



Rep. Curtis J. Tarver, II

**Filed: 3/21/2022**

10200SB1099ham001

LRB102 04923 BMS 37596 a

1 AMENDMENT TO SENATE BILL 1099

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1099 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 set forth 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" means a natural person who has a pending legal  
4 claim and who resides or is domiciled in Illinois.

5 "Consumer legal funding" or "funding" means a nonrecourse  
6 transaction in which a company purchases and a consumer  
7 transfers to the company an unvested, contingent future  
8 interest in the potential net proceeds of a settlement or  
9 judgment obtained from the consumer's legal claim; if no  
10 proceeds are obtained from the consumer's legal claim, the  
11 consumer is not required to repay the company the consumer  
12 legal funding amount or charges.

13 "Consumer legal funding company" or "company" means a  
14 person or entity that enters into, purchases, or services a  
15 consumer legal funding transaction with an Illinois consumer.

16 "Consumer legal funding company" does not include:

17 (1) an immediate family member of the consumer;

18 (2) a bank, lender, financing entity, or other special  
19 purpose entity:

20 (A) that provides financing to a consumer legal  
21 funding company; or

22 (B) to which a consumer legal funding company  
23 grants a security interest or transfers any rights or  
24 interest in a consumer legal funding; or

25 (3) an attorney or accountant who provides services to  
26 a consumer.

1 "Department" means the Department of Financial and  
2 Professional Regulation.

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

5 "Funded amount" does not include charges except for charges  
6 that are deducted from the funded amount.

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

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

15 "Legal claim" means a bona fide civil claim or cause of  
16 action.

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

20 "Resolution date" means the date the resolution amount is  
21 delivered to the consumer legal funding company.

22 "Secretary" means the Secretary of Financial and  
23 Professional Regulation or the Secretary's designee.

24 Section 10. Contract requirements; right of rescission.

25 (a) All consumer legal fundings shall meet the following

1 requirements:

2 (1) the contract shall be completely filled in when  
3 presented to the consumer for signature with all blanks  
4 marked "not applicable", "n/a", or "none";

5 (2) the contract shall contain, in bold and boxed  
6 type, a right of rescission, allowing the consumer to  
7 cancel the contract without penalty or further obligation  
8 if, within 14 business days after the funding date, the  
9 consumer either:

10 (A) returns to the consumer legal funding company  
11 the full amount of the disbursed funds by delivering  
12 the company's uncashed check to the company's office  
13 in person; or

14 (B) mails, by insured, certified, or registered  
15 United States mail, to the address specified in the  
16 contract, a notice of cancellation and includes in the  
17 mailing a return of the full amount of disbursed funds  
18 in the form of the company's uncashed check or a  
19 registered or certified check or money order; and

20 (3) the contract shall contain the initials of the  
21 consumer on each page.

22 (b) The contract shall contain a written acknowledgment by  
23 the attorney retained by the consumer in the legal claim that  
24 attests to the following:

25 (1) to the best of the attorney's knowledge, all the  
26 costs and charges relating to the consumer legal funding

1 have been disclosed to the consumer;

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

4 (3) all proceeds of the legal claim will be disbursed  
5 via either the trust account of the attorney or a  
6 settlement fund established to receive the proceeds of the  
7 legal claim on behalf of the consumer;

8 (4) the attorney is following the written instructions  
9 of the consumer with regard to the consumer legal funding;  
10 and

11 (5) the attorney has not received a referral fee or  
12 other consideration from the consumer legal funding  
13 company in connection with the consumer legal funding, nor  
14 will the attorney receive such fee or other consideration  
15 in the future.

16 (c) If the acknowledgment required in subsection (b) is  
17 not completed by the attorney retained by the consumer in the  
18 legal claim, the contract shall be null and void. The contract  
19 remains valid and enforceable if the consumer terminates  
20 representation by the initial attorney who completed the  
21 acknowledgment required in subsection (b) or retains a new  
22 attorney with respect to the legal claim.

23 (d) No licensee shall permit an obligor to owe the  
24 licensee, an agent of the licensee, or an affiliate of the  
25 licensee, including a corporation owned or managed by the  
26 licensee, an aggregate principal amount in excess of \$100,000,

1 unless permitted by rule, at any time for consumer legal  
2 fundings transacted pursuant to this Act.

3 (e) Any transaction that does not exactly meet the  
4 definition of a consumer legal funding under Section 5 is  
5 subject to the Interest Act and any other applicable law.

6 Section 15. Consumer legal funding company prohibitions. A  
7 consumer legal funding company shall not:

8 (1) pay or offer to pay commissions, referral fees, or  
9 other forms of consideration to any attorney, law firm,  
10 medical provider, chiropractic physician, or physical  
11 therapist or any of their employees or agents for  
12 referring a consumer to the company;

13 (2) accept any commissions, referral fees, rebates, or  
14 other forms of consideration from an attorney, law firm,  
15 medical provider, chiropractor, or physical therapist or  
16 any of their employees or agents;

17 (3) advertise materially false or misleading  
18 information regarding its products or services;

19 (4) refer, in furtherance of an initial consumer legal  
20 funding, a customer or potential customer to a specific  
21 attorney, law firm, medical provider, chiropractor, or  
22 physical therapist or any of their employees; however, if  
23 a customer needs legal representation, the company may  
24 refer the customer to a local or State bar association  
25 referral service or to a legal aid organization;

1           (5) fail to supply a true copy of the executed  
2 contract to the attorney for the consumer upon execution  
3 and if the consumer or their attorney requests a copy;

4           (6) knowingly provide funding to a consumer who has  
5 previously assigned or sold a portion of the consumer's  
6 right to proceeds from his or her legal claim without  
7 first making payment to or purchasing a prior unsatisfied  
8 consumer legal funding company's entire funded amount and  
9 contracted charges, unless a lesser amount is otherwise  
10 agreed to in writing by the consumer legal funding  
11 companies, except that multiple companies may agree to  
12 contemporaneously provide funding to a consumer if the  
13 consumer and the consumer's attorney consent to the  
14 arrangement in writing;

15           (7) receive any right to, nor make any decisions with  
16 respect to, the conduct of the underlying legal claim or  
17 any settlement or resolution of the legal claim; the right  
18 to make such decisions shall remain solely with the  
19 consumer and the consumer's attorney in the legal claim;  
20 or

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

25           Section 20. Satisfaction of the contract. A consumer legal

1 funding company shall require the resolution amount to be set  
2 as a predetermined amount, based upon intervals of time from  
3 the date of origination of the funding through the date of  
4 resolution of the legal claim, and not be determined as a  
5 percentage of the recovery from the legal claim.

6 Section 25. Fees.

7 (a) The fee charged by a consumer legal funding company to  
8 the consumer shall be calculated as not more than 18% of the  
9 funded amount, assessed on the outset of every 6 months.

10 (b) In addition, a consumer legal funding company may  
11 charge a document preparation fee not to exceed \$75, which may  
12 be deducted from the funded amount. This fee is to be used to  
13 defray the ordinary cost of opening, administering, and  
14 terminating a consumer legal funding.

15 (c) A consumer legal funding company shall not collect any  
16 additional fees unless otherwise specified in this Act.

17 (d) No charges may accrue on a consumer legal funding for  
18 more than 42 months after the funding date of the consumer  
19 legal funding. No consumer legal funding may be refinanced  
20 except as authorized by rule. Notwithstanding the foregoing, a  
21 consumer legal funding company may assess charges on any  
22 additional amounts provided after the funding date for 42  
23 months after the additional funding date.

24 Section 30. Disclosures. All consumer legal funding



1 contracts shall contain the disclosures specified in this  
2 Section, which shall constitute material terms of the  
3 contract. Unless otherwise specified, the disclosures shall be  
4 typed in at least 12-point bold-type font and be placed  
5 clearly and conspicuously within the contract as follows:

6 (1) On the front page under appropriate headings,  
7 language specifying:

8 (A) the funded amount to be paid to the consumer or  
9 on the consumer's behalf by the consumer legal funding  
10 company;

11 (B) an itemization of charges;

12 (C) the maximum total amount to be paid by the  
13 consumer to the company, including the funded amount  
14 and all fees; and

15 (D) a payment schedule to include the resolution  
16 amount, listing dates, and the amount due at the end of  
17 each 6-month period from the funding date, until the  
18 date the maximum amount is due to the company by the  
19 consumer to satisfy the amount due pursuant to the  
20 contract.

21 (2) Pursuant to the provisions set forth in paragraph  
22 (2) of subsection (a) of Section 10, within the body of the  
23 contract: "CONSUMER'S RIGHT TO CANCELLATION: You may  
24 cancel this contract without penalty or further obligation  
25 within 14 business days after the funding date if you  
26 either:

1 (A) return to the consumer legal funding company  
2 the full amount of the funds disbursed to you or on  
3 your behalf by delivering the company's uncashed check  
4 to the company's office in person; or

5 (B) place in the mail, by mail service materially  
6 equivalent to United States Postal Service certified  
7 mail, addressed to the company at the address  
8 specified in the contract, a notice of cancellation  
9 and include in such mailing a return of the full amount  
10 of funds disbursed to you or on your behalf in the form  
11 of the company's uncashed check or a registered or  
12 certified check or money order."

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

24 (4) Within the body of the contract, in all capital  
25 letters in at least 12-point bold-type font contained  
26 within a box: "THE FUNDED AMOUNT AND AGREED-UPON CHARGES

1           SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM,  
2           AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE  
3           AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE  
4           [INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY]  
5           ANYTHING IF THERE ARE NO REMAINING PROCEEDS AVAILABLE FROM  
6           YOUR LEGAL CLAIM, UNLESS YOU OR YOUR ATTORNEY HAVE  
7           COMMITTED FRAUD AGAINST THE CONSUMER LEGAL FUNDING  
8           COMPANY."

9           (5) Located immediately above the place on the  
10          contract where the consumer's signature is required, in  
11          12-point font: "Do not sign this contract before you read  
12          it completely or if it contains any blank spaces. You are  
13          entitled to a completely filled-in copy of the contract.  
14          Before you sign this contract, you should obtain the  
15          advice of an attorney. Depending on the circumstances, you  
16          may want to consult a tax, public or private benefits  
17          planning, or financial professional. You acknowledge that  
18          your attorney in the legal claim has provided no tax,  
19          public or private benefit planning, or financial advice  
20          regarding this transaction."

21          (6) The consumer legal funding company shall provide  
22          the consumer with information on accessing a financial  
23          coaching program no later than the funding date.

24          Section 35. Violations.

25          (a) Nothing in this Act shall be construed to restrict the

1 exercise of powers or the performance of the duties of the  
2 Illinois Attorney General that he or she is authorized to  
3 exercise or perform by law.

4 (b) Any violation of this Act constitutes a violation of  
5 the Consumer Fraud and Deceptive Business Practices Act.

6 (c) The Illinois Attorney General may enforce a violation  
7 of this Act as an unlawful practice under the Consumer Fraud  
8 and Deceptive Business Practices Act.

9 Section 40. Assignability; liens.

10 (a) The contingent right to receive an amount of the  
11 potential proceeds of a legal claim is assignable by a  
12 consumer.

13 (b) Only liens related to the legal claim, including  
14 attorney's liens, Medicare, or other statutory liens, shall  
15 take priority over any lien of the consumer legal funding  
16 company. All other liens shall take priority by normal  
17 operation of law.

18 (c) A consumer legal funding transaction does not  
19 constitute an assignment of a personal injury claim or chose  
20 in action.

21 (d) A consumer legal funding transaction does not  
22 constitute the assignment of any present right; the  
23 transaction constitutes the transfer of an unvested,  
24 contingent future interest in an amount of the potential  
25 proceeds of a legal claim or cause of action.

1           Section 45. Attorney prohibitions. An attorney or law firm  
2 retained by the consumer in the legal claim shall not have a  
3 financial interest in the consumer legal funding company  
4 offering consumer legal funding to that consumer.  
5 Additionally, any attorney who has referred the consumer to  
6 the consumer's retained attorney shall not have a financial  
7 interest in the consumer legal funding company offering  
8 consumer legal funding to that consumer. A consumer legal  
9 funding that violates this Section is null and void and no  
10 person or entity shall have any right to collect, attempt to  
11 collect, receive, or retain any funded amount or charges  
12 related to the consumer legal funding.

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

20           Section 55. Consumer legal funding license scope.

21           (a) It shall be unlawful for any person or entity to  
22 operate as a consumer legal funding provider in this State  
23 except as authorized by this Act and without first having

1 obtained a license in accordance with this Act. No person or  
2 entity may engage in any device, subterfuge, or pretense to  
3 evade the requirements of this Act. However, any company that  
4 has a license in good standing under the Consumer Installment  
5 Loan Act on the effective date of this Act shall be entitled to  
6 make consumer legal fundings under the terms of this Act upon  
7 the effective date of this Act if that company files an  
8 application for a consumer legal funding license within 60  
9 days after the Department issues forms for the filing of that  
10 application and until the Department approves or denies the  
11 application for a funding license. Any consumer legal funding  
12 contract made by any person or entity in violation of this  
13 subsection shall be null and void and the person or entity who  
14 entered into the consumer legal funding transaction shall have  
15 no right to collect, attempt to collect, receive, or retain  
16 any principal, interest, or charges related to the consumer  
17 legal funding transaction.

18 (b) The provisions of this Act do not apply to a bank,  
19 savings bank, savings association, or credit union organized  
20 under the laws of this State, any other state, or under the  
21 laws of the United States.

22 (c) Any consumer legal funding made by a person not  
23 licensed under this Act, including a person holding an  
24 inactive license, and not exempt under this Act shall be null  
25 and void, and no person or entity shall have any right to  
26 collect, attempt to collect, receive, or retain any principal,

1 fee, interest, or charges related to the funding.

2 Section 60. Licensee name. No person, partnership,  
3 association, corporation, limited liability company, or other  
4 entity engaged in a business regulated by this Act shall  
5 operate the business under a name other than the real names of  
6 the entity and individuals conducting the business. The  
7 business may in addition operate under an assumed corporate  
8 name pursuant to the Business Corporation Act of 1983, an  
9 assumed limited liability company name pursuant to the Limited  
10 Liability Company Act, or an assumed business name pursuant to  
11 the Assumed Business Name Act.

12 Section 65. License application process; investigation.

13 (a) The Secretary may issue a license upon completion of  
14 all of the following:

15 (1) the filing of an application for a license with  
16 the Secretary or the Nationwide Multistate Licensing  
17 System and Registry as required by the Secretary;

18 (2) the filing with the Secretary of a listing of  
19 judgments entered against and bankruptcy petitions by the  
20 license applicant for the preceding 10 years;

21 (3) the filing of an audited balance sheet, including  
22 all footnotes prepared by a certified public accountant in  
23 accordance with generally accepted accounting principles  
24 and generally accepted auditing standards; notwithstanding

1 the requirements of this subsection, an applicant that is  
2 a subsidiary may submit audited consolidated financial  
3 statements of its parent, intermediary parent, or ultimate  
4 parent if the consolidated statements are supported by  
5 consolidating statements that include the applicant's  
6 financial statement; if the consolidating statements are  
7 unaudited, the applicant's chief financial officer shall  
8 attest to the applicant's financial statements disclosed  
9 in the consolidating statements; and

10 (4) an investigation of the averments required by  
11 Section 80, which investigation must allow the Secretary  
12 to issue positive findings stating that the financial  
13 responsibility, experience, character, and general fitness  
14 of the license applicant; of the members thereof if the  
15 license applicant is a partnership or association; of the  
16 officers and directors thereof if the license applicant is  
17 a corporation; and of the managers and members that retain  
18 any authority or responsibility under the operating  
19 agreement if the license applicant is a limited liability  
20 company are such as to command the confidence of the  
21 community and to warrant belief that the business will be  
22 operated honestly, fairly, and efficiently within the  
23 purpose of this Act; if the Secretary does not so find, he  
24 or she shall not issue the license and shall notify the  
25 license applicant of the denial. The Secretary may impose  
26 conditions on a license if the Secretary determines that



1           those conditions are necessary or appropriate. These  
2           conditions shall be imposed in writing and shall continue  
3           in effect for a period prescribed by the Secretary.

4           (b) All licenses shall be issued to the license applicant.  
5           Upon receipt of the license, a consumer legal funding licensee  
6           shall be authorized to engage in the business regulated by  
7           this Act. The license shall remain in full force and effect  
8           until it expires, it is surrendered by the licensee, or it is  
9           revoked or suspended as provided by this Act.

10           Section 70. License application form.

11           (a) An application for a consumer legal funding company  
12           license must be made in accordance with Section 65 and, if  
13           applicable, in accordance with requirements of the Nationwide  
14           Multistate Licensing System and Registry. The application  
15           shall be in writing, under oath, and on a form obtained from  
16           and prescribed by the Secretary, or may be submitted  
17           electronically with attestation to the Nationwide Multistate  
18           Licensing System and Registry.

19           (b) The application shall contain the name and complete  
20           business and residential address or addresses of the license  
21           applicant. If the license applicant is a partnership,  
22           association, corporation, or other form of business  
23           organization, the application shall contain the names and  
24           complete business and residential addresses of each member,  
25           director, and principal officer of the business. The

1 application shall also include a description of the activities  
2 of the license applicant in such detail and for such periods as  
3 the Secretary may require, including all of the following:

4 (1) an affirmation of financial solvency noting such  
5 capitalization requirements as may be required by the  
6 Secretary and access to such credit as may be required by  
7 the Secretary;

8 (2) an applicant shall prove in a form satisfactory to  
9 the Secretary that the applicant has and will maintain a  
10 positive net worth of a minimum of \$30,000;

11 (3) an applicant shall submit to the Secretary with  
12 the application for a license and every licensee shall  
13 maintain a bond to be approved by the Secretary in which  
14 the applicant shall be the obligor, in the sum of \$50,000  
15 or such additional amount as required by the Secretary  
16 based on the amount of consumer legal fundings made,  
17 purchased, or serviced by the licensee in the previous  
18 year, and in which an insurance company that is duly  
19 authorized by this State to transact the business of  
20 fidelity and surety insurance shall be a surety. The  
21 surety bond shall run to the Secretary and shall be for the  
22 benefit of the Department and of any consumer who incurs  
23 damages as a result of any violation of this Act or rules  
24 adopted pursuant to this Act by a licensee;

25 (4) an affirmation that the license applicant or its  
26 members, directors, or principals, as may be appropriate,

1 are at least 18 years of age;

2 (5) information as to the character, fitness,  
3 financial and business responsibility, background,  
4 experience, and criminal record of any:

5 (i) person, entity, or ultimate equitable owner  
6 that owns or controls, directly or indirectly, 10% or  
7 more of any class of stock of the license applicant;

8 (ii) person, entity, or ultimate equitable owner  
9 that is not a depository institution, as defined in  
10 Section 1007.50 of the Savings Bank Act, that lends,  
11 provides, or infuses, directly or indirectly, in any  
12 way, funds to or into a license applicant in an amount  
13 equal to or more than 10% of the license applicant's  
14 net worth;

15 (iii) person, entity, or ultimate equitable owner  
16 that controls, directly or indirectly, the election of  
17 25% or more of the members of the board of directors of  
18 a license applicant; or

19 (iv) person, entity, or ultimate equitable owner  
20 that the Secretary finds influences management of the  
21 license applicant; the provisions of this subparagraph  
22 shall not apply to a public official serving on the  
23 board of directors of a State guaranty agency;

24 (6) upon written request by the licensee and  
25 notwithstanding the provisions of paragraphs (1), (2), and  
26 (3) of this subsection, the Secretary may permit the

1 licensee to omit all or part of the information required  
2 by those paragraphs if instead of the omitted information,  
3 the licensee submits an affidavit stating that the  
4 information submitted on the licensee's previous renewal  
5 application is still true and accurate; the Department may  
6 adopt rules prescribing the form and content of the  
7 affidavit that are necessary to accomplish the purposes of  
8 this paragraph; and

9 (7) any other information as required by rule.

10 Section 75. License application; Nationwide Multistate  
11 Licensing System and Registry.

12 (a) Applicants for a license shall apply in a form  
13 prescribed by the Secretary. Each form shall contain content  
14 as set forth by rule, regulation, instruction, or procedure of  
15 the Department and may be changed or updated as necessary by  
16 the Department in order to carry out the purposes of this Act.

17 (b) In order to fulfill the purposes of this Act, the  
18 Secretary is authorized to establish relationships or  
19 contracts with the Nationwide Multistate Licensing System and  
20 Registry or other entities designated by the Nationwide  
21 Multistate Licensing System and Registry to collect and  
22 maintain records and process transaction fees or other fees  
23 related to licensees or other persons subject to this Act.

24 (c) In connection with an application for licensing, the  
25 applicant may be required, at a minimum, to furnish to the

1 Nationwide Multistate Licensing System and Registry  
2 information concerning the applicant's identity, including  
3 personal history and experience in a form prescribed by the  
4 Nationwide Multistate Licensing System and Registry, including  
5 the submission of authorization for the Nationwide Multistate  
6 Licensing System and Registry and the Secretary to obtain:

7 (1) an independent credit report obtained from a  
8 consumer reporting agency described in Section 603(p) of  
9 the Fair Credit Reporting Act, 15 U.S.C. 1681a(p); and

10 (2) information related to any administrative, civil,  
11 or criminal findings by any governmental jurisdiction.

12 (d) For the purposes of this Section, and in order to  
13 reduce the points of contact that the Secretary may have to  
14 maintain for purposes of paragraph (2) of subsection (c), the  
15 Secretary may use the Nationwide Multistate Licensing System  
16 and Registry as a channeling agent for requesting and  
17 distributing information to and from any source as directed by  
18 the Secretary.

19 Section 80. Averments of applicant. Each application for  
20 license shall be accompanied by the following averments  
21 stating that the applicant:

22 (1) will file with the Secretary or Nationwide  
23 Multistate Licensing System and Registry, as applicable,  
24 any report or reports that it is required to file under any  
25 of the provisions of this Act when due;

1           (2) has not committed a crime against the law of this  
2           State, any other state, or of the United States involving  
3           moral turpitude or fraudulent or dishonest dealing, and  
4           that no final judgment has been entered against it in a  
5           civil action upon grounds of fraud, misrepresentation, or  
6           deceit that has not been previously reported to the  
7           Secretary;

8           (3) has not engaged in any conduct that would be cause  
9           for denial of a license;

10          (4) has not become insolvent;

11          (5) has not submitted an application for a license  
12          under this Act that contains a material misstatement;

13          (6) has not demonstrated by course of conduct,  
14          negligence or incompetence in performing any act for which  
15          it is required to hold a license under this Act;

16          (7) will advise the Secretary in writing or the  
17          Nationwide Multistate Licensing System and Registry, as  
18          applicable, of any changes to the information submitted on  
19          the most recent application for license or averments of  
20          record within 30 days after the change; the written notice  
21          must be signed in the same form as the application for the  
22          license being amended;

23          (8) will comply with the provisions of this Act and  
24          with any lawful order, rule, or regulation made or issued  
25          under the provisions of this Act;

26          (9) will submit to periodic examination by the

1 Secretary as required by this Act; and

2 (10) will advise the Secretary in writing of judgments  
3 entered against and bankruptcy petitions by the license  
4 applicant within 5 days after the occurrence.

5 A licensee who fails to fulfill the obligations of an  
6 averment, fails to comply with averments made, or otherwise  
7 violates any of the averments made under this Section shall be  
8 subject to the penalties of this Act.

9 Section 85. Refusal to issue license. The Secretary may  
10 refuse to issue or renew a license if:

11 (1) it is determined that the applicant is not in  
12 compliance with any provisions of this Act;

13 (2) there is substantial continuity between the  
14 applicant and any violator of this Act; or

15 (3) the Secretary cannot make the findings specified  
16 in subsection (a) of Section 65.

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

20 (1) The licensee shall notify the Department of its  
21 action in writing.

22 (2) With the exception of filing for bankruptcy, the  
23 licensee shall surrender its license to the Secretary for  
24 cancellation; the surrender of the license shall not

1 affect the licensee's civil or criminal liability for acts  
2 committed before surrender or entitle the licensee to a  
3 return of any part of the annual license fee.

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

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

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

17 Section 95. License renewal; fees.

18 (a) Licenses shall be renewed every year using the common  
19 renewal date of the Nationwide Multistate Licensing System and  
20 Registry, as required by the Secretary. Properly completed  
21 renewal application forms and filing fees may be received by  
22 the Secretary 60 days before the license expiration date, but  
23 to be deemed timely the completed renewal application forms  
24 and filing fees must be received by the Secretary no later than  
25 30 days before the license expiration date.



1           (b) It shall be the responsibility of each licensee to  
2 accomplish renewal of its license. Failure by a licensee to  
3 submit a properly completed renewal application form and fees  
4 in a timely fashion, absent a written extension from the  
5 Secretary, shall result in the license becoming inactive.

6           (c) No activity regulated by this Act shall be conducted  
7 by the licensee when a license becomes inactive. An inactive  
8 license may be reactivated by the Secretary upon payment of a  
9 renewal fee and payment of a reactivation fee equal to the  
10 renewal fee.

11           (d) A licensee ceasing an activity or activities regulated  
12 by this Act and desiring to no longer be licensed shall inform  
13 the Secretary in writing and, at the same time, convey any  
14 license issued and all other symbols or indicia of licensure.  
15 The licensee shall include a plan for the withdrawal from the  
16 regulated business, including a timetable for the disposition  
17 of the business, and comply with the surrender guidelines or  
18 rules of the Department. Upon receipt of such written notice,  
19 the Secretary shall post the cancellation or issue a certified  
20 statement canceling the license.

21           (e) The expenses of administering this Act, including  
22 investigations and examinations provided for in this Act,  
23 shall be borne by and assessed against entities regulated by  
24 this Act. The fees listed in this Section shall be payable to  
25 the Department or to the Nationwide Multistate Licensing  
26 System and Registry for transfer to the required recipients by

1 the Secretary. The Secretary will specify the form of payment  
2 to the Department or to the Nationwide Multistate Licensing  
3 System and Registry, which may include certified check, money  
4 order, credit card, or other forms of payment authorized by  
5 the Secretary. The Nationwide Multistate Licensing System and  
6 Registry shall be authorized to collect and process  
7 transaction fees or other fees related to licensees or other  
8 persons subject to the Act.

9 (f) Applicants and licensees shall be subject to the  
10 following fees:

11 (1) For each application for an initial license, the  
12 applicant shall pay a nonrefundable initial application  
13 fee of \$1,000 and a nonrefundable background investigation  
14 fee of \$800.

15 (2) For each application for an annual renewal of a  
16 license, the applicant shall pay a nonrefundable renewal  
17 fee of \$1,000. For each application for a renewal of an  
18 inactive license, the applicant shall pay the  
19 nonrefundable renewal fee of \$1,000 and an additional  
20 nonrefundable reactivation fee equal to the renewal fee.

21 (3) The licensee shall pay a nonrefundable fee of  
22 \$1,000 for each notice of change of ownership or control  
23 filed.

24 (4) The licensee shall pay a nonrefundable fee of \$50  
25 for each notice of change of officers or directors or  
26 change of name or address filed.

1           (5) Any licensee or person who delivers a check or  
2 other payment to the Department that is returned unpaid by  
3 the financial institution upon which it is drawn shall pay  
4 to the Department, in addition to the amount already owed,  
5 a fee of \$50.

6           (6) Time expended in the conduct of any examination of  
7 the affairs of any licensee or its affiliates shall be  
8 billed by the Department at a rate of \$510 per examiner  
9 day. Examination fees shall be billed following completion  
10 of the examination and shall be paid within 30 days after  
11 receipt of the billing.

12           (7) If out-of-state travel occurs in the conduct of  
13 any examination, the licensee shall make arrangements to  
14 reimburse the Department for all charges for services,  
15 including travel expenses, including airfare, hotel and  
16 per diem expenses incurred by the employee. These expenses  
17 are to be in accord with applicable travel regulations  
18 published by the Department of Central Management Services  
19 and approved by the Governor's Travel Control Board.

20           (8) Each licensee shall pay to the Department its pro  
21 rata share of the cost for administration of the Act that  
22 exceeds other fees listed in this Section, as estimated by  
23 the Department, for the current year and any deficit  
24 actually incurred in the administration of the Act in  
25 prior years. The calculation method for each licensee's  
26 pro rata share shall be established by rule.

1           (g) Beginning one year after the effective date of this  
2 Act, the Department may, by rule, amend the fees set forth in  
3 this Section.

4           Section 100. Secretary of Financial and Professional  
5 Regulation; functions and powers. The functions and powers of  
6 the Secretary shall include the following:

7           (1) to issue or refuse to issue any license as  
8 provided by this Act;

9           (2) to revoke or suspend for cause any license issued  
10 under this Act;

11           (3) to keep records of all licenses issued under this  
12 Act;

13           (4) to receive, consider, investigate, and act upon  
14 complaints made by any person in connection with any  
15 licensed consumer legal funding company in this State or  
16 unlicensed consumer legal funding activity;

17           (5) to prescribe the forms of and receive:

18           (A) applications for licenses; and

19           (B) all reports and all books and records required  
20 to be made by any licensee under this Act, including  
21 annual audited financial statements and annual reports  
22 of consumer legal funding activity;

23           (6) to subpoena documents and witnesses and compel  
24 their attendance and production, to administer oaths, and  
25 to require the production of any books, papers, or other

1 materials relevant to any inquiry authorized by this Act;

2 (7) to issue orders against any person:

3 (A) if the Secretary has reasonable cause to  
4 believe that an unsafe, unsound, or unlawful practice  
5 has occurred, is occurring, or is about to occur;

6 (B) if any person has violated, is violating, or  
7 is about to violate any law, rule, or written  
8 agreement with the Secretary; or

9 (C) for the purpose of administering the  
10 provisions of this Act and any rule adopted in  
11 accordance with this Act;

12 (8) to address any inquiries to any licensee, or the  
13 officers of the licensee, in relation to the licensee's  
14 activities and conditions or any other matter connected  
15 with its affairs, and it shall be the duty of any licensee  
16 or person so addressed to promptly reply in writing to  
17 those inquiries; the Secretary may also require reports  
18 from any licensee at any time the Secretary chooses;

19 (9) to examine the books and records of every licensee  
20 under this Act;

21 (10) to enforce the provisions of this Act;

22 (11) to levy fees, fines, and charges for services  
23 performed in administering this Act; the aggregate of all  
24 fees collected by the Secretary on and after the effective  
25 date of this Act shall be paid promptly after receipt,  
26 accompanied by a detailed statement of fees paid, into the

1 Financial Institutions Fund; the amounts deposited into  
2 that Fund shall be used for the ordinary and contingent  
3 expenses of the Department; nothing in this Act shall  
4 prevent the continuation of the practice of paying  
5 expenses involving salaries, retirement, social security,  
6 and State-paid insurance of State officers by  
7 appropriation from the General Revenue Fund or any other  
8 fund;

9 (12) to appoint examiners, supervisors, experts, and  
10 special assistants as needed to effectively and  
11 efficiently administer this Act;

12 (13) to conduct hearings for the purpose of:

13 (A) appeals of orders of the Secretary;

14 (B) suspensions or revocations of licenses;

15 (C) fining of licensees or unlicensed persons or  
16 entities;

17 (D) investigating:

18 (i) complaints against licensees or unlicensed  
19 persons or entities; or

20 (ii) annual gross delinquency rates; and

21 (E) carrying out the purposes of this Act;

22 (14) to exercise visitorial power over a licensee;

23 (15) to enter into cooperative agreements with state  
24 regulatory authorities of other states to provide for  
25 examination of corporate offices or branches of those  
26 states and to accept reports of those examinations;

1           (16) to assign an examiner or examiners to monitor the  
2           affairs of a licensee with whatever frequency the  
3           Secretary determines appropriate and to charge the  
4           licensee for reasonable and necessary expenses of the  
5           Secretary if in the opinion of the Secretary an emergency  
6           exists or appears likely to occur;

7           (17) to impose civil penalties of up to \$50 per day  
8           against a licensee for failing to respond to a regulatory  
9           request or reporting requirement; and

10          (18) to enter into agreements in connection with the  
11          Nationwide Multistate Licensing System and Registry.

12          Section 105. Other businesses.

13          (a) Upon application by the licensee and payment of a \$500  
14          fee, the Secretary may approve the conduct of other businesses  
15          not specifically permitted by this Act in the licensee's place  
16          of business, unless the Secretary finds that such conduct will  
17          conceal or facilitate evasion or violation of this Act. The  
18          Secretary's approval shall be in writing and shall describe  
19          the other businesses which may be conducted in the licensed  
20          office.

21          (b) The Department shall adopt and enforce such reasonable  
22          rules and regulations for the conduct of business under this  
23          Act in the same office with other businesses as may be  
24          necessary to prevent evasions or violations of this Act. The  
25          Secretary may investigate any business conducted in the

1 licensed office.

2 Section 110. Financial Institution Fund. All moneys  
3 received by the Secretary under this Act in conjunction with  
4 the provisions relating to consumer legal funding companies  
5 shall be paid into the Financial Institution Fund and all  
6 expenses incurred by the Secretary under this Act in  
7 conjunction with the provisions relating to consumer legal  
8 funding companies shall be paid from the Financial Institution  
9 Fund.

10 Section 115. Examination; prohibited activities.

11 (a) The business affairs of a licensee under this Act  
12 shall be examined for compliance with this Act as often as the  
13 Secretary deems necessary and proper. The Department may adopt  
14 rules with respect to the frequency and manner of examination.  
15 The Secretary shall appoint a suitable person to perform an  
16 examination. The Secretary and his or her appointees may  
17 examine the entire books, records, documents, and operations  
18 of each licensee and its subsidiary, affiliate, or agent, and  
19 may examine any of the licensee's or its subsidiary's,  
20 affiliate's, or agent's officers, directors, employees, and  
21 agents under oath.

22 (b) The Secretary shall prepare a sufficiently detailed  
23 report of each licensee's examination, shall issue a copy of  
24 the report to each licensee's principals, officers, or



1 directors, and shall take appropriate steps to ensure  
2 correction of violations of this Act.

3 (c) Affiliates of a licensee shall be subject to  
4 examination by the Secretary on the same terms as the  
5 licensee, but only when reports from or examination of a  
6 licensee provides for documented evidence of unlawful activity  
7 between a licensee and affiliate benefiting, affecting, or  
8 deriving from the activities regulated by this Act.

9 (d) The expenses of any examination of the licensee and  
10 affiliates shall be borne by the licensee and assessed by the  
11 Secretary as may be established by rule.

12 (e) Upon completion of the examination, the Secretary  
13 shall issue a report to the licensee. All confidential  
14 supervisory information, including the examination report and  
15 the work papers of the report, shall belong to the Secretary's  
16 office and may not be disclosed to anyone other than the  
17 licensee, law enforcement officials or other regulatory  
18 agencies that have an appropriate regulatory interest as  
19 determined by the Secretary, or to a party presenting a lawful  
20 subpoena to the Department. The Secretary may, through the  
21 Attorney General, immediately appeal to the court of  
22 jurisdiction the disclosure of such confidential supervisory  
23 information and seek a stay of the subpoena pending the  
24 outcome of the appeal. Reports required of licensees by the  
25 Secretary under this Act and results of examinations performed  
26 by the Secretary under this Act shall be the property of only

1 the Secretary, but may be shared with the licensee. Access  
2 under this Act to the books and records of each licensee shall  
3 be limited to the Secretary and his or her agents as provided  
4 in this Act and to the licensee and its authorized agents and  
5 designees. No other person shall have access to the books and  
6 records of a licensee under this Act. Any person upon whom a  
7 demand for production of confidential supervisory information  
8 is made, whether by subpoena, order, or other judicial or  
9 administrative process, must withhold production of the  
10 confidential supervisory information and must notify the  
11 Secretary of the demand, at which time the Secretary is  
12 authorized to intervene for the purpose of enforcing the  
13 limitations of this Section or seeking the withdrawal or  
14 termination of the attempt to compel production of the  
15 confidential supervisory information. The Secretary may impose  
16 any conditions and limitations on the disclosure of  
17 confidential supervisory information that are necessary to  
18 protect the confidentiality of that information. Except as  
19 authorized by the Secretary, no person obtaining access to  
20 confidential supervisory information may make a copy of the  
21 confidential supervisory information. The Secretary may  
22 condition a decision to disclose confidential supervisory  
23 information on entry of a protective order by the court or  
24 administrative tribunal presiding in the particular case or on  
25 a written agreement of confidentiality. In a case in which a  
26 protective order or agreement has already been entered between

1 parties other than the Secretary, the Secretary may  
2 nevertheless condition approval for release of confidential  
3 supervisory information upon the inclusion of additional or  
4 amended provisions in the protective order. The Secretary may  
5 authorize a party who obtained the records for use in one case  
6 to provide them to another party in another case, subject to  
7 any conditions that the Secretary may impose on either or both  
8 parties. The requester shall promptly notify other parties to  
9 a case of the release of confidential supervisory information  
10 obtained and, upon entry of a protective order, shall provide  
11 copies of confidential supervisory information to the other  
12 parties.

13 Section 120. Judicial review. All final administrative  
14 decisions of the Department under this Act, all amendments and  
15 modifications of final administrative decisions, and any rules  
16 adopted by the Department pursuant to this Act shall be  
17 subject to judicial review pursuant to the provisions of the  
18 Administrative Review Law.

19 Section 125. Subpoena power.

20 (a) The Secretary shall have the power to issue and to  
21 serve subpoenas and subpoenas duces tecum to compel the  
22 attendance of witnesses and the production of all books,  
23 accounts, records, and other documents and materials relevant  
24 to an examination or investigation. The Secretary, or his or

1 her duly authorized representative, shall have power to  
2 administer oaths and affirmations to any person.

3 (b) In the event of noncompliance with a subpoena or  
4 subpoena duces tecum issued or caused to be issued by the  
5 Secretary, the Secretary may, through the Attorney General,  
6 petition the circuit court of the county in which the person  
7 subpoenaed resides or has its principal place of business for  
8 an order requiring the subpoenaed person to appear and testify  
9 and to produce such books, accounts, records, and other  
10 documents as are specified in the subpoena duces tecum. The  
11 court may grant injunctive relief restraining the person from  
12 advertising, promoting, soliciting, entering into, offering to  
13 enter into, continuing, or completing any consumer legal  
14 funding transaction. The court may grant other relief,  
15 including, but not limited to, the restraint, by injunction or  
16 appointment of a receiver, of any transfer, pledge,  
17 assignment, or other disposition of the person's assets or any  
18 concealment, alteration, destruction, or other disposition of  
19 books, accounts, records, or other documents and materials as  
20 the court deems appropriate, until the person has fully  
21 complied with the subpoena or subpoena duces tecum and the  
22 Secretary has completed an investigation or examination.

23 (c) If it appears to the Secretary that the compliance  
24 with a subpoena or subpoena duces tecum issued or caused to be  
25 issued by the Secretary pursuant to this Section is essential  
26 to an investigation or examination, the Secretary may, in

1 addition to the other remedies provided for in this Act,  
2 through the Attorney General, apply for relief to the circuit  
3 court of the county in which the subpoenaed person resides or  
4 has its principal place of business. The court shall thereupon  
5 direct the issuance of an order against the subpoenaed person  
6 requiring sufficient bond conditioned on compliance with the  
7 subpoena or subpoena duces tecum. The court shall cause to be  
8 endorsed on the order a suitable amount of bond or payment  
9 pursuant to which the person named in the order shall be freed,  
10 having a due regard to the nature of the case.

11 (d) In addition, the Secretary may, through the Attorney  
12 General, seek a writ of attachment or an equivalent order from  
13 the circuit court having jurisdiction over the person who has  
14 refused to obey a subpoena, who has refused to give testimony,  
15 or who has refused to produce the matters described in the  
16 subpoena duces tecum.

17 Section 130. Report required of licensee. In addition to  
18 any reports required under this Act, every licensee shall file  
19 any other report that the Secretary requires.

20 Section 135. Suspension; revocation of licenses; fines.

21 (a) Upon written notice to a licensee, the Secretary may  
22 suspend or revoke any license issued pursuant to this Act if,  
23 in the notice, he or she makes a finding of one or more of the  
24 following:

1           (1) that through separate acts or an act or a course of  
2           conduct, the licensee has violated any provisions of this  
3           Act, any rule adopted by the Department, or any other law,  
4           rule, or regulation of this State or the United States;

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

9           (3) that if a licensee is other than an individual,  
10          any ultimate equitable owner, officer, director, or member  
11          of the licensed partnership, association, corporation, or  
12          other entity has acted or failed to act in a way that would  
13          be cause for suspending or revoking a license to that  
14          party as an individual.

15          (b) No license shall be suspended or revoked, except as  
16          provided in this Section, nor shall any licensee be fined  
17          without notice of his or her right to a hearing as provided in  
18          subsection (n).

19          (c) The Secretary, on good cause shown that an emergency  
20          exists, may suspend any license for a period not exceeding 180  
21          days, pending investigation.

22          (d) The provisions of subsection (d) of Section 95 shall  
23          not affect a licensee's civil or criminal liability for acts  
24          committed before surrender of a license.

25          (e) No revocation, suspension, or surrender of any license  
26          shall impair or affect the obligation of any preexisting

1 lawful contract between the licensee and any person.

2 (f) Every license issued under this Act shall remain in  
3 force and effect until the license expires without renewal, is  
4 surrendered, is revoked, or is suspended in accordance with  
5 the provisions of this Act, but the Secretary shall have  
6 authority to reinstate a suspended license or to issue a new  
7 license to a licensee whose license has been revoked if no fact  
8 or condition then exists which would have warranted the  
9 Secretary in refusing originally to issue that license under  
10 this Act.

11 (g) Whenever the Secretary revokes or suspends a license  
12 issued pursuant to this Act or fines a licensee under this Act,  
13 he or she shall execute a written order to that effect. The  
14 Secretary shall serve a copy of the order upon the licensee.  
15 Any such order may be reviewed in the manner provided by  
16 Section 170.

17 (h) If the Secretary finds any person in violation of the  
18 grounds set forth in subsection (p), he or she may enter an  
19 order imposing one or more of the following penalties:

20 (1) revocation of license;

21 (2) suspension of a license subject to reinstatement  
22 upon satisfying all reasonable conditions the Secretary  
23 may specify;

24 (3) placement of the licensee or applicant on  
25 probation for a period of time and subject to all  
26 reasonable conditions as the Secretary may specify;

1 (4) issuance of a reprimand;

2 (5) imposition of a fine not to exceed \$25,000 for  
3 each count of separate offense; except that a fine may be  
4 imposed that shall not exceed \$75,000 for each separate  
5 count of offense in violation of paragraph (2) of  
6 subsection (i);

7 (6) denial of a license; or

8 (7) restitution for the benefit of consumers.

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

15 (1) the licensee has failed to comply with any  
16 provision of this Act, any rule adopted pursuant to this  
17 Act, or any order, decision, finding, or direction of the  
18 Secretary lawfully made pursuant to the authority of this  
19 Act; or

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

24 (j) The Secretary may fine, suspend, or revoke only the  
25 particular license with respect to which grounds for the fine,  
26 revocation, or suspension occur or exist, but if the Secretary



1 finds that grounds for revocation are of general application  
2 to all offices or to more than one office of the licensee, the  
3 Secretary shall fine, suspend, or revoke every license to  
4 which the grounds apply.

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

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

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

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

25 (1) If the licensee requests a hearing, the Secretary  
26 shall schedule a hearing within 30 days after the request

1 for a hearing unless otherwise agreed to by the parties.

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

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

12 (p) The following acts shall constitute grounds for which  
13 the disciplinary actions specified in subsection (h) may be  
14 taken:

15 (1) being convicted or found guilty, regardless of  
16 pendency of an appeal, of a crime in any jurisdiction that  
17 involves fraud, dishonest dealing, or any other act of  
18 moral turpitude;

19 (2) fraud, misrepresentation, deceit, or negligence in  
20 any relation to any consumer legal funding;

21 (3) a material or intentional misstatement of fact on  
22 an initial or renewal application;

23 (4) insolvency or filing under any provision of the  
24 United States Bankruptcy Code as a debtor;

25 (5) failure to account or deliver to any person any  
26 property, such as any money, fund, deposit, check, draft,

1 or other document or thing of value, that has come into his  
2 or her hands and that is not his or her property or that he  
3 or she is not in law or equity entitled to retain, under  
4 the circumstances and at the time which has been agreed  
5 upon or is required by law, or, in the absence of a fixed  
6 time, upon demand of the person entitled to such  
7 accounting and delivery;

8 (6) failure to disburse funds in accordance with  
9 agreements;

10 (7) having a license, or the equivalent, to practice  
11 any profession or occupation revoked, suspended, or  
12 otherwise acted against, including the denial of licensure  
13 by a licensing authority of this State or another state,  
14 territory, or country, for fraud, dishonest dealing, or  
15 any other act of moral turpitude;

16 (8) failure to comply with an order of the Secretary  
17 or rule adopted under the provisions of this Act;

18 (9) engaging in activities regulated by this Act  
19 without a current, active license unless specifically  
20 exempted by this Act;

21 (10) failure to pay in a timely manner any fee,  
22 charge, or fine under this Act;

23 (11) failure to maintain, preserve, and keep available  
24 for examination all books, accounts, or other documents  
25 required by the provisions of this Act and the rules of the  
26 Department;

1           (12) refusing, obstructing, evading, or unreasonably  
2           delaying an investigation, information request, or  
3           examination authorized under this Act, or refusing,  
4           obstructing, evading, or unreasonably delaying compliance  
5           with the Secretary's subpoena or subpoena duces tecum;

6           (13) failure to comply with or a violation of any  
7           provision of this Act; and

8           (14) any unfair, deceptive, or abusive business  
9           practice.

10          (q) A licensee shall be subject to the disciplinary  
11          actions specified in this Act for violations of subsection (i)  
12          by any officer, director, shareholder, joint venture, partner,  
13          ultimate equitable owner, or employee of the licensee.

14          (r) A licensee shall be subject to suspension or  
15          revocation for unauthorized employee actions only if there is  
16          a pattern of repeated violations by employees, the licensee  
17          has knowledge of the violations, or there is substantial harm  
18          to a consumer. A licensee may be subject to fine for employee  
19          actions, whether authorized or unauthorized, whether there is  
20          a pattern of repeated violations or no pattern of repeated  
21          violations.

22          (s) Any licensee may submit an application to surrender a  
23          license, but, upon the Secretary approving the surrender, it  
24          shall not affect the licensee's civil or criminal liability  
25          for acts committed before surrender or entitle the licensee to  
26          a return of any part of the license fee.

1           Section 140. Investigation of complaints. The Secretary  
2 may receive, record, and investigate complaints and inquiries  
3 made by any person concerning this Act and any licensees under  
4 this Act. Each licensee shall open its books, records,  
5 documents, and offices wherever situated to the Secretary or  
6 his or her appointees as needed to facilitate such  
7 investigations.

8           Section 145. Additional investigation and examination  
9 authority. In addition to any authority allowed under this  
10 Act, the Secretary shall have the authority to conduct  
11 investigations and examinations as follows:

12           (1) For purposes of initial licensing, license  
13 renewal, license suspension, license conditioning, license  
14 revocation or termination, or general or specific inquiry  
15 or investigation to determine compliance with this Act,  
16 the Secretary shall have the authority to access, receive,  
17 and use any books, accounts, records, files, documents,  
18 information, or evidence, including, but not limited to,  
19 the following:

20           (A) criminal, civil, and administrative history  
21 information, including nonconviction data as specified  
22 in the Criminal Code of 2012;

23           (B) personal history and experience information,  
24 including independent credit reports obtained from a

1 consumer reporting agency described in Section 603(p)  
2 of the federal Fair Credit Reporting Act; and

3 (C) any other documents, information, or evidence  
4 the Secretary deems relevant to the inquiry or  
5 investigation, regardless of the location, possession,  
6 control, or custody of the documents, information, or  
7 evidence.

8 (2) For the purposes of investigating violations or  
9 complaints arising under this Act or for the purposes of  
10 examination, the Secretary may review, investigate, or  
11 examine any licensee, individual, or person subject to  
12 this Act as often as necessary in order to carry out the  
13 purposes of this Act. The Secretary may direct, subpoena,  
14 or order the attendance of and examine under oath all  
15 persons whose testimony may be required about the consumer  
16 legal fundings or the business or subject matter of any  
17 such examination or investigation, and may direct,  
18 subpoena, or order the person to produce books, accounts,  
19 records, files, and any other documents the Secretary  
20 deems relevant to the inquiry.

21 (3) Each licensee, individual, or person subject to  
22 this Act shall make available to the Secretary upon  
23 request the books and records relating to the operations  
24 of the licensee, individual, or person subject to this  
25 Act. The Secretary shall have access to those books and  
26 records and may interview the officers, principals,

1 employees, independent contractors, agents, and customers  
2 of the licensee, individual, or person subject to this Act  
3 concerning their business.

4 (4) Each licensee, individual, or person subject to  
5 this Act shall make or compile reports or prepare other  
6 information as directed by the Secretary in order to carry  
7 out the purposes of this Section, including, but not  
8 limited to:

9 (A) accounting compilations;

10 (B) information lists and data concerning consumer  
11 legal fundings in a format prescribed by the  
12 Secretary; or

13 (C) other information deemed necessary to carry  
14 out the purposes of this Section.

15 (5) In making any examination or investigation  
16 authorized by this Act, the Secretary may control access  
17 to any documents and records of the licensee or person  
18 under examination or investigation. The Secretary may take  
19 possession of the documents and records or place a person  
20 in exclusive charge of the documents and records in the  
21 place where they are usually kept. During the period of  
22 control, no person shall remove or attempt to remove any  
23 of the documents or records, except pursuant to a court  
24 order or with the consent of the Secretary. Unless the  
25 Secretary has reasonable grounds to believe the documents  
26 or records of the licensee have been or are at risk of

1 being altered or destroyed for purposes of concealing a  
2 violation of this Act, the licensee or owner of the  
3 documents and records shall have access to the documents  
4 or records as necessary to conduct its ordinary business  
5 affairs.

6 (6) In order to carry out the purposes of this  
7 Section, the Secretary may:

8 (A) retain attorneys, accountants, or other  
9 professionals and specialists as examiners, auditors,  
10 or investigators to conduct or assist in the conduct  
11 of examinations or investigations;

12 (B) enter into agreements or relationships with  
13 other government officials or regulatory associations  
14 in order to improve efficiencies and reduce regulatory  
15 burden by sharing resources, standardized or uniform  
16 methods or procedures, and documents, records,  
17 information, or evidence obtained under this Section;

18 (C) use, hire, contract, or employ publicly or  
19 privately available analytical systems, methods, or  
20 software to examine or investigate the licensee,  
21 individual, or person subject to this Act;

22 (D) accept and rely on examination or  
23 investigation reports made by other government  
24 officials within or outside this State; or

25 (E) accept audit reports made by an independent  
26 certified public accountant for the licensee,



1 individual, or person subject to this Act in the  
2 course of that part of the examination covering the  
3 same general subject matter as the audit and may  
4 incorporate the audit report in the report of the  
5 examination, report of investigation, or other writing  
6 of the Secretary.

7 (7) The authority of this Section shall remain in  
8 effect if a licensee, individual, or person subject to  
9 this Act acts or claims to act under any licensing or  
10 registration law of this State or claims to act without  
11 the authority.

12 (8) No licensee, individual, or person subject to  
13 investigation or examination under this Section may  
14 knowingly withhold, abstract, remove, mutilate, destroy,  
15 or secrete any books, records, computer records, or other  
16 information.

17 Section 150. Confidential information. In hearings  
18 conducted under this Act, information presented into evidence  
19 that was acquired by the licensee when serving any individual  
20 in connection with a consumer legal funding, including all  
21 financial information of the individual, shall be deemed  
22 strictly confidential and shall be made available only as part  
23 of the record of a hearing under this Act or otherwise (i) when  
24 the record is required, in its entirety, for purposes of  
25 judicial review or (ii) upon the express written consent of

1 the individual served, or in the case of his or her death or  
2 disability, the consent of his or her personal representative.

3 Section 155. Information sharing. In order to promote more  
4 effective regulation and reduce regulatory burden through  
5 supervisory information sharing:

6 (1) Except as otherwise provided in any federal law or  
7 State law regarding the privacy or confidentiality of any  
8 information or material provided to the Nationwide  
9 Mortgage Licensing System and Registry, any privilege  
10 arising under federal or State law, including the rules of  
11 any federal or State court, with respect to such  
12 information or material shall continue to apply to  
13 information or material after the information or material  
14 has been disclosed to the Nationwide Mortgage Licensing  
15 System and Registry. The information and material may be  
16 shared with all State and federal regulatory officials  
17 with relevant oversight authority without the loss of  
18 privilege or the loss of confidentiality protections  
19 provided by federal law or State law.

20 (2) The Secretary is authorized to enter into  
21 agreements or sharing arrangements with other governmental  
22 agencies, the Conference of State Bank Supervisors, or  
23 other associations representing governmental agencies as  
24 established by rule or order of the Department. The  
25 sharing of confidential supervisory information or any

1 information or material described in paragraph (1)  
2 pursuant to an agreement or sharing arrangement shall not  
3 result in the loss of privilege or the loss of  
4 confidentiality protections provided by federal law or  
5 State law.

6 (3) Information or material that is subject to a  
7 privilege or confidentiality under paragraph (1) shall not  
8 be subject to the following:

9 (A) disclosure under any State law governing the  
10 disclosure to the public of information held by an  
11 officer or an agency of the State; or

12 (B) subpoena, discovery, or admission into  
13 evidence in any private civil action or administrative  
14 process, unless with respect to any privilege held by  
15 the Nationwide Mortgage Licensing System and Registry  
16 with respect to the information or material, the  
17 person to whom such information or material pertains  
18 waives, in whole or in part, in the discretion of that  
19 person, that privilege.

20 (4) Any other law relating to the disclosure of  
21 confidential supervisory information or any information or  
22 material described in paragraph (1) that is inconsistent  
23 with paragraph (1) shall be superseded by the requirements  
24 of this Section to the extent the other law provides less  
25 confidentiality or a weaker privilege.

1           Section 160. Reports of violations. Any person licensed  
2 under this Act or any other person may report to the Secretary  
3 any information to show that a person subject to this Act is or  
4 may be in violation of this Act. A person who files a report  
5 with the Department that a licensee is engaged in one or more  
6 violations pursuant to this Act shall not be the subject of  
7 disciplinary action by the Department, unless the Department  
8 determines, by a preponderance of the evidence available to  
9 the Department, that the reporting person knowingly and  
10 willingly participated in the violation that was reported.

11           Section 165. Rules of the Department.

12           (a) In addition to such powers as may be prescribed by this  
13 Act, the Department is hereby authorized and empowered to  
14 adopt rules consistent with the purposes of this Act,  
15 including, but not limited to:

16           (1) rules in connection with the activities of  
17 licensees or unlicensed consumer legal funding companies  
18 as may be necessary and appropriate for the protection of  
19 consumers in this State;

20           (2) rules as may be necessary and appropriate to  
21 define improper or fraudulent business practices in  
22 connection with the activities of licensees in servicing  
23 consumer legal fundings;

24           (3) rules that define the terms used in this Act and as  
25 may be necessary and appropriate to interpret and

1           implement the provisions of this Act; and

2                   (4) rules as may be necessary for the enforcement and  
3           administration of this Act.

4           (b) The Secretary is hereby authorized and empowered to  
5           make specific rulings, demands, and findings that he or she  
6           deems necessary for the proper conduct of the consumer legal  
7           funding company industry.

8           Section 170. Appeal and review.

9           (a) The Department may, in accordance with the Illinois  
10          Administrative Procedure Act, adopt rules to provide for  
11          review within the Department of the Secretary's decisions  
12          affecting the rights of persons or entities under this Act.  
13          The review shall provide for, at a minimum:

14                   (1) appointment of a hearing officer other than a  
15                  regular employee of the Department;

16                   (2) appropriate procedural rules, specific deadlines  
17                  for filings, and standards of evidence and of proof; and

18                   (3) provision for apportioning costs among parties to  
19                  the appeal.

20          (b) All final agency determinations of appeals to  
21          decisions of the Secretary may be reviewed in accordance with  
22          and under the provisions of the Administrative Review Law.  
23          Appeals from all final orders and judgments entered by a court  
24          in review of any final administrative decision of the  
25          Secretary or of any final agency review of a decision of the

1 Secretary may be taken as in other civil cases.

2 Section 175. Collection of compensation. Unless exempt  
3 from licensure under this Act, no person engaged in or  
4 offering to engage in any act or service for which a license  
5 under this Act is required may bring or maintain any action in  
6 any court of this State to collect compensation for the  
7 performance of the licensable services without alleging and  
8 proving that he or she was the holder of a valid consumer legal  
9 funding company license under this Act at all times during the  
10 performance of those services.

11 Section 180. Cease and desist order.

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

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

1           (c) Within 10 days after service of the cease and desist  
2 order, the licensee or other person may request a hearing in  
3 writing. The Secretary shall schedule a hearing within 90 days  
4 after the request for a hearing unless otherwise agreed to by  
5 the parties.

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

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

17          Section 185. Injunction. The Secretary may, through the  
18 Attorney General, maintain an action in the name of the people  
19 of the State of Illinois and may apply for an injunction in the  
20 circuit court to enjoin a person from violating this Act or  
21 engaging in unlicensed consumer legal funding activity.

22          Section 190. Pledge or sale of consumer legal funding.

23          (a) No licensee or other person shall pledge, hypothecate,  
24 or sell a consumer legal funding entered into under the

1 provisions of this Act by a consumer except to another  
2 licensee under this Act, a bank, savings bank, savings and  
3 loan association, or credit union created under the laws of  
4 this State or the United States, or to other persons or  
5 entities authorized by the Secretary in writing. Sales of such  
6 notes by licensees under this Act or other persons shall be  
7 made by agreement in writing and shall authorize the Secretary  
8 to examine the consumer legal funding documents so  
9 hypothecated, pledged, or sold.

10 (b) A consumer may pay the original consumer legal funding  
11 company until he or she receives notification of assignment of  
12 rights to payment pursuant to a consumer legal funding and  
13 that payment is to be made to the assignee. A notification  
14 which does not reasonably identify the rights assigned is  
15 ineffective. If requested by the consumer, the assignee shall  
16 seasonably furnish reasonable proof that the assignment has  
17 been made and, unless the assignee does so, the consumer may  
18 pay the original consumer legal funding company.

19 (c) An assignee of the rights of the consumer legal  
20 funding company is subject to all claims and defenses of the  
21 consumer against the consumer legal funding company arising  
22 from the consumer legal funding. A claim or defense of a  
23 consumer may be asserted against the assignee under this  
24 Section only if the consumer has made a good faith attempt to  
25 obtain satisfaction from the consumer legal funding company  
26 with respect to the claim or defense and then only to the



1 extent of the amount owing to the assignee with respect to the  
2 consumer legal funding company claim or defense that arose at  
3 the time the assignee has notice of the claim or defense.  
4 Notice of the claim or defense may be given before the attempt  
5 specified in this subsection. Oral notice is effective unless  
6 the assignee requests written confirmation when or promptly  
7 after oral notice is given and the consumer fails to give the  
8 assignee written confirmation within the period of time, not  
9 less than 14 days, stated to the consumer when written  
10 confirmation is requested. An agreement may not limit or waive  
11 the claims or defenses of a consumer under this Section.

12 Section 195. Penalties. Any person who engages in business  
13 as a licensee without the license required by this Act commits  
14 a Class 4 felony.

15 Section 200. Civil action. A claim of violation of this  
16 Act may be asserted in a civil action. Additionally, a  
17 prevailing consumer may be awarded reasonable attorney's fees  
18 and court costs.

19 Section 205. Evasion. An agreement, contract, or  
20 transaction that is structured to evade the definition of  
21 consumer legal funding shall be deemed a consumer legal  
22 funding for the purposes of this Act.

1           Section 210. Severability. If any clause, sentence,  
2 provision, or part of this Act or its application to any person  
3 or circumstance is adjudged to be unconstitutional or invalid  
4 for any reason by any court of competent jurisdiction, that  
5 judgment shall not impair, affect, or invalidate other  
6 provisions or applications of this Act, which shall remain in  
7 full force and effect thereafter.

8           Section 905. The Interest Act is amended by changing  
9 Section 4 as follows:

10           (815 ILCS 205/4) (from Ch. 17, par. 6404)

11           Sec. 4. General interest rate.

12           (1) Except as otherwise provided in Section 4.05, in all  
13 written contracts it shall be lawful for the parties to  
14 stipulate or agree that an annual percentage rate of 9%, or any  
15 less sum, shall be taken and paid upon every \$100 of money  
16 loaned or in any manner due and owing from any person to any  
17 other person or corporation in this state, and after that rate  
18 for a greater or less sum, or for a longer or shorter time,  
19 except as herein provided.

20           The maximum rate of interest that may lawfully be  
21 contracted for is determined by the law applicable thereto at  
22 the time the contract is made. Any provision in any contract,  
23 whether made before or after July 1, 1969, which provides for  
24 or purports to authorize, contingent upon a change in the

1 Illinois law after the contract is made, any rate of interest  
2 greater than the maximum lawful rate at the time the contract  
3 is made, is void.

4 It is lawful for a state bank or a branch of an  
5 out-of-state bank, as those terms are defined in Section 2 of  
6 the Illinois Banking Act, to receive or to contract to receive  
7 and collect interest and charges at any rate or rates agreed  
8 upon by the bank or branch and the borrower. It is lawful for a  
9 savings bank chartered under the Savings Bank Act or a savings  
10 association chartered under the Illinois Savings and Loan Act  
11 of 1985 to receive or contract to receive and collect interest  
12 and charges at any rate agreed upon by the savings bank or  
13 savings association and the borrower.

14 It is lawful to receive or to contract to receive and  
15 collect interest and charges as authorized by this Act and as  
16 authorized by the Consumer Installment Loan Act, the Payday  
17 Loan Reform Act, the Retail Installment Sales Act, the  
18 Illinois Financial Services Development Act, ~~or~~ the Motor  
19 Vehicle Retail Installment Sales Act, or the Consumer Legal  
20 Funding Act. It is lawful to charge, contract for, and receive  
21 any rate or amount of interest or compensation, except as  
22 otherwise provided in the Predatory Loan Prevention Act, with  
23 respect to the following transactions:

24 (a) Any loan made to a corporation;

25 (b) Advances of money, repayable on demand, to an  
26 amount not less than \$5,000, which are made upon warehouse

1 receipts, bills of lading, certificates of stock,  
2 certificates of deposit, bills of exchange, bonds or other  
3 negotiable instruments pledged as collateral security for  
4 such repayment, if evidenced by a writing;

5 (c) Any credit transaction between a merchandise  
6 wholesaler and retailer; any business loan to a business  
7 association or copartnership or to a person owning and  
8 operating a business as sole proprietor or to any persons  
9 owning and operating a business as joint venturers, joint  
10 tenants or tenants in common, or to any limited  
11 partnership, or to any trustee owning and operating a  
12 business or whose beneficiaries own and operate a  
13 business, except that any loan which is secured (1) by an  
14 assignment of an individual obligor's salary, wages,  
15 commissions or other compensation for services, or (2) by  
16 his household furniture or other goods used for his  
17 personal, family or household purposes shall be deemed not  
18 to be a loan within the meaning of this subsection; and  
19 provided further that a loan which otherwise qualifies as  
20 a business loan within the meaning of this subsection  
21 shall not be deemed as not so qualifying because of the  
22 inclusion, with other security consisting of business  
23 assets of any such obligor, of real estate occupied by an  
24 individual obligor solely as his residence. The term  
25 "business" shall be deemed to mean a commercial,  
26 agricultural or industrial enterprise which is carried on

1 for the purpose of investment or profit, but shall not be  
2 deemed to mean the ownership or maintenance of real estate  
3 occupied by an individual obligor solely as his residence;

4 (d) Any loan made in accordance with the provisions of  
5 Subchapter I of Chapter 13 of Title 12 of the United States  
6 Code, which is designated as "Housing Renovation and  
7 Modernization";

8 (e) Any mortgage loan insured or upon which a  
9 commitment to insure has been issued under the provisions  
10 of the National Housing Act, Chapter 13 of Title 12 of the  
11 United States Code;

12 (f) Any mortgage loan guaranteed or upon which a  
13 commitment to guaranty has been issued under the  
14 provisions of the Veterans' Benefits Act, Subchapter II of  
15 Chapter 37 of Title 38 of the United States Code;

16 (g) Interest charged by a broker or dealer registered  
17 under the Securities Exchange Act of 1934, as amended, or  
18 registered under the Illinois Securities Law of 1953,  
19 approved July 13, 1953, as now or hereafter amended, on a  
20 debit balance in an account for a customer if such debit  
21 balance is payable at will without penalty and is secured  
22 by securities as defined in Uniform Commercial  
23 Code-Investment Securities;

24 (h) Any loan made by a participating bank as part of  
25 any loan guarantee program which provides for loans and  
26 for the refinancing of such loans to medical students,

1 interns and residents and which are guaranteed by the  
2 American Medical Association Education and Research  
3 Foundation;

4 (i) Any loan made, guaranteed, or insured in  
5 accordance with the provisions of the Housing Act of 1949,  
6 Subchapter III of Chapter 8A of Title 42 of the United  
7 States Code and the Consolidated Farm and Rural  
8 Development Act, Subchapters I, II, and III of Chapter 50  
9 of Title 7 of the United States Code;

10 (j) Any loan by an employee pension benefit plan, as  
11 defined in Section 3 (2) of the Employee Retirement Income  
12 Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an  
13 individual participating in such plan, provided that such  
14 loan satisfies the prohibited transaction exemption  
15 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108  
16 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d)  
17 (1)) of the Employee Retirement Income Security Act of  
18 1974;

19 (k) Written contracts, agreements or bonds for deed  
20 providing for installment purchase of real estate,  
21 including a manufactured home as defined in subdivision  
22 (53) of Section 9-102 of the Uniform Commercial Code that  
23 is real property as defined in the Conveyance and  
24 Encumbrance of Manufactured Homes as Real Property and  
25 Severance Act;

26 (l) Loans secured by a mortgage on real estate,

1 including a manufactured home as defined in subdivision  
2 (53) of Section 9-102 of the Uniform Commercial Code that  
3 is real property as defined in the Conveyance and  
4 Encumbrance of Manufactured Homes as Real Property and  
5 Severance Act;

6 (m) Loans made by a sole proprietorship, partnership,  
7 or corporation to an employee or to a person who has been  
8 offered employment by such sole proprietorship,  
9 partnership, or corporation made for the sole purpose of  
10 transferring an employee or person who has been offered  
11 employment to another office maintained and operated by  
12 the same sole proprietorship, partnership, or corporation;

13 (n) Loans to or for the benefit of students made by an  
14 institution of higher education.

15 (2) Except for loans described in subparagraph (a), (c),  
16 (d), (e), (f) or (i) of subsection (1) of this Section, and  
17 except to the extent permitted by the applicable statute for  
18 loans made pursuant to Section 4a or pursuant to the Consumer  
19 Installment Loan Act:

20 (a) Whenever the rate of interest exceeds an annual  
21 percentage rate of 8% on any written contract, agreement  
22 or bond for deed providing for the installment purchase of  
23 residential real estate, or on any loan secured by a  
24 mortgage on residential real estate, it shall be unlawful  
25 to provide for a prepayment penalty or other charge for  
26 prepayment.

1           (b) No agreement, note or other instrument evidencing  
2           a loan secured by a mortgage on residential real estate,  
3           or written contract, agreement or bond for deed providing  
4           for the installment purchase of residential real estate,  
5           may provide for any change in the contract rate of  
6           interest during the term thereof. However, if the Congress  
7           of the United States or any federal agency authorizes any  
8           class of lender to enter, within limitations, into  
9           mortgage contracts or written contracts, agreements or  
10          bonds for deed in which the rate of interest may be changed  
11          during the term of the contract, any person, firm,  
12          corporation or other entity not otherwise prohibited from  
13          entering into mortgage contracts or written contracts,  
14          agreements or bonds for deed in Illinois may enter into  
15          mortgage contracts or written contracts, agreements or  
16          bonds for deed in which the rate of interest may be changed  
17          during the term of the contract, within the same  
18          limitations.

19          (3) In any contract or loan which is secured by a mortgage,  
20          deed of trust, or conveyance in the nature of a mortgage, on  
21          residential real estate, the interest which is computed,  
22          calculated, charged, or collected pursuant to such contract or  
23          loan, or pursuant to any regulation or rule promulgated  
24          pursuant to this Act, may not be computed, calculated, charged  
25          or collected for any period of time occurring after the date on  
26          which the total indebtedness, with the exception of late



1 payment penalties, is paid in full.

2 (4) For purposes of this Section, a prepayment shall mean  
3 the payment of the total indebtedness, with the exception of  
4 late payment penalties if incurred or charged, on any date  
5 before the date specified in the contract or loan agreement on  
6 which the total indebtedness shall be paid in full, or before  
7 the date on which all payments, if timely made, shall have been  
8 made. In the event of a prepayment of the indebtedness which is  
9 made on a date after the date on which interest on the  
10 indebtedness was last computed, calculated, charged, or  
11 collected but before the next date on which interest on the  
12 indebtedness was to be calculated, computed, charged, or  
13 collected, the lender may calculate, charge and collect  
14 interest on the indebtedness for the period which elapsed  
15 between the date on which the prepayment is made and the date  
16 on which interest on the indebtedness was last computed,  
17 calculated, charged or collected at a rate equal to 1/360 of  
18 the annual rate for each day which so elapsed, which rate shall  
19 be applied to the indebtedness outstanding as of the date of  
20 prepayment. The lender shall refund to the borrower any  
21 interest charged or collected which exceeds that which the  
22 lender may charge or collect pursuant to the preceding  
23 sentence. The provisions of this amendatory Act of 1985 shall  
24 apply only to contracts or loans entered into on or after the  
25 effective date of this amendatory Act, but shall not apply to  
26 contracts or loans entered into on or after that date that are

1 subject to Section 4a of this Act, the Consumer Installment  
2 Loan Act, the Payday Loan Reform Act, the Predatory Loan  
3 Prevention Act, or the Retail Installment Sales Act, or that  
4 provide for the refund of precomputed interest on prepayment  
5 in the manner provided by such Act.

6 (5) For purposes of items (a) and (c) of subsection (1) of  
7 this Section, a rate or amount of interest may be lawfully  
8 computed when applying the ratio of the annual interest rate  
9 over a year based on 360 days. The provisions of this  
10 amendatory Act of the 96th General Assembly are declarative of  
11 existing law.

12 (6) For purposes of this Section, "real estate" and "real  
13 property" include a manufactured home, as defined in  
14 subdivision (53) of Section 9-102 of the Uniform Commercial  
15 Code that is real property as defined in the Conveyance and  
16 Encumbrance of Manufactured Homes as Real Property and  
17 Severance Act.

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

19 Section 910. The Consumer Fraud and Deceptive Business  
20 Practices Act is amended by adding Section 2AAAA as follows:

21 (815 ILCS 505/2AAAA new)

22 Sec. 2AAAA. Violations of the Consumer Legal Funding Act.  
23 Any person who violates the Consumer Legal Funding Act commits  
24 an unlawful practice within the meaning of this Act.

1           Section 999. Effective date. This Act takes effect upon  
2    becoming law.".