



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB3064

Introduced 2/17/2023, by Rep. Hoan Huynh

#### SYNOPSIS AS INTRODUCED:

New Act  
815 ILCS 505/2BBBB new

Creates the Small Business Truth in Lending Act. Sets forth provisions concerning disclosure requirements for sales-based financing, closed-end commercial financing, open-end commercial financing, factoring transactions, renewal financing, and other forms of financing. Provides that all commercial financing shall include a clear and conspicuous notice on how to file a complaint with the Department of Financial and Professional Regulation. Provides that the Department may adopt rules. Provides that upon a finding by the Secretary of Financial and Professional Regulation that a provider has violated the provisions or rules, the provider shall be ordered to pay the Department a civil penalty for each violation of the provisions or any rule not to exceed \$10,000 for each violation, or if a violation is willful, \$20,000 for each violation. Sets forth provisions concerning cease and desist orders, injunctions, investigation and examination, civil actions, violations, and registration. Provides that a violation of the provisions constitutes an unlawful practice in violation of the Consumer Fraud and Deceptive Business Practices Act. Defines terms. Makes a conforming change in the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB103 28771 BMS 55154 b

1 AN ACT concerning regulation.

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

4 Section 1. Short title. This Act may be cited as the Small  
5 Business Truth in Lending Act.

6 Section 3. Applicability. This Act applies to transactions  
7 occurring on or after January 1, 2024.

8 Section 5. Purpose and construction.

9 (a) The purpose of this Act is to protect business owners  
10 from predatory business loans.

11 (b) This Act shall be liberally construed to effectuate  
12 its purpose.

13 Section 10. Definitions. As used in this Act:

14 "Commercial financing" means open-end financing,  
15 closed-end financing, sales-based financing, factoring  
16 transaction, or another form of financing that the recipient  
17 does not intend to use the proceeds of primarily for personal,  
18 family, or household purposes. For purposes of determining  
19 whether a financing is a commercial financing, the provider  
20 may rely on any statement of intended purposes or on  
21 electronic signatures or consents by the recipient. The

1 statement may be a separate statement signed by the recipient;  
2 may be contained in the financing application, financing  
3 agreement, or other document signed or consented to by the  
4 recipient; or may be provided orally by the recipient so long  
5 as it is documented in the recipient's application file by the  
6 provider. The provider shall not be required to ascertain that  
7 the proceeds of a commercial financing are used in accordance  
8 with the recipient's statement of intended purposes.

9 "Closed-end financing" means a closed-end extension of  
10 credit, secured or unsecured, recourse or nonrecourse,  
11 including equipment financing that does not meet the  
12 definition of a lease under Section 2A-103 of the Uniform  
13 Commercial Code, that the recipient does not intend to use the  
14 proceeds of primarily for personal, family, or household  
15 purposes. "Closed-end financing" includes financing with an  
16 established principal amount and duration.

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

19 "Factoring transaction" means an accounts receivable  
20 purchase transaction that includes an agreement to purchase,  
21 transfer, or sell a legally enforceable claim for payment held  
22 by a recipient for goods the recipient has supplied or  
23 services the recipient has rendered that have been ordered but  
24 for which payment has not yet been made.

25 "Finance charge" means the cost of financing as a dollar  
26 amount. "Finance charge" includes any charge payable directly

1 or indirectly by the recipient and imposed directly or  
2 indirectly by the provider as an incident to or a condition of  
3 the extension of financing. "Finance charge" includes all  
4 charges that would be included under 12 CFR 1026.4 as if the  
5 transaction were subject to 12 CFR 1026.4. "Finance charge"  
6 includes any charges as determined by the Secretary. For the  
7 purposes of an open-end financing, "finance charge" means the  
8 maximum amount of credit available to the recipient, in each  
9 case, that is drawn and held for the duration of the term or  
10 draw period. For the purposes of a factoring transaction,  
11 "finance charge" includes the discount taken on the face value  
12 of the accounts receivable.

13 "Open-end financing" means an agreement for one or more  
14 extensions of open-end credit, secured or unsecured, that the  
15 recipient does not intend to use the proceeds of primarily for  
16 personal, family, or household purposes. "Open-end financing"  
17 includes credit extended by a provider under a plan in which:  
18 (i) the provider reasonably contemplates repeated  
19 transactions; (ii) the provider may impose a finance charge  
20 from time to time on an outstanding unpaid balance; and (iii)  
21 the amount of credit that may be extended to the recipient  
22 during the term of the plan is generally made available to the  
23 extent that any outstanding balance is repaid.

24 "Person" means an individual, entity, corporation,  
25 partnership, limited liability company, joint venture,  
26 association, joint stock company, trust, or unincorporated

1 organization including, but not limited to, a sole  
2 proprietorship.

3 "Provider" means a person who extends a specific offer of  
4 commercial financing to a recipient. Unless otherwise exempt,  
5 "provider" includes a person who solicits and presents  
6 specific offers of commercial financing on behalf of a third  
7 party. For purposes of determining whether a financing is a  
8 commercial financing, the mere extension of a specific offer  
9 or provision of disclosures for a commercial financing is not  
10 sufficient to conclude that a provider is originating, making,  
11 funding, or providing commercial financing.

12 "Recipient" means a person who applies for commercial  
13 financing and is made a specific offer of commercial financing  
14 by a provider or an authorized representative of such person.  
15 "Recipient" does not include a person acting as a broker in a  
16 transaction they broker.

17 "Sales-based financing" means a transaction that is repaid  
18 by the recipient to the provider, over time, as a percentage of  
19 sales or revenue, in which the payment amount may increase or  
20 decrease according to the volume of sales made or revenue  
21 received by the recipient or a transaction that includes a  
22 true-up mechanism where the financing is repaid as a fixed  
23 payment but provides for a reconciliation process that adjusts  
24 the payment to an amount that is a percentage of sales or  
25 revenue.

26 "Secretary" means the Secretary of Financial and

1 Professional Regulation or a person authorized by the  
2 Secretary.

3 "Specific offer" means the specific terms of commercial  
4 financing, including price or amount, that is quoted to a  
5 recipient based on information obtained from or about the  
6 recipient, that, if accepted by a recipient, shall be binding  
7 on the provider, as applicable, subject to any specific  
8 requirements stated in such terms.

9 Section 15. Exemptions. This Act does not apply to, and  
10 shall not place any additional requirements or obligations  
11 upon, any of the following:

12 (1) A bank, trust company, or industrial loan company  
13 doing business under the authority of, or in accordance  
14 with, a license, certificate, or charter issued by the  
15 United States, this State, or any other state, district,  
16 territory, or commonwealth of the United States that is  
17 authorized to transact business in this State.

18 (2) A federally chartered savings and loan  
19 association, federal savings bank, or federal credit union  
20 that is authorized to transact business in this State.

21 (3) A savings and loan association, savings bank, or  
22 credit union organized under the laws of this State or any  
23 other state that is authorized to transact business in  
24 this State.

25 (4) A person acting in its capacity as a technology

1 services provider, such as licensing software and  
2 providing support services, to an entity exempt under this  
3 Section for use as part of the exempt entity's commercial  
4 financing program, if such person has no interest,  
5 arrangement, or agreement to purchase any interest in the  
6 commercial financing extended by the exempt entity in  
7 connection with such program.

8 (5) A lender regulated under the federal Farm Credit  
9 Act, 12 U.S.C. 2001 et seq.

10 (6) A commercial financing transaction secured by real  
11 property.

12 (7) A lease as defined in Section 2A-103 of the  
13 Uniform Commercial Code.

14 (8) Any person or provider who makes no more than 5  
15 commercial financing transactions in this State in a  
16 12-month period.

17 (9) An individual commercial financing transaction in  
18 an amount over \$2,500,000.

19 (10) A commercial financing transaction in which the  
20 recipient is a vehicle dealer subject to Section 5-101 or  
21 5-102 of the Illinois Vehicle Code, an affiliate of such a  
22 dealer, a rental vehicle company as defined in Section 10  
23 of the Renter's Financial Responsibility and Protection  
24 Act, or an affiliate of such a company pursuant to a  
25 commercial financing agreement or commercial open-end  
26 credit plan of at least \$50,000, including any commercial

1 loan made pursuant to such a commercial financing  
2 transaction.

3 Section 20. Sales-based financing disclosure requirements.  
4 A provider subject to this Act shall provide the following  
5 disclosures to a recipient, according to formatting prescribed  
6 by the Secretary, if any, at the time of extending a specific  
7 offer of sales-based financing:

8 (1) The total amount of the commercial financing, and,  
9 if different from the financing amount, the disbursement  
10 amount after any amount deducted or withheld at  
11 disbursement.

12 (2) The finance charge.

13 (3) The estimated annual percentage rate, using the  
14 words annual percentage rate or the abbreviation "APR",  
15 expressed as a yearly rate, inclusive of any fees and  
16 finance charges, and calculated in accordance with the  
17 federal Truth in Lending Act, Regulation Z, 12 CFR  
18 1026.22, based on the estimated term of repayment and the  
19 projected periodic payment amounts, regardless of whether  
20 such act or such rule would require such a calculation.  
21 The estimated term of repayment and the projected periodic  
22 payment amounts shall be calculated based on the  
23 projection of the recipient's sales, which may be referred  
24 to as the projected sales volume. The projected sales  
25 volume may be calculated using the historical method or



1 the opt-in method. The provider shall provide notice to  
2 the Secretary on which method the provider intends to use  
3 across all instances of sales-based financing offered in  
4 calculating the estimated annual percentage rate pursuant  
5 to this Section, according to the following:

6 (i) A provider using the historical method shall  
7 use an average historical volume of sales or revenue  
8 by which the financing's payment amounts are based and  
9 the estimated annual percentage rate is calculated.  
10 The provider shall fix the historical time period used  
11 to calculate the average historical volume and use  
12 such period for all disclosure purposes for all  
13 sales-based financing products offered. The fixed  
14 historical time period shall either be the preceding  
15 time period from the specific offer or, alternatively,  
16 the provider may use average sales for the same number  
17 of months with the highest sales volume within the  
18 past 12 months. The fixed historical time period shall  
19 be no less than one month and shall not exceed 12  
20 months.

21 (ii) A provider using the opt-in method shall  
22 determine the estimated annual percentage rate, the  
23 estimated term, and the projected payments, using a  
24 projected sales volume that the provider elects for  
25 each disclosure, if they participate in a review  
26 process prescribed by the Secretary. A provider shall,

1 on an annual basis, report data to the Secretary of  
2 estimated annual percentage rates disclosed to the  
3 recipient and actual retrospective annual percentage  
4 rates of completed transactions. The report shall  
5 contain such information as the Department may adopt  
6 by rule as necessary or appropriate for the purpose of  
7 making a determination of whether the deviation  
8 between the estimated annual percentage rate and  
9 actual retrospective annual percentage rates of  
10 completed transactions was reasonable. The Secretary  
11 shall establish the method of reporting and may, upon  
12 a finding that the use of projected sales volume by the  
13 provider has resulted in an unacceptable deviation  
14 between estimated and actual annual percentage rate,  
15 require the provider to use the historical method. The  
16 Secretary may consider unusual and extraordinary  
17 circumstances impacting the provider's deviation  
18 between estimated and actual annual percentage rate in  
19 the determination of such finding.

20 (4) The total repayment amount, which is the  
21 disbursement amount plus the finance charge.

22 (5) The estimated term is the period of time required  
23 for the periodic payments, based on the projected sales  
24 volume, to equal the total amount required to be repaid.

25 (6) The payment amounts, based on the projected sales  
26 volume:

1 (i) for payment amounts that are fixed, the  
2 payment amounts and frequency (e.g., daily, weekly,  
3 monthly), and, if the payment frequency is other than  
4 monthly, the amount of the average projected payments  
5 per month; or

6 (ii) for payment amounts that are variable, a  
7 payment schedule or a description of the method used  
8 to calculate the amounts and frequency of payments and  
9 the amount of the average projected payments per  
10 month.

11 (7) A description of all other potential fees and  
12 charges not included in the finance charge, including, but  
13 not limited to, draw fees, late payment fees, and returned  
14 payment fees.

15 (8) If the recipient elects to pay off or refinance  
16 the commercial financing before full repayment, the  
17 provider must disclose:

18 (i) whether the recipient would be required to pay  
19 any finance charges other than interest accrued since  
20 their last payment; if so, disclosure of the  
21 percentage of any unpaid portion of the finance charge  
22 and maximum dollar amount the recipient could be  
23 required to pay; and

24 (ii) whether the recipient would be required to  
25 pay any additional fees not already included in the  
26 finance charge.

1           (9) A description of collateral requirements or  
2           security interests, if any.

3           Section 25. Closed-end commercial financing disclosure  
4           requirements. A provider subject to this Act shall provide the  
5           following disclosures to a recipient, according to formatting  
6           prescribed by the Secretary, if any, at the time of extending a  
7           specific offer for closed-end financing:

8           (1) The total amount of the commercial financing, and,  
9           if different from the financing amount, the disbursement  
10          amount after any amount deducted or withheld at  
11          disbursement.

12          (2) The finance charge.

13          (3) The annual percentage rate, using only the words  
14          annual percentage rate or the abbreviation "APR",  
15          expressed as a yearly rate, inclusive of any fees and  
16          finance charges that cannot be avoided by a recipient, and  
17          calculated in accordance with the federal Truth in Lending  
18          Act, Regulation Z, 12 CFR 1026.22, regardless of whether  
19          such act or such rule would require such a calculation.

20          (4) The total repayment amount, which is the  
21          disbursement amount plus the finance charge.

22          (5) The term of the financing.

23          (6) The payment amounts:

24                  (i) for payment amounts that are fixed, the  
25          payment amounts and frequency (e.g., daily, weekly,

1 monthly), and, if the term is longer than one month,  
2 the average monthly payment amount; or

3 (ii) for payment amounts that are variable, a full  
4 payment schedule or a description of the method used  
5 to calculate the amounts and frequency of payments,  
6 and, if the term is longer than one month, the  
7 estimated average monthly payment amount.

8 (7) A description of all other potential fees and  
9 charges that can be avoided by the recipient, including,  
10 but not limited to, late payment fees and returned payment  
11 fees.

12 (8) If the recipient elects to pay off or refinance  
13 the commercial financing before full repayment, the  
14 provider must disclose:

15 (i) whether the recipient would be required to pay  
16 any finance charges other than interest accrued since  
17 their last payment; if so, disclosure of the  
18 percentage of any unpaid portion of the finance charge  
19 and maximum dollar amount the recipient could be  
20 required to pay; and

21 (ii) whether the recipient would be required to  
22 pay any additional fees not already included in the  
23 finance charge.

24 (9) A description of collateral requirements or  
25 security interests, if any.

1 Section 30. Open-end commercial financing disclosure  
2 requirements. A provider subject to this Act shall provide the  
3 following disclosures to a recipient, according to formatting  
4 prescribed by the Secretary, if any, at the time of extending a  
5 specific offer for open-end financing:

6 (1) The maximum amount of credit available to the  
7 recipient (e.g., the credit line amount), and the amount  
8 scheduled to be drawn by the recipient at the time the  
9 offer is extended, if any, less any amount deducted or  
10 withheld at disbursement.

11 (2) The finance charge.

12 (3) The annual percentage rate, using only the words  
13 annual percentage rate or the abbreviation "APR",  
14 expressed as a nominal yearly rate, inclusive of any fees  
15 and finance charges that cannot be avoided by a recipient,  
16 and calculated in accordance with the federal Truth in  
17 Lending Act, Regulation Z, 12 CFR 1026.22, and based on  
18 the maximum amount of credit available to the recipient  
19 and the term resulting from making the minimum required  
20 payments term as disclosed, regardless of whether such act  
21 or such rule would require such a calculation.

22 (4) The total repayment amount, which is the draw  
23 amount, less any fees deducted or withheld at  
24 disbursement, plus the finance charge. The total repayment  
25 amount shall assume a draw amount equal to the maximum  
26 amount of credit available to the recipient if drawn and

1 held for the duration of the term or draw period.

2 (5) The term of the plan, if applicable, or the period  
3 over which a draw is amortized.

4 (6) The payment frequency and amounts, based on the  
5 assumptions used in the calculation of the annual  
6 percentage rate, including a description of payment amount  
7 requirements such as a minimum payment amount, and if the  
8 payment frequency is other than monthly, the amount of the  
9 average projected payments per month. For payment amounts  
10 that are variable, the provider should include a payment  
11 schedule or a description of the method used to calculate  
12 the amounts and frequency of payments and the estimated  
13 average monthly payment amount.

14 (7) A description of all other potential fees and  
15 charges that can be avoided by the recipient, including,  
16 but not limited to, draw fees, late payment fees, and  
17 returned payment fees.

18 (8) Were the recipient to elect to pay off or  
19 refinance the commercial financing before full repayment,  
20 the provider must disclose:

21 (i) whether the recipient would be required to pay  
22 any finance charges other than interest accrued since  
23 their last payment; if so, disclosure of the  
24 percentage of any unpaid portion of the finance charge  
25 and maximum dollar amount the recipient could be  
26 required to pay; and

1           (ii) whether the recipient would be required to  
2           pay any additional fees not already included in the  
3           finance charge.

4           (9) A description of collateral requirements or  
5           security interests, if any.

6           Section 35. Factoring transaction disclosure requirements.  
7           A provider subject to this Act shall provide the following  
8           disclosures to a recipient, according to formatting prescribed  
9           by the Secretary, if any, at the time of extending a specific  
10          offer for a factoring transaction:

11           (1) The amount of the receivables purchase price paid  
12           to the recipient, and, if different from the purchase  
13           price, the disbursement amount after any amount deducted  
14           or withheld at disbursement.

15           (2) The finance charge.

16           (3) The estimated annual percentage rate, using that  
17           term, calculated according to the federal Truth in Lending  
18           Act, Regulation Z, 12 CFR 1026 Appendix J, as a "single  
19           advance, single payment transaction", regardless of  
20           whether such act or such rule would require such a  
21           calculation. To calculate the estimated annual percentage  
22           rate, the purchase amount is considered the financing  
23           amount, the purchase amount minus the finance charge is  
24           considered the payment amount, and the term is established  
25           by the payment due date of the receivables. As an



1           alternate method of establishing the term, the provider  
2           may estimate the term for a factoring transaction as the  
3           average payment period based on its historical data over a  
4           period not to exceed the previous 12 months, concerning  
5           payment invoices paid by the party or parties owing the  
6           accounts receivable in question.

7           (4) The total payment amount, which is the purchase  
8           amount plus the finance charge.

9           (5) A description of all other potential fees and  
10          charges that can be avoided by the recipient.

11          (6) A description of the receivables purchased and any  
12          additional collateral requirements or security interests.

13          Section 40. Other forms of financing disclosure  
14          requirements. The Secretary may require disclosure by a  
15          provider extending a specific offer of commercial financing  
16          which is not an open-end financing, closed-end financing,  
17          sales-based financing, or factoring transaction but otherwise  
18          meets the definition of commercial financing. Subject to such  
19          rules by the Secretary, a provider subject to this Act shall  
20          provide the following disclosures to a recipient, according to  
21          formatting prescribed by the Secretary, if any, at the time of  
22          extending a specific offer of other forms of financing:

23          (1) The total amount of the commercial financing, and,  
24          if different from the financing amount, the disbursement  
25          amount after any fees deducted or withheld at

1           disbursement.

2           (2) The finance charge.

3           (3) The annual percentage rate, using only the words  
4           annual percentage rate or the abbreviation "APR",  
5           expressed as a yearly rate, inclusive of any fees and  
6           finance charges, and calculated in accordance with the  
7           relevant sections of the federal Truth in Lending Act,  
8           Regulation Z, 12 CFR 1026.22, or this Act, regardless of  
9           whether such act or such rule would require such a  
10          calculation.

11          (4) The total repayment amount which is the  
12          disbursement amount plus the finance charge.

13          (5) The term of the financing.

14          (6) The payment amounts:

15                 (i) for payment amounts that are fixed, the  
16                 payment amounts and frequency (e.g., daily, weekly,  
17                 monthly), and the average monthly payment amount; or

18                 (ii) for payment amounts that are variable, a  
19                 payment schedule or a description of the method used  
20                 to calculate the amounts and frequency of payments,  
21                 and the estimated average monthly payment amount.

22          (7) A description of all other potential fees and  
23          charges that can be avoided by the recipient, including,  
24          but not limited to, late payment fees and returned payment  
25          fees.

26          (8) If the recipient elects to pay off or refinance

1 the commercial financing before full repayment, the  
2 provider must disclose:

3 (i) whether the recipient would be required to pay  
4 any finance charges other than interest accrued since  
5 their last payment; if so, disclosure of the  
6 percentage of any unpaid portion of the finance charge  
7 and maximum dollar amount the recipient could be  
8 required to pay; and

9 (ii) whether the recipient would be required to  
10 pay any additional fees not already included in the  
11 finance charge.

12 (9) A description of collateral requirements or  
13 security interests, if any.

14 Section 45. Complaint disclosure. All commercial financing  
15 shall include a clear and conspicuous notice on how to file a  
16 complaint with the Department.

17 Section 50. Disclosure requirements for renewal financing.  
18 If, as a condition of obtaining the commercial financing, the  
19 provider requires the recipient to pay off the balance of an  
20 existing commercial financing from the same provider, then the  
21 provider must disclose the following:

22 (1) The amount of the new commercial financing that is  
23 used to pay off the portion of the existing commercial  
24 financing that consists of prepayment charges required to

1 be paid and any unpaid interest expense that was not  
2 forgiven at the time of renewal. For financing for which  
3 the total repayment amount is calculated as a fixed  
4 amount, the prepayment charge is equal to the original  
5 finance charge multiplied by the amount of the renewal  
6 used to pay off existing financing as a percentage of the  
7 total repayment amount, minus any portion of the total  
8 repayment amount forgiven by the provider at the time of  
9 prepayment. If the amount is more than zero, such amount  
10 shall be the answer to the following question: "Does the  
11 renewal financing include any amount that is used to pay  
12 unpaid finance charge or fees, also known as double  
13 dipping? Yes, [enter amount]. If the amount is zero, the  
14 answer would be No."

15 (2) If the disbursement amount will be reduced to pay  
16 down any unpaid portion of the outstanding balance, then  
17 the actual dollar amount by which the disbursement amount  
18 will be reduced.

19 Section 55. Required signature. The provider shall obtain  
20 the recipient's signature, which may be fulfilled by an  
21 electronic signature, on all disclosures required to be  
22 presented to the recipient by this Act before authorizing the  
23 recipient to proceed further with the commercial financing  
24 transaction application.

1           Section 60. Additional information. Nothing in this Act  
2 shall prevent a provider from providing or disclosing  
3 additional information on a commercial financing being offered  
4 to a recipient, however, such additional information shall not  
5 be disclosed as part of the disclosure required by this Act. If  
6 other metrics of financing cost are disclosed or used in the  
7 application process of a commercial financing, then these  
8 metrics shall not be presented as a "rate" if they are not the  
9 annual interest rate or the annual percentage rate. The term  
10 "interest", when used to describe a percentage rate, shall  
11 only be used to describe annualized percentage rates, such as  
12 the annual interest rate. When a provider states a rate of  
13 finance charge or a financing amount to a recipient during an  
14 application process for commercial financing, the provider  
15 shall also state the rate as an "annual percentage rate",  
16 using that term or the abbreviation "APR".

17           Section 65. Rules. The Department is hereby authorized and  
18 empowered to adopt such rules as may in the judgment of the  
19 Secretary be consistent with the purposes of this Act, or  
20 appropriate for the effective administration of this Act,  
21 including, but not limited to:

22           (1) Rules in connection with the calculation or  
23 determination of any metric required to be disclosed to a  
24 recipient.

25           (2) Rules as necessary to develop and prescribe

1 disclosure formatting to be used by providers that allows  
2 for recipients to easily compare financing options in a  
3 clear and conspicuous manner; such rules may include the  
4 designation and method for disclosing the information  
5 required in this Act or approving adequate forms and  
6 methods already used by providers.

7 (3) Rules as may define the terms used in this Act and  
8 as may be necessary and appropriate to interpret and  
9 implement the provisions of this Act.

10 (4) Rules as may be necessary for the enforcement and  
11 administration of this Act.

12 (5) Rules appropriate for the protection of consumers  
13 in this State.

14 (6) Rules as may be necessary and appropriate to  
15 define improper or fraudulent business practices in  
16 connection with commercial financing.

17 (7) Rules as may be necessary to charge and collect  
18 fees necessary to cover the costs of administering this  
19 Act, including, but not limited to, registration,  
20 investigation, and examination fees.

21 The Department may adopt rules pursuant to this Act upon  
22 this Act becoming law with such rules not to take effect  
23 earlier than January 1, 2024.

24 Section 70. Penalties.

25 (a) Upon a finding by the Secretary that a provider has

1 violated the provisions of this Act or the rules adopted  
2 pursuant to this Act, the provider shall be ordered to pay the  
3 Department a civil penalty for each violation of this Act or  
4 any rule a sum not to exceed \$10,000 for each violation or, if  
5 such violation is willful, \$20,000 for each violation.

6 (b) In addition to any penalty imposed pursuant to  
7 subsection (a), the Secretary may order additional relief,  
8 including, but not limited to:

9 (i) restitution;

10 (ii) refund of moneys or return of real property;

11 (iii) disgorgement or compensation for unjust  
12 enrichment, with any disgorged amounts returned to the  
13 affected businesses, to the extent practicable; and

14 (iv) limits on the activities or functions of the  
15 person, including, but not limited to, prohibiting a  
16 person from being a provider.

17 (c) The Secretary shall serve notice of the action,  
18 including, but not limited to, a statement of the reasons for  
19 the action, either personally or by certified mail. Service by  
20 certified mail shall be deemed completed when the notice is  
21 deposited in the U.S. mail.

22 (d) Within 10 days after service of the action, the person  
23 may request a hearing in writing. The Secretary shall schedule  
24 a hearing within 90 days after the request for a hearing unless  
25 otherwise agreed to by the parties.

1 Section 75. Cease and desist order.

2 (a) The Secretary may issue a cease and desist order if, in  
3 the opinion of the Secretary, a licensee or other person is  
4 violating or is about to violate any provision of this Act or  
5 any rule or requirement imposed in writing by the Department.  
6 The cease and desist order permitted by this Section may be  
7 issued before a hearing.

8 (b) The Secretary shall serve notice of his or her action,  
9 including, but not limited to, a statement of the reasons for  
10 the action, either personally or by certified mail. Service by  
11 certified mail shall be deemed completed when the notice is  
12 deposited in the U.S. mail.

13 (c) Within 10 days after service of the cease and desist  
14 order, the licensee or other person may request a hearing in  
15 writing. The Secretary shall schedule a hearing within 90 days  
16 after the request for a hearing unless otherwise agreed to by  
17 the parties.

18 (d) The Secretary may include in any cease and desist  
19 order such orders as may be reasonably necessary to correct,  
20 eliminate, or remedy the conduct.

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



1 remedy vested in the Secretary.

2 Section 80. Injunction. The Secretary may, through the  
3 Attorney General, bring an action in the circuit court to  
4 enjoin a person from violating this Act in the name of the  
5 people of the State of Illinois.

6 Section 85. Investigation and examination. The Department  
7 may investigate or examine providers and persons reasonably  
8 believed to be providers for compliance with this Act and its  
9 implementing rules.

10 Section 90. Civil action. A civil claim may be asserted  
11 against a provider for violation of this Act. Additionally, a  
12 prevailing person other than a provider may be awarded  
13 reasonable attorney's fees and court costs.

14 Section 95. Violations.

15 (a) Nothing in this Act shall be construed to restrict the  
16 exercise of powers or the performance of the duties that the  
17 Illinois Attorney General is authorized to exercise or perform  
18 by law.

19 (b) Any violation of this Act constitutes an unlawful  
20 practice in violation of the Consumer Fraud and Deceptive  
21 Business Practices Act.

22 (c) The Illinois Attorney General may enforce a violation

1 of this Act as an unlawful practice under the Consumer Fraud  
2 and Deceptive Business Practices Act.

3 Section 100. No evasion. An agreement, contract, or  
4 transaction that is structured to evade this Act shall be  
5 deemed to be covered by this Act.

6 Section 105. Registration.

7 (a) All providers shall be required to pay a registration  
8 fee of \$1,000 to the Department and register with the  
9 Department in the manner and form directed by the Secretary  
10 within one year after the effective date of this Act and renew  
11 the registration each calendar year thereafter in the manner  
12 and form directed by the Secretary.

13 (b) Before December 1 of each year, a provider must pay to  
14 the Secretary, and the Department must receive, a registration  
15 fee of \$1,000 for the following calendar year. A provider's  
16 registration shall automatically expire on January 1 of each  
17 year unless the registration fee has been paid prior thereto.

18 (c) Any commercial financing made or offered by a provider  
19 that violates this Section is null and void and no person or  
20 entity shall have any right to collect, attempt to collect,  
21 receive, or retain any funded amount or charges related to the  
22 commercial financing.

23 Section 110. Judicial review. All final administrative

1 decisions of the Department under this Act are subject to  
2 judicial review under the Administrative Review Law and any  
3 rules adopted under the Administrative Review Law.

4 Section 900. The Consumer Fraud and Deceptive Business  
5 Practices Act is amended by adding Section 2BBBB as follows:

6 (815 ILCS 505/2BBBB new)

7 Sec. 2BBBB. Violations of the Small Business Truth in  
8 Lending Act. Any person who violates the Small Business Truth  
9 in Lending Act commits an unlawful practice within the meaning  
10 of this Act.

11 Section 997. Severability. The provisions of this Act are  
12 severable under Section 1.31 of the Statute on Statutes. If  
13 any clause, sentence, provision, or part of this Act or its  
14 application to any person or circumstance is adjudged to be  
15 unconstitutional or invalid for any reason by any court of  
16 competent jurisdiction, that judgment shall not impair,  
17 affect, or invalidate other provisions or applications of this  
18 Act, which shall remain in full force and effect thereafter.

19 Section 999. Effective date. This Act takes effect upon  
20 becoming law.