

1 AN ACT concerning fees in connection with certain  
2 financial services.

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

5 Section 5. The Illinois Banking Act is amended by adding  
6 Section 5f as follows:

7 (205 ILCS 5/5f new)  
8 Sec. 5f. Permissible fees and charges.

9 Section 10. The Illinois Savings and Loan Act of 1985 is  
10 amended by adding Section 7-4.5 as follows:

11 (205 ILCS 105/7-4.5 new)  
12 Sec. 7-4.5. Permissible fees and charges.

13 Section 15. The Savings Bank Act is amended by adding  
14 Section 9003.5 as follows:

15 (205 ILCS 205/9003.5 new)  
16 Sec. 9003.5. Permissible fees and charges.

17 Section 20. The Illinois Credit Union Act is amended by  
18 adding Section 46.5 as follows:

19 (205 ILCS 305/46.5 new)  
20 Sec. 46.5. Permissible fees and charges.

21 Section 25. The Currency Exchange Act is amended by  
22 changing Section 19.3 as follows:

23 (205 ILCS 405/19.3) (from Ch. 17, par. 4838)

1           Sec. 19.3. Permissible fees and charges.

2           (A) The General Assembly hereby finds and declares:  
3 community currency exchanges and ambulatory currency  
4 exchanges provide important and vital services to Illinois  
5 citizens. In so doing, they transact extensive business  
6 involving check cashing and the writing of money orders in  
7 communities in which banking services are generally  
8 unavailable. Customers of currency exchanges who receive  
9 these services must be protected from being charged  
10 unreasonable and unconscionable rates for cashing checks and  
11 purchasing money orders. The Illinois Department of  
12 Financial Institutions has the responsibility for regulating  
13 the operations of currency exchanges and has the expertise to  
14 determine reasonable maximum rates to be charged for check  
15 cashing and money order purchases. Therefore, it is in the  
16 public interest, convenience, welfare and good to have the  
17 Department establish reasonable maximum rate schedules for  
18 check cashing and the issuance of money orders and to require  
19 community and ambulatory currency exchanges to prominently  
20 display to the public the fees charged for all services. The  
21 Director shall review, each year, the cost of operation of  
22 the Currency Exchange Division and the revenue generated from  
23 currency exchange examinations and report to the General  
24 Assembly if the need exists for an increase in the fees  
25 mandated by this Act to maintain the Currency Exchange  
26 Division at a fiscally self-sufficient level. The Director  
27 shall include in such report the total amount of funds  
28 remitted to the State and delivered to the State Treasurer by  
29 currency exchanges pursuant to the Uniform Disposition of  
30 Unclaimed Property Act.

31           (B) The Director shall, by rules adopted in accordance  
32 with the Illinois Administrative Procedure Act, expeditiously  
33 formulate and issue schedules of reasonable maximum rates  
34 which can be charged for check cashing and writing of money

1 orders by community currency exchanges and ambulatory  
2 currency exchanges.

3 (1) In determining the maximum rate schedules for  
4 the purposes of this Section the Director shall take into  
5 account:

6 (a) Rates charged in the past for the cashing  
7 of checks and the issuance of money orders by  
8 community and ambulatory currency exchanges.

9 (b) Rates charged by banks or other business  
10 entities for rendering the same or similar services  
11 and the factors upon which those rates are based.

12 (c) The income, cost and expense of the  
13 operation of currency exchanges.

14 (d) Rates charged by currency exchanges or  
15 other similar entities located in other states for  
16 the same or similar services and the factors upon  
17 which those rates are based.

18 (e) Rates charged by the United States Postal  
19 Service for the issuing of money orders and the  
20 factors upon which those rates are based.

21 (f) A reasonable profit for a currency  
22 exchange operation.

23 (2) (a) The schedule of reasonable maximum rates  
24 established pursuant to this Section may be modified by  
25 the Director from time to time pursuant to rules adopted  
26 in accordance with the Illinois Administrative Procedure  
27 Act.

28 (b) Upon the filing of a verified petition setting  
29 forth allegations demonstrating reasonable cause to  
30 believe that the schedule of maximum rates previously  
31 issued and promulgated should be adjusted, the Director  
32 shall expeditiously:

33 (i) reject the petition if it fails to  
34 demonstrate reasonable cause to believe that an

1 adjustment is necessary; or

2 (ii) conduct such hearings, in accordance with  
3 this Section, as may be necessary to determine  
4 whether the petition should be granted in whole or  
5 in part.

6 (c) No petition may be filed pursuant to  
7 subparagraph (a) of paragraph (2) of subsection (B)  
8 unless:

9 (i) at least nine months have expired since  
10 the last promulgation of schedules of maximum rates;  
11 and

12 (ii) at least one-fourth of all community  
13 currency exchange licensees join in a petition or,  
14 in the case of ambulatory currency exchanges, a  
15 licensee or licensees authorized to serve at least  
16 100 locations join in a petition.

17 (3) Any currency exchange may charge lower fees than  
18 those of the applicable maximum fee schedule after filing  
19 with the Director a schedule of fees it proposes to use.

20 (Source: P.A. 91-16, eff. 7-1-99.)

21 Section 30. The Pawnbroker Regulation Act is amended by  
22 changing Section 2 as follows:

23 (205 ILCS 510/2) (from Ch. 17, par. 4652)

24 Sec. 2. Permissible fees and charges. It shall be  
25 unlawful for any pawnbroker to charge or collect a greater  
26 benefit or percentage upon money advanced, and for the use  
27 and forbearance thereof, than the rate of 3% per month.  
28 Nothing in this Section shall be construed so as to conflict  
29 with the law pertaining to usury and the person receiving  
30 money so advanced may hold such moneys to pay any fees in  
31 addition to interest as herein provided.

32 Each pawnbroker, when making a loan under this Section,

1 must disclose in printed form on the pawn contract the  
2 following information to the persons receiving the loan:

3 (1) the amount of money advanced, which must be  
4 designated as the amount financed;

5 (2) the maturity date of the pawn, which must be at  
6 least 30 days after the date of the pawn;

7 (3) the total pawn interest and service charge  
8 payable on the maturity date, which must be designated as  
9 the finance charge;

10 (4) the total of payments that must be paid to  
11 redeem the pledged goods on the maturity date, which must  
12 be designated as the total of payments; and

13 (5) the annual percentage rate, computed according  
14 to the regulations adopted by the Board of Governors of  
15 the Federal Reserve System under the Federal Truth in  
16 Lending Act.

17 Each pawnbroker may contract for and receive a monthly  
18 finance charge including interest and fees not to exceed  
19 one-fifth of the loan amount, as set forth herein, for  
20 appraising, investigating title, storing and insuring the  
21 collateral, closing the loan, making daily reports to local  
22 law enforcement officers including enhanced computerized  
23 reporting, complying with regulatory requirements, and for  
24 other expenses and losses of every nature whatsoever and for  
25 all other services. Such fees, when made and collected, shall  
26 not be deemed interest for any purpose of law.

27 (Source: P.A. 90-477, eff. 7-1-98.)

28 Section 35. The Electronic Fund Transfer Act is amended  
29 by changing Section 50 as follows:

30 (205 ILCS 616/50)

31 Sec. 50. Terminal requirements; surcharge and fee  
32 limitations.

1           (a) To assure maximum safety and security against  
2 malfunction, fraud, theft, and other accidents or abuses and  
3 to assure that all access devices will have the capability of  
4 activating all terminals established in this State, no  
5 terminal shall accept an access device that does not conform  
6 to specifications that are generally accepted. In the case  
7 of a dispute concerning the specifications, the Commissioner,  
8 in accordance with the provisions of Section 20 of this Act,  
9 shall have the authority to determine the specifications.

10           (b) No terminal that does not accept an access device  
11 that conforms with those specifications shall be established  
12 or operated.

13           (c) A terminal shall bear a logotype or other  
14 identification symbol designed to advise customers which  
15 access devices may activate the terminal.

16           (d) When used to perform an interchange transaction, a  
17 terminal shall not bear any form of proprietary advertising  
18 of products and services not offered at the terminal;  
19 provided, however, that a terminal screen may bear  
20 proprietary advertising of products or services offered by a  
21 financial institution when a person uses an access device  
22 issued by that financial institution.

23           (e) No person operating a terminal in this State shall  
24 impose any surcharge on a consumer for the usage of that  
25 terminal, whether or not the consumer is using an access  
26 device issued by that person, unless that surcharge is  
27 clearly disclosed to the consumer both (i) by a sign that is  
28 clearly visible to the consumer on or at the terminal being  
29 used and (ii) electronically on the terminal screen.  
30 Following presentation of the electronic disclosure on the  
31 terminal screen, the consumer shall be provided an  
32 opportunity to cancel that transaction without incurring any  
33 surcharge or other obligation. If a surcharge is imposed on  
34 a consumer using an access device not issued by the person

1 operating the terminal, that person shall disclose on the  
2 sign and on the terminal screen that the surcharge is in  
3 addition to any fee that may be assessed by the consumer's  
4 own institution. As used in this subsection, "surcharge"  
5 means any charge imposed by the person operating the terminal  
6 solely for the use of the terminal. This subsection does not  
7 apply to a point-of-sale purchase transaction at a terminal.

8 (f) A receipt given at a terminal to a person who  
9 initiates an electronic fund transfer shall include a number  
10 or code that identifies the consumer initiating the transfer,  
11 the consumer's account or accounts, or the access device used  
12 to initiate the transfer. If the number or code shown on the  
13 receipt is a number that identifies the access device, the  
14 number must be truncated as printed on the receipt so that  
15 fewer than all of the digits of the number or code are  
16 printed on the receipt. The Commissioner may, however,  
17 modify or waive the requirements imposed by this subsection  
18 (f) if the Commissioner determines that the modifications or  
19 waivers are necessary to alleviate any undue compliance  
20 burden.

21 (g) No terminal shall operate in this State unless, with  
22 respect to each interchange transaction initiated at the  
23 terminal, the access code entered by the consumer to  
24 authorize the transaction is encrypted by the device into  
25 which the access code is manually entered by the consumer and  
26 is transmitted from the terminal only in encrypted form. Any  
27 terminal that cannot meet the foregoing encryption  
28 requirements shall immediately cease forwarding information  
29 with respect to any interchange transaction or attempted  
30 interchange transaction.

31 (h) No person that directly or indirectly provides data  
32 processing support to any terminal in this State shall  
33 authorize or forward for authorization any interchange  
34 transaction unless the access code intended to authorize the

1 interchange transaction is encrypted when received by that  
2 person and is encrypted when forwarded to any other person.  
3 (Source: P.A. 89-310, eff. 1-1-96; 90-189, eff. 1-1-98.)

4 Section 40. The Residential Mortgage License Act of 1987  
5 is amended by adding Section 4-2.5 as follows:

6 (205 ILCS 635/4-2.5 new)  
7 Sec. 4-2.5. Permissible fees and charges.

8 Section 45. The Transmitters of Money Act is amended by  
9 adding Section 10.5 as follows:

10 (205 ILCS 657/10.5 new)  
11 Sec. 10.5. Permissible fees and charges.

12 Section 50. The Consumer Installment Loan Act is amended  
13 by changing Section 15 as follows:

14 (205 ILCS 670/15) (from Ch. 17, par. 5415)  
15 Sec. 15. Charges and fees permitted.

16 (a) Every licensee may lend a principal amount not  
17 exceeding \$25,000 and may charge, contract for and receive  
18 thereon interest at the rate agreed upon by the licensee and  
19 the borrower, subject to the provisions of this Act.

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

22 "Applicable interest" for a precomputed loan contract  
23 means the amount of interest attributable to each monthly  
24 installment period. It is computed as if each installment  
25 period were one month and any interest charged for extending  
26 the first installment period beyond one month is ignored.  
27 The applicable interest for any monthly installment period is  
28 that portion of the precomputed interest that bears the same



1 ratio to the total precomputed interest as the balances  
2 scheduled to be outstanding during that month bear to the sum  
3 of all scheduled monthly outstanding balances in the original  
4 contract.

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

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

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

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

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

29 (1) Interest shall be computed on unpaid principal  
30 balances outstanding from time to time, for the time  
31 outstanding, until fully paid. Each payment shall be  
32 applied first to the accumulated interest and the  
33 remainder of the payment applied to the unpaid principal  
34 balance; provided however, that if the amount of the

1 payment is insufficient to pay the accumulated interest,  
2 the unpaid interest continues to accumulate to be paid  
3 from the proceeds of subsequent payments and is not added  
4 to the principal balance.

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

15 (3) Loans may be payable as agreed between the  
16 parties, including payment at irregular times or in  
17 unequal amounts and rates that may vary with an index  
18 that is independently verifiable and beyond the control  
19 of the licensee.

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

28 (f) With respect to precomputed loans:

29 (1) Loans shall be repayable in substantially equal  
30 and consecutive monthly installments of principal and  
31 interest combined, except that the first installment  
32 period may be longer than one month by not more than 15  
33 days, and the first installment payment amount may be  
34 larger than the remaining payments by the amount of

1 interest charged for the extra days; and provided further  
2 that monthly installment payment dates may be omitted to  
3 accommodate borrowers with seasonal income.

4 (2) Payments may be applied to the combined total  
5 of principal and precomputed interest until the loan is  
6 fully paid. Payments shall be applied in the order in  
7 which they become due, except that any insurance proceeds  
8 received as a result of any claim made on any insurance,  
9 unless sufficient to prepay the contract in full, may be  
10 applied to the unpaid installments of the total of  
11 payments in inverse order.

12 (3) When any loan contract is paid in full by cash,  
13 renewal or refinancing, or a new loan, one month or more  
14 before the final installment due date, a licensee shall  
15 refund or credit the obligor with the total of the  
16 applicable interest for all fully unexpired installment  
17 periods, as originally scheduled or as deferred, which  
18 follow the day of prepayment; provided, if the prepayment  
19 occurs prior to the first installment due date, the  
20 licensee may retain 1/30 of the applicable interest for a  
21 first installment period of one month for each day from  
22 the date of the loan to the date of prepayment, and shall  
23 refund or credit the obligor with the balance of the  
24 total interest contracted for. If the maturity of the  
25 loan is accelerated for any reason and judgment is  
26 entered, the licensee shall credit the borrower with the  
27 same refund as if prepayment in full had been made on the  
28 date the judgement is entered.

29 (4) The lender or creditor may, if the contract  
30 provides, collect a delinquency or collection charge on  
31 each installment in default for a period of not less than  
32 10 days in an amount not exceeding 5% of the installment  
33 on installments in excess of \$200, or \$10 on installments  
34 of \$200 or less, but only one delinquency or collection

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

3 (5) If the parties agree in writing, either in the  
4 loan contract or in a subsequent agreement, to a  
5 deferment of wholly unpaid installments, a licensee may  
6 grant a deferment and may collect a deferment charge as  
7 provided in this Section. A deferment postpones the  
8 scheduled due date of the earliest unpaid installment and  
9 all subsequent installments as originally scheduled, or  
10 as previously deferred, for a period equal to the  
11 deferment period. The deferment period is that period  
12 during which no installment is scheduled to be paid by  
13 reason of the deferment. The deferment charge for a one  
14 month period may not exceed the applicable interest for  
15 the installment period immediately following the due date  
16 of the last undeferred payment. A proportionate charge  
17 may be made for deferment for periods of more or less  
18 than one month. A deferment charge is earned pro rata  
19 during the deferment period and is fully earned on the  
20 last day of the deferment period. Should a loan be  
21 prepaid in full during a deferment period, the licensee  
22 shall credit to the obligor a refund of the unearned  
23 deferment charge in addition to any other refund or  
24 credit made for prepayment of the loan in full.

25 (6) If two or more installments are delinquent one  
26 full month or more on any due date, and if the contract  
27 so provides, the licensee may reduce the unpaid balance  
28 by the refund credit which would be required for  
29 prepayment in full on the due date of the most recent  
30 maturing installment in default. Thereafter, and in lieu  
31 of any other default or deferment charges, the agreed  
32 rate of interest may be charged on the unpaid balance  
33 until fully paid.

34 (7) Fifteen days after the final installment as

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

10 (Source: P.A. 90-437, eff. 1-1-98.)