



Rep. David E. Miller

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LRB094 09280 MKM 43901 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% and with a term that
14 does not exceed 120 days, including any transaction conducted
15 via any medium whatsoever, including, but not limited to,
16 paper, facsimile, Internet, or telephone, 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.

22 (2) A lender accepts one or more authorizations to
23 debit a consumer's bank account.

24 (3) A lender accepts an interest in a consumer's wages.

25 "Principal amount" means the amount received by the
26 consumer from the lender due and owing on a loan, excluding any
27 finance charges, interest, fees, or other loan-related
28 charges.

29 "Rollover" means to refinance, renew, amend, or extend a
30 loan beyond its original term.

31 Section 1-15. Applicability.

32 (a) Except as otherwise provided in this Section, this Act
33 applies to any lender that offers or makes a payday loan to a

1 consumer in Illinois.

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

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

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

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

21 Article 2. Payday Loans

22 Section 2-5. Loan terms.

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

26 (b) No payday loan may be made to a consumer if the loan
27 would result in the consumer being indebted to one or more
28 payday lenders for a period in excess of 45 consecutive days.
29 Except as provided under Section 2-40, if a consumer has or has
30 had loans outstanding for a period in excess of 45 consecutive
31 days, no payday lender may offer or make a loan to the consumer
32 for at least 7 calendar days after the date on which the

1 outstanding balance of all payday loans made during the 45
2 consecutive day period is paid in full. For purposes of this
3 subsection, the term "consecutive days" means a series of
4 continuous calendar days in which the consumer has an
5 outstanding balance on one or more payday loans; however, if a
6 payday loan is made to a consumer within 6 days or less after
7 the outstanding balance of all loans is paid in full, those
8 days are counted as "consecutive days" for purposes of this
9 subsection.

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

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

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

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

22 (g) A consumer has the right to redeem a check or any other
23 item described in the definition of payday loan under Section
24 1-10 issued in connection with a payday loan from the lender
25 holding the check or other item at any time before the payday
26 loan becomes payable by paying the full amount of the check or
27 other item, less the unearned portion of the finance charge
28 calculated on a simple interest basis.

29 Section 2-10. Permitted fees.

30 (a) If there are insufficient funds to pay a check,
31 Automatic Clearing House (ACH) debit, or any other item
32 described in the definition of payday loan under Section 1-10
33 on the day of presentment and only after the lender has

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

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

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

17 Section 2-15. Verification.

18 (a) Before entering into a loan agreement with a consumer,
19 a lender must use a commercially reasonable method of
20 verification to verify that the proposed loan agreement is
21 permissible under this Act.

22 (b) Within 6 months after the effective date of this Act,
23 the Division shall certify that one or more consumer reporting
24 services are commercially reasonable methods of verification.
25 Upon certifying that a consumer reporting service is a
26 commercially reasonable method of verification, the Division
27 shall:

28 (1) provide reasonable notice to all licensees
29 identifying the commercially reasonable methods of
30 verification that are available; and

31 (2) immediately upon certification, require each
32 licensee to use a commercially reasonable method of
33 verification as a means of complying with subsection (a) of

1 this Section.

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

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

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

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

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

24 (3) requires licensees to input whatever information
25 is required by the Division;

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

29 (5) provides licensees only with a statement that a
30 consumer is eligible or ineligible for a new payday loan
31 and a description of the reason for the determination; and

32 (6) contains safeguards to ensure that all information
33 contained in the database regarding consumers is kept
34 strictly confidential.

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

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

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

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

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

12 (h) The certified consumer reporting service shall
13 indemnify the licensee against all claims and actions arising
14 from illegal or willful or wanton acts on the part of the
15 certified consumer reporting service.

16 Section 2-17. Consumer reporting services qualification
17 and bonding.

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

21 (b) Each application for certification under this Act shall
22 be accompanied by a surety bond acceptable to the Division in
23 the amount of \$1,000,000. The surety bond shall be in a form
24 satisfactory to the Division and shall run to the State of
25 Illinois for the benefit of any claimants against the consumer
26 reporting service to secure the faithful performance of its
27 obligations under this Act. The aggregate liability of the
28 surety may exceed the principal sum of the bond. Claimants
29 against the consumer reporting service may themselves bring
30 suit directly on the surety bond or the Division may bring suit
31 on behalf of claimants, either in one action or in successive
32 actions.

33 (c) The surety bond shall remain in effect until

1 cancellation, which may occur only after 90 days' written
2 notice to the Division. Cancellation shall not affect any
3 liability incurred or accrued during that period.

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

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

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

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

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

20 Section 2-20. Required disclosures.

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

23 (1) explains, in simple English and Spanish, all of the
24 consumer's rights and responsibilities in a payday loan
25 transaction;

26 (2) includes a toll-free number to the Director's
27 office to handle concerns or provide information about
28 whether a lender is licensed, whether complaints have been
29 filed with the Director, and the resolution of those
30 complaints; and

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

33 (b) Lenders shall provide consumers with a written

1 agreement that may be kept by the consumer. The written
2 agreement must include the following information in English and
3 in the language in which the loan was negotiated:

4 (1) the name and address of the lender making the
5 payday loan, and the name and title of the individual
6 employee who signs the agreement on behalf of the lender;

7 (2) disclosures required by the federal Truth in
8 Lending Act;

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

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

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

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

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

28 (1) A notice that informs consumers that the lender
29 cannot use the criminal process against a consumer to
30 collect any payday loan.

31 (2) The schedule of all finance charges to be charged
32 on loans with an example of the amounts that would be
33 charged on a \$100 loan payable in 13 days and a \$400 loan
34 payable in 30 days, giving the corresponding annual

1 percentage rate.

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

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

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

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

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

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

1 Section 2-35. Proceeds and payments.

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

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

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

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

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

29 (f) Loan payments may be electronically debited from the
30 consumer's bank account. Except as provided by federal law, the
31 lender must obtain prior written approval from the consumer.

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

34 (h) A loan is made on the date on which a loan agreement is

1 signed by both parties, regardless of whether the lender gives
2 any moneys to the consumer on that date.

3 Section 2-40. Repayment plan.

4 (a) At the time a payday loan is made, the lender must
5 provide the consumer with a separate written notice signed by
6 the consumer of the consumer's right to request a repayment
7 plan. The written notice must comply with the requirements of
8 subsection (c).

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

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

23 (d) If the consumer has or has had one or more payday loans
24 outstanding for 35 consecutive days, any payday loan
25 outstanding on the 35th consecutive day shall be payable under
26 the terms of a repayment plan as provided for in this Section,
27 if the consumer requests the repayment plan. As to any loan
28 that becomes eligible for a repayment plan under this
29 subsection, the consumer has until 28 days after the default
30 date of the loan to request a repayment plan. Within 48 hours
31 after the request for a repayment plan is made, the lender must
32 prepare the repayment plan agreement and both parties must
33 execute the agreement. Execution of the repayment plan

1 agreement shall be made in the same manner in which the loan
2 was made and shall be evidenced in writing.

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

5 (1) The lender may not impose any charge on the
6 consumer for requesting or using a repayment plan.
7 Performance of the terms of the repayment plan extinguishes
8 the consumer's obligation on the loan.

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

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

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

25 (f) Notwithstanding any provision of law to the contrary, a
26 lender is prohibited from making a payday loan to a consumer
27 who has a payday loan outstanding under a repayment plan and
28 for at least 14 days after the outstanding balance of the loan
29 under the repayment plan and the outstanding balance of all
30 other payday loans outstanding during the term of the repayment
31 plan are paid in full.

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

34 (h) Notwithstanding any provision of law to the contrary, a

1 lender may agree to enter into a repayment plan with a consumer
2 at any time. If a consumer is eligible for a repayment plan
3 under subsection (d), any repayment agreement constitutes a
4 repayment plan under this Section and all provisions of this
5 Section apply to that agreement.

6 Section 2-45. Default.

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

13 (b) Upon and after default, a lender shall not charge the
14 consumer any finance charges, interest, fees, or charges of any
15 kind, other than the insufficient fund fee described in Section
16 2-10.

17 Section 2-50. Practices concerning members of the
18 military.

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

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

27 (c) A lender may not knowingly contact the military chain
28 of command of a consumer who is a member of the military in an
29 effort to collect on a payday loan.

30 (d) Lenders must honor the terms of any repayment plan that
31 they have entered into with any consumer, including a repayment
32 agreement negotiated through military counselors or

1 third-party credit counselors.

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

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

7 (b) A licensee shall collect and maintain information
8 annually for a report that shall disclose in detail and under
9 appropriate headings:

10 (1) the total number of payday loans made during the
11 preceding calendar year;

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

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

16 (4) the average annual percentage rate and the average
17 term of payday loans made during the preceding calendar
18 year; and

19 (5) the total number of payday loans paid in full, the
20 total number of loans that went into default, and the total
21 number of loans written off during the preceding calendar
22 year.

23 The report shall be verified by the oath or affirmation of
24 the owner, manager, or president of the licensee. The report
25 must be filed with the Director no later than March 1 of the
26 year following the year for which the report discloses the
27 information specified in this subsection (b). The Director may
28 impose upon the licensee a fine of \$25 per day for each day
29 beyond the filing deadline that the report is not filed.

30 (c) No later than July 31 of the second year following the
31 effective date of this Act, the Division shall compile
32 aggregate data in the form of a biennial report of the payday
33 lending industry and shall make the report available to the

1 Governor, the General Assembly, and the general public.

2 (d) The Division shall have the authority to conduct
3 examinations of the books, records, and loan documents at any
4 time and shall bear the reasonable costs and expenses incident
5 to the examination.

6 Section 2-60. Advertising.

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

14 (b) If any advertisement to which this Section applies
15 states the amount of any installment payment, the dollar amount
16 of any finance charge, or the number of installments or the
17 period of repayment, then the advertisement shall state all of
18 the following items:

19 (1) The amount of the loan.

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

23 (3) The finance charge expressed as an annual
24 percentage rate.

25 Article 3. Licensure

26 Section 3-3. Licensure requirement.

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

31 (b) A person or entity acting as a payday lender who is

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

9 Section 3-5. Licensure.

10 (a) A license to make a payday loan shall state the
11 address, including city and state, at which the business is to
12 be conducted and shall state fully the name of the licensee.
13 The license shall be conspicuously posted in the place of
14 business of the licensee and shall not be transferable or
15 assignable.

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

20 (1) that the financial responsibility, experience,
21 character, and general fitness of the applicant are such as
22 to command the confidence of the public and to warrant the
23 belief that the business will be operated lawfully and
24 fairly and within the provisions and purposes of this Act;
25 and

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

28 (c) A license shall be issued for no longer than one year,
29 and no renewal of a license may be provided if a licensee has
30 substantially violated this Act and has not cured the violation
31 to the satisfaction of the Division.

32 (d) A licensee shall appoint, in writing, the Director as
33 attorney-in-fact upon whom all lawful process against the

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

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

19 (1) payment of the annual fee within 30 days of the
20 date of expiration; and

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

22 (f) Not more than one place of business shall be maintained
23 under the same license, but the Director may issue more than
24 one license to the same licensee upon compliance with all the
25 provisions of this Act governing issuance of a single license.
26 The location, except those locations already in existence as of
27 June 1, 2005, may not be within one mile of a horse race track
28 subject to the Illinois Horse Racing Act of 1975, within one
29 mile of a facility at which gambling is conducted under the
30 Riverboat Gambling Act, within one mile of the location at
31 which a riverboat subject to the Riverboat Gambling Act docks,
32 or within one mile of any State of Illinois or United States
33 military base or naval installation.

34 (g) No licensee shall conduct the business of making loans

1 under this Act within any office, suite, room, or place of
2 business in which any other business is solicited or engaged in
3 unless the other business is licensed by the Division or, in
4 the opinion of the Director, the other business would not be
5 contrary to the best interests of consumers and is authorized
6 by the Director in writing.

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

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

17 (1) Notify the Division of its intended action in
18 writing.

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

25 (3) Notify the Division of the location where the
26 books, accounts, contracts, and records will be
27 maintained.

28 The accounts, books, records, and contracts shall be
29 maintained and serviced by the licensee, by another licensee
30 under this Act, or by the Division.

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

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

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

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

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

17 (5) Knowingly accepting payment in whole or in part of
18 a payday loan through the proceeds of another payday loan
19 provided by any licensee.

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

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

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

29 (9) Making a misrepresentation of a material fact by an
30 applicant for licensure in obtaining or attempting to
31 obtain a license.

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

34 (A) a confession of judgment clause;

1 (B) a waiver of the right to a jury trial, if
2 applicable, in any action brought by or against a
3 consumer, unless the waiver is included in an
4 arbitration clause allowed under subparagraph (C) of
5 this paragraph (11);

6 (C) a mandatory arbitration clause that is
7 oppressive, unfair, unconscionable, or substantially
8 in derogation of the rights of consumers;

9 (D) any assignment of or order for payment of wages
10 or other compensation for services;

11 (E) a provision in which the consumer agrees not to
12 assert any claim or defense arising out of the
13 contract.

14 (11) Selling any insurance of any kind whether or not
15 sold in connection with the making or collecting of a
16 payday loan.

17 (12) Taking any power of attorney.

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

19 (14) Collecting a delinquency or collection charge on
20 any installment regardless of the period in which it
21 remains in default.

22 (15) Collecting treble damages on an amount owing from
23 a payday loan.

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

27 (17) Charging for, or attempting to collect,
28 attorney's fees, court costs, or arbitration costs
29 incurred in connection with the collection of a payday
30 loan.

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

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

34 (20) Garnishing the wages or salaries of a consumer who

1 is a member of the military.

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

5 (22) Contacting the military chain of command of a
6 consumer who is a member of the military in an effort to
7 collect on a payday loan.

8 Section 4-10. Enforcement and remedies.

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

11 (b) Any material violation of this Act, including the
12 commission of an act prohibited under Section 4-5, constitutes
13 a violation of the Consumer Fraud and Deceptive Business
14 Practices Act.

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

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

26 (e) The Director may issue a cease and desist order to any
27 licensee or other person doing business without the required
28 license, when in the opinion of the Director the licensee or
29 other person is violating or is about to violate any provision
30 of this Act or any rule or requirement imposed in writing by
31 the Division as a condition of granting any authorization
32 permitted by this Act. The cease and desist order permitted by
33 this subsection (e) may be issued prior to a hearing.

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

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

11 If it is determined that the Director had the authority to
12 issue the cease and desist order, he or she may issue such
13 orders as may be reasonably necessary to correct, eliminate, or
14 remedy the conduct.

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

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

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

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

34 (2) any fact or condition exists which, if it had

1 existed at the time of the original application for the
2 license, clearly would have warranted the Director in
3 refusing to issue the license.

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

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

14 The Director may issue a new license to a licensee whose
15 license has been revoked when facts or conditions which clearly
16 would have warranted the Director in refusing originally to
17 issue the license no longer exist.

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

25 An order assessing a fine, an order revoking or suspending
26 a license, or an order denying renewal of a license shall take
27 effect upon service of the order unless the licensee requests a
28 hearing, in writing, within 10 days after the date of service.
29 In the event a hearing is requested, the order shall be stayed
30 until a final administrative order is entered.

31 If the licensee requests a hearing, the Director shall
32 schedule a hearing within 30 days after the request for a
33 hearing unless otherwise agreed to by the parties.

34 The hearing shall be held at the time and place designated

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

7 The costs for the administrative hearing shall be paid by
8 the lender.

9 Section 4-15. Bonding.

10 (a) A person or entity engaged in making payday loans under
11 this Act shall post a bond to the Division in the amount of
12 \$50,000 for each location where loans will be made, up to a
13 maximum bond amount of \$500,000.

14 (b) A bond posted under subsection (a) must continue in
15 effect for the period of licensure and for 3 additional years
16 if the bond is still available. The bond must be available to
17 pay damages and penalties to a consumer harmed by a violation
18 of this Act.

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

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

26 Section 4-25. Reporting of violations. The Division shall
27 report to the Attorney General all material violations of this
28 Act of which it becomes aware.

29 Section 4-30. Rulemaking; industry review.

30 (a) The Division may make and enforce such reasonable

1 rules, regulations, directions, orders, decisions, and
2 findings as the execution and enforcement of the provisions of
3 this Act require, and as are not inconsistent therewith. All
4 rules, regulations, and directions of a general character shall
5 be printed and copies thereof mailed to all licensees.

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

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

25 (1) ensure substantial compliance with this Act,
26 including real time reporting of outstanding payday loans;
27 and

28 (2) provide data to the Division in an appropriate form
29 and with appropriate content to allow the Division to
30 adequately monitor the industry.

31 The report of the Division shall, if necessary, identify
32 and recommend specific amendments to this Act to further
33 protect consumers and to guarantee fair and reasonable
34 regulation of the payday loan industry.

1 Section 4-35. Judicial review. All final administrative
2 decisions of the Division under this Act are subject to
3 judicial review pursuant to the provisions of the
4 Administrative Review Law and any rules adopted pursuant
5 thereto.

6 Section 4-40. No waivers. There shall be no waiver of any
7 provision of this Act.

8 Section 4-45. Superiority of Act. To the extent this Act
9 conflicts with any other State financial regulation laws, this
10 Act is superior and supersedes those laws for the purposes of
11 regulating payday loans in Illinois, provided that nothing
12 herein shall apply to any lender that is a bank, savings bank,
13 savings and loan association, credit union, or insurance
14 company organized, chartered, or holding a certificate of
15 authority to do business under the laws of this State or any
16 other state or under the laws of the United States.

17 Section 4-50. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Article 90. Amendatory Provisions

20 Section 90-3. The Freedom of Information Act is amended by
21 changing Section 7 as follows:

22 (5 ILCS 140/7) (from Ch. 116, par. 207)

23 Sec. 7. Exemptions.

24 (1) The following shall be exempt from inspection and
25 copying:

26 (a) Information specifically prohibited from
27 disclosure by federal or State law or rules and regulations

1 adopted under federal or State law.

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

10 (i) files and personal information maintained with
11 respect to clients, patients, residents, students or
12 other individuals receiving social, medical,
13 educational, vocational, financial, supervisory or
14 custodial care or services directly or indirectly from
15 federal agencies or public bodies;

16 (ii) personnel files and personal information
17 maintained with respect to employees, appointees or
18 elected officials of any public body or applicants for
19 those positions;

20 (iii) files and personal information maintained
21 with respect to any applicant, registrant or licensee
22 by any public body cooperating with or engaged in
23 professional or occupational registration, licensure
24 or discipline;

25 (iv) information required of any taxpayer in
26 connection with the assessment or collection of any tax
27 unless disclosure is otherwise required by State
28 statute;

29 (v) information revealing the identity of persons
30 who file complaints with or provide information to
31 administrative, investigative, law enforcement or
32 penal agencies; provided, however, that identification
33 of witnesses to traffic accidents, traffic accident
34 reports, and rescue reports may be provided by agencies

1 of local government, except in a case for which a
2 criminal investigation is ongoing, without
3 constituting a clearly unwarranted per se invasion of
4 personal privacy under this subsection; and

5 (vi) the names, addresses, or other personal
6 information of participants and registrants in park
7 district, forest preserve district, and conservation
8 district programs.

9 (c) Records compiled by any public body for
10 administrative enforcement proceedings and any law
11 enforcement or correctional agency for law enforcement
12 purposes or for internal matters of a public body, but only
13 to the extent that disclosure would:

14 (i) interfere with pending or actually and
15 reasonably contemplated law enforcement proceedings
16 conducted by any law enforcement or correctional
17 agency;

18 (ii) interfere with pending administrative
19 enforcement proceedings conducted by any public body;

20 (iii) deprive a person of a fair trial or an
21 impartial hearing;

22 (iv) unavoidably disclose the identity of a
23 confidential source or confidential information
24 furnished only by the confidential source;

25 (v) disclose unique or specialized investigative
26 techniques other than those generally used and known or
27 disclose internal documents of correctional agencies
28 related to detection, observation or investigation of
29 incidents of crime or misconduct;

30 (vi) constitute an invasion of personal privacy
31 under subsection (b) of this Section;

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

34 (viii) obstruct an ongoing criminal investigation.

1 (d) Criminal history record information maintained by
2 State or local criminal justice agencies, except the
3 following which shall be open for public inspection and
4 copying:

5 (i) chronologically maintained arrest information,
6 such as traditional arrest logs or blotters;

7 (ii) the name of a person in the custody of a law
8 enforcement agency and the charges for which that
9 person is being held;

10 (iii) court records that are public;

11 (iv) records that are otherwise available under
12 State or local law; or

13 (v) records in which the requesting party is the
14 individual identified, except as provided under part
15 (vii) of paragraph (c) of subsection (1) of this
16 Section.

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

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

33 (f) Preliminary drafts, notes, recommendations,
34 memoranda and other records in which opinions are

1 expressed, or policies or actions are formulated, except
2 that a specific record or relevant portion of a record
3 shall not be exempt when the record is publicly cited and
4 identified by the head of the public body. The exemption
5 provided in this paragraph (f) extends to all those records
6 of officers and agencies of the General Assembly that
7 pertain to the preparation of legislative documents.

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

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

26 (i) Valuable formulae, computer geographic systems,
27 designs, drawings and research data obtained or produced by
28 any public body when disclosure could reasonably be
29 expected to produce private gain or public loss. The
30 exemption for "computer geographic systems" provided in
31 this paragraph (i) does not extend to requests made by news
32 media as defined in Section 2 of this Act when the
33 requested information is not otherwise exempt and the only
34 purpose of the request is to access and disseminate

1 information regarding the health, safety, welfare, or
2 legal rights of the general public.

3 (j) Test questions, scoring keys and other examination
4 data used to administer an academic examination or
5 determined the qualifications of an applicant for a license
6 or employment.

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

17 (l) Library circulation and order records identifying
18 library users with specific materials.

19 (m) Minutes of meetings of public bodies closed to the
20 public as provided in the Open Meetings Act until the
21 public body makes the minutes available to the public under
22 Section 2.06 of the Open Meetings Act.

23 (n) Communications between a public body and an
24 attorney or auditor representing the public body that would
25 not be subject to discovery in litigation, and materials
26 prepared or compiled by or for a public body in
27 anticipation of a criminal, civil or administrative
28 proceeding upon the request of an attorney advising the
29 public body, and materials prepared or compiled with
30 respect to internal audits of public bodies.

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

34 (p) Administrative or technical information associated

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

10 (q) Documents or materials relating to collective
11 negotiating matters between public bodies and their
12 employees or representatives, except that any final
13 contract or agreement shall be subject to inspection and
14 copying.

15 (r) Drafts, notes, recommendations and memoranda
16 pertaining to the financing and marketing transactions of
17 the public body. The records of ownership, registration,
18 transfer, and exchange of municipal debt obligations, and
19 of persons to whom payment with respect to these
20 obligations is made.

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

32 (t) Any and all proprietary information and records
33 related to the operation of an intergovernmental risk
34 management association or self-insurance pool or jointly

1 self-administered health and accident cooperative or pool.

2 (u) Information concerning a university's adjudication
3 of student or employee grievance or disciplinary cases, to
4 the extent that disclosure would reveal the identity of the
5 student or employee and information concerning any public
6 body's adjudication of student or employee grievances or
7 disciplinary cases, except for the final outcome of the
8 cases.

9 (v) Course materials or research materials used by
10 faculty members.

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

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

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

21 (z) Manuals or instruction to staff that relate to
22 establishment or collection of liability for any State tax
23 or that relate to investigations by a public body to
24 determine violation of any criminal law.

25 (aa) Applications, related documents, and medical
26 records received by the Experimental Organ Transplantation
27 Procedures Board and any and all documents or other records
28 prepared by the Experimental Organ Transplantation
29 Procedures Board or its staff relating to applications it
30 has received.

31 (bb) Insurance or self insurance (including any
32 intergovernmental risk management association or self
33 insurance pool) claims, loss or risk management
34 information, records, data, advice or communications.

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

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

9 (ee) Firm performance evaluations under Section 55 of
10 the Architectural, Engineering, and Land Surveying
11 Qualifications Based Selection Act.

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

19 (gg) Information the disclosure of which is restricted
20 and exempted under Section 50 of the Illinois Prepaid
21 Tuition Act.

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

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

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

34 (kk) Information and data concerning the distribution

1 of surcharge moneys collected and remitted by wireless
2 carriers under the Wireless Emergency Telephone Safety
3 Act.

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

18 (mm) Maps and other records regarding the location or
19 security of a utility's generation, transmission,
20 distribution, storage, gathering, treatment, or switching
21 facilities.

22 (nn) Law enforcement officer identification
23 information or driver identification information compiled
24 by a law enforcement agency or the Department of
25 Transportation under Section 11-212 of the Illinois
26 Vehicle Code.

27 (oo) Records and information provided to a residential
28 health care facility resident sexual assault and death
29 review team or the Residential Health Care Facility
30 Resident Sexual Assault and Death Review Teams Executive
31 Council under the Residential Health Care Facility
32 Resident Sexual Assault and Death Review Team Act.

33 (pp) Information contained in the certified database
34 maintained by the Division of Financial Institutions of the

1 Department of Financial and Professional Regulation in
2 accordance with Section 2-15 of the Payday Loan Reform Act.

3 (2) This Section does not authorize withholding of
4 information or limit the availability of records to the public,
5 except as stated in this Section or otherwise provided in this
6 Act.

7 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
8 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
9 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
10 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
11 8-21-03; 93-617, eff. 12-9-03.)

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

14 (20 ILCS 1205/4) (from Ch. 17, par. 104)

15 Sec. 4. As used in this Act:

16 (a) "Department" means the Department of Financial
17 Institutions.

18 (b) "Director" means the Director of Financial
19 Institutions.

20 (c) "Person" means any individual, partnership, joint
21 venture, trust, estate, firm, corporation, association or
22 cooperative society or association.

23 (d) "Financial institutions" means ambulatory and
24 community currency exchanges, credit unions, guaranteed credit
25 unions, persons engaged in the business of transmitting money
26 to foreign countries or buying and selling foreign money,
27 pawners' societies, title insuring or guaranteeing companies,
28 and persons engaged in the business of making loans of \$800 or
29 less, all as respectively defined in the laws referred to in
30 Section 6 of this Act. The term includes sales finance
31 agencies, as defined in the "Sales Finance Agency Act", enacted
32 by the 75th General Assembly.

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

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

4 (20 ILCS 1205/6) (from Ch. 17, par. 106)

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

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

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

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

26 (4) To exercise the rights, powers, and duties vested by
27 law in the Auditor of Public Accounts under "An Act to provide
28 for and regulate the business of guaranteeing titles to real
29 estate by corporations", approved May 13, 1901, as amended.

30 (5) To exercise the rights, powers and duties vested by law
31 in the Department of Insurance under "An Act to define,
32 license, and regulate the business of making loans of eight
33 hundred dollars or less, permitting an interest charge thereon

1 greater than otherwise allowed by law, authorizing and
2 regulating the assignment of wages or salary when taken as
3 security for any such loan or as consideration for a payment of
4 eight hundred dollars or less, providing penalties, and to
5 repeal Acts therein named", approved July 11, 1935, as amended.

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

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

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

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

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

24 (205 ILCS 670/21) (from Ch. 17, par. 5427)

25 Sec. 21. Application of act. This Act does not apply to any
26 person, partnership, association, limited liability company,
27 or corporation doing business under and as permitted by any law
28 of this State or of the United States relating to banks,
29 savings and loan associations, savings banks, credit unions, or
30 licensees under the Residential Mortgage License Act for
31 residential mortgage loans made pursuant to that Act. This Act
32 does not apply to business loans. This Act does not apply to

1 payday loans.

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

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

5 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

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

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

26 Article 99. Effective Date

27 Section 99. Effective date. This Act takes effect 90 days
28 after becoming law."