



Sen. John M. Sullivan

Filed: 5/10/2013

09800HB2773sam001

LRB098 08411 MLW 45710 a

1 AMENDMENT TO HOUSE BILL 2773

2 AMENDMENT NO. _____. Amend House Bill 2773 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing 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

1 be filed with the Secretary of State, duly verified by oath, on
2 such form as the Secretary of State may by rule or regulation
3 prescribe and shall contain:

4 1. The name and type of business organization of the
5 applicant and his established and additional places of
6 business, if any, in this State.

7 2. If the applicant is a corporation, a list of its
8 officers, directors, and shareholders having a ten percent
9 or greater ownership interest in the corporation, setting
10 forth the residence address of each; if the applicant is a
11 sole proprietorship, a partnership, an unincorporated
12 association, a trust, or any similar form of business
13 organization, the name and residence address of the
14 proprietor or of each partner, member, officer, director,
15 trustee, or manager.

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

18 4. The name of each manufacturer or franchised
19 distributor, if any, of new vehicles with whom the
20 applicant has contracted for the sale of such new vehicles.
21 As evidence of this fact, the application shall be
22 accompanied by a signed statement from each such
23 manufacturer or franchised distributor. If the applicant
24 is in the business of offering for sale new conversion
25 vehicles, trucks or vans, except for trucks modified to
26 serve a special purpose which includes but is not limited

1 to the following vehicles: street sweepers, fertilizer
2 spreaders, emergency vehicles, implements of husbandry or
3 maintenance type vehicles, he must furnish evidence of a
4 sales and service agreement from both the chassis
5 manufacturer and second stage manufacturer.

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

16 6. A statement that the applicant has complied with the
17 appropriate liability insurance requirement. A Certificate
18 of Insurance in a solvent company authorized to do business
19 in the State of Illinois shall be included with each
20 application covering each location at which he proposes to
21 act as a new vehicle dealer. The policy must provide
22 liability coverage in the minimum amounts of \$100,000 for
23 bodily injury to, or death of, any person, \$300,000 for
24 bodily injury to, or death of, two or more persons in any
25 one accident, and \$50,000 for damage to property. Such
26 policy shall expire not sooner than December 31 of the year

1 for which the license was issued or renewed. The expiration
2 of the insurance policy shall not terminate the liability
3 under the policy arising during the period for which the
4 policy was filed. Trailer and mobile home dealers are
5 exempt from this requirement.

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

22 When a permitted user is "test driving" a new vehicle
23 dealer's automobile, the new vehicle dealer's insurance
24 shall be primary and the permitted user's insurance shall
25 be secondary.

26 As used in this paragraph 6, a "permitted user" is a

1 person who, with the permission of the new vehicle dealer
2 or an employee of the new vehicle dealer, drives a vehicle
3 owned and held for sale or lease by the new vehicle dealer
4 which the person is considering to purchase or lease, in
5 order to evaluate the performance, reliability, or
6 condition of the vehicle. The term "permitted user" also
7 includes a person who, with the permission of the new
8 vehicle dealer, drives a vehicle owned or held for sale or
9 lease by the new vehicle dealer for loaner purposes while
10 the user's vehicle is being repaired or evaluated.

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

18 As used in this paragraph 6, "loaner purposes" means
19 when a person who, with the permission of the new vehicle
20 dealer, drives a vehicle owned or held for sale or lease by
21 the new vehicle dealer while the user's vehicle is being
22 repaired or evaluated.

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

25 (i) \$1,000 for applicant's established place of
26 business, and \$100 for each additional place of

1 business, if any, to which the application pertains;
2 but if the application is made after June 15 of any
3 year, the license fee shall be \$500 for applicant's
4 established place of business plus \$50 for each
5 additional place of business, if any, to which the
6 application pertains. License fees shall be returnable
7 only in the event that the application is denied by the
8 Secretary of State. All moneys received by the
9 Secretary of State as license fees under this
10 subparagraph (i) prior to applications for the 2004
11 licensing year shall be deposited into the Motor
12 Vehicle Review Board Fund and shall be used to
13 administer the Motor Vehicle Review Board under the
14 Motor Vehicle Franchise Act. Of the money received by
15 the Secretary of State as license fees under this
16 subparagraph (i) for the 2004 licensing year and
17 thereafter, 10% shall be deposited into the Motor
18 Vehicle Review Board Fund and shall be used to
19 administer the Motor Vehicle Review Board under the
20 Motor Vehicle Franchise Act and 90% shall be deposited
21 into the General Revenue Fund.

22 (ii) Except as provided in subsection (h) of
23 Section 5-102.7 of this Code, an Annual Dealer Recovery
24 Fund Fee. For applications for the initial issuance of
25 a dealer's license, the fee shall be ~~in the amount of~~
26 \$500 for the applicant's established place of

1 business, and \$50 for each additional place of
2 business, if any, to which the application pertains;
3 but if the application is made after June 15 of any
4 year, the fee shall be \$250 for the applicant's
5 established place of business plus \$25 for each
6 additional place of business, if any, to which the
7 application pertains. For a license renewal
8 application, the fee shall be based on the amount of
9 automobiles sold in the past year according to the
10 following formula:

11 (1) \$0 for dealers selling 25 or less
12 automobiles;

13 (2) \$150 for dealers selling more than 25 but
14 less than 200 automobiles;

15 (3) \$300 for dealers selling 200 or more
16 automobiles but less than 300 automobiles; and

17 (4) \$500 for dealers selling 300 or more
18 automobiles.

19 License fees shall be returnable only in the event
20 that the application is denied by the Secretary of
21 State. Moneys received under this subparagraph (ii)
22 shall be deposited into the Dealer Recovery Trust Fund.

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

26 (i) \$1,000 for applicant's established place of

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

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

1 Dealer Recovery Trust Fund.

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

10 (A) The Anti Theft Laws of the Illinois Vehicle
11 Code;

12 (B) The Certificate of Title Laws of the Illinois
13 Vehicle Code;

14 (C) The Offenses against Registration and
15 Certificates of Title Laws of the Illinois Vehicle
16 Code;

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

19 (E) Section 21-2 of the Criminal Code of 1961 or
20 the Criminal Code of 2012, Criminal Trespass to
21 Vehicles; or

22 (F) The Retailers' Occupation Tax Act.

23 9. A statement that the applicant's officers,
24 directors, shareholders having a 10% or greater ownership
25 interest therein, proprietor, partner, member, officer,
26 director, trustee, manager or other principals in the

1 business have not committed in any calendar year 3 or more
2 violations, as determined in any civil, criminal or
3 administrative proceedings, of any one or more of the
4 following Acts:

5 (A) The Consumer Finance Act;

6 (B) The Consumer Installment Loan Act;

7 (C) The Retail Installment Sales Act;

8 (D) The Motor Vehicle Retail Installment Sales
9 Act;

10 (E) The Interest Act;

11 (F) The Illinois Wage Assignment Act;

12 (G) Part 8 of Article XII of the Code of Civil
13 Procedure; or

14 (H) The Consumer Fraud Act.

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

1 11. Such other information concerning the business of
2 the applicant as the Secretary of State may by rule or
3 regulation prescribe.

4 12. A statement that the applicant understands Chapter
5 One through Chapter Five of this Code.

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

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

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

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

20 (e) The Secretary of State shall, within a reasonable time
21 after receipt, examine an application submitted to him under
22 this Section and unless he makes a determination that the
23 application submitted to him does not conform with the
24 requirements of this Section or that grounds exist for a denial
25 of the application, under Section 5-501 of this Chapter, grant
26 the applicant an original new vehicle dealer's license in

1 writing for his established place of business and a
2 supplemental license in writing for each additional place of
3 business in such form as he may prescribe by rule or regulation
4 which shall include the following:

5 1. The name of the person licensed;

6 2. If a corporation, the name and address of its
7 officers or if a sole proprietorship, a partnership, an
8 unincorporated association or any similar form of business
9 organization, the name and address of the proprietor or of
10 each partner, member, officer, director, trustee or
11 manager;

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

14 4. In the case of a supplemental license, the
15 established place of business of the licensee and the
16 additional place of business to which such supplemental
17 license pertains;

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

20 (f) The appropriate instrument evidencing the license or a
21 certified copy thereof, provided by the Secretary of State,
22 shall be kept posted conspicuously in the established place of
23 business of the licensee and in each additional place of
24 business, if any, maintained by such licensee.

25 (g) Except as provided in subsection (h) hereof, all new
26 vehicle dealer's licenses granted under this Section shall

1 expire by operation of law on December 31 of the calendar year
2 for which they are granted unless sooner revoked or cancelled
3 under the provisions of Section 5-501 of this Chapter.

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

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

15 1. In the case of a new vehicle a manufacturer's
16 statement of origin and in the case of a used motor vehicle
17 a certificate of title, in either case properly assigned to
18 the purchaser;

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

22 3. A bill of sale properly executed on behalf of such
23 person;

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

26 5. In the case of a rebuilt vehicle, a copy of the

1 Disclosure of Rebuilt Vehicle Status; and

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

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

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

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

17 (Source: P.A. 97-480, eff. 10-1-11; 97-1150, eff. 1-25-13.)

18 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

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

20 (a) No person, other than a licensed new vehicle dealer,
21 shall engage in the business of selling or dealing in, on
22 consignment or otherwise, 5 or more used vehicles of any make
23 during the year (except house trailers as authorized by
24 paragraph (j) of this Section and rebuilt salvage vehicles sold
25 by their rebuilders to persons licensed under this Chapter), or

1 act as an intermediary, agent or broker for any licensed dealer
2 or vehicle purchaser (other than as a salesperson) or represent
3 or advertise that he is so engaged or intends to so engage in
4 such business unless licensed to do so by the Secretary of
5 State under the provisions of this Section.

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

10 1. The name and type of business organization
11 established and additional places of business, if any, in
12 this State.

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

22 3. A statement that the applicant has been approved for
23 registration under the Retailers' Occupation Tax Act by the
24 Department of Revenue. However, this requirement does not
25 apply to a dealer who is already licensed hereunder with
26 the Secretary of State, and who is merely applying for a

1 renewal of his license. As evidence of this fact, the
2 application shall be accompanied by a certification from
3 the Department of Revenue showing that the Department has
4 approved the applicant for registration under the
5 Retailers' Occupation Tax Act.

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

22 If the permitted user has a liability insurance policy
23 that provides automobile liability insurance coverage of
24 at least \$100,000 for bodily injury to or the death of any
25 person, \$300,000 for bodily injury to or the death of any 2
26 or more persons in any one accident, and \$50,000 for damage

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

12 When a permitted user is "test driving" a used vehicle
13 dealer's automobile, the used vehicle dealer's insurance
14 shall be primary and the permitted user's insurance shall
15 be secondary.

16 As used in this paragraph 4, a "permitted user" is a
17 person who, with the permission of the used vehicle dealer
18 or an employee of the used vehicle dealer, drives a vehicle
19 owned and held for sale or lease by the used vehicle dealer
20 which the person is considering to purchase or lease, in
21 order to evaluate the performance, reliability, or
22 condition of the vehicle. The term "permitted user" also
23 includes a person who, with the permission of the used
24 vehicle dealer, drives a vehicle owned or held for sale or
25 lease by the used vehicle dealer for loaner purposes while
26 the user's vehicle is being repaired or evaluated.

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

8 As used in this paragraph 4, "loaner purposes" means
9 when a person who, with the permission of the used vehicle
10 dealer, drives a vehicle owned or held for sale or lease by
11 the used vehicle dealer while the user's vehicle is being
12 repaired or evaluated.

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

15 (A) \$1,000 for applicant's established place of
16 business, and \$50 for each additional place of
17 business, if any, to which the application pertains;
18 however, if the application is made after June 15 of
19 any year, the license fee shall be \$500 for applicant's
20 established place of business plus \$25 for each
21 additional place of business, if any, to which the
22 application pertains. License fees shall be returnable
23 only in the event that the application is denied by the
24 Secretary of State. Of the money received by the
25 Secretary of State as license fees under this
26 subparagraph (A) for the 2004 licensing year and

1 thereafter, 95% shall be deposited into the General
2 Revenue Fund.

3 (B) Except as provided in subsection (h) of Section
4 5-102.7 of this Code, an Annual Dealer Recovery Fund
5 Fee. For applications for the initial issuance of a
6 dealer's license, the fee shall be in the amount of
7 \$500 for the applicant's established place of
8 business, and \$50 for each additional place of
9 business, if any, to which the application pertains;
10 but if the application is made after June 15 of any
11 year, the fee shall be \$250 for the applicant's
12 established place of business plus \$25 for each
13 additional place of business, if any, to which the
14 application pertains. For a license renewal
15 application, the fee shall be based on the amount of
16 automobiles sold in the past year according to the
17 following formula:

18 (1) \$0 for dealers selling 25 or less
19 automobiles;

20 (2) \$150 for dealers selling more than 25 but
21 less than 200 automobiles;

22 (3) \$300 for dealers selling 200 or more
23 automobiles but less than 300 automobiles; and

24 (4) \$500 for dealers selling 300 or more
25 automobiles.

26 License fees shall be returnable only in the event

1 that the application is denied by the Secretary of
2 State. Moneys received under this subparagraph (B)
3 shall be deposited into the Dealer Recovery Trust Fund.

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

12 (A) The Anti Theft Laws of the Illinois Vehicle
13 Code;

14 (B) The Certificate of Title Laws of the Illinois
15 Vehicle Code;

16 (C) The Offenses against Registration and
17 Certificates of Title Laws of the Illinois Vehicle
18 Code;

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

21 (E) Section 21-2 of the Illinois Criminal Code of
22 1961 or the Criminal Code of 2012, Criminal Trespass to
23 Vehicles; or

24 (F) The Retailers' Occupation Tax Act.

25 7. A statement that the applicant's officers,
26 directors, shareholders having a 10% or greater ownership

1 interest therein, proprietor, partner, member, officer,
2 director, trustee, manager or other principals in the
3 business have not committed in any calendar year 3 or more
4 violations, as determined in any civil or criminal or
5 administrative proceedings, of any one or more of the
6 following Acts:

7 (A) The Consumer Finance Act;

8 (B) The Consumer Installment Loan Act;

9 (C) The Retail Installment Sales Act;

10 (D) The Motor Vehicle Retail Installment Sales
11 Act;

12 (E) The Interest Act;

13 (F) The Illinois Wage Assignment Act;

14 (G) Part 8 of Article XII of the Code of Civil
15 Procedure; or

16 (H) The Consumer Fraud Act.

17 8. A bond or Certificate of Deposit in the amount of
18 \$20,000 for each location at which the applicant intends to
19 act as a used vehicle dealer. The bond shall be for the
20 term of the license, or its renewal, for which application
21 is made, and shall expire not sooner than December 31 of
22 the year for which the license was issued or renewed. The
23 bond shall run to the People of the State of Illinois, with
24 surety by a bonding or insurance company authorized to do
25 business in this State. It shall be conditioned upon the
26 proper transmittal of all title and registration fees and

1 taxes (excluding taxes under the Retailers' Occupation Tax
2 Act) accepted by the applicant as a used vehicle dealer.

3 9. Such other information concerning the business of
4 the applicant as the Secretary of State may by rule or
5 regulation prescribe.

6 10. A statement that the applicant understands Chapter
7 1 through Chapter 5 of this Code.

8 11. A copy of the certification from the prelicensing
9 education program.

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

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

20 (e) The Secretary of State shall, within a reasonable time
21 after receipt, examine an application submitted to him under
22 this Section. Unless the Secretary makes a determination that
23 the application submitted to him does not conform to this
24 Section or that grounds exist for a denial of the application
25 under Section 5-501 of this Chapter, he must grant the
26 applicant an original used vehicle dealer's license in writing

1 for his established place of business and a supplemental
2 license in writing for each additional place of business in
3 such form as he may prescribe by rule or regulation which shall
4 include the following:

5 1. The name of the person licensed;

6 2. If a corporation, the name and address of its
7 officers or if a sole proprietorship, a partnership, an
8 unincorporated association or any similar form of business
9 organization, the name and address of the proprietor or of
10 each partner, member, officer, director, trustee or
11 manager;

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

14 4. In the case of a supplemental license, the
15 established place of business of the licensee and the
16 additional place of business to which such supplemental
17 license pertains.

18 (f) The appropriate instrument evidencing the license or a
19 certified copy thereof, provided by the Secretary of State
20 shall be kept posted, conspicuously, in the established place
21 of business of the licensee and in each additional place of
22 business, if any, maintained by such licensee.

23 (g) Except as provided in subsection (h) of this Section,
24 all used vehicle dealer's licenses granted under this Section
25 expire by operation of law on December 31 of the calendar year
26 for which they are granted unless sooner revoked or cancelled

1 under Section 5-501 of this Chapter.

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

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

13 1. A certificate of title properly assigned to the
14 purchaser;

15 2. A statement verified under oath that all identifying
16 numbers on the vehicle agree with those on the certificate
17 of title;

18 3. A bill of sale properly executed on behalf of such
19 person;

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

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

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

26 (j) A real estate broker holding a valid certificate of

1 registration issued pursuant to "The Real Estate Brokers and
2 Salesmen License Act" may engage in the business of selling or
3 dealing in house trailers not his own without being licensed as
4 a used vehicle dealer under this Section; however such broker
5 shall maintain a record of the transaction including the
6 following:

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

8 (2) the date of sale,

9 (3) a description of the mobile home, including the
10 vehicle identification number, make, model, and year, and

11 (4) the Illinois certificate of title number.

12 The foregoing records shall be available for inspection by
13 any officer of the Secretary of State's Office at any
14 reasonable hour.

15 (k) Except at the time of sale or repossession of the
16 vehicle, no person licensed as a used vehicle dealer may issue
17 any other person a newly created key to a vehicle unless the
18 used vehicle dealer makes a copy of the driver's license or
19 State identification card of the person requesting or obtaining
20 the newly created key. The used vehicle dealer must retain the
21 copy for 30 days.

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

26 (l) Used vehicle dealers licensed under this Section shall

1 provide the Secretary of State a register for the sale at
2 auction of each salvage or junk certificate vehicle. Each
3 register shall include the following information:

4 1. The year, make, model, style and color of the
5 vehicle;

6 2. The vehicle's manufacturer's identification number
7 or, if applicable, the Secretary of State or Illinois
8 Department of State Police identification number;

9 3. The date of acquisition of the vehicle;

10 4. The name and address of the person from whom the
11 vehicle was acquired;

12 5. The name and address of the person to whom any
13 vehicle was disposed, the person's Illinois license number
14 or if the person is an out-of-state salvage vehicle buyer,
15 the license number from the state or jurisdiction where the
16 buyer is licensed; and

17 6. The purchase price of the vehicle.

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

21 (Source: P.A. 96-678, eff. 8-25-09; 97-480, eff. 10-1-11;
22 97-1150, eff. 1-25-13.)

23 (625 ILCS 5/5-102.7)

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

25 (a) The General Assembly finds that motor vehicle dealers

1 that go out of business without fulfilling agreements to pay
2 off the balance of their customers' liens on traded-in vehicles
3 cause financial harm to those customers by leaving those
4 customers liable for multiple vehicle loans and cause harm to
5 the integrity of the motor vehicle retailing industry. It is
6 the intent of the General Assembly to protect vehicle
7 purchasers by creating a Dealer Recovery Trust Fund to
8 reimburse these consumers.

9 (b) The Dealer Recovery Trust Fund shall be used solely for
10 the limited purpose of helping victims of dealership closings.
11 Any interest accrued by moneys in the Fund shall be deposited
12 and become part of the Dealer Recovery Trust Fund and its
13 purpose. The sole beneficiaries of the Dealer Recovery Trust
14 Fund are victims of dealership closings.

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

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

20 "Board" means the Dealer Recovery Trust Fund Board created
21 under this Section.

22 "Dealer" means a new vehicle dealer licensed under Section
23 5-101 or a used vehicle dealer licensed under Section 5-102,
24 excepting a dealer who primarily sells mobile homes,
25 recreational vehicles, or trailers ~~or any dealer who sells 25~~
26 ~~vehicles or fewer per calendar year.~~

1 "Fund" means the Dealer Recovery Trust Fund created under
2 this Section.

3 "Fund Administrator" means the private entity, which shall
4 be appointed by the Board, that administers the Dealer Recovery
5 Trust Fund.

6 (d) Beginning October 1, 2011, each application or renewal
7 for a new vehicle dealer's license and each application or
8 renewal for a used vehicle dealer's license shall be
9 accompanied by the applicable Annual Dealer Recovery Fund Fee
10 under Section 5-101 or 5-102 of this Code. The fee shall be in
11 addition to any other fees imposed under this Article, shall be
12 submitted at the same time an application or renewal for a new
13 vehicle dealer's license or used vehicle dealer's license is
14 submitted, and shall be made payable to and remitted directly
15 to the Dealer Recovery Trust Fund, a trust fund outside of the
16 State Treasury which is hereby created. In addition, the Dealer
17 Recovery Trust Fund may accept any federal, State, or private
18 moneys for deposit into the Fund.

19 (e) The Fund Administrator shall maintain a list of all
20 dealers who have paid the fee under subsection (d) of this
21 Section for the current year, which shall be available to the
22 Secretary of State and the Board. The Secretary of State shall
23 revoke the dealer license of any dealer who does not pay the
24 fee imposed under subsection (d) of this Section. The Secretary
25 of State and the Fund Administrator may enter into information
26 sharing agreements as needed to implement this Section.

1 (f) The Fund shall be audited annually by an independent
2 auditor who is a certified public accountant and who has been
3 selected by the Board. The independent auditor shall compile an
4 annual report, which shall be filed with the Board and shall be
5 a public record. The auditor shall be paid by the Fund,
6 pursuant to an order of the Board.

7 (g) The Fund shall be maintained by the Fund Administrator,
8 who shall keep current records of the amounts deposited into
9 the Fund and the amounts paid out of the Fund pursuant to an
10 order of the Board. These records shall be made available to
11 all members of the Board upon reasonable request during normal
12 business hours. The Fund Administrator shall report the balance
13 in the Fund to the Board monthly, by the 15th day of each
14 month. For purposes of determining the amount available to pay
15 claims under this Section at any meeting of the Board, the
16 Board shall use the Fund Administrator's most recent monthly
17 report. The Fund Administrator shall purchase liability
18 insurance to cover management of the Fund at a cost not to
19 exceed 2% of the balance in the Fund as of January 15th of that
20 year.

21 (h) In any year for which the balance in the Fund as of
22 August 31st is greater than \$3,500,000, the Fund Administrator
23 shall notify the Secretary of State and the Secretary of State
24 shall suspend collection of the fee for the following year for
25 any dealer who has not had a claim paid from the Fund, has not
26 had his or her license suspended or revoked, and has not been

1 assessed any civil penalties under this Code during the 3
2 previous years.

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

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

8 (ii) to reimburse the Fund Administrator for its
9 expenses related to the administration of the Fund,
10 provided that the reimbursement to the Fund Administrator
11 in any year shall not exceed 2% of the balance in the Fund
12 as of January 15th of that year.

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

1 vote.

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

4 (i) A retail customer who, on or after October 1, 2011,
5 purchases a vehicle from a dealer who subsequently files
6 for bankruptcy or whose vehicle dealer's license is
7 subsequently revoked by the Secretary of State or otherwise
8 terminated and, as part of the purchase transaction, trades
9 in a vehicle with an outstanding lien to the dealer if lien
10 satisfaction was a condition of the purchase agreement and
11 the retail customer determines that the lien has not been
12 satisfied;

13 (ii) A retail customer who, on or after October 1,
14 2011, purchases a vehicle with an undisclosed lien from a
15 dealer who subsequently files for bankruptcy or whose
16 vehicle dealer's license is subsequently revoked by the
17 Secretary of State or otherwise terminated;

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

23 (l) To be considered by the Board, an applicant must submit
24 his or her claim to the Board within 2 years ~~9 months~~ after the
25 date of the transaction that gave rise to the claim.

26 (m) At each meeting of the Board, it shall consider all

1 claims that are properly submitted to it on forms prescribed by
2 the Secretary of State at least 30 days before the date of the
3 Board's meeting. Before the Board may consider a claim against
4 a dealer, it must make a written determination that the dealer
5 has filed for bankruptcy under the provisions of 11 U.S.C.
6 Chapter 7; that the Secretary of State has revoked his or her
7 dealer's license; or that the license has been otherwise
8 terminated. Once the Board has made this determination, it may
9 consider the applicant's claim against the dealer. If a
10 two-thirds majority of the Board determines that the dealer has
11 committed a violation under subsection (k), it shall grant the
12 applicant's claim. Except as otherwise provided in this
13 Section, the maximum amount of any award for a claim under
14 paragraph (i) of subsection (k) of this Section shall be equal
15 to the amount of the unpaid balance of the lien that the dealer
16 agreed to pay off on behalf of the applicant as shown on the
17 bill of sale or the retail installment sales contract. The
18 maximum amount of any claim under paragraph (ii) or (iii) of
19 subsection (k) of this Section shall be equal to the amount of
20 the undisclosed lien. However, no award for a claim under
21 subsection (k) of this Section shall exceed \$35,000.

22 (n) If the balance in the Fund at the time of any Board
23 meeting is less than the amount of the total amount of all
24 claims awarded at that meeting, then all awards made at that
25 meeting shall be reduced, pro rata, so that the amount of
26 claims does not exceed the balance in the Fund. Before it

1 reviews new claims, the Board shall issue written orders to pay
2 the remaining portion of any claims that were so reduced,
3 provided that the balance in the Fund is sufficient to pay
4 those claims.

5 (o) Whenever the balance of the Fund falls below \$500,000,
6 the Board may charge dealers an additional assessment of up to
7 \$50 to bring the balance to at least \$500,000. Not more than
8 one additional assessment may be made against a dealer in any
9 12-month period.

10 (p) If the total amount of claims awarded against any
11 dealer exceeds 33% of the balance in the Fund, the Board may
12 permanently reduce the amount of those claims, pro rata, so
13 that those claims do not exceed 33% of the balance in the Fund.

14 (q) The Board shall issue a written order directing the
15 Fund Administrator to pay an applicant's claim to a secured
16 party where the Board has received a signed agreement between
17 the applicant and the secured party holding the lien. The
18 agreement must (i) state that the applicant and the secured
19 party agree to accept payment from the Fund to the secured
20 party as settlement in full of all claims against the dealer;
21 and (ii) release the lien and the title, if applicable, to the
22 vehicle that was the subject of the claim. The written order
23 shall state the amount of the claim and the name and address of
24 the secured party to whom the claim shall be paid. The Fund
25 Administrator shall pay the claim within 30 days after it
26 receives the Board's order.

1 (r) No dealer or principal associated with a dealer's
2 license is eligible for licensure, renewal or relicensure until
3 the full amount of reimbursement for an unpaid claim, plus
4 interest as determined by the Board, is paid to the Fund.
5 Nothing in this Section shall limit the authority of the
6 Secretary of State to suspend, revoke, or levy civil penalties
7 against a dealer, nor shall full repayment of the amount owed
8 to the Fund nullify or modify the effect of any action by the
9 Secretary.

10 (s) Nothing in this Section shall limit the right of any
11 person to seek relief through civil action against any other
12 person as an alternative to seeking reimbursement from the
13 Fund.

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