



Rep. William Davis

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09800HB0101ham001

LRB098 04899 MGM 37488 a

1 AMENDMENT TO HOUSE BILL 101

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 101 as follows:

3 on page 5, line 8, by replacing "4" with "0.05, 4,"; and

4 on page 5, immediately below line 8, by inserting the  
5 following:

6 (205 ILCS 510/0.05)

7 Sec. 0.05. Administration of Act.

8 (a) This Act shall be administered by the Secretary of  
9 Financial and Professional Regulation, and, beginning on July  
10 28, 2010 (the effective date of Public Act 96-1365), all  
11 references in this Act to the Commissioner of Banks and Real  
12 Estate are deemed, in appropriate contexts, to be references to  
13 the Secretary of Financial and Professional Regulation, who  
14 shall have all of the following powers and duties in  
15 administering this Act:

16 (1) To promulgate reasonable rules for the purpose of

1 administering the provisions of this Act.

2 (2) To issue orders for the purpose of administering  
3 the provisions of this Act and any rule promulgated in  
4 accordance with this Act.

5 (2.5) To order restitution to consumers suffering  
6 damages resulting from violations of this Act, rules  
7 promulgated in accordance with this Act, or other laws or  
8 regulations related to the operation of a pawnshop.

9 (3) To appoint hearing officers and to hire employees  
10 or to contract with appropriate persons to execute any of  
11 the powers granted to the Secretary under this Section for  
12 the purpose of administering this Act and any rule  
13 promulgated in accordance with this Act.

14 (4) To subpoena witnesses, to compel their attendance,  
15 to administer an oath, to examine any person under oath,  
16 and to require the production of any relevant books,  
17 papers, accounts, and documents in the course of and  
18 pursuant to any investigation being conducted, or any  
19 action being taken, by the Secretary in respect of any  
20 matter relating to the duties imposed upon, or the powers  
21 vested in, the Secretary under the provisions of this Act  
22 or any rule promulgated in accordance with this Act.

23 (5) To conduct hearings.

24 (6) To impose civil penalties ~~graduated~~ up to \$10,000  
25 ~~\$1,000~~ against any person for each day that person violates  
26 ~~violation of~~ any provision of this Act, any rule

1 promulgated in accordance with this Act, any State or  
2 federal law affecting pawnbrokers, or any order of the  
3 Secretary based upon the seriousness of the violation.

4 (6.5) To initiate, through the Attorney General,  
5 injunction proceedings whenever it appears to the  
6 Secretary that any person, whether licensed under this Act  
7 or not, is engaged or about to engage in an act or practice  
8 that constitutes or will constitute a violation of this Act  
9 or any rule prescribed under the authority of this Act. The  
10 Secretary may, in his or her discretion, through the  
11 Attorney General, apply for an injunction, and upon a  
12 proper showing, any circuit court may enter a permanent or  
13 preliminary injunction or a temporary restraining order  
14 without bond to enforce this Act in addition to the  
15 penalties and other remedies provided for in this Act.

16 (7) To issue a cease and desist order and, for  
17 violations of this Act, any order issued by the Secretary  
18 pursuant to this Act, any rule promulgated in accordance  
19 with this Act, or any other applicable law in connection  
20 with the operation of a pawnshop, to suspend a license  
21 issued under this Act for up to 30 days.

22 (8) To determine compliance with applicable law and  
23 rules related to the operation of pawnshops and to verify  
24 the accuracy of reports filed with the Secretary, the  
25 Secretary, not more than one time every 2 years, may, but  
26 is not required to, conduct a routine examination of a

1 pawnshop, and in addition, the Secretary may examine the  
2 affairs of any pawnshop at any time if the Secretary has  
3 reasonable cause to believe that unlawful or fraudulent  
4 activity is occurring, or has occurred, therein.

5 (9) In response to a complaint, to address any  
6 inquiries to any pawnshop in relation to its affairs, and  
7 it shall be the duty of the pawnshop to promptly reply in  
8 writing to such inquiries. The Secretary may also require  
9 reports or information from any pawnshop at any time the  
10 Secretary may deem desirable.

11 (10) To revoke a license issued under this Act if the  
12 Secretary determines that (a) a licensee has been convicted  
13 of a felony in connection with the operations of a  
14 pawnshop; (b) a licensee knowingly, recklessly, or  
15 continuously violated this Act or State or federal law or  
16 regulation, a rule promulgated in accordance with this Act,  
17 or any order of the Secretary; (c) a fact or condition  
18 exists that, if it had existed or had been known at the  
19 time of the original application, would have justified  
20 license refusal; (d) the licensee knowingly submits  
21 materially false or misleading documents with the intent to  
22 deceive the Secretary or any other party; or (e) the  
23 licensee is unable or ceases to continue to operate the  
24 pawnshop.

25 (10.2) To remove or prohibit the employment of any  
26 officer, director, employee, or agent of the pawnshop who

1 engages in or has engaged in unlawful activities that  
2 relate to the operation of a pawnshop.

3 (10.7) To prohibit the hiring of employees who have  
4 been convicted of a financial crime or any crime involving  
5 breach of trust who do not meet exceptions as established  
6 by rule of the Secretary.

7 (11) Following license revocation, to take possession  
8 and control of a pawnshop for the purpose of examination,  
9 reorganization, or liquidation through receivership and to  
10 appoint a receiver, which may be the Secretary, a pawnshop,  
11 or another suitable person.

12 (b) After consultation with local law enforcement  
13 officers, the Attorney General, and the industry, the Secretary  
14 may by rule require that pawnbrokers operate video camera  
15 surveillance systems to record photographic representations of  
16 customers and retain the tapes produced for up to 30 days.

17 (c) Pursuant to rule, the Secretary shall issue licenses on  
18 an annual or multi-year basis for operating a pawnshop. Any  
19 person currently operating or who has operated a pawnshop in  
20 this State during the 2 years preceding the effective date of  
21 this amendatory Act of 1997 shall be issued a license upon  
22 payment of the fee required under this Act. New applicants  
23 shall meet standards for a license as established by the  
24 Secretary. Except with the prior written consent of the  
25 Secretary, no individual, either a new applicant or a person  
26 currently operating a pawnshop, may be issued a license to

1 operate a pawnshop if the individual has been convicted of a  
2 felony or of any criminal offense relating to dishonesty or  
3 breach of trust in connection with the operations of a  
4 pawnshop. The Secretary shall establish license fees. The fees  
5 shall not exceed the amount reasonably required for  
6 administration of this Act. It shall be unlawful to operate a  
7 pawnshop without a license issued by the Secretary.

8 (d) In addition to license fees, the Secretary may, by  
9 rule, establish fees in connection with a review, approval, or  
10 provision of a service, and levy a reasonable charge to recover  
11 the cost of the review, approval, or service (such as a change  
12 in control, change in location, or renewal of a license). The  
13 Secretary may also levy a reasonable charge to recover the cost  
14 of an examination if the Secretary determines that unlawful or  
15 fraudulent activity has occurred. The Secretary may require  
16 payment of the fees and charges provided in this Act by  
17 certified check, money order, an electronic transfer of funds,  
18 or an automatic debit of an account.

19 (e) The Pawnbroker Regulation Fund is established as a  
20 special fund in the State treasury. Moneys collected under this  
21 Act shall be deposited into the Fund and used for the  
22 administration of this Act. In the event that General Revenue  
23 Funds are appropriated to the Department of Financial and  
24 Professional Regulation for the initial implementation of this  
25 Act, the Governor may direct the repayment from the Pawnbroker  
26 Regulation Fund to the General Revenue Fund of such advance in

1 an amount not to exceed \$30,000. The Governor may direct this  
2 interfund transfer at such time as he deems appropriate by  
3 giving appropriate written notice. Moneys in the Pawnbroker  
4 Regulation Fund may be transferred to the Professions Indirect  
5 Cost Fund, as authorized under Section 2105-300 of the  
6 Department of Professional Regulation Law of the Civil  
7 Administrative Code of Illinois.

8 (f) The Secretary may, by rule, require all pawnshops to  
9 provide for the expenses that would arise from the  
10 administration of the receivership of a pawnshop under this Act  
11 through the assessment of fees, the requirement to pledge  
12 surety bonds, or such other methods as determined by the  
13 Secretary.

14 (g) All final administrative decisions of the Secretary  
15 under this Act shall be subject to judicial review pursuant to  
16 the provisions of the Administrative Review Law. For matters  
17 involving administrative review, venue shall be in either  
18 Sangamon County or Cook County.

19 (Source: P.A. 96-1038, eff. 7-14-10; 96-1365, eff. 7-28-10;  
20 97-333, eff. 8-12-11.)".