

AN ACT concerning State government.

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

Article 1. General Provisions

Section 1-1. Short title. This Act may be cited as the Pawnbroker Regulation Act of 2023.

Section 1-5. Definitions.

As used in this Act:

"Applicant" means a person applying for a license pursuant to this Act.

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

"Licensee" means a person licensed pursuant to this Act.

"Pawn" means the advance of money on the deposit or pledge of physically delivered personal property, other than property the ownership of which is subject to a legal dispute or other exempt property or instruments.

"Pawnbroker" means every individual or business entity that:

- (1) advances money on the pledge of tangible personal property, other than securities, printed evidence of indebtedness, or printed evidence of ownership of the

personal property; or

(2) deals in the purchase of personal property on the condition of selling the property back again at a stipulated price.

"Pawn customer" means a person who pawns or pledges and physically delivers personal property in exchange for money.

"Secretary" means the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial and Professional Regulation.

Article 5. Licensure

Section 5-1. Scope; number of pawnbroker licenses.

(a) It is unlawful for any person to operate as a pawnbroker in Illinois except as authorized by this Act and without first having obtained a license in accordance with this Act.

(b) The business of a pawnbroker does not include advances of money secured by a deposit or pledge of title to personal property or motor vehicles.

(c) There shall not be more than 250 active pawnbroker licenses at any one time within the State of Illinois. There shall not be more than 150 active pawnbroker licenses issued for the counties of Cook, DuPage, Kane, Lake, McHenry, and Will at any one time.

Section 5-5. Licensee name.

(a) No person, partnership, association, corporation, limited liability company, or other entity engaged in the business regulated by this Act shall operate the business under a name other than the real names of the entity and individuals conducting the business. The business may in addition operate under an assumed corporate name pursuant to the Business Corporation Act of 1983, an assumed limited liability company name pursuant to the Limited Liability Company Act, or an assumed business name pursuant to the Assumed Business Name Act.

(b) It is unlawful for an individual or business entity to conduct business in this State using the word "pawn", "pawnshop", or "pawnbroker" in connection with the business or to transact business in this State in a manner that has a substantial likelihood of misleading the public by implying that the business is a pawnshop, without first obtaining a license from the Secretary.

Section 5-10. Application process; investigation; fees.

(a) The Secretary shall issue a license upon completion of all of the following:

(1) The filing of an application for license with the Secretary or the Nationwide Multistate Licensing System and Registry as approved by the Secretary.

(2) The filing with the Secretary of a listing of judgments entered against, and bankruptcy petitions by, the license applicant for the preceding 10 years.

(3) The payment, in certified funds, of the following investigation and application fees:

(A) the fees for licensure shall be a \$2,000 application fee and an additional \$800 fee for investigation. These fees are nonrefundable; and

(B) the fee for an application renewal shall be \$2,000. The fee is nonrefundable.

(4) An investigation of the application, which investigation must allow the Secretary to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this Act; if the Secretary does not so find, he or she shall not issue the license, and he or she shall notify the license applicant of the denial.

The Secretary may impose conditions on a license if the Secretary determines that those conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Secretary.

(b) All licenses shall be issued to the license applicant. Upon issuance of the license, a pawnbroker licensee shall be authorized to engage in the business regulated by this Act. The license shall remain in full force and effect until it expires without renewal, is surrendered by the licensee, or revoked or suspended.

Section 5-15. Application form.

(a) Application for a pawnbroker license must be made in accordance with Section 5-20 and, if applicable, in accordance with requirements of the Nationwide Multistate Licensing System and Registry. The application shall be in writing, under oath or affirmation, and on a form obtained from and prescribed by the Secretary, or may be submitted electronically, with attestation, to the Nationwide Multistate Licensing System and Registry.

(b) The application shall contain the name, complete business, and residential address or addresses of the license applicant. If the license applicant is a partnership, association, corporation, or other form of business organization, the application shall contain the names and

complete business and residential addresses of each member, director, and principal officer thereof. The application shall also include a description of the activities of the license applicant in such detail and for such periods as the Secretary may require, including all of the following:

(1) an affirmation of financial solvency noting such capitalization requirements as may be required by the Secretary and access to such credit as may be required by the Secretary;

(2) an affirmation that the license applicant or its members, directors, or principals, as may be appropriate, are at least 18 years of age;

(3) information as to the character, fitness, financial and business responsibility, background, experience, and criminal record of any:

(A) person, entity, or ultimate equitable owner that owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant;

(B) person, entity, or ultimate equitable owner that is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act, that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant in an amount equal to or more than 10% of the license applicant's net worth;

(C) person, entity, or ultimate equitable owner

that controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or

(D) person, entity, or ultimate equitable owner that the Secretary finds influences management of the license applicant; the provisions of this subsection shall not apply to a public official serving on the board of directors of a State guaranty agency;

(4) upon written request by the licensee and notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary may permit the licensee to omit all or part of the information required by those paragraphs if, instead of the omitted information, the licensee submits an affidavit stating that the information submitted on the licensee's previous renewal application is still true and accurate; then the Secretary may adopt rules prescribing the form and content of the affidavit that are necessary to accomplish the purposes of this Section; and

(5) such other information as required by rules of the Secretary.

Section 5-20. Pawnbroker license application and issuance.

(a) Applicants for a license shall apply in a form prescribed by the Secretary. Each form shall contain content as set forth by rule, regulation, instruction, or procedure of

the Department or Secretary and may be changed or updated as necessary by the Department or Secretary in order to carry out the purposes of this Act.

(b) In order to fulfill the purposes of this Act, the Secretary is authorized to establish relationships or contracts with the Nationwide Multistate Licensing System and Registry or other entities designated by the Nationwide Multistate Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing, the applicant may be required, at a minimum, to furnish to the Nationwide Multistate Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a State, national, and international criminal history background check; and

(2) personal history and experience in a form prescribed by the Nationwide Multistate Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Licensing System and Registry and the Secretary to obtain:

(A) an independent credit report obtained from a consumer reporting agency described in Section 603(p)

of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p);
and

(B) information related to any administrative,
civil, or criminal findings by any governmental
jurisdiction.

(d) For the purposes of this Section, and in order to
reduce the points of contact that the Federal Bureau of
Investigation may have to maintain for purposes of subsection
(c), the Secretary may use the Nationwide Multistate Licensing
System and Registry as a channeling agent for requesting
information from and distributing information to the federal
Department of Justice or any governmental agency.

(e) For the purposes of this Section, and in order to
reduce the points of contact that the Secretary may have to
maintain for purposes of paragraph (2) of subsection (c), the
Secretary may use the Nationwide Multistate Licensing System
and Registry as a channeling agent for requesting and
distributing information to and from any source as directed by
the Secretary.

Section 5-25. Prohibited acts and practices for licensees.

(a) It is a violation of this Act for a licensee subject to
this Act to:

(1) fail to file with the Secretary or Nationwide
Multistate Licensing System and Registry, as applicable,
when due, any report or reports that it is required to file

under any of the provisions of this Act;

(2) commit a crime against the law of this State, any other state, or of the United States involving moral turpitude or fraudulent or dishonest dealing, and that no final judgment has been entered against it in a civil action upon grounds of fraud, misrepresentation, or deceit that has not been previously reported to the Secretary;

(3) engage in any conduct that would be cause for denial of a license;

(4) become insolvent;

(5) submit an application for a license under this Act that contains a material misstatement;

(6) demonstrate by course of conduct, negligence, or incompetence in performing any act for which it is required to hold a license under this Act;

(7) fail to advise the Secretary in writing or the Nationwide Multistate Licensing System and Registry, as applicable, of any changes to the information submitted on the most recent application for license or averments of record within 30 days after the change; the written notice must be signed in the same form as the application for the license being amended;

(8) fail to comply with the provisions of this Act and with any lawful order, rule, or regulation made or issued under the provisions of this Act;

(9) fail to submit to periodic examination by the

Secretary as required by this Act; and

(10) fail to advise the Secretary in writing of judgments entered against and bankruptcy petitions by the license applicant within 5 days after the occurrence.

(b) A licensee who fails to comply with this Section or otherwise violates any of the provisions of this Section shall be subject to the penalties in Section 30-30.

Section 5-30. Refusal to issue license. The Secretary shall refuse to issue or renew a license if:

(1) it is determined that the applicant is not in compliance with any provisions of this Act;

(2) there is substantial continuity between the applicant and any violator of this Act; or

(3) the Secretary cannot make the findings specified in subsection (a) of Section 5-10.

Section 5-35. License issuance and renewal; fees.

(a) Licenses shall be renewed every year using the common renewal date of the Nationwide Multistate Licensing System and Registry, as adopted by the Secretary. Properly completed renewal application forms and filing fees may be received by the Secretary 60 days before the license expiration date, but, to be deemed timely, the completed renewal application forms and filing fees must be received by the Secretary no later than 30 days before the license expiration date.

(b) It shall be the responsibility of each licensee to accomplish renewal of its license. Failure by a licensee to submit a properly completed renewal application form and fees in a timely fashion, absent a written extension from the Secretary, shall result in the license becoming inactive.

(c) No activity regulated by this Act shall be conducted by the licensee when a license becomes inactive. An inactive license may be reactivated by the Secretary upon payment of the renewal fee and payment of a reactivation fee equal to the renewal fee.

(d) A licensee ceasing an activity regulated by this Act and desiring to no longer be licensed shall so inform the Secretary in writing and, at the same time, convey any license issued and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business, and comply with the surrender guidelines or requirements of the Secretary. Upon receipt of such written notice, the Secretary shall post the cancellation or issue a certified statement canceling the license.

(e) The expenses of administering this Act, including investigations and examinations provided for in this Act, shall be borne by and assessed against entities regulated by this Act. Subject to the limitations set forth in Section 5-10, the Department shall establish fees by rule in at least the following categories:

- (1) investigation of licensees and license applicant fees;
- (2) examination fees;
- (3) contingent fees; and
- (4) such other categories as may be required to administer this Act.

Article 10. Supervision

Section 10-5. Functions; powers; duties.

The functions, powers, and duties of the Secretary shall include the following:

- (1) to issue or refuse to issue any license as provided by this Act;
- (2) to revoke or suspend for cause any license issued under this Act;
- (3) to keep records of all licenses issued under this Act;
- (4) to receive, consider, investigate, and act upon complaints made by any person in connection with any pawnbroker licensee in this State;
- (5) to prescribe the forms of and receive:
 - (A) applications for licenses; and
 - (B) all reports and all books and records required to be made by any licensee under this Act;
- (6) to adopt rules necessary and proper for the

administration of this Act;

(7) to subpoena documents and witnesses and compel their attendance and production, to administer oaths and affirmations, and to require the production of any books, papers, or other materials relevant to any inquiry authorized by this Act;

(8) to issue orders against any person, including, but not limited to, any officer, director, employee, prospective employee, or agent of the licensee, if the Secretary has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur; if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary; or for the purpose of administering the provisions of this Act and any rule adopted in accordance with this Act;

(9) to address any inquiries to any licensee, or the officers thereof, in relation to its activities and conditions, or any other matter connected with its affairs, and it shall be the duty of any licensee or person so addressed to promptly reply in writing to those inquiries; the Secretary may also require reports from any licensee at any time the Secretary may deem desirable;

(10) to examine the books and records of every licensee under this Act;

(11) to enforce provisions of this Act;

(12) to levy fees, fines, and charges for services performed in administering this Act; the aggregate of all fees collected by the Secretary on and after the effective date of this Act shall be paid promptly after receipt, accompanied by a detailed statement thereof, into the Pawnbroker Regulation Fund under Section 10-10; the amounts deposited into that Fund shall be used for the ordinary and contingent expenses of the Department; nothing in this Act shall prevent the continuation of the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund;

(13) to appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this Act;

(14) to conduct hearings for the purpose of:

(A) appeals of orders of the Secretary;

(B) suspensions or revocations of licenses, or fining of licensees;

(C) investigating complaints against licensees;

and

(D) carrying out the purposes of this Act;

(15) to exercise exclusive visitorial power over a licensee unless otherwise authorized by this Act or as vested in the courts;

(16) to assign on an emergency basis an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Secretary determines appropriate and to charge the licensee for reasonable and necessary expenses of the Secretary, if in the opinion of the Secretary an emergency exists or appears likely to occur;

(17) to impose civil penalties of up to \$50 per day against a licensee for failing to respond to a regulatory request or reporting requirement;

(18) to enter into agreements in connection with the Nationwide Multistate Licensing System and Registry; and

(19) to perform any other lawful acts necessary or desirable to carry out the purposes and provisions of this Act.

Section 10-10. Pawnbroker Regulation Fund. The Pawnbroker Regulation Fund, which was established by Public Act 90-477, shall continue to be a special fund in the State treasury. All moneys received by the Secretary under this Act in conjunction with the provisions relating to pawnbrokers shall be deposited into the Pawnbroker Regulation Fund and used for the administration of this Act. Moneys in the Pawnbroker Regulation Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

Section 10-15. Examination; prohibited activities.

(a) The business affairs of a licensee under this Act shall be examined for compliance with this Act as often as the Secretary deems necessary and proper. The Department may adopt rules with respect to the frequency and manner of examination. The Secretary shall appoint a suitable person to perform such examination. The Secretary and his or her appointees may examine the entire books, records, documents, and operations of each licensee and its subsidiary, affiliate, or agent, and may examine any of the licensee's or its subsidiary's, affiliate's, or agent's officers, directors, employees, and agents under oath or affirmation.

(b) The Secretary shall prepare a sufficiently detailed report of each licensee's examination, shall issue a copy of the report to each licensee's principals, officers, or directors, and shall take appropriate steps to ensure correction of violations of this Act.

(c) Affiliates of a licensee shall be subject to examination by the Secretary on the same terms as the licensee, but only if reports from or examination of a licensee provides for documented evidence of unlawful activity between a licensee and affiliate benefiting, affecting, or deriving from the activities regulated by this Act.

(d) The expenses of any examination of the licensee and affiliates shall be borne by the licensee and assessed by the

Secretary as may be established by rule.

(e) Upon completion of the examination, the Secretary shall issue a report to the licensee. All confidential supervisory information, including the examination report and the work papers of the report, shall belong to the Secretary's office and may not be disclosed to anyone other than the licensee, law enforcement officials or other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. The Secretary may, through the Attorney General, immediately appeal to the court of jurisdiction the disclosure of such confidential supervisory information and seek a stay of the subpoena pending the outcome of the appeal. Reports required of licensees by the Secretary under this Act and results of examinations performed by the Secretary under this Act shall be the property of only the Secretary, but may be shared with the licensee. Access under this Act to the books and records of each licensee shall be limited to the Secretary and his or her agents as provided in this Act and to the licensee and its authorized agents and designees. No other person shall have access to the books and records of a licensee under this Act. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the

Secretary of the demand, at which time the Secretary is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information. The Secretary may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of that information. Except as authorized by the Secretary, no person obtaining access to confidential supervisory information may make a copy of the confidential supervisory information. The Secretary may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Secretary, the Secretary may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Secretary may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Secretary may impose on either or both parties. The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained and, upon entry of a protective order, shall provide

copies of confidential supervisory information to the other parties.

(f) The Secretary and employees of the Department shall be subject to the restrictions provided in Section 2.5 of the Division of Banking Act, including, without limitation, the restrictions on:

(1) owning shares of stock or holding any other equity interest in an entity regulated under this Act or in any corporation or company that owns or controls an entity regulated under this Act;

(2) being an officer, director, employee, or agent of an entity regulated under this Act; and

(3) obtaining a pawn or accepting a gratuity from an entity regulated under this Act.

Section 10-20. Subpoena power of the Secretary.

(a) The Secretary shall have the power to issue and to serve subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of all books, accounts, records, and other documents and materials relevant to an examination or investigation. The Secretary, or his or her duly authorized representative, shall have power to administer oaths and affirmations to any person.

(b) In the event of noncompliance with a subpoena or subpoena duces tecum issued or caused to be issued by the Secretary, the Secretary may, through the Attorney General,

petition the circuit court of the county in which the person subpoenaed resides or has its principal place of business for an order requiring the subpoenaed person to appear and testify and to produce such books, accounts, records, and other documents as are specified in the subpoena duces tecum. The court may grant injunctive relief restraining the person from advertising, promoting, soliciting, entering into, offering to enter into, continuing, or completing any pawn transaction. The court may grant other relief, including, but not limited to, the restraint, by injunction or appointment of a receiver, of any transfer, pledge, assignment, or other disposition of the person's assets or any concealment, alteration, destruction, or other disposition of books, accounts, records, or other documents and materials as the court deems appropriate, until the person has fully complied with the subpoena or subpoena duces tecum and the Secretary has completed an investigation or examination.

(c) If it appears to the Secretary that the compliance with a subpoena or subpoena duces tecum issued or caused to be issued by the Secretary pursuant to this Section is essential to an investigation or examination, the Secretary, in addition to the other remedies provided for in this Act, may, through the Attorney General, apply for relief to the circuit court of the county in which the subpoenaed person resides or has its principal place of business. The court shall thereupon direct the issuance of an order against the subpoenaed person

requiring sufficient bond conditioned on compliance with the subpoena or subpoena duces tecum. The court shall cause to be endorsed on the order a suitable amount of bond or payment pursuant to which the person named in the order shall be freed, having a due regard to the nature of the case.

(d) In addition, the Secretary may, through the Attorney General, seek a writ of attachment or an equivalent order from the circuit court having jurisdiction over the person who has refused to obey a subpoena, who has refused to give testimony, or who has refused to produce the matters described in the subpoena duces tecum.

Section 10-25. Inspection of records and reports required of licensee.

(a) Inspection of records.

(1) The book or computer records, as well as every article or other thing of value so pawned or pledged, shall at all times be open to the inspection of the Secretary, the sheriff of the county, his deputies, or any members of the police force of any city in the county in which such pawnbroker does business. In addition, the Secretary shall be authorized to inspect the books or records of any business he or she has reasonable cause to believe is conducting pawn transactions and should be licensed under this Act.

(2) The book or computer records, pawn tickets, or any

other records required by the Secretary under this Act or any rule adopted in accordance with this Act shall be maintained for a period of 3 years after the date on which the record or ticket was prepared. These records and tickets shall be open to inspection of the Secretary at all times during the 3-year period.

(b) Daily report.

(1) Except as provided in paragraph (2) of this subsection, it shall be the duty of every pawnbroker to make out and deliver to the sheriff of the county in which such pawnbroker does business, on each day before noon, a legible and exact copy from the standard record book, as required in subsection (a) of Section 15-25, that lists all personal property and any other valuable thing received on deposit or purchased during the preceding day, including the exact time when received or purchased, and a description of the person or person by whom left in pledge, or from whom the same were purchased; however, in cities or towns having 25,000 or more inhabitants, a copy of the report shall at the same time also be delivered to the superintendent of police or the chief police officer of such city or town. The report may be made by computer printout or input memory device if the format has been approved by the local law enforcement agency.

(2) In counties with more than 3,000,000 inhabitants, a pawnbroker must provide the daily report to the sheriff

only if the pawnshop is located in an unincorporated area of the county. Pawnbrokers located in cities or towns in such counties must deliver such reports to the superintendent of police or the chief police officer of the city or town.

(c) Report to the Secretary. The Secretary, as often as the Secretary shall deem necessary or proper, may require a pawnshop to submit a full and detailed report of its operations including, but not limited to, the number of pawns made, the amount advanced on pawn transactions, the number and amount of pawns surrendered to law enforcement, and any information required for purposes of reporting pursuant to Section 10-60. The Secretary shall prescribe the form of the report and establish the date by which the report must be filed.

Section 10-30. Suspension; revocation of licenses; fines.

(a) Upon written notice to a licensee, the Secretary may suspend or revoke any license issued pursuant to this Act if, in the notice, he or she makes a finding of one or more of the following:

(1) that through separate acts or an act or a course of conduct, the licensee has violated any provisions of this Act, any rule adopted by the Department, or any other law, rule, or regulation of this State or the United States;

(2) that any fact or condition exists that, if it had

existed at the time of the original application for the license, would have warranted the Secretary in refusing originally to issue the license; or

(3) that if a licensee is not an individual, any ultimate equitable owner, officer, director, or member of the licensed partnership, association, corporation, or other entity has acted or failed to act in a way that would be cause for suspending or revoking a license to that party as an individual.

(b) No license shall be suspended or revoked, except as provided in this Section, nor shall any licensee be fined without notice of his or her right to a hearing as provided in Section 10-75.

(c) The Secretary, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation.

(d) The provisions of subsection (d) of Section 5-35 shall not affect a licensee's civil or criminal liability for acts committed before surrender of a license.

(e) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any person.

(f) Every license issued under this Act shall remain in force and effect until the license expires without renewal, is surrendered, is revoked, or is suspended in accordance with the provisions of this Act, but the Secretary shall have

authority to reinstate a suspended license or to issue a new license to a licensee whose license has been revoked if no fact or condition then exists which would have warranted the Secretary in refusing originally to issue that license under this Act.

(g) Whenever the Secretary revokes or suspends a license issued pursuant to this Act or fines a licensee under this Act, he or she shall execute a written order to that effect. The Secretary shall post notice of the order on an agency website maintained by the Secretary or on the Nationwide Multistate Licensing System and Registry and shall serve a copy of the order upon the licensee. Any such order may be reviewed in the manner provided by Section 10-75.

(h) If the Secretary finds any person in violation of the grounds set forth in subsection (i), he or she may enter an order imposing one or more of the following penalties:

- (1) revocation of license;
- (2) suspension of a license subject to reinstatement upon satisfying all reasonable conditions the Secretary may specify;
- (3) placement of the licensee or applicant on probation for a period of time and subject to all reasonable conditions as the Secretary may specify;
- (4) issuance of a reprimand;
- (5) imposition of a fine not to exceed \$25,000 for each count of separate offense; except that a fine may be

imposed not to exceed \$75,000 for each separate count of offense of paragraph (2) of subsection (i); or

(6) denial of a license.

(i) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (h) may be taken:

(1) being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction that involves fraud, dishonest dealing, or any other act of moral turpitude;

(2) fraud, misrepresentation, deceit, or negligence in any pawn transaction;

(3) a material or intentional misstatement of fact on an initial or renewal application;

(4) insolvency or filing under any provision of the federal Bankruptcy Code as a debtor;

(5) failure to account or deliver to any person any property, such as any money, fund, deposit, check, draft, or other document or thing of value, that has come into his or her hands and that is not his or her property or that he or she is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;

(6) failure to disburse funds in accordance with

agreements;

(7) having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory, or country for fraud, dishonest dealing, or any other act of moral turpitude;

(8) failure to comply with an order of the Secretary or rule made or issued under the provisions of this Act;

(9) engaging in activities regulated by this Act without a current, active license unless specifically exempted by this Act;

(10) failure to pay in a timely manner any fee, charge, or fine under this Act;

(11) failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the provisions of this Act and the rules of the Secretary;

(12) refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act, or refusing, obstructing, evading, or unreasonably delaying compliance with the Secretary's subpoena or subpoena duces tecum; and

(13) failure to comply with or a violation of any provision of this Act.

(j) A licensee shall be subject to the disciplinary

actions specified in this Act for violations of subsection (i) by any officer, director, shareholder, joint venture, partner, ultimate equitable owner, or employee of the licensee.

(k) A licensee shall be subject to suspension or revocation for unauthorized employee actions only if there is a pattern of repeated violations by employees or the licensee has knowledge of the violations or there is substantial harm to a consumer.

(l) Procedures for surrender of a license include the following:

(1) The Secretary may, after 10 days' notice by certified mail to the licensee at the address set forth on the license, stating the contemplated action and in general the grounds for the contemplated action and the date, time, and place of a hearing thereon, and after providing the licensee with a reasonable opportunity to be heard at the hearing before the action, fine such licensee an amount not exceeding \$25,000 per violation, or revoke or suspend any license issued under this Act if he or she finds that:

(A) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Department or Secretary lawfully made pursuant to the authority of this Act; or

(B) any fact or condition exists that, if it had

existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.

(2) Any licensee may submit an application to surrender a license, but, upon the Secretary approving the surrender, it shall not affect the licensee's civil or criminal liability for acts committed before surrender or entitle the licensee to a return of any part of the license fee.

Section 10-35. Investigation of complaints. The Secretary shall maintain staff and facilities adequate to receive, record, and investigate complaints and inquiries made by any person concerning this Act and any licensees under this Act. Each licensee shall open its books, records, documents, and offices wherever situated to the Secretary or his or her appointees as needed to facilitate such investigations.

Section 10-40. Additional investigation and examination authority. In addition to any authority allowed under this Act, the Secretary shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license discipline, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this Act,

the Secretary shall have the authority to access, receive, and use any books, accounts, records, files, documents, information, or evidence, including, but not limited to, the following:

(A) criminal, civil, and administrative history information, including nonconviction data as specified in the Criminal Code of 2012;

(B) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act; and

(C) any other documents, information, or evidence the Secretary deems relevant to the inquiry or investigation, regardless of the location, possession, control, or custody of the documents, information, or evidence.

(2) For the purposes of investigating violations or complaints arising under this Act or for the purposes of examination, the Secretary may review, investigate, or examine any licensee, individual, or person subject to this Act as often as necessary in order to carry out the purposes of this Act. The Secretary may direct, subpoena, or order the attendance of and examine under oath or affirmation all persons whose testimony may be required about the pawn transactions or the business or subject matter of any such examination or investigation, and may

direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the Secretary deems relevant to the inquiry.

(3) Each licensee, individual, or person subject to this Act shall make available to the Secretary upon request the books and records relating to the operations of the licensee, individual, or person subject to this Act. The Secretary shall have access to those books and records and interview the officers, principals, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this Act concerning their business.

(4) Each licensee, individual, or person subject to this Act shall make or compile reports or prepare other information as directed by the Secretary in order to carry out the purposes of this Section, including, but not limited to:

(A) accounting compilations;

(B) information lists and data concerning pawn transactions in a format prescribed by the Secretary;
or

(C) other information deemed necessary to carry out the purposes of this Section.

(5) In making any examination or investigation authorized by this Act, the Secretary may control access to any documents and records of the licensee or person

under examination or investigation. The Secretary may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents or records, except pursuant to a court order or with the consent of the Secretary. Unless the Secretary has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being altered or destroyed for purposes of concealing a violation of this Act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(6) In order to carry out the purposes of this Section, the Secretary may:

(A) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(B) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this Section;

(C) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this Act;

(D) accept and rely on examination or investigation reports made by other government officials, within or outside this State; or

(E) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this Act in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the Secretary.

(7) The authority of this Section shall remain in effect, whether such a licensee, individual, or person subject to this Act acts or claims to act under any licensing or registration law of this State or claims to act without the authority.

(8) No licensee, individual, or person subject to investigation or examination under this Section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

Section 10-45. Confidential information. In hearings conducted under this Act, information presented into evidence that was acquired by the licensee when serving any individual in connection with a pawn transaction, including all financial information of the individual, shall be deemed strictly confidential and shall be made available only as part of the record of a hearing under this Act or otherwise (i) when the record is required, in its entirety, for purposes of judicial review or (ii) upon the express written consent of the individual served, or in the case of his or her death or disability, the consent of his or her personal representative.

Section 10-50. Confidentiality.

(a) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, except as otherwise provided in 12 U.S.C. Section 5111, the requirements under any federal law or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Multistate Licensing System and Registry, and any privilege arising under federal or State law, including the rules of any federal or State court, with respect to such information or material, shall continue to apply to information or material after the information or material has been disclosed to the Nationwide Multistate Licensing System and Registry. The information and material may be shared with all State and federal regulatory

officials with pawnbroker industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or State law.

(b) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, the Secretary is authorized to enter agreements or sharing into arrangements with other governmental agencies, the Conference of State Bank Supervisors or other associations representing governmental agencies as established by rule, regulation, or order of the Secretary. The sharing of confidential supervisory information or any information or material described in subsection (a) pursuant to an agreement or sharing arrangement shall not result in the loss of privilege or the loss of confidentiality protections provided by federal law or State law.

(c) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to the following:

(1) disclosure under any State law governing the disclosure to the public of information held by an officer or an agency of the State; or

(2) subpoena, discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the

Nationwide Multistate Licensing System and Registry with respect to the information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of that person, that privilege.

(d) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, any other law relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of this Section to the extent the other law provides less confidentiality or a weaker privilege.

Section 10-55. Reports of violations. Any person licensed under this Act or any other person may report to the Secretary any information to show that a person subject to this Act is or may be in violation of this Act. A licensee who files a report with the Department that another licensee is engaged in one or more violations pursuant to this Act shall not be the subject of disciplinary action by the Department, unless the Department determines, by a preponderance of the evidence available to the Department, that the reporting person knowingly or recklessly participated in the violation that was reported.

Section 10-60. Pawnbroker annual report.

(a) The Department shall, in conjunction with advice from a professional association that represents 50 or more licensees, issue an annual report, via an Internet-based program, of aggregate pawnbroker activity within 180 days after the beginning of the calendar year. The report shall contain at a minimum:

- (1) The number of licensed pawnbrokers.
- (2) The total dollar amount financed.
- (3) The total number of pawns for each value threshold set forth in subsection (c) of Section 15-10.
- (4) The total dollar amount of extensions.
- (5) The total number of extensions for each value threshold set forth in subsection (c) of Section 15-10.
- (6) The average pawn dollar amount for each value threshold set forth in subsection (c) of Section 15-10.
- (7) The average monthly finance charge for each value threshold set forth in subsection (c) of Section 15-10.
- (8) The percentage of pawns surrendered to law enforcement.
- (9) The percentage of total pawns surrendered to law enforcement by dollar amount.
- (10) The percentage of pawns redeemed.
- (11) The percentage of pawns extended.
- (12) The total number of pawnbroker employees.
- (13) The total number of licensees reporting.
- (14) The total number of complaints received and

resolved by the Department.

(15) The total number of defaulted pawn transactions reported to a credit bureau.

(16) The total number of defaulted pawn transactions sent to a collection agency.

(17) The total number of defaulted pawn transactions resulting in wage garnishment or legal action to collect.

(18) The total number of pawn transactions reported to law enforcement.

(b) The Secretary may retain qualified persons to prepare and report findings (1) identifying pawns and small dollar loans that are available to Illinois consumers, (2) collecting and analyzing pawns and loan-level data for small dollar loans, and (3) compiling aggregate data and trends for pawns and small dollar loans used by Illinois consumers. The Secretary shall make the report available to the Governor, the General Assembly, and the public.

In this subsection, "pawns and small dollar loans" means pawns and lending products with a value of \$2,500 or less, including, but not limited to, pawns, consumer installment loans, and other extensions of credit, whether or not offered by entities chartered or licensed in Illinois.

Section 10-65. Responsible pawnbroker training; pawnbroker managers and employees.

(a) A person who manages or is an employee of a pawnbroker

that provides pawnbroker services and related functions shall complete, within 90 days after commencing employment, a minimum of 4 hours of training, which may be provided in a classroom or seminar setting or via Internet-based online learning programs, such training shall be provided at the employer's expense and shall be provided by qualified vendor approved by the Secretary. The training subjects shall be established by rule, and may include the following:

(1) federal, State, and local laws, administrative rules, and regulations that pertain to the business of being a licensed pawnbroker under this Act;

(2) procedures for identifying possible fraudulent transactions;

(3) anti-money laundering;

(4) store operations, maintenance of records, inventory management, recording and reporting of serial numbers;

(5) general product knowledge, including, but not limited to, jewelry and firearms;

(6) identification, verification, and weighing of precious metals;

(7) inspections by State and local licensing and law enforcement authorities, including hold order procedures;

(8) the federal Military Lending Act;

(9) pawn forfeits; and

(10) security, risk, and crisis management.

(b) The training may be provided in a classroom or seminar setting or via Internet-based online learning programs, as established by rule. The substance of the training shall be related to the work performed by the registered employee.

(c) In addition to the training provided for in subsections (a), registered employees of a pawnbroker shall complete an additional 4 hours of refresher training on subjects to be determined by the employer each calendar year commencing with the calendar year following the employee's first employment anniversary date, which refresher training may be site-specific and may be conducted on the job.

(d) It is the responsibility of the pawnbroker or the Secretary-approved qualified vendor to certify, on a form prescribed by the Secretary, that the employee has successfully completed the basic and refresher training. The original form or a copy shall be a permanent record of training completed by the employee and shall be placed in the employee's file with the employer for the period the employee remains with the employer. The original form or a copy shall be given to the employee when his or her employment is terminated. Failure to return the original form or a copy to the employee is grounds for disciplinary action. The employee shall not be required to repeat the required training once the employee has been issued the form. An employer may provide or require additional training.

(e) It shall be the responsibility of the pawnbroker and

the Secretary-approved qualified training vendor to keep and maintain a personal log of all training hours earned along with sufficient documentation necessary for the Secretary to verify the annual training completed for at least 5 years. The personal training log and documentation shall be provided to the Secretary in the same manner as other documentation and records required under this Act.

(f) Notwithstanding any other professional license a pawnbroker holds under this Act, no more than 8 hours of annual training shall be required for any one year.

(g) The license of a pawnbroker whose managers or employees fail to comply with this Section may be suspended or revoked or may face other disciplinary action.

(h) The regulation of pawnbroker employee training is an exclusive power and function of the State. A home rule unit may not regulate pawnbroker employee training or require a pawnbroker that is licensed by the State under this Act, or its employees, to maintain licenses in addition to licensure under the Act, to operate. This subsection is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(i) Persons seeking the Secretary's approval to offer the training required by subsection (a) may apply for such approval between August 1 and August 31 every 4 years in a manner prescribed by the Secretary.

(j) Persons seeking the Secretary's approval to offer the

training required by subsection (a) shall submit a nonrefundable application fee of \$2,000 or a fee set by rule, to be deposited into the Pawnbroker Regulation Fund. Any changes made to the training module shall be approved by the Secretary.

(k) The Secretary shall not unreasonably deny approval of a training module, whether in-person or online, that meets all the requirements of subsection (a). A denial of approval shall include a detailed description of the reasons for the denial.

(l) A person approved to provide the training required by subsection (a) shall submit an application for re-approval between August 1 and August 31 of each even-numbered year and include a nonrefundable application fee of \$2,000 or a fee set by rule, to be deposited into the Pawnbroker Regulation Fund.

Section 10-70. Rules and regulations.

(a) In addition to such powers as may be prescribed by this Act, the Department is hereby authorized and empowered to adopt rules consistent with the purposes of this Act, including, but not limited to:

(1) rules in connection with the activities of licensees as may be necessary and appropriate for the protection of consumers in this State;

(2) rules as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of licensees in operating

as a pawnbroker;

(3) rules that define the terms used in this Act and as may be necessary and appropriate to interpret and implement the provisions of this Act; and

(4) rules as may be necessary for the enforcement of this Act.

(b) The Secretary is hereby authorized and empowered to make specific rulings, demands, and findings that he or she deems necessary for the proper conduct of the pawnbroker industry.

(c) A person or entity may make a written application to the Department for a written interpretation of this Act. The Department may then, in its sole discretion, choose to issue a written interpretation. To be valid, a written interpretation must be signed by the Secretary, or his or her designee, and the Department's general counsel or his or her designee. A written interpretation expires 2 years after the date that it was issued.

(d) No provision in this Act that imposes liability or establishes violations shall apply to any act taken by a person or entity in conformity with a written interpretation of this Act that is in effect at the time the act is taken, notwithstanding whether the written interpretation is later amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

Section 10-75. Appeal and review.

(a) Any person or entity affected by a decision of the Secretary under any provision of this Act may obtain review of that decision within the Department.

(b) The Department may, in accordance with the Illinois Administrative Procedure Act, adopt rules to provide for review within the Department of the Secretary's decisions affecting the rights of entities under this Act. The review shall provide for, at a minimum:

(1) appointment of a hearing officer other than a regular employee of the Division of Banking;

(2) appropriate procedural rules, specific deadlines for filings, and standards of evidence and of proof; and

(3) provision for apportioning costs among parties to the appeal.

(c) All final agency determinations of appeals to decisions of the Secretary may be reviewed in accordance with and under the provisions of the Administrative Review Law. Appeals from all final orders and judgments entered by a court in review of any final administrative decision of the Secretary or of any final agency review of a decision of the Secretary may be taken as in other civil cases.

Section 10-80. Violations of this Act; Secretary's orders.

(a) If the Secretary finds, as the result of examination, investigation, or review of reports submitted by a licensee,

that the business and affairs of a licensee are not being conducted in accordance with this Act, the Secretary shall notify the licensee of the correction necessary. If a licensee fails to correct such violations, the Secretary shall issue an order requiring immediate correction and compliance with this Act, specifying a reasonable date for performance.

(b) The Department may adopt rules to provide for an orderly and timely appeal of all orders within the Department. The rules may include provision for assessment of fees and costs.

Section 10-85. Collection of compensation. Unless exempt from licensure under this Act, no person engaged in or offering to engage in any act or service for which a license under this Act is required may bring or maintain any action in any court of this State to collect compensation for the performance of the licensable services without alleging and proving that he or she was the holder of a valid pawnbroker license under this Act at all times during the performance of those services.

Section 10-90. Injunction. The Secretary, through the Attorney General, may maintain an action in the name of the People of the State of Illinois and may apply for an injunction in the circuit court to enjoin a person from engaging in unlicensed pawnbroker activity, to restrain any person from

violating or continuing to violate any of the provisions of this Act, or to file a complaint to take possession and control of a pawnshop for the purpose of examination, reorganization, or liquidation through receivership and to appoint a receiver, which may be the Secretary, a pawnshop, or another suitable person

Article 15. Pawn Customer Bill of Rights

Section 15-5. General provisions.

(a) It is unlawful for an individual or business entity to conduct business in this State using the word "pawn", "pawnshop", or "pawnbroker" in connection with the business or to transact business in this State in a manner that has a substantial likelihood of misleading the public by implying that the business is a pawnshop, without first obtaining a license from the Secretary. It shall be unlawful for any business to advertise in a pawnbroker category, digitally or in print without including that business's pawnbroker and Nationwide Multistate Licensing System and Registry license number.

(b) It is unlawful for an entity licensed under this Act to do any of the following:

(1) Engage, have engaged, or propose to engage in any unlawful, unfair, deceptive, or abusive act or practice with respect to financial products or services.

(2) Offer or provide to a consumer any financial product or service not in conformity with this Act or otherwise commit any act or omission in violation of a financial law.

(3) Fail or refuse, as required by this Act or any rule or order issued by the Department hereunder, to do any of the following:

(A) Permit the Department to access or copy records.

(B) Establish or maintain records.

(C) Make reports or provide information to the Department.

Section 15-10. Fees.

(a) It is unlawful for any pawnbroker to charge or collect a greater benefit or percentage upon money advanced, and for the use and forbearance thereof, than the amount specified in subsection (c). Nothing in this Section shall be construed to conflict with the law pertaining to usury and the person receiving money so advanced may hold the moneys to pay any fees in addition to interest.

(b) Each pawnbroker, when making a pawn under this Section, must disclose in printed form on the pawn contract the following information to the persons receiving the pawn:

(1) the amount of money advanced, which must be designated as the amount pawned;

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

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

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

(5) the annual percentage rate, computed according to the regulations adopted by the Consumer Financial Protection Bureau under the federal Truth in Lending Act.

(c) Each pawnbroker may contract for and receive a monthly finance charge, including interest and fees not to exceed one-fifth of the pawn amount for pawns under \$500; one-sixth of the pawn amount for pawns at or above \$500 and less than \$1,500; one-eighth of the pawn amount for pawns at or above \$1,500 and less than \$5,000; and one-twentieth of the pawn amount for pawns at or above \$5,000, pursuant to Section 15-30, for appraising, investigating title, storing, insuring the pledged property, making daily reports to local law enforcement including enhanced computerized reporting, and complying with regulatory requirements. Such fees, when made and collected, shall not be deemed interest for any purpose of law. A pawnbroker shall not require a customer to pay such fees by means of an electronic fund transfer, as that term is defined in Section 10 of the Electronic Fund Transfer Act,

including through the use of an automated clearinghouse system.

(d) Notwithstanding any inconsistent provision of law, a pawn transaction made pursuant to this Act shall be exempt from the provisions of the Predatory Loan Prevention Act.

Section 15-15. Display of fee provision. Every pawnbroker shall at all times have and keep Section 15-10 printed in the English and Spanish languages and framed and posted in a prominent and conspicuous position in its place of business, so that the same shall be plainly legible and visible to all persons depositing or pledging property with such pawnbroker.

Section 15-20. Disclosure of article description and pawn terms.

(a) Every pawnbroker shall, at the time of making any advancement or pawn, deliver to the person pawning or pledging any property, a memorandum, contract, or note signed by the person pawning the property containing an accurate account and description, in the English language, of the following:

(1) All the goods, articles or other things pawned or pledged.

(2) The amount of money and the time of pledging the same.

(3) The rate of interest to be paid on the pawn.

(4) The name and residence of the person making the

pawn or pledge.

(5) The dollar amount of any fees as specified in Section 15-10.

(6) A disclosure that by extending the pawn, the fees may exceed the value of the item pawned.

(b) The Secretary may adopt rules prescribing the form and content of the disclosures required by subsection (a).

Section 15-25. Record requirements.

(a) Except in municipalities located in counties having 3,000,000 or more inhabitants, every pawnbroker shall keep a standard record book that has been approved by the sheriff of the county in which the pawnbroker does business. In municipalities in counties with 3,000,000 or more inhabitants, the record book shall be approved by the police department of the municipality in which the pawnbroker does business. At the time of each and every pawn or purchase, an accurate account and description, in the English language, of each of the items listed in subsection (a) of Section 15-20 shall be printed, typed, or written in ink in the record book. Such entry shall include the serial number or identification number of items received that bear such number. Except for items purchased from dealers possessing a federal employee identification number who have provided a receipt to the pawnbroker, every pawnbroker shall also record in his book, an accurate account and description, in the English language, of all goods,

articles, and other things purchased or received for the purpose of resale or items pawned by the pawnbroker from any source, including other pawnshop locations owned by the same pawnbroker, not in the course of a pledge or pawn, the time of such purchase or receipt and the name and address of the person or business which sold or delivered such goods, articles, or other things to the pawnbroker. No entry in such book shall be erased, mutilated, or changed.

(b) Every pawnbroker shall require identification to be shown by each person selling or pawning any goods, articles, or other things to the pawnbroker. If the identification shown is a driver's license, State identification card, or consular identification card and contains a photograph of the person being identified, only one form of identification must be shown. If the identification shown is not a driver's license, State identification card, or consular identification card or does not contain a photograph, 2 forms of identification must be shown, and one of the 2 forms of identification must include the person's residence address. These forms of identification shall include, but not be limited to, any of the following: passport, driver's license, social security card, utility bill, employee or student identification card, credit card, or a civic, union, or professional association membership card. In addition, in a municipality with a population of 1,000,000 or more inhabitants, if the customer does not have an identification issued by a governmental entity containing a

photograph of the person being identified, the pawnbroker shall photograph the customer in color and record the customer's name, residence address, date of birth, gender, height, and weight along with the photograph.

(c) A county or municipality, including a home rule unit, may regulate a pawnbroker's identification requirements for persons pledging or pawning goods, articles, or other things to the pawnbroker in a manner that is not less restrictive than the regulation by this State of a pawnbroker's identification requirements for persons pledging or pawning goods, articles, or other things. A home rule unit may not regulate a pawnbroker's identification requirements for persons pledging or pawning goods, articles, or other things to the pawnbroker in a manner less restrictive than the regulation by this State of a pawnbroker's identification requirements for persons selling or pawning goods, articles, or other things. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by this State.

(d) A pawnbroker may maintain the records required by subsection (a) in computer form if the computer form has been approved by the Secretary or his or her designee, the sheriff of the county in which the shop is located, and the police department of the municipality in which the shop is located.

(e) Records, including reports to the Secretary or his or

her designee, maintained by pawnbrokers shall be confidential, and no disclosure of pawnbroker records shall be made, except disclosures authorized by this Act or ordered by a court of competent jurisdiction. No record transferred to a governmental official shall be improperly disclosed, however, use of those records as evidence of a felony or misdemeanor shall be a proper purpose.

(f) Pawnbrokers and their associations may lawfully give appropriate governmental agencies computer equipment for the purpose of transferring information pursuant to this Act.

Section 15-30. Replacement of articles or property; insurance.

(a) If any articles or property pledged are lost or rendered inoperable, the pawnbroker shall replace the articles or property with identical articles or property, except that if the pawnbroker cannot reasonably obtain identical articles or property, the pawnbroker shall replace the articles or property with like articles or property.

(b) No pawnbroker shall conduct business in this State, unless the pawnbroker maintains insurance coverage covering all hazards equal to at least 2 times the aggregate value of the outstanding pawns for items held in pawn. Such insurance shall be obtained from an insurance company authorized to do business in Illinois.

(c) The pawnbroker shall file a copy of proof of insurance

coverage with the Secretary. A pawnbroker or an insurance company shall not cancel the insurance coverage, except upon notice to the Secretary by certified mail, return receipt requested. The cancellation is not effective until 30 days after the Secretary receives the notice.

Section 15-35. Minors. No pawnbroker shall purchase, take, or receive any pawn, any property of any kind from any minor who is under 18 years of age, or the ownership of which is in, or which is claimed by, any such minor, or which may be in the possession or under the control of any such minor.

Section 15-40. Intoxicated persons; persons convicted of theft. No pawnbroker shall knowingly or recklessly purchase or take any article in pawn or purchase from any person appearing to be intoxicated, nor from any person known to have been convicted of theft. A law enforcement officer may provide such criminal conviction information to a pawnbroker. Such information must be provided in writing.

Section 15-45. Altered property; serial number and manufacturer's identification number.

(a) No pawnbroker shall receive or purchase any article if the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property has been removed, altered,

or obliterated.

(b) The prohibition in subsection (a) does not apply if the article's manufacturer's make, model, or serial number, personal identification number, or identifying marks have been worn in the ordinary course of use. However, no article described in this subsection (b) shall be sold or transferred to another pawnshop location of such pawnbroker for a period of 15 days after the delivery of the copy and statement required by subsection (b) of Section 10-25 required to be delivered to the officer or officers named therein.

Section 15-50. Sale of property.

(a) No personal property pledged or received on deposit by any pawnbroker shall be permitted to be redeemed from such pawnbroker for a period of 48 hours after the delivery of the copy and statement required by subsection (b) of Section 10-25 to be delivered to the officer or officers named therein.

(b) No personal property purchased by any pawnbroker shall be sold or removed from the place of business or transferred to another pawnshop location of such pawnbroker for a period of 10 days after the delivery of the copy and statement required by subsection (b) of Section 10-25 to be delivered to the officer or officers named therein.

(c) If the pawner fails to repay or extend the pawn during the period specified on the pawn ticket, the pawnbroker shall automatically extend a grace period of 30 days after the

default date on the pawn during which the pawnbroker shall not dispose of or sell the personal property pawned. The parties may agree to extend or renew a pawn upon terms agreed upon by the parties, if the terms comply with the requirements of this Act. Title to the pledged property transfers to the pawnbroker after the default date grace period expires or upon expiration of an agreed extension.

(d) A county or municipality, including a home rule unit, may regulate holding periods in a manner that is more restrictive than the regulation provided in this Section.

(e) A home rule unit may not regulate the holding periods in this Section in a manner less restrictive than the regulation by this State. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by this State.

Section 15-55. Hold order.

(a) For the purposes of this Section, "hold order" means a written legal instrument issued to a pawnbroker by a law enforcement officer commissioned by the law enforcement agency of the municipality or county that licenses and regulates the pawnbroker, evidencing a criminal law enforcement investigation, and ordering the pawnbroker to retain physical possession of pawned goods in the possession of the pawnbroker or property purchased by and in the possession of the

pawnbroker and to not return, sell, or otherwise dispose of such property as such property is believed to be misappropriated goods.

(b) Upon written notice from a law enforcement officer indicating that property in the possession of a pawnbroker and subject to a hold order is needed for the purpose of furthering a criminal investigation and prosecution, the pawnbroker shall release the property subject to the hold order to the custody of the law enforcement officer for such purpose and the law enforcement officer shall provide a written acknowledgment that the property has been released to the officer. The release of the property to the custody of the law enforcement officer shall not be considered a waiver or release of the pawnbroker's property rights or interest in the property. Upon completion of the criminal investigation, the property shall be returned to the pawnbroker who consented to its release; except that:

(1) if the criminal investigation took place within a county or counties with a population of less than 300,000 and that investigation:

(A) has determined that the property is stolen property,

(B) has determined that the fair market value of the stolen property is \$500 or less,

(C) has identified the rightful owner of the stolen property, and

(D) contains a court-admissible sworn statement by the rightful owner that they are the true owners of the stolen property, then law enforcement shall return the property to that owner without the payment of the money advanced by the pawnbroker or any costs or charges of any kind that the pawnbroker may have placed upon the same; or

(2) if the criminal investigation took place within a county or counties with a population of more than 300,000 and that investigation:

(A) has determined that the property is stolen property,

(B) has determined that the then-fair market value of the stolen property is \$1,000 or less,

(C) has identified the rightful owner of the stolen property, and

(D) contains a court-admissible sworn statement by the rightful owner that they are the true owners of the stolen property, then law enforcement shall return the property to that owner without the payment of the money advanced by the pawnbroker or any costs or charges of any kind that the pawnbroker may have placed upon the same.

(c) After the return of said property, the pawnbroker shall not be liable to any private person or government entity for any further claims on the returned property. Law

enforcement shall provide all information related to such persons involved in the investigation to the pawnbroker, including the investigative report, without the need for a subpoena, court order, or further legal action of government filing. The hold order shall expire on the 120th day after it is issued, at which time the pawnbroker may exercise its rights under any applicable pawn ticket or extension. If the law enforcement officer has not completed the criminal investigation within 120 days after the issuance of the hold order, the officer shall immediately return any property in law enforcement custody to the pawnbroker or obtain and furnish to the pawnbroker a warrant for a maximum 120-day hold order extension and, as applicable, continued law enforcement custody of the property.

The pawnbroker shall not release or dispose of the property, except pursuant to a court order or the expiration of the holding period of the hold order, including all extensions.

In cases where criminal charges have been filed and the property may be needed as evidence, the prosecuting attorney shall notify the pawnbroker in writing. The notice shall contain the case number, the style of the case, and a description of the property. The pawnbroker shall hold the property until receiving notice of the disposition of the case from the prosecuting attorney. The prosecuting attorney shall notify the pawnbroker and claimant in writing within 15 days

after the disposition of the case.

(d) A hold order, and a foregoing notice of criminal charges, must specify:

(1) the name and address of the pawnbroker;

(2) the law enforcement investigation number, the name, title, and identification number of the law enforcement officer placing the hold order or the court placing the hold order;

(3) a complete description of the property to be held, including model number and serial number if available, to law enforcement;

(4) the name of the alleged owner or person reporting the alleged misappropriated property, unless otherwise prohibited by law;

(5) the mailing address of the pawnbroker where the property is held; and

(6) the issuance and expiration date of the holding period.

(e) The pawnbroker or the pawnbroker's representative must sign and date a copy of the hold order as evidence of receipt of the hold order and the beginning of the 120-day holding period.

Article 20. Consumer Fraud Protections

Section 20-5. Enforcement; Consumer Fraud and Deceptive

Business Practices Act. The Attorney General may enforce a violation of Article 15 of this Act as an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act.

Article 25. Transition provisions

Section 25-5. Savings provisions.

(a) This Act is intended to replace the Pawnbroker Regulation Act in all respects.

(b) Beginning on the effective date of this Act, the rights, powers, and duties exercised by the Department of Financial and Professional Regulation under the Pawnbroker Regulation Act shall continue to be vested in, to be the obligation of, and to be exercised by the Department of Financial and Professional Regulation under the provisions of this Act.

(c) This Act does not affect any act done, ratified, or cancelled, any right occurring or established, or any action or proceeding commenced in an administrative, civil, or criminal cause before the effective date of this Act by the Department of Financial and Professional Regulation under the Pawnbroker Regulation Act. Those actions or proceedings may be prosecuted and continued by the Department of Financial and Professional Regulation under this Act.

(d) This Act does not affect any license, certificate, permit, or other form of licensure issued by the Department of

Financial and Professional Regulation under the Pawnbroker Regulation Act. All such licenses, certificates, permits, or other form of licensure shall continue to be valid under the terms and conditions of this Act.

(e) The rules adopted by the Department of Financial and Professional Regulation relating to the Pawnbroker Regulation Act, unless inconsistent with the provisions of this Act, are not affected by this Act, and on the effective date of this Act, those rules become rules under this Act.

(f) This Act does not affect any discipline, suspension, or termination that has occurred under the Pawnbroker Regulation Act or other predecessor Act. Any action for discipline, suspension, or termination instituted under the Pawnbroker Regulation Act shall be continued under this Act.

Article 90. Amendatory Provisions

Section 90-5. The Division of Banking Act is amended by changing Sections 2.5 and 5 as follows:

(20 ILCS 3205/2.5)

Sec. 2.5. Prohibited activities.

(a) For the purposes of this Section, "regulated entity" means any person, business, company, corporation, institution, or other entity who is subject to regulation by the Office of Banks and Real Estate under Sections 3 and 46 of the Illinois

Banking Act, Section 1-5 of the Illinois Savings and Loan Act of 1985, Section 1004 of the Savings Bank Act, Section 1-3 of the Residential Mortgage License Act of 1987, Section 2-4 of the Corporate Fiduciary Act, Section 3.02 of the Illinois Bank Holding Company Act of 1957, the Savings and Loan Share and Account Act, ~~Section 1.5 of~~ the Pawnbroker Regulation Act of 2023, Section 3 of the Foreign Banking Office Act, or Section 30 of the Electronic Fund Transfer Act.

(b) The Commissioner and the deputy commissioners shall not be an officer, director, employee, or agent of a regulated entity or of a corporation or company that owns or controls a regulated entity.

The Commissioner and the deputy commissioners shall not own shares of stock or hold any other equity interest in a regulated entity or in a corporation or company that owns or controls a regulated entity. If the Commissioner or a deputy commissioner owns shares of stock or holds an equity interest in a regulated entity at the time of appointment, he or she shall dispose of such shares or other equity interest within 120 days from the date of appointment.

The Commissioner and the deputy commissioners shall not directly or indirectly obtain a loan from a regulated entity or accept a gratuity from a regulated entity that is intended to influence the performance of official duties.

(c) Employees of the Office of Banks and Real Estate shall not be officers, directors, employees, or agents of a

regulated entity or of a corporation or company that owns or controls a regulated entity.

Except as provided by standards which the Office of Banks and Real Estate may establish, employees of the Office of Banks and Real Estate shall not own shares of stock or hold any other equity interest in a regulated entity or in a corporation or company that owns or controls a regulated entity, or directly or indirectly obtain a loan from a regulated entity, or accept a gratuity from a regulated entity that is intended to influence the performance of official duties. However, in no case shall an employee of the Office of Banks and Real Estate participate in any manner in the examination or direct regulation of a regulated entity in which the employee owns shares of stock or holds any other equity interest, or which is servicing a loan to which the employee is an obligor.

(d) If the Commissioner, a deputy commissioner, or any employee of the Office of Banks and Real Estate properly obtains a loan or extension of credit from an entity that is not a regulated entity, and the loan or extension of credit is subsequently acquired by a regulated entity or the entity converts to become a regulated entity after the loan is made, such purchase by or conversion to a regulated entity shall not cause the loan or extension of credit to be deemed a violation of this Section.

Nothing in this Section shall be deemed to prevent the

ownership of a checking account, a savings deposit account, a money market account, a certificate of deposit, a credit or debit card account, or shares in open-end investment companies registered with the Securities and Exchange Commission pursuant to the federal Investment Company Act of 1940 and the Securities Act of 1933 (commonly referred to as mutual or money market funds).

(e) No Commissioner, deputy commissioner, employee, or agent of the Office of Banks and Real Estate shall, either during or after the holding of his or her term of office or employment, disclose confidential information concerning any regulated entity or person except as authorized by law or prescribed by rule. "Confidential information", as used in this Section, means any information that the person or officer obtained during his or her term of office or employment that is not available from the Office of Banks and Real Estate pursuant to a request under the Freedom of Information Act.

(Source: P.A. 97-492, eff. 1-1-12.)

(20 ILCS 3205/5) (from Ch. 17, par. 455)

Sec. 5. Powers. In addition to all the other powers and duties provided by law, the Commissioner shall have the following powers:

(a) To exercise the rights, powers and duties formerly vested by law in the Director of Financial Institutions under the Illinois Banking Act.

(b) To exercise the rights, powers and duties formerly vested by law in the Department of Financial Institutions under "An act to provide for and regulate the administration of trusts by trust companies", approved June 15, 1887, as amended.

(c) To exercise the rights, powers and duties formerly vested by law in the Director of Financial Institutions under "An act authorizing foreign corporations, including banks and national banking associations domiciled in other states, to act in a fiduciary capacity in this state upon certain conditions herein set forth", approved July 13, 1953, as amended.

(c-5) To exercise all of the rights, powers, and duties granted to the Director or Secretary under the Illinois Banking Act, the Corporate Fiduciary Act, the Electronic Fund Transfer Act, the Illinois Bank Holding Company Act of 1957, the Savings Bank Act, the Illinois Savings and Loan Act of 1985, the Savings and Loan Share and Account Act, the Residential Mortgage License Act of 1987, and the Pawnbroker Regulation Act of 2023.

(c-15) To enter into cooperative agreements with appropriate federal and out-of-state state regulatory agencies to conduct and otherwise perform any examination of a regulated entity as authorized under the Illinois Banking Act, the Corporate Fiduciary Act, the Electronic Fund Transfer Act, the Illinois Bank Holding Company Act of 1957, the Savings

Bank Act, the Illinois Savings and Loan Act of 1985, the Residential Mortgage License Act of 1987, and the Pawnbroker Regulation Act of 2023.

(d) Whenever the Commissioner is authorized or required by law to consider or to make findings regarding the character of incorporators, directors, management personnel, or other relevant individuals under the Illinois Banking Act, the Corporate Fiduciary Act, the Pawnbroker Regulation Act of 2023, or at other times as the Commissioner deems necessary for the purpose of carrying out the Commissioner's statutory powers and responsibilities, the Commissioner shall consider criminal history record information, including nonconviction information, pursuant to the Criminal Identification Act. The Commissioner shall, in the form and manner required by the Illinois State Police and the Federal Bureau of Investigation, cause to be conducted a criminal history record investigation to obtain information currently contained in the files of the Illinois State Police or the Federal Bureau of Investigation, provided that the Commissioner need not cause additional criminal history record investigations to be conducted on individuals for whom the Commissioner, a federal bank regulatory agency, or any other government agency has caused such investigations to have been conducted previously unless such additional investigations are otherwise required by law or unless the Commissioner deems such additional investigations to be necessary for the purposes of carrying

out the Commissioner's statutory powers and responsibilities. The Illinois State Police shall provide, on the Commissioner's request, information concerning criminal charges and their disposition currently on file with respect to a relevant individual. Information obtained as a result of an investigation under this Section shall be used in determining eligibility to be an incorporator, director, management personnel, or other relevant individual in relation to a financial institution or other entity supervised by the Commissioner. Upon request and payment of fees in conformance with the requirements of Section 2605-400 of the Illinois State Police Law, the Illinois State Police is authorized to furnish, pursuant to positive identification, such information contained in State files as is necessary to fulfill the request.

(e) When issuing charters, permits, licenses, or other authorizations, the Commissioner may impose such terms and conditions on the issuance as he deems necessary or appropriate. Failure to abide by those terms and conditions may result in the revocation of the issuance, the imposition of corrective orders, or the imposition of civil money penalties.

(f) If the Commissioner has reasonable cause to believe that any entity that has not submitted an application for authorization or licensure is conducting any activity that would otherwise require authorization or licensure by the

Commissioner, the Commissioner shall have the power to subpoena witnesses, to compel their attendance, to require the production of any relevant books, papers, accounts, and documents, and to conduct an examination of the entity in order to determine whether the entity is subject to authorization or licensure by the Commissioner or the Division. If the Secretary determines that the entity is subject to authorization or licensure by the Secretary, then the Secretary shall have the power to issue orders against or take any other action, including initiating a receivership against the unauthorized or unlicensed entity.

(g) The Commissioner may, through the Attorney General, request the circuit court of any county to issue an injunction to restrain any person from violating the provisions of any Act administered by the Commissioner.

(h) Whenever the Commissioner is authorized to take any action or required by law to consider or make findings, the Commissioner may delegate or appoint, in writing, an officer or employee of the Division to take that action or make that finding.

(i) Whenever the Secretary determines that it is in the public's interest, he or she may publish any cease and desist order or other enforcement action issued by the Division.

(Source: P.A. 102-538, eff. 8-20-21.)

(205 ILCS 510/Act rep.)

Section 90-10. The Pawnbroker Regulation Act is repealed.

Section 90-15. The Uniform Commercial Code is amended by changing Section 9-201 as follows:

(810 ILCS 5/9-201) (from Ch. 26, par. 9-201)

Sec. 9-201. General effectiveness of security agreement.

(a) General effectiveness. Except as otherwise provided in the Uniform Commercial Code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) Applicable consumer laws and other law. A transaction subject to this Article is subject to any applicable rule of law, statute, or regulation which establishes a different rule for consumers, including:

- (1) the Retail Installment Sales Act;
- (2) the Motor Vehicle Retail Installment Sales Act;
- (3) Article II of Chapter 3 of the Illinois Vehicle Code;
- (4) Article IIIB of the Boat Registration and Safety Act;
- (5) the Pawnbroker Regulation Act of 2023;
- (6) the Motor Vehicle Leasing Act;
- (7) the Consumer Installment Loan Act; and
- (8) the Consumer Deposit Security Act of 1987.

(c) Other applicable law controls. In case of conflict

between this Article and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a rule of law, statute, or regulation described in subsection (b) has only the effect such rule of law, statute, or regulation specifies.

(d) Further deference to other applicable law. This Article does not:

(1) validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or

(2) extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

(Source: P.A. 91-893, eff. 7-1-01.)

Section 90-20. The Consumer Fraud and Deceptive Business Practices Act is amended by adding Section 2BBBB as follows:

(815 ILCS 505/2BBBB new)

Sec. 2BBBB. Violations of the Pawnbroker Regulation Act of 2023. Any person who violates Article 15 of the Pawnbroker Regulation Act of 2023 commits an unlawful practice within the meaning of this Act.

Article 99. Severability; Effective Date

Public Act 103-0585

HB0779 Enrolled

LRB103 04371 RPS 49377 b

Section 99-97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99-99. Effective date. This Act takes effect upon becoming law.