P.A. 99-445, eff. 1-1-16.)

11 (205 ILCS 405/4) (from Ch. 17, par. 4808)

12 Sec. 4. License application; contents; fees. A licensee
13 shall obtain a separate license for each licensed location.
14 Application for such license shall be in writing under oath and
15 in the form prescribed and furnished by the Secretary. Each
16 application shall contain the following:

17 (a) The applicant's full name and address (both of
18 residence and place of business) if the applicant is a
19 natural person, and if the applicant is a partnership,
20 limited liability company, or association, of every member
21 thereof, and the name and principal office if the applicant
22 is a corporation;

23 (b) The county and municipality, with street and
24 number, if any, where the community currency exchange is to
25 be conducted, if the application is for a community

1 currency exchange license;

2 (c) If the application is for an ambulatory currency
3 exchange license, the name and address of the employer at
4 each location to be served by it; ~~and~~

5 (d) In the case of a licensee's initial license
6 application, the applicant's occupation or profession; a
7 detailed statement of the applicant's business experience
8 for the 10 years immediately preceding the application; a
9 detailed statement of the applicant's finances; the
10 applicant's present or previous connection with any other
11 currency exchange; whether the applicant has ever been
12 involved in any civil or criminal litigation, and the
13 material facts pertaining thereto; whether the applicant
14 has ever been committed to any penal institution or
15 admitted to an institution for the care and treatment of
16 mentally ill persons; and the nature of applicant's
17 occupancy of the premises to be licensed where the
18 application is for a community currency exchange license.
19 If the applicant is a partnership, the information
20 specified herein shall be required of each partner. If the
21 applicant is a corporation or limited liability company,
22 the said information shall be required of each controlling
23 person thereof along with disclosure of their ownership
24 interests; and-

25 (e) An accurate and up-to-date email address.

26 A licensee's initial community currency exchange license

1 application shall be accompanied by a fee of \$1,000 for the
2 cost of investigating the applicant. A licensee's application
3 for licenses for additional licensed locations shall be
4 accompanied by a fee of \$1,000 for each additional license. If
5 the ownership of a licensee or licensed location changes, in
6 whole or in part, a new application must be filed pursuant to
7 this Section along with a \$500 fee if the licensee's ownership
8 interests have been transferred or sold to a new person or
9 entity or a fee of \$300 if the licensee's ownership interests
10 have been transferred or sold to a current holder or holders of
11 the licensee's ownership interests. When the application for a
12 community currency exchange license has been approved by the
13 Secretary and the applicant so advised, an additional sum of
14 \$400 as an annual license fee for a period terminating on the
15 last day of the current calendar year shall be paid to the
16 Secretary by the applicant; provided, that the license fee for
17 an applicant applying for such a license after July 1st of any
18 year shall be \$200 for the balance of such year. Upon receipt
19 of a community currency exchange license application, the
20 Secretary shall examine the application for completeness and
21 notify the applicant in writing of any defect within 20 days
22 after receipt. The applicant must remedy the defect within 10
23 days after the mailing of the notification of the defect by the
24 Secretary. Failure to timely remedy the defect will void the
25 application. Once the Secretary determines that the
26 application is complete, the Secretary shall have 90 business

1 days to approve or deny the application. If the application is
2 denied, the Secretary shall send by ~~United States~~ mail or to
3 the applicant's email address of record notice of the denial to
4 the applicant at the address set forth in the application. If
5 an application is denied, the applicant may, within 10 days
6 after the date of the notice of denial, make a written request
7 to the Secretary for a hearing on the application. The hearing
8 shall be set for a date after the receipt by the Secretary of
9 the request for a hearing, and electronic ~~written~~ notice of the
10 time and place of the hearing shall be sent to the applicant's
11 email address of record ~~mailed to the applicant~~ no later than
12 15 days before the date of the hearing. The hearing shall be
13 scheduled for a date within 56 days after the date of the
14 receipt of the request for a hearing. The applicant shall pay
15 the actual cost of making the transcript of the hearing prior
16 to the Secretary's issuing his or her decision. The Secretary's
17 decision is subject to review as provided in Section 22.01 of
18 this Act.

19 An application for an ambulatory currency exchange license
20 shall be accompanied by a fee of \$100, which fee shall be for
21 the cost of investigating the applicant. An approved applicant
22 shall not be required to pay the initial investigation fee of
23 \$100 more than once. When the application for an ambulatory
24 currency exchange license has been approved by the Secretary,
25 and such applicant so advised, such applicant shall pay an
26 annual license fee of \$25 for each and every location to be

1 served by such applicant; provided that such license fee for an
2 approved applicant applying for such a license after July 1st
3 of any year shall be \$12 for the balance of such year for each
4 and every location to be served by such applicant. Such an
5 approved applicant for an ambulatory currency exchange
6 license, when applying for a license with respect to a
7 particular location, shall file with the Secretary, at the time
8 of filing an application, a letter of memorandum, which shall
9 be in writing and under oath, signed by the owner or authorized
10 representative of the business whose employees are to be
11 served; such letter or memorandum shall contain a statement
12 that such service is desired, and that the person signing the
13 same is authorized so to do. The Secretary shall thereupon
14 verify the authenticity of the letter or memorandum and the
15 authority of the person who executed it, to do so.

16 The Department shall have 45 business days to approve or
17 deny a licensee's request to purchase another currency
18 exchange.

19 (Source: P.A. 99-445, eff. 1-1-16.)

20 (205 ILCS 405/10) (from Ch. 17, par. 4817)

21 Sec. 10. Qualifications of applicant; denial of license;
22 review. The applicant or its controlling persons shall be
23 vouched for by 2 reputable citizens of this State setting forth
24 that the individual mentioned is (a) personally known to them
25 to be trustworthy and reputable, (b) that he has business

1 experience qualifying him to competently conduct, operate, own
2 or become associated with a currency exchange, (c) that he has
3 a good business reputation and is worthy of a license.
4 Thereafter, the Secretary shall, upon approval of the
5 application filed with him, issue to the applicant, qualifying
6 under this Act, a license to operate a currency exchange. If it
7 is a license for a community currency exchange, the same shall
8 be valid only at the place of business specified in the
9 application. If it is a license for an ambulatory currency
10 exchange, it shall entitle the applicant to operate only at the
11 location or locations specified in the application, provided
12 the applicant shall secure separate and additional licenses for
13 each of such locations. Such licenses shall remain in full
14 force and effect, until they are surrendered by the licensee,
15 or revoked, or expire, as herein provided. If the Secretary
16 shall not so approve, he shall not issue such license or
17 licenses and shall notify the applicant of such denial,
18 retaining the full investigation fee to cover the cost of
19 investigating the community currency exchange applicant. The
20 Secretary shall approve or deny every application hereunder
21 within 90 days from the filing of a complete application;
22 except that in respect to an application by an approved
23 ambulatory currency exchange for a license with regard to a
24 particular location to be served by it, the same shall be
25 approved or denied within 20 days from the filing thereof. If
26 the application is denied, the Secretary shall send by United

1 States mail or to the licensee's email address of record notice
2 of such denial to the applicant at the address set forth in the
3 application.

4 If an application is denied, the applicant may, within 10
5 days from the date of the notice of denial, make written
6 request to the Secretary for a hearing on the application, and
7 the Secretary shall set a time and place for the hearing. The
8 hearing shall be set for a date after the receipt by the
9 Secretary of the request for hearing, and electronic ~~written~~
10 notice of the time and place of the hearing shall be emailed
11 ~~mailed~~ to the applicant at least 15 days before the date of the
12 hearing. The applicant shall pay the actual cost of making the
13 transcript of the hearing prior to the Secretary's issuing his
14 decision following the hearing. Service by email is completed
15 when sent.

16 If, following the hearing, the application is denied, the
17 Secretary shall, within 20 days thereafter prepare and keep on
18 file in his office a written order of denial thereof, which
19 shall contain his findings with respect thereto and the reasons
20 supporting the denial, and shall send by mail ~~United States~~
21 ~~Mail~~ a copy thereof to the applicant at the address set forth
22 in the application, within 5 days after the filing of such
23 order. A review of any such decision may be had as provided in
24 Section 22.01 of this Act.

25 (Source: P.A. 99-445, eff. 1-1-16.)

1 (205 ILCS 405/29.5)

2 Sec. 29.5. Cease and desist. The Secretary may issue a
3 cease and desist order to any currency exchange or other person
4 doing business without the required license, when in the
5 opinion of the Secretary, the currency exchange or other person
6 is violating or is about to violate any provision of this Act
7 or any rule or requirement imposed in writing by the
8 Department. The cease and desist order shall specify the
9 activity or activities that the Department is seeking the
10 currency exchange or other person doing business without the
11 required license to cease and desist.

12 The cease and desist order permitted by this Section may be
13 issued prior to a hearing.

14 The Secretary shall serve notice of his or her action,
15 including, but not limited to, a statement of reasons for the
16 action, either personally, by mail, or to the applicant's email
17 address of record ~~or by certified mail, return receipt~~
18 ~~requested.~~ Service by certified mail is ~~shall be deemed~~
19 ~~completed~~ ~~(i)~~ when the notice is deposited in the U.S. mail,
20 ~~received, or delivery is refused, or (ii) one business day~~
21 ~~after the United States Postal Service has attempted delivery,~~
22 ~~whichever is earlier.~~ Service by email is completed when sent.

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

1 the parties.

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

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

13 The currency exchange, or other person doing business
14 without the required license, shall pay the actual costs of the
15 hearing.

16 (Source: P.A. 99-445, eff. 1-1-16.)

17 Section 15. The Transmitters of Money Act is amended by
18 changing Sections 5, 25, 40, 80, and 90 as follows:

19 (205 ILCS 657/5)

20 Sec. 5. Definitions. As used in this Act, unless the
21 context otherwise requires, the words and phrases defined in
22 this Section have the meanings set forth in this Section.

23 "Authorized seller" means a person not an employee of a
24 licensee who engages in the business regulated by this Act on

1 behalf of a licensee under a contract between that person and
2 the licensee.

3 "Bill payment service" means the business of transmitting
4 money on behalf of an Illinois resident for the purpose of
5 paying the resident's bills.

6 "Controlling person" means a person owning or holding the
7 power to vote 25% or more of the outstanding voting securities
8 of a licensee or the power to vote the securities of another
9 controlling person of the licensee. For purposes of determining
10 the percentage of a licensee controlled by a controlling
11 person, the person's interest shall be combined with the
12 interest of any other person controlled, directly or
13 indirectly, by that person or by a spouse, parent, or child of
14 that person.

15 "Department" means the Department of Financial
16 Institutions.

17 "Director" means the Director of Financial Institutions.

18 "Email address of record" means the designated email
19 address recorded by the Division in the applicant's applicant
20 file or the licensee's license file maintained by the
21 Division's licensure unit.

22 "Licensee" means a person licensed under this Act.

23 "Location" means a place of business at which activity
24 regulated by this Act occurs.

25 "Material litigation" means any litigation that, according
26 to generally accepted accounting principles, is deemed

1 significant to a licensee's financial health and would be
2 required to be referenced in a licensee's annual audited
3 financial statements, reports to shareholders, or similar
4 documents.

5 "Money" means a medium of exchange that is authorized or
6 adopted by a domestic or foreign government as a part of its
7 currency and that is customarily used and accepted as a medium
8 of exchange in the country of issuance.

9 "Money transmitter" means a person who is located in or
10 doing business in this State and who directly or through
11 authorized sellers does any of the following in this State:

12 (1) Sells or issues payment instruments.

13 (2) Engages in the business of receiving money for
14 transmission or transmitting money.

15 (3) Engages in the business of exchanging, for
16 compensation, money of the United States Government or a
17 foreign government to or from money of another government.

18 "Outstanding payment instrument" means, unless otherwise
19 treated by or accounted for under generally accepted accounting
20 principles on the books of the licensee, a payment instrument
21 issued by the licensee that has been sold in the United States
22 directly by the licensee or has been sold in the United States
23 by an authorized seller of the licensee and reported to the
24 licensee as having been sold, but has not been paid by or for
25 the licensee.

26 "Payment instrument" means a check, draft, money order,

1 traveler's check, stored value card, or other instrument or
2 memorandum, written order or written receipt for the
3 transmission or payment of money sold or issued to one or more
4 persons whether or not that instrument or order is negotiable.
5 Payment instrument does not include an instrument that is
6 redeemable by the issuer in merchandise or service, a credit
7 card voucher, or a letter of credit. A written order for the
8 transmission or payment of money that results in the issuance
9 of a check, draft, money order, traveler's check, or other
10 instrument or memorandum is not a payment instrument.

11 "Person" means an individual, partnership, association,
12 joint stock association, corporation, or any other form of
13 business organization.

14 "Stored value card" means any magnetic stripe card or other
15 electronic payment instrument given in exchange for money and
16 other similar consideration, including but not limited to
17 checks, debit payments, money orders, drafts, credit payments,
18 and traveler's checks, where the card or other electronic
19 payment instrument represents a dollar value that the consumer
20 can either use or give to another individual.

21 "Transmitting money" means the transmission of money by any
22 means, including transmissions to or from locations within the
23 United States or to and from locations outside of the United
24 States by payment instrument, facsimile or electronic
25 transfer, or otherwise, and includes bill payment services.

26 (Source: P.A. 92-400, eff. 1-1-02; 93-535, eff. 1-1-04.)

1 (205 ILCS 657/25)

2 Sec. 25. Application for license.

3 (a) An application for a license must be in writing, under
4 oath, and in the form the Director prescribes. The application
5 must contain or be accompanied by all of the following:

6 (1) The name of the applicant and the address of the
7 principal place of business of the applicant and the
8 address of all locations and proposed locations of the
9 applicant in this State.

10 (2) The form of business organization of the applicant,
11 including:

12 (A) a copy of its articles of incorporation and
13 amendments thereto and a copy of its bylaws, certified
14 by its secretary, if the applicant is a corporation;

15 (B) a copy of its partnership agreement, certified
16 by a partner, if the applicant is a partnership; or

17 (C) a copy of the documents that control its
18 organizational structure, certified by a managing
19 official, if the applicant is organized in some other
20 form.

21 (3) The name, business and home address, and a
22 chronological summary of the business experience, material
23 litigation history, and felony convictions over the
24 preceding 10 years of:

25 (A) the proprietor, if the applicant is an

1 individual;

2 (B) every partner, if the applicant is a
3 partnership;

4 (C) each officer, director, and controlling
5 person, if the applicant is a corporation; and

6 (D) each person in a position to exercise control
7 over, or direction of, the business of the applicant,
8 regardless of the form of organization of the
9 applicant.

10 (4) Financial statements, not more than one year old,
11 prepared in accordance with generally accepted accounting
12 principles and audited by a licensed public accountant or
13 certified public accountant showing the financial
14 condition of the applicant and an unaudited balance sheet
15 and statement of operation as of the most recent quarterly
16 report before the date of the application, certified by the
17 applicant or an officer or partner thereof. If the
18 applicant is a wholly owned subsidiary or is eligible to
19 file consolidated federal income tax returns with its
20 parent, however, unaudited financial statements for the
21 preceding year along with the unaudited financial
22 statements for the most recent quarter may be submitted if
23 accompanied by the audited financial statements of the
24 parent company for the preceding year along with the
25 unaudited financial statement for the most recent quarter.

26 (5) Filings of the applicant with the Securities and

1 Exchange Commission or similar foreign governmental entity
2 (English translation), if any.

3 (6) A list of all other states in which the applicant
4 is licensed as a money transmitter and whether the license
5 of the applicant for those purposes has ever been
6 withdrawn, refused, canceled, or suspended in any other
7 state, with full details.

8 (7) A list of all money transmitter locations and
9 proposed locations in this State.

10 (8) A sample of the contract for authorized sellers.

11 (9) A sample form of the proposed payment instruments
12 to be used in this State.

13 (10) The name and business address of the clearing
14 banks through which the applicant intends to conduct any
15 business regulated under this Act.

16 (11) A surety bond as required by Section 30 of this
17 Act.

18 (12) The applicable fees as required by Section 45 of
19 this Act.

20 (13) A written consent to service of process as
21 provided by Section 100 of this Act.

22 (14) A written statement that the applicant is in full
23 compliance with and agrees to continue to fully comply with
24 all state and federal statutes and regulations relating to
25 money laundering.

26 (15) An accurate and up-to-date email address.

1 (16) ~~(15)~~ All additional information the Director
2 considers necessary in order to determine whether or not to
3 issue the applicant a license under this Act.

4 (b) The Director may, for good cause shown, waive, in part,
5 any of the requirements of this Section.

6 (Source: P.A. 92-400, eff. 1-1-02.)

7 (205 ILCS 657/40)

8 Sec. 40. Renewals of license. As a condition for renewal of
9 a license, a licensee must submit to the Director, and the
10 Director must receive, on or before December 1 of each year, an
11 application for renewal made in writing and under oath on a
12 form prescribed by the Director. A licensee whose application
13 for renewal is not received by the Department on or before
14 December 31 shall not have its license renewed and shall be
15 required to submit to the Director an application for a new
16 license in accordance with Section 25. Upon a showing of good
17 cause, the Director may extend the deadline for the filing of
18 an application for renewal. The application for renewal of a
19 license shall contain or be accompanied by all of the
20 following:

21 (1) The name of the licensee and the address of the
22 principal place of business of the licensee.

23 (2) A list of all locations where the licensee is
24 conducting business under its license and a list of all
25 authorized sellers through whom the licensee is conducting

1 business under its license, including the name and business
2 address of each authorized seller.

3 (3) Audited financial statements covering the past
4 year of operations, prepared in accordance with generally
5 accepted accounting principles, showing the financial
6 condition of the licensee. The licensee shall submit the
7 audited financial statement after the application for
8 renewal has been approved. The audited financial statement
9 must be received by the Department no later than 120 days
10 after the end of the licensee's fiscal year. If the
11 licensee is a wholly owned subsidiary or is eligible to
12 file consolidated federal income tax returns with its
13 parent, the licensee may submit unaudited financial
14 statements if accompanied by the audited financial
15 statements of the parent company for its most recently
16 ended year.

17 (4) A statement of the dollar amount and number of
18 money transmissions and payment instruments sold, issued,
19 exchanged, or transmitted in this State by the licensee and
20 its authorized sellers for the past year.

21 (5) A statement of the dollar amount of uncompleted
22 money transmissions and payment instruments outstanding or
23 in transit, in this State, as of the most recent quarter
24 available.

25 (6) The annual license renewal fees and any penalty
26 fees as provided by Section 45 of this Act.

1 (7) Evidence sufficient to prove to the satisfaction of
2 the Director that the licensee has complied with all
3 requirements under Section 20 relating to its net worth,
4 under Section 30 relating to its surety bond or other
5 security, and under Section 50 relating to permissible
6 investments.

7 (8) A statement of a change in information provided by
8 the licensee in its application for a license or its
9 previous applications for renewal including, but not
10 limited to, new directors, officers, authorized sellers,
11 or clearing banks and material changes in the operation of
12 the licensee's business.

13 (9) An accurate and up-to-date email address.

14 (Source: P.A. 92-400, eff. 1-1-02.)

15 (205 ILCS 657/80)

16 Sec. 80. Revocation or suspension of licenses.

17 (a) The Director may suspend or revoke a license if the
18 Director finds any of the following:

19 (1) The licensee has knowingly made a material
20 misstatement or suppressed or withheld information on an
21 application for a license or a document required to be
22 filed with the Director.

23 (2) A fact or condition exists that, if it had existed
24 or had been known at the time the licensee applied for its
25 license, would have been grounds for denying the

1 application.

2 (3) The licensee is insolvent.

3 (4) The licensee has knowingly violated a material
4 provision of this Act or rules adopted under this Act or an
5 order of the Director.

6 (5) The licensee refuses to permit the Director to make
7 an examination at reasonable times as authorized by this
8 Act.

9 (6) The licensee knowingly fails to make a report
10 required by this Act.

11 (7) The licensee fails to pay a judgment entered in
12 favor of a claimant, plaintiff, or creditor in an action
13 arising out of the licensee's business regulated under this
14 Act within 30 days after the judgment becomes final or
15 within 30 days after expiration or termination of a stay of
16 execution.

17 (8) The licensee has been convicted under the laws of
18 this State, another state, or the United States of a felony
19 or of a crime involving a breach of trust or dishonesty.

20 (9) The licensee has failed to suspend or terminate its
21 authorized seller's authority to act on its behalf when the
22 licensee knew its authorized seller was violating or had
23 violated a material provision of this Act or rules adopted
24 under this Act or an order of the Director.

25 (b) In every case in which a license is suspended or
26 revoked or an application for a license or renewal of a license

1 is denied, the Director shall serve notice of his action,
2 including a statement of the reasons for his action, either
3 personally, by mail, or to the licensee's email address of
4 record. Service by mail is completed when the notice is
5 deposited in the U.S. mail. Service to the email address of
6 record is completed when sent ~~or by certified mail, return~~
7 ~~receipt requested. Service by mail shall be deemed completed if~~
8 ~~the notice is deposited in the post office, postage paid,~~
9 ~~addressed to the last known address specified in the~~
10 ~~application for a license.~~

11 (c) In the case of denial of an application for a license
12 or renewal of a license, the applicant or licensee may request
13 in writing, within 30 days after the date of service, a
14 hearing. In the case of a denial of an application for renewal
15 of a license, the expiring license shall be deemed to continue
16 in force until 30 days after the service of the notice of
17 denial or, if a hearing is requested during that period, until
18 a final order is entered pursuant to a hearing.

19 (d) The order of suspension or revocation of a license
20 shall take effect upon service of the order. The holder of any
21 suspended or revoked license may request in writing, within 30
22 days after the date of service, a hearing. In the event a
23 hearing is requested, the order shall remain temporary until a
24 final order is entered pursuant to the hearing.

25 (e) The hearing shall be held at the time and place
26 designated by the Director in either the City of Springfield or

1 the City of Chicago. The Director and any administrative law
2 judge designated by him shall have the power to administer
3 oaths and affirmations, subpoena witnesses and compel their
4 attendance, take evidence, authorize the taking of
5 depositions, and require the production of books, papers,
6 correspondence, and other records or information that he
7 considers relevant or material to the inquiry.

8 (f) The Director may issue an order of suspension or
9 revocation of a license that takes effect upon service of the
10 order and remains in effect regardless of a request for a
11 hearing when the Director finds that the public welfare will be
12 endangered if the licensee is permitted to continue to operate
13 the business regulated by this Act.

14 (g) The decision of the Director to deny any application
15 for a license or renewal of a license or to suspend or revoke a
16 license is subject to judicial review under the Administrative
17 Review Law.

18 (h) The costs for administrative hearing shall be set by
19 rule.

20 (i) Appeals from all final orders and judgments entered by
21 the circuit court under this Section in review of a decision of
22 the Director may be taken as in other civil actions by any
23 party to the proceeding.

24 (Source: P.A. 88-643, eff. 1-1-95.)

1 Sec. 90. Enforcement.

2 (a) If it appears to the Director that a person has
3 committed or is about to commit a violation of this Act, a rule
4 promulgated under this Act, or an order of the Director, the
5 Director may apply to the circuit court for an order enjoining
6 the person from violating or continuing to violate this Act,
7 the rule, or order and for injunctive or other relief that the
8 nature of the case may require and may, in addition, request
9 the court to assess a civil penalty up to \$1,000 along with
10 costs and attorney fees.

11 (b) If the Director finds, after an investigation that he
12 considers appropriate, that a licensee or other person is
13 engaged in practices contrary to this Act or to the rules
14 promulgated under this Act, the Director may issue an order
15 directing the licensee or person to cease and desist the
16 violation. The Director may, in addition to or without the
17 issuance of a cease and desist order, assess an administrative
18 penalty up to \$1,000 against a licensee for each violation of
19 this Act or the rules promulgated under this Act. The issuance
20 of an order under this Section shall not be a prerequisite to
21 the taking of any action by the Director under this or any
22 other Section of this Act. The Director shall serve notice of
23 his action, including a statement of the reasons for his
24 actions, either personally, by mail, or to the licensee's email
25 address of record. Service by mail is completed when the notice
26 is deposited in the U.S. mail. Service to the email address of

1 ~~record is completed when sent or by certified mail, return~~
2 ~~receipt requested. Service by mail shall be deemed completed if~~
3 ~~the notice is deposited in the post office, postage paid,~~
4 ~~addressed to the last known address for a license.~~

5 (c) In the case of the issuance of a cease and desist order
6 or assessment order, a hearing may be requested in writing
7 within 30 days after the date of service. The hearing shall be
8 held at the time and place designated by the Director in either
9 the City of Springfield or the City of Chicago. The Director
10 and any administrative law judge designated by him shall have
11 the power to administer oaths and affirmations, subpoena
12 witnesses and compel their attendance, take evidence,
13 authorize the taking of depositions, and require the production
14 of books, papers, correspondence, and other records or
15 information that he considers relevant or material to the
16 inquiry.

17 (d) After the Director's final determination under a
18 hearing under this Section, a party to the proceedings whose
19 interests are affected by the Director's final determination
20 shall be entitled to judicial review of that final
21 determination under the Administrative Review Law.

22 (e) The costs for administrative hearings shall be set by
23 rule.

24 (f) Except as otherwise provided in this Act, a violation
25 of this Act shall subject the party violating it to a fine of
26 \$1,000 for each offense.

1 (g) Each transaction in violation of this Act or the rules
2 promulgated under this Act and each day that a violation
3 continues shall be a separate offense.

4 (h) A person who engages in conduct requiring a license
5 under this Act and fails to obtain a license from the Director
6 or knowingly makes a false statement, misrepresentation, or
7 false certification in an application, financial statement,
8 account record, report, or other document filed or required to
9 be maintained or filed under this Act or who knowingly makes a
10 false entry or omits a material entry in a document is guilty
11 of a Class 3 felony.

12 (i) The Director is authorized to compromise, settle, and
13 collect civil penalties and administrative penalties, as set by
14 rule, with any person for violations of this Act or of any rule
15 or order issued or promulgated under this Act. Any person who,
16 without the required license, engages in conduct requiring a
17 license under this Act shall be liable to the Department in an
18 amount equal to the greater of (i) \$5,000 or (ii) an amount of
19 money accepted for transmission plus an amount equal to 3 times
20 the amount accepted for transmission. The Department shall
21 cause any funds so recovered to be deposited in the TOMA
22 Consumer Protection Fund.

23 (j) The Director may enter into consent orders at any time
24 with a person to resolve a matter arising under this Act. A
25 consent order must be signed by the person to whom it is issued
26 and must indicate agreement to the terms contained in it. A

1 consent order need not constitute an admission by a person that
2 this Act or a rule or order issued or promulgated under this
3 Act has been violated, nor need it constitute a finding by the
4 Director that the person has violated this Act or a rule or
5 order promulgated under this Act.

6 (k) Notwithstanding the issuance of a consent order, the
7 Director may seek civil or criminal penalties or compromise
8 civil penalties concerning matter encompassed by the consent
9 order unless the consent order by its terms expressly precludes
10 the Director from doing so.

11 (l) Appeals from all final orders and judgments entered by
12 the circuit court under this Section in review of a decision of
13 the Director may be taken as in other civil actions by any
14 party to the proceeding.

15 (Source: P.A. 100-201, eff. 8-18-17.)

16 Section 20. The Sales Finance Agency Act is amended by
17 changing Sections 2, 6, 10, and 16.5 as follows:

18 (205 ILCS 660/2) (from Ch. 17, par. 5202)

19 Sec. 2. Definitions. In this Act, unless the context
20 otherwise requires:

21 "Sales finance agency" means a person, irrespective of his
22 or her state of domicile or place of business, engaged in this
23 State, in whole or in part, in the business of purchasing, or
24 making loans secured by, retail installment contracts, retail

1 charge agreements or the outstanding balances under such
2 contracts or agreements entered into in this State.

3 "Holder" of a retail installment contract or a retail
4 charge agreement means the retail seller of the goods or
5 services under the contract or charge agreement, or if the
6 outstanding balances thereunder are purchased by or
7 transferred as security to a sales finance agency or other
8 assignee, the sales finance agency or other assignee.

9 "Person" means an individual, corporation, partnership,
10 limited liability company, joint venture, or any other form of
11 business association.

12 "Department" means the Department of Financial
13 Institutions.

14 "Director" means the Director of Financial Institutions.

15 "Email address of record" means the designated email
16 address recorded by the Division in the applicant's applicant
17 file or the licensee's license file maintained by the
18 Division's licensure unit.

19 "Motor Vehicle Retail Installment Sales Act" and "Retail
20 Installment Sales Act" refer to the Acts having those titles
21 enacted by the 75th General Assembly.

22 "Retail installment contract" and "retail charge
23 agreement" have the meanings ascribed to them in the Motor
24 Vehicle Retail Installment Sales Act and the Retail Installment
25 Sales Act.

26 "Special purpose vehicle" means an entity that, in

1 connection with a securitization, private placement, or
2 similar type of investment transaction, is administered by a
3 State or national bank under a management agreement for the
4 purpose of purchasing, making loans against, or in pools of,
5 receivables, general intangibles, and other financial assets
6 including retail installment contracts, retail charge
7 agreements, or the outstanding balances or any portion of the
8 outstanding balances under those contracts or agreements.

9 "Net Worth" means total assets minus total liabilities.

10 (Source: P.A. 89-400, eff. 8-20-95; 90-437, eff. 1-1-98.)

11 (205 ILCS 660/6) (from Ch. 17, par. 5206)

12 Sec. 6. A license fee of \$300 for the applicant's principal
13 place of business and \$100 for each additional place of
14 business for which a license is sought must be submitted with
15 an application for license made before July 1 of any year. If
16 application for a license is made on July 1 or thereafter, a
17 license fee of \$150 for the principal place of business and of
18 \$50 for each additional place of business must accompany the
19 application. Each license remains in force until surrendered,
20 suspended, or revoked. If the application for license is
21 denied, the original license fee shall be retained by the State
22 in reimbursement of its costs of investigating that
23 application.

24 Before the license is granted, the applicant shall prove in
25 form satisfactory to the Director, that the applicant has a

1 positive net worth of a minimum of \$30,000. At the time of
2 application, an applicant shall provide the Department with an
3 accurate and up-to-date email address.

4 A licensee must pay to the Department, and the Department
5 must receive, by December 1 of each year, the renewal license
6 application on forms prescribed by the Director and \$300 for
7 the license for his principal place of business and \$100 for
8 each additional license held as a renewal license fee for the
9 succeeding calendar year.

10 (Source: P.A. 92-398, eff. 1-1-02.)

11 (205 ILCS 660/10) (from Ch. 17, par. 5223)

12 Sec. 10. Denial, revocation, fine, or suspension of
13 license.

14 (a) The Director may revoke or suspend a license or fine a
15 licensee if the licensee violates any provisions of this Act.

16 (b) In every case in which a license is revoked or
17 suspended, a licensee is fined, or an application for a license
18 or renewal of a license is denied, the Director shall serve
19 notice of his or her action, including a statement of the
20 reasons for the action either personally, by mail, or to the
21 licensee's email address of record ~~or by certified mail, return~~
22 ~~receipt requested.~~ Service by ~~certified mail~~ is ~~shall be deemed~~
23 completed when the notice is deposited in the U.S. mail.
24 Service to the email address of record is completed when sent.

25 (c) An order revoking or suspending a license or an order

1 denying renewal of a license shall take effect upon service of
2 the order, unless the licensee requests, in writing, within 10
3 days after the date of service, a hearing. In the event a
4 hearing is requested, the order shall be stayed until a final
5 administrative order is entered.

6 (d) If the licensee requests a hearing, the Director shall
7 schedule a hearing within 30 days after the request for a
8 hearing unless otherwise agreed to by the parties.

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

17 (f) The costs for the administrative hearing shall be set
18 by rule.

19 (g) The Director shall have the authority to prescribe
20 rules for the administration of this Section.

21 (Source: P.A. 92-398, eff. 1-1-02.)

22 (205 ILCS 660/16.5)

23 Sec. 16.5. Cease and desist orders.

24 (a) The Director may issue a cease and desist order to a
25 sales finance agency or other person doing business without the

1 required license when, in the opinion of the director, the
2 licensee or other person is violating or is about to violate
3 any provision of this Act or any law, rule, or requirement
4 imposed in writing by the Department.

5 (b) The Director may issue a cease and desist order prior
6 to a hearing.

7 (c) The Director shall serve notice of his or her action,
8 designated as a cease and desist order made pursuant to this
9 Section, including a statement of the reasons for the action,
10 either personally, by mail, or to the licensee's email address
11 of record ~~or by certified mail, return receipt requested.~~
12 Service by ~~certified mail~~ is ~~shall be deemed~~ completed when the
13 notice is deposited in the U.S. mail. Service by email is
14 completed when sent.

15 (d) Within 15 days of service of the cease and desist
16 order, the sales finance agency or other person may request, in
17 writing, a hearing.

18 (e) The Director shall schedule a hearing within 30 days
19 after the request for a hearing unless otherwise agreed to by
20 the parties.

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

23 (g) If it is determined that the Director had the authority
24 to issue the cease and desist order, he or she may issue such
25 orders as may be reasonably necessary to correct, eliminate, or
26 remedy such conduct.

1 (h) The powers vested in the Director by this Section are
2 additional to any and all other powers and remedies vested in
3 the Director by law, and nothing in this Section shall be
4 construed as requiring that the Director shall employ the
5 powers conferred in this Section instead of or as a condition
6 precedent to the exercise of any other power or remedy vested
7 in the Director.

8 (i) The cost for the administrative hearing shall be set by
9 rule.

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

11 Section 25. The Debt Management Service Act is amended by
12 changing Sections 2, 4, 6, 10, and 20 as follows:

13 (205 ILCS 665/2) (from Ch. 17, par. 5302)

14 Sec. 2. Definitions. As used in this Act:

15 "Credit counselor" means an individual, corporation, or
16 other entity that is not a debt management service that
17 provides (1) guidance, educational programs, or advice for the
18 purpose of addressing budgeting, personal finance, financial
19 literacy, saving and spending practices, or the sound use of
20 consumer credit; or (2) assistance or offers to assist
21 individuals and families with financial problems by providing
22 counseling; or (3) a combination of the activities described in
23 items (1) and (2) of this definition.

24 "Debt management service" means the planning and

1 management of the financial affairs of a debtor for a fee and
2 the receiving of money from the debtor for the purpose of
3 distributing it to the debtor's creditors in payment or partial
4 payment of the debtor's obligations or soliciting financial
5 contributions from creditors. The business of debt management
6 is conducted in this State if the debt management business, its
7 employees, or its agents are located in this State or if the
8 debt management business solicits or contracts with debtors
9 located in this State. "Debt management service" does not
10 include "debt settlement service" as defined in the Debt
11 Settlement Consumer Protection Act.

12 This term shall not include the following when engaged in
13 the regular course of their respective businesses and
14 professions:

15 (a) Attorneys at law licensed, or otherwise authorized
16 to practice, in Illinois who are engaged in the practice of
17 law.

18 (b) Banks, operating subsidiaries of banks, affiliates
19 of banks, fiduciaries, credit unions, savings and loan
20 associations, and savings banks as duly authorized and
21 admitted to transact business in the State of Illinois and
22 performing credit and financial adjusting service in the
23 regular course of their principal business.

24 (c) Title insurers, title agents, independent
25 escrowees, and abstract companies, while doing an escrow
26 business.

1 (d) Judicial officers or others acting pursuant to
2 court order.

3 (e) Employers for their employees, except that no
4 employer shall retain the services of an outside debt
5 management service to perform this service unless the debt
6 management service is licensed pursuant to this Act.

7 (f) Bill payment services, as defined in the
8 Transmitters of Money Act.

9 (g) Credit counselors, only when providing services
10 described in the definition of credit counselor in this
11 Section.

12 "Debtor" means the person or persons for whom the debt
13 management service is performed.

14 "Email address of record" means the designated email
15 address recorded by the Division in the applicant's applicant
16 file or the licensee's license file maintained by the
17 Division's licensure unit.

18 "Person" means an individual, firm, partnership,
19 association, limited liability company, corporation, or
20 not-for-profit corporation.

21 "Licensee" means a person licensed under this Act.

22 "Secretary" means the Secretary of Financial and
23 Professional Regulation.

24 (Source: P.A. 100-201, eff. 8-18-17.)

25 (205 ILCS 665/4) (from Ch. 17, par. 5304)

1 Sec. 4. Application for license. Application for a license
2 to engage in the debt management service business in this State
3 shall be made to the Secretary and shall be in writing, under
4 oath, and in the form prescribed by the Secretary. At the time
5 of application, an applicant shall provide the Department with
6 an accurate and up-to-date email address.

7 Each applicant, at the time of making such application,
8 shall pay to the Secretary the sum of \$30.00 as a fee for
9 investigation of the applicant, and the additional sum of
10 \$100.00 as a license fee.

11 Every applicant shall submit to the Secretary, at the time
12 of the application for a license, a bond to be approved by the
13 Secretary in which the applicant shall be the obligor, in the
14 sum of \$25,000 or such additional amount as required by the
15 Secretary based on the amount of disbursements made by the
16 licensee in the previous year, and in which an insurance
17 company, which is duly authorized by the State of Illinois, to
18 transact the business of fidelity and surety insurance shall be
19 a surety.

20 The bond shall run to the Secretary for the use of the
21 Department or of any person or persons who may have a cause of
22 action against the obligor in said bond arising out of any
23 violation of this Act or rules by a licensee. Such bond shall be
24 conditioned that the obligor will faithfully conform to and
25 abide by the provisions of this Act and of all rules,
26 regulations and directions lawfully made by the Secretary and

1 will pay to the Secretary or to any person or persons any and
2 all money that may become due or owing to the State or to such
3 person or persons, from said obligor under and by virtue of the
4 provisions of this Act.

5 (Source: P.A. 96-1420, eff. 8-3-10.)

6 (205 ILCS 665/6) (from Ch. 17, par. 5306)

7 Sec. 6. Renewal of license. Each debt management service
8 provider under the provisions of this Act may make application
9 to the Secretary for renewal of its license, which application
10 for renewal shall be on the form prescribed by the Secretary
11 and shall be accompanied by a fee of \$100.00 together with a
12 bond or other surety as required, in a minimum amount of
13 \$25,000 or such an amount as required by the Secretary based on
14 the amount of disbursements made by the licensee in the
15 previous year. The application must be received by the
16 Department no later than December 1 of the year preceding the
17 year for which the application applies. At the time of renewal,
18 a licensee shall provide the Department with an accurate and
19 up-to-date email address.

20 (Source: P.A. 96-1420, eff. 8-3-10.)

21 (205 ILCS 665/10) (from Ch. 17, par. 5310)

22 Sec. 10. Revocation, suspension, or refusal to renew
23 license.

24 (a) The Secretary may revoke or suspend or refuse to renew

1 any license if he finds that:

2 (1) any licensee has failed to pay the annual license
3 fee, or to maintain in effect the bond required under the
4 provisions of this Act;

5 (2) the licensee has violated any provisions of this
6 Act or any rule, lawfully made by the Secretary within the
7 authority of this Act;

8 (3) any fact or condition exists which, if it had
9 existed at the time of the original application for a
10 license, would have warranted the Secretary in refusing its
11 issuance; or

12 (4) any applicant has made any false statement or
13 representation to the Secretary in applying for a license
14 hereunder.

15 (b) In every case in which a license is suspended or
16 revoked or an application for a license or renewal of a license
17 is denied, the Secretary shall serve notice of his action,
18 including a statement of the reasons for his actions, either
19 personally, by mail, or to the licensee's email address of
20 record ~~or by certified mail, return receipt requested~~. Service
21 by mail ~~is shall be deemed~~ completed if the notice is deposited
22 in the U.S. Mail. Service to the email address of record is
23 completed when sent.

24 (c) In the case of a denial of an application or renewal of
25 a license, the applicant or licensee may request in writing,
26 within 30 days after the date of service, a hearing. In the

1 case of a denial of a renewal of a license, the license shall
2 be deemed to continue in force until 30 days after the service
3 of the notice of denial, or if a hearing is requested during
4 that period, until a final administrative order is entered.

5 (d) An order of revocation or suspension of a license shall
6 take effect upon service of the order unless the licensee
7 requests, in writing, within 10 days after the date of service,
8 a hearing. In the event a hearing is requested, the order shall
9 be stayed until a final administrative order is entered.

10 (e) If the licensee requests a hearing, the Secretary shall
11 schedule either a status date or a hearing within 30 days after
12 the request for a hearing unless otherwise agreed to by the
13 parties.

14 (f) The hearing shall be held at the time and place
15 designated by the Secretary. The Secretary and any
16 administrative law judge designated by him have the power to
17 administer oaths and affirmations, subpoena witnesses and
18 compel their attendance, take evidence, and require the
19 production of books, papers, correspondence, and other records
20 or information that he considers relevant or material to the
21 injury.

22 (g) The costs for the administrative hearing shall be set
23 by rule and shall be borne by the respondent.

24 (Source: P.A. 96-1420, eff. 8-3-10.)

25 (205 ILCS 665/20) (from Ch. 17, par. 5323)

1 Sec. 20. Cease and desist orders.

2 (a) The Secretary may issue a cease and desist order to any
3 licensee, or other person doing business without the required
4 license, when in the opinion of the Secretary, the licensee, or
5 other person, is violating or is about to violate any provision
6 of the Act or any rule or condition imposed in writing by the
7 Department.

8 (b) The Secretary may issue a cease and desist order prior
9 to a hearing.

10 (c) The Secretary shall serve notice of his action,
11 including a statement of the reasons for his action either
12 personally, by mail, or to the licensee's email address of
13 record ~~or by certified mail, return receipt requested~~. Service
14 by mail ~~is shall be deemed~~ completed if the notice is deposited
15 in the U.S. Mail. Service to the email address of record is
16 completed when sent.

17 (d) Within 10 days after service of the cease and desist
18 order, the licensee or other person may request, in writing, a
19 hearing.

20 (e) The Secretary shall schedule either a status date or a
21 hearing within 30 days after the request for a hearing unless
22 otherwise agreed to by the parties.

23 (g) If it is determined that the Secretary had the
24 authority to issue the cease and desist order, he may issue
25 such orders as may be reasonably necessary to correct,
26 eliminate, or remedy such conduct.

1 (h) The powers vested in the Secretary by this Section are
2 additional to any and all other powers and remedies vested in
3 the Secretary by law, and nothing in this Section shall be
4 construed as requiring that the Secretary shall employ the
5 power conferred in this Section instead of or as a condition
6 precedent to the exercise of any other power or remedy vested
7 in the Secretary.

8 (i) The cost for the administrative hearing shall be set by
9 rule and shall be borne by the respondent.

10 (Source: P.A. 96-1420, eff. 8-3-10.)

11 Section 30. The Consumer Installment Loan Act is amended by
12 adding Section 0.5 and by changing Sections 2, 8, 9, and 20.5
13 as follows:

14 (205 ILCS 670/0.5 new)

15 Sec. 0.5. Email address of record. In this Act, "email
16 address of record" means the designated email address recorded
17 by the Division in the applicant's applicant file or the
18 licensee's license file maintained by the Division's licensure
19 unit.

20 (205 ILCS 670/2) (from Ch. 17, par. 5402)

21 Sec. 2. Application; fees; positive net worth.

22 Application for such license shall be in writing, and in
23 the form prescribed by the Director. Such applicant at the time

1 of making such application shall pay to the Director the sum of
2 \$300 as an application fee and the additional sum of \$450 as an
3 annual license fee, for a period terminating on the last day of
4 the current calendar year; provided that if the application is
5 filed after June 30th in any year, such license fee shall be
6 1/2 of the annual license fee for such year. At the time of
7 application, an applicant shall provide the Department with an
8 accurate and up-to-date email address.

9 Before the license is granted, every applicant shall prove
10 in form satisfactory to the Director that the applicant has and
11 will maintain a positive net worth of a minimum of \$30,000.
12 Every applicant and licensee shall maintain a surety bond in
13 the principal sum of \$25,000 issued by a bonding company
14 authorized to do business in this State and which shall be
15 approved by the Director. Such bond shall run to the Director
16 and shall be for the benefit of any consumer who incurs damages
17 as a result of any violation of the Act or rules by a licensee.
18 If the Director finds at any time that a bond is of
19 insufficient size, is insecure, exhausted, or otherwise
20 doubtful, an additional bond in such amount as determined by
21 the Director shall be filed by the licensee within 30 days
22 after written demand therefor by the Director. "Net worth"
23 means total assets minus total liabilities.

24 (Source: P.A. 92-398, eff. 1-1-02; 93-32, eff. 7-1-03.)

25 (205 ILCS 670/8) (from Ch. 17, par. 5408)

1 Sec. 8. Annual license fee - Expenses. Before the 15th day
2 of each December, a licensee must pay to the Director, and the
3 Department must receive, the annual license fee required by
4 Section 2 for the next succeeding calendar year. The license
5 shall expire on the first of January unless the license fee has
6 been paid prior thereto. At the time of renewal, a licensee
7 shall provide the Department with an accurate and up-to-date
8 email address.

9 In addition to such license fee, the reasonable expense of
10 any examination, investigation or custody by the Director under
11 any provisions of this Act shall be borne by the licensee.

12 If a licensee fails to renew his or her license by the 31st
13 day of December, it shall automatically expire and the licensee
14 is not entitled to a hearing; however, the Director, in his or
15 her discretion, may reinstate an expired license upon payment
16 of the annual renewal fee and proof of good cause for failure
17 to renew.

18 (Source: P.A. 92-398, eff. 1-1-02.)

19 (205 ILCS 670/9) (from Ch. 17, par. 5409)

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

21 (a) The Director may, after 10 days notice by registered
22 mail to the licensee at the address set forth in the license,
23 stating the contemplated action and in general the grounds
24 therefor, fine such licensee an amount not exceeding \$10,000
25 per violation, or revoke or suspend any license issued

1 hereunder if he or she finds that:

2 (1) The licensee has failed to comply with any
3 provision of this Act or any order, decision, finding,
4 rule, regulation or direction of the Director lawfully made
5 pursuant to the authority of this Act; or

6 (2) Any fact or condition exists which, if it had
7 existed at the time of the original application for the
8 license, clearly would have warranted the Director in
9 refusing to issue the license.

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

17 (c) (Blank).

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

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

25 (f) (Blank).

26 (g) In every case in which a license is suspended or

1 revoked or an application for a license or renewal of a license
2 is denied, the Director shall serve the licensee with notice of
3 his or her action, including a statement of the reasons for his
4 or her actions, either personally, ~~or by certified mail,~~ or to
5 the licensee's email address of record ~~return receipt~~
6 ~~requested.~~ Service by ~~certified mail~~ is ~~shall be deemed~~
7 completed when the notice is deposited in the U.S. Mail.
8 Service to the email address of record is completed when sent.

9 (h) An order assessing a fine, an order revoking or
10 suspending a license or, an order denying renewal of a license
11 shall take effect upon service of the order unless the licensee
12 requests, in writing, within 10 days after the date of service,
13 a hearing. In the event a hearing is requested, the order shall
14 be stayed until a final administrative order is entered.

15 (i) If the licensee requests a hearing, the Director shall
16 schedule a hearing within 30 days after the request for a
17 hearing unless otherwise agreed to by the parties.

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

26 (k) The costs for the administrative hearing shall be set

1 by rule.

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

4 (m) The Department shall establish by rule and publish a
5 schedule of fines that are reasonably tailored to ensure
6 compliance with the provisions of this Act and which include
7 remedial measures intended to improve licensee compliance.
8 Such rules shall set forth the standards and procedures to be
9 used in imposing any such fines and remedies.

10 (Source: P.A. 98-209, eff. 1-1-14.)

11 (205 ILCS 670/20.5)

12 Sec. 20.5. Cease and desist.

13 (a) The Director may issue a cease and desist order to any
14 licensee, or other person doing business without the required
15 license, when in the opinion of the Director, the licensee, or
16 other person, is violating or is about to violate any provision
17 of this Act or any rule or requirement imposed in writing by
18 the Department as a condition of granting any authorization
19 permitted by this Act.

20 (b) The Director may issue a cease and desist order prior
21 to a hearing.

22 (c) The Director shall serve notice of his or her action,
23 designated as a cease and desist order made pursuant to this
24 Section, including a statement of the reasons for the action,
25 either personally, ~~or by certified mail,~~ or to the licensee's

1 email address of record, return receipt requested. Service by
2 ~~certified mail is shall be deemed~~ completed when the notice is
3 deposited in the U.S. mail. Service to the email address of
4 record is completed when sent.

5 (d) Within 15 days of service of the cease and desist
6 order, the licensee or other person may request, in writing, a
7 hearing.

8 (e) The Director shall schedule a hearing within 30 days
9 after the request for a hearing unless otherwise agreed to by
10 the parties.

11 (f) The Director shall have the authority to prescribe
12 rules for the administration of this Section.

13 (g) If it is determined that the Director had the authority
14 to issue the cease and desist order, he or she may issue such
15 orders as may be reasonably necessary to correct, eliminate, or
16 remedy such conduct.

17 (h) The powers vested in the Director by this Section are
18 additional to any and all other powers and remedies vested in
19 the Director by law, and nothing in this Section shall be
20 construed as requiring that the Director shall employ the power
21 conferred in this Section instead of or as a condition
22 precedent to the exercise of any other power or remedy vested
23 in the Director.

24 (i) The cost for the administrative hearing shall be set by
25 rule.

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

1 Section 35. The Title Insurance Act is amended by changing
2 Sections 3, 21, 21.1, and 21.2 as follows:

3 (215 ILCS 155/3) (from Ch. 73, par. 1403)

4 Sec. 3. As used in this Act, the words and phrases
5 following shall have the following meanings unless the context
6 requires otherwise:

7 (1) "Title insurance business" or "business of title
8 insurance" means:

9 (A) Issuing as insurer or offering to issue as insurer
10 title insurance; and

11 (B) Transacting or proposing to transact one or more of
12 the following activities when conducted or performed in
13 contemplation of or in conjunction with the issuance of
14 title insurance;

15 (i) soliciting or negotiating the issuance of
16 title insurance;

17 (ii) guaranteeing, warranting, or otherwise
18 insuring the correctness of title searches for all
19 instruments affecting titles to real property, any
20 interest in real property, cooperative units and
21 proprietary leases, and for all liens or charges
22 affecting the same;

23 (iii) handling of escrows, settlements, or
24 closings;

1 (iv) executing title insurance policies;
2 (v) effecting contracts of reinsurance;
3 (vi) abstracting, searching, or examining titles;

4 or

5 (vii) issuing insured closing letters or closing
6 protection letters;

7 (C) Guaranteeing, warranting, or insuring searches or
8 examinations of title to real property or any interest in
9 real property, with the exception of preparing an
10 attorney's opinion of title; or

11 (D) Guaranteeing or warranting the status of title as
12 to ownership of or liens on real property and personal
13 property by any person other than the principals to the
14 transaction; or

15 (E) Doing or proposing to do any business substantially
16 equivalent to any of the activities listed in this
17 subsection, provided that the preparation of an attorney's
18 opinion of title pursuant to paragraph (1)(C) is not
19 intended to be within the definition of "title insurance
20 business" or "business of title insurance".

21 (1.5) "Title insurance" means insuring, guaranteeing,
22 warranting, or indemnifying owners of real or personal property
23 or the holders of liens or encumbrances thereon or others
24 interested therein against loss or damage suffered by reason of
25 liens, encumbrances upon, defects in, or the unmarketability of
26 the title to the property; the invalidity or unenforceability

1 of any liens or encumbrances thereon; or doing any business in
2 substance equivalent to any of the foregoing. "Warranting" for
3 purpose of this provision shall not include any warranty
4 contained in instruments of encumbrance or conveyance. Title
5 insurance is a single line form of insurance, also known as
6 monoline. An attorney's opinion of title pursuant to paragraph
7 (1)(C) is not intended to be within the definition of "title
8 insurance".

9 (2) "Title insurance company" means any domestic company
10 organized under the laws of this State for the purpose of
11 conducting the business of title insurance and any title
12 insurance company organized under the laws of another State,
13 the District of Columbia or foreign government and authorized
14 to transact the business of title insurance in this State.

15 (3) "Title insurance agent" means a person, firm,
16 partnership, association, corporation or other legal entity
17 registered by a title insurance company and authorized by such
18 company to determine insurability of title in accordance with
19 generally acceptable underwriting rules and standards in
20 reliance on either the public records or a search package
21 prepared from a title plant, or both, and authorized by such
22 title insurance company in addition to do any of the following:
23 act as an escrow agent pursuant to subsections (f), (g), and
24 (h) of Section 16 of this Act, solicit title insurance, collect
25 premiums, or issue title insurance commitments, policies, and
26 endorsements of the title insurance company; provided,

1 however, the term "title insurance agent" shall not include
2 officers and salaried employees of any title insurance company.

3 (4) "Producer of title business" is any person, firm,
4 partnership, association, corporation or other legal entity
5 engaged in this State in the trade, business, occupation or
6 profession of (i) buying or selling interests in real property,
7 (ii) making loans secured by interests in real property, or
8 (iii) acting as broker, agent, attorney, or representative of
9 natural persons or other legal entities that buy or sell
10 interests in real property or that lend money with such
11 interests as security.

12 (5) "Associate" is any firm, association, partnership,
13 corporation or other legal entity organized for profit in which
14 a producer of title business is a director, officer, or partner
15 thereof, or owner of a financial interest, as defined herein,
16 in such entity; any legal entity that controls, is controlled
17 by, or is under common control with a producer of title
18 business; and any natural person or legal entity with whom a
19 producer of title business has any agreement, arrangement, or
20 understanding or pursues any course of conduct the purpose of
21 which is to evade the provisions of this Act.

22 (6) "Financial interest" is any ownership interest, legal
23 or beneficial, except ownership of publicly traded stock.

24 (7) "Refer" means to place or cause to be placed, or to
25 exercise any power or influence over the placing of title
26 business, whether or not the consent or approval of any other

1 person is sought or obtained with respect to the referral.

2 (8) "Escrow Agent" means any title insurance company or any
3 title insurance agent, including independent contractors of
4 either, acting on behalf of a title insurance company, which
5 receives deposits, in trust, of funds or documents, or both,
6 for the purpose of effecting the sale, transfer, encumbrance or
7 lease of real property to be held by such escrow agent until
8 title to the real property that is the subject of the escrow is
9 in a prescribed condition. An escrow agent conducting closings
10 shall be subject to the provisions of paragraphs (1) through
11 (4) of subsection (e) of Section 16 of this Act.

12 (9) "Independent Escrowee" means any firm, person,
13 partnership, association, corporation or other legal entity,
14 other than a title insurance company or a title insurance
15 agent, which receives deposits, in trust, of funds or
16 documents, or both, for the purpose of effecting the sale,
17 transfer, encumbrance or lease of real property to be held by
18 such escrowee until title to the real property that is the
19 subject of the escrow is in a prescribed condition. Federal and
20 State chartered banks, savings and loan associations, credit
21 unions, mortgage bankers, banks or trust companies authorized
22 to do business under the Illinois Corporate Fiduciary Act,
23 licensees under the Consumer Installment Loan Act, real estate
24 brokers licensed pursuant to the Real Estate License Act of
25 2000, as such Acts are now or hereafter amended, and licensed
26 attorneys when engaged in the attorney-client relationship are

1 exempt from the escrow provisions of this Act. "Independent
2 Escrowee" does not include employees or independent
3 contractors of a title insurance company or title insurance
4 agent authorized by a title insurance company to perform
5 closing, escrow, or settlement services.

6 (10) "Single risk" means the insured amount of any title
7 insurance policy, except that where 2 or more title insurance
8 policies are issued simultaneously covering different estates
9 in the same real property, "single risk" means the sum of the
10 insured amounts of all such title insurance policies. Any title
11 insurance policy insuring a mortgage interest, a claim payment
12 under which reduces the insured amount of a fee or leasehold
13 title insurance policy, shall be excluded in computing the
14 amount of a single risk to the extent that the insured amount
15 of the mortgage title insurance policy does not exceed the
16 insured amount of the fee or leasehold title insurance policy.

17 (11) "Department" means the Department of Financial and
18 Professional Regulation.

19 (12) "Secretary" means the Secretary of Financial and
20 Professional Regulation.

21 (13) "Insured closing letter" or "closing protection
22 letter" means an indemnification or undertaking to a party to a
23 real property transaction, from a principal such as a title
24 insurance company, setting forth in writing the extent of the
25 principal's responsibility for intentional misconduct or
26 errors in closing the real property transaction on the part of

1 a settlement agent, such as a title insurance agent or other
2 settlement service provider, or an indemnification or
3 undertaking given by a title insurance company or an
4 independent escrowee setting forth in writing the extent of the
5 title insurance company's or independent escrowee's
6 responsibility to a party to a real property transaction which
7 indemnifies the party against the intentional misconduct or
8 errors in closing the real property transaction on the part of
9 the title insurance company or independent escrowee and
10 includes protection afforded pursuant to subsections (f), (g),
11 and (h) of Section 16, Section 16.1, subsection (h) of Section
12 17, and Section 17.1 of this Act even if such protection is
13 afforded by contract.

14 (14) "Residential real property" means a building or
15 buildings consisting of one to 4 residential units or a
16 residential condominium unit where at least one of the
17 residential units or condominium units is occupied or intended
18 to be occupied as a residence by the purchaser or borrower, or
19 in the event that the purchaser or borrower is the trustee of a
20 trust, by a beneficiary of that trust.

21 (15) "Financial institution" means any bank subject to the
22 Illinois Banking Act, any savings and loan association subject
23 to the Illinois Savings and Loan Act of 1985, any savings bank
24 subject to the Savings Bank Act, any credit union subject to
25 the Illinois Credit Union Act, and any federally chartered
26 commercial bank, savings and loan association, savings bank, or

1 credit union organized and operated in this State pursuant to
2 the laws of the United States.

3 (16) "Email address of record" means the designated email
4 address recorded by the Division in the applicant's applicant
5 file or the licensee's license file maintained by the
6 Division's licensure unit.

7 (Source: P.A. 100-485, eff. 9-8-17.)

8 (215 ILCS 155/21) (from Ch. 73, par. 1421)

9 Sec. 21. Regulatory action.

10 (a) The Secretary may refuse to grant, and may suspend or
11 revoke, any certificate of authority, registration, or license
12 issued pursuant to this Act or may impose a fine for a
13 violation of this Act if he determines that the holder of or
14 applicant for such certificate, registration or license:

15 (1) has intentionally made a material misstatement or
16 fraudulent misrepresentation in relation to a matter
17 covered by this Act;

18 (2) has misappropriated or tortiously converted to its
19 own use, or illegally withheld, monies held in a fiduciary
20 capacity;

21 (3) has demonstrated untrustworthiness or incompetency
22 in transacting the business of guaranteeing titles to real
23 estate in such a manner as to endanger the public;

24 (4) has materially misrepresented the terms or
25 conditions of contracts or agreements to which it is a

1 party;

2 (5) has paid any commissions, discounts or any part of
3 its premiums, fees or other charges to any person in
4 violation of any State or federal law or regulations or
5 opinion letters issued under the federal Real Estate
6 Settlement Procedures Act of 1974;

7 (6) has failed to comply with the deposit and reserve
8 requirements of this Act or any other requirements of this
9 Act;

10 (7) has committed fraud or misrepresentation in
11 applying for or procuring any certificate of authority,
12 registration, or license issued pursuant to this Act;

13 (8) has a conviction or plea of guilty or plea of nolo
14 contendere in this State or any other jurisdiction to (i)
15 any felony or (ii) a misdemeanor, an essential element of
16 which is dishonesty or fraud or larceny, embezzlement, or
17 obtaining money, property, or credit by false pretenses or
18 by means of a confidence game;

19 (9) has been disciplined by another state, the District
20 of Columbia, a territory, foreign nation, a governmental
21 agency, or any entity authorized to impose discipline if at
22 least one of the grounds for that discipline is the same as
23 or equivalent to one of the grounds for which a title
24 insurance company, title insurance agent, or independent
25 escrowee may be disciplined under this Act or if at least
26 one of the grounds for that discipline involves dishonesty;

1 a certified copy of the record of the action by the other
2 state or jurisdiction shall be prima facie evidence
3 thereof;

4 (10) has advertising that is inaccurate, misleading,
5 or contrary to the provisions of this Act;

6 (11) has knowingly and willfully made any substantial
7 misrepresentation or untruthful advertising;

8 (12) has made any false promises of a character likely
9 to influence, persuade, or induce;

10 (13) has knowingly failed to account for or remit any
11 money or documents coming into the possession of a title
12 insurance company, title insurance agent, or independent
13 escrowee that belong to others;

14 (14) has engaged in dishonorable, unethical, or
15 unprofessional conduct of a character likely to deceive,
16 defraud, or harm the public;

17 (15) has violated the terms of a disciplinary order
18 issued by the Department;

19 (16) has disregarded or violated any provision of this
20 Act or the published rules adopted by the Department to
21 enforce this Act or has aided or abetted any individual,
22 partnership, registered limited liability partnership,
23 limited liability company, or corporation in disregarding
24 any provision of this Act or the published rules; or

25 (17) has acted as a title insurance company, title
26 insurance agent, or independent escrowee without a

1 certificate of authority, registration, or license after
2 the title insurance company, title insurance agent, or
3 independent escrowee's certificate of authority,
4 registration, or license was inoperative.

5 (b) In every case where a registration or certificate is
6 suspended or revoked, or an application for a registration or
7 certificate or renewal thereof is refused, the Secretary shall
8 serve notice of his action, by mail or to the title insurance
9 company's email address of record, including a statement of the
10 reasons for his action, as provided by this Act. When a notice
11 of suspension or revocation of a certificate of authority is
12 given to a title insurance company, the Secretary shall also
13 notify all the registered agents of that title insurance
14 company of the Secretary's action. Service by mail is completed
15 if the notice is deposited in the U.S. Mail. Service by email
16 is completed when sent.

17 (c) In the case of a refusal to issue or renew a
18 certificate or accept a registration, the applicant or
19 registrant may request in writing, within 30 days after the
20 date of service, a hearing. In the case of a refusal to renew,
21 the expiring registration or certificate shall be deemed to
22 continue in force until 30 days after the service of the notice
23 of refusal to renew, or if a hearing is requested during that
24 period, until a final order is entered pursuant to such
25 hearing.

26 (d) The suspension or revocation of a registration or

1 certificate shall take effect upon service of notice thereof.
2 The holder of any such suspended registration or certificate
3 may request in writing, within 30 days of such service, a
4 hearing.

5 (e) In cases of suspension or revocation of registration
6 pursuant to subsection (a), the Secretary may, in the public
7 interest, issue an order of suspension or revocation which
8 shall take effect upon service of notification thereof. Such
9 order shall become final 60 days from the date of service
10 unless the registrant requests in writing, within such 60 days,
11 a formal hearing thereon. In the event a hearing is requested,
12 the order shall remain temporary until a final order is entered
13 pursuant to such hearing.

14 (f) Hearing shall be held at such time and place as may be
15 designated by the Secretary either in the City of Springfield,
16 the City of Chicago, or in the county in which the principal
17 business office of the affected registrant or certificate
18 holder is located.

19 (g) The suspension or revocation of a registration or
20 certificate or the refusal to issue or renew a registration or
21 certificate shall not in any way limit or terminate the
22 responsibilities of any registrant or certificate holder
23 arising under any policy or contract of title insurance to
24 which it is a party. No new contract or policy of title
25 insurance may be issued, nor may any existing policy or
26 contract to title insurance be renewed by any registrant or

1 certificate holder during any period of suspension or
2 revocation of a registration or certificate.

3 (h) The Secretary may issue a cease and desist order to a
4 title insurance company, agent, or other entity doing business
5 without the required license or registration, when in the
6 opinion of the Secretary, the company, agent, or other entity
7 is violating or is about to violate any provision of this Act
8 or any law or of any rule or condition imposed in writing by
9 the Department.

10 The Secretary may issue the cease and desist order without
11 notice and before a hearing.

12 The Secretary shall have the authority to prescribe rules
13 for the administration of this Section.

14 If it is determined that the Secretary had the authority to
15 issue the cease and desist order, he may issue such orders as
16 may be reasonably necessary to correct, eliminate or remedy
17 such conduct.

18 Any person or company subject to an order pursuant to this
19 Section is entitled to judicial review of the order in
20 accordance with the provisions of the Administrative Review
21 Law.

22 The powers vested in the Secretary by this Section are
23 additional to any and all other powers and remedies vested in
24 the Secretary by law, and nothing in this Section shall be
25 construed as requiring that the Secretary shall employ the
26 powers conferred in this Section instead of or as a condition

1 precedent to the exercise of any other power or remedy vested
2 in the Secretary.

3 (Source: P.A. 98-398, eff. 1-1-14.)

4 (215 ILCS 155/21.1)

5 Sec. 21.1. Receiver and involuntary liquidation.

6 (a) The Secretary's proceedings under this Section shall be
7 the exclusive remedy and the only proceedings commenced in any
8 court for the dissolution of, the winding up of the affairs of,
9 or the appointment of a receiver for a title insurance company.

10 (b) If the Secretary, with respect to a title insurance
11 company, finds that (i) its capital is impaired or it is
12 otherwise in an unsound condition, (ii) its business is being
13 conducted in an unlawful, fraudulent, or unsafe manner, (iii)
14 it is unable to continue operations, or (iv) its examination
15 has been obstructed or impeded, the Secretary may give notice
16 to the board of directors of the title insurance company of his
17 or her finding by mail or to the title insurance company's
18 email address of record ~~or findings~~. If the Secretary's
19 findings are not corrected to his or her satisfaction within 60
20 days after the company receives the notice, the Secretary shall
21 take possession and control of the title insurance company, its
22 assets, and assets held by it for any person for the purpose of
23 examination, reorganization, or liquidation through
24 receivership.

25 If, in addition to making a finding as provided in this

1 subsection (b), the Secretary is of the opinion and finds that
2 an emergency that may result in serious losses to any person
3 exists, the Secretary may, in his or her discretion, without
4 having given the notice provided for in this subsection, and
5 whether or not proceedings under subsection (a) of this Section
6 have been instituted or are then pending, take possession and
7 control of the title insurance company and its assets for the
8 purpose of examination, reorganization, or liquidation through
9 receivership.

10 (c) The Secretary may take possession and control of a
11 title insurance company, its assets, and assets held by it for
12 any person by posting upon the premises of each office located
13 in the State of Illinois at which it transacts its business as
14 a title insurance company a notice reciting that the Secretary
15 is assuming possession pursuant to this Act and the time when
16 the possession shall be deemed to commence.

17 (d) Promptly after taking possession and control of a title
18 insurance company the Secretary, represented by the Attorney
19 General, shall file a copy of the notice posted upon the
20 premises in the Circuit Court of either Cook County or Sangamon
21 County, which cause shall be entered as a court action upon the
22 dockets of the court under the name and style of "In the matter
23 of the possession and control by the Secretary of the
24 Department of Financial and Professional Regulation of (insert
25 the name of the title insurance company)". If the Secretary
26 determines (which determination may be made at the time of, or

1 at any time subsequent to, taking possession and control of a
2 title insurance company) that no practical possibility exists
3 to reorganize the title insurance company after reasonable
4 efforts have been made, the Secretary, represented by the
5 Attorney General, shall also file a complaint, if it has not
6 already been done, for the appointment of a receiver or other
7 proceeding as is appropriate under the circumstances. The court
8 where the cause is docketed shall be vested with the exclusive
9 jurisdiction to hear and determine all issues and matters
10 pertaining to or connected with the Secretary's possession and
11 control of the title insurance company as provided in this Act,
12 and any further issues and matters pertaining to or connected
13 with the Secretary's possession and control as may be submitted
14 to the court for its adjudication.

15 The Secretary, upon taking possession and control of a
16 title insurance company, may, and if not previously done shall,
17 immediately upon filing a complaint for dissolution make an
18 examination of the affairs of the title insurance company or
19 appoint a suitable person to make the examination as the
20 Secretary's agent. The examination shall be conducted in
21 accordance with and pursuant to the authority granted under
22 Section 12 of this Act. The person conducting the examination
23 shall have and may exercise on behalf of the Secretary all of
24 the powers and authority granted to the Secretary under Section
25 12. A copy of the report shall be filed in any dissolution
26 proceeding filed by the Secretary. The reasonable fees and

1 necessary expenses of the examining person, as approved by the
2 Secretary or as recommended by the Secretary and approved by
3 the court if a dissolution proceeding has been filed, shall be
4 borne by the subject title insurance company and shall have the
5 same priority for payment as the reasonable and necessary
6 expenses of the Secretary in conducting an examination. The
7 person appointed to make the examination shall make a proper
8 accounting, in the manner and scope as determined by the
9 Secretary to be practical and advisable under the
10 circumstances, on behalf of the title insurance company and no
11 guardian ad litem need be appointed to review the accounting.

12 (e) The Secretary, upon taking possession and control of a
13 title insurance company and its assets, shall be vested with
14 the full powers of management and control including, but not
15 limited to, the following:

16 (1) the power to continue or to discontinue the
17 business;

18 (2) the power to stop or to limit the payment of its
19 obligations;

20 (3) the power to collect and to use its assets and to
21 give valid receipts and acquittances therefor;

22 (4) the power to transfer title and liquidate any bond
23 or deposit made under Section 4 of this Act;

24 (5) the power to employ and to pay any necessary
25 assistants;

26 (6) the power to execute any instrument in the name of

1 the title insurance company;

2 (7) the power to commence, defend, and conduct in the
3 title insurance company's name any action or proceeding in
4 which it may be a party;

5 (8) the power, upon the order of the court, to sell and
6 convey the title insurance company's assets, in whole or in
7 part, and to sell or compound bad or doubtful debts upon
8 such terms and conditions as may be fixed in that order;

9 (9) the power, upon the order of the court, to make and
10 to carry out agreements with other title insurance
11 companies, financial institutions, or with the United
12 States or any agency of the United States for the payment
13 or assumption of the title insurance company's
14 liabilities, in whole or in part, and to transfer assets
15 and to make guaranties, in whole or in part, in connection
16 therewith;

17 (10) the power, upon the order of the court, to borrow
18 money in the name of the title insurance company and to
19 pledge its assets as security for the loan;

20 (11) the power to terminate his or her possession and
21 control by restoring the title insurance company to its
22 board of directors;

23 (12) the power to appoint a receiver which may be the
24 Secretary of the Department of Financial and Professional
25 Regulation, another title insurance company, or another
26 suitable person and to order liquidation of the title

1 insurance company as provided in this Act; and

2 (13) the power, upon the order of the court and without
3 the appointment of a receiver, to determine that the title
4 insurance company has been closed for the purpose of
5 liquidation without adequate provision being made for
6 payment of its obligations, and thereupon the title
7 insurance company shall be deemed to have been closed on
8 account of inability to meet its obligations to its
9 insureds or escrow depositors.

10 (f) Upon taking possession, the Secretary shall make an
11 examination of the condition of the title insurance company, an
12 inventory of the assets and, unless the time shall be extended
13 by order of the court or unless the Secretary shall have
14 otherwise settled the affairs of the title insurance company
15 pursuant to the provisions of this Act, within 90 days after
16 the time of taking possession and control of the title
17 insurance company, the Secretary shall either terminate his or
18 her possession and control by restoring the title insurance
19 company to its board of directors or appoint a receiver, which
20 may be the Secretary of the Department of Financial and
21 Professional Regulation, another title insurance company, or
22 another suitable person and order the liquidation of the title
23 insurance company as provided in this Act. All necessary and
24 reasonable expenses of the Secretary's possession and control
25 shall be a priority claim and shall be borne by the title
26 insurance company and may be paid by the Secretary from the

1 title insurance company's own assets as distinguished from
2 assets held for any other person.

3 (g) If the Secretary takes possession and control of a
4 title insurance company and its assets, any period of
5 limitation fixed by a statute or agreement that would otherwise
6 expire on a claim or right of action of the title insurance
7 company, on its own behalf or on behalf of its insureds or
8 escrow depositors, or upon which an appeal must be taken or a
9 pleading or other document filed by the title insurance company
10 in any pending action or proceeding, shall be tolled until 6
11 months after the commencement of the possession, and no
12 judgment, lien, levy, attachment, or other similar legal
13 process may be enforced upon or satisfied, in whole or in part,
14 from any asset of the title insurance company or from any asset
15 of an insured or escrow depositor while it is in the possession
16 of the Secretary.

17 (h) If the Secretary appoints a receiver to take possession
18 and control of the assets of insureds or escrow depositors for
19 the purpose of holding those assets as fiduciary for the
20 benefit of the insureds or escrow depositors pending the
21 winding up of the affairs of the title insurance company being
22 liquidated and the appointment of a successor escrowee for
23 those assets, any period of limitation fixed by statute, rule
24 of court, or agreement that would otherwise expire on a claim
25 or right of action in favor of or against the insureds or
26 escrow depositors of those assets or upon which an appeal must

1 be taken or a pleading or other document filed by a title
2 insurance company on behalf of an insured or escrow depositor
3 in any pending action or proceeding shall be tolled for a
4 period of 6 months after the appointment of a receiver, and no
5 judgment, lien, levy, attachment, or other similar legal
6 process shall be enforced upon or satisfied, in whole or in
7 part, from any asset of the insured or escrow depositor while
8 it is in the possession of the receiver.

9 (i) If the Secretary determines at any time that no
10 reasonable possibility exists for the title insurance company
11 to be operated by its board of directors in accordance with the
12 provisions of this Act after reasonable efforts have been made
13 and that it should be liquidated through receivership, he or
14 she shall appoint a receiver. The Secretary may require of the
15 receiver such bond and security as the Secretary deems proper.
16 The Secretary, represented by the Attorney General, shall file
17 a complaint for the dissolution or winding up of the affairs of
18 the title insurance company in a court of the county in which
19 the principal office of the title insurance company is located
20 and shall cause notice to be given in a newspaper of general
21 circulation once each week for 4 consecutive weeks so that
22 persons who may have claims against the title insurance company
23 may present them to the receiver and make legal proof thereof
24 and notifying those persons and all to whom it may concern of
25 the filing of a complaint for the dissolution or winding up of
26 the affairs of the title insurance company and stating the name

1 and location of the court. All persons who may have claims
2 against the assets of the title insurance company, as
3 distinguished from the assets of insureds and escrow depositors
4 held by the title insurance company, and the receiver to whom
5 those persons have presented their claims may present the
6 claims to the clerk of the court, and the allowance or
7 disallowance of the claims by the court in connection with the
8 proceedings shall be deemed an adjudication in a court of
9 competent jurisdiction. Within a reasonable time after
10 completion of publication, the receiver shall file with the
11 court a correct list of all creditors of the title insurance
12 company as shown by its books, who have not presented their
13 claims and the amount of their respective claims after allowing
14 adjusted credit, deductions, and set-offs as shown by the books
15 of the title insurance company. The claims so filed shall be
16 deemed proven unless objections are filed thereto by a party or
17 parties interested therein within the time fixed by the court.

18 (j) The receiver for a title insurance company has the
19 power and authority and is charged with the duties and
20 responsibilities as follows:

21 (1) To take possession of and, for the purpose of the
22 receivership, title to the books, records, and assets of
23 every description of the title insurance company.

24 (2) To proceed to collect all debts, dues, and claims
25 belonging to the title insurance company.

26 (3) To sell and compound all bad and doubtful debts on

1 such terms as the court shall direct.

2 (4) To sell the real and personal property of the title
3 insurance company, as distinguished from the real and
4 personal property of the insureds or escrow depositors, on
5 such terms as the court shall direct.

6 (5) To file with the Secretary a copy of each report
7 that he or she makes to the court, together with such other
8 reports and records as the Secretary may require.

9 (6) To sue and defend in his or her own name and with
10 respect to the affairs, assets, claims, debts, and choses
11 in action of the title insurance company.

12 (7) To surrender to the insureds and escrow depositors
13 of the title insurance company, when requested in writing
14 directed to the receiver by them, the escrowed funds (on a
15 pro rata basis), and escrowed documents in the receiver's
16 possession upon satisfactory proof of ownership and
17 determination by the receiver of available escrow funds.

18 (8) To redeem or take down collateral hypothecated by
19 the title insurance company to secure its notes and other
20 evidence of indebtedness whenever the court deems it to be
21 in the best interest of the creditors of the title
22 insurance company and directs the receiver so to do.

23 (k) Whenever the receiver finds it necessary in his or her
24 opinion to use and employ money of the title insurance company
25 in order to protect fully and benefit the title insurance
26 company by the purchase or redemption of property, real or

1 personal, in which the title insurance company may have any
2 rights by reason of any bond, mortgage, assignment, or other
3 claim thereto, the receiver may certify the facts together with
4 the receiver's opinions as to the value of the property
5 involved and the value of the equity the title insurance
6 company may have in the property to the court, together with a
7 request for the right and authority to use and employ so much
8 of the money of the title insurance company as may be necessary
9 to purchase the property, or to redeem the property from a sale
10 if there was a sale, and if the request is granted, the
11 receiver may use so much of the money of the title insurance
12 company as the court may have authorized to purchase the
13 property at the sale.

14 The receiver shall deposit daily all moneys collected by
15 him or her in any State or national bank approved by the court.
16 The deposits shall be made in the name of the Secretary, in
17 trust for the receiver, and be subject to withdrawal upon the
18 receiver's order or upon the order of those persons the
19 Secretary may designate. The moneys may be deposited without
20 interest, unless otherwise agreed. The receiver shall do the
21 things and take the steps from time to time under the direction
22 and approval of the court that may reasonably appear to be
23 necessary to conserve the title insurance company's assets and
24 secure the best interests of the creditors, insureds, and
25 escrow depositors of the title insurance company. The receiver
26 shall record any judgment of dissolution entered in a

1 dissolution proceeding and thereupon turn over to the Secretary
2 a certified copy of the judgment.

3 The receiver may cause all assets of the insureds and
4 escrow depositors of the title insurance company to be
5 registered in the name of the receiver or in the name of the
6 receiver's nominee.

7 For its services in administering the escrows held by the
8 title insurance company during the period of winding up the
9 affairs of the title insurance company, the receiver is
10 entitled to be reimbursed for all costs and expenses incurred
11 by the receiver and shall also be entitled to receive out of
12 the assets of the individual escrows being administered by the
13 receiver during the period of winding up the affairs of the
14 title insurance company and prior to the appointment of a
15 successor escrowee the usual and customary fees charged by an
16 escrowee for escrows or reasonable fees approved by the court.

17 The receiver, during its administration of the escrows of
18 the title insurance company during the winding up of the
19 affairs of the title insurance company, shall have all of the
20 powers that are vested in trustees under the terms and
21 provisions of the Trusts and Trustees Act.

22 Upon the appointment of a successor escrowee, the receiver
23 shall deliver to the successor escrowee all of the assets
24 belonging to each individual escrow to which the successor
25 escrowee succeeds, and the receiver shall thereupon be relieved
26 of any further duties or obligations with respect thereto.

1 (1) The receiver shall, upon approval by the court, pay all
2 claims against the assets of the title insurance company
3 allowed by the court pursuant to subsection (i) of this
4 Section, as well as claims against the assets of insureds and
5 escrow depositors of the title insurance company in accordance
6 with the following priority:

7 (1) All necessary and reasonable expenses of the
8 Secretary's possession and control and of its receivership
9 shall be paid from the assets of the title insurance
10 company.

11 (2) All usual and customary fees charged for services
12 in administering escrows shall be paid from the assets of
13 the individual escrows being administered. If the assets of
14 the individual escrows being administered are
15 insufficient, the fees shall be paid from the assets of the
16 title insurance company.

17 (3) Secured claims, including claims for taxes and
18 debts due the federal or any state or local government,
19 that are secured by liens perfected prior to the date of
20 filing of the complaint for dissolution, shall be paid from
21 the assets of the title insurance company.

22 (4) Claims by policyholders, beneficiaries, insureds,
23 and escrow depositors of the title insurance company shall
24 be paid from the assets of the insureds and escrow
25 depositors. If there are insufficient assets of the
26 insureds and escrow depositors, claims shall be paid from

1 the assets of the title insurance company.

2 (5) Any other claims due the federal government shall
3 be paid from the assets of the title insurance company.

4 (6) Claims for wages or salaries, excluding vacation,
5 severance, and sick leave pay earned by employees for
6 services rendered within 90 days prior to the date of
7 filing of the complaint for dissolution, shall be paid from
8 the assets of the title insurance company.

9 (7) All other claims of general creditors not falling
10 within any priority under this subsection (1) including
11 claims for taxes and debts due any state or local
12 government which are not secured claims and claims for
13 attorney's fees incurred by the title insurance company in
14 contesting the dissolution shall be paid from the assets of
15 the title insurance company.

16 (8) Proprietary claims asserted by an owner, member, or
17 stockholder of the title insurance company in receivership
18 shall be paid from the assets of the title insurance
19 company.

20 The receiver shall pay all claims of equal priority
21 according to the schedule set out in this subsection, and shall
22 not pay claims of lower priority until all higher priority
23 claims are satisfied. If insufficient assets are available to
24 meet all claims of equal priority, those assets shall be
25 distributed pro rata among those claims. All unclaimed assets
26 of the title insurance company shall be deposited with the

1 receiver to be paid out by him or her when such claims are
2 submitted and allowed by the court.

3 (m) At the termination of the receiver's administration,
4 the receiver shall petition the court for the entry of a
5 judgment of dissolution. After a hearing upon the notice as the
6 court may prescribe, the court may enter a judgment of
7 dissolution whereupon the title insurance company's corporate
8 existence shall be terminated and the receivership concluded.

9 (n) The receiver shall serve at the pleasure of the
10 Secretary and upon the death, inability to act, resignation, or
11 removal by the Secretary of a receiver, the Secretary may
12 appoint a successor, and upon the appointment, all rights and
13 duties of the predecessor shall at once devolve upon the
14 appointee.

15 (o) Whenever the Secretary shall have taken possession and
16 control of a title insurance company or a title insurance agent
17 and its assets for the purpose of examination, reorganization
18 or liquidation through receivership, or whenever the Secretary
19 shall have appointed a receiver for a title insurance company
20 or title insurance agent and filed a complaint for the
21 dissolution or winding up of its affairs, and the title
22 insurance company or title insurance agent denies the grounds
23 for such actions, it may at any time within 10 days apply to
24 the Circuit Court of Cook or Sangamon County to enjoin further
25 proceedings in the premises; and the Court shall cite the
26 Secretary to show cause why further proceedings should not be

1 enjoined, and if the Court shall find that grounds do not
2 exist, the Court shall make an order enjoining the Secretary or
3 any receiver acting under his direction from all further
4 proceedings on account of the alleged grounds.

5 (Source: P.A. 94-893, eff. 6-20-06.)

6 (215 ILCS 155/21.2)

7 Sec. 21.2. Notice.

8 (a) Notice of any action by the Secretary under this Act or
9 regulations or orders promulgated under it shall be made either
10 personally, ~~or by registered or certified mail,~~ to the
11 licensee's email address of record, or return receipt
12 ~~requested, and~~ by sending a copy of the notice by telephone
13 facsimile or electronic mail, if known and operating, and if
14 unknown or not operating, then by regular mail. Service by mail
15 shall be deemed completed if the notice is deposited as
16 ~~registered or certified mail~~ in the post office, postage paid,
17 addressed to the last known address specified in the
18 application for the certificate of authority to do business or
19 certificate of registration of the holder or registrant.
20 Service by mail is completed if the notice is deposited in the
21 U.S. Mail. Service by email is completed when sent.

22 (b) The Secretary shall notify all registered agents of a
23 title insurance company when that title insurance company's
24 certificate of authority is suspended or revoked.

25 (Source: P.A. 94-893, eff. 6-20-06.)

1 Section 40. The Debt Settlement Consumer Protection Act is
2 amended by changing Sections 10, 20, 30, 50, and 95 as follows:

3 (225 ILCS 429/10)

4 Sec. 10. Definitions. As used in this Act:

5 "Consumer" means any person who purchases or contracts for
6 the purchase of debt settlement services.

7 "Consumer settlement account" means any account or other
8 means or device in which payments, deposits, or other transfers
9 from a consumer are arranged, held, or transferred by or to a
10 debt settlement provider for the accumulation of the consumer's
11 funds in anticipation of proffering an adjustment or settlement
12 of a debt or obligation of the consumer to a creditor on behalf
13 of the consumer.

14 "Debt settlement provider" means any person or entity
15 engaging in, or holding itself out as engaging in, the business
16 of providing debt settlement service in exchange for any fee or
17 compensation, or any person who solicits for or acts on behalf
18 of any person or entity engaging in, or holding itself out as
19 engaging in, the business of providing debt settlement service
20 in exchange for any fee or compensation. "Debt settlement
21 provider" does not include:

22 (1) attorneys licensed, or otherwise authorized, to
23 practice in Illinois who are engaged in the practice of
24 law;

1 (2) escrow agents, accountants, broker dealers in
2 securities, or investment advisors in securities, when
3 acting in the ordinary practice of their professions and
4 through the entity used in the ordinary practice of their
5 profession;

6 (3) any bank, agent of a bank, operating subsidiary of
7 a bank, affiliate of a bank, trust company, savings and
8 loan association, savings bank, credit union, crop credit
9 association, development credit corporation, industrial
10 development corporation, title insurance company, title
11 insurance agent, independent escrowee or insurance company
12 operating or organized under the laws of a state or the
13 United States, or any other person authorized to make loans
14 under State law while acting in the ordinary practice of
15 that business;

16 (4) any person who performs credit services for his or
17 her employer while receiving a regular salary or wage when
18 the employer is not engaged in the business of offering or
19 providing debt settlement service;

20 (5) a collection agency licensed pursuant to the
21 Collection Agency Act that is collecting a debt on its own
22 behalf or on behalf of a third party;

23 (6) an organization that is described in Section
24 501(c)(3) and subject to Section 501(q) of Title 26 of the
25 United States Code and exempt from tax under Section 501(a)
26 of Title 26 of the United States Code and governed by the

1 Debt Management Service Act;

2 (7) public officers while acting in their official
3 capacities and persons acting under court order;

4 (8) any person while performing services incidental to
5 the dissolution, winding up, or liquidating of a
6 partnership, corporation, or other business enterprise; or

7 (9) persons licensed under the Real Estate License Act
8 of 2000 when acting in the ordinary practice of their
9 profession and not holding themselves out as debt
10 settlement providers.

11 "Debt settlement service" means:

12 (1) offering to provide advice or service, or acting as
13 an intermediary between or on behalf of a consumer and one
14 or more of a consumer's creditors, where the primary
15 purpose of the advice, service, or action is to obtain a
16 settlement, adjustment, or satisfaction of the consumer's
17 unsecured debt to a creditor in an amount less than the
18 full amount of the principal amount of the debt or in an
19 amount less than the current outstanding balance of the
20 debt; or

21 (2) offering to provide services related to or
22 providing services advising, encouraging, assisting, or
23 counseling a consumer to accumulate funds for the primary
24 purpose of proposing or obtaining or seeking to obtain a
25 settlement, adjustment, or satisfaction of the consumer's
26 unsecured debt to a creditor in an amount less than the

1 full amount of the principal amount of the debt or in an
2 amount less than the current outstanding balance of the
3 debt.

4 "Debt settlement service" does not include (A) the services
5 of attorneys licensed, or otherwise authorized, to practice in
6 Illinois who are engaged in the practice of law or (B) debt
7 management service as defined in the Debt Management Service
8 Act.

9 "Email address of record" means the designated email
10 address recorded by the Division in the applicant's applicant
11 file or the licensee's license file maintained by the
12 Division's licensure unit.

13 "Enrollment or set up fee" means any fee, obligation, or
14 compensation paid or to be paid by the consumer to a debt
15 settlement provider in consideration of or in connection with
16 establishing a contract or other agreement with a consumer
17 related to the provision of debt settlement service.

18 "Maintenance fee" means any fee, obligation, or
19 compensation paid or to be paid by the consumer on a periodic
20 basis to a debt settlement provider in consideration of
21 maintaining the relationship and services to be provided by a
22 debt settlement provider in accordance with a contract with a
23 consumer related to the provision of debt settlement service.

24 "Principal amount of the debt" means the total amount or
25 outstanding balance owed by a consumer to one or more creditors
26 for a debt that is included in a contract for debt settlement

1 service at the time when the consumer enters into a contract
2 for debt settlement service.

3 "Savings" means the difference between the principal
4 amount of the debt and the amount paid by the debt settlement
5 provider to the creditor or negotiated by the debt settlement
6 provider and paid by the consumer to the creditor pursuant to a
7 settlement negotiated by the debt settlement provider on behalf
8 of the consumer as full and complete satisfaction of the
9 creditor's claim with regard to that debt.

10 "Secretary" means the Secretary of Financial and
11 Professional Regulation.

12 "Settlement fee" means any fee, obligation, or
13 compensation paid or to be paid by the consumer to a debt
14 settlement provider in consideration of or in connection with a
15 completed agreement or other arrangement on the part of a
16 creditor to accept less than the principal amount of the debt
17 as satisfaction of the creditor's claim against the consumer.

18 (Source: P.A. 96-1420, eff. 8-3-10.)

19 (225 ILCS 429/20)

20 Sec. 20. Application for license. An application for a
21 license to operate as a debt settlement provider in this State
22 shall be made to the Secretary and shall be in writing, under
23 oath, and in the form prescribed by the Secretary.

24 Each applicant, at the time of making such application,
25 shall pay to the Secretary the required fee as set by rule. At

1 the time of application, an applicant shall provide the
2 Department with an accurate and up-to-date email address.

3 Every applicant shall submit to the Secretary, at the time
4 of the application for a license, a bond to be approved by the
5 Secretary in which the applicant shall be the obligor, in the
6 sum of \$100,000 or an additional amount as required by the
7 Secretary, and in which an insurance company, which is duly
8 authorized by the State of Illinois to transact the business of
9 fidelity and surety insurance, shall be a surety.

10 The bond shall run to the Secretary for the use of the
11 Department or of any person or persons who may have a cause of
12 action against the obligor in said bond arising out of any
13 violation of this Act or rules by a debt settlement provider.
14 Such bond shall be conditioned that the obligor must faithfully
15 conform to and abide by the provisions of this Act and of all
16 rules, regulations, and directions lawfully made by the
17 Secretary and pay to the Secretary or to any person or persons
18 any and all money that may become due or owing to the State or
19 to such person or persons, from the obligor under and by virtue
20 of the provisions of this Act.

21 (Source: P.A. 96-1420, eff. 8-3-10.)

22 (225 ILCS 429/30)

23 Sec. 30. Renewal of license. Each debt settlement provider
24 under the provisions of this Act may make application to the
25 Secretary for renewal of its license, which application for

1 renewal shall be on the form prescribed by the Secretary and
2 shall be accompanied by a fee of \$1,000 together with a bond or
3 other surety as required, in a minimum amount of \$100,000 or an
4 amount as required by the Secretary based on the amount of
5 disbursements made by the licensee in the previous year. At the
6 time of renewal, a licensee shall provide the Department with
7 an accurate and up-to-date email address. The application must
8 be received by the Department no later than December 1 of the
9 year preceding the year for which the application applies.

10 (Source: P.A. 96-1420, eff. 8-3-10; 97-333, eff. 8-12-11.)

11 (225 ILCS 429/50)

12 Sec. 50. Revocation or suspension of license.

13 (a) The Secretary may revoke or suspend any license if he
14 or she finds that:

15 (1) any debt settlement provider has failed to pay the
16 annual license fee or to maintain in effect the bond
17 required under the provisions of this Act;

18 (2) the debt settlement provider has violated any
19 provisions of this Act or any rule lawfully made by the
20 Secretary under the authority of this Act;

21 (3) any fact or condition exists that, if it had
22 existed at the time of the original application for a
23 license, would have warranted the Secretary in refusing its
24 issuance; or

25 (4) any applicant has made any false statement or

1 representation to the Secretary in applying for a license
2 under this Act.

3 (b) In every case in which a license is suspended or
4 revoked or an application for a license or renewal of a license
5 is denied, the Secretary shall serve notice of his or her
6 action, including a statement of the reasons for his or her
7 actions, either personally, by mail, or to the licensee's email
8 address of record ~~or by certified mail, return receipt~~
9 ~~requested~~. Service by mail ~~is~~ shall be deemed completed if the
10 notice is deposited in the U.S. Mail. Service to the email
11 address of record is completed when sent.

12 (c) In the case of a denial of an application or renewal of
13 a license, the applicant or debt settlement provider may
14 request, in writing, a hearing within 30 days after the date of
15 service. In the case of a denial of a renewal of a license, the
16 license shall be deemed to continue in force until 30 days
17 after the service of the notice of denial, or if a hearing is
18 requested during that period, until a final administrative
19 order is entered.

20 (d) An order of revocation or suspension of a license shall
21 take effect upon service of the order unless the debt
22 settlement provider requests, in writing, a hearing within 10
23 days after the date of service. In the event a hearing is
24 requested, the order shall be stayed until a final
25 administrative order is entered.

26 (e) If the debt settlement provider requests a hearing,

1 then the Secretary shall schedule the hearing within 30 days
2 after the request for a hearing unless otherwise agreed to by
3 the parties.

4 (f) The hearing shall be held at the time and place
5 designated by the Secretary. The Secretary and any
6 administrative law judge designated by the Secretary have the
7 power to administer oaths and affirmations, subpoena witnesses
8 and compel their attendance, take evidence, and require the
9 production of books, papers, correspondence, and other records
10 or information that the Secretary considers relevant or
11 material to the injury.

12 (g) The costs for the administrative hearing shall be set
13 by rule.

14 (Source: P.A. 96-1420, eff. 8-3-10.)

15 (225 ILCS 429/95)

16 Sec. 95. Cease and desist orders.

17 (a) The Secretary may issue a cease and desist order to any
18 debt settlement provider or other person doing business without
19 the required license when, in the opinion of the Secretary, the
20 debt settlement provider or other person is violating or is
21 about to violate any provision of the Act or any rule or
22 condition imposed in writing by the Department.

23 (b) The Secretary may issue a cease and desist order prior
24 to a hearing.

25 (c) The Secretary shall serve notice of his or her action,

1 including a statement of the reasons for his or her action
2 either personally, by mail, or to the licensee's email address
3 of record ~~or by certified mail, return receipt requested.~~
4 Service by mail is ~~shall be deemed~~ completed if the notice is
5 deposited in the U.S. Mail. Service to the email address of
6 record is completed when sent.

7 (d) Within 10 days after service of the cease and desist
8 order, the licensee or other person may request, in writing, a
9 hearing.

10 (e) The Secretary shall schedule a hearing within 30 days
11 after the request for a hearing unless otherwise agreed to by
12 the parties.

13 (f) If it is determined that the Secretary had the
14 authority to issue the cease and desist order, then he or she
15 may issue such orders as may be reasonably necessary to
16 correct, eliminate, or remedy that conduct.

17 (g) The powers vested in the Secretary by this Section are
18 additional to any and all other powers and remedies vested in
19 the Secretary by law, and nothing in this Section shall be
20 construed as requiring that the Secretary shall employ the
21 power conferred in this Section instead of or as a condition
22 precedent to the exercise of any other power or remedy vested
23 in the Secretary.

24 (h) The cost for the administrative hearing shall be set by
25 rule.

26 (Source: P.A. 96-1420, eff. 8-3-10.)

1 Section 45. The Payday Loan Reform Act is amended by
2 changing Sections 1-10, 3-5, and 4-10 as follows:

3 (815 ILCS 122/1-10)

4 Sec. 1-10. Definitions. As used in this Act:

5 "Check" means a "negotiable instrument", as defined in
6 Article 3 of the Uniform Commercial Code, that is drawn on a
7 financial institution.

8 "Commercially reasonable method of verification" or
9 "certified database" means a consumer reporting service
10 database certified by the Department as effective in verifying
11 that a proposed loan agreement is permissible under this Act,
12 or, in the absence of the Department's certification, any
13 reasonably reliable written verification by the consumer
14 concerning (i) whether the consumer has any outstanding payday
15 loans, (ii) the principal amount of those outstanding payday
16 loans, and (iii) whether any payday loans have been paid in
17 full by the consumer in the preceding 7 days.

18 "Consumer" means any natural person who, singly or jointly
19 with another consumer, enters into a loan.

20 "Consumer reporting service" means an entity that provides
21 a database certified by the Department.

22 "Department" means the Department of Financial and
23 Professional Regulation.

24 "Email address of record" means the designated email

1 address recorded by the Division in the credit union's file
2 maintained by the Division's licensure unit.

3 "Secretary" means the Secretary of Financial and
4 Professional Regulation.

5 "Gross monthly income" means monthly income as
6 demonstrated by official documentation of the income,
7 including, but not limited to, a pay stub or a receipt
8 reflecting payment of government benefits, for the period 30
9 days prior to the date on which the loan is made.

10 "Lender" and "licensee" mean any person or entity,
11 including any affiliate or subsidiary of a lender or licensee,
12 that offers or makes a payday loan, buys a whole or partial
13 interest in a payday loan, arranges a payday loan for a third
14 party, or acts as an agent for a third party in making a payday
15 loan, regardless of whether approval, acceptance, or
16 ratification by the third party is necessary to create a legal
17 obligation for the third party, and includes any other person
18 or entity if the Department determines that the person or
19 entity is engaged in a transaction that is in substance a
20 disguised payday loan or a subterfuge for the purpose of
21 avoiding this Act.

22 "Loan agreement" means a written agreement between a lender
23 and consumer to make a loan to the consumer, regardless of
24 whether any loan proceeds are actually paid to the consumer on
25 the date on which the loan agreement is made.

26 "Member of the military" means a person serving in the

1 armed forces of the United States, the Illinois National Guard,
2 or any reserve component of the armed forces of the United
3 States. "Member of the military" includes those persons engaged
4 in (i) active duty, (ii) training or education under the
5 supervision of the United States preliminary to induction into
6 military service, or (iii) a period of active duty with the
7 State of Illinois under Title 10 or Title 32 of the United
8 States Code pursuant to order of the President or the Governor
9 of the State of Illinois.

10 "Outstanding balance" means the total amount owed by the
11 consumer on a loan to a lender, including all principal,
12 finance charges, fees, and charges of every kind.

13 "Payday loan" or "loan" means a loan with a finance charge
14 exceeding an annual percentage rate of 36% and with a term that
15 does not exceed 120 days, including any transaction conducted
16 via any medium whatsoever, including, but not limited to,
17 paper, facsimile, Internet, or telephone, in which:

18 (1) A lender accepts one or more checks dated on the
19 date written and agrees to hold them for a period of days
20 before deposit or presentment, or accepts one or more
21 checks dated subsequent to the date written and agrees to
22 hold them for deposit; or

23 (2) A lender accepts one or more authorizations to
24 debit a consumer's bank account; or

25 (3) A lender accepts an interest in a consumer's wages,
26 including, but not limited to, a wage assignment.

1 The term "payday loan" includes "installment payday loan",
2 unless otherwise specified in this Act.

3 "Principal amount" means the amount received by the
4 consumer from the lender due and owing on a loan, excluding any
5 finance charges, interest, fees, or other loan-related
6 charges.

7 "Rollover" means to refinance, renew, amend, or extend a
8 loan beyond its original term.

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

10 (815 ILCS 122/3-5)

11 Sec. 3-5. Licensure.

12 (a) A license to make a payday loan shall state the
13 address, including city and state, at which the business is to
14 be conducted and shall state fully the name of the licensee. At
15 the time of application and renewal, an applicant shall provide
16 the Department with an accurate and up-to-date email address.

17 The license shall be conspicuously posted in the place of
18 business of the licensee and shall not be transferable or
19 assignable.

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

24 (1) that the financial responsibility, experience,
25 character, and general fitness of the applicant are such as

1 to command the confidence of the public and to warrant the
2 belief that the business will be operated lawfully and
3 fairly and within the provisions and purposes of this Act;
4 and

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

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

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

24 (e) A licensee must pay an annual fee of \$1,000. In
25 addition to the license fee, the reasonable expense of any
26 examination or hearing by the Secretary under any provisions of

1 this Act shall be borne by the licensee. If a licensee fails to
2 renew its license by December 31, its license shall
3 automatically expire; however, the Secretary, in his or her
4 discretion, may reinstate an expired license upon:

5 (1) payment of the annual fee within 30 days of the
6 date of expiration; and

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

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

20 (g) No licensee shall conduct the business of making loans
21 under this Act within any office, suite, room, or place of
22 business in which (1) any loans are offered or made under the
23 Consumer Installment Loan Act other than title secured loans as
24 defined in subsection (a) of Section 15 of the Consumer
25 Installment Loan Act and governed by Title 38, Section 110.330
26 of the Illinois Administrative Code or (2) any other business

1 is solicited or engaged in unless the other business is
2 licensed by the Department or, in the opinion of the Secretary,
3 the other business would not be contrary to the best interests
4 of consumers and is authorized by the Secretary in writing.

5 (g-5) Notwithstanding subsection (g) of this Section, a
6 licensee may obtain a license under the Consumer Installment
7 Loan Act (CILA) for the exclusive purpose and use of making
8 title secured loans, as defined in subsection (a) of Section 15
9 of CILA and governed by Title 38, Section 110.300 of the
10 Illinois Administrative Code. A licensee may continue to
11 service Consumer Installment Loan Act loans that were
12 outstanding as of the effective date of this amendatory Act of
13 the 96th General Assembly.

14 (h) The Secretary shall maintain a list of licensees that
15 shall be available to interested consumers and lenders and the
16 public. The Secretary shall maintain a toll-free number whereby
17 consumers may obtain information about licensees. The
18 Secretary shall also establish a complaint process under which
19 an aggrieved consumer may file a complaint against a licensee
20 or non-licensee who violates any provision of this Act.

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

22 (815 ILCS 122/4-10)

23 Sec. 4-10. Enforcement and remedies.

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

1 (b) Any material violation of this Act, including the
2 commission of an act prohibited under Section 4-5, constitutes
3 a violation of the Consumer Fraud and Deceptive Business
4 Practices Act.

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

8 (d) Subject to the Illinois Administrative Procedure Act,
9 the Secretary may hold hearings, make findings of fact,
10 conclusions of law, issue cease and desist orders, have the
11 power to issue fines of up to \$10,000 per violation, refer the
12 matter to the appropriate law enforcement agency for
13 prosecution under this Act, and suspend or revoke a license
14 granted under this Act. All proceedings shall be open to the
15 public.

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

24 The Secretary shall serve notice of his or her action,
25 including, but not limited to, a statement of the reasons for
26 the action, either personally, by mail, or to the licensee's

1 email address of record ~~or by certified mail, return receipt~~
2 ~~requested.~~ Service by certified mail is ~~shall be deemed~~
3 completed when the notice is deposited in the U.S. Mail.
4 Service to the email address of record is completed when sent.

5 Within 10 days of service of the cease and desist order,
6 the licensee or other person may request a hearing in writing.
7 The Secretary shall schedule a hearing within 30 days after the
8 request for a hearing unless otherwise agreed to by the
9 parties.

10 If it is determined that the Secretary had the authority to
11 issue the cease and desist order, he or she may issue such
12 orders as may be reasonably necessary to correct, eliminate, or
13 remedy the conduct.

14 The powers vested in the Secretary by this subsection (e)
15 are additional to any and all other powers and remedies vested
16 in the Secretary by law, and nothing in this subsection (e)
17 shall be construed as requiring that the Secretary shall employ
18 the power conferred in this subsection instead of or as a
19 condition precedent to the exercise of any other power or
20 remedy vested in the Secretary.

21 (f) The Secretary may, after 10 days notice by registered
22 mail to the licensee at the address set forth in the license
23 stating the contemplated action and in general the grounds
24 therefore, fine the licensee an amount not exceeding \$10,000
25 per violation, or revoke or suspend any license issued
26 hereunder if he or she finds that:

1 (1) the licensee has failed to comply with any
2 provision of this Act or any order, decision, finding,
3 rule, regulation, or direction of the Secretary lawfully
4 made pursuant to the authority of this Act; or

5 (2) any fact or condition exists which, if it had
6 existed at the time of the original application for the
7 license, clearly would have warranted the Secretary in
8 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 The Department shall establish by rule and publish a
17 schedule of fines that are reasonably tailored to ensure
18 compliance with the provisions of this Act and which include
19 remedial measures intended to improve licensee compliance.
20 Such rules shall set forth the standards and procedures to be
21 used in imposing any such fines and remedies.

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

25 The Secretary may issue a new license to a licensee whose
26 license has been revoked when facts or conditions which clearly

1 would have warranted the Secretary in refusing originally to
2 issue the license no longer exist.

3 In every case in which a license is suspended or revoked or
4 an application for a license or renewal of a license is denied,
5 the Secretary shall serve the licensee with notice of his or
6 her action, including a statement of the reasons for his or her
7 actions, either personally, by mail, or to the licensee's email
8 address of record ~~by certified mail, return receipt requested.~~
9 Service by ~~certified mail~~ is ~~shall be deemed~~ completed when the
10 notice is deposited in the U.S. Mail. Service to the email
11 address of record is completed when sent.

12 An order assessing a fine, an order revoking or suspending
13 a license, or an order denying renewal of a license shall take
14 effect upon service of the order unless the licensee requests a
15 hearing, in writing, within 10 days after the date of service.
16 In the event a hearing is requested, the order shall be stayed
17 until a final administrative order is entered.

18 If the licensee requests a hearing, the Secretary shall
19 schedule a hearing within 30 days after the request for a
20 hearing unless otherwise agreed to by the parties.

21 The hearing shall be held at the time and place designated
22 by the Secretary. The Secretary and any administrative law
23 judge designated by him or her shall have the power to
24 administer oaths and affirmations, subpoena witnesses and
25 compel their attendance, take evidence, and require the
26 production of books, papers, correspondence, and other records

1 or information that he or she considers relevant or material to
2 the inquiry.

3 (g) The costs of administrative hearings conducted
4 pursuant to this Section shall be paid by the licensee.

5 (h) Notwithstanding any other provision of this Section, if
6 a lender who does not have a license issued under this Act
7 makes a loan pursuant to this Act to an Illinois consumer, then
8 the loan shall be null and void and the lender who made the
9 loan shall have no right to collect, receive, or retain any
10 principal, interest, or charges related to the loan.

11 (Source: P.A. 97-1039, eff. 1-1-13; 98-209, eff. 1-1-14.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.

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4	205 ILCS 305/2	from Ch. 17, par. 4403
5	205 ILCS 305/21	from Ch. 17, par. 4422
6	205 ILCS 305/61	from Ch. 17, par. 4462
7	205 ILCS 405/1	from Ch. 17, par. 4802
8	205 ILCS 405/4	from Ch. 17, par. 4808
9	205 ILCS 405/10	from Ch. 17, par. 4817
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16	205 ILCS 660/2	from Ch. 17, par. 5202
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20	205 ILCS 665/2	from Ch. 17, par. 5302
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