



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5148

Introduced 2/8/2012, by Rep. Jim Sacia

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-101	from Ch. 95 1/2, par. 5-101
625 ILCS 5/5-102	from Ch. 95 1/2, par. 5-102
625 ILCS 5/5-102.7	

Amends the Illinois Vehicle Code. Changes the fees charged for inclusion in the Dealer Recovery Trust Fund to \$50 (instead of \$500 for the applicant's established place of business, and \$50 for each additional place of business, if any, and half those amounts if the application is made after June 15 of any year). Provides that in any year for which the balance in the Fund as of August 31st is greater than \$1,500,000 (instead of \$3,500,000), the Fund Administrator shall notify the Secretary of State and the Secretary shall suspend collection of the fee for the following year for any dealer who meets certain criteria. Provides that no award for a claim from the Fund shall exceed \$25,000 (instead of \$35,000).

LRB097 17162 HEP 62362 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Sections 5-101, 5-102, and 5-102.7 as follows:

6 (625 ILCS 5/5-101) (from Ch. 95 1/2, par. 5-101)

7 Sec. 5-101. New vehicle dealers must be licensed.

8 (a) No person shall engage in this State in the business of  
9 selling or dealing in, on consignment or otherwise, new  
10 vehicles of any make, or act as an intermediary or agent or  
11 broker for any licensed dealer or vehicle purchaser other than  
12 as a salesperson, or represent or advertise that he is so  
13 engaged or intends to so engage in such business unless  
14 licensed to do so in writing by the Secretary of State under  
15 the provisions of this Section.

16 (b) An application for a new vehicle dealer's license shall  
17 be filed with the Secretary of State, duly verified by oath, on  
18 such form as the Secretary of State may by rule or regulation  
19 prescribe and shall contain:

20 1. The name and type of business organization of the  
21 applicant and his established and additional places of  
22 business, if any, in this State.

23 2. If the applicant is a corporation, a list of its

1 officers, directors, and shareholders having a ten percent  
2 or greater ownership interest in the corporation, setting  
3 forth the residence address of each; if the applicant is a  
4 sole proprietorship, a partnership, an unincorporated  
5 association, a trust, or any similar form of business  
6 organization, the name and residence address of the  
7 proprietor or of each partner, member, officer, director,  
8 trustee, or manager.

9 3. The make or makes of new vehicles which the  
10 applicant will offer for sale at retail in this State.

11 4. The name of each manufacturer or franchised  
12 distributor, if any, of new vehicles with whom the  
13 applicant has contracted for the sale of such new vehicles.  
14 As evidence of this fact, the application shall be  
15 accompanied by a signed statement from each such  
16 manufacturer or franchised distributor. If the applicant  
17 is in the business of offering for sale new conversion  
18 vehicles, trucks or vans, except for trucks modified to  
19 serve a special purpose which includes but is not limited  
20 to the following vehicles: street sweepers, fertilizer  
21 spreaders, emergency vehicles, implements of husbandry or  
22 maintenance type vehicles, he must furnish evidence of a  
23 sales and service agreement from both the chassis  
24 manufacturer and second stage manufacturer.

25 5. A statement that the applicant has been approved for  
26 registration under the Retailers' Occupation Tax Act by the

1 Department of Revenue: Provided that this requirement does  
2 not apply to a dealer who is already licensed hereunder  
3 with the Secretary of State, and who is merely applying for  
4 a renewal of his license. As evidence of this fact, the  
5 application shall be accompanied by a certification from  
6 the Department of Revenue showing that that Department has  
7 approved the applicant for registration under the  
8 Retailers' Occupation Tax Act.

9 6. A statement that the applicant has complied with the  
10 appropriate liability insurance requirement. A Certificate  
11 of Insurance in a solvent company authorized to do business  
12 in the State of Illinois shall be included with each  
13 application covering each location at which he proposes to  
14 act as a new vehicle dealer. The policy must provide  
15 liability coverage in the minimum amounts of \$100,000 for  
16 bodily injury to, or death of, any person, \$300,000 for  
17 bodily injury to, or death of, two or more persons in any  
18 one accident, and \$50,000 for damage to property. Such  
19 policy shall expire not sooner than December 31 of the year  
20 for which the license was issued or renewed. The expiration  
21 of the insurance policy shall not terminate the liability  
22 under the policy arising during the period for which the  
23 policy was filed. Trailer and mobile home dealers are  
24 exempt from this requirement.

25 If the permitted user has a liability insurance policy  
26 that provides automobile liability insurance coverage of

1 at least \$100,000 for bodily injury to or the death of any  
2 person, \$300,000 for bodily injury to or the death of any 2  
3 or more persons in any one accident, and \$50,000 for damage  
4 to property, then the permitted user's insurer shall be the  
5 primary insurer and the dealer's insurer shall be the  
6 secondary insurer. If the permitted user does not have a  
7 liability insurance policy that provides automobile  
8 liability insurance coverage of at least \$100,000 for  
9 bodily injury to or the death of any person, \$300,000 for  
10 bodily injury to or the death of any 2 or more persons in  
11 any one accident, and \$50,000 for damage to property, or  
12 does not have any insurance at all, then the dealer's  
13 insurer shall be the primary insurer and the permitted  
14 user's insurer shall be the secondary insurer.

15 When a permitted user is "test driving" a new vehicle  
16 dealer's automobile, the new vehicle dealer's insurance  
17 shall be primary and the permitted user's insurance shall  
18 be secondary.

19 As used in this paragraph 6, a "permitted user" is a  
20 person who, with the permission of the new vehicle dealer  
21 or an employee of the new vehicle dealer, drives a vehicle  
22 owned and held for sale or lease by the new vehicle dealer  
23 which the person is considering to purchase or lease, in  
24 order to evaluate the performance, reliability, or  
25 condition of the vehicle. The term "permitted user" also  
26 includes a person who, with the permission of the new

1 vehicle dealer, drives a vehicle owned or held for sale or  
2 lease by the new vehicle dealer for loaner purposes while  
3 the user's vehicle is being repaired or evaluated.

4 As used in this paragraph 6, "test driving" occurs when  
5 a permitted user who, with the permission of the new  
6 vehicle dealer or an employee of the new vehicle dealer,  
7 drives a vehicle owned and held for sale or lease by a new  
8 vehicle dealer that the person is considering to purchase  
9 or lease, in order to evaluate the performance,  
10 reliability, or condition of the vehicle.

11 As used in this paragraph 6, "loaner purposes" means  
12 when a person who, with the permission of the new vehicle  
13 dealer, drives a vehicle owned or held for sale or lease by  
14 the new vehicle dealer while the user's vehicle is being  
15 repaired or evaluated.

16 7. (A) An application for a new motor vehicle dealer's  
17 license shall be accompanied by the following license fees:

18 (i) \$1,000 for applicant's established place of  
19 business, and \$100 for each additional place of  
20 business, if any, to which the application pertains;  
21 but if the application is made after June 15 of any  
22 year, the license fee shall be \$500 for applicant's  
23 established place of business plus \$50 for each  
24 additional place of business, if any, to which the  
25 application pertains. License fees shall be returnable  
26 only in the event that the application is denied by the

1 Secretary of State. All moneys received by the  
2 Secretary of State as license fees under this  
3 subparagraph (i) prior to applications for the 2004  
4 licensing year shall be deposited into the Motor  
5 Vehicle Review Board Fund and shall be used to  
6 administer the Motor Vehicle Review Board under the  
7 Motor Vehicle Franchise Act. Of the money received by  
8 the Secretary of State as license fees under this  
9 subparagraph (i) for the 2004 licensing year and  
10 thereafter, 10% shall be deposited into the Motor  
11 Vehicle Review Board Fund and shall be used to  
12 administer the Motor Vehicle Review Board under the  
13 Motor Vehicle Franchise Act and 90% shall be deposited  
14 into the General Revenue Fund.

15 (ii) Except as provided in subsection (h) of  
16 Section 5-102.7 of this Code, an Annual Dealer Recovery  
17 Fund Fee in the amount of \$50 ~~\$500 for the applicant's~~  
18 ~~established place of business, and \$50 for each~~  
19 ~~additional place of business, if any, to which the~~  
20 ~~application pertains; but if the application is made~~  
21 ~~after June 15 of any year, the fee shall be \$250 for~~  
22 ~~the applicant's established place of business plus \$25~~  
23 ~~for each additional place of business, if any, to which~~  
24 ~~the application pertains. License fees shall be~~  
25 returnable only in the event that the application is  
26 denied by the Secretary of State. Moneys received under

1           this subparagraph (ii) shall be deposited into the  
2           Dealer Recovery Trust Fund.

3           (B) An application for a new vehicle dealer's license,  
4           other than for a new motor vehicle dealer's license, shall  
5           be accompanied by the following license fees:

6                   (i) \$1,000 for applicant's established place of  
7                   business, and \$50 for each additional place of  
8                   business, if any, to which the application pertains;  
9                   but if the application is made after June 15 of any  
10                  year, the license fee shall be \$500 for applicant's  
11                  established place of business plus \$25 for each  
12                  additional place of business, if any, to which the  
13                  application pertains. License fees shall be returnable  
14                  only in the event that the application is denied by the  
15                  Secretary of State. Of the money received by the  
16                  Secretary of State as license fees under this  
17                  subparagraph (i) for the 2004 licensing year and  
18                  thereafter, 95% shall be deposited into the General  
19                  Revenue Fund.

20                   (ii) Except as provided in subsection (h) of  
21                   Section 5-102.7 of this Code, an Annual Dealer Recovery  
22                   Fund Fee in the amount of \$50 ~~\$500 for the applicant's~~  
23                   ~~established place of business, and \$50 for each~~  
24                   ~~additional place of business, if any, to which the~~  
25                   ~~application pertains; but if the application is made~~  
26                   ~~after June 15 of any year, the fee shall be \$250 for~~



1 ~~the applicant's established place of business plus \$25~~  
2 ~~for each additional place of business, if any, to which~~  
3 ~~the application pertains.~~ License fees shall be  
4 returnable only in the event that the application is  
5 denied by the Secretary of State. Moneys received under  
6 this subparagraph (ii) shall be deposited into the  
7 Dealer Recovery Trust Fund.

8 8. A statement that the applicant's officers,  
9 directors, shareholders having a 10% or greater ownership  
10 interest therein, proprietor, a partner, member, officer,  
11 director, trustee, manager or other principals in the  
12 business have not committed in the past 3 years any one  
13 violation as determined in any civil, criminal or  
14 administrative proceedings of any one of the following  
15 Acts:

16 (A) The Anti Theft Laws of the Illinois Vehicle  
17 Code;

18 (B) The Certificate of Title Laws of the Illinois  
19 Vehicle Code;

20 (C) The Offenses against Registration and  
21 Certificates of Title Laws of the Illinois Vehicle  
22 Code;

23 (D) The Dealers, Transporters, Wreckers and  
24 Rebuilders Laws of the Illinois Vehicle Code;

25 (E) Section 21-2 of the Criminal Code of 1961,  
26 Criminal Trespass to Vehicles; or

1 (F) The Retailers' Occupation Tax Act.

2 9. A statement that the applicant's officers,  
3 directors, shareholders having a 10% or greater ownership  
4 interest therein, proprietor, partner, member, officer,  
5 director, trustee, manager or other principals in the  
6 business have not committed in any calendar year 3 or more  
7 violations, as determined in any civil, criminal or  
8 administrative proceedings, of any one or more of the  
9 following Acts:

10 (A) The Consumer Finance Act;

11 (B) The Consumer Installment Loan Act;

12 (C) The Retail Installment Sales Act;

13 (D) The Motor Vehicle Retail Installment Sales  
14 Act;

15 (E) The Interest Act;

16 (F) The Illinois Wage Assignment Act;

17 (G) Part 8 of Article XII of the Code of Civil  
18 Procedure; or

19 (H) The Consumer Fraud Act.

20 10. A bond or certificate of deposit in the amount of  
21 \$20,000 for each location at which the applicant intends to  
22 act as a new vehicle dealer. The bond shall be for the term  
23 of the license, or its renewal, for which application is  
24 made, and shall expire not sooner than December 31 of the  
25 year for which the license was issued or renewed. The bond  
26 shall run to the People of the State of Illinois, with

1           surety by a bonding or insurance company authorized to do  
2           business in this State. It shall be conditioned upon the  
3           proper transmittal of all title and registration fees and  
4           taxes (excluding taxes under the Retailers' Occupation Tax  
5           Act) accepted by the applicant as a new vehicle dealer.

6           11. Such other information concerning the business of  
7           the applicant as the Secretary of State may by rule or  
8           regulation prescribe.

9           12. A statement that the applicant understands Chapter  
10          One through Chapter Five of this Code.

11          (c) Any change which renders no longer accurate any  
12          information contained in any application for a new vehicle  
13          dealer's license shall be amended within 30 days after the  
14          occurrence of such change on such form as the Secretary of  
15          State may prescribe by rule or regulation, accompanied by an  
16          amendatory fee of \$2.

17          (d) Anything in this Chapter 5 to the contrary  
18          notwithstanding no person shall be licensed as a new vehicle  
19          dealer unless:

20                1. He is authorized by contract in writing between  
21                himself and the manufacturer or franchised distributor of  
22                such make of vehicle to so sell the same in this State, and

23                2. Such person shall maintain an established place of  
24                business as defined in this Act.

25          (e) The Secretary of State shall, within a reasonable time  
26          after receipt, examine an application submitted to him under

1 this Section and unless he makes a determination that the  
2 application submitted to him does not conform with the  
3 requirements of this Section or that grounds exist for a denial  
4 of the application, under Section 5-501 of this Chapter, grant  
5 the applicant an original new vehicle dealer's license in  
6 writing for his established place of business and a  
7 supplemental license in writing for each additional place of  
8 business in such form as he may prescribe by rule or regulation  
9 which shall include the following:

10 1. The name of the person licensed;

11 2. If a corporation, the name and address of its  
12 officers or if a sole proprietorship, a partnership, an  
13 unincorporated association or any similar form of business  
14 organization, the name and address of the proprietor or of  
15 each partner, member, officer, director, trustee or  
16 manager;

17 3. In the case of an original license, the established  
18 place of business of the licensee;

19 4. In the case of a supplemental license, the  
20 established place of business of the licensee and the  
21 additional place of business to which such supplemental  
22 license pertains;

23 5. The make or makes of new vehicles which the licensee  
24 is licensed to sell.

25 (f) The appropriate instrument evidencing the license or a  
26 certified copy thereof, provided by the Secretary of State,

1 shall be kept posted conspicuously in the established place of  
2 business of the licensee and in each additional place of  
3 business, if any, maintained by such licensee.

4 (g) Except as provided in subsection (h) hereof, all new  
5 vehicle dealer's licenses granted under this Section shall  
6 expire by operation of law on December 31 of the calendar year  
7 for which they are granted unless sooner revoked or cancelled  
8 under the provisions of Section 5-501 of this Chapter.

9 (h) A new vehicle dealer's license may be renewed upon  
10 application and payment of the fee required herein, and  
11 submission of proof of coverage under an approved bond under  
12 the "Retailers' Occupation Tax Act" or proof that applicant is  
13 not subject to such bonding requirements, as in the case of an  
14 original license, but in case an application for the renewal of  
15 an effective license is made during the month of December, the  
16 effective license shall remain in force until the application  
17 is granted or denied by the Secretary of State.

18 (i) All persons licensed as a new vehicle dealer are  
19 required to furnish each purchaser of a motor vehicle:

20 1. In the case of a new vehicle a manufacturer's  
21 statement of origin and in the case of a used motor vehicle  
22 a certificate of title, in either case properly assigned to  
23 the purchaser;

24 2. A statement verified under oath that all identifying  
25 numbers on the vehicle agree with those on the certificate  
26 of title or manufacturer's statement of origin;

1           3. A bill of sale properly executed on behalf of such  
2 person;

3           4. A copy of the Uniform Invoice-transaction reporting  
4 return referred to in Section 5-402 hereof;

5           5. In the case of a rebuilt vehicle, a copy of the  
6 Disclosure of Rebuilt Vehicle Status; and

7           6. In the case of a vehicle for which the warranty has  
8 been reinstated, a copy of the warranty.

9           (j) Except at the time of sale or repossession of the  
10 vehicle, no person licensed as a new vehicle dealer may issue  
11 any other person a newly created key to a vehicle unless the  
12 new vehicle dealer makes a copy of the driver's license or  
13 State identification card of the person requesting or obtaining  
14 the newly created key. The new vehicle dealer must retain the  
15 copy for 30 days.

16           A new vehicle dealer who violates this subsection (j) is  
17 guilty of a petty offense. Violation of this subsection (j) is  
18 not cause to suspend, revoke, cancel, or deny renewal of the  
19 new vehicle dealer's license.

20           This amendatory Act of 1983 shall be applicable to the 1984  
21 registration year and thereafter.

22           (Source: P.A. 97-480, eff. 10-1-11.)

23           (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

24           Sec. 5-102. Used vehicle dealers must be licensed.

25           (a) No person, other than a licensed new vehicle dealer,

1 shall engage in the business of selling or dealing in, on  
2 consignment or otherwise, 5 or more used vehicles of any make  
3 during the year (except house trailers as authorized by  
4 paragraph (j) of this Section and rebuilt salvage vehicles sold  
5 by their rebuilders to persons licensed under this Chapter), or  
6 act as an intermediary, agent or broker for any licensed dealer  
7 or vehicle purchaser (other than as a salesperson) or represent  
8 or advertise that he is so engaged or intends to so engage in  
9 such business unless licensed to do so by the Secretary of  
10 State under the provisions of this Section.

11 (b) An application for a used vehicle dealer's license  
12 shall be filed with the Secretary of State, duly verified by  
13 oath, in such form as the Secretary of State may by rule or  
14 regulation prescribe and shall contain:

15 1. The name and type of business organization  
16 established and additional places of business, if any, in  
17 this State.

18 2. If the applicant is a corporation, a list of its  
19 officers, directors, and shareholders having a ten percent  
20 or greater ownership interest in the corporation, setting  
21 forth the residence address of each; if the applicant is a  
22 sole proprietorship, a partnership, an unincorporated  
23 association, a trust, or any similar form of business  
24 organization, the names and residence address of the  
25 proprietor or of each partner, member, officer, director,  
26 trustee or manager.

1           3. A statement that the applicant has been approved for  
2 registration under the Retailers' Occupation Tax Act by the  
3 Department of Revenue. However, this requirement does not  
4 apply to a dealer who is already licensed hereunder with  
5 the Secretary of State, and who is merely applying for a  
6 renewal of his license. As evidence of this fact, the  
7 application shall be accompanied by a certification from  
8 the Department of Revenue showing that the Department has  
9 approved the applicant for registration under the  
10 Retailers' Occupation Tax Act.

11           4. A statement that the applicant has complied with the  
12 appropriate liability insurance requirement. A Certificate  
13 of Insurance in a solvent company authorized to do business  
14 in the State of Illinois shall be included with each  
15 application covering each location at which he proposes to  
16 act as a used vehicle dealer. The policy must provide  
17 liability coverage in the minimum amounts of \$100,000 for  
18 bodily injury to, or death of, any person, \$300,000 for  
19 bodily injury to, or death of, two or more persons in any  
20 one accident, and \$50,000 for damage to property. Such  
21 policy shall expire not sooner than December 31 of the year  
22 for which the license was issued or renewed. The expiration  
23 of the insurance policy shall not terminate the liability  
24 under the policy arising during the period for which the  
25 policy was filed. Trailer and mobile home dealers are  
26 exempt from this requirement.



1           If the permitted user has a liability insurance policy  
2           that provides automobile liability insurance coverage of  
3           at least \$100,000 for bodily injury to or the death of any  
4           person, \$300,000 for bodily injury to or the death of any 2  
5           or more persons in any one accident, and \$50,000 for damage  
6           to property, then the permitted user's insurer shall be the  
7           primary insurer and the dealer's insurer shall be the  
8           secondary insurer. If the permitted user does not have a  
9           liability insurance policy that provides automobile  
10          liability insurance coverage of at least \$100,000 for  
11          bodily injury to or the death of any person, \$300,000 for  
12          bodily injury to or the death of any 2 or more persons in  
13          any one accident, and \$50,000 for damage to property, or  
14          does not have any insurance at all, then the dealer's  
15          insurer shall be the primary insurer and the permitted  
16          user's insurer shall be the secondary insurer.

17          When a permitted user is "test driving" a used vehicle  
18          dealer's automobile, the used vehicle dealer's insurance  
19          shall be primary and the permitted user's insurance shall  
20          be secondary.

21          As used in this paragraph 4, a "permitted user" is a  
22          person who, with the permission of the used vehicle dealer  
23          or an employee of the used vehicle dealer, drives a vehicle  
24          owned and held for sale or lease by the used vehicle dealer  
25          which the person is considering to purchase or lease, in  
26          order to evaluate the performance, reliability, or

1 condition of the vehicle. The term "permitted user" also  
2 includes a person who, with the permission of the used  
3 vehicle dealer, drives a vehicle owned or held for sale or  
4 lease by the used vehicle dealer for loaner purposes while  
5 the user's vehicle is being repaired or evaluated.

6 As used in this paragraph 4, "test driving" occurs when  
7 a permitted user who, with the permission of the used  
8 vehicle dealer or an employee of the used vehicle dealer,  
9 drives a vehicle owned and held for sale or lease by a used  
10 vehicle dealer that the person is considering to purchase  
11 or lease, in order to evaluate the performance,  
12 reliability, or condition of the vehicle.

13 As used in this paragraph 4, "loaner purposes" means  
14 when a person who, with the permission of the used vehicle  
15 dealer, drives a vehicle owned or held for sale or lease by  
16 the used vehicle dealer while the user's vehicle is being  
17 repaired or evaluated.

18 5. An application for a used vehicle dealer's license  
19 shall be accompanied by the following license fees:

20 (A) \$1,000 for applicant's established place of  
21 business, and \$50 for each additional place of  
22 business, if any, to which the application pertains;  
23 however, if the application is made after June 15 of  
24 any year, the license fee shall be \$500 for applicant's  
25 established place of business plus \$25 for each  
26 additional place of business, if any, to which the

1 application pertains. License fees shall be returnable  
2 only in the event that the application is denied by the  
3 Secretary of State. Of the money received by the  
4 Secretary of State as license fees under this  
5 subparagraph (A) for the 2004 licensing year and  
6 thereafter, 95% shall be deposited into the General  
7 Revenue Fund.

8 (B) Except as provided in subsection (h) of Section  
9 5-102.7 of this Code, an Annual Dealer Recovery Fund  
10 Fee in the amount of \$50 ~~\$500 for the applicant's~~  
11 ~~established place of business, and \$50 for each~~  
12 ~~additional place of business, if any, to which the~~  
13 ~~application pertains; but if the application is made~~  
14 ~~after June 15 of any year, the fee shall be \$250 for~~  
15 ~~the applicant's established place of business plus \$25~~  
16 ~~for each additional place of business, if any, to which~~  
17 ~~the application pertains. License fees shall be~~  
18 returnable only in the event that the application is  
19 denied by the Secretary of State. Moneys received under  
20 this subparagraph (B) shall be deposited into the  
21 Dealer Recovery Trust Fund.

22 6. A statement that the applicant's officers,  
23 directors, shareholders having a 10% or greater ownership  
24 interest therein, proprietor, partner, member, officer,  
25 director, trustee, manager or other principals in the  
26 business have not committed in the past 3 years any one

1 violation as determined in any civil, criminal or  
2 administrative proceedings of any one of the following  
3 Acts:

4 (A) The Anti Theft Laws of the Illinois Vehicle  
5 Code;

6 (B) The Certificate of Title Laws of the Illinois  
7 Vehicle Code;

8 (C) The Offenses against Registration and  
9 Certificates of Title Laws of the Illinois Vehicle  
10 Code;

11 (D) The Dealers, Transporters, Wreckers and  
12 Rebuilders Laws of the Illinois Vehicle Code;

13 (E) Section 21-2 of the Illinois Criminal Code of  
14 1961, Criminal Trespass to Vehicles; or

15 (F) The Retailers' Occupation Tax Act.

16 7. A statement that the applicant's officers,  
17 directors, shareholders having a 10% or greater ownership  
18 interest therein, proprietor, partner, member, officer,  
19 director, trustee, manager or other principals in the  
20 business have not committed in any calendar year 3 or more  
21 violations, as determined in any civil or criminal or  
22 administrative proceedings, of any one or more of the  
23 following Acts:

24 (A) The Consumer Finance Act;

25 (B) The Consumer Installment Loan Act;

26 (C) The Retail Installment Sales Act;

1 (D) The Motor Vehicle Retail Installment Sales  
2 Act;

3 (E) The Interest Act;

4 (F) The Illinois Wage Assignment Act;

5 (G) Part 8 of Article XII of the Code of Civil  
6 Procedure; or

7 (H) The Consumer Fraud Act.

8 8. A bond or Certificate of Deposit in the amount of  
9 \$20,000 for each location at which the applicant intends to  
10 act as a used vehicle dealer. The bond shall be for the  
11 term of the license, or its renewal, for which application  
12 is made, and shall expire not sooner than December 31 of  
13 the year for which the license was issued or renewed. The  
14 bond shall run to the People of the State of Illinois, with  
15 surety by a bonding or insurance company authorized to do  
16 business in this State. It shall be conditioned upon the  
17 proper transmittal of all title and registration fees and  
18 taxes (excluding taxes under the Retailers' Occupation Tax  
19 Act) accepted by the applicant as a used vehicle dealer.

20 9. Such other information concerning the business of  
21 the applicant as the Secretary of State may by rule or  
22 regulation prescribe.

23 10. A statement that the applicant understands Chapter  
24 1 through Chapter 5 of this Code.

25 11. A copy of the certification from the prelicensing  
26 education program.

1 (c) Any change which renders no longer accurate any  
2 information contained in any application for a used vehicle  
3 dealer's license shall be amended within 30 days after the  
4 occurrence of each change on such form as the Secretary of  
5 State may prescribe by rule or regulation, accompanied by an  
6 amendatory fee of \$2.

7 (d) Anything in this Chapter to the contrary  
8 notwithstanding, no person shall be licensed as a used vehicle  
9 dealer unless such person maintains an established place of  
10 business as defined in this Chapter.

11 (e) The Secretary of State shall, within a reasonable time  
12 after receipt, examine an application submitted to him under  
13 this Section. Unless the Secretary makes a determination that  
14 the application submitted to him does not conform to this  
15 Section or that grounds exist for a denial of the application  
16 under Section 5-501 of this Chapter, he must grant the  
17 applicant an original used vehicle dealer's license in writing  
18 for his established place of business and a supplemental  
19 license in writing for each additional place of business in  
20 such form as he may prescribe by rule or regulation which shall  
21 include the following:

22 1. The name of the person licensed;

23 2. If a corporation, the name and address of its  
24 officers or if a sole proprietorship, a partnership, an  
25 unincorporated association or any similar form of business  
26 organization, the name and address of the proprietor or of

1 each partner, member, officer, director, trustee or  
2 manager;

3 3. In case of an original license, the established  
4 place of business of the licensee;

5 4. In the case of a supplemental license, the  
6 established place of business of the licensee and the  
7 additional place of business to which such supplemental  
8 license pertains.

9 (f) The appropriate instrument evidencing the license or a  
10 certified copy thereof, provided by the Secretary of State  
11 shall be kept posted, conspicuously, in the established place  
12 of business of the licensee and in each additional place of  
13 business, if any, maintained by such licensee.

14 (g) Except as provided in subsection (h) of this Section,  
15 all used vehicle dealer's licenses granted under this Section  
16 expire by operation of law on December 31 of the calendar year  
17 for which they are granted unless sooner revoked or cancelled  
18 under Section 5-501 of this Chapter.

19 (h) A used vehicle dealer's license may be renewed upon  
20 application and payment of the fee required herein, and  
21 submission of proof of coverage by an approved bond under the  
22 "Retailers' Occupation Tax Act" or proof that applicant is not  
23 subject to such bonding requirements, as in the case of an  
24 original license, but in case an application for the renewal of  
25 an effective license is made during the month of December, the  
26 effective license shall remain in force until the application

1 for renewal is granted or denied by the Secretary of State.

2 (i) All persons licensed as a used vehicle dealer are  
3 required to furnish each purchaser of a motor vehicle:

4 1. A certificate of title properly assigned to the  
5 purchaser;

6 2. A statement verified under oath that all identifying  
7 numbers on the vehicle agree with those on the certificate  
8 of title;

9 3. A bill of sale properly executed on behalf of such  
10 person;

11 4. A copy of the Uniform Invoice-transaction reporting  
12 return referred to in Section 5-402 of this Chapter;

13 5. In the case of a rebuilt vehicle, a copy of the  
14 Disclosure of Rebuilt Vehicle Status; and

15 6. In the case of a vehicle for which the warranty has  
16 been reinstated, a copy of the warranty.

17 (j) A real estate broker holding a valid certificate of  
18 registration issued pursuant to "The Real Estate Brokers and  
19 Salesmen License Act" may engage in the business of selling or  
20 dealing in house trailers not his own without being licensed as  
21 a used vehicle dealer under this Section; however such broker  
22 shall maintain a record of the transaction including the  
23 following:

24 (1) the name and address of the buyer and seller,

25 (2) the date of sale,

26 (3) a description of the mobile home, including the



1 vehicle identification number, make, model, and year, and

2 (4) the Illinois certificate of title number.

3 The foregoing records shall be available for inspection by  
4 any officer of the Secretary of State's Office at any  
5 reasonable hour.

6 (k) Except at the time of sale or repossession of the  
7 vehicle, no person licensed as a used vehicle dealer may issue  
8 any other person a newly created key to a vehicle unless the  
9 used vehicle dealer makes a copy of the driver's license or  
10 State identification card of the person requesting or obtaining  
11 the newly created key. The used vehicle dealer must retain the  
12 copy for 30 days.

13 A used vehicle dealer who violates this subsection (k) is  
14 guilty of a petty offense. Violation of this subsection (k) is  
15 not cause to suspend, revoke, cancel, or deny renewal of the  
16 used vehicle dealer's license.

17 (l) Used vehicle dealers licensed under this Section shall  
18 provide the Secretary of State a register for the sale at  
19 auction of each salvage or junk certificate vehicle. Each  
20 register shall include the following information:

21 1. The year, make, model, style and color of the  
22 vehicle;

23 2. The vehicle's manufacturer's identification number  
24 or, if applicable, the Secretary of State or Illinois  
25 Department of State Police identification number;

26 3. The date of acquisition of the vehicle;

1           4. The name and address of the person from whom the  
2           vehicle was acquired;

3           5. The name and address of the person to whom any  
4           vehicle was disposed, the person's Illinois license number  
5           or if the person is an out-of-state salvage vehicle buyer,  
6           the license number from the state or jurisdiction where the  
7           buyer is licensed; and

8           6. The purchase price of the vehicle.

9           The register shall be submitted to the Secretary of State  
10          via written or electronic means within 10 calendar days from  
11          the date of the auction.

12          (Source: P.A. 96-678, eff. 8-25-09; 97-480, eff. 10-1-11.)

13                 (625 ILCS 5/5-102.7)

14                 Sec. 5-102.7. Dealer Recovery Trust Fund.

15                 (a) The General Assembly finds that motor vehicle dealers  
16                 that go out of business without fulfilling agreements to pay  
17                 off the balance of their customers' liens on traded-in vehicles  
18                 cause financial harm to those customers by leaving those  
19                 customers liable for multiple vehicle loans and cause harm to  
20                 the integrity of the motor vehicle retailing industry. It is  
21                 the intent of the General Assembly to protect vehicle  
22                 purchasers by creating a Dealer Recovery Trust Fund to  
23                 reimburse these consumers.

24                 (b) The Dealer Recovery Trust Fund shall be used solely for  
25                 the limited purpose of helping victims of dealership closings.

1 Any interest accrued by moneys in the Fund shall be deposited  
2 and become part of the Dealer Recovery Trust Fund and its  
3 purpose. The sole beneficiaries of the Dealer Recovery Trust  
4 Fund are victims of dealership closings.

5 (c) Except where the context otherwise requires, the  
6 following words and phrases, when used in this Section, have  
7 the meanings ascribed to them in this subsection (c):

8 "Applicant" means a person who applies for reimbursement  
9 from the Dealer Recovery Trust Fund Board.

10 "Board" means the Dealer Recovery Trust Fund Board created  
11 under this Section.

12 "Dealer" means a new vehicle dealer licensed under Section  
13 5-101 or a used vehicle dealer licensed under Section 5-102,  
14 excepting a dealer who primarily sells mobile homes,  
15 recreational vehicles, or trailers or any dealer who sells 25  
16 vehicles or fewer per calendar year.

17 "Fund" means the Dealer Recovery Trust Fund created under  
18 this Section.

19 "Fund Administrator" means the private entity, which shall  
20 be appointed by the Board, that administers the Dealer Recovery  
21 Trust Fund.

22 (d) Beginning October 1, 2011, each application or renewal  
23 for a new vehicle dealer's license and each application or  
24 renewal for a used vehicle dealer's license shall be  
25 accompanied by the applicable Annual Dealer Recovery Fund Fee  
26 under Section 5-101 or 5-102 of this Code. The fee shall be in

1 addition to any other fees imposed under this Article, shall be  
2 submitted at the same time an application or renewal for a new  
3 vehicle dealer's license or used vehicle dealer's license is  
4 submitted, and shall be made payable to and remitted directly  
5 to the Dealer Recovery Trust Fund, a trust fund outside of the  
6 State Treasury which is hereby created. In addition, the Dealer  
7 Recovery Trust Fund may accept any federal, State, or private  
8 moneys for deposit into the Fund.

9 (e) The Fund Administrator shall maintain a list of all  
10 dealers who have paid the fee under subsection (d) of this  
11 Section for the current year, which shall be available to the  
12 Secretary of State and the Board. The Secretary of State shall  
13 revoke the dealer license of any dealer who does not pay the  
14 fee imposed under subsection (d) of this Section. The Secretary  
15 of State and the Fund Administrator may enter into information  
16 sharing agreements as needed to implement this Section.

17 (f) The Fund shall be audited annually by an independent  
18 auditor who is a certified public accountant and who has been  
19 selected by the Board. The independent auditor shall compile an  
20 annual report, which shall be filed with the Board and shall be  
21 a public record. The auditor shall be paid by the Fund,  
22 pursuant to an order of the Board.

23 (g) The Fund shall be maintained by the Fund Administrator,  
24 who shall keep current records of the amounts deposited into  
25 the Fund and the amounts paid out of the Fund pursuant to an  
26 order of the Board. These records shall be made available to

1 all members of the Board upon reasonable request during normal  
2 business hours. The Fund Administrator shall report the balance  
3 in the Fund to the Board monthly, by the 15th day of each  
4 month. For purposes of determining the amount available to pay  
5 claims under this Section at any meeting of the Board, the  
6 Board shall use the Fund Administrator's most recent monthly  
7 report. The Fund Administrator shall purchase liability  
8 insurance to cover management of the Fund at a cost not to  
9 exceed 2% of the balance in the Fund as of January 15th of that  
10 year.

11 (h) In any year for which the balance in the Fund as of  
12 August 31st is greater than \$1,500,000 ~~\$3,500,000~~, the Fund  
13 Administrator shall notify the Secretary of State and the  
14 Secretary of State shall suspend collection of the fee for the  
15 following year for any dealer who has not had a claim paid from  
16 the Fund, has not had his or her license suspended or revoked,  
17 and has not been assessed any civil penalties under this Code  
18 during the 3 previous years.

19 (i) Moneys in the Dealer Recovery Trust Fund may be paid  
20 from the Fund only as directed by a written order of the Board  
21 and used only for the following purposes:

22 (i) to pay claims under a written order of the Board as  
23 provided in this Section; or

24 (ii) to reimburse the Fund Administrator for its  
25 expenses related to the administration of the Fund,  
26 provided that the reimbursement to the Fund Administrator

1 in any year shall not exceed 2% of the balance in the Fund  
2 as of January 15th of that year.

3 (j) The Dealer Recovery Trust Fund Board is hereby created.  
4 The Board shall consist of the Secretary of State, or his or  
5 her designee, who shall serve as chair, the Attorney General,  
6 or his or her designee, who shall serve as secretary, and one  
7 person alternatively representing new and independent Illinois  
8 automobile dealers, selected collectively by the Attorney  
9 General, or his or her designee, and the Secretary of State, or  
10 his or her designee. The Secretary of State may propose  
11 procedures and employ personnel as necessary to implement this  
12 Section. The Board shall meet quarterly, and as needed, as  
13 directed by the chair. The Board may not pay out any claims  
14 before the balance deposited into the Fund exceeds \$500,000.  
15 Board meetings shall be open to the public. The Board has the  
16 authority to take any action by at least a two-thirds majority  
17 vote.

18 (k) The following persons may apply to the Board for  
19 reimbursement from the Dealer Recovery Trust Fund:

20 (i) A retail customer who, on or after October 1, 2011,  
21 purchases a vehicle from a dealer who subsequently files  
22 for bankruptcy or whose vehicle dealer's license is  
23 subsequently revoked by the Secretary of State or otherwise  
24 terminated and, as part of the purchase transaction, trades  
25 in a vehicle with an outstanding lien to the dealer if lien  
26 satisfaction was a condition of the purchase agreement and

1 the retail customer determines that the lien has not been  
2 satisfied;

3 (ii) A retail customer who, on or after October 1,  
4 2011, purchases a vehicle with an undisclosed lien from a  
5 dealer who subsequently files for bankruptcy or whose  
6 vehicle dealer's license is subsequently revoked by the  
7 Secretary of State or otherwise terminated;

8 (iii) A dealer who, on or after October 1, 2011,  
9 purchases a vehicle with an undisclosed lien from another  
10 dealer who subsequently files for bankruptcy or whose  
11 vehicle dealer's license is subsequently revoked by the  
12 Secretary of State or otherwise terminated.

13 (l) To be considered by the Board, an applicant must submit  
14 his or her claim to the Board within 9 months after the date of  
15 the transaction that gave rise to the claim.

16 (m) At each meeting of the Board, it shall consider all  
17 claims that are properly submitted to it on forms prescribed by  
18 the Secretary of State at least 30 days before the date of the  
19 Board's meeting. Before the Board may consider a claim against  
20 a dealer, it must make a written determination that the dealer  
21 has filed for bankruptcy under the provisions of 11 U.S.C.  
22 Chapter 7; that the Secretary of State has revoked his or her  
23 dealer's license; or that the license has been otherwise  
24 terminated. Once the Board has made this determination, it may  
25 consider the applicant's claim against the dealer. If a  
26 two-thirds majority of the Board determines that the dealer has

1 committed a violation under subsection (k), it shall grant the  
2 applicant's claim. Except as otherwise provided in this  
3 Section, the maximum amount of any award for a claim under  
4 paragraph (i) of subsection (k) of this Section shall be equal  
5 to the amount of the unpaid balance of the lien that the dealer  
6 agreed to pay off on behalf of the applicant as shown on the  
7 bill of sale or the retail installment sales contract. The  
8 maximum amount of any claim under paragraph (ii) or (iii) of  
9 subsection (k) of this Section shall be equal to the amount of  
10 the undisclosed lien. However, no award for a claim under  
11 subsection (k) of this Section shall exceed \$25,000 ~~\$35,000~~.

12 (n) If the balance in the Fund at the time of any Board  
13 meeting is less than the amount of the total amount of all  
14 claims awarded at that meeting, then all awards made at that  
15 meeting shall be reduced, pro rata, so that the amount of  
16 claims does not exceed the balance in the Fund. Before it  
17 reviews new claims, the Board shall issue written orders to pay  
18 the remaining portion of any claims that were so reduced,  
19 provided that the balance in the Fund is sufficient to pay  
20 those claims.

21 (o) Whenever the balance of the Fund falls below \$500,000,  
22 the Board may charge dealers an additional assessment of up to  
23 \$50 to bring the balance to at least \$500,000. Not more than  
24 one additional assessment may be made against a dealer in any  
25 12-month period.

26 (p) If the total amount of claims awarded against any



1 dealer exceeds 33% of the balance in the Fund, the Board may  
2 permanently reduce the amount of those claims, pro rata, so  
3 that those claims do not exceed 33% of the balance in the Fund.

4 (q) The Board shall issue a written order directing the  
5 Fund Administrator to pay an applicant's claim to a secured  
6 party where the Board has received a signed agreement between  
7 the applicant and the secured party holding the lien. The  
8 agreement must (i) state that the applicant and the secured  
9 party agree to accept payment from the Fund to the secured  
10 party as settlement in full of all claims against the dealer;  
11 and (ii) release the lien and the title, if applicable, to the  
12 vehicle that was the subject of the claim. The written order  
13 shall state the amount of the claim and the name and address of  
14 the secured party to whom the claim shall be paid. The Fund  
15 Administrator shall pay the claim within 30 days after it  
16 receives the Board's order.

17 (r) No dealer or principal associated with a dealer's  
18 license is eligible for licensure, renewal or relicensure until  
19 the full amount of reimbursement for an unpaid claim, plus  
20 interest as determined by the Board, is paid to the Fund.  
21 Nothing in this Section shall limit the authority of the  
22 Secretary of State to suspend, revoke, or levy civil penalties  
23 against a dealer, nor shall full repayment of the amount owed  
24 to the Fund nullify or modify the effect of any action by the  
25 Secretary.

26 (s) Nothing in this Section shall limit the right of any

1 person to seek relief through civil action against any other  
2 person as an alternative to seeking reimbursement from the  
3 Fund.

4 (Source: P.A. 97-480, eff. 10-1-11.)