



Executive Committee

Filed: 5/26/2009

09600SB1435ham001

LRB096 10812 MJR 27133 a

1 AMENDMENT TO SENATE BILL 1435

2 AMENDMENT NO. _____. Amend Senate Bill 1435 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Consumer Installment Loan Act is amended by
5 changing Sections 1 and 15 and by adding Sections 17.1, 17.2,
6 17.3, 17.4, 17.5, and 19.2 as follows:

7 (205 ILCS 670/1) (from Ch. 17, par. 5401)

8 Sec. 1. License required to engage in business. No person,
9 partnership, association, limited liability company, or
10 corporation shall engage in the business of making loans of
11 money in a principal amount not exceeding \$25,000, and charge,
12 contract for, or receive on any such loan a greater rate of
13 interest, discount, or consideration therefor than the lender
14 would be permitted by law to charge if he were not a licensee
15 hereunder, except as authorized by this Act after first
16 obtaining a license from the Director of Financial Institutions

1 (hereinafter called the Director). No licensee, or employee or
2 affiliate thereof, shall be licensed under the Payday Loan
3 Reform Act.

4 (Source: P.A. 89-400, eff. 8-20-95; 90-437, eff. 1-1-98.)

5 (205 ILCS 670/15) (from Ch. 17, par. 5415)

6 Sec. 15. Charges permitted.

7 (a) Every licensee may lend a principal amount not
8 exceeding \$40,000 and, except as to small consumer loans as
9 defined in this Section, may charge, contract for and receive
10 thereon interest at an annual percentage ~~the rate of no more~~
11 than 36% ~~agreed upon by the licensee and the borrower,~~ subject
12 to the provisions of this Act; provided, however, that the
13 limitation on the annual percentage rate contained in this
14 subsection (a) does not apply to title-secured loans, which are
15 loans upon which interest is charged at an annual percentage
16 rate exceeding 36%, in which, at commencement, an obligor
17 provides to the licensee, as security for the loan, physical
18 possession of the obligor's title to a motor vehicle, and upon
19 which a licensee may charge, contract for, and receive thereon
20 interest at the rate agreed upon by the licensee and borrower.
21 For purposes of this Section, the annual percentage rate shall
22 be calculated in accordance with the federal Truth in Lending
23 Act.

24 (b) For purpose of this Section, the following terms shall
25 have the meanings ascribed herein.

1 "Applicable interest" for a precomputed loan contract
2 means the amount of interest attributable to each monthly
3 installment period. It is computed as if each installment
4 period were one month and any interest charged for extending
5 the first installment period beyond one month is ignored. The
6 applicable interest for any monthly installment period is, for
7 loans other than small consumer loans as defined in this
8 Section, that portion of the precomputed interest that bears
9 the same ratio to the total precomputed interest as the
10 balances scheduled to be outstanding during that month bear to
11 the sum of all scheduled monthly outstanding balances in the
12 original contract. With respect to a small consumer loan, the
13 applicable interest for any installment period is that portion
14 of the precomputed monthly installment account handling charge
15 attributable to the installment period calculated based on a
16 method at least as favorable to the consumer as the actuarial
17 method, as defined by the federal Truth in Lending Act.

18 "Interest-bearing loan" means a loan in which the debt is
19 expressed as a principal amount plus interest charged on actual
20 unpaid principal balances for the time actually outstanding.

21 "Precomputed loan" means a loan in which the debt is
22 expressed as the sum of the original principal amount plus
23 interest computed actuarially in advance, assuming all
24 payments will be made when scheduled.

25 "Small consumer loan" means a loan upon which interest is
26 charged at an annual percentage rate exceeding 36% and with an

1 amount financed of \$4,000 or less. "Small consumer loan" does
2 not include a title-secured loan as defined by subsection (a)
3 of this Section or a payday loan as defined by the Payday Loan
4 Reform Act.

5 (c) Loans may be interest-bearing or precomputed.

6 (d) To compute time for either interest-bearing or
7 precomputed loans for the calculation of interest and other
8 purposes, a month shall be a calendar month and a day shall be
9 considered 1/30th of a month when calculation is made for a
10 fraction of a month. A month shall be 1/12th of a year. A
11 calendar month is that period from a given date in one month to
12 the same numbered date in the following month, and if there is
13 no same numbered date, to the last day of the following month.
14 When a period of time includes a month and a fraction of a
15 month, the fraction of the month is considered to follow the
16 whole month. In the alternative, for interest-bearing loans,
17 the licensee may charge interest at the rate of 1/365th of the
18 agreed annual rate for each day actually elapsed.

19 (e) With respect to interest-bearing loans:

20 (1) Interest shall be computed on unpaid principal
21 balances outstanding from time to time, for the time
22 outstanding, until fully paid. Each payment shall be
23 applied first to the accumulated interest and the remainder
24 of the payment applied to the unpaid principal balance;
25 provided however, that if the amount of the payment is
26 insufficient to pay the accumulated interest, the unpaid

1 interest continues to accumulate to be paid from the
2 proceeds of subsequent payments and is not added to the
3 principal balance.

4 (2) Interest shall not be payable in advance or
5 compounded. However, if part or all of the consideration
6 for a new loan contract is the unpaid principal balance of
7 a prior loan, then the principal amount payable under the
8 new loan contract may include any unpaid interest which has
9 accrued. The unpaid principal balance of a precomputed loan
10 is the balance due after refund or credit of unearned
11 interest as provided in paragraph (f), clause (3). The
12 resulting loan contract shall be deemed a new and separate
13 loan transaction for all purposes.

14 (3) Loans must be fully amortizing and be repayable in
15 substantially equal and consecutive monthly installments.
16 Notwithstanding this requirement, may be payable as agreed
17 between the parties, including payment at irregular times
18 or in unequal amounts and rates that may vary according to
19 with an index that is independently verifiable and beyond
20 the control of the licensee.

21 (4) The lender or creditor may, if the contract
22 provides, collect a delinquency or collection charge on
23 each installment in default for a period of not less than
24 10 days in an amount not exceeding 5% of the installment on
25 installments in excess of \$200, or \$10 on installments of
26 \$200 or less, but only one delinquency and collection

1 charge may be collected on any installment regardless of
2 the period during which it remains in default.

3 (f) With respect to precomputed loans:

4 (1) Loans shall be repayable in substantially equal and
5 consecutive monthly installments of principal and interest
6 combined, except that the first installment period may be
7 longer than one month by not more than 15 days, and the
8 first installment payment amount may be larger than the
9 remaining payments by the amount of interest charged for
10 the extra days; and provided further that monthly
11 installment payment dates may be omitted to accommodate
12 borrowers with seasonal income.

13 (2) Payments may be applied to the combined total of
14 principal and precomputed interest until the loan is fully
15 paid. Payments shall be applied in the order in which they
16 become due, except that any insurance proceeds received as
17 a result of any claim made on any insurance, unless
18 sufficient to prepay the contract in full, may be applied
19 to the unpaid installments of the total of payments in
20 inverse order.

21 (3) When any loan contract is paid in full by cash,
22 renewal or refinancing, or a new loan, one month or more
23 before the final installment due date, a licensee shall
24 refund or credit the obligor with the total of the
25 applicable interest for all fully unexpired installment
26 periods, as originally scheduled or as deferred, which

1 follow the day of prepayment; provided, if the prepayment
2 occurs prior to the first installment due date, the
3 licensee may retain 1/30 of the applicable interest for a
4 first installment period of one month for each day from the
5 date of the loan to the date of prepayment, and shall
6 refund or credit the obligor with the balance of the total
7 interest contracted for. If the maturity of the loan is
8 accelerated for any reason and judgment is entered, the
9 licensee shall credit the borrower with the same refund as
10 if prepayment in full had been made on the date the
11 judgement is entered.

12 (4) The lender or creditor may, if the contract
13 provides, collect a delinquency or collection charge on
14 each installment in default for a period of not less than
15 10 days in an amount not exceeding 5% of the installment on
16 installments in excess of \$200, or \$10 on installments of
17 \$200 or less, but only one delinquency or collection charge
18 may be collected on any installment regardless of the
19 period during which it remains in default.

20 (5) If the parties agree in writing, either in the loan
21 contract or in a subsequent agreement, to a deferment of
22 wholly unpaid installments, a licensee may grant a
23 deferment and may collect a deferment charge as provided in
24 this Section. A deferment postpones the scheduled due date
25 of the earliest unpaid installment and all subsequent
26 installments as originally scheduled, or as previously

1 deferred, for a period equal to the deferment period. The
2 deferment period is that period during which no installment
3 is scheduled to be paid by reason of the deferment. The
4 deferment charge for a one month period may not exceed the
5 applicable interest for the installment period immediately
6 following the due date of the last undeferred payment. A
7 proportionate charge may be made for deferment for periods
8 of more or less than one month. A deferment charge is
9 earned pro rata during the deferment period and is fully
10 earned on the last day of the deferment period. Should a
11 loan be prepaid in full during a deferment period, the
12 licensee shall credit to the obligor a refund of the
13 unearned deferment charge in addition to any other refund
14 or credit made for prepayment of the loan in full.

15 (6) If two or more installments are delinquent one full
16 month or more on any due date, and if the contract so
17 provides, the licensee may reduce the unpaid balance by the
18 refund credit which would be required for prepayment in
19 full on the due date of the most recent maturing
20 installment in default. Thereafter, and in lieu of any
21 other default or deferment charges, the agreed rate of
22 interest or, in the case of small consumer loans, interest
23 at the rate of 18% per annum, may be charged on the unpaid
24 balance until fully paid.

25 (7) Fifteen days after the final installment as
26 originally scheduled or deferred, the licensee, for any

1 loan contract which has not previously been converted to
2 interest-bearing under paragraph (f), clause (6), may
3 compute and charge interest on any balance remaining
4 unpaid, including unpaid default or deferment charges, at
5 the agreed rate of interest or, in the case of small
6 consumer loans, interest at the rate of 18% per annum,
7 until fully paid. At the time of payment of said final
8 installment, the licensee shall give notice to the obligor
9 stating any amounts unpaid.

10 (Source: P.A. 93-264, eff. 1-1-04.)

11 (205 ILCS 670/17.1 new)

12 Sec. 17.1. Small consumer loans; definition. Sections
13 17.1, 17.2, 17.3, 17.4, and 17.5 of this Act apply exclusively
14 to small consumer loans as defined in Section 15 of this Act.

15 (205 ILCS 670/17.2 new)

16 Sec. 17.2. Small consumer loans; charges permitted.

17 (a) With respect to a small consumer loan of \$1,000 or
18 less:

19 (1) A licensee may charge, contract for and receive
20 interest at an annual percentage rate of no more than 99%
21 calculated in accordance with the federal Truth in Lending
22 Act.

23 (2) A licensee may charge an acquisition charge not to
24 exceed 10% of the amount financed. The acquisition charge

1 is in lieu of the fee permitted under Section 15d(5) and is
2 fully earned at the time the loan is made and shall not be
3 subject to refund.

4 (b) With respect to a small consumer loan over \$1,000:

5 (1) A licensee may charge the following finance
6 charges:

7 (A) an acquisition charge for making the original
8 loan, not to exceed \$100; for purposes of this
9 subsection (b), "original loan" means a loan in which
10 none of the proceeds are used by the licensee to pay
11 off the outstanding balance of another small consumer
12 loan made to the same consumer by the same licensee or
13 any employee or affiliate of the licensee;

14 (B) an acquisition charge for the first time that
15 an original loan is refinanced, not to exceed \$50;

16 (C) an acquisition charge for any subsequent
17 refinancing not to exceed \$25; for purposes of this
18 subsection (b), "refinancing" occurs when an existing
19 small consumer loan is satisfied and replaced by a new
20 small consumer loan made to the same consumer by the
21 same licensee or any employee or affiliate of the
22 licensee; and

23 (D) a monthly installment account handling charge,
24 not to exceed the following amounts:

25 Amount financed

Per month charge

1	<u>\$1,000.01 - \$1,100</u>	<u>\$49.50</u>
2	<u>\$1,100.01 - \$1,200</u>	<u>\$53.50</u>
3	<u>\$1,200.01 - \$1,300</u>	<u>\$57.50</u>
4	<u>\$1,300.01 - \$1,400</u>	<u>\$61.50</u>
5	<u>\$1,400.01 - \$1,500</u>	<u>\$65.50</u>
6	<u>\$1,500.01 - \$1,600</u>	<u>\$69.00</u>
7	<u>\$1,600.01 - \$1,700</u>	<u>\$72.00</u>
8	<u>\$1,700.01 - \$1,800</u>	<u>\$75.00</u>
9	<u>\$1,800.01 - \$1,900</u>	<u>\$78.00</u>
10	<u>\$1,900.01 - \$2,000</u>	<u>\$81.00</u>
11	<u>\$2,000.01 - \$2,100</u>	<u>\$84.00</u>
12	<u>\$2,100.01 - \$2,200</u>	<u>\$87.00</u>
13	<u>\$2,200.01 - \$2,300</u>	<u>\$90.00</u>
14	<u>\$2,300.01 - \$2,400</u>	<u>\$92.00</u>
15	<u>\$2,400.01 - \$2,500</u>	<u>\$94.00</u>
16	<u>\$2,500.01 - \$2,600</u>	<u>\$96.00</u>
17	<u>\$2,600.01 - \$2,700</u>	<u>\$98.00</u>
18	<u>\$2,700.01 - \$2,800</u>	<u>\$100.00</u>
19	<u>\$2,800.01 - \$2,900</u>	<u>\$102.00</u>
20	<u>\$2,900.01 - \$3,000</u>	<u>\$104.00</u>
21	<u>\$3,000.01 - \$3,100</u>	<u>\$106.00</u>
22	<u>\$3,100.01 - \$3,200</u>	<u>\$108.00</u>
23	<u>\$3,200.01 - \$3,300</u>	<u>\$110.00</u>
24	<u>\$3,300.01 - \$3,400</u>	<u>\$112.00</u>
25	<u>\$3,400.01 - \$3,500</u>	<u>\$114.00</u>
26	<u>\$3,500.01 - \$3,600</u>	<u>\$116.00</u>

1	<u>\$3,600.01 - \$3,700</u>	<u>\$118.00</u>
2	<u>\$3,700.01 - \$3,800</u>	<u>\$120.00</u>
3	<u>\$3,800.01 - \$3,900</u>	<u>\$122.00</u>
4	<u>\$3,900.01 - \$4,000</u>	<u>\$124.00</u>

5 (2) The acquisition charge is in lieu of the fee
6 permitted under Section 15d(5) and is fully earned at the
7 time the loan is made and shall not be subject to refund;
8 except that, if the loan is paid in full within the first
9 60 days of the loan term, the first \$25 of the acquisition
10 charge may be retained by the licensee and the remainder of
11 the acquisition charge shall be refunded at a rate of
12 one-sixtieth of the remainder of the acquisition charge per
13 day, beginning on the day after the date of the prepayment
14 and ending on the sixtieth day after the loan was made.

15 (3) In no event shall the annual percentage rate on the
16 loan transaction as calculated in accordance with the
17 federal Truth in Lending Act exceed 99%.

18 (c) In addition to the charges permitted in subsections (a)
19 and (b) of this Section, a licensee may charge a consumer a fee
20 not to exceed \$1 for the verification required under Section
21 17.5 of this Act. Only one such fee may be collected by the
22 licensee with respect to a particular loan.

23 (d) When any loan contract is paid in full by cash,
24 renewal, or refinancing, or a new loan, the licensee shall
25 refund any unearned interest or unearned portion of the monthly

1 installment account handling charge, whichever is applicable.
2 The unearned interest or unearned portion of the monthly
3 installment account handling charge that is refunded shall be
4 calculated based on a method that is at least as favorable to
5 the consumer as the actuarial method, as defined by the federal
6 Truth in Lending Act. The "sum of the digits" or "rule of
7 78ths" method of calculating prepaid interest refunds is
8 prohibited.

9 (e) The maximum acquisition charges that are expressed as
10 flat dollar amounts under this Section shall be subject to an
11 annual adjustment as of the first day of each year following
12 the effective date of this amendatory Act of the 96th General
13 Assembly equal to the percentage change in the Consumer Price
14 Index compiled by the Bureau of Labor Statistics, United States
15 Department of Labor, or, if that index is canceled or
16 superseded, the index chosen by the Bureau of Labor Statistics
17 as most accurately reflecting the changes in the purchasing
18 power of the dollar for consumers, or, if no such index is
19 chosen by the Bureau of Labor Statistics, the index chosen by
20 the Department as most accurately reflecting the changes in the
21 purchasing power of the dollar for consumers. The adjusted
22 amounts shall take effect on July 1 of the year of the
23 computations.

24 (205 ILCS 670/17.3 new)

25 Sec. 17.3. Small consumer loans; terms.

1 (a) A small consumer loan shall be fully amortizing and be
2 repayable in its entirety in a minimum of 6 substantially equal
3 and consecutive payments with a period of not less than 180
4 days to maturity.

5 (b) No licensee, or employee or affiliate thereof, may
6 extend to or have open with a consumer more than one small
7 consumer loan at any time; provided, however, that loans
8 acquired by a licensee from another licensee are not included
9 within this prohibition.

10 (c) A licensee is prohibited from refinancing a small
11 consumer loan during the first 90 days of the loan term. For
12 purposes of this Act, a refinancing occurs when an existing
13 small consumer loan is satisfied and replaced by a new small
14 consumer loan made to the same consumer by the same licensee or
15 any employee or affiliate of the licensee.

16 (d) Except for the deferment charge permitted by item (5)
17 of subsection (f) of Section 15, a licensee is prohibited from
18 collecting any fee, charge, or remuneration of any sort for
19 renewing, amending, or extending a small consumer loan beyond
20 its original term.

21 (205 ILCS 670/17.4 new)

22 Sec. 17.4. Small consumer loans; loan amount. A licensee is
23 prohibited from making a small consumer loan to a consumer if
24 the total of all payments to be made in any month on all of the
25 consumer's small consumer loans exceeds 20% of the consumer's

1 gross monthly income, as demonstrated by official
2 documentation of the income, including, but not limited to, the
3 consumer's most recent pay stub, receipt reflecting payment of
4 government benefits, or other official documentation.
5 "Official documentation" includes tax returns and
6 documentation prepared by the source of the income. A statement
7 by the consumer is not "official documentation".

8 (205 ILCS 670/17.5 new)

9 Sec. 17.5. Verification.

10 (a) "Certified database" means the consumer reporting
11 service database established pursuant to the Payday Loan Reform
12 Act.

13 (b) Before making a small consumer loan to a consumer, the
14 licensee must use the certified database to verify that the
15 small consumer loan is permissible under this Act.

16 (c) During the first 90 days after the effective date of
17 this amendatory Act of the 96th General Assembly, the
18 Department shall ensure that licensees are provided adequate
19 information on the use of the consumer reporting service
20 database. During this 90-day period, licensees shall not be
21 required to utilize the certified database and may instead rely
22 on statements from the consumer to determine loan eligibility.
23 This 90-day period shall continue indefinitely to the extent
24 the certified database is not fully operational and accessible
25 to licensees.

1 (d) Prior to making a small consumer loan to a consumer
2 under this Act, a licensee shall enter into the database the
3 consumer's name and Social Security Number or Alien
4 Identification Number and the database shall return to the
5 licensee a dated, time-stamped statement of the consumer's
6 total current small consumer loan monthly payments at the time
7 that the inquiry is made. For 24 hours after receiving a
8 statement of the consumer's total current small consumer loan
9 monthly payments from the certified database, a licensee may
10 rely on the statement in making a small consumer loan to a
11 consumer, and shall not be subject to any administrative
12 penalty or civil liability for making a small consumer loan in
13 reliance on the statement. There shall be no charge by the
14 database provider for this inquiry.

15 (e) No later than 6:00 a.m. on the business day following
16 the day on which a small consumer loan was made, the licensee
17 shall input the following information into the certified
18 database to determine whether the small consumer loan was
19 permissible under this Act:

20 (i) consumer's name and Social Security Number or Alien
21 Identification Number;

22 (ii) consumer's gross monthly income;

23 (iii) date of the loan;

24 (iv) the amount financed;

25 (v) the term of the loan;

26 (vi) the acquisition charge;

1 (vii) the monthly installment account handling charge;

2 (viii) the verification fee;

3 (ix) the number and amount of payments; and

4 (x) whether the loan is a first or subsequent
5 refinancing of a prior small consumer loan.

6 (f) The licensee shall update the certified database no
7 later than 6:00 a.m. on the business day following the day on
8 which any of the following events occur:

9 (i) the loan is paid in full by cash;

10 (ii) the loan is refinanced;

11 (iii) the loan is renewed;

12 (iv) the loan is satisfied by collateral being sold
13 after default;

14 (v) the loan is cancelled or rescinded; or

15 (vi) the consumer's obligation on the loan is otherwise
16 discharged.

17 (g) To the extent a licensee sells a product or service to
18 a consumer, other than a small consumer loan, and finances any
19 portion of the cost of the product or service, the licensee
20 shall, in addition to and at the same time as the information
21 inputted under subsection (d) of this Section, enter into the
22 certified database:

23 (i) a description of the product or service sold;

24 (ii) the charge for the product or service; and

25 (iii) the portion of the charge for the product or
26 service, if any, that is included in the amount financed by

1 a small consumer loan.

2 (h) A licensee may rely on the information contained in the
3 certified database as accurate and is not subject to any
4 administrative penalty or liability as a result of relying on
5 inaccurate information contained in the database.

6 (i) The certified database provider shall indemnify the
7 licensee against all claims and actions arising from illegal or
8 willful or wanton acts on the part of the certified database
9 provider. The certified database provider may charge a
10 verification fee not to exceed \$1 for each loan entered into
11 the database. The certified consumer reporting service shall
12 not charge any additional fees or charges.

13 (j) All personally identifiable information regarding any
14 consumer obtained by way of the certified database and
15 maintained by the Department is strictly confidential and shall
16 be exempt from disclosure under provision (i) of item (b) of
17 subsection (1) of Section 7 of the Freedom of Information Act.

18 (k) A licensee who submits information to a certified
19 database provider in accordance with this Section shall not be
20 liable to any person for any subsequent release or disclosure
21 of that information by the database provider, the Department,
22 or any other person acquiring possession of the information,
23 regardless of whether such subsequent release or disclosure was
24 lawful, authorized, or intentional.

25 (l) To the extent the certified database becomes
26 unavailable to a licensee as a result of some event or events

1 outside the control of the licensee or the database is
2 decertified, the requirements of this Section and Section 17.4
3 of this Act are suspended until such time as the certified
4 database becomes available.

5 (205 ILCS 670/19.2 new)

6 Sec. 19.2. Licensee; prohibition against accepting certain
7 checks. At the time a loan is made or within 20 days after a
8 loan is made, a licensee shall not (i) accept a check and agree
9 to hold it for a period of days before deposit or presentment
10 or (ii) accept a check dated subsequent to the date written.

11 Section 10. The Illinois Financial Services Development
12 Act is amended by changing Section 3 as follows:

13 (205 ILCS 675/3) (from Ch. 17, par. 7003)

14 Sec. 3. As used in this Section:

15 (a) "Financial institution" means any bank with its main
16 office or, after May 31, 1997, a branch in this State, any
17 state or federal savings and loan association or savings bank
18 with its main office or branch in this State, any state or
19 federal credit union with its main office in this State, and
20 any lender licensed under the Consumer Installment Loan Act or
21 the Sales Finance Agency Act; provided, however, that lenders
22 licensed under the Consumer Installment Loan Act or the Sales
23 Finance Agency Act are prohibited from charging interest in

1 excess of 36% per annum for any extension of credit under this
2 Act.

3 (b) "Revolving credit plan" or "plan" means a plan
4 contemplating the extension of credit under an account governed
5 by an agreement between a financial institution and a borrower
6 who is a natural person pursuant to which:

7 (1) The financial institution permits the borrower
8 and, if the agreement governing the plan so provides,
9 persons acting on behalf of or with authorization from the
10 borrower, from time to time to make purchases and to obtain
11 loans by any means whatsoever, including use of a credit
12 device primarily for personal, family or household
13 purposes;

14 (2) the amounts of such purchases and loans are charged
15 to the borrower's account under the revolving credit plan;

16 (3) the borrower is required to pay the financial
17 institution the amounts of all purchases and loans charged
18 to such borrower's account under the plan but has the
19 privilege of paying such amounts outstanding from time to
20 time in full or installments; and

21 (4) interest may be charged and collected by the
22 financial institution from time to time on the outstanding
23 unpaid indebtedness under such plan.

24 (c) "Credit device" means any card, check, identification
25 code or other means of identification contemplated by the
26 agreement governing the plan.

1 (d) "Outstanding unpaid indebtedness" means on any day an
2 amount not in excess of the total amount of purchases and loans
3 charged to the borrower's account under the plan which is
4 outstanding and unpaid at the end of the day, after adding the
5 aggregate amount of any new purchases and loans charged to the
6 account as of that day and deducting the aggregate amount of
7 any payments and credits applied to that indebtedness as of
8 that day and, if the agreement governing the plan so provides,
9 may include the amount of any billed and unpaid interest and
10 other charges.

11 (Source: P.A. 89-208, eff. 9-29-95.)

12 Section 15. The Payday Loan Reform Act is amended by
13 changing Sections 2-5, 2-10, 2-15, 2-17, and 3-5 as follows:

14 (815 ILCS 122/2-5)

15 Sec. 2-5. Loan terms.

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

19 (b) No payday loan may be made to a consumer if the loan
20 would result in the consumer being indebted to one or more
21 payday lenders for a period in excess of 45 consecutive days.
22 Except as provided under Section 2-40, if a consumer has or has
23 had loans outstanding for a period in excess of 45 consecutive
24 days, no payday lender may offer or make a loan to the consumer

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

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

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

18 (e) No lender may charge more than \$15.50 per \$100 loaned
19 on any payday loan over the term of the loan. Except as
20 provided in Section 2-25, this charge is considered fully
21 earned as of the date on which the loan is made.

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

25 (g) A consumer has the right to redeem a check or any other
26 item described in the definition of payday loan under Section

1 1-10 issued in connection with a payday loan from the lender
2 holding the check or other item at any time before the payday
3 loan becomes payable by paying the full amount of the check or
4 other item.

5 (h) No payday loan may be made to a consumer who has or has
6 had a small consumer loan, as defined by the Consumer
7 Installment Loan Act, within the preceding 14 days.

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

9 (815 ILCS 122/2-10)

10 Sec. 2-10. Permitted fees.

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

23 (b) A lender may charge a borrower a fee not to exceed \$1
24 for the verification required under Section 2-15 of this Act.
25 Only one such fee may be collected by the lender with respect

1 to a particular loan.

2 (c) ~~(b)~~ Except for the finance charges described in Section
3 2-5 and as specifically allowed by this Section, a lender may
4 not impose on a consumer any additional finance charges,
5 interest, fees, or charges of any sort for any purpose.

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

7 (815 ILCS 122/2-15)

8 Sec. 2-15. Verification.

9 (a) Before entering into a loan agreement with a consumer,
10 a lender must use a commercially reasonable method of
11 verification to verify that the proposed loan agreement is
12 permissible under this Act.

13 (b) Within 6 months after the effective date of this Act,
14 the Department shall certify that one or more consumer
15 reporting service databases are commercially reasonable
16 methods of verification. Upon certifying that a consumer
17 reporting service database is a commercially reasonable method
18 of verification, the Department shall:

19 (1) provide reasonable notice to all licensees
20 identifying the commercially reasonable methods of
21 verification that are available; and

22 (2) immediately upon certification, require each
23 licensee to use a commercially reasonable method of
24 verification as a means of complying with subsection (a) of
25 this Section.

1 (c) Except as otherwise provided in this Section, all
2 personally identifiable information regarding any consumer
3 obtained by way of the certified database and maintained by the
4 Department is strictly confidential and shall be exempt from
5 disclosure under Section 7(1)(b)(i) of the Freedom of
6 Information Act.

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

13 (e) In certifying a commercially reasonable method of
14 verification, the Department shall ensure that the certified
15 database:

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

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

1 (3) requires licensees to input whatever information
2 is required by the Department;

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

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

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

12 (f) The licensee shall update the certified database by
13 inputting all information required under item (3) of subsection
14 (e):

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

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

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

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

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

1 certified consumer reporting service.

2 (i) The certified consumer reporting service may charge a
3 verification fee not to exceed \$1.00 upon a loan being made or
4 entered into the database. The certified consumer reporting
5 service shall not charge any additional fees or charges.

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

7 (815 ILCS 122/2-17)

8 Sec. 2-17. Consumer reporting services qualification and
9 bonding.

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

13 (b) Each application for certification under this Act shall
14 be accompanied by a surety bond acceptable to the Department in
15 the amount of \$1,000,000. The surety bond shall be in a form
16 satisfactory to the Department and shall run to the State of
17 Illinois for the benefit of any claimants against the consumer
18 reporting service to secure the faithful performance of its
19 obligations under this Act. The aggregate liability of the
20 surety may exceed the principal sum of the bond. Claimants
21 against the consumer reporting service may themselves bring
22 suit directly on the surety bond or the Department may bring
23 suit on behalf of claimants, either in one action or in
24 successive actions.

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

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

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

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

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

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

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

20 (i) Each consumer reporting service shall maintain at all
21 times an "ID Theft Red Flag Program" that meets the standards
22 established by the Federal Trade Commission's Red Flags Rule,
23 promulgated under the Fair and Accurate Credit Transactions Act
24 of 2003.

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

1 (815 ILCS 122/3-5)

2 Sec. 3-5. Licensure.

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

9 (b) An application for a license shall be in writing and in
10 a form prescribed by the Secretary. The Secretary may not issue
11 a payday loan license unless and until the following findings
12 are made:

13 (1) that the financial responsibility, experience,
14 character, and general fitness of the applicant are such as
15 to command the confidence of the public and to warrant the
16 belief that the business will be operated lawfully and
17 fairly and within the provisions and purposes of this Act;
18 and

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

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

25 (d) A licensee shall appoint, in writing, the Secretary as
26 attorney-in-fact upon whom all lawful process against the

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

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

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

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

22 (f) Not more than one place of business shall be maintained
23 under the same license, but the Secretary may issue more than
24 one license to the same licensee upon compliance with all the
25 provisions of this Act governing issuance of a single license.
26 The location, except those locations already in existence as of

1 June 1, 2005, may not be within one mile of a horse race track
2 subject to the Illinois Horse Racing Act of 1975, within one
3 mile of a facility at which gambling is conducted under the
4 Riverboat Gambling Act, within one mile of the location at
5 which a riverboat subject to the Riverboat Gambling Act docks,
6 or within one mile of any State of Illinois or United States
7 military base or naval installation.

8 (g) No licensee shall conduct the business of making loans
9 under this Act within any office, suite, room, or place of
10 business in which any other business is solicited or engaged in
11 unless the other business is licensed by the Department under
12 the Pawnbroker Regulation Act and ~~or~~, in the opinion of the
13 Secretary, the other business would not be contrary to the best
14 interests of consumers and is authorized by the Secretary in
15 writing.

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

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