



Sen. Christopher Belt

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1 AMENDMENT TO SENATE BILL 2234

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2234 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 Protections for Small Business Act.

6 Section 2. Purpose and construction. The purpose of this  
7 Act is to protect business owners. This Act shall be liberally  
8 construed to effectuate its purpose.

9 Section 5. Definitions. As used in this Act:

10 "Applicant" means a person who has submitted an  
11 application for a license under this Act.

12 "Closed-end financing" means a closed-end extension of  
13 credit, secured or unsecured, recourse or nonrecourse,  
14 including equipment financing that does not meet the  
15 definition of a lease under Section 2A-103 of the Uniform

1 Commercial Code, that the recipient does not intend to use for  
2 personal, family, or household purposes. "Closed-end  
3 financing" includes financing with an established principal  
4 amount and duration.

5 "Commercial financing database" means a reporting database  
6 certified by the Department as effective in receiving a report  
7 of commercial financing made under this Act.

8 "Commercial financing database provider" means an entity  
9 that provides a reporting database certified by the Department  
10 under this Act.

11 "Commercial financing" means open-end financing,  
12 closed-end financing, sales-based financing, factoring  
13 transaction, or other form of financing, the proceeds of which  
14 the recipient does not intend to use primarily for personal,  
15 family, or household purposes. For purposes of determining  
16 whether a financing is a commercial financing, the provider  
17 may rely on any statement of intended purposes by the  
18 recipient. The statement may be a separate statement signed by  
19 the recipient; may be contained in the financing application,  
20 financing agreement, or other document signed or consented to  
21 by the recipient; or may be provided orally by the recipient so  
22 long as it is documented in the recipient's application file  
23 by the provider. Electronic signatures and consents are valid  
24 for purposes of the foregoing sentence. The provider shall not  
25 be required to ascertain that the proceeds of a commercial  
26 financing are used in accordance with the recipient's

1 statement of intended purposes.

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

4 "Division of Financial Institutions" or "Division" means  
5 the Division of Financial Institutions of the Department of  
6 Financial and Professional Regulation.

7 "Factoring transaction" means an accounts receivable  
8 purchase transaction that includes an agreement to purchase,  
9 transfer, or sell a legally enforceable claim for payment held  
10 by a recipient for goods the recipient has supplied or  
11 services the recipient has rendered that have been ordered but  
12 for which payment has not yet been made.

13 "Finance charge" means the cost of financing as a dollar  
14 amount. "Finance charge" includes any charge payable directly  
15 or indirectly by the recipient and imposed directly or  
16 indirectly by the provider as an incident to or a condition of  
17 the extension of financing. "Finance charge" includes any  
18 charges as determined by the Secretary. For the purposes of an  
19 open-end financing, "finance charge" means the maximum amount  
20 of credit available to the recipient, in each case, that is  
21 drawn and held for the duration of the term or draw period. For  
22 the purposes of a factoring transaction, "finance charge"  
23 includes the discount taken on the face value of the accounts  
24 receivable. In addition, the finance charge shall include any  
25 charges determined by the Secretary.

26 "Open-end financing" means an agreement for one or more

1 extensions of open-end credit, secured or unsecured, that the  
2 recipient does not intend to use the proceeds of primarily for  
3 personal, family, or household purposes. "Open-end financing"  
4 includes credit extended by a provider under a plan in which:  
5 (i) the provider reasonably contemplates repeated  
6 transactions; (ii) the provider may impose a finance charge  
7 from time to time on an outstanding unpaid balance; and (iii)  
8 the amount of credit that may be extended to the recipient  
9 during the term of the plan is generally made available to the  
10 extent that any outstanding balance is repaid.

11 "Person" means an individual, entity, corporation,  
12 partnership, limited liability company, joint venture,  
13 association, joint stock company, trust, or unincorporated  
14 organization, including, but not limited to, a sole  
15 proprietorship.

16 "Provider" means a person who extends a specific offer of  
17 commercial financing to a recipient. "Provider", unless  
18 otherwise exempt, includes a person who solicits and presents  
19 specific offers of commercial financing on behalf of a third  
20 party. The mere extension of a specific offer or provision of  
21 disclosures for a commercial financing, is not sufficient to  
22 conclude that a provider is originating, making, funding, or  
23 providing commercial financing. "Provider" does not include:

- 24 (1) a bank, trust company, or industrial loan company,  
25 or any subsidiary or affiliate thereof, doing business  
26 under the authority of, or in accordance with, a license,

1 certificate or charter issued by the United States, this  
2 State, or any other state, district, territory, or  
3 commonwealth of the United States that is authorized to  
4 transact business in this State;

5 (2) a federally chartered savings and loan  
6 association, federal savings bank, or federal credit  
7 union, or any subsidiary or affiliate thereof, that is  
8 authorized to transact business in this State;

9 (3) a savings and loan association, savings bank, or  
10 credit union, or any subsidiary or affiliate thereof,  
11 organized under the laws of this State or any other state  
12 that is authorized to transact business in this State;

13 (4) a lender regulated under the federal Farm Credit  
14 Act; and

15 (5) a person acting as a technology services provider  
16 to an entity described by sub-paragraphs (1), (2), or (3)  
17 for use as part of that entity's commercial financing  
18 program, provided the person has no interest, or  
19 arrangement, or agreement to purchase any interest in the  
20 commercial financing extended by the entity in connection  
21 with the program.

22 "Recipient" means a person who applies for commercial  
23 financing and is made a specific offer of commercial financing  
24 by a provider. "Recipient" includes an authorized  
25 representative of a person who applies for commercial  
26 financing and is made a specific offer of commercial financing

1 by a provider. "Recipient" does not include a person acting as  
2 a broker is not a recipient in a transaction they broker.

3 "Sales-based financing" means a transaction that is repaid  
4 by the recipient to the provider, over time, as a percentage of  
5 sales or revenue, in which the payment amount may increase or  
6 decrease according to the volume of sales made or revenue  
7 received by the recipient or a transaction that includes a  
8 true-up mechanism where the financing is repaid as a fixed  
9 payment but provides for a reconciliation process that adjusts  
10 the payment to an amount that is a percentage of sales or  
11 revenue.

12 "Secretary" means the Secretary of Financial and  
13 Professional Regulation or a person authorized by the  
14 Secretary to perform the Secretary's responsibilities under  
15 this Act.

16 "Specific offer" means the specific terms of commercial  
17 financing, including price or amount, that is quoted to a  
18 recipient based on information obtained from or about the  
19 recipient that, if accepted by a recipient, shall be binding  
20 on the provider, as applicable, subject to any specific  
21 requirements stated in the specific terms.

22 Section 10. Applicability.

23 (a) Except as otherwise provided in this Section, this Act  
24 applies to any person that offers or provides commercial  
25 financing in Illinois or is otherwise a provider.

1           (b) The provisions of this Act apply to any person that  
2 seeks to evade its applicability by any device, subterfuge, or  
3 pretense whatsoever.

4           (c) The provisions of this Act apply to any person that  
5 aids or facilitates a violation of this Act.

6           (d) The provisions of this Act do not apply to:

7           (1) a bank, trust company, or industrial loan company  
8 doing business under the authority of, or in accordance  
9 with, a license, certificate or charter issued by the  
10 United States, this State, or any other state, district,  
11 territory, or commonwealth of the United States that is  
12 authorized to transact business in this State;

13           (2) a federally chartered savings and loan  
14 association, federal savings bank, or federal credit union  
15 that is authorized to transact business in this State;

16           (3) a savings and loan association, savings bank, or  
17 credit union organized under the laws of this State or any  
18 other state that is authorized to transact business in  
19 this State;

20           (4) a lender regulated under the federal Farm Credit  
21 Act; and

22           (5) a person acting in the person's capacity as a  
23 technology services provider to an entity described by  
24 sub-paragraphs (1), (2), or (3) for use as part of that  
25 entity's commercial financing program, provided the person  
26 has no interest, or arrangement, or agreement to purchase

1           any interest in the commercial financing extended by the  
2           entity in connection with the program.

3           Section 15. Division of Financial Institutions. This Act  
4           shall be administered by the Division on behalf of the  
5           Secretary.

6           Section 20. Licensure requirement. No person shall engage  
7           in the conduct regulated by this Act without licensure under  
8           this Act. Any Person who provides commercial financing without  
9           the license required by this Act is guilty of a Class 4 felony.  
10          The Secretary shall be empowered to investigate any person  
11          they believe may require licensure under this Act including,  
12          but not limited to, compelling production of testimony, books,  
13          records, or any other information necessary for the Secretary  
14          to determine whether the Person requires licensure.

15          Section 25. Licensee name. No person providing commercial  
16          financing may operate the business under a name other than the  
17          real names of the entity and individuals conducting the  
18          business. The business may operate under an assumed corporate  
19          name under the Business Corporation Act of 1983, an assumed  
20          limited liability company name under the Limited Liability  
21          Company Act, or an assumed business name under the Assumed  
22          Business Name Act with written authorization from the  
23          Secretary. Each licensee shall update its name with the



1 Department within 10 days after the change of name.

2 Section 30. Application process; investigation; fees.

3 (a) The Secretary may issue a license to a person after the  
4 person completes all of the following:

5 (1) the filing of an application for license with the  
6 Secretary or a multistate licensing system as approved by  
7 the Secretary;

8 (2) the filing with the Secretary or a multistate  
9 licensing system as approved by the Secretary of a listing  
10 of judgments entered against, and bankruptcy petitions by,  
11 the applicant for the preceding 10 years;

12 (3) the payment, in certified funds, of investigation  
13 and application fees, the total of which shall be in an  
14 amount equal to \$2,500; and

15 (4) the filing of an audited balance sheet, including  
16 all footnotes prepared by a certified public accountant in  
17 accordance with generally accepted accounting principles  
18 and generally accepted auditing standards; notwithstanding  
19 the requirements of this paragraph, an applicant that is a  
20 subsidiary may submit audited consolidated financial  
21 statements of its parent, intermediary parent, or ultimate  
22 parent as long as the consolidated statements are  
23 supported by consolidating statements that include the  
24 applicant's financial statement; if the consolidating  
25 statements are unaudited, the applicant's chief financial

1 officer shall attest to the applicant's financial  
2 statements disclosed in the consolidating statements.

3 (b) The Secretary may, for good cause shown, waive or  
4 modify the requirements of subsection (a).

5 (c) Upon receipt of the license, a licensee is authorized  
6 to engage in conduct regulated by this Act. The license shall  
7 remain in full force and effect until it expires, is  
8 surrendered by the licensee, or is revoked or suspended as  
9 provided in this Act.

10 (d) The Secretary may impose conditions on a license if  
11 the Secretary determines that those conditions are necessary  
12 or appropriate. These conditions shall be imposed in writing  
13 and shall continue in effect for the period prescribed by the  
14 Secretary.

15 Section 35. Application form.

16 (a) Application for a license shall be made in accordance  
17 with this Act, and in accordance with requirements of the  
18 multistate licensing system, if required by the Secretary. The  
19 application shall be in writing, under oath, and on a form  
20 obtained from and prescribed by the Secretary. The Secretary  
21 may change or update the form to carry out the purposes of this  
22 Act. The Secretary may require part or all of the application  
23 to be submitted electronically, with attestation, to the  
24 multistate licensing system.

25 (b) The application shall contain the name and complete

1 business and residential address or addresses of the  
2 applicant. The application shall also include a description of  
3 the activities of the applicant in detail and for the periods  
4 as the Secretary may require, including all of the following:

5 (1) an affirmation that the applicant and its members,  
6 directors, or principals, as may be appropriate, are at  
7 least 18 years of age;

8 (2) information as to the name, complete business  
9 address, complete residential address, character, fitness,  
10 financial and business responsibility, background,  
11 experience, and criminal record of any:

12 (i) person, including an ultimate equitable owner,  
13 that directly or indirectly owns or controls 10% or  
14 more of any class of stock of the applicant;

15 (ii) person, including an ultimate equitable owner  
16 that is not a depository institution, as defined in  
17 the Savings Bank Act, that lends, provides, or  
18 infuses, directly or indirectly, in any way, funds to  
19 or into an applicant in an amount equal to or more than  
20 10% of the applicant's net worth;

21 (iii) person, including an ultimate equitable  
22 owner that controls, directly or indirectly, the  
23 election of 25% or more of the members of the board of  
24 directors of an applicant;

25 (iv) person, including an ultimate equitable owner  
26 that the Secretary finds influences the management of

1 the applicant;

2 (v) director or directors of an applicant; and

3 (vi) principal officers of an applicant; and

4 (3) other information as required by the Secretary to  
5 assess whether the applicant and its owners, officers, and  
6 directors have the financial responsibility, financial  
7 condition, business experience, character, and general  
8 fitness to justify the confidence of the public and that  
9 the applicant and its owners, officers, and directors are  
10 fit, willing, and able to carry on the proposed business  
11 in a lawful and fair manner.

12 Section 40. Additional license application information.

13 (a) In order to fulfill the purposes of this Act, the  
14 Secretary may establish relationships or contracts with a  
15 multistate licensing system or other persons to collect and  
16 maintain records and process fees related to licensees or  
17 other persons subject to this Act.

18 (b) In connection with an application for licensing, the  
19 applicant, owners, officers, and directors of an applicant may  
20 be required, at a minimum, to furnish to the Secretary or  
21 multistate licensing system information concerning the  
22 applicant's, owners', officers' and directors' identity,  
23 including personal history and experience in a form prescribed  
24 by the Secretary or multistate licensing system, including,  
25 but not limited to:

1           (1) a complete and accurate copy of an independent  
2           credit report obtained from a consumer reporting agency  
3           described in Section 603(p) of the Fair Credit Reporting  
4           Act (15 U.S.C. 1681a(p)); and

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

7           (c) For the purposes of this Section, and to reduce the  
8           points of contact that the Secretary may have to maintain, the  
9           Secretary may use a multistate licensing system as a  
10          channeling agent for requesting and distributing information  
11          to and from any source.

12          (d) Each application shall be accompanied by averments as  
13          determined by the Secretary to fulfill the purposes of this  
14          Act.

15          (e) Each applicant shall furnish to the Secretary or  
16          multistate licensing system an updated business address within  
17          10 days after any change of business address.

18          Section 45. Refusal to issue or renew license. The  
19          Secretary may refuse to issue or renew a license if:

20               (1) the Secretary determines that the applicant has  
21               not complied with a provision of this Act, its  
22               implementing rules, or other laws that apply to the  
23               applicant;

24               (2) the Secretary determines that there is substantial  
25               continuity between the applicant and any violator of this

1 Act, its implementing rules, or other laws that apply to  
2 the applicant or related violator; or

3 (3) the Secretary determines that the applicant or its  
4 owners, officers, or directors do not have the financial  
5 responsibility, financial condition, business experience,  
6 character, and general fitness of to justify the  
7 confidence of the public and that the license applicant  
8 and its owners, officers, and directors are fit, willing,  
9 and able to carry on the proposed business in a lawful and  
10 fair manner.

11 Section 50. License issuance and renewal.

12 (a) Licensees shall apply to renew their license every  
13 calendar year. Licensees may submit properly completed renewal  
14 application forms and filing fees 60 days before the license  
15 expiration date and the same shall be received by the  
16 Secretary at least 30 days before the license expiration date.

17 (b) Each licensee shall timely renew its license. Absent a  
18 written extension from the Department, a license shall expire  
19 on December 31 if a licensee fails to timely submit a properly  
20 completed renewal application form and fees.

21 (c) No activity regulated by this Act shall be conducted  
22 by a licensee whose license has expired. The Secretary may,  
23 within the Secretary's discretion, reinstate an expired  
24 license upon payment of the renewal fee, payment of a  
25 reactivation fee equal to 5 times the renewal fee, submission

1 of a completed renewal application, and an affidavit of good  
2 cause for late renewal.

3 Section 55. Fees.

4 (a) The persons regulated by this Act shall bear the  
5 expenses of administering this Act, including investigations  
6 and examinations provided for in this Act. The Secretary may  
7 establish fees by rule or modify fees in at least the following  
8 categories:

9 (1) application and renewal fees;

10 (2) examination and investigation fees;

11 (3) change fees;

12 (4) contingent fees; and

13 (5) other fees as may be required to administer this  
14 Act.

15 (b) The Secretary may modify any fees established by this  
16 Act by rule one year after the effective date of this Act.

17 Section 60. Functions; powers; duties. The functions,  
18 powers, and duties of the Secretary include, but are not  
19 limited to, the following:

20 (1) to issue or refuse to issue any license or  
21 renewal;

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

24 (3) to keep records of all licenses issued under this

1 Act;

2 (4) to receive, consider, investigate, and act upon  
3 complaints made by any person in connection with any  
4 licensee in this State or unlicensed commercial financing  
5 activity of any person;

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

7 (A) applications for licenses and renewals; and

8 (B) all reports and all books and records required  
9 to be made by any licensee under this Act, including  
10 annual audited financial statements if required by the  
11 Secretary and annual reports of commercial financing  
12 activity;

13 (6) to adopt rules necessary and proper for the  
14 administration of this Act, to protect consumers, and  
15 promote fair competition or otherwise authorized by this  
16 Act;

17 (7) to subpoena documents and witnesses and compel  
18 their attendance and production, to administer oaths, and  
19 to require the production of any books, papers, or other  
20 materials relevant to any inquiry authorized by this Act  
21 or its implementing rules;

22 (8) to issue orders against any person if the  
23 Secretary has reasonable cause to believe that an unsafe,  
24 unsound, or unlawful practice has occurred, is occurring,  
25 or is about to occur; if any person is violating, or is  
26 about to violate any law, rule, or written agreement with



1 the Secretary; or for the purpose of administering the  
2 provisions of this Act and any rule adopted in accordance  
3 with this Act;

4 (9) to address any inquiries to any licensee, or the  
5 owners, officers, or directors thereof, in relation to its  
6 activities and conditions, or any other matter connected  
7 with its affairs, and any licensee or person so addressed  
8 shall promptly reply in writing to those inquiries. The  
9 Secretary may also require reports from any licensee at  
10 any time the Secretary deems desirable;

11 (10) to examine the books and records of every  
12 licensee under this Act or any person requiring a license  
13 or who the Secretary reasonably believes may require a  
14 license;

15 (11) to enforce provisions of this Act and its  
16 implementing rules;

17 (12) to levy fees including, but not limited to,  
18 assessments, examination fees, and licensing fees, civil  
19 penalties, and charges for services performed in  
20 administering this Act. The aggregate of all fees  
21 collected by the Secretary under this Act shall be paid  
22 promptly after receipt into the Financial Institution  
23 Fund. The amounts deposited into the Financial Institution  
24 Fund shall be used for the ordinary and contingent  
25 expenses of the Department. Nothing in this Act prevents  
26 paying expenses including salaries, retirement, social

1 security, and State-paid insurance of State employees, or  
2 any other expenses incurred under this Act by  
3 appropriation from the General Revenue Fund or any other  
4 fund;

5 (13) to issue refunds to licensees of any overpayment  
6 for good cause shown;

7 (14) to appoint examiners, supervisors, experts, and  
8 special assistants as needed to effectively and  
9 efficiently administer this Act;

10 (15) to conduct hearings for the purpose of  
11 suspensions, denials, or revocations of licenses, fining,  
12 or other discipline of licensees or unlicensed persons or  
13 entities;

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

15 (17) to enter into cooperative agreements with state  
16 regulatory authorities of other states to provide for  
17 examination of corporate offices or branches of those  
18 states, participate in joint examinations with other  
19 regulators, and to accept reports of the examinations;

20 (18) to assign an examiner or examiners to monitor the  
21 affairs of a licensee with whatever frequency the  
22 Secretary determines appropriate and to charge the  
23 licensee for reasonable and necessary expenses of the  
24 Secretary if in the opinion of the Secretary an emergency  
25 exists or appears likely to occur;

26 (19) to impose civil penalties of up to \$200 per day

1           against a licensee for failing to respond to a regulatory  
2           request or reporting requirement; and

3           (20) to enter into agreements in connection with a  
4           multistate licensing system.

5           Section 65. Examination; prohibited activities.

6           (a) The Secretary shall examine the business affairs of a  
7           licensee under this Act as often as the Secretary deems  
8           necessary and proper. The Secretary may adopt rules with  
9           respect to the frequency and manner of examination. The  
10          Secretary shall appoint a suitable person to perform the  
11          examination. The Secretary and the Secretary's appointees may  
12          examine the entire books, records, documents, and operations  
13          of each licensee and its subsidiary, affiliate, or agent, and  
14          may examine any of the licensee's or its subsidiaries',  
15          owners, affiliates', or agents' officers, directors,  
16          employees, and agents under oath.

17          (b) Affiliates of a licensee shall be subject to  
18          examination by the Secretary on the same terms as the  
19          licensee, but only when reports from or examination of a  
20          licensee provides for documented evidence of unlawful activity  
21          between a licensee and affiliate benefiting, affecting, or  
22          deriving from the activities regulated by this Act.

23          (c) The expenses of any examination of the licensee or its  
24          affiliates shall be borne by the licensee and assessed by the  
25          Secretary as may be established by rule.

1 (d) All confidential supervisory information, including  
2 the examination report and the work papers of the report,  
3 shall belong to the Secretary's office and may not be  
4 disclosed to anyone other than the licensee, law enforcement  
5 officials, or other regulatory agencies that have an  
6 appropriate regulatory interest as determined by the Secretary  
7 or to a party presenting a lawful subpoena to the Department.  
8 The Secretary may, through the Attorney General, immediately  
9 appeal to the court of jurisdiction the disclosure of the  
10 confidential supervisory information and seek a stay of the  
11 subpoena pending the outcome of the appeal. Reports required  
12 of licensees by the Secretary under this Act and results of  
13 examinations performed by the Secretary under this Act shall  
14 be the property of only the Secretary, but may be shared with  
15 the licensee. Any person demanded to produce the Department's  
16 confidential supervisory information, whether by subpoena,  
17 order, or other judicial or administrative process, shall  
18 withhold production of the confidential supervisory  
19 information and shall notify the Secretary of the demand. The  
20 Secretary is authorized to intervene for the purpose of  
21 enforcing the limitations of this Section or seeking the  
22 withdrawal or termination of the attempt to compel production  
23 of the confidential supervisory information. The Secretary may  
24 impose any conditions and limitations on the disclosure of  
25 confidential supervisory information that are necessary to  
26 protect the confidentiality of that information. The Secretary

1 may condition a decision to disclose confidential supervisory  
2 information on entry of a protective order by the court or  
3 administrative tribunal presiding in the particular case or on  
4 a written agreement of confidentiality. If a protective order  
5 or agreement has already been entered between parties other  
6 than the Secretary, then the Secretary may nevertheless  
7 condition approval for release of confidential supervisory  
8 information upon the inclusion of additional or amended  
9 provisions in the protective order. The Secretary may  
10 authorize a party who obtained the records for use in one case  
11 to provide them to another party in another case, subject to  
12 any conditions that the Secretary may impose on either or both  
13 parties. The requester shall promptly notify other parties to  
14 a case of the release of confidential supervisory information  
15 obtained and, upon entry of a protective order, shall provide  
16 copies of confidential supervisory information to the other  
17 parties.

18 Section 70. Subpoena power of the Secretary.

19 (a) The Secretary may issue and serve subpoenas and  
20 subpoenas duces tecum to compel the attendance of witnesses  
21 and the production of all books, accounts, records, and other  
22 documents and materials relevant to an examination or  
23 investigation. The Secretary, or the Secretary's duly  
24 authorized representative, may administer oaths and  
25 affirmations to any person.

1           (b) If a person does not comply with the Secretary's  
2 subpoena or subpoena duces tecum, the Secretary may, through  
3 the Attorney General, petition the circuit court of the county  
4 in which the subpoenaed person resides or has its principal  
5 place of business for an order requiring the subpoenaed person  
6 to testify and to comply with the subpoena duces tecum. The  
7 court may grant injunctive relief restraining the person from  
8 engaging in activity regulated by this Act. The court may  
9 grant other relief, including, but not limited to, the  
10 restraint, by injunction or appointment of a receiver, of any  
11 transfer, pledge, assignment, or other disposition of the  
12 person's assets, concealment, destruction, or other  
13 disposition of books, accounts, records, or other documents  
14 and materials, as the court deems appropriate, until the  
15 person has fully complied with the subpoena or subpoena duces  
16 tecum and the Secretary has completed an investigation or  
17 examination.

18           (c) If it appears to the Secretary that the compliance  
19 with a subpoena or subpoena duces tecum issued or caused to be  
20 issued by the Secretary under this Section is essential to an  
21 investigation or examination, the Secretary, in addition to  
22 the other remedies provided for in this Act, may, through the  
23 Attorney General, apply for relief to the circuit court of the  
24 county in which the subpoenaed person resides or has its  
25 principal place of business. The court shall thereupon direct  
26 the issuance of an order against the subpoenaed person

1 requiring sufficient bond conditioned on compliance with the  
2 subpoena or subpoena duces tecum. The court shall cause to be  
3 endorsed on the order a suitable amount of bond or payment  
4 pursuant to which the person named be freed, having a due  
5 regard to the nature of the case.

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

12 Section 75. Reports required.

13 (a) Every licensee shall produce to the Department reports  
14 the Secretary requests within 90 days after the Secretary's  
15 request unless exigent circumstances require production in a  
16 shorter timeframe.

17 (b) Every provider shall produce to the Department a  
18 report of its commercial financing activity upon the request  
19 of the Secretary. Every provider shall produce its report to  
20 the Department within 90 days after the Secretary's request.  
21 The Department may require reports under this subsection  
22 before a provider shall become licensed under this Act.

23 Section 76. Sales-based financing disclosure requirements.

24 A provider subject to this Act shall provide the following

1 disclosures to a recipient, in a manner prescribed by the  
2 Secretary, if any, at the time of extending a specific offer of  
3 sales-based financing:

4 (1) The total amount of the commercial financing, and,  
5 if different from the financing amount, the disbursement  
6 amount after any amount deducted or withheld at  
7 disbursement.

8 (2) The finance charge.

9 (3) The estimated annual percentage rate, using the  
10 words annual percentage rate or the abbreviation  
11 "Estimated APR", expressed as a yearly rate, inclusive of  
12 any fees and finance charges, based on the estimated term  
13 of repayment and the projected periodic payment amounts.  
14 The estimated term of repayment and the projected periodic  
15 payment amounts shall be calculated based on the  
16 projection of the recipient's sales, which may be referred  
17 to as the projected sales volume. The projected sales  
18 volume may be calculated using the historical method or  
19 the underwriting method. The provider shall provide notice  
20 to the Secretary on which method the provider intends to  
21 use across all instances of sales-based financing offered  
22 in calculating the estimated annual percentage rate under  
23 this Section, according to the following:

24 (A) A provider using the historical method shall  
25 use an average historical volume of sales or revenue  
26 by which the financing's payment amounts are based and



1 the estimated annual percentage rate is calculated.  
2 The provider shall fix the historical time period used  
3 to calculate the average historical volume and use the  
4 period for all disclosure purposes for all sales-based  
5 financing products offered. The fixed historical time  
6 period shall either be the preceding time period from  
7 the specific offer or, alternatively, the provider may  
8 use average sales for the same number of months with  
9 the highest sales volume within the previous 12  
10 months. The fixed historical time period shall be no  
11 less than one month and shall not exceed 12 months.

12 (B) A provider using the underwriting method shall  
13 determine the estimated annual percentage rate, the  
14 estimated term, and the projected payments, using a  
15 projected sales volume that the provider elects for  
16 each disclosure, if they participate in a review  
17 process prescribed by the Secretary. A provider shall,  
18 on an annual basis, report data to the Secretary of  
19 estimated annual percentage rates disclosed to the  
20 recipient and actual retrospective annual percentage  
21 rates of completed transactions. The report shall  
22 contain the information as the Department may adopt by  
23 rule as necessary or appropriate for the purpose of  
24 making a determination of whether the deviation  
25 between the estimated annual percentage rate and  
26 actual retrospective annual percentage rates of

1 completed transactions was reasonable. The Secretary  
2 shall establish the method of reporting and may, upon  
3 a finding that the use of projected sales volume by the  
4 provider has resulted in an unacceptable deviation  
5 between estimated and actual annual percentage rate,  
6 require the provider to use the historical method. The  
7 Secretary may consider unusual and extraordinary  
8 circumstances impacting the provider's deviation  
9 between estimated and actual annual percentage rate in  
10 the determination of the finding.

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

13 (5) The estimated term, which is the period of time  
14 required for the periodic payments, based on the projected  
15 sales volume, to equal the total amount required to be  
16 repaid.

17 (6) The payment amounts, based on the projected sales  
18 volume:

19 (A) for payment amounts that are fixed, the  
20 payment amounts and frequency, such as, daily, weekly,  
21 monthly, and, if the payment frequency is other than  
22 monthly, the amount of the average projected payments  
23 per month; or

24 (B) for payment amounts that are variable, a  
25 payment schedule or a description of the method used  
26 to calculate the amounts and frequency of payments and

1           the amount of the average projected payments per  
2           month.

3           (7) A description of all other potential fees and  
4           charges not included in the finance charge, including, but  
5           not limited to, draw fees, late payment fees, and returned  
6           payment fees.

7           (8) If the recipient elects to pay off or refinance  
8           the commercial financing before full repayment, the  
9           provider shall disclose:

10                   (A) whether the recipient would be required to pay  
11                   any finance charges other than interest accrued since  
12                   their last payment; if so, disclosure of the  
13                   percentage of any unpaid portion of the finance charge  
14                   and maximum dollar amount the recipient could be  
15                   required to pay; and

16                   (B) whether the recipient would be required to pay  
17                   any additional fees not already included in the  
18                   finance charge.

19           (9) A description of collateral requirements or  
20           security interests, if any.

21           Section 77. Closed-end commercial financing disclosure  
22           requirements. A provider subject to this Act shall provide the  
23           following disclosures to a recipient, in a manner prescribed  
24           by the Secretary, if any, at the time of extending a specific  
25           offer for closed-end financing:

1           (1) The total amount of the commercial financing, and,  
2 if different from the financing amount, the disbursement  
3 amount after any amount deducted or withheld at  
4 disbursement.

5           (2) The finance charge.

6           (3) The annual percentage rate, using only the words  
7 annual percentage rate or the abbreviation "APR",  
8 expressed as a yearly rate, inclusive of any fees and  
9 finance charges that cannot be avoided by a recipient.

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

12          (5) The term of the financing.

13          (6) The payment amounts:

14           (A) for payment amounts that are fixed, the  
15 payment amounts and frequency, such as daily, weekly,  
16 monthly, and, if the term is longer than one month, the  
17 average monthly payment amount; or

18           (B) for payment amounts that are variable, a full  
19 payment schedule or a description of the method used  
20 to calculate the amounts and frequency of payments,  
21 and, if the term is longer than one month, the  
22 estimated average monthly payment amount.

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

1 (8) If the recipient elects to pay off or refinance  
2 the commercial financing before full repayment, the  
3 provider shall disclose:

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

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

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

15 Section 78. Open-end commercial financing disclosure  
16 requirements. A provider subject to this Act shall provide the  
17 following disclosures to a recipient, in a manner prescribed  
18 by the Secretary, if any, at the time of extending a specific  
19 offer for open-end financing:

20 (1) The maximum amount of credit available to the  
21 recipient, such as the credit line amount, and the amount  
22 scheduled to be drawn by the recipient at the time the  
23 offer is extended, if any, less any amount deducted or  
24 withheld at disbursement.

25 (2) The finance charge.

1           (3) The annual percentage rate, using only the words  
2           annual percentage rate or the abbreviation "APR",  
3           expressed as a nominal yearly rate, inclusive of any fees  
4           and finance charges that cannot be avoided by a recipient,  
5           and based on the maximum amount of credit available to the  
6           recipient and the term resulting from making the minimum  
7           required payments term as disclosed.

8           (4) The total repayment amount, which is the draw  
9           amount, less any fees deducted or withheld at  
10          disbursement, plus the finance charge. The total repayment  
11          amount shall assume a draw amount equal to the maximum  
12          amount of credit available to the recipient if drawn and  
13          held for the duration of the term or draw period.

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

16          (6) The payment frequency and amounts, based on the  
17          assumptions used in the calculation of the annual  
18          percentage rate, including a description of payment amount  
19          requirements such as a minimum payment amount, and if the  
20          payment frequency is other than monthly, the amount of the  
21          average projected payments per month. For payment amounts  
22          that are variable, the provider should include a payment  
23          schedule or a description of the method used to calculate  
24          the amounts and frequency of payments and the estimated  
25          average monthly payment amount.

26          (7) A description of all other potential fees and

1 charges that can be avoided by the recipient, including,  
2 but not limited to, draw fees, late payment fees, and  
3 returned payment fees.

4 (8) Were the recipient to elect to pay off or  
5 refinance the commercial financing before full repayment,  
6 the provider shall disclose:

7 (A) whether the recipient would be required to pay  
8 any finance charges other than interest accrued since  
9 their last payment; if so, disclosure of the  
10 percentage of any unpaid portion of the finance charge  
11 and maximum dollar amount the recipient could be  
12 required to pay; and

13 (B) whether the recipient would be required to pay  
14 any additional fees not already included in the  
15 finance charge.

16 (9) A description of collateral requirements or  
17 security interests, if any.

18 Section 79. Factoring transaction disclosure requirements.  
19 A provider subject to this Act shall provide the following  
20 disclosures to a recipient, in a manner prescribed by the  
21 Secretary, if any, at the time of extending a specific offer  
22 for a factoring transaction:

23 (1) The amount of the receivables purchase price paid  
24 to the recipient, and, if different from the purchase  
25 price, the disbursement amount after any amount deducted

1 or withheld at disbursement.

2 (2) The finance charge.

3 (3) The estimated annual percentage rate, using that  
4 term. To calculate the estimated annual percentage rate,  
5 the purchase amount is considered the financing amount,  
6 the purchase amount minus the finance charge is considered  
7 the payment amount, and the term is established by the  
8 payment due date of the receivables. As an alternate  
9 method of establishing the term, the provider may estimate  
10 the term for a factoring transaction as the average  
11 payment period based on its historical data over a period  
12 not to exceed the previous 12 months, concerning payment  
13 invoices paid by the party or parties owing the accounts  
14 receivable in question.

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

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

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

21 Section 80. Other forms of financing disclosure  
22 requirements. The Secretary may require disclosure by a  
23 provider extending a specific offer of commercial financing  
24 which is not an open-end financing, closed-end financing,  
25 sales-based financing, or factoring transaction but otherwise



1 meets the definition of commercial financing. Subject to rules  
2 adopted by the Secretary, a provider subject to this Act shall  
3 provide the following disclosures to a recipient, in a manner  
4 prescribed by the Secretary, if any, at the time of extending a  
5 specific offer of other forms of financing:

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

10 (2) The finance charge.

11 (3) The annual percentage rate, using only the words  
12 annual percentage rate or the abbreviation "APR",  
13 expressed as a yearly rate, inclusive of any fees and  
14 finance charges.

15 (4) The total repayment amount which is the  
16 disbursement amount plus the finance charge.

17 (5) The term of the financing.

18 (6) The payment amounts:

19 (A) for payment amounts that are fixed, the  
20 payment amounts and frequency, such as daily, weekly,  
21 monthly, and the average monthly payment amount; or

22 (B) for payment amounts that are variable, a  
23 payment schedule or a description of the method used  
24 to calculate the amounts and frequency of payments,  
25 and the estimated average monthly payment amount.

26 (7) A description of all other potential fees and

1 charges that can be avoided by the recipient, including,  
2 but not limited to, late payment fees and returned payment  
3 fees.

4 (8) If the recipient elects to pay off or refinance  
5 the commercial financing before full repayment, the  
6 provider shall disclose:

7 (A) whether the recipient would be required to pay  
8 any finance charges other than interest accrued since  
9 their last payment; if so, disclosure of the  
10 percentage of any unpaid portion of the finance charge  
11 and maximum dollar amount the recipient could be  
12 required to pay; and

13 (B) whether the recipient would be required to pay  
14 any additional fees not already included in the  
15 finance charge.

16 (9) A description of collateral requirements or  
17 security interests, if any.

18 Section 81. Disclosure requirements for renewal financing.  
19 If, as a condition of obtaining the commercial financing, the  
20 provider requires the recipient to pay off the balance of an  
21 existing commercial financing from the same provider, the  
22 provider shall disclose:

23 (1) The amount of the new commercial financing that is  
24 used to pay off the portion of the existing commercial  
25 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, the 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 charges 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, the  
17 actual dollar amount by which the disbursement amount will  
18 be reduced.

19 Section 82. Additional information. Nothing in this Act  
20 shall prevent a provider from providing or disclosing  
21 additional information on a commercial financing being offered  
22 to a recipient, provided however, that the additional  
23 information shall not be disclosed as part of the disclosure  
24 required by this Act. If other metrics of financing cost are  
25 disclosed or used in the application process of a commercial

1 financing, these metrics shall not be presented as a "rate" if  
2 they are not the annual interest rate or the annual percentage  
3 rate. The term "interest", when used to describe a percentage  
4 rate, shall only be used to describe annualized percentage  
5 rates, such as the annual interest rate. When a provider  
6 states a rate of finance charge or a financing amount to a  
7 recipient during an application process for commercial  
8 financing, the provider shall also state the rate as an  
9 "annual percentage rate", using that term or the abbreviation  
10 "APR".

11 Section 83. Violation of disclosure requirements. If the  
12 Secretary finds that a provider who is required to obtain a  
13 license according to this Act has violated any disclosure  
14 requirements outlined in Sections 76 through 82, that shall be  
15 considered a violation of this Act separate from any other  
16 violation that may result from operating without a license as  
17 outlined in Section 20.

18 Section 84. Suspension; revocation of licenses; civil  
19 penalties and other discipline.

20 (a) The Secretary may enter an order imposing one or more  
21 of the following penalties:

22 (1) revocation of license;

23 (2) suspension of a license subject to reinstatement  
24 upon satisfying all reasonable conditions the Secretary

1 may specify;

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

5 (4) issuance of a reprimand;

6 (5) imposition of civil monetary penalties as follows:

7 (A) a civil penalty not to exceed \$10,000 for each  
8 separate offense, but civil penalties may not to  
9 exceed \$50,000 for all violations arising from the use  
10 of the same transaction documents or materials,  
11 including for financing offers that are not  
12 consummated; and

13 (B) if a person violates this Act after receiving  
14 written notice of a prior violation, a civil penalty  
15 may be imposed not to exceed \$10,000 for each count of  
16 separate offense, but the civil penalties are not to  
17 exceed \$100,000 for all violations arising from the  
18 use of the same transaction documents or materials,  
19 including for financing offers that are not  
20 consummated;

21 (6) restitution, refunds, or any other relief  
22 necessary to protect consumers; and

23 (7) denial of a license.

24 (b) Grounds for penalties include:

25 (1) if a person has violated or aided another to  
26 violate, any provisions of this Act, any rule adopted by

1 the Secretary, or any other law, rule, or regulation of  
2 this State, any other state, or the United States;

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

7 (3) that a licensee that is not an individual has  
8 acted or failed to act in a way that would be cause for  
9 suspending or revoking a license to an individual;

10 (4) that a person engaged in unsafe, unsound, unfair,  
11 deceptive, or abusive business practices related to the  
12 activity covered by this Act;

13 (5) that a person has been adjudicated guilty of a  
14 crime against the law of this State, any other state, or of  
15 the United States involving moral turpitude, abusive,  
16 deceptive, fraudulent, or dishonest dealing;

17 (6) that a final judgment has been entered against a  
18 person in a civil action upon grounds of abusive conduct,  
19 conversion, fraud, misrepresentation, or deceit;

20 (7) that a person made a material misstatement in its  
21 application for licensure or any other communication to  
22 the Secretary;

23 (8) that a person has demonstrated, by course of  
24 conduct, negligence or incompetence in performing any act  
25 for which it is required to hold a license under this Act;

26 (9) that a person has failed to advise the Secretary

1 in writing of any changes to the information submitted on  
2 their most recent application for license within 30 days  
3 after the change;

4 (10) that a licensee failed to submit to periodic  
5 examination by the Secretary as required by this Act or  
6 failed to maintain, preserve, and keep available for  
7 examination all books, accounts, or other documents  
8 required by the provisions of this Act and rules of the  
9 Secretary;

10 (11) that a person failed to account or deliver to any  
11 person any property, such as any money, fund, deposit,  
12 check, draft, or other document or thing of value, that  
13 has come into its hands and that is not its property or  
14 that it is not in law or equity entitled to retain, under  
15 the circumstances and at the time which has been agreed  
16 upon or is required by law or, in the absence of a fixed  
17 time, upon demand of the person for the accounting and  
18 delivery;

19 (12) that a person failed to disburse funds in  
20 accordance with agreements or law;

21 (13) that a person had a license, or the equivalent,  
22 to practice any profession, occupation, other industry or  
23 activity requiring licensure revoked, suspended,  
24 disciplined, or otherwise acted against, including the  
25 denial of licensure by a licensing authority of this State  
26 or another state, territory, or country for fraud,

1       dishonest dealing, misrepresentations, incompetence,  
2       conversion, any act of moral turpitude or any other  
3       grounds that would constitute grounds for discipline under  
4       this Act;

5           (14) that a person licensed under this Act failed to  
6       timely notify the Department that the person has been  
7       disciplined, including denial of licensure, by a licensing  
8       authority of this State or another state. Timely  
9       notification shall be notification to the Department  
10      within 10 days after entry of discipline;

11          (15) that a person engaged in activities regulated by  
12      this Act without a current, active license unless  
13      specifically exempted by this Act;

14          (16) that a person failed to timely pay any fee,  
15      charge, or civil penalty assessed under this Act; and

16          (17) that a person refused, obstructed, evaded, or  
17      unreasonably delayed an investigation, information  
18      request, or examination authorized under this Act, or  
19      refused, obstructed, evaded, or unreasonably delayed  
20      compliance with the Secretary's subpoena or subpoena duces  
21      tecum.

22          (c) No license shall be suspended or revoked, except as  
23      provided in this Section, nor shall any licensee be assessed a  
24      civil penalty without notice of his or her right to a hearing.

25          (d) The Secretary may suspend any license for a period not  
26      exceeding 180 days pending investigation for good cause shown



1 that an emergency exists.

2 (e) No revocation, suspension, or surrender of any license  
3 shall impair or affect the obligation of any preexisting  
4 lawful contract between the licensee and any person. The  
5 Secretary's approval of a licensee's application to surrender  
6 its license shall not affect the licensee's civil or criminal  
7 liability for acts committed prior to surrender. Surrender of  
8 a license does not entitle the licensee to a return of any part  
9 of the license fee.

10 (f) Every license issued under this Act shall remain in  
11 force and effect until the license expires, is surrendered, is  
12 revoked, or is suspended in accordance with the provisions of  
13 this Act. The Secretary shall have authority to reinstate a  
14 suspended license or to issue a new license to a licensee whose  
15 license has been revoked or surrendered if no fact or  
16 condition then exists which would have warranted the Secretary  
17 in refusing originally to issue that license under this Act.

18 (g) Whenever the Secretary imposes discipline authorized  
19 by this Section, the Secretary shall execute a written order  
20 to that effect. The Secretary shall serve a copy of the order  
21 upon the person. The Secretary shall serve the person with  
22 notice of the order, including a statement of the reasons for  
23 the order personally or by certified mail. Service by  
24 certified mail shall be deemed completed when the notice is  
25 deposited in the U.S. Mail.

26 (h) An order assessing a civil penalty, an order revoking

1 or suspending a license, or an order denying renewal of a  
2 license shall take effect upon service of the order unless the  
3 licensee serves the Department with a written request for a  
4 hearing in the manner required by the order within 10 days  
5 after the date of service of the order. If a person requests a  
6 hearing, the order shall be stayed from its date of service  
7 until the Department enters a final administrative order.  
8 Hearings shall be conducted as follows:

9 (1) If the licensee requests a hearing, then the  
10 Secretary shall schedule a hearing within 90 days after  
11 the request for a hearing unless otherwise agreed to by  
12 the parties.

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

21 (i) The costs of administrative hearings conducted under  
22 this Section shall be paid by the licensee or other person  
23 subject to the hearing.

24 (j) A licensee and other persons subject to this Act shall  
25 be subject to the disciplinary actions specified in this Act  
26 for any violations conducted by any officer, director,

1 shareholder, joint venture, partner, owner, including, but not  
2 limited to, ultimate equitable owner.

3 Section 85. Investigation of complaints. The Secretary may  
4 investigate any complaints and inquiries made concerning this  
5 Act and any licensees or persons the Secretary believes may  
6 require a license under this Act. Each licensee or person the  
7 Secretary believes may require a license under this Act shall  
8 open the licensee's or person's books, records, documents, and  
9 offices wherever situated to the Secretary as needed to  
10 facilitate the investigations.

11 Section 90. Additional investigation and examination  
12 authority. In addition to any authority allowed under this  
13 Act, the Secretary may conduct investigations and examinations  
14 as follows:

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

23 (A) criminal, civil, licensure, and administrative  
24 history information, including nonconviction data as

1 specified in the Criminal Code of 2012; (B) personal  
2 history and experience information, including  
3 independent credit reports obtained from a consumer  
4 reporting agency described in Section 603(p) of the  
5 federal Fair Credit Reporting Act; and (C) any other  
6 documents, information, or evidence the Secretary  
7 deems relevant to the inquiry or investigation,  
8 regardless of the location, possession, control, or  
9 custody of the documents, information, or evidence.

10 (2) For the purposes of investigating violations or  
11 complaints arising under this Act or for the purposes of  
12 examination, the Secretary may review, investigate, or  
13 examine any licensee, individual, or person subject to  
14 this Act as often as necessary in order to carry out the  
15 purposes of this Act. The Secretary may direct, subpoena,  
16 or order the attendance of, and examine under oath all  
17 persons and order any person to produce records, files,  
18 and any other documents the Secretary deems relevant to an  
19 inquiry.

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

1 to this Act.

2 (4) Each person subject to this Act shall make or  
3 compile reports or prepare other information as directed  
4 by the Secretary to carry out the purposes of this  
5 Section, including, but not limited to:

6 (A) accounting compilations;

7 (B) information lists and data concerning  
8 transactions in a format prescribed by the Secretary;  
9 or

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

12 (5) In making any examination or investigation  
13 authorized by this Act, the Secretary may control access  
14 to any documents and records of the licensee or person  
15 under examination or investigation. The Secretary may take  
16 possession of the documents and records or otherwise take  
17 constructive control of the documents. During the period  
18 of control, no person shall remove or alter any of the  
19 documents or records, except pursuant to a court order or  
20 with the consent of the Secretary. Unless the Secretary  
21 has reasonable grounds to believe the documents or records  
22 of the licensee have been or are at risk of being altered  
23 or destroyed for purposes of concealing a violation of  
24 this Act, the licensee or owner of the documents and  
25 records shall have access to the documents or records as  
26 necessary to conduct its ordinary business affairs.

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

3           (A) retain attorneys, accountants, or other  
4 professionals and specialists as examiners, auditors,  
5 or investigators to conduct or assist in the conduct  
6 of examinations or investigations;

7           (B) enter into agreements or relationships with  
8 other government officials or regulatory associations  
9 to protect consumers, improve efficiencies, and reduce  
10 regulatory burden by sharing resources, standardized  
11 or uniform methods or procedures, and documents,  
12 records, information, or evidence obtained under this  
13 Section;

14           (C) use, hire, contract, or employ publicly or  
15 privately available analytical systems, methods, or  
16 software to examine or investigate the licensee,  
17 individual, or person subject to this Act;

18           (D) accept and rely on examination or  
19 investigation reports made by other government  
20 officials, within or outside this State; or

21           (E) accept audit reports made by an independent  
22 certified public accountant for the person subject to  
23 this Act and may incorporate the audit report in the  
24 report of the examination, report of investigation, or  
25 other writing of the Secretary.

26           (7) The authority of this Section shall remain in

1 effect, whether the person subject to this Act acts or  
2 claims to act under any licensing or registration law of  
3 this State or claims to act without the authority.

4 (8) No licensee or person subject to investigation or  
5 examination under this Section may knowingly withhold,  
6 alter, abstract, remove, mutilate, destroy, hide, or  
7 conceal any books, records, computer records, or other  
8 information or take actions designed to delay or  
9 complicate review of records.

10 Section 95. Confidentiality. To promote more effective  
11 regulation, protect consumers, and reduce regulatory burden  
12 through inter-regulatory sharing of confidential supervisory  
13 information:

14 (1) The privacy or confidentiality of any information  
15 or material provided to a multistate licensing system,  
16 including all privileges arising under federal or state  
17 court rules and law, shall continue to apply to the  
18 information or material after the information or material  
19 has been disclosed to the multistate licensing system.  
20 Information and material may be shared with a multistate  
21 licensing system, federal and state regulatory officials  
22 with relevant oversight authority, and law enforcement  
23 without the loss of privilege or the loss of  
24 confidentiality protections.

25 (2) The Secretary is authorized to enter into

1 agreements or sharing arrangements with other governmental  
2 agencies, the Conference of State Bank Supervisors, and  
3 other associations representing governmental agencies.

4 (3) Information or material that is privileged or  
5 confidential under this Act as determined by the Secretary  
6 is not subject to the following:

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

10 (B) subpoena, discovery, or admission into  
11 evidence, in any private civil action or  
12 administrative process except as authorized by the  
13 Secretary.

14 (4) Any other law relating to the disclosure of  
15 confidential supervisory information that is inconsistent  
16 with this Act shall be superseded by the requirements of  
17 this Section to the extent the other law provides less  
18 confidentiality or a weaker privilege for information that  
19 is privileged or confidential under this Act.

20 (5) Confidential or privileged information received  
21 from a multistate licensing system, another licensing  
22 body, federal and state regulatory officials, or law  
23 enforcement shall be protected to the same extent as the  
24 Secretary's confidential and privileged information is  
25 protected under this Act. The Secretary may also protect  
26 from disclosure confidential or privileged information



1           that would be exempt from disclosure to the extent it is  
2           held directly by the multistate licensing system, another  
3           licensing body, federal and state regulatory officials, or  
4           law enforcement.

5           Section 100. Appeal and review.

6           (a) The Secretary may, in accordance with the Illinois  
7           Administrative Procedure Act, adopt rules to provide for  
8           review within the Department of their decisions affecting the  
9           rights of persons under this Act. The review shall provide  
10          for, at a minimum:

11                 (1) appointment of a hearing officer;

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

14                 (3) provisions for apportioning costs among parties to  
15                 the appeal.

16          (b) All final agency determinations of appeals to  
17          decisions of the Secretary may be reviewed in accordance with  
18          and under the provisions of the Administrative Review Law.  
19          Appeals from all final orders and judgments entered by a court  
20          in review of any final administrative decision of the  
21          Secretary or of any final agency review of a decision of the  
22          Secretary may be taken as in other civil cases.

23          Section 105. Licensure fees.

24          (a) The fee for initial licensure is \$2,500. The fee is

1 nonrefundable.

2 (b) The fee for annual application renewal is \$2,500. The  
3 fee is nonrefundable.

4 (c) The Department shall impose a contingent fee  
5 sufficient to cover its operating expenses in administering  
6 this Act not otherwise covered by all other revenue collected  
7 under this Act. Each licensee shall pay to the Division its pro  
8 rata share, based on number or volume of transactions or  
9 revenue, of the cost for administration of this Act that  
10 exceeds other fees listed in this Section, as estimated by the  
11 Division, for the current year and any deficit actually  
12 incurred in the administration of this Act in prior years.

13 Section 110. Cease and desist order.

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

24 (b) The Secretary shall serve notice of the cease and  
25 desist order, either personally or by certified mail. Service

1 by certified mail shall be deemed completed when the notice is  
2 deposited in the U.S. Mail. The Secretary's notice shall  
3 include a statement of the reasons for the action.

4 (c) Within 10 days after service of the cease and desist  
5 order, the person subject to the cease and desist order may  
6 request a hearing in writing. The Secretary shall schedule a  
7 preliminary hearing within 60 days after the request for a  
8 hearing unless the parties agree to a later date.

9 (d) If it is determined that the Secretary had the  
10 authority to issue the cease and desist order, the Secretary  
11 may issue the orders as may be reasonably necessary to  
12 correct, eliminate, deter, or remedy the conduct described in  
13 the order and resulting harms.

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

21 Section 115. Injunctions. The Secretary may maintain an  
22 action in the name of the people of the State of Illinois and  
23 may apply for an injunction in the circuit court to enjoin a  
24 person from violating this Act or its implementing rules  
25 through the Attorney General.

1 Section 120. Exemptions. This Act does not apply to, and  
2 does not place any additional requirements or obligations  
3 upon, any of the following:

4 (1) any person or entity is not a provider;

5 (2) a commercial financing transaction secured by real  
6 property;

7 (3) a lease as defined in Section 2-A-103 of the  
8 Uniform Commercial Code, not including finance leases as  
9 defined in paragraph (g) of subsection (1) of Section  
10 2A-103 of the Uniform Commercial Code; or

11 (4) any person or Provider who makes no more than 5  
12 commercial financing transactions in this State in a  
13 12-month period;

14 (5) a single, discrete commercial financing  
15 transaction in an amount over \$2,500,000; or

16 (6) a commercial financing transaction in which the  
17 recipient is a vehicle dealer subject to Section 5-101 or  
18 5-102 of the Illinois Vehicle Code, an affiliate of a  
19 dealer, a rental vehicle company as defined in Section 10  
20 of the Renter's Financial Responsibility and Protection  
21 Act, or an affiliate of a company under a commercial  
22 financing agreement or commercial open-end credit plan of  
23 at least \$50,000, including any commercial loan made under  
24 a commercial financing transaction.

1           Section 125. Complaint disclosure. All commercial  
2 financing shall include a clear and conspicuous notice on how  
3 to file a complaint with the Department.

4           Section 130. Rules. The Secretary may adopt rules to enact  
5 and enforce this Act, including, but not limited to:

6           (1) rules defining the terms used in this Act and as  
7 may be necessary and appropriate to interpret and  
8 implement the provisions of this Act;

9           (2) rules for the enforcement and administration of  
10 this Act;

11           (3) rules for the protection of consumers and  
12 recipients in this State;

13           (4) rules defining improper or fraudulent business  
14 practices in connection with commercial financing;

15           (5) rules charging and collecting fees necessary to  
16 cover the costs of administering this Act, including, but  
17 not limited to registration, investigation, and  
18 examination fees; and

19           (6) rules to implement Section 155.

20           Section 135. Violations.

21           (a) Nothing in this Act shall be construed to restrict the  
22 exercise of powers or the performance of the duties that the  
23 Attorney General is authorized to exercise or perform by law.

24           (b) Any violation of this Act constitutes an unlawful

1 practice in violation of the Consumer Fraud and Deceptive  
2 Business Practices Act. The Attorney General may enforce a  
3 violation of this Act as an unlawful practice under the  
4 Consumer Fraud and Deceptive Business Practices Act.

5 Section 140. Beginning of licensure. No person shall be  
6 required to apply for or obtain a license under this Act before  
7 the date established by the Department by rule. The date shall  
8 not be before January 1, 2025.

9 Section 145. Beginning of disclosure requirements. No  
10 person shall be required to comply with the disclosure  
11 requirements set forth in Section 155 before the date  
12 established by the Department by rule. The date shall not be  
13 before January 1, 2025.

14 Section 155. Commercial financing database.

15 (a) A commercial financing database program is established  
16 within the Department. The program shall be administered in  
17 accordance with this Section. None of the duties, obligations,  
18 contingencies, or consequences of or from the program shall be  
19 imposed until 6 months after the Department certifies a  
20 commercial financing database under subsection (b). The  
21 program shall apply to all commercial financings that are  
22 governed by this Act and that are made or taken on or after the  
23 inception of the program.

1           (b) The Department shall certify that a commercial  
2 financing database is a commercially reasonable method of  
3 reporting. Upon certifying that a commercial financing  
4 database is a commercially reasonable method of reporting, the  
5 Department shall:

6           (1) provide reasonable notice to all licensees  
7 identifying the commercially reasonable method of  
8 reporting that is available; and

9           (2) immediately upon certification, require each  
10 licensee to use a commercially reasonable method of  
11 reporting as a means of complying with subsection (d) of  
12 this Section.

13           (c) The database created under this program shall be  
14 maintained and administered by the Department. The database  
15 shall be designed to allow providers to submit information to  
16 the database online. The database shall not be designed to  
17 allow providers to retrieve information from the database,  
18 except as otherwise provided in this Act.

19           (d) Within 30 days after providing funds to a recipient,  
20 the provider shall submit to the commercial financing database  
21 the information delineated in this subsection, if applicable  
22 to the financing. If at the time funds are provided to a  
23 recipient, certain information delineated in this subsection  
24 is not known, the provider shall submit the information to the  
25 commercial financing database within 30 days after the  
26 information becoming ascertainable:

- 1 (1) FEIN for the recipient;
- 2 (2) zip code of the recipient;
- 3 (3) origination date of the commercial financing;
- 4 (4) description of collateral, if any, securing  
5 commercial financing;
- 6 (5) term, if any, of the commercial financing at the  
7 time of origination;
- 8 (6) in the case of commercial financing without a  
9 specific term at the time of origination, the actual term  
10 of the commercial financing when known;
- 11 (7) financing amount, if applicable;
- 12 (8) maximum amount of credit made available to  
13 recipient, if applicable;
- 14 (9) the amount of the receivables purchase price paid  
15 to the recipient and, if different from the purchase  
16 price, the amount disbursed to the recipient after any  
17 amount deducted or withheld at disbursement, if  
18 applicable;
- 19 (10) the amount scheduled to be drawn by the recipient  
20 at the time the offer is extended, if applicable;
- 21 (11) all fees charged to the recipient at or before  
22 the origination date of the commercial financing;
- 23 (12) all fees, charges, and interest scheduled to be  
24 charged over the term of the commercial financing, if  
25 applicable;
- 26 (13) all fees, charges, and interest scheduled to be



1 charged during any month in which the recipient has a  
2 balance on an open-end commercial financing, if  
3 applicable; and

4 (14) the APR or Estimated APR, if required by the  
5 Department; and

6 (15) all other information requested by the  
7 Department.

8 (e) All personally identifiable information and  
9 information identifying the identity of a recipient obtained  
10 by way of the commercial financing database is strictly  
11 confidential and shall be exempt from disclosure under the  
12 Freedom of Information Act and any other law or regulation  
13 pertaining to the disclosure of information or documents. The  
14 Department may, by rule, identify any additional categories of  
15 information the disclosure of which would be contrary to the  
16 public interest. Any request for production of information  
17 from the commercial financing database, whether by subpoena,  
18 notice, or any other source, shall be referred to the  
19 Department. Any recipient may authorize in writing the release  
20 of database information. The Department may use the  
21 information in the database without the consent of the  
22 recipient or the licensee:

23 (1) for the purposes of administering and enforcing  
24 the program;

25 (2) to prepare industry-level reports;

26 (3) to provide information to the appropriate law

1 enforcement agency or the applicable administrative or  
2 regulatory agency with a legitimate interest in the  
3 information as determined by the Secretary;

4 (4) as required to comply with applicable law; or

5 (5) in any other manner that the Secretary deems is  
6 not contrary to the public interest.

7 (f) A licensee who submits information to a certified  
8 database provider in accordance with this Section shall not be  
9 liable to any person for any subsequent release or disclosure  
10 of that information by the certified database provider, the  
11 Department, or any other person acquiring possession of the  
12 information, regardless of whether the subsequent release or  
13 disclosure was lawful, authorized, or intentional.

14 (g) In certifying a commercially reasonable method of  
15 reporting, the Department shall ensure that the commercial  
16 financing database:

17 (1) provides real-time access through an Internet  
18 connection;

19 (2) is accessible to the Department and to licensees  
20 in order to ensure compliance with this Act and in order to  
21 provide any other information that the Department deems  
22 necessary;

23 (3) requires licensees to input whatever information  
24 is required by the Department;

25 (4) maintains a real-time copy of the required  
26 reporting information that is available to the Department

1 at all times and is the property of the Department; and

2 (5) contains safeguards to ensure that all information  
3 contained in the database regarding consumers is kept  
4 strictly confidential.

5 (h) The certified commercial financing database may charge  
6 a fee to a licensee not to exceed \$1 for each financing entered  
7 into the database. The certified commercial financing database  
8 shall not charge any additional fees or charges.

9 (i) The certified commercial financing database provider  
10 shall produce an annual report for the Department using the  
11 data submitted by licensees to the database. The Department  
12 may publish this report to the public.

13 Section 160. Severability. The provisions of this Act are  
14 severable under Section 1.31 of the Statute on Statutes.

15 Section 900. The Freedom of Information Act is amended by  
16 changing Section 7.5 as follows:

17 (5 ILCS 140/7.5)

18 (Text of Section before amendment by P.A. 103-472)

19 Sec. 7.5. Statutory exemptions. To the extent provided for  
20 by the statutes referenced below, the following shall be  
21 exempt from inspection and copying:

22 (a) All information determined to be confidential  
23 under Section 4002 of the Technology Advancement and

1 Development Act.

2 (b) Library circulation and order records identifying  
3 library users with specific materials under the Library  
4 Records Confidentiality Act.

5 (c) Applications, related documents, and medical  
6 records received by the Experimental Organ Transplantation  
7 Procedures Board and any and all documents or other  
8 records prepared by the Experimental Organ Transplantation  
9 Procedures Board or its staff relating to applications it  
10 has received.

11 (d) Information and records held by the Department of  
12 Public Health and its authorized representatives relating  
13 to known or suspected cases of sexually transmissible  
14 disease or any information the disclosure of which is  
15 restricted under the Illinois Sexually Transmissible  
16 Disease Control Act.

17 (e) Information the disclosure of which is exempted  
18 under Section 30 of the Radon Industry Licensing Act.

19 (f) Firm performance evaluations under Section 55 of  
20 the Architectural, Engineering, and Land Surveying  
21 Qualifications Based Selection Act.

22 (g) Information the disclosure of which is restricted  
23 and exempted under Section 50 of the Illinois Prepaid  
24 Tuition Act.

25 (h) Information the disclosure of which is exempted  
26 under the State Officials and Employees Ethics Act, and

1 records of any lawfully created State or local inspector  
2 general's office that would be exempt if created or  
3 obtained by an Executive Inspector General's office under  
4 that Act.

5 (i) Information contained in a local emergency energy  
6 plan submitted to a municipality in accordance with a  
7 local emergency energy plan ordinance that is adopted  
8 under Section 11-21.5-5 of the Illinois Municipal Code.

9 (j) Information and data concerning the distribution  
10 of surcharge moneys collected and remitted by carriers  
11 under the Emergency Telephone System Act.

12 (k) Law enforcement officer identification information  
13 or driver identification information compiled by a law  
14 enforcement agency or the Department of Transportation  
15 under Section 11-212 of the Illinois Vehicle Code.

16 (l) Records and information provided to a residential  
17 health care facility resident sexual assault and death  
18 review team or the Executive Council under the Abuse  
19 Prevention Review Team Act.

20 (m) Information provided to the predatory lending  
21 database created pursuant to Article 3 of the Residential  
22 Real Property Disclosure Act, except to the extent  
23 authorized under that Article.

24 (n) Defense budgets and petitions for certification of  
25 compensation and expenses for court appointed trial  
26 counsel as provided under Sections 10 and 15 of the

1 Capital Crimes Litigation Act (repealed). This subsection  
2 (n) shall apply until the conclusion of the trial of the  
3 case, even if the prosecution chooses not to pursue the  
4 death penalty prior to trial or sentencing.

5 (o) Information that is prohibited from being  
6 disclosed under Section 4 of the Illinois Health and  
7 Hazardous Substances Registry Act.

8 (p) Security portions of system safety program plans,  
9 investigation reports, surveys, schedules, lists, data, or  
10 information compiled, collected, or prepared by or for the  
11 Department of Transportation under Sections 2705-300 and  
12 2705-616 of the Department of Transportation Law of the  
13 Civil Administrative Code of Illinois, the Regional  
14 Transportation Authority under Section 2.11 of the  
15 Regional Transportation Authority Act, or the St. Clair  
16 County Transit District under the Bi-State Transit Safety  
17 Act (repealed).

18 (q) Information prohibited from being disclosed by the  
19 Personnel Record Review Act.

20 (r) Information prohibited from being disclosed by the  
21 Illinois School Student Records Act.

22 (s) Information the disclosure of which is restricted  
23 under Section 5-108 of the Public Utilities Act.

24 (t) (Blank).

25 (u) Records and information provided to an independent  
26 team of experts under the Developmental Disability and

1 Mental Health Safety Act (also known as Brian's Law).

2 (v) Names and information of people who have applied  
3 for or received Firearm Owner's Identification Cards under  
4 the Firearm Owners Identification Card Act or applied for  
5 or received a concealed carry license under the Firearm  
6 Concealed Carry Act, unless otherwise authorized by the  
7 Firearm Concealed Carry Act; and databases under the  
8 Firearm Concealed Carry Act, records of the Concealed  
9 Carry Licensing Review Board under the Firearm Concealed  
10 Carry Act, and law enforcement agency objections under the  
11 Firearm Concealed Carry Act.

12 (v-5) Records of the Firearm Owner's Identification  
13 Card Review Board that are exempted from disclosure under  
14 Section 10 of the Firearm Owners Identification Card Act.

15 (w) Personally identifiable information which is  
16 exempted from disclosure under subsection (g) of Section  
17 19.1 of the Toll Highway Act.

18 (x) Information which is exempted from disclosure  
19 under Section 5-1014.3 of the Counties Code or Section  
20 8-11-21 of the Illinois Municipal Code.

21 (y) Confidential information under the Adult  
22 Protective Services Act and its predecessor enabling  
23 statute, the Elder Abuse and Neglect Act, including  
24 information about the identity and administrative finding  
25 against any caregiver of a verified and substantiated  
26 decision of abuse, neglect, or financial exploitation of

1 an eligible adult maintained in the Registry established  
2 under Section 7.5 of the Adult Protective Services Act.

3 (z) Records and information provided to a fatality  
4 review team or the Illinois Fatality Review Team Advisory  
5 Council under Section 15 of the Adult Protective Services  
6 Act.

7 (aa) Information which is exempted from disclosure  
8 under Section 2.37 of the Wildlife Code.

9 (bb) Information which is or was prohibited from  
10 disclosure by the Juvenile Court Act of 1987.

11 (cc) Recordings made under the Law Enforcement  
12 Officer-Worn Body Camera Act, except to the extent  
13 authorized under that Act.

14 (dd) Information that is prohibited from being  
15 disclosed under Section 45 of the Condominium and Common  
16 Interest Community Ombudsperson Act.

17 (ee) Information that is exempted from disclosure  
18 under Section 30.1 of the Pharmacy Practice Act.

19 (ff) Information that is exempted from disclosure  
20 under the Revised Uniform Unclaimed Property Act.

21 (gg) Information that is prohibited from being  
22 disclosed under Section 7-603.5 of the Illinois Vehicle  
23 Code.

24 (hh) Records that are exempt from disclosure under  
25 Section 1A-16.7 of the Election Code.

26 (ii) Information which is exempted from disclosure



1 under Section 2505-800 of the Department of Revenue Law of  
2 the Civil Administrative Code of Illinois.

3 (jj) Information and reports that are required to be  
4 submitted to the Department of Labor by registering day  
5 and temporary labor service agencies but are exempt from  
6 disclosure under subsection (a-1) of Section 45 of the Day  
7 and Temporary Labor Services Act.

8 (kk) Information prohibited from disclosure under the  
9 Seizure and Forfeiture Reporting Act.

10 (ll) Information the disclosure of which is restricted  
11 and exempted under Section 5-30.8 of the Illinois Public  
12 Aid Code.

13 (mm) Records that are exempt from disclosure under  
14 Section 4.2 of the Crime Victims Compensation Act.

15 (nn) Information that is exempt from disclosure under  
16 Section 70 of the Higher Education Student Assistance Act.

17 (oo) Communications, notes, records, and reports  
18 arising out of a peer support counseling session  
19 prohibited from disclosure under the First Responders  
20 Suicide Prevention Act.

21 (pp) Names and all identifying information relating to  
22 an employee of an emergency services provider or law  
23 enforcement agency under the First Responders Suicide  
24 Prevention Act.

25 (qq) Information and records held by the Department of  
26 Public Health and its authorized representatives collected

1 under the Reproductive Health Act.

2 (rr) Information that is exempt from disclosure under  
3 the Cannabis Regulation and Tax Act.

4 (ss) Data reported by an employer to the Department of  
5 Human Rights pursuant to Section 2-108 of the Illinois  
6 Human Rights Act.

7 (tt) Recordings made under the Children's Advocacy  
8 Center Act, except to the extent authorized under that  
9 Act.

10 (uu) Information that is exempt from disclosure under  
11 Section 50 of the Sexual Assault Evidence Submission Act.

12 (vv) Information that is exempt from disclosure under  
13 subsections (f) and (j) of Section 5-36 of the Illinois  
14 Public Aid Code.

15 (ww) Information that is exempt from disclosure under  
16 Section 16.8 of the State Treasurer Act.

17 (xx) Information that is exempt from disclosure or  
18 information that shall not be made public under the  
19 Illinois Insurance Code.

20 (yy) Information prohibited from being disclosed under  
21 the Illinois Educational Labor Relations Act.

22 (zz) Information prohibited from being disclosed under  
23 the Illinois Public Labor Relations Act.

24 (aaa) Information prohibited from being disclosed  
25 under Section 1-167 of the Illinois Pension Code.

26 (bbb) Information that is prohibited from disclosure

1 by the Illinois Police Training Act and the Illinois State  
2 Police Act.

3 (ccc) Records exempt from disclosure under Section  
4 2605-304 of the Illinois State Police Law of the Civil  
5 Administrative Code of Illinois.

6 (ddd) Information prohibited from being disclosed  
7 under Section 35 of the Address Confidentiality for  
8 Victims of Domestic Violence, Sexual Assault, Human  
9 Trafficking, or Stalking Act.

10 (eee) Information prohibited from being disclosed  
11 under subsection (b) of Section 75 of the Domestic  
12 Violence Fatality Review Act.

13 (fff) Images from cameras under the Expressway Camera  
14 Act. This subsection (fff) is inoperative on and after  
15 July 1, 2025.

16 (ggg) Information prohibited from disclosure under  
17 paragraph (3) of subsection (a) of Section 14 of the Nurse  
18 Agency Licensing Act.

19 (hhh) Information submitted to the Illinois State  
20 Police in an affidavit or application for an assault  
21 weapon endorsement, assault weapon attachment endorsement,  
22 .50 caliber rifle endorsement, or .50 caliber cartridge  
23 endorsement under the Firearm Owners Identification Card  
24 Act.

25 (iii) Data exempt from disclosure under Section 50 of  
26 the School Safety Drill Act.

1            (jjj) ~~(hhh)~~ Information exempt from disclosure under  
2 Section 30 of the Insurance Data Security Law.

3            (kkk) ~~(iii)~~ Confidential business information  
4 prohibited from disclosure under Section 45 of the Paint  
5 Stewardship Act.

6            (lll) (Reserved).

7            (mmm) ~~(iii)~~ Information prohibited from being  
8 disclosed under subsection (e) of Section 1-129 of the  
9 Illinois Power Agency Act.

10           (nnn) Information exempt from disclosure under Section  
11 155 of the Consumer Protections for Small Business Act.

12 (Source: P.A. 102-36, eff. 6-25-21; 102-237, eff. 1-1-22;  
13 102-292, eff. 1-1-22; 102-520, eff. 8-20-21; 102-559, eff.  
14 8-20-21; 102-813, eff. 5-13-22; 102-946, eff. 7-1-22;  
15 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; 103-8, eff.  
16 6-7-23; 103-34, eff. 6-9-23; 103-142, eff. 1-1-24; 103-372,  
17 eff. 1-1-24; 103-508, eff. 8-4-23; 103-580, eff. 12-8-23;  
18 revised 1-2-24.)

19            (Text of Section after amendment by P.A. 103-472)

20            Sec. 7.5. Statutory exemptions. To the extent provided for  
21 by the statutes referenced below, the following shall be  
22 exempt from inspection and copying:

23            (a) All information determined to be confidential  
24 under Section 4002 of the Technology Advancement and  
25 Development Act.

1           (b) Library circulation and order records identifying  
2 library users with specific materials under the Library  
3 Records Confidentiality Act.

4           (c) Applications, related documents, and medical  
5 records received by the Experimental Organ Transplantation  
6 Procedures Board and any and all documents or other  
7 records prepared by the Experimental Organ Transplantation  
8 Procedures Board or its staff relating to applications it  
9 has received.

10          (d) Information and records held by the Department of  
11 Public Health and its authorized representatives relating  
12 to known or suspected cases of sexually transmissible  
13 disease or any information the disclosure of which is  
14 restricted under the Illinois Sexually Transmissible  
15 Disease Control Act.

16          (e) Information the disclosure of which is exempted  
17 under Section 30 of the Radon Industry Licensing Act.

18          (f) Firm performance evaluations under Section 55 of  
19 the Architectural, Engineering, and Land Surveying  
20 Qualifications Based Selection Act.

21          (g) Information the disclosure of which is restricted  
22 and exempted under Section 50 of the Illinois Prepaid  
23 Tuition Act.

24          (h) Information the disclosure of which is exempted  
25 under the State Officials and Employees Ethics Act, and  
26 records of any lawfully created State or local inspector

1 general's office that would be exempt if created or  
2 obtained by an Executive Inspector General's office under  
3 that Act.

4 (i) Information contained in a local emergency energy  
5 plan submitted to a municipality in accordance with a  
6 local emergency energy plan ordinance that is adopted  
7 under Section 11-21.5-5 of the Illinois Municipal Code.

8 (j) Information and data concerning the distribution  
9 of surcharge moneys collected and remitted by carriers  
10 under the Emergency Telephone System Act.

11 (k) Law enforcement officer identification information  
12 or driver identification information compiled by a law  
13 enforcement agency or the Department of Transportation  
14 under Section 11-212 of the Illinois Vehicle Code.

15 (l) Records and information provided to a residential  
16 health care facility resident sexual assault and death  
17 review team or the Executive Council under the Abuse  
18 Prevention Review Team Act.

19 (m) Information provided to the predatory lending  
20 database created pursuant to Article 3 of the Residential  
21 Real Property Disclosure Act, except to the extent  
22 authorized under that Article.

23 (n) Defense budgets and petitions for certification of  
24 compensation and expenses for court appointed trial  
25 counsel as provided under Sections 10 and 15 of the  
26 Capital Crimes Litigation Act (repealed). This subsection

1 (n) shall apply until the conclusion of the trial of the  
2 case, even if the prosecution chooses not to pursue the  
3 death penalty prior to trial or sentencing.

4 (o) Information that is prohibited from being  
5 disclosed under Section 4 of the Illinois Health and  
6 Hazardous Substances Registry Act.

7 (p) Security portions of system safety program plans,  
8 investigation reports, surveys, schedules, lists, data, or  
9 information compiled, collected, or prepared by or for the  
10 Department of Transportation under Sections 2705-300 and  
11 2705-616 of the Department of Transportation Law of the  
12 Civil Administrative Code of Illinois, the Regional  
13 Transportation Authority under Section 2.11 of the  
14 Regional Transportation Authority Act, or the St. Clair  
15 County Transit District under the Bi-State Transit Safety  
16 Act (repealed).

17 (q) Information prohibited from being disclosed by the  
18 Personnel Record Review Act.

19 (r) Information prohibited from being disclosed by the  
20 Illinois School Student Records Act.

21 (s) Information the disclosure of which is restricted  
22 under Section 5-108 of the Public Utilities Act.

23 (t) (Blank).

24 (u) Records and information provided to an independent  
25 team of experts under the Developmental Disability and  
26 Mental Health Safety Act (also known as Brian's Law).

1           (v) Names and information of people who have applied  
2           for or received Firearm Owner's Identification Cards under  
3           the Firearm Owners Identification Card Act or applied for  
4           or received a concealed carry license under the Firearm  
5           Concealed Carry Act, unless otherwise authorized by the  
6           Firearm Concealed Carry Act; and databases under the  
7           Firearm Concealed Carry Act, records of the Concealed  
8           Carry Licensing Review Board under the Firearm Concealed  
9           Carry Act, and law enforcement agency objections under the  
10          Firearm Concealed Carry Act.

11          (v-5) Records of the Firearm Owner's Identification  
12          Card Review Board that are exempted from disclosure under  
13          Section 10 of the Firearm Owners Identification Card Act.

14          (w) Personally identifiable information which is  
15          exempted from disclosure under subsection (g) of Section  
16          19.1 of the Toll Highway Act.

17          (x) Information which is exempted from disclosure  
18          under Section 5-1014.3 of the Counties Code or Section  
19          8-11-21 of the Illinois Municipal Code.

20          (y) Confidential information under the Adult  
21          Protective Services Act and its predecessor enabling  
22          statute, the Elder Abuse and Neglect Act, including  
23          information about the identity and administrative finding  
24          against any caregiver of a verified and substantiated  
25          decision of abuse, neglect, or financial exploitation of  
26          an eligible adult maintained in the Registry established



1 under Section 7.5 of the Adult Protective Services Act.

2 (z) Records and information provided to a fatality  
3 review team or the Illinois Fatality Review Team Advisory  
4 Council under Section 15 of the Adult Protective Services  
5 Act.

6 (aa) Information which is exempted from disclosure  
7 under Section 2.37 of the Wildlife Code.

8 (bb) Information which is or was prohibited from  
9 disclosure by the Juvenile Court Act of 1987.

10 (cc) Recordings made under the Law Enforcement  
11 Officer-Worn Body Camera Act, except to the extent  
12 authorized under that Act.

13 (dd) Information that is prohibited from being  
14 disclosed under Section 45 of the Condominium and Common  
15 Interest Community Ombudsperson Act.

16 (ee) Information that is exempted from disclosure  
17 under Section 30.1 of the Pharmacy Practice Act.

18 (ff) Information that is exempted from disclosure  
19 under the Revised Uniform Unclaimed Property Act.

20 (gg) Information that is prohibited from being  
21 disclosed under Section 7-603.5 of the Illinois Vehicle  
22 Code.

23 (hh) Records that are exempt from disclosure under  
24 Section 1A-16.7 of the Election Code.

25 (ii) Information which is exempted from disclosure  
26 under Section 2505-800 of the Department of Revenue Law of

1 the Civil Administrative Code of Illinois.

2 (jj) Information and reports that are required to be  
3 submitted to the Department of Labor by registering day  
4 and temporary labor service agencies but are exempt from  
5 disclosure under subsection (a-1) of Section 45 of the Day  
6 and Temporary Labor Services Act.

7 (kk) Information prohibited from disclosure under the  
8 Seizure and Forfeiture Reporting Act.

9 (ll) Information the disclosure of which is restricted  
10 and exempted under Section 5-30.8 of the Illinois Public  
11 Aid Code.

12 (mm) Records that are exempt from disclosure under  
13 Section 4.2 of the Crime Victims Compensation Act.

14 (nn) Information that is exempt from disclosure under  
15 Section 70 of the Higher Education Student Assistance Act.

16 (oo) Communications, notes, records, and reports  
17 arising out of a peer support counseling session  
18 prohibited from disclosure under the First Responders  
19 Suicide Prevention Act.

20 (pp) Names and all identifying information relating to  
21 an employee of an emergency services provider or law  
22 enforcement agency under the First Responders Suicide  
23 Prevention Act.

24 (qq) Information and records held by the Department of  
25 Public Health and its authorized representatives collected  
26 under the Reproductive Health Act.

1           (rr) Information that is exempt from disclosure under  
2 the Cannabis Regulation and Tax Act.

3           (ss) Data reported by an employer to the Department of  
4 Human Rights pursuant to Section 2-108 of the Illinois  
5 Human Rights Act.

6           (tt) Recordings made under the Children's Advocacy  
7 Center Act, except to the extent authorized under that  
8 Act.

9           (uu) Information that is exempt from disclosure under  
10 Section 50 of the Sexual Assault Evidence Submission Act.

11           (vv) Information that is exempt from disclosure under  
12 subsections (f) and (j) of Section 5-36 of the Illinois  
13 Public Aid Code.

14           (wv) Information that is exempt from disclosure under  
15 Section 16.8 of the State Treasurer Act.

16           (xx) Information that is exempt from disclosure or  
17 information that shall not be made public under the  
18 Illinois Insurance Code.

19           (yy) Information prohibited from being disclosed under  
20 the Illinois Educational Labor Relations Act.

21           (zz) Information prohibited from being disclosed under  
22 the Illinois Public Labor Relations Act.

23           (aaa) Information prohibited from being disclosed  
24 under Section 1-167 of the Illinois Pension Code.

25           (bbb) Information that is prohibited from disclosure  
26 by the Illinois Police Training Act and the Illinois State

1 Police Act.

2 (ccc) Records exempt from disclosure under Section  
3 2605-304 of the Illinois State Police Law of the Civil  
4 Administrative Code of Illinois.

5 (ddd) Information prohibited from being disclosed  
6 under Section 35 of the Address Confidentiality for  
7 Victims of Domestic Violence, Sexual Assault, Human  
8 Trafficking, or Stalking Act.

9 (eee) Information prohibited from being disclosed  
10 under subsection (b) of Section 75 of the Domestic  
11 Violence Fatality Review Act.

12 (fff) Images from cameras under the Expressway Camera  
13 Act. This subsection (fff) is inoperative on and after  
14 July 1, 2025.

15 (ggg) Information prohibited from disclosure under  
16 paragraph (3) of subsection (a) of Section 14 of the Nurse  
17 Agency Licensing Act.

18 (hhh) Information submitted to the Illinois State  
19 Police in an affidavit or application for an assault  
20 weapon endorsement, assault weapon attachment endorsement,  
21 .50 caliber rifle endorsement, or .50 caliber cartridge  
22 endorsement under the Firearm Owners Identification Card  
23 Act.

24 (iii) Data exempt from disclosure under Section 50 of  
25 the School Safety Drill Act.

26 (jjj) ~~(hhh)~~ Information exempt from disclosure under

1 Section 30 of the Insurance Data Security Law.

2 (kkk) ~~(iii)~~ Confidential business information  
3 prohibited from disclosure under Section 45 of the Paint  
4 Stewardship Act.

5 (lll) ~~(iii)~~ Data exempt from disclosure under Section  
6 2-3.196 of the School Code.

7 (mmm) ~~(iii)~~ Information prohibited from being  
8 disclosed under subsection (e) of Section 1-129 of the  
9 Illinois Power Agency Act.

10 (nnn) Information exempt from disclosure under Section  
11 155 of the Consumer Protections for Small Business Act.

12 (Source: P.A. 102-36, eff. 6-25-21; 102-237, eff. 1-1-22;  
13 102-292, eff. 1-1-22; 102-520, eff. 8-20-21; 102-559, eff.  
14 8-20-21; 102-813, eff. 5-13-22; 102-946, eff. 7-1-22;  
15 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; 103-8, eff.  
16 6-7-23; 103-34, eff. 6-9-23; 103-142, eff. 1-1-24; 103-372,  
17 eff. 1-1-24; 103-472, eff. 8-1-24; 103-508, eff. 8-4-23;  
18 103-580, eff. 12-8-23; revised 1-2-24.)

19 Section 905. The Consumer Fraud and Deceptive Business  
20 Practices Act is amended by adding Section 2EEEE as follows:

21 (815 ILCS 505/2EEEE new)

22 Sec. 2EEEE. Violations of the Consumer Protections for  
23 Small Business Act. Any person who violates the Consumer  
24 Protections for Small Business Act commits an unlawful

1 practice within the meaning of this Act.

2       Section 995. No acceleration or delay. Where this Act  
3 makes changes in a statute that is represented in this Act by  
4 text that is not yet or no longer in effect (for example, a  
5 Section represented by multiple versions), the use of that  
6 text does not accelerate or delay the taking effect of (i) the  
7 changes made by this Act or (ii) provisions derived from any  
8 other Public Act.

9       Section 999. Effective date. This Act takes effect upon  
10 becoming law.".