



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB0549

Introduced 2/8/2007, by Sen. William Delgado

#### SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 1205/6

from Ch. 17, par. 106

205 ILCS 670/21

from Ch. 17, par. 5427

815 ILCS 505/2Z

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

Creates the Title Loan Regulation Act. Provides that the Department of Professional and Financial Regulation shall license and regulate entities that offer title loans. Establishes requirements and restrictions applicable to license applications and licensing. Sets forth limitations, requirements, and disclosures applicable to loan agreements, terms of loans, finance charges, and renewal of loans. Provides for: revocation, suspension, and surrender of licenses; information to be available to the public; complaint handling; hearings; books and records; reports; advertising; prohibited acts; requirements and restrictions applicable to vehicle and boat titles; liens; penalties; enforcement; bonding; administrative rules; and other matters. Amends the Financial Institutions Code to provide that the Department of Professional and Financial Regulation shall administer the Title Loan Regulation Act. Amends the Consumer Installment Loan Act to provide that the Act does not apply to title loans. Provides that a violation of the Title Loan Regulation Act constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB095 08214 LCT 28384 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning loans.

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

4 Section 1. Short title. This Act may be cited as the Title  
5 Loan Regulation Act.

6 Section 5. Purpose and construction. The purpose of this  
7 Act is to protect borrowers who enter into any title loan from  
8 abuses that occur in the credit marketplace when lenders of  
9 these loans are unregulated. This Act shall be liberally  
10 construed to effectuate its purpose. This Act shall be  
11 construed as a borrower protection statute for all purposes.

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

13 "Account" means a depositor relationship between a  
14 borrower and a financial institution that is funded by cash or  
15 cash equivalents.

16 "Borrower" and "obligor" mean any natural person who,  
17 singly or jointly with another borrower, enters into a title  
18 loan.

19 "Check" means a negotiable instrument as defined in Article  
20 3 of the Uniform Commercial Code that is drawn on a financial  
21 institution and is to be payable on demand at maturity of the  
22 title loan.

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

3 "Gross monthly income" means a borrower's gross monthly  
4 income as demonstrated by all of the borrower's pay stubs for  
5 the period 30 days prior to the title loan application.

6 "Lender" and "licensee" mean any person or entity that  
7 offers or makes a title loan, arranges a title loan for a third  
8 party, or acts as an agent for a third party, regardless of  
9 whether the third party is exempt from licensing under this Act  
10 or whether approval, acceptance, or ratification by the third  
11 party is necessary to create a legal obligation for the third  
12 party; and any person or entity where the Department determines  
13 that a transaction is in substance a disguised loan or the  
14 application of subterfuge for the purpose of avoiding this Act.

15 "Local government authorization form" means a form  
16 prescribed by the Secretary and signed by the clerk or chief  
17 executive officer of the county or municipality in which the  
18 licensee is to be located certifying that the licensed location  
19 complies with the zoning and all other applicable county or  
20 municipal ordinances and regulations.

21 "Principal balance" means the balance due and owed on a  
22 title loan exclusive of any interest, service charges, or other  
23 loan-related charges.

24 "Secretary" means the Secretary of Financial and  
25 Professional Regulation.

26 "Title loan" means a loan wherein, at commencement, a

1 borrower provides to the lender, as security for the loan,  
2 physical possession of the obligor's title to a motor vehicle,  
3 a boat, or any other personal property.

4 "Total payable amount of the loan" means the total amount  
5 owed by the borrower, including all associated fees, interest,  
6 service charges, and all other loan-related charges, such that  
7 payment in full of the total payment amount of the loan would  
8 cause the debt occasioned by the title loan to be satisfied  
9 entirely and forever.

10 Section 15. Applicability.

11 (a) Except as otherwise provided in this Section, this Act  
12 applies to any lender that offers or makes a title loan.

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

16 (c) Retail sellers who cash checks incidental to or  
17 independent of a sale and who charge no more than \$2 per check  
18 for the service are exempt from the provisions of this Act.

19 Section 25. Loan terms.

20 (a) A title loan must have a minimum term of no less than  
21 10 days and a maximum of no more than one year.

22 (b) No title loan may be executed if the total payable  
23 amount of the loan exceeds 15% of the borrower's monthly gross  
24 income. A copy of all pay stubs used to calculate the

1 borrower's monthly gross income must be attached to the loan  
2 application.

3 (c) A borrower shall be permitted to make partial payments  
4 (in amounts equal to no less than \$5 increments) on the title  
5 loan at any time, without charge.

6 (d) A borrower may rescind a title loan agreement without  
7 cost no later than the end of the business day immediately  
8 following the day on which the loan was made. To rescind the  
9 title loan, the borrower must inform the lender that the  
10 borrower wants to rescind the loan and return cash in an amount  
11 equal to the amount loaned under the written agreement.

12 (e) After each payment made in full or in part, on any  
13 loan, the licensee shall give to the borrower making the  
14 payment a signed, dated receipt showing the amount paid and the  
15 balance due on the loan.

16 (f) The licensee must provide the borrower, or each  
17 borrower if there is more than one, with a copy of the loan  
18 documents described in Section 45 before the commencement of  
19 the title loan.

20 Section 30. Permissible charges and fees.

21 (a) The licensee shall be permitted to charge interest on  
22 the amount of cash delivered to the borrower in a title loan in  
23 an amount not greater than 27% per annum (defined as a 365-day  
24 year). The rate charged on the outstanding balance after  
25 maturity shall not be greater than the rate charged during the

1 loan term. Charges on title loans shall be computed and paid  
2 only as a percentage of the unpaid principal balance.

3 (b) Except as provided by Section 55, no other fees may be  
4 charged for any other purpose.

5 Section 32. Cooling-off periods; renewals.

6 (a) A title loan may be refinanced, renewed, or extended a  
7 maximum number of 2 times, but only when the principal balance  
8 has been reduced by at least 20% at the time of each  
9 refinancing, renewal, or extension.

10 (b) Upon termination of a title loan, no loan, other than  
11 the refinancing, renewal, or extension of an existing title  
12 loan may be made to a borrower who has had an outstanding title  
13 loan within the preceding 30 days.

14 (c) The licensee shall verify the existence of a prior loan  
15 as specified in subsection (b) of this Section by using a  
16 database created by or approved by the Secretary for that  
17 purpose.

18 (d) A lender may renew the title loan only if the lender  
19 has received a statement (not a pre-printed form) from the  
20 borrower, initialed at each provision, signed, and dated by the  
21 borrower, stating:

22 (1) that the borrower is unable to repay the current  
23 loan;

24 (2) a specific reason that arose after the date of the  
25 origination or renewal of the current loan that makes the

1 borrower unable to repay the loan; and

2 (3) that the borrower will be able to repay the loan at  
3 the new maturity date.

4 Section 35. Licensing.

5 (a) A license to make a title loan shall state the address,  
6 including city and state, at which the business is to be  
7 conducted and shall state fully the name of the licensee. The  
8 license shall be conspicuously posted in the place of business  
9 of the licensee and shall not be transferable or assignable.

10 (b) An application for a license shall be in writing and in  
11 a form prescribed by the Secretary. No person or entity shall  
12 engage in or offer to engage in the business regulated by this  
13 Act unless and until a license has been issued by the  
14 Secretary. The Secretary may not issue or renew any license  
15 unless and until the following findings are made:

16 (1) that authorizing the applicant to engage in the  
17 business will promote the convenience and advantage of the  
18 community in which the applicant proposes to engage in  
19 business;

20 (2) 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 (3) that the location has conformed to local zoning

1 laws with respect to location, structural, aesthetic, or  
2 other requirements;

3 (4) that the applicant has submitted a completed local  
4 government authorization form; and

5 (5) that the applicant has submitted any other  
6 information as the Secretary may deem necessary.

7 (c) A license shall be issued for no longer than one year,  
8 and no renewal of a license may be provided if a licensee has  
9 violated this Act.

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

22 (e) A public hearing shall be held for each original  
23 application and for renewals if one is requested in writing by  
24 the Secretary.

25 (f) A licensee must pay an annual fee of \$300. In addition  
26 to the license fee, the reasonable expense of any examination



1 or hearing by the Secretary under any provisions of this Act  
2 shall be borne by the licensee. If a licensee fails to renew  
3 his or her license by December 31, it shall automatically  
4 expire; however, the Secretary, in his or her discretion, may  
5 reinstate an expired license upon:

6 (1) payment of the annual renewal fee within 30 days of  
7 the date of expiration; and

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

9 (g) Not more than one place of business shall be maintained  
10 under the same license, but the Secretary may issue more than  
11 one license to the same licensee upon compliance with all the  
12 provisions of this Act governing issuance of a single license.  
13 The location, except those locations already in existence as of  
14 January 1, 2008, may not be within one mile of a facility  
15 operated by an inter-track wagering location licensee or an  
16 organization licensee subject to the Illinois Horse Racing Act  
17 of 1975, within one mile of a facility at which gambling is  
18 conducted under the Riverboat Gambling Act, within one mile of  
19 the location at which a riverboat subject to the Riverboat  
20 Gambling Act docks, or within one mile of any State of Illinois  
21 or United States military base or installation.

22 (h) No licensee shall conduct the business of making loans  
23 under this Act within any office, suite, room, or place of  
24 business in which any other business is solicited or engaged in  
25 unless, in the opinion of the Secretary, the other business  
26 would not be contrary to the best interests of borrowers and is

1 authorized by the Secretary in writing.

2 (i) If the Secretary finds, after due notice and hearing,  
3 or opportunity for hearing, that a licensee, or an officer,  
4 agent, employee, or representative of a licensee, has violated  
5 any of the provisions of this Act, has failed to comply with  
6 the rules, instructions, or orders promulgated by the  
7 Secretary, has failed or refused to make its reports to the  
8 Secretary, or has furnished false information to the Secretary,  
9 the Secretary may issue an order revoking or suspending the  
10 right of the licensee and the officer, agent, employee, or  
11 representative to do business in this State as a licensee. No  
12 revocation, suspension, or surrender of any license shall  
13 relieve the licensee from civil or criminal liability for acts  
14 committed before the revocation, suspension, or surrender.

15 (j) The Secretary shall maintain a list of licensees that  
16 shall be available to interested borrowers and lenders and the  
17 public. The Secretary shall establish a toll-free number  
18 whereby borrowers may obtain information about licensees. The  
19 Secretary shall also establish a complaint process under which  
20 an aggrieved borrower or any member of the public may file a  
21 complaint against a licensee or non-licensee who violates any  
22 provision of this Act. The Secretary may hold hearings upon the  
23 request of a party to the complaint, make findings of fact,  
24 conclusions of law, issue cease and desist orders, refer the  
25 matter to the appropriate law enforcement agency for  
26 prosecution under this Act, and suspend or revoke a license

1 granted under this Act. All proceedings shall be open to the  
2 public.

3 Section 40. Information and reporting.

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

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

11 (1) the total number of title loans made during the  
12 preceding calendar year;

13 (2) the total number of renewals of title loans made  
14 during the preceding calendar year;

15 (3) the total number of title loans outstanding as of  
16 December 31 of the preceding calendar year;

17 (4) the total number of loans made that were secured by  
18 the title to a motor vehicle or a boat during the preceding  
19 calendar year; and

20 (5) the total number of vehicle or boat repossessions  
21 as a result of default on a loan secured by a title to a  
22 motor vehicle or a boat during the preceding calendar 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 Secretary no later than January 31 of

1 the year following the year for which the report discloses the  
2 information specified in this subsection (b). The Secretary may  
3 impose upon the licensee a fine of \$25 per day for each day  
4 beyond the filing deadline that the report is not filed.

5 (c) A licensee shall file a copy of the contract and the  
6 fee schedule described in Section 45 with the Secretary before  
7 the date of commencement of business at each location, at the  
8 time any changes are made to the documents or schedule, and  
9 annually thereafter upon renewal of the license. These  
10 documents shall be available to interested parties and to the  
11 general public.

12 (d) The Department shall compile data in the form of an  
13 annual report of the title lending industry and shall make the  
14 report available to the Governor, the General Assembly, and the  
15 general public.

16 Section 45. Required disclosures.

17 (a) Before entering into a title loan, a licensee shall  
18 deliver to the borrower a pamphlet prepared by the Secretary  
19 that:

20 (1) explains, in simple English and Spanish, all of the  
21 borrower's rights and responsibilities in a title loan  
22 transaction;

23 (2) includes a toll-free number to the Secretary's  
24 office to handle concerns or provide information about  
25 whether a lender is licensed, whether complaints have been

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

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

5 (b) Licensees shall provide borrowers with a written  
6 agreement on a form specified or approved by the Secretary that  
7 may be kept by the borrower. The written agreement must include  
8 the following information in English and in the language in  
9 which the loan was negotiated:

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

13 (2) an itemization of the fees and interest charges to  
14 be paid by the borrower;

15 (3) disclosures required by the federal Truth in  
16 Lending Act and the information required by the Federal  
17 Consumer Credit Protection Act;

18 (4) disclosures required under any other State law;

19 (5) a clear description of the borrower's payment  
20 obligations under the loan;

21 (6) a notice that the licensee may take possession of a  
22 vehicle or a boat used to secure a loan if the borrower  
23 fails to repay the loan and that the borrower shall be  
24 entitled to any proceeds from the sale of the vehicle or  
25 the boat in excess of the amount owed on the loan;

26 (7) the following statement, in at least 14-point bold

1 type face: "You cannot be prosecuted in criminal court to  
2 collect this loan.". The information required to be  
3 disclosed under this item (7) must be conspicuously  
4 disclosed in the loan document and shall be located  
5 immediately preceding the signature of the borrower; and

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

8 "WARNING: A loan is not intended to meet long-term  
9 financial needs. A loan should be used only to meet  
10 short-term cash needs. Renewing the loan rather than paying  
11 the debt in full will require additional finance charges.  
12 The cost of your loan may be higher than loans offered by  
13 other lending institutions. Loans are regulated by the  
14 Illinois Department of Financial and Professional  
15 Regulation."

16 (c) The following notices in English and Spanish, as well  
17 as other languages in which a significant amount of title loan  
18 business is conducted, must be conspicuously posted by a  
19 licensee in each location of a business providing title loans:

20 (1) A notice that informs borrowers that the licensee  
21 cannot use the criminal process against a borrower to  
22 collect any title loan.

23 (2) The schedule of all interest and fees to be charged  
24 on loans with an example of the amounts that would be  
25 charged on a \$100 loan payable in 14 days and a \$400 loan  
26 payable in 30 days, giving the corresponding annual

1 percentage rate.

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

5 "WARNING: A loan is not intended to meet long-term  
6 financial needs. A loan should be used only to meet  
7 short-term cash needs. Renewing the loan rather than paying  
8 the debt in full will require additional finance charges.  
9 The cost of your loan may be higher than loans offered by  
10 other lending institutions. Loans are regulated by the  
11 Illinois Department of Financial and Professional  
12 Regulation."

13 Section 50. Advertising.

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

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

1 (1) The amount of the loan.

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

5 (3) The rate of the finance charge expressed as an  
6 annual percentage rate.

7 Section 55. Permitted charges.

8 (a) No licensee shall charge or receive, directly or  
9 indirectly, any interest, fees, or charges except where  
10 specifically authorized by this Section and Section 30. Any  
11 agreement, provision, or act by a licensee providing for  
12 unauthorized fees in violation of this Section is  
13 unenforceable.

14 (b) If there are insufficient funds to pay a check on the  
15 date of presentment, a licensee may charge a fee, not to exceed  
16 the fee imposed upon the licensee by the financial institution.  
17 Only one such fee may be collected with respect to a particular  
18 check even if it has been redeposited and returned more than  
19 once. A licensee may only present the check for payment twice.  
20 A fee charged under this subsection (b) is a licensee's  
21 exclusive charge for late payment.

22 (c) When a loan is repaid before its due date, unearned  
23 interest charges must be rebated to the borrower based on a  
24 method at least as favorable to the borrower as the actuarial  
25 method.



1           Section 60. Prohibited acts. A licensee or unlicensed  
2 person or entity making title 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, charges, or  
9 interest than allowed by this Act including, but not  
10 limited to, entering into a different type of transaction  
11 with the borrower.

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

14           (4) Charging to cash a check representing the proceeds  
15 of the title loan.

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

18           (6) Threatening to take any action against a borrower  
19 that is prohibited by this Act, or making any misleading or  
20 deceptive statements regarding the title loan or any  
21 consequences thereof.

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

24           (8) Including any of the following provisions in loan  
25 documents required by subsection (b) of Section 45:

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 borrower;

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

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

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

13 (9) Selling any insurance of any kind whether or not  
14 sold in connection with the making or collecting of a title  
15 loan.

16 (10) Taking any power of attorney.

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

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

21 (13) Collecting treble damages on an amount owing from  
22 a title loan.

23 Section 63. Vehicle and boat titles.

24 (a) A licensee making title loans may not take possession  
25 of a vehicle or a boat without first giving written notice by

1 regular and certified mail to the borrower, affording the  
2 borrower the opportunity to make the vehicle or boat available  
3 to the lender at a place, date, and time reasonably convenient  
4 to the lender and borrower, and permitting the borrower to  
5 remove from the vehicle or boat any personal belongings without  
6 charge or additional cost to the borrower.

7 (b) If a licensee repossesses a motor vehicle that was used  
8 as security and that is used primarily for the obligor's  
9 personal, family, or household purposes, the licensee shall be  
10 subject to the requirements of and shall transfer the  
11 certificate of title in accordance with Section 3-114 of the  
12 Illinois Vehicle Code.

13 (c) If a licensee repossesses a boat that was used as  
14 security and that is used primarily for the borrower's  
15 personal, family, or household, the licensee shall be subject  
16 to the requirements of and shall transfer the certificate of  
17 title in accordance with Section 3A-15 of the Boat Registration  
18 and Safety Act.

19 (d) A licensee making title loans may not dispose of the  
20 vehicle or the boat without first giving at least 10 days  
21 written notice to the borrower before the sale and the  
22 opportunity to cure. The notice shall state the date, time, and  
23 place of the sale and provide the borrower with a written  
24 accounting of the amount owed on the loan. A loan contract  
25 shall advise the borrower that matters involving improprieties  
26 in the making of the loan or in loan collecting practices may

1 be referred to the Department and shall prominently disclose  
2 the Department's address and telephone number.

3 (e) A licensee making title loans may not take possession  
4 of a vehicle or a boat for a loan default and lease the vehicle  
5 or the boat back to the borrower.

6 (f) A licensee making title loans may not use any appraisal  
7 to secure a loan other than one in a nationally recognized  
8 guide such as the Kelley Blue Book Used Car Guide.

9 Section 64. Recording or releasing a lien.

10 (a) Upon making a loan secured by a title to a motor  
11 vehicle, the licensee must immediately take into possession  
12 evidence of the borrower's ownership in the motor vehicle that  
13 has been registered with the Office of the Illinois Secretary  
14 of State and shall note on the face of the loan contract the  
15 vehicle's make, model, year of manufacture, and vehicle  
16 identification number.

17 (b) Upon making a loan secured by a title to a boat, the  
18 licensee must immediately take into possession evidence of the  
19 borrower's ownership in the boat that has been registered with  
20 the Illinois Department of Natural Resources and shall note on  
21 the face of the loan contract the boat's make, model, year of  
22 manufacture, and identification number.

23 (c) Within 24 hours after payment in full, the licensee  
24 must release any filed liens, provide evidence of the release  
25 to the borrower, and return the title to the borrower or cause

1 the title to be returned to the borrower.

2 (d) A licensee may not charge, directly or indirectly, fees  
3 associated with the repossession of a motor vehicle or a boat.

4 Section 65. Enforcement and remedies.

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

7 (b) Any violation of this Act constitutes a violation of  
8 the Consumer Fraud and Deceptive Business Practices Act.

9 (c) If any provision of the written agreement described in  
10 subsection (a) of Section 45 violates this Act, then that  
11 provision is unenforceable against the borrower.

12 (d) Any loan executed in violation of this Act shall render  
13 the loan null and void as a matter of law.

14 Section 66. Voluntary Payment. A borrower may pay a debt  
15 owed a lender and the lender shall accept as satisfaction of  
16 the debt an amount equal to the sum of the amount owed,  
17 incurred court costs, and attorneys' fees.

18 Section 70. Closing of business; surrender of license. At  
19 least 10 days before a licensee ceases operations, closes the  
20 business, or files for bankruptcy, the licensee shall:

21 (1) Notify the Department of its action in writing.

22 (2) With the exception of filing for bankruptcy,  
23 surrender its license to the Secretary for cancellation.

1           The surrender of the license shall not affect the  
2           licensee's civil or criminal liability for acts committed  
3           before the surrender or entitle the licensee to a return of  
4           any part of the annual license fee.

5           (3) Notify the Department of the location where the  
6           books, accounts, contracts, and records will be maintained  
7           and the procedure to ensure prompt return of contracts,  
8           titles, and releases to the obligors.

9           The accounts, books, records, and contracts shall be  
10          maintained and serviced by the licensee, another licensee under  
11          this Act, or an entity exempt from licensing under this Act.

12          The Department shall have the authority to conduct  
13          examinations of the books, records, and loan documents at any  
14          time after surrender of the license, filing of bankruptcy, or  
15          the cessation of operations.

16          Section 75. Bonding.

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

21          (b) A bond posted under subsection (a) must continue in  
22          effect for 3 years after the lender ceases operation in  
23          Illinois. The bond must be available to pay damages and  
24          penalties to a borrower harmed by a violation of this Act.

1           Section 85. Those who may not make a title loan. No  
2 Illinois State bank, mortgage banking company, or savings and  
3 loan association covered by any financial regulation laws of  
4 Illinois may make a title loan, as those terms are defined in  
5 this Act, in Illinois.

6           Section 90. Lenders associated with national banks. If a  
7 lender who makes title loans as defined in and allowed by this  
8 Act and who is otherwise required to be licensed by this Act  
9 associates with a national bank, the lender must be licensed  
10 with the Department as specified in this Act to make a title  
11 loan through its association with the national bank just as it  
12 would be if it were making the title loan without that  
13 association.

14           Section 95. Preemption of administrative rules. Any  
15 administrative rule or regulation promulgated prior to the  
16 effective date of this Act by the Department regarding title  
17 loans is preempted.

18           Section 97. Reporting of violations. The Department shall  
19 report to the Attorney General all violations of this Act of  
20 which it becomes aware.

21           Section 100. Rulemaking. The Department may adopt  
22 reasonable rules to implement and administer this Act.

1           Section 105. Judicial review. All final administrative  
2 decisions of the Department 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 110. No waivers. There shall be no waiver of any  
7 provision of this Act.

8           Section 115. Superiority of Act. To the extent this Act  
9 conflicts with any other Illinois State financial regulation  
10 laws, this Act is superior and supersedes those laws for the  
11 purposes of regulating title loans in Illinois.

12           Section 120. Severability. If any provision of this Act or  
13 its application to any person or circumstance is held invalid,  
14 the invalidity of that provision or application does not affect  
15 other provisions or applications of this Act that can be given  
16 effect without the invalid provision or application.

17           Section 900. The Financial Institutions Code is amended by  
18 changing Section 6 as follows:

19           (20 ILCS 1205/6) (from Ch. 17, par. 106)

20           Sec. 6. In addition to the duties imposed elsewhere in this



1 Act, the Department has the following powers:

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

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

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

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

25 (5) To exercise the rights, powers and duties vested by law  
26 in the Department of Insurance under "An Act to define,

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

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

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

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

23 (9) To administer the Title Loan Regulation Act.

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

25 Section 905. The Consumer Installment Loan Act is amended

1 by changing Section 21 as follows:

2 (205 ILCS 670/21) (from Ch. 17, par. 5427)

3 Sec. 21. Application of Act. This Act does not apply to any  
4 person, partnership, association, limited liability company,  
5 or corporation doing business under and as permitted by any law  
6 of this State or of the United States relating to banks,  
7 savings and loan associations, savings banks, credit unions, or  
8 licensees under the Residential Mortgage License Act for  
9 residential mortgage loans made pursuant to that Act. This Act  
10 does not apply to business loans. This Act does not apply to  
11 payday loans. This Act does not apply to title loans. For the  
12 purposes of this Section, "title loan" has the meaning ascribed  
13 to that term in the Title Loan Regulation Act.

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

15 Section 910. The Consumer Fraud and Deceptive Business  
16 Practices Act is amended by changing Section 2Z as follows:

17 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

18 Sec. 2Z. Violations of other Acts. Any person who knowingly  
19 violates the Automotive Repair Act, the Automotive Collision  
20 Repair Act, the Home Repair and Remodeling Act, the Dance  
21 Studio Act, the Physical Fitness Services Act, the Hearing  
22 Instrument Consumer Protection Act, the Illinois Union Label  
23 Act, the Job Referral and Job Listing Services Consumer

1 Protection Act, the Travel Promotion Consumer Protection Act,  
2 the Credit Services Organizations Act, the Automatic Telephone  
3 Dialers Act, the Pay-Per-Call Services Consumer Protection  
4 Act, the Telephone Solicitations Act, the Illinois Funeral or  
5 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic  
6 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home  
7 Loan Act, the Title Loan Regulation Act, the Payday Loan Reform  
8 Act, the Mortgage Rescue Fraud Act, subsection (a) or (b) of  
9 Section 3-10 of the Cigarette Tax Act, the Payday Loan Reform  
10 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use  
11 Tax Act, the Electronic Mail Act, paragraph (6) of subsection  
12 (k) of Section 6-305 of the Illinois Vehicle Code, Article 3 of  
13 the Residential Real Property Disclosure Act, the Automatic  
14 Contract Renewal Act, or the Personal Information Protection  
15 Act commits an unlawful practice within the meaning of this  
16 Act.

17 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,  
18 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,  
19 eff. 1-1-06; 94-822, eff. 1-1-07.)

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