



Rep. David E. Miller

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LRB094 09280 MKM 43870 a

1 AMENDMENT TO HOUSE BILL 1100

2 AMENDMENT NO. _____. Amend House Bill 1100, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Article 1. General Provisions

6 Section 1-1. Short title. This Act may be cited as the
7 Payday Loan Reform Act.

8 Section 1-5. Purpose and construction. The purpose of this
9 Act is to protect consumers who enter into payday loans and to
10 regulate the lenders of payday loans. This Act shall be
11 construed as a consumer protection law for all purposes. This
12 Act shall be liberally construed to effectuate its purpose.

13 Section 1-10. Definitions. As used in this Act:

14 "Check" means a "negotiable instrument", as defined in
15 Article 3 of the Uniform Commercial Code, that is drawn on a
16 financial institution.

17 "Commercially reasonable method of verification" means a
18 consumer reporting service certified by the Division as
19 effective in verifying that a proposed loan agreement is
20 permissible under this Act, or, in the absence of the
21 Division's certification, any reasonably reliable written
22 verification by the consumer concerning (i) whether the

1 consumer has any outstanding payday loans, (ii) the principal
2 amount of those outstanding payday loans, and (iii) whether any
3 payday loans have been paid in full by the consumer in the
4 preceding 7 days.

5 "Consumer" means any natural person who, singly or jointly
6 with another consumer, enters into a loan.

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

9 "Director" means the Director of the Division of Financial
10 Institutions of the Department of Financial and Professional
11 Regulation.

12 "Gross monthly income" means monthly income as
13 demonstrated by official documentation of the income,
14 including, but not limited to, a pay stub or a receipt
15 reflecting payment of government benefits, for the period 30
16 days prior to the date on which the loan is made.

17 "Lender" and "licensee" mean any person or entity,
18 including any affiliate or subsidiary of a lender or licensee,
19 that offers or makes a payday loan, buys a whole or partial
20 interest in a payday loan, arranges a payday loan for a third
21 party, or acts as an agent for a third party in making a payday
22 loan, regardless of whether approval, acceptance, or
23 ratification by the third party is necessary to create a legal
24 obligation for the third party, and includes any other person
25 or entity if the Division determines that the person or entity
26 is engaged in a transaction that is in substance a disguised
27 payday loan or a subterfuge for the purpose of avoiding this
28 Act.

29 "Loan agreement" means a written agreement between a lender
30 and consumer to make a loan to the consumer, regardless of
31 whether any loan proceeds are actually paid to the consumer on
32 the date on which the loan agreement is made.

33 "Member of the military" means a person serving in the
34 armed forces of the United States, the Illinois National Guard,

1 or any reserve component of the armed forces of the United
2 States. "Member of the military" includes those persons engaged
3 in (i) active duty, (ii) training or education under the
4 supervision of the United States preliminary to induction into
5 military service, or (iii) a period of active duty with the
6 State of Illinois under Title 10 or Title 32 of the United
7 States Code pursuant to order of the President or the Governor
8 of the State of Illinois.

9 "Outstanding balance" means the total amount owed by the
10 consumer on a loan to a lender, including all principal,
11 finance charges, fees, and charges of every kind.

12 "Payday loan" or "loan" means a loan with a finance charge
13 exceeding an annual percentage rate of 36%, including any
14 transaction conducted via any medium whatsoever, including,
15 but not limited to, paper, facsimile, Internet, or telephone,
16 in which:

17 (1) A lender accepts one or more checks dated on the
18 date written and agrees to hold them for a period of days
19 before deposit or presentment, or accepts one or more
20 checks dated subsequent to the date written and agrees to
21 hold them for deposit. This item (1) does not apply to a
22 loan that has a loan term that exceeds 4 months.

23 (2) A lender accepts one or more authorizations to
24 debit a consumer's bank account. This item (2) does not
25 apply to a loan that has a loan term that exceeds 4 months.

26 (3) A lender accepts an interest in a consumer's wages.
27 This item (3) shall not apply to a wage garnishment
28 obtained pursuant to a court order or a loan that has a
29 total principal amount in excess of \$2,500.

30 "Principal amount" means the amount received by the
31 consumer from the lender due and owing on a loan, excluding any
32 finance charges, interest, fees, or other loan-related
33 charges.

34 "Rollover" means to refinance, renew, amend, or extend a

1 loan beyond its original term.

2 Section 1-15. Applicability.

3 (a) Except as otherwise provided in this Section, this Act
4 applies to any lender that offers or makes a payday loan to a
5 consumer in Illinois.

6 (b) The provisions of this Act apply to any person or
7 entity that seeks to evade its applicability by any device,
8 subterfuge, or pretense whatsoever.

9 (c) Retail sellers who cash checks incidental to a retail
10 sale and who charge no more than the fees as provided by the
11 Check Cashing Act per check for the service are exempt from the
12 provisions of this Act.

13 (d) Banks, savings banks, savings and loan associations,
14 credit unions, and insurance companies organized, chartered,
15 or holding a certificate of authority to do business under the
16 laws of this State or any other state or under the laws of the
17 United States are exempt from the provisions of this Act.

18 (e) A lender, as defined in Section 1-10, that is an agent
19 for a bank, savings bank, savings and loan association, credit
20 union, or insurance company for the purpose of brokering,
21 selling, or otherwise offering payday loans made by the bank,
22 savings bank, savings and loan association, credit union, or
23 insurance company shall be subject to all of the provisions of
24 this Act, except those provisions related to finance charges.

25 Article 2. Payday Loans

26 Section 2-5. Loan terms.

27 (a) Without affecting the right of a consumer to prepay at
28 any time without cost or penalty, no payday loan may have a
29 minimum term of less than 13 days.

30 (b) No payday loan may be made to a consumer if the loan
31 would result in the consumer being indebted to one or more

1 payday lenders for a period in excess of 45 consecutive days.
2 Except as provided under Section 2-40, if a consumer has or has
3 had loans outstanding for a period in excess of 45 consecutive
4 days, no payday lender may offer or make a loan to the consumer
5 for at least 7 calendar days after the date on which the
6 outstanding balance of all payday loans made during the 45
7 consecutive day period is paid in full. For purposes of this
8 subsection, the term "consecutive days" means a series of
9 continuous calendar days in which the consumer has an
10 outstanding balance on one or more payday loans; however, if a
11 payday loan is made to a consumer within 6 days or less after
12 the outstanding balance of all loans is paid in full, those
13 days are counted as "consecutive days" for purposes of this
14 subsection.

15 (c) No lender may make a payday loan to a consumer if the
16 total principal amount of the loan, when combined with the
17 principal amount of all of the consumer's other outstanding
18 payday loans, exceeds \$1,000 or 25% of the consumer's gross
19 monthly income, whichever is less.

20 (d) No payday loan may be made to a consumer who has an
21 outstanding balance on 2 payday loans.

22 (e) No lender may charge more than \$16 per \$100 loaned on
23 any payday loan over the term of the loan.

24 (f) A lender may not take or attempt to take an interest in
25 any of the consumer's personal property to secure a payday
26 loan.

27 (g) A consumer has the right to redeem a check or any other
28 item described in the definition of payday loan under Section
29 1-10 issued in connection with a payday loan from the lender
30 holding the check or other item at any time before the payday
31 loan becomes payable by paying the full amount of the check or
32 other item, less the unearned portion of the finance charge
33 calculated on a simple interest basis.

1 Section 2-10. Permitted fees.

2 (a) If there are insufficient funds to pay a check,
3 Automatic Clearing House (ACH) debit, or any other item
4 described in the definition of payday loan under Section 1-10
5 on the day of presentment and only after the lender has
6 incurred an expense, a lender may charge a fee not to exceed
7 \$25. Only one such fee may be collected by the lender with
8 respect to a particular check, ACH debit, or item even if it
9 has been deposited and returned more than once. A lender shall
10 present the check, ACH debit, or other item described in the
11 definition of payday loan under Section 1-10 for payment not
12 more than twice. A fee charged under this subsection (a) is a
13 lender's exclusive charge for late payment.

14 (b) When a consumer repays a payday loan in full before its
15 due date, the lender must refund the finance charges to the
16 consumer on a simple interest basis as of the time of
17 repayment.

18 (c) Except for the finance charges described in Section 2-5
19 and as specifically allowed by this Section, a lender may not
20 impose on a consumer any additional finance charges, interest,
21 fees, or charges of any sort for any purpose.

22 Section 2-15. Verification.

23 (a) Before entering into a loan agreement with a consumer,
24 a lender must use a commercially reasonable method of
25 verification to verify that the proposed loan agreement is
26 permissible under this Act.

27 (b) Within 6 months after the effective date of this Act,
28 the Division shall certify that one or more consumer reporting
29 services are commercially reasonable methods of verification.
30 Upon certifying that a consumer reporting service is a
31 commercially reasonable method of verification, the Division
32 shall:

33 (1) provide reasonable notice to all licensees

1 identifying the commercially reasonable methods of
2 verification that are available; and

3 (2) immediately upon certification, require each
4 licensee to use a commercially reasonable method of
5 verification as a means of complying with subsection (a) of
6 this Section.

7 (c) Except as otherwise provided in this Section, all
8 information contained in the certified database regarding any
9 consumer is strictly confidential and is exempt from disclosure
10 under the Freedom of Information Act.

11 (d) Notwithstanding any other provision of law to the
12 contrary, a consumer seeking a payday loan may make a direct
13 inquiry to the certified database provider to request a more
14 detailed explanation of the basis for a database's
15 determination that the consumer is ineligible for a new payday
16 loan.

17 (e) In certifying a commercially reasonable method of
18 verification, the Division shall ensure that the database:

19 (1) provides real-time access through an Internet
20 connection or, if real-time access through an Internet
21 connection becomes unavailable to lenders due to a database
22 provider's technical problems incurred by the database
23 provider, through alternative verification mechanisms,
24 including, but not limited to, verification by telephone;

25 (2) is accessible to the Division and to licensees in
26 order to ensure compliance with this Act and in order to
27 provide any other information that the Division deems
28 necessary;

29 (3) requires licensees to input whatever information
30 is required by the Division;

31 (4) maintains a real-time copy of the required
32 reporting information that is available to the Division at
33 all times and is the property of the Division;

34 (5) provides licensees only with a statement that a

1 consumer is eligible or ineligible for a new payday loan
2 and a description of the reason for the determination; and

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

6 (f) The licensee shall update the database by inputting all
7 information required under item (3) of subsection (e):

8 (1) on the same day that a payday loan is made;

9 (2) on the same day that a consumer elects a repayment
10 plan, as provided in Section 2-40; and

11 (3) on the same day that a consumer's payday loan is
12 paid in full.

13 (g) A licensee may rely on the information contained in the
14 certified database as accurate and is not subject to any
15 administrative penalty or liability as a result of relying on
16 inaccurate information contained in the database.

17 (h) The certified consumer reporting service shall
18 indemnify the licensee against all claims and actions arising
19 from illegal or willful or wanton acts on the part of the
20 certified consumer reporting service.

21 Section 2-17. Consumer reporting services qualification
22 and bonding.

23 (a) Each consumer reporting service shall have at all times
24 a net worth of not less than \$1,000,000 calculated in
25 accordance with generally accepted accounting principles.

26 (b) Each application for certification under this Act shall
27 be accompanied by a surety bond acceptable to the Division in
28 the amount of \$1,000,000. The surety bond shall be in a form
29 satisfactory to the Division and shall run to the State of
30 Illinois for the benefit of any claimants against the consumer
31 reporting service to secure the faithful performance of its
32 obligations under this Act. The aggregate liability of the
33 surety may exceed the principal sum of the bond. Claimants

1 against the consumer reporting service may themselves bring
2 suit directly on the surety bond or the Division may bring suit
3 on behalf of claimants, either in one action or in successive
4 actions.

5 (c) The surety bond shall remain in effect until
6 cancellation, which may occur only after 90 days' written
7 notice to the Division. Cancellation shall not affect any
8 liability incurred or accrued during that period.

9 (d) The surety bond shall remain in place for 5 years after
10 the consumer reporting service ceases operation in the State.

11 (e) The surety bond proceeds and any cash or other
12 collateral posted as security by a consumer reporting service
13 shall be deemed by operation of law to be held in trust for any
14 claimants under this Act in the event of the bankruptcy of the
15 consumer reporting service.

16 (f) To the extent that any indemnity or fine exceeds the
17 amount of the surety bond described under this Section, the
18 consumer reporting service shall be liable for that amount.

19 (g) Each application for certification under this Act shall
20 be accompanied by a nonrefundable investigation fee of \$2,500,
21 together with an initial certification fee of \$1,000.

22 (h) On or before March 1 of each year, each consumer
23 reporting service qualified under this Section shall pay to the
24 Division a certification fee in the amount of \$1,000.

25 Section 2-20. Required disclosures.

26 (a) Before a payday loan is made, a lender shall deliver to
27 the consumer a pamphlet prepared by the Director that:

28 (1) explains, in simple English and Spanish, all of the
29 consumer's rights and responsibilities in a payday loan
30 transaction;

31 (2) includes a toll-free number to the Director's
32 office to handle concerns or provide information about
33 whether a lender is licensed, whether complaints have been

1 filed with the Director, and the resolution of those
2 complaints; and

3 (3) provides information regarding the availability of
4 debt management services.

5 (b) Lenders shall provide consumers with a written
6 agreement that may be kept by the consumer. The written
7 agreement must include the following information in English and
8 in the language in which the loan was negotiated:

9 (1) the name and address of the lender making the
10 payday loan, and the name and title of the individual
11 employee who signs the agreement on behalf of the lender;

12 (2) disclosures required by the federal Truth in
13 Lending Act;

14 (3) a clear description of the consumer's payment
15 obligations under the loan;

16 (4) the following statement, in at least 14-point bold
17 type face: "You cannot be prosecuted in criminal court to
18 collect this loan.". The information required to be
19 disclosed under this subdivision (4) must be conspicuously
20 disclosed in the loan document and shall be located
21 immediately preceding the signature of the consumer; and

22 (5) the following statement, in at least 14-point bold
23 type face:

24 "WARNING: This loan is not intended to meet long-term
25 financial needs. This loan should be used only to meet
26 short-term cash needs. The cost of your loan may be higher
27 than loans offered by other lending institutions. This loan
28 is regulated by the Department of Financial and
29 Professional Regulation."

30 (c) The following notices in English and Spanish must be
31 conspicuously posted by a lender in each location of a business
32 providing payday loans:

33 (1) A notice that informs consumers that the lender
34 cannot use the criminal process against a consumer to

1 collect any payday loan.

2 (2) The schedule of all finance charges to be charged
3 on loans with an example of the amounts that would be
4 charged on a \$100 loan payable in 13 days and a \$400 loan
5 payable in 30 days, giving the corresponding annual
6 percentage rate.

7 (3) In one-inch bold type, a notice to the public in
8 the lending area of each business location containing the
9 following statement:

10 "WARNING: This loan is not intended to meet long-term
11 financial needs. This loan should be used only to meet
12 short-term cash needs. The cost of your loan may be higher
13 than loans offered by other lending institutions. This loan
14 is regulated by the Department of Financial and
15 Professional Regulation."

16 (4) In one-inch bold type, a notice to the public in
17 the lending area of each business location containing the
18 following statement:

19 "INTEREST-FREE REPAYMENT PLAN: If you still owe on one
20 or more payday loans after 35 days, you are entitled to
21 enter into a repayment plan. The repayment plan will give
22 you at least 56 days to repay your loan in installments
23 with no additional finance charges, interest, fees, or
24 other charges of any kind."

25 Section 2-25. Right to cancel future payment obligations. A
26 consumer may cancel future payment obligations on a payday
27 loan, without cost or finance charges, no later than the end of
28 the second business day immediately following the day on which
29 the payday loan was made. To cancel future payment obligations
30 on a payday loan, the consumer must inform the lender in
31 writing that the consumer wants to cancel the future payment
32 obligations on the payday loan and must return the uncashed
33 proceeds, check or cash, in an amount equal to the principal

1 amount of the loan.

2 Section 2-30. Rollovers prohibited. Rollover of a payday
3 loan by any lender is prohibited.

4 Section 2-35. Proceeds and payments.

5 (a) A lender may issue the proceeds of a loan in the form
6 of a check drawn on the lender's bank account, in cash, by
7 money order, by debit card, or by electronic funds transfer.
8 When the proceeds are issued in the form of a check drawn on
9 the lender's bank account, by money order, or by electronic
10 funds transfer, the lender may not charge a fee for cashing the
11 money order or electronic funds transfer. When the proceeds are
12 issued in cash, the lender must provide the consumer with
13 written verification of the cash transaction and shall maintain
14 a record of the transaction for at least 3 years.

15 (b) After each payment made in full or in part on any loan,
16 the lender shall give the consumer making the payment either a
17 signed, dated receipt or a signed, computer-generated receipt
18 showing the amount paid and the balance due on the loan.

19 (c) Before a loan is made, the lender must provide the
20 consumer, or each consumer if there is more than one, with a
21 copy of the loan documents described in Section 2-20.

22 (d) The holder or assignee of any loan agreement or of any
23 check written by a consumer in connection with a payday loan
24 takes the loan agreement or check subject to all claims and
25 defenses of the consumer against the maker.

26 (e) Upon receipt of a check from a consumer for a loan, the
27 lender must immediately stamp the back of the check with an
28 endorsement that states: "This check is being negotiated as
29 part of a loan under the Payday Loan Reform Act, and any holder
30 of this check takes it subject to all claims and defenses of
31 the maker."

32 (f) Loan payments may be electronically debited from the

1 consumer's bank account. Except as provided by federal law, the
2 lender must obtain prior written approval from the consumer.

3 (g) A consumer may prepay on a loan in increments of \$5 or
4 more at any time without cost or penalty.

5 (h) A loan is made on the date on which a loan agreement is
6 signed by both parties, regardless of whether the lender gives
7 any moneys to the consumer on that date.

8 Section 2-40. Repayment plan.

9 (a) At the time a payday loan is made, the lender must
10 provide the consumer with a separate written notice signed by
11 the consumer of the consumer's right to request a repayment
12 plan. The written notice must comply with the requirements of
13 subsection (c).

14 (b) The loan agreement must include the following language
15 in at least 14-point bold type: IF YOU STILL OWE ON ONE OR MORE
16 PAYDAY LOANS AFTER 35 DAYS, YOU ARE ENTITLED TO ENTER INTO A
17 REPAYMENT PLAN. THE REPAYMENT PLAN WILL GIVE YOU AT LEAST 56
18 DAYS TO REPAY YOUR LOAN IN INSTALLMENTS WITH NO ADDITIONAL
19 FINANCE CHARGES, INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

20 (c) At the time a payday loan is made, on the first page of
21 the loan agreement and in a separate document signed by the
22 consumer, the following shall be inserted in at least 14-point
23 bold type: I UNDERSTAND THAT IF I STILL OWE ON ONE OR MORE
24 PAYDAY LOANS AFTER 35 DAYS, I AM ENTITLED TO ENTER INTO A
25 REPAYMENT PLAN THAT WILL GIVE ME AT LEAST 56 DAYS TO REPAY THE
26 LOAN IN INSTALLMENTS WITH NO ADDITIONAL FINANCE CHARGES,
27 INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

28 (d) If the consumer has or has had one or more payday loans
29 outstanding for 35 consecutive days, any payday loan
30 outstanding on the 35th consecutive day shall be payable under
31 the terms of a repayment plan as provided for in this Section,
32 if the consumer requests the repayment plan. As to any loan
33 that becomes eligible for a repayment plan under this

1 subsection, the consumer has until 28 days after the default
2 date of the loan to request a repayment plan. Within 48 hours
3 after the request for a repayment plan is made, the lender must
4 prepare the repayment plan agreement and both parties must
5 execute the agreement. Execution of the repayment plan
6 agreement shall be made in the same manner in which the loan
7 was made and shall be evidenced in writing.

8 (e) The terms of the repayment plan for a payday loan must
9 include the following:

10 (1) The lender may not impose any charge on the
11 consumer for requesting or using a repayment plan.
12 Performance of the terms of the repayment plan extinguishes
13 the consumer's obligation on the loan.

14 (2) No lender shall charge the consumer any finance
15 charges, interest, fees, or other charges of any kind,
16 except a fee for insufficient funds, as provided under
17 Section 2-10.

18 (3) The consumer shall be allowed to repay the loan in
19 at least 4 equal installments with at least 13 days between
20 installments, provided that the term of the repayment plan
21 does not exceed 90 days. The first payment under the
22 repayment plan shall not be due before at least 13 days
23 after the repayment plan is signed by both parties. The
24 consumer may prepay the amount due under the repayment plan
25 at any time, without charge or penalty.

26 (4) The length of time between installments may be
27 extended by the parties so long as the total period of
28 repayment does not exceed 90 days. Any such modification
29 must be in writing and signed by both parties.

30 (f) Notwithstanding any provision of law to the contrary, a
31 lender is prohibited from making a payday loan to a consumer
32 who has a payday loan outstanding under a repayment plan and
33 for at least 14 days after the outstanding balance of the loan
34 under the repayment plan and the outstanding balance of all

1 other payday loans outstanding during the term of the repayment
2 plan are paid in full.

3 (g) A lender may not accept postdated checks for payments
4 under a repayment plan.

5 (h) Notwithstanding any provision of law to the contrary, a
6 lender may agree to enter into a repayment plan with a consumer
7 at any time. If a consumer is eligible for a repayment plan
8 under subsection (d), any repayment agreement constitutes a
9 repayment plan under this Section and all provisions of this
10 Section apply to that agreement.

11 Section 2-45. Default.

12 (a) No legal proceeding of any kind, including, but not
13 limited to, a lawsuit or arbitration, may be filed or initiated
14 against a consumer to collect on a payday loan until 28 days
15 after the default date of the loan, or, in the case of a payday
16 loan under a repayment plan, for 28 days after the default date
17 under the terms of the repayment plan.

18 (b) Upon and after default, a lender shall not charge the
19 consumer any finance charges, interest, fees, or charges of any
20 kind, other than the insufficient fund fee described in Section
21 2-10.

22 Section 2-50. Practices concerning members of the
23 military.

24 (a) A lender may not garnish the wages or salaries of a
25 consumer who is a member of the military.

26 (b) In addition to any rights and obligations provided
27 under the federal Servicemembers Civil Relief Act, a lender
28 shall suspend and defer collection activity against a consumer
29 who is a member of the military and who has been deployed to a
30 combat or combat support posting for the duration of the
31 deployment.

32 (c) A lender may not knowingly contact the military chain

1 of command of a consumer who is a member of the military in an
2 effort to collect on a payday loan.

3 (d) Lenders must honor the terms of any repayment plan that
4 they have entered into with any consumer, including a repayment
5 agreement negotiated through military counselors or
6 third-party credit counselors.

7 Section 2-55. Information, reporting, and examination.

8 (a) A licensee shall keep and use books, accounts, and
9 records that will enable the Director to determine if the
10 licensee is complying with the provisions of this Act and
11 maintain any other records as required by the Director.

12 (b) A licensee shall collect and maintain information
13 annually for a report that shall disclose in detail and under
14 appropriate headings:

15 (1) the total number of payday loans made during the
16 preceding calendar year;

17 (2) the total number of payday loans outstanding as of
18 December 31 of the preceding calendar year;

19 (3) the minimum, maximum, and average dollar amount of
20 payday loans made during the preceding calendar year;

21 (4) the average annual percentage rate and the average
22 term of payday loans made during the preceding calendar
23 year; and

24 (5) the total number of payday loans paid in full, the
25 total number of loans that went into default, and the total
26 number of loans written off during the preceding calendar
27 year.

28 The report shall be verified by the oath or affirmation of
29 the owner, manager, or president of the licensee. The report
30 must be filed with the Director no later than March 1 of the
31 year following the year for which the report discloses the
32 information specified in this subsection (b). The Director may
33 impose upon the licensee a fine of \$25 per day for each day

1 beyond the filing deadline that the report is not filed.

2 (c) No later than July 31 of the second year following the
3 effective date of this Act, the Division shall compile
4 aggregate data in the form of a biennial report of the payday
5 lending industry and shall make the report available to the
6 Governor, the General Assembly, and the general public.

7 (d) The Division shall have the authority to conduct
8 examinations of the books, records, and loan documents at any
9 time and shall bear the reasonable costs and expenses incident
10 to the examination.

11 Section 2-60. Advertising.

12 (a) Advertising for loans transacted under this Act may not
13 be false, misleading, or deceptive. Payday loan advertising, if
14 it states a rate or amount of charge for a loan, must state the
15 rate as an annual percentage rate. No licensee may advertise in
16 any manner so as to indicate or imply that its rates or charges
17 for loans are in any way recommended, approved, set, or
18 established by the State government or by this Act.

19 (b) If any advertisement to which this Section applies
20 states the amount of any installment payment, the dollar amount
21 of any finance charge, or the number of installments or the
22 period of repayment, then the advertisement shall state all of
23 the following items:

24 (1) The amount of the loan.

25 (2) The number, amount, and due dates or period of
26 payments scheduled to repay the indebtedness if the credit
27 is extended.

28 (3) The finance charge expressed as an annual
29 percentage rate.

30 Article 3. Licensure

31 Section 3-3. Licensure requirement.

1 (a) Except as provided in subsection (b), on and after the
2 effective date of this Act, a person or entity acting as a
3 payday lender must be licensed by the Division as provided in
4 this Article.

5 (b) A person or entity acting as a payday lender who is
6 licensed on the effective date of this Act under the Consumer
7 Installment Loan Act need not comply with subsection (a) until
8 the Division takes action on the person's or entity's
9 application for a payday loan license. The application must be
10 submitted to the Division within 9 months after the effective
11 date of this Act. If the application is not submitted within 9
12 months after the effective date of this Act, the person or
13 entity acting as a payday lender is subject to subsection (a).

14 Section 3-5. Licensure.

15 (a) A license to make a payday loan shall state the
16 address, including city and state, at which the business is to
17 be conducted and shall state fully the name of the licensee.
18 The license shall be conspicuously posted in the place of
19 business of the licensee and shall not be transferable or
20 assignable.

21 (b) An application for a license shall be in writing and in
22 a form prescribed by the Director. The Director may not issue a
23 payday loan license unless and until the following findings are
24 made:

25 (1) that the financial responsibility, experience,
26 character, and general fitness of the applicant are such as
27 to command the confidence of the public and to warrant the
28 belief that the business will be operated lawfully and
29 fairly and within the provisions and purposes of this Act;
30 and

31 (2) that the applicant has submitted such other
32 information as the Director may deem necessary.

33 (c) A license shall be issued for no longer than one year,

1 and no renewal of a license may be provided if a licensee has
2 substantially violated this Act and has not cured the violation
3 to the satisfaction of the Division.

4 (d) A licensee shall appoint, in writing, the Director as
5 attorney-in-fact upon whom all lawful process against the
6 licensee may be served with the same legal force and validity
7 as if served on the licensee. A copy of the written
8 appointment, duly certified, shall be filed in the office of
9 the Director, and a copy thereof certified by the Director
10 shall be sufficient evidence to subject a licensee to
11 jurisdiction in a court of law. This appointment shall remain
12 in effect while any liability remains outstanding in this State
13 against the licensee. When summons is served upon the Director
14 as attorney-in-fact for a licensee, the Director shall
15 immediately notify the licensee by registered mail, enclosing
16 the summons and specifying the hour and day of service.

17 (e) A licensee must pay an annual fee of \$1,000. In
18 addition to the license fee, the reasonable expense of any
19 examination or hearing by the Director under any provisions of
20 this Act shall be borne by the licensee. If a licensee fails to
21 renew its license by December 31, its license shall
22 automatically expire; however, the Director, in his or her
23 discretion, may reinstate an expired license upon:

24 (1) payment of the annual fee within 30 days of the
25 date of expiration; and

26 (2) proof of good cause for failure to renew.

27 (f) Not more than one place of business shall be maintained
28 under the same license, but the Director may issue more than
29 one license to the same licensee upon compliance with all the
30 provisions of this Act governing issuance of a single license.
31 The location, except those locations already in existence as of
32 June 1, 2005, may not be within one mile of a horse race track
33 subject to the Illinois Horse Racing Act of 1975, within one
34 mile of a facility at which gambling is conducted under the

1 Riverboat Gambling Act, within one mile of the location at
2 which a riverboat subject to the Riverboat Gambling Act docks,
3 or within one mile of any State of Illinois or United States
4 military base or naval installation.

5 (g) No licensee shall conduct the business of making loans
6 under this Act within any office, suite, room, or place of
7 business in which any other business is solicited or engaged in
8 unless the other business is licensed by the Division or, in
9 the opinion of the Director, the other business would not be
10 contrary to the best interests of consumers and is authorized
11 by the Director in writing.

12 (h) The Director shall maintain a list of licensees that
13 shall be available to interested consumers and lenders and the
14 public. The Director shall maintain a toll-free number whereby
15 consumers may obtain information about licensees. The Director
16 shall also establish a complaint process under which an
17 aggrieved consumer may file a complaint against a licensee or
18 non-licensee who violates any provision of this Act.

19 Section 3-10. Closing of business; surrender of license. At
20 least 10 days before a licensee ceases operations, closes the
21 business, or files for bankruptcy, the licensee shall:

22 (1) Notify the Division of its intended action in
23 writing.

24 (2) With the exception of filing for bankruptcy,
25 surrender its license to the Director for cancellation. The
26 surrender of the license shall not affect the licensee's
27 civil or criminal liability for acts committed before or
28 after the surrender or entitle the licensee to a return of
29 any part of the annual license fee.

30 (3) Notify the Division of the location where the
31 books, accounts, contracts, and records will be
32 maintained.

33 The accounts, books, records, and contracts shall be

1 maintained and serviced by the licensee, by another licensee
2 under this Act, or by the Division.

3 Article 4. Administrative Provisions

4 Section 4-5. Prohibited acts. A licensee or unlicensed
5 person or entity making payday loans may not commit, or have
6 committed on behalf of the licensee or unlicensed person or
7 entity, any of the following acts:

8 (1) Threatening to use or using the criminal process in
9 this or any other state to collect on the loan.

10 (2) Using any device or agreement that would have the
11 effect of charging or collecting more fees or charges than
12 allowed by this Act, including, but not limited to,
13 entering into a different type of transaction with the
14 consumer.

15 (3) Engaging in unfair, deceptive, or fraudulent
16 practices in the making or collecting of a payday loan.

17 (4) Using or attempting to use the check provided by
18 the consumer in a payday loan as collateral for a
19 transaction not related to a payday loan.

20 (5) Knowingly accepting payment in whole or in part of
21 a payday loan through the proceeds of another payday loan
22 provided by any licensee.

23 (6) Knowingly accepting any security, other than that
24 specified in the definition of payday loan in Section 1-10,
25 for a payday loan.

26 (7) Charging any fees or charges other than those
27 specifically authorized by this Act.

28 (8) Threatening to take any action against a consumer
29 that is prohibited by this Act or making any misleading or
30 deceptive statements regarding the payday loan or any
31 consequences thereof.

32 (9) Making a misrepresentation of a material fact by an

1 applicant for licensure in obtaining or attempting to
2 obtain a license.

3 (10) Including any of the following provisions in loan
4 documents required by subsection (b) of Section 2-20:

5 (A) a confession of judgment clause;

6 (B) a waiver of the right to a jury trial, if
7 applicable, in any action brought by or against a
8 consumer, unless the waiver is included in an
9 arbitration clause allowed under subparagraph (C) of
10 this paragraph (11);

11 (C) a mandatory arbitration clause that is
12 oppressive, unfair, unconscionable, or substantially
13 in derogation of the rights of consumers;

14 (D) any assignment of or order for payment of wages
15 or other compensation for services;

16 (E) a provision in which the consumer agrees not to
17 assert any claim or defense arising out of the
18 contract.

19 (11) Selling any insurance of any kind whether or not
20 sold in connection with the making or collecting of a
21 payday loan.

22 (12) Taking any power of attorney.

23 (13) Taking any security interest in real estate.

24 (14) Collecting a delinquency or collection charge on
25 any installment regardless of the period in which it
26 remains in default.

27 (15) Collecting treble damages on an amount owing from
28 a payday loan.

29 (16) Refusing, or intentionally delaying or
30 inhibiting, the consumer's right to enter into a repayment
31 plan pursuant to this Act.

32 (17) Charging for, or attempting to collect,
33 attorney's fees, court costs, or arbitration costs
34 incurred in connection with the collection of a payday

1 loan.

2 (18) Entering into a wage assignment agreement with a
3 consumer in connection with a payday loan.

4 (19) Making a loan in violation of this Act.

5 (20) Garnishing the wages or salaries of a consumer who
6 is a member of the military.

7 (21) Failing to suspend or defer collection activity
8 against a consumer who is a member of the military and who
9 has been deployed to a combat or combat-support posting.

10 (22) Contacting the military chain of command of a
11 consumer who is a member of the military in an effort to
12 collect on a payday loan.

13 Section 4-10. Enforcement and remedies.

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

16 (b) Any material violation of this Act, including the
17 commission of an act prohibited under Section 4-5, constitutes
18 a violation of the Consumer Fraud and Deceptive Business
19 Practices Act.

20 (c) If any provision of the written agreement described in
21 subsection (b) of Section 2-20 violates this Act, then that
22 provision is unenforceable against the consumer.

23 (d) Subject to the Illinois Administrative Procedure Act,
24 the Director may hold hearings, make findings of fact,
25 conclusions of law, issue cease and desist orders, have the
26 power to issue fines of up to \$10,000 per violation, refer the
27 matter to the appropriate law enforcement agency for
28 prosecution under this Act, and suspend or revoke a license
29 granted under this Act. All proceedings shall be open to the
30 public.

31 (e) The Director may issue a cease and desist order to any
32 licensee or other person doing business without the required
33 license, when in the opinion of the Director the licensee or

1 other person is violating or is about to violate any provision
2 of this Act or any rule or requirement imposed in writing by
3 the Division as a condition of granting any authorization
4 permitted by this Act. The cease and desist order permitted by
5 this subsection (e) may be issued prior to a hearing.

6 The Director shall serve notice of his or her action,
7 including, but not limited to, a statement of the reasons for
8 the action, either personally or by certified mail, return
9 receipt requested. Service by certified mail shall be deemed
10 completed when the notice is deposited in the U.S. mail.

11 Within 10 days of service of the cease and desist order,
12 the licensee or other person may request a hearing in writing.
13 The Director shall schedule a hearing within 30 days after the
14 request for a hearing unless otherwise agreed to by the
15 parties.

16 If it is determined that the Director had the authority to
17 issue the cease and desist order, he or she may issue such
18 orders as may be reasonably necessary to correct, eliminate, or
19 remedy the conduct.

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

27 The cost for the administrative hearing under this
28 subsection (e) shall be paid by the lender.

29 (f) The Director may, after 10 days notice by registered
30 mail to the licensee at the address set forth in the license
31 stating the contemplated action and in general the grounds
32 therefore, fine the licensee an amount not exceeding \$10,000
33 per violation, or revoke or suspend any license issued
34 hereunder if he or she finds that:

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

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

9 The Director may fine, suspend, or revoke only the
10 particular license with respect to which grounds for the fine,
11 revocation, or suspension occur or exist, but if the Director
12 finds that grounds for revocation are of general application to
13 all offices or to more than one office of the licensee, the
14 Director shall fine, suspend, or revoke every license to which
15 the grounds apply.

16 No revocation, suspension, or surrender of any license
17 shall impair or affect the obligation of any pre-existing
18 lawful contract between the licensee and any obligor.

19 The Director may issue a new license to a licensee whose
20 license has been revoked when facts or conditions which clearly
21 would have warranted the Director in refusing originally to
22 issue the license no longer exist.

23 In every case in which a license is suspended or revoked or
24 an application for a license or renewal of a license is denied,
25 the Director shall serve the licensee with notice of his or her
26 action, including a statement of the reasons for his or her
27 actions, either personally, or by certified mail, return
28 receipt requested. Service by certified mail shall be deemed
29 completed when the notice is deposited in the U.S. Mail.

30 An order assessing a fine, an order revoking or suspending
31 a license, or an order denying renewal of a license shall take
32 effect upon service of the order unless the licensee requests a
33 hearing, in writing, within 10 days after the date of service.
34 In the event a hearing is requested, the order shall be stayed

1 until a final administrative order is entered.

2 If the licensee requests a hearing, the Director shall
3 schedule a hearing within 30 days after the request for a
4 hearing unless otherwise agreed to by the parties.

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

12 The costs for the administrative hearing shall be paid by
13 the lender.

14 Section 4-15. Bonding.

15 (a) A person or entity engaged in making payday loans under
16 this Act shall post a bond to the Division in the amount of
17 \$50,000 for each location where loans will be made, up to a
18 maximum bond amount of \$500,000.

19 (b) A bond posted under subsection (a) must continue in
20 effect for the period of licensure and for 3 additional years
21 if the bond is still available. The bond must be available to
22 pay damages and penalties to a consumer harmed by a violation
23 of this Act.

24 (c) From time to time the Director may require a licensee
25 to file a bond in an additional sum if the Director determines
26 it to be necessary. In no case shall the bond be more than the
27 outstanding liabilities of the licensee.

28 Section 4-20. Preemption of administrative rules. Any
29 administrative rule promulgated prior to the effective date of
30 this Act by the Division regarding payday loans is preempted.

31 Section 4-25. Reporting of violations. The Division shall

1 report to the Attorney General all material violations of this
2 Act of which it becomes aware.

3 Section 4-30. Rulemaking; industry review.

4 (a) The Division may make and enforce such reasonable
5 rules, regulations, directions, orders, decisions, and
6 findings as the execution and enforcement of the provisions of
7 this Act require, and as are not inconsistent therewith. All
8 rules, regulations, and directions of a general character shall
9 be printed and copies thereof mailed to all licensees.

10 (b) Within 6 months after the effective of this Act, the
11 Department of Financial and Professional Regulation shall
12 promulgate reasonable rules regarding the issuance of payday
13 loans by banks, savings banks, savings and loan associations,
14 credit unions, and insurance companies. These rules shall be
15 consistent with this Act and shall be limited in scope to the
16 actual products and services offered by lenders governed by
17 this Act.

18 (c) After the effective date of this Act, the Division
19 shall, over a 3-year period, conduct a study of the payday loan
20 industry to determine the impact and effectiveness of this Act.
21 The Division shall report its findings to the General Assembly
22 within 3 months of the third anniversary of the effective date
23 of this Act. The study shall determine the effect of this Act
24 on the protection of consumers in this State and on the fair
25 and reasonable regulation of the payday loan industry. The
26 study shall include, but shall not be limited to, an analysis
27 of the ability of the industry to use private reporting tools
28 that:

29 (1) ensure substantial compliance with this Act,
30 including real time reporting of outstanding payday loans;
31 and

32 (2) provide data to the Division in an appropriate form
33 and with appropriate content to allow the Division to

1 Sec. 7. Exemptions.

2 (1) The following shall be exempt from inspection and
3 copying:

4 (a) Information specifically prohibited from
5 disclosure by federal or State law or rules and regulations
6 adopted under federal or State law.

7 (b) Information that, if disclosed, would constitute a
8 clearly unwarranted invasion of personal privacy, unless
9 the disclosure is consented to in writing by the individual
10 subjects of the information. The disclosure of information
11 that bears on the public duties of public employees and
12 officials shall not be considered an invasion of personal
13 privacy. Information exempted under this subsection (b)
14 shall include but is not limited to:

15 (i) files and personal information maintained with
16 respect to clients, patients, residents, students or
17 other individuals receiving social, medical,
18 educational, vocational, financial, supervisory or
19 custodial care or services directly or indirectly from
20 federal agencies or public bodies;

21 (ii) personnel files and personal information
22 maintained with respect to employees, appointees or
23 elected officials of any public body or applicants for
24 those positions;

25 (iii) files and personal information maintained
26 with respect to any applicant, registrant or licensee
27 by any public body cooperating with or engaged in
28 professional or occupational registration, licensure
29 or discipline;

30 (iv) information required of any taxpayer in
31 connection with the assessment or collection of any tax
32 unless disclosure is otherwise required by State
33 statute;

34 (v) information revealing the identity of persons

1 who file complaints with or provide information to
2 administrative, investigative, law enforcement or
3 penal agencies; provided, however, that identification
4 of witnesses to traffic accidents, traffic accident
5 reports, and rescue reports may be provided by agencies
6 of local government, except in a case for which a
7 criminal investigation is ongoing, without
8 constituting a clearly unwarranted per se invasion of
9 personal privacy under this subsection; and

10 (vi) the names, addresses, or other personal
11 information of participants and registrants in park
12 district, forest preserve district, and conservation
13 district programs.

14 (c) Records compiled by any public body for
15 administrative enforcement proceedings and any law
16 enforcement or correctional agency for law enforcement
17 purposes or for internal matters of a public body, but only
18 to the extent that disclosure would:

19 (i) interfere with pending or actually and
20 reasonably contemplated law enforcement proceedings
21 conducted by any law enforcement or correctional
22 agency;

23 (ii) interfere with pending administrative
24 enforcement proceedings conducted by any public body;

25 (iii) deprive a person of a fair trial or an
26 impartial hearing;

27 (iv) unavoidably disclose the identity of a
28 confidential source or confidential information
29 furnished only by the confidential source;

30 (v) disclose unique or specialized investigative
31 techniques other than those generally used and known or
32 disclose internal documents of correctional agencies
33 related to detection, observation or investigation of
34 incidents of crime or misconduct;

1 (vi) constitute an invasion of personal privacy
2 under subsection (b) of this Section;

3 (vii) endanger the life or physical safety of law
4 enforcement personnel or any other person; or

5 (viii) obstruct an ongoing criminal investigation.

6 (d) Criminal history record information maintained by
7 State or local criminal justice agencies, except the
8 following which shall be open for public inspection and
9 copying:

10 (i) chronologically maintained arrest information,
11 such as traditional arrest logs or blotters;

12 (ii) the name of a person in the custody of a law
13 enforcement agency and the charges for which that
14 person is being held;

15 (iii) court records that are public;

16 (iv) records that are otherwise available under
17 State or local law; or

18 (v) records in which the requesting party is the
19 individual identified, except as provided under part
20 (vii) of paragraph (c) of subsection (1) of this
21 Section.

22 "Criminal history record information" means data
23 identifiable to an individual and consisting of
24 descriptions or notations of arrests, detentions,
25 indictments, informations, pre-trial proceedings, trials,
26 or other formal events in the criminal justice system or
27 descriptions or notations of criminal charges (including
28 criminal violations of local municipal ordinances) and the
29 nature of any disposition arising therefrom, including
30 sentencing, court or correctional supervision,
31 rehabilitation and release. The term does not apply to
32 statistical records and reports in which individuals are
33 not identified and from which their identities are not
34 ascertainable, or to information that is for criminal

1 investigative or intelligence purposes.

2 (e) Records that relate to or affect the security of
3 correctional institutions and detention facilities.

4 (f) Preliminary drafts, notes, recommendations,
5 memoranda and other records in which opinions are
6 expressed, or policies or actions are formulated, except
7 that a specific record or relevant portion of a record
8 shall not be exempt when the record is publicly cited and
9 identified by the head of the public body. The exemption
10 provided in this paragraph (f) extends to all those records
11 of officers and agencies of the General Assembly that
12 pertain to the preparation of legislative documents.

13 (g) Trade secrets and commercial or financial
14 information obtained from a person or business where the
15 trade secrets or information are proprietary, privileged
16 or confidential, or where disclosure of the trade secrets
17 or information may cause competitive harm, including all
18 information determined to be confidential under Section
19 4002 of the Technology Advancement and Development Act.
20 Nothing contained in this paragraph (g) shall be construed
21 to prevent a person or business from consenting to
22 disclosure.

23 (h) Proposals and bids for any contract, grant, or
24 agreement, including information which if it were
25 disclosed would frustrate procurement or give an advantage
26 to any person proposing to enter into a contractor
27 agreement with the body, until an award or final selection
28 is made. Information prepared by or for the body in
29 preparation of a bid solicitation shall be exempt until an
30 award or final selection is made.

31 (i) Valuable formulae, computer geographic systems,
32 designs, drawings and research data obtained or produced by
33 any public body when disclosure could reasonably be
34 expected to produce private gain or public loss. The

1 exemption for "computer geographic systems" provided in
2 this paragraph (i) does not extend to requests made by news
3 media as defined in Section 2 of this Act when the
4 requested information is not otherwise exempt and the only
5 purpose of the request is to access and disseminate
6 information regarding the health, safety, welfare, or
7 legal rights of the general public.

8 (j) Test questions, scoring keys and other examination
9 data used to administer an academic examination or
10 determined the qualifications of an applicant for a license
11 or employment.

12 (k) Architects' plans, engineers' technical
13 submissions, and other construction related technical
14 documents for projects not constructed or developed in
15 whole or in part with public funds and the same for
16 projects constructed or developed with public funds, but
17 only to the extent that disclosure would compromise
18 security, including but not limited to water treatment
19 facilities, airport facilities, sport stadiums, convention
20 centers, and all government owned, operated, or occupied
21 buildings.

22 (l) Library circulation and order records identifying
23 library users with specific materials.

24 (m) Minutes of meetings of public bodies closed to the
25 public as provided in the Open Meetings Act until the
26 public body makes the minutes available to the public under
27 Section 2.06 of the Open Meetings Act.

28 (n) Communications between a public body and an
29 attorney or auditor representing the public body that would
30 not be subject to discovery in litigation, and materials
31 prepared or compiled by or for a public body in
32 anticipation of a criminal, civil or administrative
33 proceeding upon the request of an attorney advising the
34 public body, and materials prepared or compiled with

1 respect to internal audits of public bodies.

2 (o) Information received by a primary or secondary
3 school, college or university under its procedures for the
4 evaluation of faculty members by their academic peers.

5 (p) Administrative or technical information associated
6 with automated data processing operations, including but
7 not limited to software, operating protocols, computer
8 program abstracts, file layouts, source listings, object
9 modules, load modules, user guides, documentation
10 pertaining to all logical and physical design of
11 computerized systems, employee manuals, and any other
12 information that, if disclosed, would jeopardize the
13 security of the system or its data or the security of
14 materials exempt under this Section.

15 (q) Documents or materials relating to collective
16 negotiating matters between public bodies and their
17 employees or representatives, except that any final
18 contract or agreement shall be subject to inspection and
19 copying.

20 (r) Drafts, notes, recommendations and memoranda
21 pertaining to the financing and marketing transactions of
22 the public body. The records of ownership, registration,
23 transfer, and exchange of municipal debt obligations, and
24 of persons to whom payment with respect to these
25 obligations is made.

26 (s) The records, documents and information relating to
27 real estate purchase negotiations until those negotiations
28 have been completed or otherwise terminated. With regard to
29 a parcel involved in a pending or actually and reasonably
30 contemplated eminent domain proceeding under Article VII
31 of the Code of Civil Procedure, records, documents and
32 information relating to that parcel shall be exempt except
33 as may be allowed under discovery rules adopted by the
34 Illinois Supreme Court. The records, documents and

1 information relating to a real estate sale shall be exempt
2 until a sale is consummated.

3 (t) Any and all proprietary information and records
4 related to the operation of an intergovernmental risk
5 management association or self-insurance pool or jointly
6 self-administered health and accident cooperative or pool.

7 (u) Information concerning a university's adjudication
8 of student or employee grievance or disciplinary cases, to
9 the extent that disclosure would reveal the identity of the
10 student or employee and information concerning any public
11 body's adjudication of student or employee grievances or
12 disciplinary cases, except for the final outcome of the
13 cases.

14 (v) Course materials or research materials used by
15 faculty members.

16 (w) Information related solely to the internal
17 personnel rules and practices of a public body.

18 (x) Information contained in or related to
19 examination, operating, or condition reports prepared by,
20 on behalf of, or for the use of a public body responsible
21 for the regulation or supervision of financial
22 institutions or insurance companies, unless disclosure is
23 otherwise required by State law.

24 (y) Information the disclosure of which is restricted
25 under Section 5-108 of the Public Utilities Act.

26 (z) Manuals or instruction to staff that relate to
27 establishment or collection of liability for any State tax
28 or that relate to investigations by a public body to
29 determine violation of any criminal law.

30 (aa) Applications, related documents, and medical
31 records received by the Experimental Organ Transplantation
32 Procedures Board and any and all documents or other records
33 prepared by the Experimental Organ Transplantation
34 Procedures Board or its staff relating to applications it

1 has received.

2 (bb) Insurance or self insurance (including any
3 intergovernmental risk management association or self
4 insurance pool) claims, loss or risk management
5 information, records, data, advice or communications.

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

12 (dd) Information the disclosure of which is exempted
13 under Section 30 of the Radon Industry Licensing Act.

14 (ee) Firm performance evaluations under Section 55 of
15 the Architectural, Engineering, and Land Surveying
16 Qualifications Based Selection Act.

17 (ff) Security portions of system safety program plans,
18 investigation reports, surveys, schedules, lists, data, or
19 information compiled, collected, or prepared by or for the
20 Regional Transportation Authority under Section 2.11 of
21 the Regional Transportation Authority Act or the St. Clair
22 County Transit District under the Bi-State Transit Safety
23 Act.

24 (gg) Information the disclosure of which is restricted
25 and exempted under Section 50 of the Illinois Prepaid
26 Tuition Act.

27 (hh) Information the disclosure of which is exempted
28 under the State Officials and Employees Ethics Act.

29 (ii) Beginning July 1, 1999, information that would
30 disclose or might lead to the disclosure of secret or
31 confidential information, codes, algorithms, programs, or
32 private keys intended to be used to create electronic or
33 digital signatures under the Electronic Commerce Security
34 Act.

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

5 (kk) Information and data concerning the distribution
6 of surcharge moneys collected and remitted by wireless
7 carriers under the Wireless Emergency Telephone Safety
8 Act.

9 (ll) Vulnerability assessments, security measures, and
10 response policies or plans that are designed to identify,
11 prevent, or respond to potential attacks upon a community's
12 population or systems, facilities, or installations, the
13 destruction or contamination of which would constitute a
14 clear and present danger to the health or safety of the
15 community, but only to the extent that disclosure could
16 reasonably be expected to jeopardize the effectiveness of
17 the measures or the safety of the personnel who implement
18 them or the public. Information exempt under this item may
19 include such things as details pertaining to the
20 mobilization or deployment of personnel or equipment, to
21 the operation of communication systems or protocols, or to
22 tactical operations.

23 (mm) Maps and other records regarding the location or
24 security of a utility's generation, transmission,
25 distribution, storage, gathering, treatment, or switching
26 facilities.

27 (nn) Law enforcement officer identification
28 information or driver identification information compiled
29 by a law enforcement agency or the Department of
30 Transportation under Section 11-212 of the Illinois
31 Vehicle Code.

32 (oo) Records and information provided to a residential
33 health care facility resident sexual assault and death
34 review team or the Residential Health Care Facility

1 Resident Sexual Assault and Death Review Teams Executive
2 Council under the Residential Health Care Facility
3 Resident Sexual Assault and Death Review Team Act.

4 (pp) Information contained in the certified database
5 maintained by the Division of Financial Institutions of the
6 Department of Financial and Professional Regulation in
7 accordance with Section 2-15 of the Payday Loan Reform Act.

8 (2) This Section does not authorize withholding of
9 information or limit the availability of records to the public,
10 except as stated in this Section or otherwise provided in this
11 Act.

12 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
13 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
14 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
15 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
16 8-21-03; 93-617, eff. 12-9-03.)

17 Section 90-5. The Financial Institutions Code is amended by
18 changing Sections 4 and 6 as follows:

19 (20 ILCS 1205/4) (from Ch. 17, par. 104)

20 Sec. 4. As used in this Act:

21 (a) "Department" means the Department of Financial
22 Institutions.

23 (b) "Director" means the Director of Financial
24 Institutions.

25 (c) "Person" means any individual, partnership, joint
26 venture, trust, estate, firm, corporation, association or
27 cooperative society or association.

28 (d) "Financial institutions" means ambulatory and
29 community currency exchanges, credit unions, guaranteed credit
30 unions, persons engaged in the business of transmitting money
31 to foreign countries or buying and selling foreign money,
32 pawnshops' societies, title insuring or guaranteeing companies,

1 and persons engaged in the business of making loans of \$800 or
2 less, all as respectively defined in the laws referred to in
3 Section 6 of this Act. The term includes sales finance
4 agencies, as defined in the "Sales Finance Agency Act", enacted
5 by the 75th General Assembly.

6 (e) "Payday loan" has the meaning ascribed to that term in
7 the Payday Loan Reform Act.

8 (Source: Laws 1967, p. 2211.)

9 (20 ILCS 1205/6) (from Ch. 17, par. 106)

10 Sec. 6. In addition to the duties imposed elsewhere in this
11 Act, the Department has the following powers:

12 (1) To exercise the rights, powers and duties vested by law
13 in the Auditor of Public Accounts under "An Act to provide for
14 the incorporation, management and regulation of pawners'
15 societies and limiting the rate of compensation to be paid for
16 advances, storage and insurance on pawns and pledges and to
17 allow the loaning of money upon personal property", approved
18 March 29, 1899, as amended.

19 (2) To exercise the rights, powers and duties vested by law
20 in the Auditor of Public Accounts under "An Act in relation to
21 the definition, licensing and regulation of community currency
22 exchanges and ambulatory currency exchanges, and the operators
23 and employees thereof, and to make an appropriation therefor,
24 and to provide penalties and remedies for the violation
25 thereof", approved June 30, 1943, as amended.

26 (3) To exercise the rights, powers, and duties vested by
27 law in the Auditor of Public Accounts under "An Act in relation
28 to the buying and selling of foreign exchange and the
29 transmission or transfer of money to foreign countries",
30 approved June 28, 1923, as amended.

31 (4) To exercise the rights, powers, and duties vested by
32 law in the Auditor of Public Accounts under "An Act to provide
33 for and regulate the business of guaranteeing titles to real

1 estate by corporations", approved May 13, 1901, as amended.

2 (5) To exercise the rights, powers and duties vested by law
3 in the Department of Insurance under "An Act to define,
4 license, and regulate the business of making loans of eight
5 hundred dollars or less, permitting an interest charge thereon
6 greater than otherwise allowed by law, authorizing and
7 regulating the assignment of wages or salary when taken as
8 security for any such loan or as consideration for a payment of
9 eight hundred dollars or less, providing penalties, and to
10 repeal Acts therein named", approved July 11, 1935, as amended.

11 (6) To administer and enforce "An Act to license and
12 regulate the keeping and letting of safety deposit boxes,
13 safes, and vaults, and the opening thereof, and to repeal a
14 certain Act therein named", approved June 13, 1945, as amended.

15 (7) Whenever the Department is authorized or required by
16 law to consider some aspect of criminal history record
17 information for the purpose of carrying out its statutory
18 powers and responsibilities, then, upon request and payment of
19 fees in conformance with the requirements of Section 2605-400
20 of the Department of State Police Law (20 ILCS 2605/2605-400),
21 the Department of State Police is authorized to furnish,
22 pursuant to positive identification, such information
23 contained in State files as is necessary to fulfill the
24 request.

25 (8) To administer the Payday Loan Reform Act.

26 (Source: P.A. 91-239, eff. 1-1-00.)

27 Section 90-10. The Consumer Installment Loan Act is amended
28 by changing Section 21 as follows:

29 (205 ILCS 670/21) (from Ch. 17, par. 5427)

30 Sec. 21. Application of act. This Act does not apply to any
31 person, partnership, association, limited liability company,
32 or corporation doing business under and as permitted by any law

1 of this State or of the United States relating to banks,
2 savings and loan associations, savings banks, credit unions, or
3 licensees under the Residential Mortgage License Act for
4 residential mortgage loans made pursuant to that Act. This Act
5 does not apply to business loans. This Act does not apply to
6 payday loans.

7 (Source: P.A. 90-437, eff. 1-1-98.)

8 Section 90-15. The Consumer Fraud and Deceptive Business
9 Practices Act is amended by changing Section 2Z as follows:

10 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

11 Sec. 2Z. Violations of other Acts. Any person who knowingly
12 violates the Automotive Repair Act, the Home Repair and
13 Remodeling Act, the Dance Studio Act, the Physical Fitness
14 Services Act, the Hearing Instrument Consumer Protection Act,
15 the Illinois Union Label Act, the Job Referral and Job Listing
16 Services Consumer Protection Act, the Travel Promotion
17 Consumer Protection Act, the Credit Services Organizations
18 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
19 Services Consumer Protection Act, the Telephone Solicitations
20 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
21 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
22 Sales Act, the High Risk Home Loan Act, the Payday Loan Reform
23 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
24 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use
25 Tax Act, the Electronic Mail Act, paragraph (6) of subsection
26 (k) of Section 6-305 of the Illinois Vehicle Code, or the
27 Automatic Contract Renewal Act commits an unlawful practice
28 within the meaning of this Act.

29 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,
30 eff. 1-1-05.)

1 Section 99. Effective date. This Act takes effect 90 days
2 after becoming law.".