



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3059

Introduced 2/19/2021, by Rep. Camille Y. Lilly

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Credit Union Act, the Transmitters of Money Act, the Sales Finance Agency Act, the Debt Management Service Act, the Consumer Installment Loan Act, the Debt Settlement Consumer Protection Act, and the Payday Loan Reform Act. Requires applicants for a license or renewal of a license to operate a credit union, operate as a transmitter of money, engage in the business of a sales finance agency, engage in a debt management service, make consumer installment loans, operate as a debt settlement provider, or operate as a lender of payday loans to provide an email address of record to the Department of Financial and Professional Regulation. In provisions concerning service of certain notices and orders, allows service by email to the email address of record. Provides that service to an email address of record is deemed complete when sent. Provides that service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Defines the term "email address of record". Makes other changes.

LRB102 14658 BMS 20011 b

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

1 and adopted children.

2 (2) Persons who reside in a reasonably compact and  
3 well defined neighborhood or community, and members of  
4 their immediate families which shall include any relative  
5 by 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  
20 408(a) of the Internal Revenue Code, as now or hereafter  
21 amended, or similar provisions of any tax laws of the United  
22 States that 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 Email address of record - The term "email address of  
4 record" means an accurate and current email address designated  
5 by a credit union and recorded by the Division of Financial  
6 Institutions in the credit union's file maintained by the  
7 Division of Financial Institutions.

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

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

15 Director - The term "Director of Financial Institutions"  
16 means the Director of the Division of Financial Institutions  
17 of the Department of Financial and Professional Regulation.

18 Office - The term "office" means the Division of Financial  
19 Institutions of the Department of Financial and Professional  
20 Regulation.

21 NCUA - The term "NCUA" means the National Credit Union  
22 Administration, an agency of the United States Government  
23 charged with the supervision of credit unions chartered under  
24 the laws of the United States of America.

25 Central Credit Union - The term "central credit union"  
26 means a credit union incorporated primarily to receive shares

1 from and make loans to credit unions and directors, officers,  
2 committee members and employees of credit unions. A central  
3 credit union may also accept as members persons who were  
4 members of credit unions which were liquidated and persons  
5 from occupational groups not otherwise served by another  
6 credit union.

7 Corporate Credit Union - The term "corporate credit union"  
8 means a credit union which is a cooperative, non-profit  
9 association, the membership of which is limited primarily to  
10 other credit unions.

11 Insolvent - "Insolvent" means the condition that results  
12 when the total of all liabilities and shares exceeds net  
13 assets of the credit union.

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

21 Net Worth - "Net worth" means the retained earnings  
22 balance of the credit union, as determined under generally  
23 accepted accounting principles, and forms of secondary capital  
24 approved by the Secretary and the Director pursuant to  
25 rulemaking.

26 Charitable Donation Account - The term "charitable

1 donation account" means an account owned by a credit union  
2 that is held in a segregated custodial account or special  
3 purpose entity and specifically identified as a charitable  
4 donation account whereby, no less frequently than every 5  
5 years and upon termination of the account, at least 51% of the  
6 total return on assets in the account is distributed to one or  
7 more charitable organizations or non-profit entities.

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

9 (205 ILCS 305/2) (from Ch. 17, par. 4403)

10 Sec. 2. Organization procedure.

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

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

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

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

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

3           (d) The names, addresses and Social Security numbers  
4           of the subscribers to the Articles of Incorporation, and  
5           the number and the value of shares subscribed to by each;

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

11          (f) That the existence of the credit union shall be  
12          perpetual.

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

16          (4) The subscribers shall forward the articles of  
17          incorporation and the bylaws to the Secretary in duplicate,  
18          along with the required charter fee. If they conform to the  
19          law, and such rules and regulations as the Secretary and the  
20          Director may prescribe, if the Secretary determines that a  
21          common bond exists, and that it is economically advisable to  
22          organize the credit union, he or she shall within 60 days issue  
23          a certificate of approval attached to the articles of  
24          incorporation and return a copy of the bylaws and the articles  
25          of incorporation to the applicants or their representative,  
26          which shall be preserved in the permanent files of the credit

1 union. The subscribers shall file the certificate of approval,  
2 with the articles of incorporation attached, in the office of  
3 the recorder (or, if there is no recorder, in the office of the  
4 county clerk) of the county in which the credit union is to  
5 locate its principal place of business. The recorder or the  
6 county clerk, as the case may be, shall accept and record the  
7 documents if they are accompanied by the proper fee. When the  
8 documents are so recorded, the credit union is incorporated  
9 under this Act.

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

13 (6) At the time of executing the articles of  
14 incorporation, the subscribers shall provide an email address  
15 of record.

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

17 (205 ILCS 305/8) (from Ch. 17, par. 4409)

18 Sec. 8. Secretary's powers and duties. Credit unions are  
19 regulated by the Department. The Secretary in executing the  
20 powers and discharging the duties vested by law in the  
21 Department has the following powers and duties:

22 (1) To exercise the rights, powers and duties set  
23 forth in this Act or any related Act. The Director shall  
24 oversee the functions of the Division and report to the  
25 Secretary, with respect to the Director's exercise of any



1 of the rights, powers, and duties vested by law in the  
2 Secretary under this Act. All references in this Act to  
3 the Secretary shall be deemed to include the Director, as  
4 a person authorized by the Secretary or this Act to assume  
5 responsibility for the oversight of the functions of the  
6 Department relating to the regulatory supervision of  
7 credit unions under this Act.

8 (2) To prescribe rules and regulations for the  
9 administration of this Act. The provisions of the Illinois  
10 Administrative Procedure Act are hereby expressly adopted  
11 and incorporated herein as though a part of this Act, and  
12 shall apply to all administrative rules and procedures of  
13 the Department under this Act.

14 (3) To direct and supervise all the administrative and  
15 technical activities of the Department including the  
16 employment of a Credit Union Supervisor who shall have  
17 knowledge in the theory and practice of, or experience in,  
18 the operations or supervision of financial institutions,  
19 preferably credit unions, and such other persons as are  
20 necessary to carry out his functions. The Secretary shall  
21 ensure that all examiners appointed or assigned to examine  
22 the affairs of State-chartered credit unions possess the  
23 necessary training and continuing education to effectively  
24 execute their jobs.

25 (4) To issue cease and desist orders when in the  
26 opinion of the Secretary, a credit union is engaged or has

1 engaged, or the Secretary has reasonable cause to believe  
2 the credit union is about to engage, in an unsafe or  
3 unsound practice, or is violating or has violated or the  
4 Secretary has reasonable cause to believe is about to  
5 violate a law, rule or regulation or any condition imposed  
6 in writing by the Department.

7 (5) To suspend from office and to prohibit from  
8 further participation in any manner in the conduct of the  
9 affairs of his credit union any director, officer or  
10 committee member who has committed any violation of a law,  
11 rule, regulation or of a cease and desist order or who has  
12 engaged or participated in any unsafe or unsound practice  
13 in connection with the credit union or who has committed  
14 or engaged in any act, omission, or practice which  
15 constitutes a breach of his fiduciary duty as such  
16 director, officer or committee member, when the Secretary  
17 has determined that such action or actions have resulted  
18 or will result in substantial financial loss or other  
19 damage that seriously prejudices the interests of the  
20 members.

21 (6) To assess a civil penalty against a credit union  
22 provided that:

23 (A) the Secretary reasonably determines, based on  
24 objective facts and an accurate assessment of  
25 applicable legal standards, that the credit union has:

26 (i) committed a violation of this Act, any

1 rule adopted in accordance with this Act, or any  
2 order of the Secretary issued pursuant to his or  
3 her authority under this Act; or

4 (ii) engaged or participated in any unsafe or  
5 unsound practice;

6 (B) before a civil penalty is assessed under this  
7 item (6), the Secretary must make the further  
8 reasonable determination, based on objective facts and  
9 an accurate assessment of applicable legal standards,  
10 that the credit union's action constituting a  
11 violation under subparagraph (i) of paragraph (A) of  
12 item (6) or an unsafe and unsound practice under  
13 subparagraph (ii) of paragraph (A) of item (6):

14 (i) directly resulted in a substantial and  
15 material financial loss or created a reasonable  
16 probability that a substantial and material  
17 financial loss will directly result; or

18 (ii) constituted willful misconduct or a  
19 material breach of fiduciary duty of any director,  
20 officer, or committee member of the credit union;

21 Material financial loss, as referenced in this  
22 paragraph (B), shall be assessed in light of  
23 surrounding circumstances and the relative size and  
24 nature of the financial loss or probable financial  
25 loss. Certain benchmarks shall be used in determining  
26 whether financial loss is material, such as a

1 percentage of total assets or total gross income for  
2 the immediately preceding 12-month period. Absent  
3 compelling and extraordinary circumstances, no civil  
4 penalty shall be assessed, unless the financial loss  
5 or probable financial loss is equal to or greater than  
6 either 1% of the credit union's total assets for the  
7 immediately preceding 12-month period, or 1% of the  
8 credit union's total gross income for the immediately  
9 preceding 12-month period, whichever is less;

10 (C) before a civil penalty is assessed under this  
11 item (6), the credit union must be expressly advised  
12 in writing of the:

13 (i) specific violation that could subject it  
14 to a penalty under this item (6); and

15 (ii) specific remedial action to be taken  
16 within a specific and reasonable time frame to  
17 avoid imposition of the penalty;

18 (D) Civil penalties assessed under this item (6)  
19 shall be remedial, not punitive, and reasonably  
20 tailored to ensure future compliance by the credit  
21 union with the provisions of this Act and any rules  
22 adopted pursuant to this Act;

23 (E) a credit union's failure to take timely  
24 remedial action with respect to the specific violation  
25 may result in the issuance of an order assessing a  
26 civil penalty up to the following maximum amount,

1 based upon the total assets of the credit union:

2 (i) Credit unions with assets of less than \$10  
3 million..... \$1,000

4 (ii) Credit unions with assets of at least \$10  
5 million and less than \$50 million ..... \$2,500

6 (iii) Credit unions with assets of at least  
7 \$50 million and less than \$100 million .... \$5,000

8 (iv) Credit unions with assets of at least  
9 \$100 million and less than \$500 million .. \$10,000

10 (v) Credit unions with assets of at least \$500  
11 million and less than \$1 billion ..... \$25,000

12 (vi) Credit unions with assets of \$1 billion  
13 and greater..... \$50,000; and

14 (F) an order assessing a civil penalty under this  
15 item (6) shall be served by certified mail or email to  
16 the email address of record and take effect upon  
17 service of the order, unless the credit union makes a  
18 written request for a hearing under 38 IL. Adm. Code  
19 190.20 of the Department's rules for credit unions  
20 within 90 days after issuance of the order; in that  
21 event, the order shall be stayed until a final  
22 administrative order is entered. Service by certified  
23 mail shall be deemed completed when the notice is  
24 deposited in the United States mail. Service to the  
25 email address of record shall be deemed completed when  
26 sent.

1           This item (6) shall not apply to violations separately  
2           addressed in rules as authorized under item (7) of this  
3           Section.

4           (7) Except for the fees established in this Act, to  
5           prescribe, by rule and regulation, fees and penalties for  
6           preparing, approving, and filing reports and other  
7           documents; furnishing transcripts; holding hearings;  
8           investigating applications for permission to organize,  
9           merge, or convert; failure to maintain accurate books and  
10          records to enable the Department to conduct an  
11          examination; and taking supervisory actions.

12          (8) To destroy, in his discretion, any or all books  
13          and records of any credit union in his possession or under  
14          his control after the expiration of three years from the  
15          date of cancellation of the charter of such credit unions.

16          (9) To make investigations and to conduct research and  
17          studies and to publish some of the problems of persons in  
18          obtaining credit at reasonable rates of interest and of  
19          the methods and benefits of cooperative saving and lending  
20          for such persons.

21          (10) To authorize, foster or establish experimental,  
22          developmental, demonstration or pilot projects by public  
23          or private organizations including credit unions which:

24                 (a) promote more effective operation of credit  
25                 unions so as to provide members an opportunity to use  
26                 and control their own money to improve their economic

1 and social conditions; or

2 (b) are in the best interests of credit unions,  
3 their members and the people of the State of Illinois.

4 (11) To cooperate in studies, training or other  
5 administrative activities with, but not limited to, the  
6 NCUA, other state credit union regulatory agencies and  
7 industry trade associations in order to promote more  
8 effective and efficient supervision of Illinois chartered  
9 credit unions.

10 (12) Notwithstanding the provisions of this Section,  
11 the Secretary shall not:

12 (1) issue an order against a credit union  
13 organized under this Act for unsafe or unsound banking  
14 practices solely because the entity provides or has  
15 provided financial services to a cannabis-related  
16 legitimate business;

17 (2) prohibit, penalize, or otherwise discourage a  
18 credit union from providing financial services to a  
19 cannabis-related legitimate business solely because  
20 the entity provides or has provided financial services  
21 to a cannabis-related legitimate business;

22 (3) recommend, incentivize, or encourage a credit  
23 union not to offer financial services to an account  
24 holder or to downgrade or cancel the financial  
25 services offered to an account holder solely because:

26 (A) the account holder is a manufacturer or

1 producer, or is the owner, operator, or employee  
2 of a cannabis-related legitimate business;

3 (B) the account holder later becomes an owner  
4 or operator of a cannabis-related legitimate  
5 business; or

6 (C) the credit union was not aware that the  
7 account holder is the owner or operator of a  
8 cannabis-related legitimate business; and

9 (4) take any adverse or corrective supervisory  
10 action on a loan made to an owner or operator of:

11 (A) a cannabis-related legitimate business  
12 solely because the owner or operator owns or  
13 operates a cannabis-related legitimate business;  
14 or

15 (B) real estate or equipment that is leased to  
16 a cannabis-related legitimate business solely  
17 because the owner or operator of the real estate  
18 or equipment leased the equipment or real estate  
19 to a cannabis-related legitimate business.

20 (Source: P.A. 101-27, eff. 6-25-19.)

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

22 Sec. 21. Record of board and committee members. Within 30  
23 days after election or appointment, the names and addresses of  
24 the members of the board of directors, committees and all  
25 officers of the credit union shall be filed with the



1 Department on forms provided by the Department. The form shall  
2 also include the email address of record of the credit union.

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

4 (205 ILCS 305/61) (from Ch. 17, par. 4462)

5 Sec. 61. Suspension.

6 (1) If the Secretary determines that any credit union is  
7 bankrupt, insolvent, impaired or that it has violated this  
8 Act, or is operating in an unsafe or unsound manner, he shall  
9 issue an order temporarily suspending the credit union's  
10 operations for not more than 60 days. The board of directors  
11 shall be given notice by registered or certified mail, or by  
12 email to the email address of record, of such suspension,  
13 which notice shall include the reasons for such suspension and  
14 a list of specific violations of the Act. Service by certified  
15 mail shall be deemed completed when the notice is deposited in  
16 the United States mail. Service to the email address of record  
17 shall be deemed completed when sent. The Secretary shall also  
18 notify the members of the credit union board of advisors of any  
19 suspension. The Director may assess to the credit union a  
20 penalty, not to exceed the regulatory fee as set forth in this  
21 Act, to offset costs incurred in determining the condition of  
22 the credit union's books and records.

23 (2) Upon receipt of such suspension notice, the credit  
24 union shall cease all operations, except those authorized by  
25 the Secretary, or the Secretary may appoint a manager-trustee

1 to operate the credit union during the suspension period. The  
2 board of directors shall, within 10 days of the receipt of the  
3 suspension notice, file with the Secretary a reply to the  
4 suspension notice by submitting a corrective plan of action or  
5 a request for formal hearing on said action pursuant to the  
6 Department's rules and regulations.

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

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

1 involuntary merger. Upon the request of the Secretary, a  
2 credit union by a vote of a majority of its board of directors  
3 may elect to serve as a surviving credit union in an  
4 involuntary merger. If the Secretary determines that the  
5 suspended credit union should be liquidated, he may appoint a  
6 liquidating agent and require of that person such bond and  
7 security as he considers proper.

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

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

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

24 Section 10. The Transmitters of Money Act is amended by  
25 changing Sections 5, 25, 40, 80, 90, and 100 as follows:

1 (205 ILCS 657/5)

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

5 "Authorized seller" means a person not an employee of a  
6 licensee who engages in the business regulated by this Act on  
7 behalf of a licensee under a contract between that person and  
8 the licensee.

9 "Bill payment service" means the business of transmitting  
10 money on behalf of an Illinois resident for the purpose of  
11 paying the resident's bills.

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

21 "Department" means the Department of Financial and  
22 Professional Regulation Institutions.

23 "Director" means the Director of Financial Institutions.

24 "Division of Financial Institutions" means the Division of  
25 Financial Institutions of the Department of Financial and

1 Professional Regulation.

2 "Email address of record" means the designated email  
3 address recorded by the Division of Financial Institutions in  
4 the applicant's applicant file or the licensee's license file,  
5 as maintained by the Division of Financial Institutions'  
6 licensure unit.

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

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

10 "Material litigation" means any litigation that, according  
11 to generally accepted accounting principles, is deemed  
12 significant to a licensee's financial health and would be  
13 required to be referenced in a licensee's annual audited  
14 financial statements, reports to shareholders, or similar  
15 documents.

16 "Money" means a medium of exchange that is authorized or  
17 adopted by a domestic or foreign government as a part of its  
18 currency and that is customarily used and accepted as a medium  
19 of exchange in the country of issuance.

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

23 (1) Sells or issues payment instruments.

24 (2) Engages in the business of receiving money for  
25 transmission or transmitting money.

26 (3) Engages in the business of exchanging, for

1 compensation, money of the United States Government or a  
2 foreign government to or from money of another government.

3 "Outstanding payment instrument" means, unless otherwise  
4 treated by or accounted for under generally accepted  
5 accounting principles on the books of the licensee, a payment  
6 instrument issued by the licensee that has been sold in the  
7 United States directly by the licensee or has been sold in the  
8 United States by an authorized seller of the licensee and  
9 reported to the licensee as having been sold, but has not been  
10 paid by or for the licensee.

11 "Payment instrument" means a check, draft, money order,  
12 traveler's check, stored value card, or other instrument or  
13 memorandum, written order or written receipt for the  
14 transmission or payment of money sold or issued to one or more  
15 persons whether or not that instrument or order is negotiable.  
16 Payment instrument does not include an instrument that is  
17 redeemable by the issuer in merchandise or service, a credit  
18 card voucher, or a letter of credit. A written order for the  
19 transmission or payment of money that results in the issuance  
20 of a check, draft, money order, traveler's check, or other  
21 instrument or memorandum is not a payment instrument.

22 "Person" means an individual, partnership, association,  
23 joint stock association, corporation, or any other form of  
24 business organization.

25 "Stored value card" means any magnetic stripe card or  
26 other electronic payment instrument given in exchange for

1 money and other similar consideration, including but not  
2 limited to checks, debit payments, money orders, drafts,  
3 credit payments, and traveler's checks, where the card or  
4 other electronic payment instrument represents a dollar value  
5 that the consumer can either use or give to another  
6 individual.

7 "Transmitting money" means the transmission of money by  
8 any means, including transmissions to or from locations within  
9 the United States or to and from locations outside of the  
10 United States by payment instrument, facsimile or electronic  
11 transfer, or otherwise, and includes bill payment services.  
12 (Source: P.A. 92-400, eff. 1-1-02; 93-535, eff. 1-1-04.)

13 (205 ILCS 657/25)

14 Sec. 25. Application for license.

15 (a) An application for a license must be in writing, under  
16 oath, and in the form the Director prescribes. At the time of  
17 application, each applicant shall provide an email address of  
18 record. The application must contain or be accompanied by all  
19 of the following:

20 (1) The name of the applicant and the address of the  
21 principal place of business of the applicant and the  
22 address of all locations and proposed locations of the  
23 applicant in this State.

24 (2) The form of business organization of the  
25 applicant, including:

1 (A) a copy of its articles of incorporation and  
2 amendments thereto and a copy of its bylaws, certified  
3 by its secretary, if the applicant is a corporation;

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

6 (C) a copy of the documents that control its  
7 organizational structure, certified by a managing  
8 official, if the applicant is organized in some other  
9 form.

10 (3) The name, business and home address, and a  
11 chronological summary of the business experience, material  
12 litigation history, and felony convictions over the  
13 preceding 10 years of:

14 (A) the proprietor, if the applicant is an  
15 individual;

16 (B) every partner, if the applicant is a  
17 partnership;

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

20 (D) each person in a position to exercise control  
21 over, or direction of, the business of the applicant,  
22 regardless of the form of organization of the  
23 applicant.

24 (4) Financial statements, not more than one year old,  
25 prepared in accordance with generally accepted accounting  
26 principles and audited by a licensed public accountant or



1 certified public accountant showing the financial  
2 condition of the applicant and an unaudited balance sheet  
3 and statement of operation as of the most recent quarterly  
4 report before the date of the application, certified by  
5 the applicant or an officer or partner thereof. If the  
6 applicant is a wholly owned subsidiary or is eligible to  
7 file consolidated federal income tax returns with its  
8 parent, however, unaudited financial statements for the  
9 preceding year along with the unaudited financial  
10 statements for the most recent quarter may be submitted if  
11 accompanied by the audited financial statements of the  
12 parent company for the preceding year along with the  
13 unaudited financial statement for the most recent quarter.

14 (5) Filings of the applicant with the Securities and  
15 Exchange Commission or similar foreign governmental entity  
16 (English translation), if any.

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

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

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

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

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

4           (11) A surety bond as required by Section 30 of this  
5 Act.

6           (12) The applicable fees as required by Section 45 of  
7 this Act.

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

10           (14) A written statement that the applicant is in full  
11 compliance with and agrees to continue to fully comply  
12 with all state and federal statutes and regulations  
13 relating to money laundering.

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

17           (a-5) The proprietor, partner, officer, director, and  
18 controlling person of the applicant shall submit their  
19 fingerprints to the Department of State Police in an  
20 electronic format that complies with the form and manner for  
21 requesting and furnishing criminal history record information  
22 as prescribed by the Department of State Police. These  
23 fingerprints shall be retained and checked against the  
24 Department of State Police and Federal Bureau of Investigation  
25 criminal history record databases now and hereafter filed,  
26 including latent fingerprint searches. The Department of State

1 Police shall charge applicants a fee for conducting the  
2 criminal history records check, which shall be deposited into  
3 the State Police Services Fund and shall not exceed the actual  
4 cost of the records check. The Department of State Police  
5 shall furnish records of Illinois convictions to the  
6 Department pursuant to positive identification and shall  
7 forward the national criminal history record information to  
8 the Department. The Department may require applicants to pay a  
9 separate fingerprinting fee, either to the Department or to a  
10 Department-designated or Department-approved vendor. The  
11 Department, in its discretion, may allow a proprietor,  
12 partner, officer, director, or controlling person of an  
13 applicant who does not have reasonable access to a designated  
14 vendor to provide his or her fingerprints in an alternative  
15 manner. The Department, in its discretion, may also use other  
16 procedures in performing or obtaining criminal background  
17 checks of applicants. Instead of submitting his or her  
18 fingerprints, an individual may submit proof that is  
19 satisfactory to the Department that an equivalent security  
20 clearance has been conducted. The Department may adopt any  
21 rules necessary to implement this subsection.

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

24 (Source: P.A. 100-979, eff. 8-19-18.)

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

15           (1) The name of the licensee and the address of the  
16 principal place of business of the licensee.

17           (2) A list of all locations where the licensee is  
18 conducting business under its license and a list of all  
19 authorized sellers through whom the licensee is conducting  
20 business under its license, including the name and  
21 business address of each authorized seller.

22           (3) Audited financial statements covering the past  
23 year of operations, prepared in accordance with generally  
24 accepted accounting principles, showing the financial  
25 condition of the licensee. The licensee shall submit the  
26 audited financial statement after the application for

1 renewal has been approved. The audited financial statement  
2 must be received by the Department no later than 120 days  
3 after the end of the licensee's fiscal year. If the  
4 licensee is a wholly owned subsidiary or is eligible to  
5 file consolidated federal income tax returns with its  
6 parent, the licensee may submit unaudited financial  
7 statements if accompanied by the audited financial  
8 statements of the parent company for its most recently  
9 ended year.

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

14 (5) A statement of the dollar amount of uncompleted  
15 money transmissions and payment instruments outstanding or  
16 in transit, in this State, as of the most recent quarter  
17 available.

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

20 (7) Evidence sufficient to prove to the satisfaction  
21 of the Director that the licensee has complied with all  
22 requirements under Section 20 relating to its net worth,  
23 under Section 30 relating to its surety bond or other  
24 security, and under Section 50 relating to permissible  
25 investments.

26 (8) A statement of a change in information provided by

1 the licensee in its application for a license or its  
2 previous applications for renewal including, but not  
3 limited to, new directors, officers, authorized sellers,  
4 or clearing banks and material changes in the operation of  
5 the licensee's business.

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

7 (205 ILCS 657/80)

8 Sec. 80. Revocation or suspension of licenses.

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

11 (1) The licensee has knowingly made a material  
12 misstatement or suppressed or withheld information on an  
13 application for a license or a document required to be  
14 filed with the Director.

15 (2) A fact or condition exists that, if it had existed  
16 or had been known at the time the licensee applied for its  
17 license, would have been grounds for denying the  
18 application.

19 (3) The licensee is insolvent.

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

23 (5) The licensee refuses to permit the Director to  
24 make an examination at reasonable times as authorized by  
25 this Act.

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

3           (7) The licensee fails to pay a judgment entered in  
4 favor of a claimant, plaintiff, or creditor in an action  
5 arising out of the licensee's business regulated under  
6 this Act within 30 days after the judgment becomes final  
7 or within 30 days after expiration or termination of a  
8 stay of execution.

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

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

18           (b) In every case in which a license is suspended or  
19 revoked or an application for a license or renewal of a license  
20 is denied, the Director shall serve notice of his action,  
21 including a statement of the reasons for his action, either  
22 personally, to the email address of record, or by certified  
23 mail, return receipt requested. Service by certified mail  
24 shall be deemed completed if the notice is deposited in the  
25 United States mail ~~post office, postage paid, addressed to the~~  
26 ~~last known address specified in the application for a license.~~

1 Service to the email address of record shall be deemed  
2 completed when sent.

3 (c) In the case of denial of an application for a license  
4 or renewal of a license, the applicant or licensee may request  
5 in writing, within 30 days after the date of service, a  
6 hearing. In the case of a denial of an application for renewal  
7 of a license, the expiring license shall be deemed to continue  
8 in force until 30 days after the service of the notice of  
9 denial or, if a hearing is requested during that period, until  
10 a final order is entered pursuant to a hearing.

11 (d) The order of suspension or revocation of a license  
12 shall take effect upon service of the order. The holder of any  
13 suspended or revoked license may request in writing, within 30  
14 days after the date of service, a hearing. In the event a  
15 hearing is requested, the order shall remain temporary until a  
16 final order is entered pursuant to the hearing.

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

26 (f) The Director may issue an order of suspension or



1 revocation of a license that takes effect upon service of the  
2 order and remains in effect regardless of a request for a  
3 hearing when the Director finds that the public welfare will  
4 be endangered if the licensee is permitted to continue to  
5 operate the business regulated by this Act.

6 (g) The decision of the Director to deny any application  
7 for a license or renewal of a license or to suspend or revoke a  
8 license is subject to judicial review under the Administrative  
9 Review Law.

10 (h) The costs for administrative hearing shall be set by  
11 rule.

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

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

17 (205 ILCS 657/90)

18 Sec. 90. Enforcement.

19 (a) If it appears to the Director that a person has  
20 committed or is about to commit a violation of this Act, a rule  
21 promulgated under this Act, or an order of the Director, the  
22 Director may apply to the circuit court for an order enjoining  
23 the person from violating or continuing to violate this Act,  
24 the rule, or order and for injunctive or other relief that the  
25 nature of the case may require and may, in addition, request

1 the court to assess a civil penalty up to \$1,000 along with  
2 costs and attorney fees.

3 (b) If the Director finds, after an investigation that he  
4 considers appropriate, that a licensee or other person is  
5 engaged in practices contrary to this Act or to the rules  
6 promulgated under this Act, the Director may issue an order  
7 directing the licensee or person to cease and desist the  
8 violation. The Director may, in addition to or without the  
9 issuance of a cease and desist order, assess an administrative  
10 penalty up to \$1,000 against a licensee for each violation of  
11 this Act or the rules promulgated under this Act. The issuance  
12 of an order under this Section shall not be a prerequisite to  
13 the taking of any action by the Director under this or any  
14 other Section of this Act. The Director shall serve notice of  
15 his action, including a statement of the reasons for his  
16 actions, either personally, to the email address of record, or  
17 by certified mail, return receipt requested. Service by  
18 certified mail shall be deemed completed if the notice is  
19 deposited in the United States mail ~~post office, postage paid,~~  
20 ~~addressed to the last known address for a license.~~ Service to  
21 the email address of record shall be deemed completed when  
22 sent.

23 (c) In the case of the issuance of a cease and desist order  
24 or assessment order, a hearing may be requested in writing  
25 within 30 days after the date of service. The hearing shall be  
26 held at the time and place designated by the Director in either

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

9 (d) After the Director's final determination under a  
10 hearing under this Section, a party to the proceedings whose  
11 interests are affected by the Director's final determination  
12 shall be entitled to judicial review of that final  
13 determination under the Administrative Review Law.

14 (e) The costs for administrative hearings shall be set by  
15 rule.

16 (f) Except as otherwise provided in this Act, a violation  
17 of this Act shall subject the party violating it to a fine of  
18 \$1,000 for each offense.

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

22 (h) A person who engages in conduct requiring a license  
23 under this Act and fails to obtain a license from the Director  
24 or knowingly makes a false statement, misrepresentation, or  
25 false certification in an application, financial statement,  
26 account record, report, or other document filed or required to

1 be maintained or filed under this Act or who knowingly makes a  
2 false entry or omits a material entry in a document is guilty  
3 of a Class 3 felony.

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

15 (j) The Director may enter into consent orders at any time  
16 with a person to resolve a matter arising under this Act. A  
17 consent order must be signed by the person to whom it is issued  
18 and must indicate agreement to the terms contained in it. A  
19 consent order need not constitute an admission by a person  
20 that this Act or a rule or order issued or promulgated under  
21 this Act has been violated, nor need it constitute a finding by  
22 the Director that the person has violated this Act or a rule or  
23 order promulgated under this Act.

24 (k) Notwithstanding the issuance of a consent order, the  
25 Director may seek civil or criminal penalties or compromise  
26 civil penalties concerning matter encompassed by the consent

1 order unless the consent order by its terms expressly  
2 precludes the Director from doing so.

3 (1) Appeals from all final orders and judgments entered by  
4 the circuit court under this Section in review of a decision of  
5 the Director may be taken as in other civil actions by any  
6 party to the proceeding.

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

8 (205 ILCS 657/100)

9 Sec. 100. Consent to service of process.

10 (a) A licensee, before doing business in this State, shall  
11 appoint the Director its true and lawful attorney-in-fact upon  
12 whom all lawful process in any action or legal proceeding  
13 against it may be served and shall agree that any lawful  
14 process against it that may be served upon its attorney shall  
15 be of the same force and validity as if served on itself. The  
16 consent to the service of process shall be in the form  
17 prescribed by the Director, shall be irrevocable, and shall  
18 provide that actions or proceedings arising out of or founded  
19 upon the conduct of the licensee's business may be commenced  
20 against the licensee in any court of competent jurisdiction  
21 and proper venue within this State by the service of process or  
22 other notice of the institution of proceedings on the  
23 Director.

24 (b) Service of process or other notice, accompanied by the  
25 fee provided in Section 45, shall be by duplicate copies, one

1 of which shall be filed with the Director and the other  
2 forwarded by the Director within 5 business days by certified  
3 mail with a return receipt to the licensee against whom the  
4 process or other notice is directed at its latest address on  
5 file with the Department or to the email address of record.  
6 Service by certified mail shall be deemed completed when the  
7 notice is deposited in the United States mail. Service to the  
8 email address of record shall be deemed completed when sent.

9 (c) No judgment shall be entered against a licensee  
10 pursuant to service upon the Director until at least 30 days  
11 have elapsed after process or notice has been served on the  
12 Director.

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

14 Section 15. The Sales Finance Agency Act is amended by  
15 changing Sections 2, 6, 10, and 16.5 as follows:

16 (205 ILCS 660/2) (from Ch. 17, par. 5202)

17 Sec. 2. Definitions. In this Act, unless the context  
18 otherwise requires:

19 "Sales finance agency" means a person, irrespective of his  
20 or her state of domicile or place of business, engaged in this  
21 State, in whole or in part, in the business of purchasing, or  
22 making loans secured by, retail installment contracts, retail  
23 charge agreements or the outstanding balances under such  
24 contracts or agreements entered into in this State.

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

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

10 "Department" means the Department of Financial and  
11 Professional Regulation Institutions.

12 "Director" means the Director of Financial Institutions.

13 "Division of Financial Institutions" means the Division of  
14 Financial Institutions of the Department of Financial and  
15 Professional Regulation.

16 "Email address of record" means the designated email  
17 address recorded by the Division of Financial Institutions in  
18 the applicant's applicant file or the licensee's license file,  
19 as maintained by the Division of Financial Institutions'  
20 licensure unit.

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

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

1 Installment Sales Act.

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

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

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

13 (205 ILCS 660/6) (from Ch. 17, par. 5206)

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



1 Before the license is granted, the applicant shall prove  
2 in form satisfactory to the Director, that the applicant has a  
3 positive net worth of a minimum of \$30,000. At the time of  
4 application, each applicant shall provide an email address of  
5 record.

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

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

13 (205 ILCS 660/10) (from Ch. 17, par. 5223)

14 Sec. 10. Denial, revocation, fine, or suspension of  
15 license.

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

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

1 the email address of record shall be deemed completed when  
2 sent.

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

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

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

20 (f) The costs for the administrative hearing shall be set  
21 by rule.

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

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

25 (205 ILCS 660/16.5)

1           Sec. 16.5. Cease and desist orders.

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

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

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

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

21          (e) The Director shall schedule a hearing within 30 days  
22 after the request for a hearing unless otherwise agreed to by  
23 the parties.

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

26          (g) If it is determined that the Director had the

1 authority to issue the cease and desist order, he or she may  
2 issue such orders as may be reasonably necessary to correct,  
3 eliminate, or remedy such conduct.

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

11 (i) The cost for the administrative hearing shall be set  
12 by rule.

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

14 Section 20. The Debt Management Service Act is amended by  
15 changing Sections 2, 4, 10, and 20 as follows:

16 (205 ILCS 665/2) (from Ch. 17, par. 5302)

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

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

1 counseling; or (3) a combination of the activities described  
2 in items (1) and (2) of this definition.

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

15 This term shall not include the following when engaged in  
16 the regular course of their respective businesses and  
17 professions:

18 (a) Attorneys at law licensed, or otherwise authorized  
19 to practice, in Illinois who are engaged in the practice  
20 of law.

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

1 (c) Title insurers, title agents, independent  
2 escrowees, and abstract companies, while doing an escrow  
3 business.

4 (d) Judicial officers or others acting pursuant to  
5 court order.

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

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

12 (g) Credit counselors, only when providing services  
13 described in the definition of credit counselor in this  
14 Section.

15 "Debtor" means the person or persons for whom the debt  
16 management service is performed.

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

19 "Director" means the Director of Financial Institutions.

20 "Division of Financial Institutions" means the Division of  
21 Financial Institutions of the Department of Financial and  
22 Professional Regulation.

23 "Email address of record" means the designated email  
24 address recorded by the Division of Financial Institutions in  
25 the applicant's applicant file or the licensee's license file,  
26 as maintained by the Division of Financial Institutions'

1 licensure unit.

2 "Person" means an individual, firm, partnership,  
3 association, limited liability company, corporation, or  
4 not-for-profit corporation.

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

6 "Secretary" means the Secretary of Financial and  
7 Professional Regulation or a person authorized by the  
8 Secretary to act in the Secretary's stead.

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

10 (205 ILCS 665/4) (from Ch. 17, par. 5304)

11 Sec. 4. Application for license. Application for a license  
12 to engage in the debt management service business in this  
13 State shall be made to the Secretary and shall be in writing,  
14 under oath, and in the form prescribed by the Secretary. Each  
15 applicant shall provide an email address of record.

16 Each applicant, at the time of making such application,  
17 shall pay to the Secretary the sum of \$30.00 as a fee for  
18 investigation of the applicant, and the additional sum of  
19 \$100.00 as a license fee.

20 Every applicant shall submit to the Secretary, at the time  
21 of the application for a license, a bond to be approved by the  
22 Secretary in which the applicant shall be the obligor, in the  
23 sum of \$25,000 or such additional amount as required by the  
24 Secretary based on the amount of disbursements made by the  
25 licensee in the previous year, and in which an insurance

1 company, which is duly authorized by the State of Illinois, to  
2 transact the business of fidelity and surety insurance shall  
3 be a surety.

4 The bond shall run to the Secretary for the use of the  
5 Department or of any person or persons who may have a cause of  
6 action against the obligor in said bond arising out of any  
7 violation of this Act or rules by a license. Such bond shall be  
8 conditioned that the obligor will faithfully conform to and  
9 abide by the provisions of this Act and of all rules,  
10 regulations and directions lawfully made by the Secretary and  
11 will pay to the Secretary or to any person or persons any and  
12 all money that may become due or owing to the State or to such  
13 person or persons, from said obligor under and by virtue of the  
14 provisions of this Act.

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

16 (205 ILCS 665/10) (from Ch. 17, par. 5310)

17 Sec. 10. Revocation, suspension, or refusal to renew  
18 license.

19 (a) The Secretary may revoke or suspend or refuse to renew  
20 any license if he finds that:

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

24 (2) the licensee has violated any provisions of this  
25 Act or any rule, lawfully made by the Secretary within the



1 authority of this Act;

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

6 (4) any applicant has made any false statement or  
7 representation to the Secretary in applying for a license  
8 hereunder.

9 (b) In every case in which a license is suspended or  
10 revoked or an application for a license or renewal of a license  
11 is denied, the Secretary shall serve notice of his action,  
12 including a statement of the reasons for his actions, either  
13 personally, to the email address of record, or by certified  
14 mail, return receipt requested. Service by mail shall be  
15 deemed completed if the notice is deposited in the United  
16 States mail ~~U.S. Mail~~. Service to the email address of record  
17 shall be deemed completed when sent.

18 (c) In the case of a denial of an application or renewal of  
19 a license, the applicant or licensee may request in writing,  
20 within 30 days after the date of service, a hearing. In the  
21 case of a denial of a renewal of a license, the license shall  
22 be deemed to continue in force until 30 days after the service  
23 of the notice of denial, or if a hearing is requested during  
24 that period, until a final administrative order is entered.

25 (d) An order of revocation or suspension of a license  
26 shall take effect upon service of the order unless the

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

5 (e) If the licensee requests a hearing, the Secretary  
6 shall schedule either a status date or a hearing within 30 days  
7 after the request for a hearing unless otherwise agreed to by  
8 the parties.

9 (f) The hearing shall be held at the time and place  
10 designated by the Secretary. The Secretary and any  
11 administrative law judge designated by him 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 considers relevant or material to the  
16 injury.

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

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

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

21 Sec. 20. Cease and desist orders.

22 (a) 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,  
25 or other person, is violating or is about to violate any

1 provision of the Act or any rule or condition imposed in  
2 writing by the Department.

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

5 (c) The Secretary shall serve notice of his action,  
6 including a statement of the reasons for his action either  
7 personally, to the email address of record, or by certified  
8 mail, return receipt requested. Service by mail shall be  
9 deemed completed if the notice is deposited in the U.S. Mail.  
10 Service to the email address of record shall be deemed  
11 completed when sent.

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

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

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

22 (h) 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 power 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 (i) The cost for the administrative hearing shall be set  
4 by rule and shall be borne by the respondent.

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

6 Section 25. The Consumer Installment Loan Act is amended  
7 by changing Sections 2, 3, 8, 9, and 20.5 and by adding Section  
8 0.5 as follows:

9 (205 ILCS 670/0.5 new)

10 Sec. 0.5. Definitions. As used in this Act:

11 "Department" means the Department of Financial and  
12 Professional Regulation.

13 "Director" means the Director of the Division of Financial  
14 Institutions.

15 "Division of Financial Institutions" means the Division of  
16 Financial Institutions of the Department of Financial and  
17 Professional Regulation.

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

23 "Secretary" means the Secretary of Financial and  
24 Professional Regulation or a person authorized by the

1 Secretary to act in the Secretary's stead.

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

3 Sec. 2. Application; fees; positive net worth. Application  
4 for such license shall be in writing, and in the form  
5 prescribed by the Director. Such applicant at the time of  
6 making such application shall pay to the Director the sum of  
7 \$300 as an application fee and the additional sum of \$450 as an  
8 annual license fee, for a period terminating on the last day of  
9 the current calendar year; provided that if the application is  
10 filed after June 30th in any year, such license fee shall be  
11 1/2 of the annual license fee for such year. At the time of  
12 application, each applicant shall provide an email address of  
13 record.

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

1 the Director shall be filed by the licensee within 30 days  
2 after written demand therefor by the Director. "Net worth"  
3 means total assets minus total liabilities.

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

5 (205 ILCS 670/3) (from Ch. 17, par. 5403)

6 Sec. 3. Appointment of attorney-in-fact for service of  
7 process. Every licensee shall appoint, in writing, the  
8 Director of Financial Institutions (hereinafter called  
9 Director) and his successors in office or any official who  
10 shall hereafter be charged with the administration of this  
11 Act, as attorney-in-fact upon whom all lawful process against  
12 such licensee may be served with the same legal force and  
13 validity as if served on such licensee. A copy of such written  
14 appointment, duly certified, shall be filed in the office of  
15 the Director; and a copy thereof certified by him shall be  
16 sufficient evidence. This appointment shall remain in effect  
17 while any liability remains outstanding in this State against  
18 the licensee. When summons is served upon the Director as  
19 attorney-in-fact for such licensee, the Director shall  
20 immediately notify the licensee by certified ~~registered~~ mail,  
21 return receipt requested, or by email to the email address of  
22 record, enclosing the summons and specifying the hour and day  
23 of service. Service by certified mail shall be deemed  
24 completed when the notice is deposited in the United States  
25 mail. Service to the email address of record shall be deemed

1 completed when sent.

2 (Source: Laws 1963, p. 3526.)

3 (205 ILCS 670/8) (from Ch. 17, par. 5408)

4 Sec. 8. Annual license fee; expenses ~~fee~~ ~~Expenses~~.

5 Before the 1st day of each December, a licensee must pay to the  
6 Director, and the Department must receive, the annual license  
7 fee required by Section 2 for the next succeeding calendar  
8 year. The license shall expire on the first of January unless  
9 the license fee has been paid prior thereto. At the time of  
10 renewal, each licensee shall provide an email address of  
11 record.

12 In addition to such license fee, the reasonable expense of  
13 any examination, investigation or custody by the Director  
14 under any provisions of this Act shall be borne by the  
15 licensee.

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

22 (Source: P.A. 100-958, eff. 8-19-18.)

23 (205 ILCS 670/9) (from Ch. 17, par. 5409)

24 Sec. 9. Fines; suspension or revocation ~~, Suspension or~~

1 ~~Revocation~~ of license.

2 (a) The Director may, after 10 days notice by certified  
3 ~~registered~~ mail to the licensee at the address set forth in the  
4 license, or by email to the email address of record, stating  
5 the contemplated action and in general the grounds therefor,  
6 fine such licensee an amount not exceeding \$10,000 per  
7 violation, or revoke or suspend any license issued hereunder  
8 if he or she finds that:

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

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

17 Service by certified mail shall be deemed completed when  
18 the notice is deposited in the United States mail. Service to  
19 the email address of record shall be deemed completed when  
20 sent.

21 (b) The Director may fine, suspend, or revoke only the  
22 particular license with respect to which grounds for the fine,  
23 revocation or suspension occur or exist, but if the Director  
24 shall find that grounds for revocation are of general  
25 application to all offices or to more than one office of the  
26 licensee, the Director shall fine, suspend, or revoke every



1 license to which such grounds apply.

2 (c) (Blank).

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

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

10 (f) (Blank).

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

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

1 entered.

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

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

13 (k) The costs for the administrative hearing shall be set  
14 by rule.

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

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

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

24 (205 ILCS 670/20.5)

25 Sec. 20.5. Cease and desist.

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

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

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

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

21          (e) The Director shall schedule a hearing within 30 days  
22 after the request for a hearing unless otherwise agreed to by  
23 the parties.

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

26          (g) If it is determined that the Director had the

1 authority to issue the cease and desist order, he or she may  
2 issue such orders as may be reasonably necessary to correct,  
3 eliminate, or remedy such conduct.

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

11 (i) The cost for the administrative hearing shall be set  
12 by rule.

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

14 Section 30. The Debt Settlement Consumer Protection Act is  
15 amended by changing Sections 10, 20, 50, 80, and 95 as follows:

16 (225 ILCS 429/10)

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

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

20 "Consumer settlement account" means any account or other  
21 means or device in which payments, deposits, or other  
22 transfers from a consumer are arranged, held, or transferred  
23 by or to a debt settlement provider for the accumulation of the  
24 consumer's funds in anticipation of proffering an adjustment

1 or settlement of a debt or obligation of the consumer to a  
2 creditor on behalf of the consumer.

3 "Debt settlement provider" means any person or entity  
4 engaging in, or holding itself out as engaging in, the  
5 business of providing debt settlement service in exchange for  
6 any fee or compensation, or any person who solicits for or acts  
7 on behalf of any person or entity engaging in, or holding  
8 itself out as engaging in, the business of providing debt  
9 settlement service in exchange for any fee or compensation.

10 "Debt settlement provider" does not include:

11 (1) attorneys licensed, or otherwise authorized, to  
12 practice in Illinois who are engaged in the practice of  
13 law;

14 (2) escrow agents, accountants, broker dealers in  
15 securities, or investment advisors in securities, when  
16 acting in the ordinary practice of their professions and  
17 through the entity used in the ordinary practice of their  
18 profession;

19 (3) any bank, agent of a bank, operating subsidiary of  
20 a bank, affiliate of a bank, trust company, savings and  
21 loan association, savings bank, credit union, crop credit  
22 association, development credit corporation, industrial  
23 development corporation, title insurance company, title  
24 insurance agent, independent escrowee or insurance company  
25 operating or organized under the laws of a state or the  
26 United States, or any other person authorized to make

1 loans under State law while acting in the ordinary  
2 practice of that business;

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

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

10 (6) an organization that is described in Section  
11 501(c)(3) and subject to Section 501(q) of Title 26 of the  
12 United States Code and exempt from tax under Section  
13 501(a) of Title 26 of the United States Code and governed  
14 by the Debt Management Service Act;

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

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

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

24 "Debt settlement service" means:

25 (1) offering to provide advice or service, or acting  
26 as an intermediary between or on behalf of a consumer and

1 one or more of a consumer's creditors, where the primary  
2 purpose of the advice, service, or action is to obtain a  
3 settlement, adjustment, or satisfaction of the consumer's  
4 unsecured debt to a creditor in an amount less than the  
5 full amount of the principal amount of the debt or in an  
6 amount less than the current outstanding balance of the  
7 debt; or

8 (2) offering to provide services related to or  
9 providing services advising, encouraging, assisting, or  
10 counseling a consumer to accumulate funds for the primary  
11 purpose of proposing or obtaining or seeking to obtain a  
12 settlement, adjustment, or satisfaction of the consumer's  
13 unsecured debt to a creditor in an amount less than the  
14 full amount of the principal amount of the debt or in an  
15 amount less than the current outstanding balance of the  
16 debt.

17 "Debt settlement service" does not include (A) the  
18 services of attorneys licensed, or otherwise authorized, to  
19 practice in Illinois who are engaged in the practice of law or  
20 (B) debt management service as defined in the Debt Management  
21 Service Act.

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

24 "Director" means the Director of the Division of Financial  
25 Institutions.

26 "Division of Financial Institutions" means the Division of

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

3 "Email address of record" means the designated email  
4 address recorded by the Division of Financial Institutions in  
5 the applicant's applicant file or the licensee's license file,  
6 as maintained by the Division of Financial Institutions'  
7 licensure unit.

8 "Enrollment or set up fee" means any fee, obligation, or  
9 compensation paid or to be paid by the consumer to a debt  
10 settlement provider in consideration of or in connection with  
11 establishing a contract or other agreement with a consumer  
12 related to the provision of debt settlement service.

13 "Maintenance fee" means any fee, obligation, or  
14 compensation paid or to be paid by the consumer on a periodic  
15 basis to a debt settlement provider in consideration of  
16 maintaining the relationship and services to be provided by a  
17 debt settlement provider in accordance with a contract with a  
18 consumer related to the provision of debt settlement service.

19 "Principal amount of the debt" means the total amount or  
20 outstanding balance owed by a consumer to one or more  
21 creditors for a debt that is included in a contract for debt  
22 settlement service at the time when the consumer enters into a  
23 contract for debt settlement service.

24 "Savings" means the difference between the principal  
25 amount of the debt and the amount paid by the debt settlement  
26 provider to the creditor or negotiated by the debt settlement



1 provider and paid by the consumer to the creditor pursuant to a  
2 settlement negotiated by the debt settlement provider on  
3 behalf of the consumer as full and complete satisfaction of  
4 the creditor's claim with regard to that debt.

5 "Secretary" means the Secretary of Financial and  
6 Professional Regulation or a person authorized by the  
7 Secretary to act in the Secretary's stead.

8 "Settlement fee" means any fee, obligation, or  
9 compensation paid or to be paid by the consumer to a debt  
10 settlement provider in consideration of or in connection with  
11 a completed agreement or other arrangement on the part of a  
12 creditor to accept less than the principal amount of the debt  
13 as satisfaction of the creditor's claim against the consumer.  
14 (Source: P.A. 96-1420, eff. 8-3-10.)

15 (225 ILCS 429/20)

16 Sec. 20. Application for license. An application for a  
17 license to operate as a debt settlement provider in this State  
18 shall be made to the Secretary and shall be in writing, under  
19 oath, and in the form prescribed by the Secretary. Each  
20 applicant shall provide an email address of record.

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

23 Every applicant shall submit to the Secretary, at the time  
24 of the application for a license, a bond to be approved by the  
25 Secretary in which the applicant shall be the obligor, in the

1 sum of \$100,000 or an additional amount as required by the  
2 Secretary, and in which an insurance company, which is duly  
3 authorized by the State of Illinois to transact the business  
4 of fidelity and surety insurance, shall be a surety.

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

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

17 (225 ILCS 429/50)

18 Sec. 50. Revocation or suspension of license.

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

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

24 (2) the debt settlement provider has violated any  
25 provisions of this Act or any rule lawfully made by the

1 Secretary under the authority of this Act;

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

6 (4) any applicant has made any false statement or  
7 representation to the Secretary in applying for a license  
8 under this Act.

9 (b) In every case in which a license is suspended or  
10 revoked or an application for a license or renewal of a license  
11 is denied, the Secretary shall serve notice of his or her  
12 action, including a statement of the reasons for his or her  
13 actions, either personally, to the email address of record, or  
14 by certified mail, return receipt requested. Service by mail  
15 shall be deemed completed if the notice is deposited in the  
16 United States mail U.S. Mail. Service to the email address of  
17 record shall be deemed completed when sent.

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

26 (d) An order of revocation or suspension of a license

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

6 (e) If the debt settlement provider requests a hearing,  
7 then the Secretary shall schedule the hearing within 30 days  
8 after the request for a hearing unless otherwise agreed to by  
9 the parties.

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

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

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

21 (225 ILCS 429/80)

22 Sec. 80. Penalties.

23 (a) Any person who operates as a debt settlement provider  
24 without a license shall be guilty of a Class 4 felony.

25 (b) Any contract of debt settlement service as defined in

1 this Act made by an unlicensed person shall be null and void  
2 and of no legal effect.

3 (c) The Secretary may, after 10 days notice by certified  
4 ~~registered~~ mail to the debt settlement service provider at the  
5 address on the license or unlicensed entity engaging in the  
6 debt settlement service business, or by email to the email  
7 address of record, stating the contemplated action and in  
8 general the grounds therefore, fine such debt settlement  
9 service provider or unlicensed entity an amount not exceeding  
10 \$10,000 per violation, and revoke or suspend any license  
11 issued hereunder if he or she finds that:

12 (1) The debt settlement service provider has failed to  
13 comply with any provision of this Act or any order,  
14 decision, finding, rule, regulation or direction of the  
15 Secretary lawfully made pursuant to the authority of this  
16 Act; or

17 (2) Any fact or condition exists which, if it had  
18 existed at the time of the original application for the  
19 license, clearly would have warranted the Secretary in  
20 refusing to issue the license.

21 Service by certified mail shall be deemed completed when  
22 the notice is deposited in the United States mail. Service to  
23 the email address of record shall be deemed completed when  
24 sent.

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

1 (225 ILCS 429/95)

2 Sec. 95. Cease and desist orders.

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

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

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

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

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

24 (f) If it is determined that the Secretary had the  
25 authority to issue the cease and desist order, then he or she  
26 may issue such orders as may be reasonably necessary to

1 correct, eliminate, or remedy that conduct.

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

9 (h) The cost for the administrative hearing shall be set  
10 by rule.

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

12 Section 35. The Payday Loan Reform Act is amended by  
13 changing Sections 1-10, 3-5, and 4-10 as follows:

14 (815 ILCS 122/1-10)

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

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

19 "Commercially reasonable method of verification" or  
20 "certified database" means a consumer reporting service  
21 database certified by the Department as effective in verifying  
22 that a proposed loan agreement is permissible under this Act,  
23 or, in the absence of the Department's certification, any  
24 reasonably reliable written verification by the consumer

1 concerning (i) whether the consumer has any outstanding payday  
2 loans, (ii) the principal amount of those outstanding payday  
3 loans, and (iii) whether any payday loans have been paid in  
4 full by the consumer in the preceding 7 days.

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

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

9 "Department" means the Department of Financial and  
10 Professional Regulation.

11 "Director" means the Director of the Division of Financial  
12 Institutions.

13 "Division of Financial Institutions" means the Division of  
14 Financial Institutions of the Department of Financial and  
15 Professional Regulation.

16 "Email address of record" means the designated email  
17 address recorded by the Division of Financial Institutions in  
18 the applicant's applicant file or the licensee's license file,  
19 as maintained by the Division of Financial Institutions'  
20 licensure unit.

21 "Secretary" means the Secretary of Financial and  
22 Professional Regulation or a person authorized by the  
23 Secretary to act in the Secretary's stead.

24 "Gross monthly income" means monthly income as  
25 demonstrated by official documentation of the income,  
26 including, but not limited to, a pay stub or a receipt



1 reflecting payment of government benefits, for the period 30  
2 days prior to the date on which the loan is made.

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

15 "Loan agreement" means a written agreement between a  
16 lender and consumer to make a loan to the consumer, regardless  
17 of whether any loan proceeds are actually paid to the consumer  
18 on the date on which the loan agreement is made.

19 "Member of the military" means a person serving in the  
20 armed forces of the United States, the Illinois National  
21 Guard, or any reserve component of the armed forces of the  
22 United States. "Member of the military" includes those persons  
23 engaged in (i) active duty, (ii) training or education under  
24 the supervision of the United States preliminary to induction  
25 into military service, or (iii) a period of active duty with  
26 the State of Illinois under Title 10 or Title 32 of the United

1 States Code pursuant to order of the President or the Governor  
2 of the State of Illinois.

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

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

11 (1) A lender accepts one or more checks dated on the  
12 date written and agrees to hold them for a period of days  
13 before deposit or presentment, or accepts one or more  
14 checks dated subsequent to the date written and agrees to  
15 hold them for deposit; or

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

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

20 The term "payday loan" includes "installment payday loan",  
21 unless otherwise specified in this Act.

22 "Principal amount" means the amount received by the  
23 consumer from the lender due and owing on a loan, excluding any  
24 finance charges, interest, fees, or other loan-related  
25 charges.

26 "Rollover" means to refinance, renew, amend, or extend a

1 loan beyond its original term.

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

3 (815 ILCS 122/3-5)

4 Sec. 3-5. Licensure.

5 (a) A license to make a payday loan shall state the  
6 address, including city and state, at which the business is to  
7 be conducted and shall state fully the name of the licensee.  
8 The license shall be conspicuously posted in the place of  
9 business of the licensee and shall not be transferable or  
10 assignable.

11 (b) An application for a license shall be in writing and in  
12 a form prescribed by the Secretary. Each applicant shall  
13 provide an email address of record. The Secretary may not  
14 issue a payday loan license unless and until the following  
15 findings are made:

16 (1) that the financial responsibility, experience,  
17 character, and general fitness of the applicant are such  
18 as to command the confidence of the public and to warrant  
19 the belief that the business will be operated lawfully and  
20 fairly and within the provisions and purposes of this Act;  
21 and

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

24 (c) A license shall be issued for no longer than one year,  
25 and no renewal of a license may be provided if a licensee has

1 substantially violated this Act and has not cured the  
2 violation to the satisfaction of the Department.

3 (d) A licensee shall appoint, in writing, the Secretary as  
4 attorney-in-fact upon whom all lawful process against the  
5 licensee may be served with the same legal force and validity  
6 as if served on the licensee. A copy of the written  
7 appointment, duly certified, shall be filed in the office of  
8 the Secretary, and a copy thereof certified by the Secretary  
9 shall be sufficient evidence to subject a licensee to  
10 jurisdiction in a court of law. This appointment shall remain  
11 in effect while any liability remains outstanding in this  
12 State against the licensee. When summons is served upon the  
13 Secretary as attorney-in-fact for a licensee, the Secretary  
14 shall immediately notify the licensee by certified ~~registered~~  
15 mail, return receipt requested, or to the email address of  
16 record, enclosing the summons and specifying the hour and day  
17 of service. Service by certified mail shall be deemed  
18 completed when the notice is deposited in the United States  
19 mail. Service to the email address of record shall be deemed  
20 completed when sent.

21 (e) A licensee must pay an annual fee of \$1,000. In  
22 addition to the license fee, the reasonable expense of any  
23 examination or hearing by the Secretary under any provisions  
24 of this Act shall be borne by the licensee. If a licensee fails  
25 to renew its license by December 1, its license shall  
26 automatically expire; however, the Secretary, in his or her

1 discretion, may reinstate an expired license upon:

2 (1) payment of the annual fee within 30 days of the  
3 date of expiration; and

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

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

17 (g) No licensee shall conduct the business of making loans  
18 under this Act within any office, suite, room, or place of  
19 business in which (1) any loans are offered or made under the  
20 Consumer Installment Loan Act other than title secured loans  
21 as defined in subsection (a) of Section 15 of the Consumer  
22 Installment Loan Act and governed by Title 38, Section 110.330  
23 of the Illinois Administrative Code or (2) any other business  
24 is solicited or engaged in unless the other business is  
25 licensed by the Department or, in the opinion of the  
26 Secretary, the other business would not be contrary to the

1 best interests of consumers and is authorized by the Secretary  
2 in writing.

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

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

19 (Source: P.A. 100-958, eff. 8-19-18; 101-31, eff. 6-28-19.)

20 (815 ILCS 122/4-10)

21 Sec. 4-10. Enforcement and remedies.

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

24 (b) Any material violation of this Act, including the  
25 commission of an act prohibited under Section 4-5, constitutes

1 a violation of the Consumer Fraud and Deceptive Business  
2 Practices Act.

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

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

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

22 The Secretary shall serve notice of his or her action,  
23 including, but not limited to, a statement of the reasons for  
24 the action, either personally, to the email address of record,  
25 or by certified mail, return receipt requested. Service by  
26 certified mail shall be deemed completed when the notice is

1 deposited in the United States mail ~~U.S. Mail~~. Service to the  
2 email address of record shall be deemed completed when sent.

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

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

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

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

26 (1) the licensee has failed to comply with any



1 provision of this Act or any order, decision, finding,  
2 rule, regulation, or direction of the Secretary lawfully  
3 made pursuant to the authority of this Act; or

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

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

15 The Department shall establish by rule and publish a  
16 schedule of fines that are reasonably tailored to ensure  
17 compliance with the provisions of this Act and which include  
18 remedial measures intended to improve licensee compliance.  
19 Such rules shall set forth the standards and procedures to be  
20 used in imposing any such fines and remedies.

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

24 The Secretary may issue a new license to a licensee whose  
25 license has been revoked when facts or conditions which  
26 clearly would have warranted the Secretary in refusing

1 originally to issue the license no longer exist.

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

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

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

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

1 to the inquiry.

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

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

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

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