



Rep. Emanuel Chris Welch

Filed: 4/9/2019

10100HB2468ham003

LRB101 08098 JLS 59184 a

1 AMENDMENT TO HOUSE BILL 2468

2 AMENDMENT NO. _____. Amend House Bill 2468 on page 1, line
3 5, by changing "Section 15f" to "Sections 1.1 and 15f"; and

4 on page 1, by replacing lines 19 through 23 with the following:
5 "Reform Act may obtain a license under this Act. ~~except that a~~
6 ~~licensee under the Payday Loan Reform Act may obtain a license~~
7 ~~under this Act for the exclusive purpose and use of making~~
8 ~~title secured loans, as defined in subsection (a) of Section 15~~
9 ~~of this Act and governed by Title 38, Section 110.300 of the~~
10 ~~Illinois Administrative Code. For the purpose of this"; and~~

11 on page 2, by deleting line 1; and

12 on page 2, by inserting immediately below line 7 the following:

13 "(205 ILCS 670/1.1 new)

14 Sec. 1.1. Dual licensure. A license under this Act that is

1 held by a licensee that holds a license under the Payday Loan
2 Reform Act is valid only for the purpose of servicing loans
3 made under this Act that are outstanding as of the effective
4 date of this amendatory Act of the 101st General Assembly. A
5 license under this Act held by a licensee that holds a license
6 under the Payday Loan Reform Act is null and void with respect
7 to making loans under this Act. The Director may adopt rules
8 providing for the surrender of licenses subject to this
9 Section."; and

10 on page 4, by replacing lines 4 through 6 with the following:
11 "~~not include a title secured loan as defined by subsection (a)~~
12 ~~of this Section or a~~ payday loan as defined by the Payday Loan
13 Reform Act. "Small consumer loan" does not include a loan
14 secured by a motor vehicle, including, but not limited to,
15 loans in which, at commencement, an obligor provides or agrees
16 to provide to the licensee physical possession of the obligor's
17 title to a motor vehicle and loans in which the licensee
18 perfects or seeks to perfect a lien on the obligor's title to a
19 motor vehicle."; and

20 on page 9, by replacing lines 21 through 25 with the following:
21 "Sec. 15f. Title-secured loan rules repealed. 38 Ill. Adm.
22 Code Chapter I, Part 110, Subpart B is repealed on the
23 effective date of this amendatory Act of the 101st General
24 Assembly.

1 Section 10. The Payday Loan Reform Act is amended by
2 changing Section 4-10 as follows:

3 (815 ILCS 122/4-10)

4 Sec. 4-10. Enforcement and remedies.

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

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

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

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

22 (e) The Secretary may issue a cease and desist order to any
23 licensee or other person doing business without the required
24 license, when in the opinion of the Secretary the licensee or

1 other person is violating or is about to violate any provision
2 of this Act or any rule or requirement imposed in writing by
3 the Department as a condition of granting any authorization
4 permitted by this Act. The cease and desist order permitted by
5 this subsection (e) may be issued prior to a hearing.

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

11 Within 10 days of service of the cease and desist order,
12 the licensee or other person may request a hearing in writing.
13 The Secretary shall schedule a hearing within 30 days after the
14 request for a hearing unless otherwise agreed to by the
15 parties.

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

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

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

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

11 (2) any fact or condition exists which, if it had
12 existed at the time of the original application for the
13 license, clearly would have warranted the Secretary in
14 refusing to issue the license.

15 The Secretary may fine, suspend, or revoke only the
16 particular license with respect to which grounds for the fine,
17 revocation, or suspension occur or exist, but if the Secretary
18 finds that grounds for revocation are of general application to
19 all offices or to more than one office of the licensee, the
20 Secretary shall fine, suspend, or revoke every license to which
21 the grounds apply.

22 The Department shall establish by rule and publish a
23 schedule of fines that are reasonably tailored to ensure
24 compliance with the provisions of this Act and which include
25 remedial measures intended to improve licensee compliance.
26 Such rules shall set forth the standards and procedures to be

1 used in imposing any such fines and remedies. A licensee may,
2 within 5 business days after the notice, take corrective action
3 to mitigate any fine or contemplated action related to
4 violations related to documents that were executed at the time
5 of closing of the loan that are missing from files.

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

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

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

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

26 If the licensee requests a hearing, the Secretary shall

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

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

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

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

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

20 by deleting all of pages 10 and 11.