



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB6734

by Rep. Joan G. Krupa

SYNOPSIS AS INTRODUCED:

See Index

Amends the Payday Loan Reform Act. Changes the short title to the Payday and Small Consumer Loan Reform Act. Changes the definition of "payday loan" to a definition of "payday loan or small consumer loan", with a change in maximum duration of a loan from 120 to 240 days and other changes. Deletes language providing that a lender may not charge more than \$15.50 per \$100 loaned on any payday loan over the term of the loan and that the charge is considered fully earned as of the date on which the loan is made unless otherwise provided; and adds language providing that a lender may not charge more than 36% interest calculated on an annual percentage rate basis with all interest charges and fees included. Provides that the Act explicitly includes under its terms all small consumer loans with terms under 241 days that were formerly regulated under the terms of the Consumer Installment Loan Act. Makes other changes. Amends the Financial Institutions Code, the Consumer Installment Loan Act, the Interest Act, and the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB095 23284 KTG 53982 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

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

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

6 (20 ILCS 1205/4) (from Ch. 17, par. 104)

7 Sec. 4. As used in this Act:

8 (a) "Department" means the Department of Financial
9 Institutions.

10 (b) "Director" means the Director of Financial
11 Institutions.

12 (c) "Person" means any individual, partnership, joint
13 venture, trust, estate, firm, corporation, association or
14 cooperative society or association.

15 (d) "Financial institutions" means ambulatory and
16 community currency exchanges, credit unions, guaranteed credit
17 unions, persons engaged in the business of transmitting money
18 to foreign countries or buying and selling foreign money,
19 pawnshops, societies, title insuring or guaranteeing companies,
20 and persons engaged in the business of making loans of \$800 or
21 less, all as respectively defined in the laws referred to in
22 Section 6 of this Act. The term includes sales finance
23 agencies, as defined in the "Sales Finance Agency Act", enacted

1 by the 75th General Assembly.

2 (e) "Payday loan" has the meaning ascribed to that term in
3 the Payday and Small Consumer Loan Reform Act.

4 (Source: P.A. 94-13, eff. 12-6-05.)

5 (20 ILCS 1205/6) (from Ch. 17, par. 106)

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

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

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

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

1 approved June 28, 1923, as amended.

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

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

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

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

1 contained in State files as is necessary to fulfill the
2 request.

3 (8) To administer the Payday and Small Consumer Loan Reform
4 Act.

5 (Source: P.A. 94-13, eff. 12-6-05.)

6 Section 10. The Consumer Installment Loan Act is amended by
7 changing Section 21 as follows:

8 (205 ILCS 670/21) (from Ch. 17, par. 5427)

9 Sec. 21. Application of Act. This Act does not apply to any
10 person, partnership, association, limited liability company,
11 or corporation doing business under and as permitted by any law
12 of this State or of the United States relating to banks,
13 savings and loan associations, savings banks, credit unions, or
14 licensees under the Residential Mortgage License Act for
15 residential mortgage loans made pursuant to that Act. This Act
16 does not apply to business loans. This Act does not apply to
17 payday or small consumer loans as defined in the Payday and
18 Small Consumer Loan Reform Act.

19 (Source: P.A. 94-13, eff. 12-6-05.)

20 Section 15. The Payday Loan Reform Act is amended by
21 changing Sections 1-1, 1-5, 1-10, 1-15, 2-5, 2-7, 2-10, 2-15,
22 2-17, 2-20, 2-25, 2-30, 2-35, 2-40, 2-45, 2-50, 2-55, 2-60,
23 3-3, 3-5, 3-10, 4-5, 4-10, 4-15, 4-20, 4-25, 4-30, 4-35, 4-40,

1 4-45, and 4-50 and the heading of Article 2 as follows:

2 (815 ILCS 122/1-1)

3 Sec. 1-1. Short title. This Act may be cited as the Payday
4 and Small Consumer Loan Reform Act.

5 (Source: P.A. 94-13, eff. 12-6-05.)

6 (815 ILCS 122/1-5)

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

13 (Source: P.A. 94-13, eff. 12-6-05.)

14 (815 ILCS 122/1-10)

15 Sec. 1-10. Definitions. As used in this Act:

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

19 "Commercially reasonable method of verification" or
20 "certified database" means a consumer reporting service
21 database certified by the Department as effective in verifying
22 that a proposed loan agreement is permissible under this Act,
23 or, in the absence of the Department's certification, any

1 reasonably reliable written verification by the consumer
2 concerning (i) whether the consumer has any outstanding payday
3 or small consumer loans, (ii) the principal amount of those
4 outstanding payday or small consumer loans, and (iii) whether
5 any payday or small consumer loans have been paid in full by
6 the consumer in the preceding 7 days.

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

9 "Consumer reporting service" means an entity that provides
10 a database certified by the Department.

11 "Department" means the Department of Financial and
12 Professional Regulation.

13 "Secretary" means the Secretary of Financial and
14 Professional Regulation.

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

20 "Lender" and "licensee" mean any person or entity,
21 including any affiliate or subsidiary of a lender or licensee,
22 that offers or makes a payday or small consumer loan, buys a
23 whole or partial interest in a payday or small consumer loan,
24 arranges a payday or small consumer loan for a third party, or
25 acts as an agent for a third party in making a payday or small
26 consumer loan, regardless of whether approval, acceptance, or

1 ratification by the third party is necessary to create a legal
2 obligation for the third party, and includes any other person
3 or entity if the Department determines that the person or
4 entity is engaged in a transaction that is in substance a
5 disguised payday or small consumer loan or a subterfuge for the
6 purpose of avoiding this Act.

7 "Loan agreement" means a written agreement between a lender
8 and consumer to make a loan to the consumer, regardless of
9 whether any loan proceeds are actually paid to the consumer on
10 the date on which the loan agreement is made.

11 "Member of the military" means a person serving in the
12 armed forces of the United States, the Illinois National Guard,
13 or any reserve component of the armed forces of the United
14 States. "Member of the military" includes those persons engaged
15 in (i) active duty, (ii) training or education under the
16 supervision of the United States preliminary to induction into
17 military service, or (iii) a period of active duty with the
18 State of Illinois under Title 10 or Title 32 of the United
19 States Code pursuant to order of the President or the Governor
20 of the State of Illinois.

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

24 "Payday loan" or "small consumer loan" means a loan ~~with a~~
25 ~~finance charge exceeding an annual percentage rate of 36% and~~
26 with a term that does not exceed 240 ~~120~~ days, including any

1 transaction conducted via any medium whatsoever, including,
2 but not limited to, paper, facsimile, Internet, or telephone.7

3 ~~in~~ This category includes loans in which:

4 (1) A lender accepts one or more checks dated on the
5 date written and agrees to hold them for a period of days
6 before deposit or presentment, or accepts one or more
7 checks dated subsequent to the date written and agrees to
8 hold them for deposit; or

9 (2) A lender accepts one or more authorizations to
10 debit a consumer's bank account; or

11 (3) A lender accepts an interest in a consumer's wages,
12 including, but not limited to, a wage assignment.

13 "Principal amount" means the amount received by the
14 consumer from the lender due and owing on a loan, excluding any
15 finance charges, interest, fees, or other loan-related
16 charges.

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

19 (Source: P.A. 94-13, eff. 12-6-05.)

20 (815 ILCS 122/1-15)

21 Sec. 1-15. Applicability.

22 (a) Except as otherwise provided in this Section, this Act
23 applies to any lender that offers or makes a payday or small
24 consumer loan to a consumer in Illinois.

25 (b) The provisions of this Act apply to any person or

1 entity that seeks to evade its applicability by any device,
2 subterfuge, or pretense whatsoever.

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

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

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

20 (Source: P.A. 94-13, eff. 12-6-05.)

21 (815 ILCS 122/Art. 2 heading)

22 Article 2. Payday and Small Consumer Loans

23 (Source: P.A. 94-13, eff. 12-6-05.)

24 (815 ILCS 122/2-5)

1 Sec. 2-5. Loan terms.

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

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

22 (c) No lender may make a payday or small consumer loan to a
23 consumer if the total principal amount of the loan, when
24 combined with the principal amount of all of the consumer's
25 other outstanding payday or small consumer loans, exceeds
26 \$1,000 or 25% of the consumer's gross monthly income, whichever

1 is less.

2 (d) No payday or small consumer loan may be made to a
3 consumer who has an outstanding balance on 2 payday or small
4 consumer loans.

5 (e) No lender may charge more than 36% interest, calculated
6 on an annual percentage rate basis, with all interest charges
7 and fees included on any payday or small consumer loan ~~more~~
8 ~~than \$15.50 per \$100 loaned on any payday loan over the term of~~
9 ~~the loan. Except as provided in Section 2-25, this charge is~~
10 ~~considered fully earned as of the date on which the loan is~~
11 ~~made.~~

12 (f) A lender may not take or attempt to take an interest in
13 any of the consumer's personal property to secure a payday or
14 small consumer loan.

15 (g) A consumer has the right to redeem a check or any other
16 item described in the definition of payday or small consumer
17 loan under Section 1-10 issued in connection with a payday or
18 small consumer loan from the lender holding the check or other
19 item at any time before the payday or small consumer loan
20 becomes payable by paying the full amount of the check or other
21 item.

22 (Source: P.A. 94-13, eff. 12-6-05.)

23 (815 ILCS 122/2-7)

24 Sec. 2-7. Wage assignments. Any payday or small consumer
25 loan that is a transaction in which the lender accepts a wage

1 assignment must meet the requirements of this Act, the
2 requirements of the Illinois Wage Assignment Act, and the
3 requirements of 16 C.F.R. 444.2(a)(3)(i) (2003, no subsequent
4 amendments or editions are included). A violation of this
5 Section constitutes a material violation of the Payday and
6 Small Consumer Loan Reform Act.

7 (Source: P.A. 94-13, eff. 12-6-05.)

8 (815 ILCS 122/2-10)

9 Sec. 2-10. Permitted fees.

10 (a) If there are insufficient funds to pay a check,
11 Automatic Clearing House (ACH) debit, or any other item
12 described in the definition of payday or small consumer loan
13 under Section 1-10 on the day of presentment and only after the
14 lender has incurred an expense, a lender may charge a fee not
15 to exceed \$25. Only one such fee may be collected by the lender
16 with respect to a particular check, ACH debit, or item even if
17 it has been deposited and returned more than once. A lender
18 shall present the check, ACH debit, or other item described in
19 the definition of payday or small consumer loan under Section
20 1-10 for payment not more than twice. A fee charged under this
21 subsection (a) is a lender's exclusive charge for late payment.

22 (b) Except for the finance charges described in Section 2-5
23 and as specifically allowed by this Section, a lender may not
24 impose on a consumer any additional finance charges, interest,
25 fees, or charges of any sort for any purpose.

1 (Source: P.A. 94-13, eff. 12-6-05.)

2 (815 ILCS 122/2-15)

3 Sec. 2-15. Verification.

4 (a) Before entering into a loan agreement with a consumer,
5 a lender must use a commercially reasonable method of
6 verification to verify that the proposed loan agreement is
7 permissible under this Act.

8 (b) Within 6 months after the effective date of this Act,
9 the Department shall certify that one or more consumer
10 reporting service databases are commercially reasonable
11 methods of verification. Upon certifying that a consumer
12 reporting service database is a commercially reasonable method
13 of verification, the Department shall:

14 (1) provide reasonable notice to all licensees
15 identifying the commercially reasonable methods of
16 verification that are available; and

17 (2) immediately upon certification, require each
18 licensee to use a commercially reasonable method of
19 verification as a means of complying with subsection (a) of
20 this Section.

21 (c) Except as otherwise provided in this Section, all
22 personally identifiable information regarding any consumer
23 obtained by way of the certified database and maintained by the
24 Department is strictly confidential and shall be exempt from
25 disclosure under Section 7(1)(b)(i) of the Freedom of

1 Information Act.

2 (d) Notwithstanding any other provision of law to the
3 contrary, a consumer seeking a payday or small consumer loan
4 may make a direct inquiry to the consumer reporting service to
5 request a more detailed explanation of the basis for a consumer
6 reporting service's determination that the consumer is
7 ineligible for a new payday or small consumer loan.

8 (e) In certifying a commercially reasonable method of
9 verification, the Department shall ensure that the certified
10 database:

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

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

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

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

1 (5) provides licensees only with a statement that a
2 consumer is eligible or ineligible for a new payday or
3 small consumer loan and a description of the reason for the
4 determination; and

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

8 (f) The licensee shall update the certified database by
9 inputting all information required under item (3) of subsection
10 (e):

11 (1) on the same day that a payday or small consumer
12 loan is made;

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

15 (3) on the same day that a consumer's payday or small
16 consumer loan is paid in full.

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

21 (h) The certified consumer reporting service shall
22 indemnify the licensee against all claims and actions arising
23 from illegal or willful or wanton acts on the part of the
24 certified consumer reporting service.

25 (Source: P.A. 94-13, eff. 12-6-05.)

1 (815 ILCS 122/2-20)

2 Sec. 2-20. Required disclosures.

3 (a) Before a payday or small consumer loan is made, a
4 lender shall deliver to the consumer a pamphlet prepared by the
5 Secretary that:

6 (1) explains, in simple English and Spanish, all of the
7 consumer's rights and responsibilities in a payday or small
8 consumer loan transaction;

9 (2) includes a toll-free number to the Secretary's
10 office to handle concerns or provide information about
11 whether a lender is licensed, whether complaints have been
12 filed with the Secretary, and the resolution of those
13 complaints; and

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

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

20 (1) the name and address of the lender making the
21 payday or small consumer loan, and the name and title of
22 the individual employee who signs the agreement on behalf
23 of the lender;

24 (2) disclosures required by the federal Truth in
25 Lending Act;

26 (3) a clear description of the consumer's payment

1 obligations under the loan;

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

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

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 (c) The following notices in English and Spanish must be
17 conspicuously posted by a lender in each location of a business
18 providing payday or small consumer loans:

19 (1) A notice that informs consumers that the lender
20 cannot use the criminal process against a consumer to
21 collect any payday or small consumer loan.

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

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

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

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

13 "INTEREST-FREE REPAYMENT PLAN: If you still owe on one
14 or more payday or small consumer loans after 35 days, you
15 are entitled to enter into a repayment plan. The repayment
16 plan will give you at least 55 days to repay your loan in
17 installments with no additional finance charges, interest,
18 fees, or other charges of any kind."

19 (Source: P.A. 94-13, eff. 12-6-05.)

20 (815 ILCS 122/2-25)

21 Sec. 2-25. Right to cancel future payment obligations. A
22 consumer may cancel future payment obligations on a payday or
23 small consumer loan, without cost or finance charges, no later
24 than the end of the second business day immediately following
25 the day on which the payday or small consumer loan agreement

1 was executed. To cancel future payment obligations on a payday
2 or small consumer loan, the consumer must inform the lender in
3 writing that the consumer wants to cancel the future payment
4 obligations on the payday or small consumer loan and must
5 return the uncashed proceeds, check or cash, in an amount equal
6 to the principal amount of the loan.

7 (Source: P.A. 94-13, eff. 12-6-05.)

8 (815 ILCS 122/2-30)

9 Sec. 2-30. Rollovers prohibited. Rollover of a payday or
10 small consumer loan by any lender is prohibited. This Section
11 does not prohibit entering into a repayment plan, as provided
12 under Section 2-40.

13 (Source: P.A. 94-13, eff. 12-6-05.)

14 (815 ILCS 122/2-35)

15 Sec. 2-35. Proceeds and payments.

16 (a) A lender may issue the proceeds of a loan in the form
17 of a check drawn on the lender's bank account, in cash, by
18 money order, by debit card, or by electronic funds transfer.
19 When the proceeds are issued in the form of a check drawn on
20 the lender's bank account, by money order, or by electronic
21 funds transfer, the lender may not charge a fee for cashing the
22 check, money order, or electronic funds transfer. When the
23 proceeds are issued in cash, the lender must provide the
24 consumer with written verification of the cash transaction and

1 shall maintain a record of the transaction for at least 3
2 years.

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

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

10 (d) The holder or assignee of any loan agreement or of any
11 check written by a consumer in connection with a payday or
12 small consumer loan takes the loan agreement or check subject
13 to all claims and defenses of the consumer against the maker.

14 (e) Upon receipt of a check from a consumer for a loan, the
15 lender must immediately stamp the back of the check with an
16 endorsement that states: "This check is being negotiated as
17 part of a loan under the Payday and Small Consumer Loan Reform
18 Act, and any holder of this check takes it subject to all
19 claims and defenses of the maker."

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

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

25 (h) A loan is made on the date on which a loan agreement is
26 signed by both parties, regardless of whether the lender gives

1 any moneys to the consumer on that date.

2 (Source: P.A. 94-13, eff. 12-6-05.)

3 (815 ILCS 122/2-40)

4 Sec. 2-40. Repayment plan.

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

10 (b) The loan agreement must include the following language
11 in at least 14-point bold type: IF YOU STILL OWE ON ONE OR MORE
12 PAYDAY OR SMALL CONSUMER LOANS AFTER 35 DAYS, YOU ARE ENTITLED
13 TO ENTER INTO A REPAYMENT PLAN. THE REPAYMENT PLAN WILL GIVE
14 YOU AT LEAST 55 DAYS TO REPAY YOUR LOAN IN INSTALLMENTS WITH NO
15 ADDITIONAL FINANCE CHARGES, INTEREST, FEES, OR OTHER CHARGES OF
16 ANY KIND.

17 (c) At the time a payday or small consumer loan is made, on
18 the first page of the loan agreement and in a separate document
19 signed by the consumer, the following shall be inserted in at
20 least 14-point bold type: I UNDERSTAND THAT IF I STILL OWE ON
21 ONE OR MORE PAYDAY OR SMALL CONSUMER LOANS AFTER 35 DAYS, I AM
22 ENTITLED TO ENTER INTO A REPAYMENT PLAN THAT WILL GIVE ME AT
23 LEAST 55 DAYS TO REPAY THE LOAN IN INSTALLMENTS WITH NO
24 ADDITIONAL FINANCE CHARGES, INTEREST, FEES, OR OTHER CHARGES OF
25 ANY KIND.

1 (d) If the consumer has or has had one or more payday or
2 small consumer loans outstanding for 35 consecutive days, any
3 payday or small consumer loan outstanding on the 35th
4 consecutive day shall be payable under the terms of a repayment
5 plan as provided for in this Section, if the consumer requests
6 the repayment plan. As to any loan that becomes eligible for a
7 repayment plan under this subsection, the consumer has until 28
8 days after the default date of the loan to request a repayment
9 plan. Within 48 hours after the request for a repayment plan is
10 made, the lender must prepare the repayment plan agreement and
11 both parties must execute the agreement. Execution of the
12 repayment plan agreement shall be made in the same manner in
13 which the loan was made and shall be evidenced in writing.

14 (e) The terms of the repayment plan for a payday or small
15 consumer loan must include the following:

16 (1) The lender may not impose any charge on the
17 consumer for requesting or using a repayment plan.
18 Performance of the terms of the repayment plan extinguishes
19 the consumer's obligation on the loan.

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

24 (3) The consumer shall be allowed to repay the loan in
25 at least 4 equal installments with at least 13 days between
26 installments, provided that the term of the repayment plan

1 does not exceed 90 days. The first payment under the
2 repayment plan shall not be due before at least 13 days
3 after the repayment plan is signed by both parties. The
4 consumer may prepay the amount due under the repayment plan
5 at any time, without charge or penalty.

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

10 (f) Notwithstanding any provision of law to the contrary, a
11 lender is prohibited from making a payday or small consumer
12 loan to a consumer who has a payday or small consumer loan
13 outstanding under a repayment plan and for at least 14 days
14 after the outstanding balance of the loan under the repayment
15 plan and the outstanding balance of all other payday or small
16 consumer loans outstanding during the term of the repayment
17 plan are paid in full.

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

20 (h) Notwithstanding any provision of law to the contrary, a
21 lender may voluntarily agree to enter into a repayment plan
22 with a consumer at any time. If a consumer is eligible for a
23 repayment plan under subsection (d), any repayment agreement
24 constitutes a repayment plan under this Section and all
25 provisions of this Section apply to that agreement.

26 (Source: P.A. 94-13, eff. 12-6-05.)

1 (815 ILCS 122/2-45)

2 Sec. 2-45. Default.

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

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

14 (c) Notwithstanding whether a loan is or has been in
15 default, once the loan becomes subject to a repayment plan, the
16 loan shall not be construed to be in default until the default
17 date provided under the terms of the repayment plan.

18 (Source: P.A. 94-13, eff. 12-6-05.)

19 (815 ILCS 122/2-50)

20 Sec. 2-50. Practices concerning members of the military.

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

23 (b) In addition to any rights and obligations provided
24 under the federal Servicemembers Civil Relief Act, a lender

1 shall suspend and defer collection activity against a consumer
2 who is a member of the military and who has been deployed to a
3 combat or combat support posting for the duration of the
4 deployment.

5 (c) A lender may not knowingly contact the military chain
6 of command of a consumer who is a member of the military in an
7 effort to collect on a payday or small consumer loan.

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

12 (Source: P.A. 94-13, eff. 12-6-05.)

13 (815 ILCS 122/2-55)

14 Sec. 2-55. Information, reporting, and examination.

15 (a) A licensee shall keep and use books, accounts, and
16 records that will enable the Secretary to determine if the
17 licensee is complying with the provisions of this Act and
18 maintain any other records as required by the Secretary.

19 (b) A licensee shall collect and maintain information
20 annually for a report that shall disclose in detail and under
21 appropriate headings:

22 (1) the total number of payday or small consumer loans
23 made during the preceding calendar year;

24 (2) the total number of payday or small consumer loans
25 outstanding as of December 31 of the preceding calendar

1 year;

2 (3) the minimum, maximum, and average dollar amount of
3 payday or small consumer loans made during the preceding
4 calendar year;

5 (4) the average annual percentage rate and the average
6 term of payday or small consumer loans made during the
7 preceding calendar year; and

8 (5) the total number of payday or small consumer loans
9 paid in full, the total number of loans that went into
10 default, and the total number of loans written off during
11 the preceding calendar year.

12 The report shall be verified by the oath or affirmation of
13 the owner, manager, or president of the licensee. The report
14 must be filed with the Secretary no later than March 1 of the
15 year following the year for which the report discloses the
16 information specified in this subsection (b). The Secretary may
17 impose upon the licensee a fine of \$25 per day for each day
18 beyond the filing deadline that the report is not filed.

19 (c) No later than July 31 of the second year following the
20 effective date of this Act, the Department shall publish a
21 biennial report that contains a compilation of aggregate data
22 concerning the payday and small consumer lending industries
23 ~~industry~~ and shall make the report available to the Governor,
24 the General Assembly, and the general public.

25 (d) The Department shall have the authority to conduct
26 examinations of the books, records, and loan documents at any

1 time.

2 (Source: P.A. 94-13, eff. 12-6-05.)

3 (815 ILCS 122/2-60)

4 Sec. 2-60. Advertising.

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

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

18 (1) The amount of the loan.

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

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

24 (Source: P.A. 94-13, eff. 12-6-05.)

1 (815 ILCS 122/3-3)

2 Sec. 3-3. Licensure requirement.

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

7 (b) A person or entity acting as a payday or small consumer
8 lender who is licensed on the effective date of this Act under
9 the Consumer Installment Loan Act need not comply with
10 subsection (a) until the Department takes action on the
11 person's or entity's application for a payday or small consumer
12 loan license. The application must be submitted to the
13 Department within 9 months after the effective date of this
14 Act. If the application is not submitted within 9 months after
15 the effective date of this Act, the person or entity acting as
16 a payday or small consumer lender is subject to subsection (a).
17 (Source: P.A. 94-13, eff. 12-6-05.)

18 (815 ILCS 122/3-5)

19 Sec. 3-5. Licensure.

20 (a) A license to make a payday or small consumer loan shall
21 state the address, including city and state, at which the
22 business is to be conducted and shall state fully the name of
23 the licensee. The license shall be conspicuously posted in the
24 place of business of the licensee and shall not be transferable
25 or assignable.

1 (b) An application for a license shall be in writing and in
2 a form prescribed by the Secretary. The Secretary may not issue
3 a payday or small consumer loan license unless and until the
4 following findings are made:

5 (1) that the financial responsibility, experience,
6 character, and general fitness of the applicant are such as
7 to command the confidence of the public and to warrant the
8 belief that the business will be operated lawfully and
9 fairly and within the provisions and purposes of this Act;
10 and

11 (2) that the applicant has submitted such other
12 information as the Secretary may deem necessary.

13 (c) A license shall be issued for no longer than one year,
14 and no renewal of a license may be provided if a licensee has
15 substantially violated this Act and has not cured the violation
16 to the satisfaction of the Department.

17 (d) A licensee shall appoint, in writing, the Secretary as
18 attorney-in-fact upon whom all lawful process against the
19 licensee may be served with the same legal force and validity
20 as if served on the licensee. A copy of the written
21 appointment, duly certified, shall be filed in the office of
22 the Secretary, and a copy thereof certified by the Secretary
23 shall be sufficient evidence to subject a licensee to
24 jurisdiction in a court of law. This appointment shall remain
25 in effect while any liability remains outstanding in this State
26 against the licensee. When summons is served upon the Secretary

1 as attorney-in-fact for a licensee, the Secretary shall
2 immediately notify the licensee by registered mail, enclosing
3 the summons and specifying the hour and day of service.

4 (e) A licensee must pay an annual fee of \$1,000. In
5 addition to the license fee, the reasonable expense of any
6 examination or hearing by the Secretary under any provisions of
7 this Act shall be borne by the licensee. If a licensee fails to
8 renew its license by December 31, its license shall
9 automatically expire; however, the Secretary, in his or her
10 discretion, may reinstate an expired license upon:

11 (1) payment of the annual fee within 30 days of the
12 date of expiration; and

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

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

26 (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 Department or, in
4 the opinion of the Secretary, the other business would not be
5 contrary to the best interests of consumers and is authorized
6 by the Secretary in writing.

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

14 (Source: P.A. 94-13, eff. 12-6-05.)

15 (815 ILCS 122/4-5)

16 Sec. 4-5. Prohibited acts. A licensee or unlicensed person
17 or entity making payday or small consumer loans may not commit,
18 or have committed on behalf of the licensee or unlicensed
19 person or entity, any of the following acts:

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

22 (2) Using any device or agreement that would have the
23 effect of charging or collecting more fees or charges than
24 allowed by this Act, including, but not limited to,
25 entering into a different type of transaction with the

1 consumer.

2 (3) Engaging in unfair, deceptive, or fraudulent
3 practices in the making or collecting of a payday or small
4 consumer loan.

5 (4) Using or attempting to use the check provided by
6 the consumer in a payday or small consumer loan as
7 collateral for a transaction not related to a payday or
8 small consumer loan.

9 (5) Knowingly accepting payment in whole or in part of
10 a payday or small consumer loan through the proceeds of
11 another payday or small consumer loan provided by any
12 licensee.

13 (6) Knowingly accepting any security, other than that
14 specified in the definition of payday or small consumer
15 loan in Section 1-10, for a payday or small consumer loan.

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

18 (8) Threatening to take any action against a consumer
19 that is prohibited by this Act or making any misleading or
20 deceptive statements regarding the payday or small
21 consumer loan or any consequences thereof.

22 (9) Making a misrepresentation of a material fact by an
23 applicant for licensure in obtaining or attempting to
24 obtain a license.

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

1 (A) a confession of judgment clause;

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

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

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

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

16 (12) Taking any power of attorney.

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

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

21 (15) Collecting treble damages on an amount owing from
22 a payday or small consumer loan.

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

26 (17) Charging for, or attempting to collect,

1 attorney's fees, court costs, or arbitration costs
2 incurred in connection with the collection of a payday or
3 small consumer loan.

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

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

7 (20) 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 (21) 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 or small consumer loan.

13 (Source: P.A. 94-13, eff. 12-6-05.)

14 (815 ILCS 122/4-15)

15 Sec. 4-15. Bonding.

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

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

25 (c) From time to time the Secretary may require a licensee

1 to file a bond in an additional sum if the Secretary determines
2 it to be necessary. In no case shall the bond be more than the
3 outstanding liabilities of the licensee.

4 (Source: P.A. 94-13, eff. 12-6-05.)

5 (815 ILCS 122/4-20)

6 Sec. 4-20. Preemption of administrative rules. Any
7 administrative rule promulgated prior to the effective date of
8 this Act by the Department regarding payday or small consumer
9 loans is preempted.

10 (Source: P.A. 94-13, eff. 12-6-05.)

11 (815 ILCS 122/4-30)

12 Sec. 4-30. Rulemaking; industry review.

13 (a) The Department may make and enforce such reasonable
14 rules, regulations, directions, orders, decisions, and
15 findings as the execution and enforcement of the provisions of
16 this Act require, and as are not inconsistent therewith. All
17 rules, regulations, and directions of a general character shall
18 be printed and copies thereof mailed to all licensees.

19 (b) Within 6 months after the effective date of this
20 amendatory Act of the 95th General Assembly, the Department
21 shall promulgate reasonable rules regarding the issuance of
22 payday or small consumer loans by banks, savings banks, savings
23 and loan associations, credit unions, and insurance companies.
24 These rules shall be consistent with this Act and shall be

1 limited in scope to the actual products and services offered by
2 lenders governed by this Act.

3 (c) After the effective date of this amendatory Act of the
4 95th General Assembly, the Department shall, over a 3-year
5 period, conduct a study of the payday and small consumer loan
6 industries ~~industry~~ to determine the impact and effectiveness
7 of this Act. The Department shall report its findings to the
8 General Assembly within 3 months of the third anniversary of
9 the effective date of this amendatory Act of the 95th General
10 Assembly. The study shall determine the effect of this Act on
11 the protection of consumers in this State and on the fair and
12 reasonable regulation of the payday and small consumer loan
13 industries ~~industry~~. The study shall include, but shall not be
14 limited to, an analysis of the ability of the industries
15 ~~industry~~ to use private reporting tools that:

16 (1) ensure substantial compliance with this Act,
17 including real time reporting of outstanding payday and
18 small consumer loans; and

19 (2) provide data to the Department in an appropriate
20 form and with appropriate content to allow the Department
21 to adequately monitor the industries ~~industry~~.

22 The report of the Department shall, if necessary, identify
23 and recommend specific amendments to this Act to further
24 protect consumers and to guarantee fair and reasonable
25 regulation of the payday and small consumer loan industries
26 ~~industry~~.

1 (Source: P.A. 94-13, eff. 12-6-05.)

2 (815 ILCS 122/4-45)

3 Sec. 4-45. Superiority of Act. To the extent this Act
4 conflicts with any other State financial regulation laws, this
5 Act is superior and supersedes those laws for the purposes of
6 regulating payday and small consumer loans in Illinois,
7 provided that nothing herein shall apply to any lender that is
8 a bank, savings bank, savings and loan association, credit
9 union, or insurance company organized, chartered, or holding a
10 certificate of authority to do business under the laws of this
11 State or any other state or under the laws of the United
12 States. This Act, as amended, explicitly includes under its
13 terms all small consumer loans with terms under 241 days which,
14 prior to the effective date of this amendatory Act of the 95th
15 General Assembly, were regulated under the terms of the
16 Consumer Installment Loan Act.

17 (Source: P.A. 94-13, eff. 12-6-05.)

18 Section 20. The Interest Act is amended by changing Section
19 4 as follows:

20 (815 ILCS 205/4) (from Ch. 17, par. 6404)

21 Sec. 4. General interest rate.

22 (1) Except as otherwise provided in Section 4.05, in all
23 written contracts it shall be lawful for the parties to

1 stipulate or agree that 9% per annum, or any less sum of
2 interest, shall be taken and paid upon every \$100 of money
3 loaned or in any manner due and owing from any person to any
4 other person or corporation in this state, and after that rate
5 for a greater or less sum, or for a longer or shorter time,
6 except as herein provided.

7 The maximum rate of interest that may lawfully be
8 contracted for is determined by the law applicable thereto at
9 the time the contract is made. Any provision in any contract,
10 whether made before or after July 1, 1969, which provides for
11 or purports to authorize, contingent upon a change in the
12 Illinois law after the contract is made, any rate of interest
13 greater than the maximum lawful rate at the time the contract
14 is made, is void.

15 It is lawful for a state bank or a branch of an
16 out-of-state bank, as those terms are defined in Section 2 of
17 the Illinois Banking Act, to receive or to contract to receive
18 and collect interest and charges at any rate or rates agreed
19 upon by the bank or branch and the borrower. It is lawful for a
20 savings bank chartered under the Savings Bank Act or a savings
21 association chartered under the Illinois Savings and Loan Act
22 of 1985 to receive or contract to receive and collect interest
23 and charges at any rate agreed upon by the savings bank or
24 savings association and the borrower.

25 It is lawful to receive or to contract to receive and
26 collect interest and charges as authorized by this Act and as

1 authorized by the Consumer Installment Loan Act and by the
2 "Consumer Finance Act", approved July 10, 1935, as now or
3 hereafter amended, or by the Payday and Small Consumer Loan
4 Reform Act. It is lawful to charge, contract for, and receive
5 any rate or amount of interest or compensation with respect to
6 the following transactions:

7 (a) Any loan made to a corporation;

8 (b) Advances of money, repayable on demand, to an
9 amount not less than \$5,000, which are made upon warehouse
10 receipts, bills of lading, certificates of stock,
11 certificates of deposit, bills of exchange, bonds or other
12 negotiable instruments pledged as collateral security for
13 such repayment, if evidenced by a writing;

14 (c) Any credit transaction between a merchandise
15 wholesaler and retailer; any business loan to a business
16 association or copartnership or to a person owning and
17 operating a business as sole proprietor or to any persons
18 owning and operating a business as joint venturers, joint
19 tenants or tenants in common, or to any limited
20 partnership, or to any trustee owning and operating a
21 business or whose beneficiaries own and operate a business,
22 except that any loan which is secured (1) by an assignment
23 of an individual obligor's salary, wages, commissions or
24 other compensation for services, or (2) by his household
25 furniture or other goods used for his personal, family or
26 household purposes shall be deemed not to be a loan within

1 the meaning of this subsection; and provided further that a
2 loan which otherwise qualifies as a business loan within
3 the meaning of this subsection shall not be deemed as not
4 so qualifying because of the inclusion, with other security
5 consisting of business assets of any such obligor, of real
6 estate occupied by an individual obligor solely as his
7 residence. The term "business" shall be deemed to mean a
8 commercial, agricultural or industrial enterprise which is
9 carried on for the purpose of investment or profit, but
10 shall not be deemed to mean the ownership or maintenance of
11 real estate occupied by an individual obligor solely as his
12 residence;

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

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

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

25 (g) Interest charged by a broker or dealer registered
26 under the Securities Exchange Act of 1934, as amended, or

1 registered under the Illinois Securities Law of 1953,
2 approved July 13, 1953, as now or hereafter amended, on a
3 debit balance in an account for a customer if such debit
4 balance is payable at will without penalty and is secured
5 by securities as defined in Uniform Commercial
6 Code-Investment Securities;

7 (h) Any loan made by a participating bank as part of
8 any loan guarantee program which provides for loans and for
9 the refinancing of such loans to medical students, interns
10 and residents and which are guaranteed by the American
11 Medical Association Education and Research Foundation;

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

18 (j) Any loan by an employee pension benefit plan, as
19 defined in Section 3 (2) of the Employee Retirement Income
20 Security Act of 1974 (29 U.S.C.A. Sec. 1002), to an
21 individual participating in such plan, provided that such
22 loan satisfies the prohibited transaction exemption
23 requirements of Section 408 (b) (1) (29 U.S.C.A. Sec. 1108
24 (b) (1)) or Section 2003 (a) (26 U.S.C.A. Sec. 4975 (d)
25 (1)) of the Employee Retirement Income Security Act of
26 1974;

1 (k) Written contracts, agreements or bonds for deed
2 providing for installment purchase of real estate;

3 (1) Loans secured by a mortgage on real estate;

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

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

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

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

24 (b) No agreement, note or other instrument evidencing a
25 loan secured by a mortgage on residential real estate, or
26 written contract, agreement or bond for deed providing for

1 the installment purchase of residential real estate, may
2 provide for any change in the contract rate of interest
3 during the term thereof. However, if the Congress of the
4 United States or any federal agency authorizes any class of
5 lender to enter, within limitations, into mortgage
6 contracts or written contracts, agreements or bonds for
7 deed in which the rate of interest may be changed during
8 the term of the contract, any person, firm, corporation or
9 other entity not otherwise prohibited from entering into
10 mortgage contracts or written contracts, agreements or
11 bonds for deed in Illinois may enter into mortgage
12 contracts or written contracts, agreements or bonds for
13 deed in which the rate of interest may be changed during
14 the term of the contract, within the same limitations.

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

24 For purposes of this Section, a prepayment shall mean the
25 payment of the total indebtedness, with the exception of late
26 payment penalties if incurred or charged, on any date before

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

1 such Act.

2 (Source: P.A. 94-13, eff. 12-6-05; 94-635, eff. 8-22-05;
3 95-331, eff. 8-21-07.)

4 Section 25. The Consumer Fraud and Deceptive Business
5 Practices Act is amended by changing Section 2Z as follows:

6 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

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

1 6-305 of the Illinois Vehicle Code, Section 18d-115, 18d-120,
2 18d-125, 18d-135, or 18d-150 of the Illinois Vehicle Code,
3 Article 3 of the Residential Real Property Disclosure Act, the
4 Automatic Contract Renewal Act, or the Personal Information
5 Protection Act commits an unlawful practice within the meaning
6 of this Act.

7 (Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280,
8 eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413,
9 eff. 1-1-08; 95-562, eff. 7-1-08; 95-876, eff. 8-21-08.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.

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4	20 ILCS 1205/6	from Ch. 17, par. 106
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1 815 ILCS 122/3-5

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6 815 ILCS 122/4-45

7 815 ILCS 205/4

from Ch. 17, par. 6404

8 815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z