



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5840

Introduced 11/16/2022, by Rep. Sonya M. Harper, Kambium Buckner, Dagmara Avelar, Kelly M. Cassidy, Marcus C. Evans, Jr., et al.

SYNOPSIS AS INTRODUCED:

205 ILCS 510/2 from Ch. 17, par. 4652
815 ILCS 123/15-1-5
815 ILCS 123/15-1-10
815 ILCS 123/15-5-10
815 ILCS 123/15-10-5

Amends the Pawnbroker Regulation Act. Clarifies that it shall be unlawful for any pawnbroker to charge or collect a greater benefit or percentage upon money advanced, and for the use and forbearance thereof, than permitted under the Predatory Loan Prevention Act. Amends the Predatory Loan Prevention Act. Provides that the definition of "loan" includes transactions subject to the Pawnbroker Regulation Act. Provides that it is a violation of the Act for any person or entity to solicit, broker, or otherwise engage in any other activity intended to facilitate or result in, or that in fact facilitates or results in, the origination of a loan that violates the Act. Provides that it is a violation of the Act for any person or entity to advertise or cause to be advertised a loan that violates the Act. Provides that a violation of the Act by a person or entity licensed under the Pawnbroker Regulation Act shall subject the person or entity to discipline in accordance with that Act. Makes other changes. Effective June 1, 2023.

LRB102 29629 SPS 41654 b

1 AN ACT concerning business.

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

4 Section 5. The Pawnbroker Regulation Act is amended by
5 changing Section 2 as follows:

6 (205 ILCS 510/2) (from Ch. 17, par. 4652)

7 Sec. 2. Pursuant to Section 15-10-30 of the Predatory Loan
8 Prevention Act, it ~~it~~ shall be unlawful for any pawnbroker to
9 charge or collect a greater benefit or percentage upon money
10 advanced, and for the use and forbearance thereof, than
11 permitted under Section 15-5-5 of the Predatory Loan
12 Prevention Act ~~than the rate of 3% per month. Nothing in this~~
13 ~~Section shall be construed so as to conflict with the law~~
14 ~~pertaining to usury and the person receiving money so advanced~~
15 ~~may hold such moneys to pay any fees in addition to interest as~~
16 ~~herein provided.~~

17 Each pawnbroker, when making a loan under this Section,
18 must disclose in printed form on the pawn contract the
19 following information to the persons receiving the loan:

20 (1) the amount of money advanced, which must be
21 designated as the amount financed;

22 (2) the maturity date of the pawn, which must be at
23 least 30 days after the date of the pawn;

1 (3) the total pawn interest and service charge payable
2 on the maturity date, which must be designated as the
3 finance charge;

4 (4) the total of payments that must be paid to redeem
5 the pledged goods on the maturity date, which must be
6 designated as the total of payments; and

7 (5) the annual percentage rate, computed according to
8 the regulations adopted by the Board of Governors of the
9 Federal Reserve System under the Federal Truth in Lending
10 Act.

11 The changes made to this Section by this amendatory Act of
12 the 102nd General Assembly shall be construed as being
13 declaratory of existing law and not as a new enactment. The
14 changes made to this Section by this amendatory Act of the
15 102nd General Assembly apply to actions commenced or pending
16 on or after the effective date of this amendatory Act of the
17 102nd General Assembly ~~Each pawnbroker may contract for and~~
18 ~~receive a monthly finance charge including interest and fees~~
19 ~~not to exceed one fifth of the loan amount, as set forth~~
20 ~~herein, for appraising, investigating title, storing and~~
21 ~~insuring the collateral, closing the loan, making daily~~
22 ~~reports to local law enforcement officers including enhanced~~
23 ~~computerized reporting, complying with regulatory~~
24 ~~requirements, and for other expenses and losses of every~~
25 ~~nature whatsoever and for all other services. Such fees, when~~
26 ~~made and collected, shall not be deemed interest for any~~

1 ~~purpose of law.~~

2 (Source: P.A. 90-477, eff. 7-1-98.)

3 Section 10. The Predatory Loan Prevention Act is amended
4 by changing Sections 15-1-5, 15-1-10, 15-5-10, and 15-10-5 as
5 follows:

6 (815 ILCS 123/15-1-5)

7 Sec. 15-1-5. Purpose and construction. ~~Illinois families~~
8 ~~pay over \$500,000,000 per year in consumer installment,~~
9 ~~payday, and title loan fees. As reported by the Department in~~
10 ~~2020, nearly half of Illinois payday loan borrowers earn less~~
11 ~~than \$30,000 per year, and the average annual percentage rate~~
12 ~~of a payday loan is 297%. The purpose of this Act is to protect~~
13 consumers from all types of predatory loans, including, but
14 not limited to, the types of loans covered under consistent
15 with federal law and the federal Military Lending Act, which
16 protects active duty members of the military and their
17 dependents. This Act shall be construed as a consumer
18 protection law for all purposes. The changes made to this
19 Section by this amendatory Act of the 102nd General Assembly
20 shall be construed as being declaratory of existing law and
21 not as a new enactment. The changes made to this Section by
22 this amendatory Act of the 102nd General Assembly apply to
23 actions commenced or pending on or after the effective date of
24 this amendatory Act of the 102nd General Assembly. This Act

1 shall be liberally construed to effectuate its purpose.

2 (Source: P.A. 101-658, eff. 3-23-21.)

3 (815 ILCS 123/15-1-10)

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

5 "Consumer" means any natural person, including consumers
6 acting jointly.

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

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

20 "Person" means any natural person.

21 "Secretary" means the Secretary of Financial and
22 Professional Regulation or a person authorized by the
23 Secretary.

24 "Loan" means money or credit provided to a consumer in
25 exchange for the consumer's agreement to a certain set of

1 terms, including, but not limited to, any finance charges,
2 interest, or other conditions. "Loan" includes closed-end and
3 open-end credit, retail installment sales contracts, motor
4 vehicle retail installment sales contracts, transactions
5 subject to the Pawnbroker Regulation Act, and any transaction
6 conducted via any medium whatsoever, including, but not
7 limited to, paper, facsimile, Internet, or telephone. "Loan"
8 does not include a commercial loan.

9 (Source: P.A. 101-658, eff. 3-23-21.)

10 (815 ILCS 123/15-5-10)

11 Sec. 15-5-10. Violation.

12 (a) Any loan made in violation of this Act is null and void
13 and no person or entity shall have any right to collect,
14 attempt to collect, receive, or retain any principal, fee,
15 interest, or charges related to the loan.

16 (b) It is a violation of this Act for any person or entity
17 to solicit, broker, or otherwise engage in any other activity
18 intended to facilitate or result in, or that in fact
19 facilitates or results in, the origination of a loan that
20 violates Section 15-5-5 of this Act.

21 (c) It is a violation of this Act for any person or entity
22 to advertise or cause to be advertised a loan that violates
23 Section 15-5-5 of this Act.

24 (Source: P.A. 101-658, eff. 3-23-21.)

1 (815 ILCS 123/15-10-5)

2 Sec. 15-10-5. Enforcement and remedies.

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

5 (b) Any violation of this Act, including the commission of
6 an act prohibited under Article 5, constitutes a violation of
7 the Consumer Fraud and Deceptive Business Practices Act.

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

15 (d) The Secretary may issue a cease and desist order to any
16 person or entity, when in the opinion of the Secretary the
17 person or entity is violating or is about to violate any
18 provision of this Act. The cease and desist order permitted by
19 this subsection (d) may be issued prior to a hearing.

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

25 Within 10 days of service of the cease and desist order,
26 the person or entity may request a hearing in writing.

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

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

12 (e) After 10 days' notice by certified mail to the person
13 or entity stating the contemplated action and in general the
14 grounds therefor, the Secretary may fine the person or entity
15 an amount not exceeding \$10,000 per violation if the person or
16 entity has failed to comply with any provision of this Act or
17 any order, decision, finding, rule, regulation, or direction
18 of the Secretary lawfully made in accordance with the
19 authority of this Act. Service by certified mail shall be
20 deemed completed when the notice is deposited in the U.S.
21 Mail.

22 (f) A violation of this Act by a person or entity licensed
23 under another Act including, but not limited to, the
24 Pawnbroker Regulation Act, the Consumer Installment Loan Act,
25 the Payday Loan Reform Act, and the Sales Finance Agency Act
26 shall subject the person or entity to discipline in accordance

1 with the Act or Acts under which the person or entity is
2 licensed.

3 (Source: P.A. 101-658, eff. 3-23-21.)

4 Section 99. Effective date. This Act takes effect June 1,
5 2023.