



Rep. Daniel J. Burke

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LRB097 03472 CEL 52425 a

1 AMENDMENT TO HOUSE BILL 641

2 AMENDMENT NO. _____. Amend House Bill 641 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, 17.2, and 17.3 as follows:

6 (205 ILCS 670/1) (from Ch. 17, par. 5401)

7 (Text of Section before amendment by P.A. 96-936)

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).

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

3 (Text of Section after amendment by P.A. 96-936)

4 Sec. 1. License required to engage in business. No person,
5 partnership, association, limited liability company, or
6 corporation shall engage in the business of making loans of
7 money in a principal amount not exceeding \$40,000, and charge,
8 contract for, or receive on any such loan a greater rate of
9 interest, discount, or consideration therefor than the lender
10 would be permitted by law to charge if he were not a licensee
11 hereunder, except as authorized by this Act after first
12 obtaining a license from the Director of Financial Institutions
13 (hereinafter called the Director). ~~No licensee, or employee or~~
14 ~~affiliate thereof, that is licensed under the Payday Loan~~
15 ~~Reform Act shall obtain a license under this Act except that a~~
16 ~~licensee under the Payday Loan Reform Act may obtain a license~~
17 ~~under this Act for the exclusive purpose and use of making~~
18 ~~title secured loans, as defined in subsection (a) of Section 15~~
19 ~~of this Act and governed by Title 38, Section 110.300 of the~~
20 ~~Illinois Administrative Code.~~

21 (Source: P.A. 96-936, eff. 3-21-11.)

22 (205 ILCS 670/17.2)

23 (This Section may contain text from a Public Act with a
24 delayed effective date)

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

2 (a) With respect to a small consumer loan of \$1,500 or
3 less:

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

8 (2) A licensee may charge an acquisition charge not to
9 exceed 10% of the amount financed. The acquisition charge
10 is in lieu of the fee permitted under Section 15d(5) and is
11 fully earned at the time the loan is made and shall not be
12 subject to refund.

13 (b) With respect to a small consumer loan over \$1,500:

14 (1) A licensee may charge the following finance
15 charges:

16 (A) an acquisition charge for making the original
17 loan, not to exceed \$100; for purposes of this
18 subsection (b), "original loan" means a loan in which
19 none of the proceeds are used by the licensee to pay
20 off the outstanding balance of another small consumer
21 loan made to the same consumer by the same licensee ~~or~~
22 ~~any employee or affiliate of the licensee;~~

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

25 (C) an acquisition charge for any subsequent
26 refinancing not to exceed \$25; for purposes of this

1 subsection (b), "refinancing" occurs when an existing
2 small consumer loan is satisfied and replaced by a new
3 small consumer loan made to the same consumer by the
4 same licensee ~~or any employee or affiliate of the~~
5 ~~licensee~~; and

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

8	Amount financed	Per month charge
9	\$1,500.01 - \$1,600	\$69
10	\$1,600.01 - \$1,700	\$72
11	\$1,700.01 - \$1,800	\$75
12	\$1,800.01 - \$1,900	\$78
13	\$1,900.01 - \$2,000	\$81
14	\$2,000.01 - \$2,100	\$84
15	\$2,100.01 - \$2,200	\$87
16	\$2,200.01 - \$2,300	\$90
17	\$2,300.01 - \$2,400	\$92
18	\$2,400.01 - \$2,500	\$94
19	\$2,500.01 - \$2,600	\$96
20	\$2,600.01 - \$2,700	\$98
21	\$2,700.01 - \$2,800	\$100
22	\$2,800.01 - \$2,900	\$102
23	\$2,900.01 - \$3,000	\$104
24	\$3,000.01 - \$3,100	\$106
25	\$3,100.01 - \$3,200	\$108

1	\$3,200.01 - \$3,300	\$110
2	\$3,300.01 - \$3,400	\$112
3	\$3,400.01 - \$3,500	\$114
4	\$3,500.01 - \$3,600	\$116
5	\$3,600.01 - \$3,700	\$118
6	\$3,700.01 - \$3,800	\$120
7	\$3,800.01 - \$3,900	\$122
8	\$3,900.01 - \$4,000	\$124

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

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

22 (c) In addition to the charges permitted in subsections (a)
23 and (b) of this Section, a licensee may charge a consumer a fee
24 not to exceed \$1 to cover the licensee's cost of submitting
25 loan information into the consumer reporting service, as

1 required under Section 17.5 of this Act. Only one such fee may
2 be collected by the licensee with respect to a particular loan.

3 (d) When any loan contract is paid in full by cash,
4 renewal, or refinancing, or a new loan, the licensee shall
5 refund any unearned interest or unearned portion of the monthly
6 installment account handling charge, whichever is applicable.
7 The unearned interest or unearned portion of the monthly
8 installment account handling charge that is refunded shall be
9 calculated based on a method that is at least as favorable to
10 the consumer as the actuarial method, as defined by the federal
11 Truth in Lending Act. The sum of the digits or rule of 78ths
12 method of calculating prepaid interest refunds is prohibited.

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

1 computations.

2 (Source: P.A. 96-936, eff. 3-21-11.)

3 (205 ILCS 670/17.3)

4 (This Section may contain text from a Public Act with a
5 delayed effective date)

6 Sec. 17.3. Small consumer loans; terms.

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

11 (b) No licensee, ~~or employee or affiliate thereof,~~ may
12 extend to or have open with a consumer more than one small
13 consumer loan at any time; provided, however, that loans
14 acquired by a licensee from another licensee are not included
15 within this prohibition.

16 (c) A licensee is prohibited from refinancing a small
17 consumer loan during the first 75 days of the loan term. For
18 purposes of this Act, a refinancing occurs when an existing
19 small consumer loan is satisfied and replaced by a new small
20 consumer loan made to the same consumer by the same licensee ~~or~~
21 ~~any employee or affiliate of the licensee.~~

22 (d) Except for the deferment charge permitted by item (5)
23 of subsection (f) of Section 15, a licensee is prohibited from
24 collecting any fee, charge, or remuneration of any sort for
25 renewing, amending, or extending a small consumer loan beyond

1 its original term.

2 (e) Before entering into a small consumer loan agreement, a
3 licensee must provide to the consumer a pamphlet, prepared by
4 the Director, describing general information about consumer
5 credit and about the consumer's rights and responsibilities in
6 a small consumer loan transaction. Each small consumer loan
7 agreement executed by a licensee shall include a statement,
8 located just above the signature line for the consumer, and
9 shall provide as follows: "In addition to agreeing to the terms
10 of this agreement, I acknowledge, by my signature below,
11 receipt from (name of lender) a pamphlet regarding small
12 consumer loans."

13 (f) Each small consumer loan agreement entered into between
14 a licensee and a consumer shall include a notification, in such
15 loan agreement, of a toll-free number furnished by the
16 Department of Financial and Professional Regulation, Division
17 of Financial Institutions that the consumer may contact for the
18 purpose of receiving information from the Division regarding
19 credit or assistance with credit problems.

20 (Source: P.A. 96-936, eff. 3-21-11.)

21 Section 10. The Payday Loan Reform Act is amended by
22 changing Sections 1-10, 3-5, and 4-5 as follows:

23 (815 ILCS 122/1-10)

24 (Text of Section before amendment by P.A. 96-936)

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

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

5 "Commercially reasonable method of verification" or
6 "certified database" means a consumer reporting service
7 database certified by the Department as effective in verifying
8 that a proposed loan agreement is permissible under this Act,
9 or, in the absence of the Department's certification, any
10 reasonably reliable written verification by the consumer
11 concerning (i) whether the consumer has any outstanding payday
12 loans, (ii) the principal amount of those outstanding payday
13 loans, and (iii) whether any payday loans have been paid in
14 full by the consumer in the preceding 7 days.

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

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

19 "Department" means the Department of Financial and
20 Professional Regulation.

21 "Secretary" means the Secretary of Financial and
22 Professional Regulation.

23 "Gross monthly income" means monthly income as
24 demonstrated by official documentation of the income,
25 including, but not limited to, a pay stub or a receipt
26 reflecting payment of government benefits, for the period 30

1 days prior to the date on which the loan is made.

2 "Lender" and "licensee" mean any person or entity,
3 including any ~~affiliate or~~ subsidiary of a lender or licensee,
4 that offers or makes a payday loan, buys a whole or partial
5 interest in a payday loan, arranges a payday loan for a third
6 party, or acts as an agent for a third party in making a payday
7 loan, regardless of whether approval, acceptance, or
8 ratification by the third party is necessary to create a legal
9 obligation for the third party, and includes any other person
10 or entity if the Department determines that the person or
11 entity is engaged in a transaction that is in substance a
12 disguised payday loan or a subterfuge for the purpose of
13 avoiding this Act.

14 "Loan agreement" means a written agreement between a lender
15 and consumer to make a loan to the consumer, regardless of
16 whether any loan proceeds are actually paid to the consumer on
17 the date on which the loan agreement is made.

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

1 of the State of Illinois.

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

5 "Payday loan" or "loan" means a loan with a finance charge
6 exceeding an annual percentage rate of 36% and with a term that
7 does not exceed 120 days, including any transaction conducted
8 via any medium whatsoever, including, but not limited to,
9 paper, facsimile, Internet, or telephone, in which:

10 (1) A lender accepts one or more checks dated on the
11 date written and agrees to hold them for a period of days
12 before deposit or presentment, or accepts one or more
13 checks dated subsequent to the date written and agrees to
14 hold them for deposit; or

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

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

19 "Principal amount" means the amount received by the
20 consumer from the lender due and owing on a loan, excluding any
21 finance charges, interest, fees, or other loan-related
22 charges.

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

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

1 (Text of Section after amendment by P.A. 96-936)

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

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

6 "Commercially reasonable method of verification" or
7 "certified database" means a consumer reporting service
8 database certified by the Department as effective in verifying
9 that a proposed loan agreement is permissible under this Act,
10 or, in the absence of the Department's certification, any
11 reasonably reliable written verification by the consumer
12 concerning (i) whether the consumer has any outstanding payday
13 loans, (ii) the principal amount of those outstanding payday
14 loans, and (iii) whether any payday loans have been paid in
15 full by the consumer in the preceding 7 days.

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

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

20 "Department" means the Department of Financial and
21 Professional Regulation.

22 "Secretary" means the Secretary of Financial and
23 Professional Regulation.

24 "Gross monthly income" means monthly income as
25 demonstrated by official documentation of the income,
26 including, but not limited to, a pay stub or a receipt

1 reflecting payment of government benefits, for the period 30
2 days prior to the date on which the loan is made.

3 "Lender" and "licensee" mean any person or entity,
4 including any ~~affiliate or~~ subsidiary of a lender or licensee,
5 that offers or makes a payday loan, buys a whole or partial
6 interest in a payday loan, arranges a payday loan for a third
7 party, or acts as an agent for a third party in making a payday
8 loan, regardless of whether approval, acceptance, or
9 ratification by the third party is necessary to create a legal
10 obligation for the third party, and includes any other person
11 or entity if the Department determines that the person or
12 entity is engaged in a transaction that is in substance a
13 disguised payday loan or a subterfuge for the purpose of
14 avoiding this Act.

15 "Loan agreement" means a written agreement between a lender
16 and consumer to make a loan to the consumer, regardless of
17 whether any loan proceeds are actually paid to the consumer on
18 the date on which the loan agreement is made.

19 "Member of the military" means a person serving in the
20 armed forces of the United States, the Illinois National Guard,
21 or any reserve component of the armed forces of the United
22 States. "Member of the military" includes those persons engaged
23 in (i) active duty, (ii) training or education under the
24 supervision of the United States preliminary to induction into
25 military service, or (iii) a period of active duty with the
26 State of Illinois under Title 10 or Title 32 of the United

1 States Code pursuant to order of the President or the Governor
2 of the State of Illinois.

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

6 "Payday loan" or "loan" means a loan with a finance charge
7 exceeding an annual percentage rate of 36% and with a term that
8 does not exceed 120 days, including any transaction conducted
9 via any medium whatsoever, including, but not limited to,
10 paper, facsimile, Internet, or telephone, in which:

11 (1) A lender accepts one or more checks dated on the
12 date written and agrees to hold them for a period of days
13 before deposit or presentment, or accepts one or more
14 checks dated subsequent to the date written and agrees to
15 hold them for deposit; or

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

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

20 The term "payday loan" includes "installment payday loan",
21 unless otherwise specified in this Act.

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

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

1 loan beyond its original term.

2 (Source: P.A. 96-936, eff. 3-21-11.)

3 (815 ILCS 122/3-5)

4 (Text of Section before amendment by P.A. 96-936)

5 Sec. 3-5. Licensure.

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

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

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

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

24 (c) A license shall be issued for no longer than one year,
25 and no renewal of a license may be provided if a licensee has

1 substantially violated this Act and has not cured the violation
2 to the satisfaction of the Department.

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

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

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

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

26 (f) Not more than one place of business shall be maintained

1 under the same license, but the Secretary may issue more than
2 one license to the same licensee upon compliance with all the
3 provisions of this Act governing issuance of a single license.
4 The location, except those locations already in existence as of
5 June 1, 2005, may not be within one mile of a horse race track
6 subject to the Illinois Horse Racing Act of 1975, within one
7 mile of a facility at which gambling is conducted under the
8 Riverboat Gambling Act, within one mile of the location at
9 which a riverboat subject to the Riverboat Gambling Act docks,
10 or within one mile of any State of Illinois or United States
11 military base or naval installation.

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

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

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

1 (Text of Section after amendment by P.A. 96-936)

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

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

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

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

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

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

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

9 (g) No licensee shall conduct the business of making loans
10 under this Act within any office, suite, room, or place of
11 business in which (1) any loans are offered or made under the
12 Consumer Installment Loan Act other than title secured loans as
13 defined in subsection (a) of Section 15 of the Consumer
14 Installment Loan Act and governed by Title 38, Section 110.330
15 of the Illinois Administrative Code or (2) any other business
16 is solicited or engaged in unless the other business is
17 licensed by the Department or, in the opinion of the Secretary,
18 the other business would not be contrary to the best interests
19 of consumers and is authorized by the Secretary in writing.

20 (g-5) (Blank). ~~Notwithstanding subsection (g) of this~~
21 ~~Section, a licensee may obtain a license under the Consumer~~
22 ~~Installment Loan Act (CILA) for the exclusive purpose and use~~
23 ~~of making title secured loans, as defined in subsection (a) of~~
24 ~~Section 15 of CILA and governed by Title 38, Section 110.300 of~~
25 ~~the Illinois Administrative Code. A licensee may continue to~~
26 ~~service Consumer Installment Loan Act loans that were~~

1 ~~outstanding as of the effective date of this amendatory Act of~~
2 ~~the 96th General Assembly.~~

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

10 (Source: P.A. 96-936, eff. 3-21-11.)

11 (815 ILCS 122/4-5)

12 (Text of Section before amendment by P.A. 96-936)

13 Sec. 4-5. Prohibited acts. A licensee or unlicensed person
14 or entity making payday loans may not commit, or have committed
15 on behalf of the licensee or unlicensed person or entity, any
16 of the following acts:

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

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

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

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

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

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

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

12 (8) Threatening to take any action against a consumer
13 that is prohibited by this Act or making any misleading or
14 deceptive statements regarding the payday loan or any
15 consequences thereof.

16 (9) Making a misrepresentation of a material fact by an
17 applicant for licensure in obtaining or attempting to
18 obtain a license.

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

21 (A) a confession of judgment clause;

22 (B) a waiver of the right to a jury trial, if
23 applicable, in any action brought by or against a
24 consumer, unless the waiver is included in an
25 arbitration clause allowed under subparagraph (C) of
26 this paragraph (11);

1 (C) a mandatory arbitration clause that is
2 oppressive, unfair, unconscionable, or substantially
3 in derogation of the rights of consumers; or

4 (D) a provision in which the consumer agrees not to
5 assert any claim or defense arising out of the
6 contract.

7 (11) Selling any insurance of any kind whether or not
8 sold in connection with the making or collecting of a
9 payday loan.

10 (12) Taking any power of attorney.

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

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

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

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

20 (17) Charging for, or attempting to collect,
21 attorney's fees, court costs, or arbitration costs
22 incurred in connection with the collection of a payday
23 loan.

24 (18) (Blank) ~~Making a loan in violation of this Act.~~

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

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

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

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

8 (Text of Section after amendment by P.A. 96-936)

9 Sec. 4-5. Prohibited acts. A licensee or unlicensed person
10 or entity making payday loans may not commit, or have committed
11 on behalf of the licensee or unlicensed person or entity, any
12 of the following acts:

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

15 (2) Using any device or agreement that would have the
16 effect of charging or collecting more fees or charges than
17 allowed by this Act, including, but not limited to,
18 entering into a different type of transaction with the
19 consumer.

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

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

25 (5) Knowingly accepting payment in whole or in part of

1 a payday loan through the proceeds of another payday loan
2 provided by any licensee, except as provided in subsection
3 (c) of Section 2.5.

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

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

9 (8) Threatening to take any action against a consumer
10 that is prohibited by this Act or making any misleading or
11 deceptive statements regarding the payday loan or any
12 consequences thereof.

13 (9) Making a misrepresentation of a material fact by an
14 applicant for licensure in obtaining or attempting to
15 obtain a license.

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

18 (A) a confession of judgment clause;

19 (B) a waiver of the right to a jury trial, if
20 applicable, in any action brought by or against a
21 consumer, unless the waiver is included in an
22 arbitration clause allowed under subparagraph (C) of
23 this paragraph (11);

24 (C) a mandatory arbitration clause that is
25 oppressive, unfair, unconscionable, or substantially
26 in derogation of the rights of consumers; or

1 (D) a provision in which the consumer agrees not to
2 assert any claim or defense arising out of the
3 contract.

4 (11) Selling any insurance of any kind whether or not
5 sold in connection with the making or collecting of a
6 payday loan.

7 (12) Taking any power of attorney.

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

9 (14) Collecting a delinquency or collection charge on
10 any installment regardless of the period in which it
11 remains in default.

12 (15) Collecting treble damages on an amount owing from
13 a payday loan.

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

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

21 (18) (Blank) ~~Making a loan in violation of this Act.~~

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

24 (20) Failing to suspend or defer collection activity
25 against a consumer who is a member of the military and who
26 has been deployed to a combat or combat-support posting.

1 (21) Contacting the military chain of command of a
2 consumer who is a member of the military in an effort to
3 collect on a payday loan.

4 (22) (Blank) ~~Making or offering to make any loan other~~
5 ~~than a payday loan or a title secured loan, provided~~
6 ~~however, that to make or offer to make a title secured~~
7 ~~loan, a licensee must obtain a license under the Consumer~~
8 ~~Installment Loan Act.~~

9 (Source: P.A. 96-936, eff. 3-21-11.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act."