



Sen. Elgie R. Sims, Jr.

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10200SB1088sam001

LRB102 04911 BMS 25203 a

1 AMENDMENT TO SENATE BILL 1088

2 AMENDMENT NO. _____. Amend Senate Bill 1088 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Consumer Legal Funding Act.

6 Section 5. Definitions.

7 "Advertise" means publishing or disseminating any written,
8 electronic, or printed communication, or any communication by
9 means of recorded telephone messages or transmitted on radio,
10 television, the Internet, or similar communications media,
11 including film strips, motion pictures, and videos, published,
12 disseminated, circulated, or placed before the public,
13 directly or indirectly, for the purpose of inducing a consumer
14 to enter into a consumer legal funding.

15 "Charges" means the fees, as outlined in Section 25, to be
16 paid to the consumer legal funding company by or on behalf of

1 the consumer above the funded amount provided by or on behalf
2 of the company to an Illinois consumer pursuant to this Act.

3 "Consumer legal funding" means a non-recourse transaction,
4 in an amount that does not exceed \$500,000, in which a consumer
5 legal funding company purchases and a consumer assigns to the
6 company a contingent right to receive an amount of the
7 potential proceeds of a settlement, judgment, award, or
8 verdict obtained in the consumer's legal claim.

9 "Consumer legal funding company" or "company" means a
10 person or entity that enters into a consumer legal funding
11 transaction with an Illinois consumer. "Consumer legal funding
12 company" does not include:

- 13 (1) an immediate family member of the consumer;
- 14 (2) a bank, lender, financing entity, or other special
15 purpose entity:
- 16 (A) that provides financing to a consumer legal
17 funding company; or
- 18 (B) to which a consumer legal funding company
19 grants a security interest or transfers any rights or
20 interest in a consumer legal funding; and
- 21 (3) an attorney or accountant who provides services to
22 a consumer.

23 "Consumer" means a natural person who has a pending legal
24 claim and who resides or is domiciled in Illinois.

25 "Director" means the Director of Financial Institutions.

26 "Division" means the Division of Financial Institutions of

1 the Department of Financial and Professional Regulation.

2 "Funded amount" means the amount of moneys provided to, or
3 on behalf of, the consumer in the consumer legal funding.

4 "Funded amount" does not include charges.

5 "Funding date" means the date on which the funded amount
6 is transferred to the consumer by the consumer legal funding
7 company either by personal delivery, via wire, ACH, or other
8 electronic means, or mailed by insured, certified, or
9 registered United States mail.

10 "Immediate family member" means a parent; sibling; child
11 by blood, adoption, or marriage; spouse; grandparent; or
12 grandchild.

13 "Legal claim" means a bona fide civil claim or cause of
14 action.

15 "Resolution amount" means the funded amount plus the
16 agreed-upon charges that are delivered to the consumer legal
17 funding company on the resolution date.

18 "Resolution date" means the date the resolution amount is
19 delivered to the consumer legal funding company.

20 Section 10. Contract requirements; right of rescission.

21 (a) All consumer legal fundings shall meet the following
22 requirements:

23 (1) the contract shall be completely filled in when
24 presented to the consumer for signature;

25 (2) the contract shall contain, in bold and boxed

1 type, a right of rescission, allowing the consumer to
2 cancel the contract without penalty or further obligation
3 if, within 5 business days after the funding date, the
4 consumer either:

5 (A) returns to the consumer legal funding company
6 the full amount of the disbursed funds by delivering
7 the company's uncashed check to the company's office
8 in person; or

9 (B) mails, by insured, certified, or registered
10 United States mail, to the address specified in the
11 contract, a notice of cancellation and includes in
12 such mailing a return of the full amount of disbursed
13 funds in the form of the company's uncashed check or a
14 registered or certified check or money order; and

15 (3) the contract shall contain the initials of the
16 consumer on each page.

17 (b) The contract shall contain a written acknowledgment by
18 the attorney retained by the consumer in the legal claim that
19 attests to the following:

20 (1) to the best of the attorney's knowledge, all the
21 costs and charges relating to the consumer legal funding
22 have been disclosed to the consumer;

23 (2) the attorney is being paid on a contingency basis
24 pursuant to a written fee agreement;

25 (3) all proceeds of the legal claim will be disbursed
26 via either the trust account of the attorney or a

1 settlement fund established to receive the proceeds of the
2 legal claim on behalf of the consumer;

3 (4) the attorney is following the written instructions
4 of the consumer with regard to the consumer legal funding;
5 and

6 (5) the attorney has not received a referral fee or
7 other consideration from the consumer legal funding
8 company in connection with the consumer legal funding, nor
9 will the attorney receive such fee or other consideration
10 in the future.

11 (c) If the acknowledgment required in subsection (b) is
12 not completed by the attorney retained by the consumer in the
13 legal claim, the contract shall be null and void. The contract
14 remains valid and enforceable in the event the consumer
15 terminates the initial attorney or retains a new attorney with
16 respect to the legal claim.

17 Section 15. Consumer legal funding company prohibitions. A
18 consumer legal funding company shall not:

19 (1) pay or offer to pay commissions, referral fees, or
20 other forms of consideration to any attorney, law firm,
21 medical provider, chiropractor, or physical therapist or
22 any of their employees for referring a consumer to the
23 company;

24 (2) accept any commissions, referral fees, rebates, or
25 other forms of consideration from an attorney, law firm,

1 medical provider, chiropractor, or physical therapist or
2 any of their employees;

3 (3) intentionally advertise materially false or
4 misleading information regarding its products or services;

5 (4) refer, in furtherance of an initial legal funding,
6 a customer or potential customer to a specific attorney,
7 law firm, medical provider, chiropractor, or physical
8 therapist or any of their employees; however, if a
9 customer needs legal representation, the company may refer
10 the customer to a local or state bar association referral
11 service;

12 (5) fail to supply a copy of the executed contract to
13 the attorney for the consumer;

14 (6) knowingly provide funding to a consumer who has
15 previously assigned or sold a portion of the consumer's
16 right to proceeds from his or her legal claim without
17 first making payment to or purchasing a prior unsatisfied
18 consumer legal funding company's entire funded amount and
19 contracted charges, unless a lesser amount is otherwise
20 agreed to in writing by the consumer legal funding
21 companies, except that multiple companies may agree to
22 contemporaneously provide funding to a consumer if the
23 consumer and the consumer's attorney consent to the
24 arrangement in writing;

25 (7) receive any right to nor make any decisions with
26 respect to the conduct of the underlying legal claim or

1 any settlement or resolution of the legal claim. The right
2 to make such decisions shall remain solely with the
3 consumer and the attorney in the legal claim; or

4 (8) knowingly pay or offer to pay for court costs,
5 filing fees, or attorney's fees either during or after the
6 resolution of the legal claim using funds from the
7 consumer legal funding transaction.

8 Section 20. Satisfaction of the contract. A consumer legal
9 funding company shall require the resolution amount to be set
10 as a predetermined amount, based upon intervals of time from
11 the date of origination of the funding through the date of
12 resolution of the legal claim, and not be determined as a
13 percentage of the recovery from the legal claim.

14 Section 25. Fees.

15 (a) The fee charged by the consumer legal funding company
16 shall not exceed an annual fee of 36% of the funded amount in a
17 12-month period.

18 (b) The consumer legal funding company may charge an
19 additional annual servicing fee that does not exceed 10% of
20 the funded amount.

21 (c) In addition to the annual and servicing fees set forth
22 in subsections (a) and (b), a consumer legal funding company
23 may collect a fee of \$100 per consumer legal funding
24 transaction to defray the ordinary costs of opening,

1 administering, and terminating a consumer legal funding.

2 (d) A consumer legal funding company shall not collect any
3 additional fees unless otherwise specified in this Act.

4 (e) No fees shall extend past 42 months from the funding
5 date.

6 Section 30. Disclosures. All consumer legal funding
7 contracts shall contain the disclosures specified in this
8 Section, which shall constitute material terms of the
9 contract. Unless otherwise specified, the disclosures shall be
10 typed in at least 12-point bold-type font and be placed
11 clearly and conspicuously within the contract as follows:

12 (1) On the front page under appropriate headings,
13 language specifying:

14 (A) the funded amount to be paid to the consumer by
15 the consumer legal funding company;

16 (B) an itemization of one-time charges;

17 (C) the total amount to be paid by the consumer to
18 the company, including the funded amount and all
19 charges; and

20 (D) a payment schedule to include the resolution
21 amount, listing dates, and the amount due at the end of
22 each 6-month period from the funding date, until the
23 date the maximum amount due to the company by the
24 consumer to satisfy the amount due pursuant to the
25 contract.

1 (2) Pursuant to the provisions set forth in paragraph
2 (2) of subsection (a) of Section 10, within the body of the
3 contract: "Consumer's Right to Cancellation: You may
4 cancel this contract without penalty or further obligation
5 within five (5) business days after the funding date if
6 you either:

7 (A) return to the consumer legal funding company
8 the full amount of the disbursed funds by delivering
9 the company's uncashed check to the company's office
10 in person; or

11 (B) mail by insured, certified, or registered
12 United States mail, to the company at the address
13 specified in the contract, a notice of cancellation
14 and include in such mailing a return of the full amount
15 of disbursed funds in the form of the company's
16 uncashed check or a registered or certified check or
17 money order."

18 (3) Within the body of the contract: "The consumer
19 legal funding company shall have no role in deciding
20 whether, when, and how much the legal claim is settled
21 for, however, the consumer and consumer's attorney must
22 notify the company of the outcome of the legal claim by
23 settlement or adjudication before the resolution date. The
24 company may seek updated information about the status of
25 the legal claim but in no event shall the company
26 interfere with the independent professional judgment of

1 the attorney in the handling of the legal claim or any
2 settlement thereof."

3 (4) Within the body of the contract, in all capital
4 letters in at least 12-point bold-type font contained
5 within a box: "THE FUNDED AMOUNT AND AGREED UPON CHARGES
6 SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM,
7 AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE
8 AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE
9 [INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY]
10 ANYTHING IF THERE ARE NO PROCEEDS FROM YOUR LEGAL CLAIM,
11 UNLESS YOU OR YOUR ATTORNEY HAVE VIOLATED ANY MATERIAL
12 TERM OF THIS CONTRACT OR YOU HAVE COMMITTED FRAUD AGAINST
13 THE CONSUMER LEGAL FUNDING COMPANY."

14 (5) Located immediately above the place on the
15 contract where the consumer's signature is required, in
16 12-point font: "Do not sign this contract before you read
17 it completely or if it contains any blank spaces. You are
18 entitled to a completely filled-in copy of the contract.
19 Before you sign this contract, you should obtain the
20 advice of an attorney. Depending on the circumstances, you
21 may want to consult a tax, public or private benefits
22 planning, or financial professional. You acknowledge that
23 your attorney in the legal claim has provided no tax,
24 public or private benefit planning, or financial advice
25 regarding this transaction."

1 Section 35. Violations.

2 (a) Nothing in this Act shall be construed to restrict the
3 exercise of powers or the performance of the duties of the
4 Illinois Attorney General that he or she is authorized to
5 exercise or perform by law.

6 (b) If a court of competent jurisdiction determines that a
7 consumer legal funding company has intentionally violated the
8 provisions of this Act with regard to a specific consumer
9 legal funding, the consumer legal funding company shall only
10 be entitled to recover the funded amount provided to the
11 consumer in such specific consumer legal funding and shall not
12 be entitled to any additional charges.

13 Section 40. Assignability; liens.

14 (a) The contingent right to receive an amount of the
15 potential proceeds of a legal claim is assignable by a
16 consumer.

17 (b) Nothing contained in this Act shall be construed to
18 cause any consumer legal funding transaction conforming to
19 this Act to be deemed a loan or to be subject to any of the
20 provisions governing loans contained in this Act. A consumer
21 legal funding transaction that complies with this Act is not
22 subject to any other statutory or regulatory provisions
23 governing loans or investment contracts. To the extent that
24 this Act conflicts with any other law, this Act supersedes the
25 other law for the purposes of regulating consumer legal

1 funding in Illinois.

2 (c) Only liens related to the legal claim, including
3 attorney's liens, Medicare, or other statutory liens, shall
4 take priority over any lien of the consumer legal funding
5 company. All other liens shall take priority by normal
6 operation of law.

7 Section 45. Attorney prohibitions. An attorney or law firm
8 retained by the consumer in the legal claim shall not have a
9 financial interest in the consumer legal funding company
10 offering consumer legal funding to that consumer.
11 Additionally, any attorney who has referred the consumer to
12 his or her retained attorney shall not have a financial
13 interest in the consumer legal funding company offering
14 consumer legal funding to that consumer.

15 Section 50. Effect of communication on privileges. No
16 communication between the consumer's attorney in the legal
17 claim and the consumer legal funding company as it pertains to
18 the consumer legal funding shall limit, waive, or abrogate the
19 scope or nature of any statutory or common law privilege,
20 including the work product doctrine and the attorney-client
21 privilege.

22 Section 55. Application; fees; positive net worth; new
23 funding application.

1 (a) Application for a consumer legal funding license shall
2 be in writing and in the form prescribed by the Director. An
3 applicant at the time of making such application shall pay to
4 the Director the sum of \$300 as an application fee and the
5 additional sum of \$450 as an annual license fee, for a period
6 terminating on the last day of the current calendar year; if
7 the application is filed after June 30 in any year, the license
8 fee shall be one-half of the annual license fee for such year.

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

25 (c) A company may not engage in the business of consumer
26 legal funding in this State until it has received a consumer

1 legal funding license from the Division pursuant to this Act,
2 except any company that has a license in good standing under
3 the Consumer Installment Loan Act as of the effective date of
4 this Act shall be entitled to do consumer legal fundings under
5 the terms of this Act so long as that company files an
6 application for a consumer legal funding license within 60
7 days of the Division issuing forms for the filing of such an
8 application until the Division fully rules on the application
9 and either approves or denies the application for a funding
10 license.

11 Section 60. Appointment of attorney-in-fact for service of
12 process. Every consumer legal funding licensee shall appoint,
13 in writing, the Director and his or her successors in office or
14 any official who shall hereafter be charged with the
15 administration of this Act as attorney-in-fact upon whom all
16 lawful process against such licensee may be served with the
17 same legal force and validity as if served on such licensee. A
18 copy of such written appointment, duly certified, shall be
19 filed in the office of the Director, and a copy of the written
20 appointment certified by him or her shall be sufficient
21 evidence. This appointment shall remain in effect while any
22 liability remains outstanding in this State against the
23 licensee. When summons is served upon the Director as
24 attorney-in-fact for such licensee, the Director shall
25 immediately notify the licensee by registered mail, enclosing

1 the summons and specifying the hour and day of service.

2 Section 65. Investigation to determine whether to issue a
3 consumer legal funding license. Upon the filing of an
4 application and the payment of the fee, the Director shall
5 investigate to determine (1) that the reputation of the
6 applicant, including the reputation of the managers of a
7 limited liability company, partners, owners, officers or
8 directors of the applicant, is such as to warrant belief that
9 the business will be operated honestly and fairly within the
10 purposes of this Act, and (2) that the applicant meets the
11 positive net worth requirement set forth in Section 55 of this
12 Act. Unless the Director finds that the applicant meets these
13 requirements, he or she shall not issue a consumer legal
14 funding license and shall notify the applicant of the denial
15 and return to the applicant the sum paid by the applicant as a
16 license fee, but shall retain the \$300 application fee. The
17 Director shall approve or deny every application for a license
18 within 60 days from the filing of the application with the fee.

19 Section 70. License. The license shall state the address,
20 including city and state, at which the business is to be
21 conducted and shall state fully the name of the licensee. The
22 license shall be conspicuously posted in the place of business
23 of the licensee and shall not be transferable or assignable.

1 Section 75. More than one license to same licensee;
2 changing place of business.

3 (a) Not more than one place of business shall be
4 maintained under the same license, but the Director may issue
5 more than one license to the same licensee upon compliance
6 with all the provisions of this Act governing an original
7 issuance of a license.

8 (b) Whenever a licensee changes his or her place of
9 business to a location other than that set forth in his or her
10 license, he or she shall give written notice of the change of
11 place of business to the Director at least 10 days before the
12 relocation. However, if the new location is in excess of 15
13 miles from the previous location, the licensee shall obtain
14 written approval from the Director before the relocation.

15 Section 80. Annual license fee; expenses. Before December
16 1 of each year, a licensee must pay to the Director and the
17 Division must receive the annual license fee required under
18 Section 55 for the next succeeding calendar year. The license
19 shall expire on January 1 unless the license fee has been paid
20 before that date.

21 In addition to the annual license fee, the reasonable
22 expense of any examination, investigation, or custody by the
23 Director under any provision of this Act shall be borne by the
24 licensee.

25 If a licensee fails to renew his or her license by December

1 31, it shall automatically expire and the licensee is not
2 entitled to a hearing; however, the Director, in his or her
3 discretion, may reinstate an expired license upon payment of
4 the annual renewal fee and proof of good cause for failure to
5 renew.

6 Section 85. Fines; suspension or revocation of license.

7 (a) The Director may, after 10 days' notice by registered
8 mail to the licensee at the address set forth in the license
9 stating the contemplated action and in general the grounds
10 therefor, fine such licensee an amount not exceeding \$10,000
11 per violation or revoke or suspend any license issued under
12 this Act if he or she finds that:

13 (1) the licensee has failed to comply with any
14 provision of this Act or any order, decision, finding,
15 rule, regulation, or direction of the Director lawfully
16 made pursuant to the authority of this Act; or

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

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 finds that grounds for revocation are of general application
25 to all offices or to more than one office of the licensee, the

1 Director shall fine, suspend, or revoke every license to which
2 such grounds apply.

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

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

10 (e) In every case in which a license is suspended or
11 revoked or an application for a license or renewal of a license
12 is denied, the Director shall serve the licensee with notice
13 of his or her action, including a statement of the reasons for
14 his or her actions, either personally or by certified mail,
15 return receipt requested. Service by certified mail shall be
16 deemed completed when the notice is deposited in the United
17 States mail.

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

24 (g) If the licensee requests a hearing, the Director shall
25 schedule a hearing within 30 days after the request for a
26 hearing unless otherwise agreed to by the parties.

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

9 (i) The costs for the administrative hearing shall be set
10 by rule.

11 (j) The Division shall have the authority to adopt rules
12 for the administration of this Section.

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

19 Section 90. Closing of business; surrender of license. At
20 least 10 days before a licensee ceases operations, closes
21 business, or files for bankruptcy:

22 (1) The licensee shall notify the Division of its
23 action in writing.

24 (2) With the exception of filing for bankruptcy, the
25 licensee shall surrender its license to the Director for

1 cancellation; the surrender of the license shall not
2 affect the licensee's civil or criminal liability for acts
3 committed before surrender or entitle the licensee to a
4 return of any part of the annual license fee.

5 (3) The licensee shall notify the Division of the
6 location where the books, accounts, contracts, and records
7 will be maintained and the procedure to ensure prompt
8 return of contracts, titles, and releases to the
9 customers.

10 (4) The accounts, books, records, and contracts shall
11 be maintained and serviced by the licensee or another
12 licensee under this Act or an entity exempt from licensure
13 under this Act.

14 (5) The Division shall have the authority to conduct
15 examinations of the books, records, and funding documents
16 at any time after surrender of the license, filing of
17 bankruptcy, or the cessation of operations.

18 Section 95. Investigation of conduct of business. For the
19 purpose of discovering violations of this Act or securing
20 information lawfully required by it, the Director may at any
21 time investigate the fundings and business and examine the
22 books, accounts, records, and files used therein, of every
23 licensee and of every person, partnership, association,
24 limited liability company, and corporation engaged in the
25 business described in Section 5 of this Act, whether such

1 person, partnership, association, limited liability company,
2 or corporation shall act or claim to act as principal or agent
3 or within or without the authority of this Act. For such
4 purpose the Director shall have free access to the offices and
5 places of business, books, accounts, papers, records, files,
6 safes, and vaults of such persons, partnerships, associations,
7 limited liability companies, and corporations. The Director
8 may require the attendance of and examine under oath all
9 persons whose testimony he or she may require relative to such
10 fundings or such business, and in such cases the Director
11 shall have power to administer oaths to all persons called as
12 witnesses, and the Director may conduct such examinations.

13 The Director shall make an examination of the affairs,
14 business, office, and records of each licensee at least once
15 each year. The Director shall by rule and regulation set the
16 fee to be charged for each examination day, including travel
17 expenses for out-of-state licensed locations. The fee shall
18 reasonably reflect actual costs. The Director shall also have
19 authority to examine the books and records of any business
20 made by a former licensee which is being liquidated, as the
21 Director deems necessary, and may charge the examination fees
22 otherwise required for licensees.

23 Section 100. Books and records; reports.

24 (a) Every licensee shall retain and use in his or her
25 business or at another location approved by the Director such

1 records as are required by the Director to enable the Director
2 to determine whether the licensee is complying with the
3 provisions of this Act and the rules and regulations adopted
4 pursuant to this Act. Every licensee shall preserve the
5 records of any funding for at least 2 years after making the
6 final entry for such funding. Accounting systems maintained in
7 whole or in part by mechanical or electronic data processing
8 methods that provide information equivalent to that otherwise
9 required and follow generally accepted accounting principles
10 are acceptable for that purpose if approved by the Director in
11 writing.

12 (b) Each licensee shall annually, on or before March 1,
13 file a report with the Director giving such relevant
14 information as the Director may reasonably require concerning
15 the business and operations during the preceding calendar year
16 of each licensed place of business conducted by the licensee.
17 The report must be received by the Division on or before March
18 1. The report shall be made under oath and in a form prescribed
19 by the Director. Whenever a licensee operates 2 or more
20 licensed offices or whenever 2 or more affiliated licensees
21 operate licensed offices, a composite report of such group of
22 licensed offices may be filed instead of individual reports.
23 The Director may make and publish annually an analysis and
24 recapitulation of such reports. The Director may fine each
25 licensee \$25 for each day beyond March 1 such report is filed.

1 Section 105. Other businesses.

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

9 (b) A licensee may without notice to and approval of the
10 Director, in addition to the business permitted by this Act,
11 conduct the following business:

12 (1) The business of a sales finance agency as defined
13 in the Sales Finance Agency Act.

14 (2) The business of soliciting or selling any type of
15 insurance provided that all such insurance transactions
16 are conducted in accordance with and are regulated under
17 the Illinois Insurance Code.

18 (3) The business of financing premiums for insurance.

19 (4) Making fundings pursuant to the Illinois Financial
20 Services Development Act.

21 The Division shall make and enforce such reasonable rules
22 and regulations for the conduct of business under this Act in
23 the same office with other businesses as may be necessary to
24 prevent evasions or violations of this Act. The Director may
25 investigate any business conducted in the licensed office to
26 determine whether any evasion or violation of this Act has

1 occurred.

2 Section 110. Cease and desist.

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

10 (b) The Director may issue a cease and desist order before
11 a hearing.

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

18 (d) Within 15 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 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 Division shall have the authority to prescribe
25 rules for the administration of this Section.

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

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

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

14 Section 115. Rules and regulations. The Division may make
15 and enforce such reasonable rules, regulations, directions,
16 orders, decisions, and findings as the execution and
17 enforcement of the provisions of this Act require, and as are
18 not inconsistent therewith. In addition, the Division may
19 adopt rules in connection with the activities of licensees
20 that are necessary and appropriate for the protection of
21 consumers in this State. All rules, regulations, and
22 directions of a general character shall be sent electronically
23 to all licensees.

24 Section 120. Judicial review. All final administrative

1 decisions of the Division under this Act, all amendments and
2 modifications of final administrative decisions, and any rules
3 adopted by the Division pursuant to this Act shall be subject
4 to judicial review pursuant to the provisions of the
5 Administrative Review Law.

6 Section 125. Injunction; civil penalty; costs. If it
7 appears to the Director that a person or any entity has
8 committed or is about to commit a violation of this Act, a rule
9 adopted under this Act, or an order of the Director, the
10 Director may apply to the circuit court for an order enjoining
11 the person or entity from violating or continuing to violate
12 this Act, the rule, or order and for injunctive or other relief
13 that the nature of the case may require and may, in addition,
14 request the court to assess a civil penalty up to \$1,000 along
15 with costs and attorney's fees.

16 Section 130. Severability. If any clause, sentence,
17 provision or part of this Act or its application to any person
18 or circumstance is adjudged to be unconstitutional or invalid
19 for any reason by any court of competent jurisdiction, that
20 judgment shall not impair, affect, or invalidate other
21 provisions or applications of this Act, which shall remain in
22 full force and effect thereafter.

23 Section 999. Effective date. This Act takes effect upon

1 becoming law.".