SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Credit Union Act, the Currency Exchange Act, the Transmitters of Money Act, the Sales Finance Agency Act, the Debt Management Service Act, the Title Insurance Act, the Debt Settlement Consumer Protection Act, the Payday Loan Reform Act, and the Consumer Installment Loan Act. Defines "email address of record". Eliminates references to "certified mail". Provides that a chartered institution, licensee, or applicant shall provide the Department of Financial and Professional Regulation with an accurate and up-to-date email address. Permits the Department to send official notices to the chartered institution, licensee, or applicant's email address of record. Provides that service to the email address of record is completed when sent. Provides that service by mail is completed when the notice is deposited in the U.S. Mail. Makes other changes. Effective immediately.
AN ACT concerning regulation.

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

Section 5. The Illinois Credit Union Act is amended by changing Sections 1.1, 2, 21, and 61 as follows:

(205 ILCS 305/1.1) (from Ch. 17, par. 4402)

Sec. 1.1. Definitions.

Credit Union - The term "credit union" means a cooperative, non-profit association, incorporated under this Act, under the laws of the United States of America or under the laws of another state, for the purposes of encouraging thrift among its members, creating a source of credit at a reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions. The membership of a credit union shall consist of a group or groups each having a common bond as set forth in this Act.

Common Bond - The term "common bond" refers to groups of people who meet one of the following qualifications:

(1) Persons belonging to a specific association, group or organization, such as a church, labor union, club or society and members of their immediate families which shall include any relative by blood or marriage or foster and
adopted children.

(2) Persons who reside in a reasonably compact and well-defined neighborhood or community, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

(3) Persons who have a common employer or who are members of an organized labor union or an organized occupational or professional group within a defined geographical area, and members of their immediate families which shall include any relative by blood or marriage or foster and adopted children.

Shares - The term "shares" or "share accounts" means any form of shares issued by a credit union and established by a member in accordance with standards specified by a credit union, including but not limited to common shares, share draft accounts, classes of shares, share certificates, special purpose share accounts, shares issued in trust, custodial accounts, and individual retirement accounts or other plans established pursuant to Section 401(d) or (f) or Section 408(a) of the Internal Revenue Code, as now or hereafter amended, or similar provisions of any tax laws of the United States that may hereafter exist.

Credit Union Organization - The term "credit union organization" means any organization established to serve the needs of credit unions, the business of which relates to the daily operations of credit unions.
Department - The term "Department" means the Illinois Department of Financial and Professional Regulation.

Secretary - The term "Secretary" means the Secretary of Financial and Professional Regulation or a person authorized by the Secretary or this Act to act in the Secretary's stead.

Division of Financial Institutions - The term "Division of Financial Institutions" means the Division of Financial Institutions of the Department of Financial and Professional Regulation.

Director - The term "Director of Financial Institutions" means the Director of the Division of Financial Institutions of the Department of Financial and Professional Regulation.

Office - The term "office" means the Division of Financial Institutions of the Department of Financial and Professional Regulation.

NCUA - The term "NCUA" means the National Credit Union Administration, an agency of the United States Government charged with the supervision of credit unions chartered under the laws of the United States of America.

Central Credit Union - The term "central credit union" means a credit union incorporated primarily to receive shares from and make loans to credit unions and directors, officers, committee members and employees of credit unions. A central credit union may also accept as members persons who were members of credit unions which were liquidated and persons from occupational groups not otherwise served by another credit
Corporate Credit Union - The term "corporate credit union" means a credit union which is a cooperative, non-profit association, the membership of which is limited primarily to other credit unions.

Insolvent - "Insolvent" means the condition that results when the total of all liabilities and shares exceeds net assets of the credit union.

Danger of insolvency - For purposes of Section 61, a credit union is in "danger of insolvency" if its net worth to asset ratio falls below 2%. In calculating the danger of insolvency ratio, secondary capital shall be excluded. For purposes of Section 61, a credit union is also in "danger of insolvency" if the Department is unable to ascertain, upon examination, the true financial condition of the credit union.

Net Worth - "Net worth" means the retained earnings balance of the credit union, as determined under generally accepted accounting principles, and forms of secondary capital approved by the Secretary and the Director pursuant to rulemaking.

Charitable Donation Account - The term "charitable donation account" means an account owned by a credit union that is held in a segregated custodial account or special purpose entity and specifically identified as a charitable donation account whereby, no less frequently than every 5 years and upon termination of the account, at least 51% of the total return on assets in the account is distributed to one or more charitable
organizations or non-profit entities.

   Email address of record – The term "email address of
   record" means an accurate and current email address designated
   by a credit union and recorded by the Division of Financial
   Institutions in the credit union's file maintained by the
   Division of Financial Institutions.
   (Source: P.A. 97-133, eff. 1-1-12; 98-784, eff. 7-24-14.)

   (205 ILCS 305/2) (from Ch. 17, par. 4403)
   Sec. 2. Organization procedure.
   (1) Any 9 or more persons of legal age, the majority of
   whom shall be residents of the State of Illinois, who have a
   common bond referred to in Section 1.1 may organize a credit
   union or a central credit union by complying with this Section.
   (2) The subscribers shall execute in duplicate Articles of
   Incorporation and agree to the terms thereof, which Articles
   shall state:
       (a) The name, which shall include the words "credit
           union" and which shall not be the same as that of any other
           existing credit union in this state, and the location where
           the proposed credit union is to have its principal place of
           business;
       (b) The common bond of the members of the credit union;
       (c) The par value of the shares of the credit union,
           which must be at least $1;
       (d) The names, addresses and Social Security numbers of
the subscribers to the Articles of Incorporation, and the number and the value of shares subscribed to by each;

(e) That the credit union may exercise such incidental powers as are necessary or requisite to enable it to carry on effectively the purposes for which it is incorporated, and those powers which are inherent in the credit union as a legal entity;

(f) That the existence of the credit union shall be perpetual.

(3) The subscribers shall prepare and adopt bylaws for the general government of the credit union, consistent with this Act, and execute same in duplicate.

(4) The subscribers shall forward the articles of incorporation and the bylaws to the Secretary in duplicate, along with the required charter fee. If they conform to the law, and such rules and regulations as the Secretary and the Director may prescribe, if the Secretary determines that a common bond exists, and that it is economically advisable to organize the credit union, he or she shall within 60 days issue a certificate of approval attached to the articles of incorporation and return a copy of the bylaws and the articles of incorporation to the applicants or their representative, which shall be preserved in the permanent files of the credit union. The subscribers shall file the certificate of approval, with the articles of incorporation attached, in the office of the recorder (or, if there is no recorder, in the office of the
county clerk) of the county in which the credit union is to locate its principal place of business. The recorder or the county clerk, as the case may be, shall accept and record the documents if they are accompanied by the proper fee. When the documents are so recorded, the credit union is incorporated under this Act.

(5) The subscribers for a credit union charter shall not transact any business until the certificate of approval has been received.

(6) At the time of executing the articles of incorporation, subscriber will provide the Department with an email address of record.

(Source: P.A. 100-361, eff. 8-25-17.)

(205 ILCS 305/21) (from Ch. 17, par. 4422)
Sec. 21. Record of board and committee members. Within 30 days after election or appointment, the names and addresses of the members of the board of directors, committees and all officers of the credit union shall be filed with the Department on forms provided by the Department. The form shall also include the email address of record of the credit union.
(Source: P.A. 97-133, eff. 1-1-12.)

(205 ILCS 305/61) (from Ch. 17, par. 4462)
Sec. 61. Suspension.

(1) If the Secretary determines that any credit union is
bankrupt, insolvent, impaired or that it has violated this Act, or is operating in an unsafe or unsound manner, he shall issue an order temporarily suspending the credit union's operations for not more than 60 days. The board of directors shall be given notice of the suspension by first class mail, postage prepaid, or electronic transmission to the credit union's email address of record by registered or certified mail of such suspension, which notice shall include the reasons for such suspension and a list of specific violations of the Act. Service by mail is completed if the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent. The Secretary shall also notify the members of the credit union board of advisors of any suspension. The Director may assess to the credit union a penalty, not to exceed the regulatory fee as set forth in this Act, to offset costs incurred in determining the condition of the credit union's books and records.

(2) Upon receipt of such suspension notice, the credit union shall cease all operations, except those authorized by the Secretary, or the Secretary may appoint a manager-trustee to operate the credit union during the suspension period. The board of directors shall, within 10 days of the receipt of the suspension notice, file with the Secretary a reply to the suspension notice by submitting a corrective plan of action or a request for formal hearing on said action pursuant to the Department's rules and regulations.
(3) Upon receipt from the suspended credit union of evidence that the conditions causing the order of suspension have been corrected, and after determining that the proposed corrective plan of action submitted is factual, the Secretary shall revoke the suspension notice, permit the credit union to resume normal operations, and notify the board of credit union advisors of such action.

(4) If the Secretary determines that the proposed corrective plan of action will not correct such conditions, he may take possession and control of the credit union. The Secretary may permit the credit union to operate under his direction and control and may appoint a manager-trustee to manage its affairs until such time as the condition requiring such action has been remedied, or in the case of insolvency or danger of insolvency where an emergency requiring expeditious action exists, the Secretary may involuntarily merge the credit union without the vote of the suspended credit union's board of directors or members (hereafter involuntary merger) subject to rules promulgated by the Secretary. No credit union shall be required to serve as a surviving credit union in any involuntary merger. Upon the request of the Secretary, a credit union by a vote of a majority of its board of directors may elect to serve as a surviving credit union in an involuntary merger. If the Secretary determines that the suspended credit union should be liquidated, he may appoint a liquidating agent and require of that person such bond and security as he
consider proper.

(5) Upon receipt of a request for a formal hearing, the Secretary shall conduct proceedings pursuant to rules and regulations of the Department. The credit union may request the appropriate court to stay execution of such action. Involuntary liquidation or involuntary merger may not be ordered prior to the conclusion of suspension procedures outlined in this Section.

(6) If, within the suspension period, the credit union fails to answer the suspension notice or fails to request a formal hearing, or both, the Secretary may then (i) involuntarily merge the credit union if the credit union is insolvent or in danger of insolvency and an emergency requiring expeditious action exists or (ii) revoke the credit union's charter, appoint a liquidating agent and liquidate the credit union.

(Source: P.A. 97-133, eff. 1-1-12.)

Section 10. The Currency Exchange Act is amended by changing Sections 1, 4, 10, and 29.5 as follows:

(205 ILCS 405/1) (from Ch. 17, par. 4802)

Sec. 1. Definitions; application of Act.

(a) For the purposes of this Act:

"Community currency exchange" means any person, firm, association, partnership, limited liability company, or
corporation, except an ambulatory currency exchange as hereinafter defined, banks incorporated under the laws of this State and National Banks organized pursuant to the laws of the United States, engaged in the business or service of, and providing facilities for, cashing checks, drafts, money orders or any other evidences of money acceptable to such community currency exchange, for a fee or service charge or other consideration, or engaged in the business of selling or issuing money orders under his or their or its name, or any other money orders (other than United States Post Office money orders, Postal Telegraph Company money orders, or Western Union Telegraph Company money orders), or engaged in both such businesses, or engaged in performing any one or more of the foregoing services.

"Controlling person" means an officer, director, or person owning or holding power to vote 10% or more of the outstanding voting securities of a licensee or the power to vote the securities of another controlling person of the licensee. For the purposes of determining the percentage of a licensee controlled by a controlling person, the person's interest shall be combined with the interest of any other person controlled, directly or indirectly, by that person or by a spouse, parent, or child of that person.

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

"Director" means the Director of the Division of Financial
Institutions of the Department of Financial and Professional Regulation.

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

"Email address of record" means the designated email address recorded by the Division in the applicant's applicant file or the licensee's license file maintained by the Division's licensure unit.

"Ambulatory Currency Exchange" means any person, firm, association, partnership, limited liability company, or corporation, except banks organized under the laws of this State and National Banks organized pursuant to the laws of the United States, engaged in one or both of the foregoing businesses, or engaged in performing any one or more of the foregoing services, solely on the premises of the employer whose employees are being served.

"Licensee" means any person, firm, association, partnership, limited liability company, or corporation issued one or more licenses by the Secretary under this Act.

"Licensed location" means the premises at which a licensee is authorized to operate a community currency exchange to offer to the public services, products, or activities under this Act.

"Location" when used with reference to an ambulatory currency exchange means the premises of the employer whose employees are or are to be served by an ambulatory currency exchange.
"Principal office" means the physical business address, which shall not be a post office box, of a licensee at which the (i) Department may contact the licensee and (ii) records required under this Act are maintained.

"Secretary" means the Secretary of Financial and Professional Regulation or a person authorized by the Secretary or this Act to act in the Secretary's stead. All references in this Act to the Secretary shall be deemed to include the Director, as a person authorized by the Secretary or this Act to assume responsibility for the oversight of the functions of the Department relative to the regulatory supervision of community currency exchanges and ambulatory currency exchanges under this Act.

(b) Nothing in this Act shall be held to apply to any person, firm, association, partnership, limited liability company, or corporation who is engaged primarily in the business of transporting for hire, bullion, currency, securities, negotiable or non-negotiable documents, jewels or other property of great monetary value and who in the course of such business and only as an incident thereto, cashes checks, drafts, money orders or other evidences of money directly for, or for the employees of and with the funds of and at a cost only to, the person, firm, association, partnership, limited liability company, or corporation for whom he or it is then actually transporting such bullion, currency, securities,
negotiable or non-negotiable documents, jewels, or other property of great monetary value, pursuant to a written contract for such transportation and all incidents thereof, nor shall it apply to any person, firm, association, partnership, limited liability company, or corporation engaged in the business of selling tangible personal property at retail who, in the course of such business and only as an incident thereto, cashes checks, drafts, money orders or other evidences of money.

(Source: P.A. 99-445, eff. 1-1-16.)

(205 ILCS 405/4) (from Ch. 17, par. 4808)

Sec. 4. License application; contents; fees. A licensee shall obtain a separate license for each licensed location. Application for such license shall be in writing under oath and in the form prescribed and furnished by the Secretary. Each application shall contain the following:

(a) The applicant's full name and address (both of residence and place of business) if the applicant is a natural person, and if the applicant is a partnership, limited liability company, or association, of every member thereof, and the name and principal office if the applicant is a corporation;

(b) The county and municipality, with street and number, if any, where the community currency exchange is to be conducted, if the application is for a community
currency exchange license;

(c) If the application is for an ambulatory currency exchange license, the name and address of the employer at each location to be served by it; and

(d) In the case of a licensee's initial license application, the applicant's occupation or profession; a detailed statement of the applicant's business experience for the 10 years immediately preceding the application; a detailed statement of the applicant's finances; the applicant's present or previous connection with any other currency exchange; whether the applicant has ever been involved in any civil or criminal litigation, and the material facts pertaining thereto; whether the applicant has ever been committed to any penal institution or admitted to an institution for the care and treatment of mentally ill persons; and the nature of applicant's occupancy of the premises to be licensed where the application is for a community currency exchange license. If the applicant is a partnership, the information specified herein shall be required of each partner. If the applicant is a corporation or limited liability company, the said information shall be required of each controlling person thereof along with disclosure of their ownership interests; and

(e) An accurate and up-to-date email address.

A licensee's initial community currency exchange license
application shall be accompanied by a fee of $1,000 for the
cost of investigating the applicant. A licensee's application
for licenses for additional licensed locations shall be
accompanied by a fee of $1,000 for each additional license. If
the ownership of a licensee or licensed location changes, in
whole or in part, a new application must be filed pursuant to
this Section along with a $500 fee if the licensee's ownership
interests have been transferred or sold to a new person or
entity or a fee of $300 if the licensee's ownership interests
have been transferred or sold to a current holder or holders of
the licensee's ownership interests. When the application for a
community currency exchange license has been approved by the
Secretary and the applicant so advised, an additional sum of
$400 as an annual license fee for a period terminating on the
last day of the current calendar year shall be paid to the
Secretary by the applicant; provided, that the license fee for
an applicant applying for such a license after July 1st of any
year shall be $200 for the balance of such year. Upon receipt
of a community currency exchange license application, the
Secretary shall examine the application for completeness and
notify the applicant in writing of any defect within 20 days
after receipt. The applicant must remedy the defect within 10
days after the mailing of the notification of the defect by the
Secretary. Failure to timely remedy the defect will void the
application. Once the Secretary determines that the
application is complete, the Secretary shall have 90 business
days to approve or deny the application. If the application is
denied, the Secretary shall send by United States mail or to
the applicant's email address of record notice of the denial to
the applicant at the address set forth in the application. If
an application is denied, the applicant may, within 10 days
after the date of the notice of denial, make a written request
to the Secretary for a hearing on the application. The hearing
shall be set for a date after the receipt by the Secretary of
the request for a hearing, and electronic written notice of the
time and place of the hearing shall be sent to the applicant's
email address of record mailed to the applicant no later than
15 days before the date of the hearing. The hearing shall be
scheduled for a date within 56 days after the date of the
receipt of the request for a hearing. The applicant shall pay
the actual cost of making the transcript of the hearing prior
to the Secretary's issuing his or her decision. The Secretary's
decision is subject to review as provided in Section 22.01 of
this Act.

An application for an ambulatory currency exchange license
shall be accompanied by a fee of $100, which fee shall be for
the cost of investigating the applicant. An approved applicant
shall not be required to pay the initial investigation fee of
$100 more than once. When the application for an ambulatory
currency exchange license has been approved by the Secretary,
and such applicant so advised, such applicant shall pay an
annual license fee of $25 for each and every location to be
served by such applicant; provided that such license fee for an
approved applicant applying for such a license after July 1st
of any year shall be $12 for the balance of such year for each
and every location to be served by such applicant. Such an
approved applicant for an ambulatory currency exchange
license, when applying for a license with respect to a
particular location, shall file with the Secretary, at the time
of filing an application, a letter of memorandum, which shall
be in writing and under oath, signed by the owner or authorized
representative of the business whose employees are to be
served; such letter or memorandum shall contain a statement
that such service is desired, and that the person signing the
same is authorized so to do. The Secretary shall thereupon
verify the authenticity of the letter or memorandum and the
authority of the person who executed it, to do so.

The Department shall have 45 business days to approve or
deny a licensee's request to purchase another currency
exchange.

(Source: P.A. 99-445, eff. 1-1-16.)

(205 ILCS 405/10) (from Ch. 17, par. 4817)
Sec. 10. Qualifications of applicant; denial of license;
review. The applicant or its controlling persons shall be
vouched for by 2 reputable citizens of this State setting forth
that the individual mentioned is (a) personally known to them
to be trustworthy and reputable, (b) that he has business
experience qualifying him to competently conduct, operate, own
or become associated with a currency exchange, (c) that he has
a good business reputation and is worthy of a license.
Thereafter, the Secretary shall, upon approval of the
application filed with him, issue to the applicant, qualifying
under this Act, a license to operate a currency exchange. If it
is a license for a community currency exchange, the same shall
be valid only at the place of business specified in the
application. If it is a license for an ambulatory currency
exchange, it shall entitle the applicant to operate only at the
location or locations specified in the application, provided
the applicant shall secure separate and additional licenses for
each of such locations. Such licenses shall remain in full
force and effect, until they are surrendered by the licensee,
or revoked, or expire, as herein provided. If the Secretary
shall not so approve, he shall not issue such license or
licenses and shall notify the applicant of such denial,
retaining the full investigation fee to cover the cost of
investigating the community currency exchange applicant. The
Secretary shall approve or deny every application hereunder
within 90 days from the filing of a complete application;
except that in respect to an application by an approved
ambulatory currency exchange for a license with regard to a
particular location to be served by it, the same shall be
approved or denied within 20 days from the filing thereof. If
the application is denied, the Secretary shall send by United
States mail or to the licensee's email address of record notice of such denial to the applicant at the address set forth in the application.

If an application is denied, the applicant may, within 10 days from the date of the notice of denial, make written request to the Secretary for a hearing on the application, and the Secretary shall set a time and place for the hearing. The hearing shall be set for a date after the receipt by the Secretary of the request for hearing, and electronic written notice of the time and place of the hearing shall be emailed to the applicant at least 15 days before the date of the hearing. The applicant shall pay the actual cost of making the transcript of the hearing prior to the Secretary's issuing his decision following the hearing. Service by email is completed when sent.

If, following the hearing, the application is denied, the Secretary shall, within 20 days thereafter prepare and keep on file in his office a written order of denial thereof, which shall contain his findings with respect thereto and the reasons supporting the denial, and shall send by mail United States Mail a copy thereof to the applicant at the address set forth in the application, within 5 days after the filing of such order. A review of any such decision may be had as provided in Section 22.01 of this Act.

(Source: P.A. 99-445, eff. 1-1-16.)
Sec. 29.5. Cease and desist. The Secretary may issue a cease and desist order to any currency exchange or other person doing business without the required license, when in the opinion of the Secretary, the currency exchange or other person is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department. The cease and desist order shall specify the activity or activities that the Department is seeking the currency exchange or other person doing business without the required license to cease and desist.

The cease and desist order permitted by this Section may be issued prior to a hearing.

The Secretary shall serve notice of his or her action, including, but not limited to, a statement of reasons for the action, either personally, by mail, or to the applicant's email address of record or by certified mail, return receipt requested. Service by certified mail is shall be deemed completed (i) when the notice is deposited in the U.S. mail received, or delivery is refused, or (ii) one business day after the United States Postal Service has attempted delivery, whichever is earlier. Service by email is completed when sent.

Within 10 days after service of a cease and desist order, the licensee or other person may request, in writing, a hearing. The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by
the parties.

If it is determined that the Secretary has the authority to issue the cease and desist order, he or she may issue such orders as reasonably necessary to correct, eliminate, or remedy such conduct.

The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law, and nothing in this Section shall be construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

The currency exchange, or other person doing business without the required license, shall pay the actual costs of the hearing.

(Source: P.A. 99-445, eff. 1-1-16.)

Section 15. The Transmitters of Money Act is amended by changing Sections 5, 25, 40, 80, and 90 as follows:

(205 ILCS 657/5)

Sec. 5. Definitions. As used in this Act, unless the context otherwise requires, the words and phrases defined in this Section have the meanings set forth in this Section.

"Authorized seller" means a person not an employee of a licensee who engages in the business regulated by this Act on
behalf of a licensee under a contract between that person and
the licensee.

"Bill payment service" means the business of transmitting
money on behalf of an Illinois resident for the purpose of
paying the resident's bills.

"Controlling person" means a person owning or holding the
power to vote 25% or more of the outstanding voting securities
of a licensee or the power to vote the securities of another
controlling person of the licensee. For purposes of determining
the percentage of a licensee controlled by a controlling
person, the person's interest shall be combined with the
interest of any other person controlled, directly or
indirectly, by that person or by a spouse, parent, or child of
that person.

"Department" means the Department of Financial
Institutions.

"Director" means the Director of Financial Institutions.

"Email address of record" means the designated email
address recorded by the Division in the applicant's applicant
file or the licensee's license file maintained by the
Division's licensure unit.

"Licensee" means a person licensed under this Act.

"Location" means a place of business at which activity
regulated by this Act occurs.

"Material litigation" means any litigation that, according
to generally accepted accounting principles, is deemed
significant to a licensee's financial health and would be required to be referenced in a licensee's annual audited financial statements, reports to shareholders, or similar documents.

"Money" means a medium of exchange that is authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance.

"Money transmitter" means a person who is located in or doing business in this State and who directly or through authorized sellers does any of the following in this State:

1. Sells or issues payment instruments.
2. Engages in the business of receiving money for transmission or transmitting money.
3. Engages in the business of exchanging, for compensation, money of the United States Government or a foreign government to or from money of another government.

"Outstanding payment instrument" means, unless otherwise treated by or accounted for under generally accepted accounting principles on the books of the licensee, a payment instrument issued by the licensee that has been sold in the United States directly by the licensee or has been sold in the United States by an authorized seller of the licensee and reported to the licensee as having been sold, but has not been paid by or for the licensee.

"Payment instrument" means a check, draft, money order,
traveler's check, stored value card, or other instrument or memorandum, written order or written receipt for the transmission or payment of money sold or issued to one or more persons whether or not that instrument or order is negotiable. Payment instrument does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. A written order for the transmission or payment of money that results in the issuance of a check, draft, money order, traveler's check, or other instrument or memorandum is not a payment instrument.

"Person" means an individual, partnership, association, joint stock association, corporation, or any other form of business organization.

"Stored value card" means any magnetic stripe card or other electronic payment instrument given in exchange for money and other similar consideration, including but not limited to checks, debit payments, money orders, drafts, credit payments, and traveler's checks, where the card or other electronic payment instrument represents a dollar value that the consumer can either use or give to another individual.

"Transmitting money" means the transmission of money by any means, including transmissions to or from locations within the United States or to and from locations outside of the United States by payment instrument, facsimile or electronic transfer, or otherwise, and includes bill payment services.

(Source: P.A. 92-400, eff. 1-1-02; 93-535, eff. 1-1-04.)
Sec. 25. Application for license.

(a) An application for a license must be in writing, under oath, and in the form the Director prescribes. The application must contain or be accompanied by all of the following:

(1) The name of the applicant and the address of the principal place of business of the applicant and the address of all locations and proposed locations of the applicant in this State.

(2) The form of business organization of the applicant, including:

(A) a copy of its articles of incorporation and amendments thereto and a copy of its bylaws, certified by its secretary, if the applicant is a corporation;

(B) a copy of its partnership agreement, certified by a partner, if the applicant is a partnership; or

(C) a copy of the documents that control its organizational structure, certified by a managing official, if the applicant is organized in some other form.

(3) The name, business and home address, and a chronological summary of the business experience, material litigation history, and felony convictions over the preceding 10 years of:

(A) the proprietor, if the applicant is an
(B) every partner, if the applicant is a partnership;

(C) each officer, director, and controlling person, if the applicant is a corporation; and

(D) each person in a position to exercise control over, or direction of, the business of the applicant, regardless of the form of organization of the applicant.

(4) Financial statements, not more than one year old, prepared in accordance with generally accepted accounting principles and audited by a licensed public accountant or certified public accountant showing the financial condition of the applicant and an unaudited balance sheet and statement of operation as of the most recent quarterly report before the date of the application, certified by the applicant or an officer or partner thereof. If the applicant is a wholly owned subsidiary or is eligible to file consolidated federal income tax returns with its parent, however, unaudited financial statements for the preceding year along with the unaudited financial statements for the most recent quarter may be submitted if accompanied by the audited financial statements of the parent company for the preceding year along with the unaudited financial statement for the most recent quarter.

(5) Filings of the applicant with the Securities and
Exchange Commission or similar foreign governmental entity
(English translation), if any.

(6) A list of all other states in which the applicant
is licensed as a money transmitter and whether the license
of the applicant for those purposes has ever been
withdrawn, refused, canceled, or suspended in any other
state, with full details.

(7) A list of all money transmitter locations and
proposed locations in this State.

(8) A sample of the contract for authorized sellers.

(9) A sample form of the proposed payment instruments
to be used in this State.

(10) The name and business address of the clearing
banks through which the applicant intends to conduct any
business regulated under this Act.

(11) A surety bond as required by Section 30 of this
Act.

(12) The applicable fees as required by Section 45 of
this Act.

(13) A written consent to service of process as
provided by Section 100 of this Act.

(14) A written statement that the applicant is in full
compliance with and agrees to continue to fully comply with
all state and federal statutes and regulations relating to
money laundering.

(15) An accurate and up-to-date email address.
(16) All additional information the Director considers necessary in order to determine whether or not to issue the applicant a license under this Act.

(b) The Director may, for good cause shown, waive, in part, any of the requirements of this Section.

(Source: P.A. 92-400, eff. 1-1-02.)

(205 ILCS 657/40)

Sec. 40. Renewals of license. As a condition for renewal of a license, a licensee must submit to the Director, and the Director must receive, on or before December 1 of each year, an application for renewal made in writing and under oath on a form prescribed by the Director. A licensee whose application for renewal is not received by the Department on or before December 31 shall not have its license renewed and shall be required to submit to the Director an application for a new license in accordance with Section 25. Upon a showing of good cause, the Director may extend the deadline for the filing of an application for renewal. The application for renewal of a license shall contain or be accompanied by all of the following:

(1) The name of the licensee and the address of the principal place of business of the licensee.

(2) A list of all locations where the licensee is conducting business under its license and a list of all authorized sellers through whom the licensee is conducting
business under its license, including the name and business address of each authorized seller.

(3) Audited financial statements covering the past year of operations, prepared in accordance with generally accepted accounting principles, showing the financial condition of the licensee. The licensee shall submit the audited financial statement after the application for renewal has been approved. The audited financial statement must be received by the Department no later than 120 days after the end of the licensee's fiscal year. If the licensee is a wholly owned subsidiary or is eligible to file consolidated federal income tax returns with its parent, the licensee may submit unaudited financial statements if accompanied by the audited financial statements of the parent company for its most recently ended year.

(4) A statement of the dollar amount and number of money transmissions and payment instruments sold, issued, exchanged, or transmitted in this State by the licensee and its authorized sellers for the past year.

(5) A statement of the dollar amount of uncompleted money transmissions and payment instruments outstanding or in transit, in this State, as of the most recent quarter available.

(6) The annual license renewal fees and any penalty fees as provided by Section 45 of this Act.
(7) Evidence sufficient to prove to the satisfaction of
the Director that the licensee has complied with all
requirements under Section 20 relating to its net worth,
under Section 30 relating to its surety bond or other
security, and under Section 50 relating to permissible
investments.

(8) A statement of a change in information provided by
the licensee in its application for a license or its
previous applications for renewal including, but not
limited to, new directors, officers, authorized sellers,
or clearing banks and material changes in the operation of
the licensee's business.

(9) An accurate and up-to-date email address.

(Source: P.A. 92-400, eff. 1-1-02.)

(205 ILCS 657/80)

Sec. 80. Revocation or suspension of licenses.

(a) The Director may suspend or revoke a license if the
Director finds any of the following:

(1) The licensee has knowingly made a material
misstatement or suppressed or withheld information on an
application for a license or a document required to be
filed with the Director.

(2) A fact or condition exists that, if it had existed
or had been known at the time the licensee applied for its
license, would have been grounds for denying the
(3) The licensee is insolvent.

(4) The licensee has knowingly violated a material provision of this Act or rules adopted under this Act or an order of the Director.

(5) The licensee refuses to permit the Director to make an examination at reasonable times as authorized by this Act.

(6) The licensee knowingly fails to make a report required by this Act.

(7) The licensee fails to pay a judgment entered in favor of a claimant, plaintiff, or creditor in an action arising out of the licensee's business regulated under this Act within 30 days after the judgment becomes final or within 30 days after expiration or termination of a stay of execution.

(8) The licensee has been convicted under the laws of this State, another state, or the United States of a felony or of a crime involving a breach of trust or dishonesty.

(9) The licensee has failed to suspend or terminate its authorized seller's authority to act on its behalf when the licensee knew its authorized seller was violating or had violated a material provision of this Act or rules adopted under this Act or an order of the Director.

(b) In every case in which a license is suspended or revoked or an application for a license or renewal of a license
is denied, the Director shall serve notice of his action, including a statement of the reasons for his action, either personally, by mail, or to the licensee's email address of record. Service by mail is completed when the notice is deposited in the U.S. mail. Service to the email address of record is completed when sent or by certified mail, return receipt requested. Service by mail shall be deemed completed if the notice is deposited in the post office, postage paid, addressed to the last known address specified in the application for a license.

(c) In the case of denial of an application for a license or renewal of a license, the applicant or licensee may request in writing, within 30 days after the date of service, a hearing. In the case of a denial of an application for renewal of a license, the expiring license shall be deemed to continue in force until 30 days after the service of the notice of denial or, if a hearing is requested during that period, until a final order is entered pursuant to a hearing.

(d) The order of suspension or revocation of a license shall take effect upon service of the order. The holder of any suspended or revoked license may request in writing, within 30 days after the date of service, a hearing. In the event a hearing is requested, the order shall remain temporary until a final order is entered pursuant to the hearing.

(e) The hearing shall be held at the time and place designated by the Director in either the City of Springfield or
the City of Chicago. The Director and any administrative law
judge designated by him shall have the power to administer
oaths and affirmations, subpoena witnesses and compel their
attendance, take evidence, authorize the taking of
depositions, and require the production of books, papers,
correspondence, and other records or information that he
considers relevant or material to the inquiry.

(f) The Director may issue an order of suspension or
revocation of a license that takes effect upon service of the
order and remains in effect regardless of a request for a
hearing when the Director finds that the public welfare will be
endangered if the licensee is permitted to continue to operate
the business regulated by this Act.

(g) The decision of the Director to deny any application
for a license or renewal of a license or to suspend or revoke a
license is subject to judicial review under the Administrative
Review Law.

(h) The costs for administrative hearing shall be set by
rule.

(i) Appeals from all final orders and judgments entered by
the circuit court under this Section in review of a decision of
the Director may be taken as in other civil actions by any
party to the proceeding.

(Source: P.A. 88-643, eff. 1-1-95.)

(205 ILCS 657/90)
Sec. 90. Enforcement.

(a) If it appears to the Director that a person has committed or is about to commit a violation of this Act, a rule promulgated under this Act, or an order of the Director, the Director may apply to the circuit court for an order enjoining the person from violating or continuing to violate this Act, the rule, or order and for injunctive or other relief that the nature of the case may require and may, in addition, request the court to assess a civil penalty up to $1,000 along with costs and attorney fees.

(b) If the Director finds, after an investigation that he considers appropriate, that a licensee or other person is engaged in practices contrary to this Act or to the rules promulgated under this Act, the Director may issue an order directing the licensee or person to cease and desist the violation. The Director may, in addition to or without the issuance of a cease and desist order, assess an administrative penalty up to $1,000 against a licensee for each violation of this Act or the rules promulgated under this Act. The issuance of an order under this Section shall not be a prerequisite to the taking of any action by the Director under this or any other Section of this Act. The Director shall serve notice of his action, including a statement of the reasons for his actions, either personally, by mail, or to the licensee's email address of record. Service by mail is completed when the notice is deposited in the U.S. mail. Service to the email address of
record is completed when sent or by certified mail, return
receipt requested. Service by mail shall be deemed completed if
the notice is deposited in the post office, postage paid,
addressed to the last known address for a license.

(c) In the case of the issuance of a cease and desist order
or assessment order, a hearing may be requested in writing
within 30 days after the date of service. The hearing shall be
held at the time and place designated by the Director in either
the City of Springfield or the City of Chicago. The Director
and any administrative law judge designated by him shall have
the power to administer oaths and affirmations, subpoena
witnesses and compel their attendance, take evidence,
authorize the taking of depositions, and require the production
of books, papers, correspondence, and other records or
information that he considers relevant or material to the
inquiry.

(d) After the Director's final determination under a
hearing under this Section, a party to the proceedings whose
interests are affected by the Director's final determination
shall be entitled to judicial review of that final
determination under the Administrative Review Law.

(e) The costs for administrative hearings shall be set by
rule.

(f) Except as otherwise provided in this Act, a violation
of this Act shall subject the party violating it to a fine of
$1,000 for each offense.
(g) Each transaction in violation of this Act or the rules promulgated under this Act and each day that a violation continues shall be a separate offense.

(h) A person who engages in conduct requiring a license under this Act and fails to obtain a license from the Director or knowingly makes a false statement, misrepresentation, or false certification in an application, financial statement, account record, report, or other document filed or required to be maintained or filed under this Act or who knowingly makes a false entry or omits a material entry in a document is guilty of a Class 3 felony.

(i) The Director is authorized to compromise, settle, and collect civil penalties and administrative penalties, as set by rule, with any person for violations of this Act or of any rule or order issued or promulgated under this Act. Any person who, without the required license, engages in conduct requiring a license under this Act shall be liable to the Department in an amount equal to the greater of (i) $5,000 or (ii) an amount of money accepted for transmission plus an amount equal to 3 times the amount accepted for transmission. The Department shall cause any funds so recovered to be deposited in the TOMA Consumer Protection Fund.

(j) The Director may enter into consent orders at any time with a person to resolve a matter arising under this Act. A consent order must be signed by the person to whom it is issued and must indicate agreement to the terms contained in it. A
consent order need not constitute an admission by a person that this Act or a rule or order issued or promulgated under this Act has been violated, nor need it constitute a finding by the Director that the person has violated this Act or a rule or order promulgated under this Act.

(k) Notwithstanding the issuance of a consent order, the Director may seek civil or criminal penalties or compromise civil penalties concerning matter encompassed by the consent order unless the consent order by its terms expressly precludes the Director from doing so.

(l) Appeals from all final orders and judgments entered by the circuit court under this Section in review of a decision of the Director may be taken as in other civil actions by any party to the proceeding.

(Source: P.A. 100-201, eff. 8-18-17.)

Section 20. The Sales Finance Agency Act is amended by changing Sections 2, 6, 10, and 16.5 as follows:

(205 ILCS 660/2) (from Ch. 17, par. 5202)

Sec. 2. Definitions. In this Act, unless the context otherwise requires:

"Sales finance agency" means a person, irrespective of his or her state of domicile or place of business, engaged in this State, in whole or in part, in the business of purchasing, or making loans secured by, retail installment contracts, retail
charge agreements or the outstanding balances under such contracts or agreements entered into in this State.

"Holder" of a retail installment contract or a retail charge agreement means the retail seller of the goods or services under the contract or charge agreement, or if the outstanding balances thereunder are purchased by or transferred as security to a sales finance agency or other assignee, the sales finance agency or other assignee.

"Person" means an individual, corporation, partnership, limited liability company, joint venture, or any other form of business association.

"Department" means the Department of Financial Institutions.

"Director" means the Director of Financial Institutions.

"Email address of record" means the designated email address recorded by the Division in the applicant's applicant file or the licensee's license file maintained by the Division's licensure unit.

"Motor Vehicle Retail Installment Sales Act" and "Retail Installment Sales Act" refer to the Acts having those titles enacted by the 75th General Assembly.

"Retail installment contract" and "retail charge agreement" have the meanings ascribed to them in the Motor Vehicle Retail Installment Sales Act and the Retail Installment Sales Act.

"Special purpose vehicle" means an entity that, in
connection with a securitization, private placement, or similar type of investment transaction, is administered by a State or national bank under a management agreement for the purpose of purchasing, making loans against, or in pools of, receivables, general intangibles, and other financial assets including retail installment contracts, retail charge agreements, or the outstanding balances or any portion of the outstanding balances under those contracts or agreements.

"Net Worth" means total assets minus total liabilities.

(Source: P.A. 89-400, eff. 8-20-95; 90-437, eff. 1-1-98.)

(205 ILCS 660/6) (from Ch. 17, par. 5206)

Sec. 6. A license fee of $300 for the applicant's principal place of business and $100 for each additional place of business for which a license is sought must be submitted with an application for license made before July 1 of any year. If application for a license is made on July 1 or thereafter, a license fee of $150 for the principal place of business and of $50 for each additional place of business must accompany the application. Each license remains in force until surrendered, suspended, or revoked. If the application for license is denied, the original license fee shall be retained by the State in reimbursement of its costs of investigating that application.

Before the license is granted, the applicant shall prove in form satisfactory to the Director, that the applicant has a
positive net worth of a minimum of $30,000. At the time of
application, an applicant shall provide the Department with an
accurate and up-to-date email address.

A licensee must pay to the Department, and the Department
must receive, by December 1 of each year, the renewal license
application on forms prescribed by the Director and $300 for
the license for his principal place of business and $100 for
each additional license held as a renewal license fee for the
succeeding calendar year.

(Source: P.A. 92-398, eff. 1-1-02.)

(205 ILCS 660/10) (from Ch. 17, par. 5223)

Sec. 10. Denial, revocation, fine, or suspension of
license.

(a) The Director may revoke or suspend a license or fine a
licensee if the licensee violates any provisions of this Act.
(b) In every case in which a license is revoked or
suspended, a licensee is fined, or an application for a license
or renewal of a license is denied, the Director shall serve
notice of his or her action, including a statement of the
reasons for the action either personally, by mail, or to the
licensee's email address of record or by certified mail, return
receipt requested. Service by certified mail is shall be deemed
completed when the notice is deposited in the U.S. mail.
Service to the email address of record is completed when sent.

(c) An order revoking or suspending a license or an order
denying renewal of a license shall take effect upon service of
the order, unless the licensee requests, in writing, within 10
days after the date of service, a hearing. In the event a
hearing is requested, the order shall be stayed until a final
administrative order is entered.

(d) If the licensee requests a hearing, the Director shall
schedule a hearing within 30 days after the request for a
hearing unless otherwise agreed to by the parties.

(e) The hearing shall be held at the time and place
designated by the Director. The Director and any administrative
law judge designated by him or her shall have the power to
administer oaths and affirmations, subpoena witnesses and
compel their attendance, take evidence, and require the
production of books, papers, correspondence, and other records
or information that he or she considers relevant or material to
the inquiry.

(f) The costs for the administrative hearing shall be set
by rule.

(g) The Director shall have the authority to prescribe
rules for the administration of this Section.

(Source: P.A. 92-398, eff. 1-1-02.)

(205 ILCS 660/16.5)

Sec. 16.5. Cease and desist orders.

(a) The Director may issue a cease and desist order to a
sales finance agency or other person doing business without the
required license when, in the opinion of the director, the
licensee or other person is violating or is about to violate
any provision of this Act or any law, rule, or requirement
imposed in writing by the Department.

(b) The Director may issue a cease and desist order prior
to a hearing.

(c) The Director shall serve notice of his or her action,
designated as a cease and desist order made pursuant to this
Section, including a statement of the reasons for the action,
either personally, by mail, or to the licensee's email address
of record or by certified mail, return receipt requested.
Service by certified mail is shall be deemed completed when the
notice is deposited in the U.S. mail. Service by email is
completed when sent.

(d) Within 15 days of service of the cease and desist
order, the sales finance agency or other person may request, in
writing, a hearing.

(e) The Director shall schedule a hearing within 30 days
after the request for a hearing unless otherwise agreed to by
the parties.

(f) The Director shall have the authority to prescribe
rules for the administration of this Section.

(g) If it is determined that the Director had the authority
to issue the cease and desist order, he or she may issue such
orders as may be reasonably necessary to correct, eliminate, or
remedy such conduct.
The powers vested in the Director by this Section are additional to any and all other powers and remedies vested in the Director by law, and nothing in this Section shall be construed as requiring that the Director shall employ the powers conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Director.

(i) The cost for the administrative hearing shall be set by rule.

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

Section 25. The Debt Management Service Act is amended by changing Sections 2, 4, 6, 10, and 20 as follows:

(205 ILCS 665/2) (from Ch. 17, par. 5302)

Sec. 2. Definitions. As used in this Act:

"Credit counselor" means an individual, corporation, or other entity that is not a debt management service that provides (1) guidance, educational programs, or advice for the purpose of addressing budgeting, personal finance, financial literacy, saving and spending practices, or the sound use of consumer credit; or (2) assistance or offers to assist individuals and families with financial problems by providing counseling; or (3) a combination of the activities described in items (1) and (2) of this definition.

"Debt management service" means the planning and
management of the financial affairs of a debtor for a fee and
the receiving of money from the debtor for the purpose of
distributing it to the debtor's creditors in payment or partial
payment of the debtor's obligations or soliciting financial
contributions from creditors. The business of debt management
is conducted in this State if the debt management business, its
employees, or its agents are located in this State or if the
debt management business solicits or contracts with debtors
located in this State. "Debt management service" does not
include "debt settlement service" as defined in the Debt
Settlement Consumer Protection Act.

This term shall not include the following when engaged in
the regular course of their respective businesses and
professions:

(a) Attorneys at law licensed, or otherwise authorized
to practice, in Illinois who are engaged in the practice of
law.

(b) Banks, operating subsidiaries of banks, affiliates
of banks, fiduciaries, credit unions, savings and loan
associations, and savings banks as duly authorized and
admitted to transact business in the State of Illinois and
performing credit and financial adjusting service in the
regular course of their principal business.

(c) Title insurers, title agents, independent
escrowees, and abstract companies, while doing an escrow
business.
(d) Judicial officers or others acting pursuant to court order.

(e) Employers for their employees, except that no employer shall retain the services of an outside debt management service to perform this service unless the debt management service is licensed pursuant to this Act.

(f) Bill payment services, as defined in the Transmitters of Money Act.

(g) Credit counselors, only when providing services described in the definition of credit counselor in this Section.

"Debtor" means the person or persons for whom the debt management service is performed.

"Email address of record" means the designated email address recorded by the Division in the applicant's applicant file or the licensee's license file maintained by the Division's licensure unit.

"Person" means an individual, firm, partnership, association, limited liability company, corporation, or not-for-profit corporation.

"Licensee" means a person licensed under this Act.

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

(Source: P.A. 100-201, eff. 8-18-17.)

(205 ILCS 665/4) (from Ch. 17, par. 5304)
Sec. 4. Application for license. Application for a license to engage in the debt management service business in this State shall be made to the Secretary and shall be in writing, under oath, and in the form prescribed by the Secretary. At the time of application, an applicant shall provide the Department with an accurate and up-to-date email address.

Each applicant, at the time of making such application, shall pay to the Secretary the sum of $30.00 as a fee for investigation of the applicant, and the additional sum of $100.00 as a license fee.

Every applicant shall submit to the Secretary, at the time of the application for a license, a bond to be approved by the Secretary in which the applicant shall be the obligor, in the sum of $25,000 or such additional amount as required by the Secretary based on the amount of disbursements made by the licensee in the previous year, and in which an insurance company, which is duly authorized by the State of Illinois, to transact the business of fidelity and surety insurance shall be a surety.

The bond shall run to the Secretary for the use of the Department or of any person or persons who may have a cause of action against the obligor in said bond arising out of any violation of this Act or rules by a license. Such bond shall be conditioned that the obligor will faithfully conform to and abide by the provisions of this Act and of all rules, regulations and directions lawfully made by the Secretary and
will pay to the Secretary or to any person or persons any and all money that may become due or owing to the State or to such person or persons, from said obligor under and by virtue of the provisions of this Act.
(Source: P.A. 96-1420, eff. 8-3-10.)

(205 ILCS 665/6) (from Ch. 17, par. 5306)
Sec. 6. Renewal of license. Each debt management service provider under the provisions of this Act may make application to the Secretary for renewal of its license, which application for renewal shall be on the form prescribed by the Secretary and shall be accompanied by a fee of $100.00 together with a bond or other surety as required, in a minimum amount of $25,000 or such an amount as required by the Secretary based on the amount of disbursements made by the licensee in the previous year. The application must be received by the Department no later than December 1 of the year preceding the year for which the application applies. At the time of renewal, a licensee shall provide the Department with an accurate and up-to-date email address.
(Source: P.A. 96-1420, eff. 8-3-10.)

(205 ILCS 665/10) (from Ch. 17, par. 5310)
Sec. 10. Revocation, suspension, or refusal to renew license.
(a) The Secretary may revoke or suspend or refuse to renew
any license if he finds that:

(1) any licensee has failed to pay the annual license fee, or to maintain in effect the bond required under the provisions of this Act;

(2) the licensee has violated any provisions of this Act or any rule, lawfully made by the Secretary within the authority of this Act;

(3) any fact or condition exists which, if it had existed at the time of the original application for a license, would have warranted the Secretary in refusing its issuance; or

(4) any applicant has made any false statement or representation to the Secretary in applying for a license hereunder.

(b) In every case in which a license is suspended or revoked or an application for a license or renewal of a license is denied, the Secretary shall serve notice of his action, including a statement of the reasons for his actions, either personally, by mail, or to the licensee's email address of record or by certified mail, return receipt requested. Service by mail is shall be deemed completed if the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent.

(c) In the case of a denial of an application or renewal of a license, the applicant or licensee may request in writing, within 30 days after the date of service, a hearing. In the
case of a denial of a renewal of a license, the license shall be deemed to continue in force until 30 days after the service of the notice of denial, or if a hearing is requested during that period, until a final administrative order is entered.

(d) An order of revocation or suspension of a license shall take effect upon service of the order unless the licensee requests, in writing, within 10 days after the date of service, a hearing. In the event a hearing is requested, the order shall be stayed until a final administrative order is entered.

(e) If the licensee requests a hearing, the Secretary shall schedule either a status date or a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) The hearing shall be held at the time and place designated by the Secretary. The Secretary and any administrative law judge designated by him have the power to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that he considers relevant or material to the injury.

(g) The costs for the administrative hearing shall be set by rule and shall be borne by the respondent.

(Source: P.A. 96-1420, eff. 8-3-10.)

(205 ILCS 665/20) (from Ch. 17, par. 5323)
Sec. 20. Cease and desist orders.

(a) The Secretary may issue a cease and desist order to any licensee, or other person doing business without the required license, when in the opinion of the Secretary, the licensee, or other person, is violating or is about to violate any provision of the Act or any rule or condition imposed in writing by the Department.

(b) The Secretary may issue a cease and desist order prior to a hearing.

(c) The Secretary shall serve notice of his action, including a statement of the reasons for his action either personally, by mail, or to the licensee's email address of record or by certified mail, return receipt requested. Service by mail is deemed completed if the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent.

(d) Within 10 days after service of the cease and desist order, the licensee or other person may request, in writing, a hearing.

(e) The Secretary shall schedule either a status date or a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(g) If it is determined that the Secretary had the authority to issue the cease and desist order, he may issue such orders as may be reasonably necessary to correct, eliminate, or remedy such conduct.
(h) The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law, and nothing in this Section shall be construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

(i) The cost for the administrative hearing shall be set by rule and shall be borne by the respondent.

(Source: P.A. 96-1420, eff. 8-3-10.)

Section 30. The Consumer Installment Loan Act is amended by adding Section 0.5 and by changing Sections 2, 8, 9, and 20.5 as follows:

(205 ILCS 670/0.5 new)

Sec. 0.5. Email address of record. In this Act, "email address of record" means the designated email address recorded by the Division in the applicant's applicant file or the licensee's license file maintained by the Division's licensure unit.

(205 ILCS 670/2) (from Ch. 17, par. 5402)

Sec. 2. Application; fees; positive net worth.

Application for such license shall be in writing, and in the form prescribed by the Director. Such applicant at the time
of making such application shall pay to the Director the sum of $300 as an application fee and the additional sum of $450 as an annual license fee, for a period terminating on the last day of the current calendar year; provided that if the application is filed after June 30th in any year, such license fee shall be 1/2 of the annual license fee for such year. **At the time of application, an applicant shall provide the Department with an accurate and up-to-date email address.**

Before the license is granted, every applicant shall prove in form satisfactory to the Director that the applicant has and will maintain a positive net worth of a minimum of $30,000. Every applicant and licensee shall maintain a surety bond in the principal sum of $25,000 issued by a bonding company authorized to do business in this State and which shall be approved by the Director. Such bond shall run to the Director and shall be for the benefit of any consumer who incurs damages as a result of any violation of the Act or rules by a licensee. If the Director finds at any time that a bond is of insufficient size, is insecure, exhausted, or otherwise doubtful, an additional bond in such amount as determined by the Director shall be filed by the licensee within 30 days after written demand therefor by the Director. "Net worth" means total assets minus total liabilities.

(Source: P.A. 92-398, eff. 1-1-02; 93-32, eff. 7-1-03.)

(205 ILCS 670/8) (from Ch. 17, par. 5408)
Sec. 8. Annual license fee - Expenses. Before the 15th day of each December, a licensee must pay to the Director, and the Department must receive, the annual license fee required by Section 2 for the next succeeding calendar year. The license shall expire on the first of January unless the license fee has been paid prior thereto. At the time of renewal, a licensee shall provide the Department with an accurate and up-to-date email address.

In addition to such license fee, the reasonable expense of any examination, investigation or custody by the Director under any provisions of this Act shall be borne by the licensee.

If a licensee fails to renew his or her license by the 31st day of December, it shall automatically expire and the licensee is not entitled to a hearing; however, the Director, in his or her discretion, may reinstate an expired license upon payment of the annual renewal fee and proof of good cause for failure to renew.

(Source: P.A. 92-398, eff. 1-1-02.)

(205 ILCS 670/9) (from Ch. 17, par. 5409)

Sec. 9. Fines, Suspension or Revocation of license.

(a) The Director may, after 10 days notice by registered mail to the licensee at the address set forth in the license, stating the contemplated action and in general the grounds therefor, fine such licensee an amount not exceeding $10,000 per violation, or revoke or suspend any license issued
hereunder if he or she finds that:

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

   (2) Any fact or condition exists which, if it had
       existed at the time of the original application for the
       license, clearly would have warranted the Director in
       refusing to issue the license.

(b) The Director may fine, suspend, or revoke only the
    particular license with respect to which grounds for the fine,
    revocation or suspension occur or exist, but if the Director
    shall find that grounds for revocation are of general
    application to all offices or to more than one office of the
    licensee, the Director shall fine, suspend, or revoke every
    license to which such grounds apply.

(c) (Blank).

(d) No revocation, suspension, or surrender of any license
    shall impair or affect the obligation of any pre-existing
    lawful contract between the licensee and any obligor.

(e) The Director may issue a new license to a licensee
    whose license has been revoked when facts or conditions which
    clearly would have warranted the Director in refusing
    originally to issue the license no longer exist.

(f) (Blank).

(g) In every case in which a license is suspended or
revoked or an application for a license or renewal of a license is denied, the Director shall serve the licensee with notice of his or her action, including a statement of the reasons for his or her actions, either personally, or by certified mail, or to the licensee's email address of record return receipt requested. Service by certified mail is shall be deemed completed when the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent.

(h) An order assessing a fine, an order revoking or suspending a license or, an order denying renewal of a license shall take effect upon service of the order unless the licensee requests, in writing, within 10 days after the date of service, a hearing. In the event a hearing is requested, the order shall be stayed until a final administrative order is entered.

(i) If the licensee requests a hearing, the Director shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(j) The hearing shall be held at the time and place designated by the Director. The Director and any administrative law judge designated by him or her shall have the power to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that he or she considers relevant or material to the inquiry.

(k) The costs for the administrative hearing shall be set
(l) The Director shall have the authority to prescribe rules for the administration of this Section.

(m) The Department shall establish by rule and publish a schedule of fines that are reasonably tailored to ensure compliance with the provisions of this Act and which include remedial measures intended to improve licensee compliance. Such rules shall set forth the standards and procedures to be used in imposing any such fines and remedies.

(Source: P.A. 98-209, eff. 1-1-14.)

(205 ILCS 670/20.5)

Sec. 20.5. Cease and desist.

(a) The Director may issue a cease and desist order to any licensee, or other person doing business without the required license, when in the opinion of the Director, the licensee, or other person, is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department as a condition of granting any authorization permitted by this Act.

(b) The Director may issue a cease and desist order prior to a hearing.

(c) The Director shall serve notice of his or her action, designated as a cease and desist order made pursuant to this Section, including a statement of the reasons for the action, either personally, or by certified mail, or to the licensee's
email address of record, return receipt requested. Service by certified mail is shall be deemed completed when the notice is deposited in the U.S. mail. Service to the email address of record is completed when sent.

(d) Within 15 days of service of the cease and desist order, the licensee or other person may request, in writing, a hearing.

(e) The Director shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) The Director shall have the authority to prescribe rules for the administration of this Section.

(g) If it is determined that the Director had the authority to issue the cease and desist order, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy such conduct.

(h) The powers vested in the Director by this Section are additional to any and all other powers and remedies vested in the Director by law, and nothing in this Section shall be construed as requiring that the Director shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Director.

(i) The cost for the administrative hearing shall be set by rule.

(Source: P.A. 90-437, eff. 1-1-98.)
Section 35. The Title Insurance Act is amended by changing Sections 3, 21, 21.1, and 21.2 as follows:

(215 ILCS 155/3) (from Ch. 73, par. 1403)

Sec. 3. As used in this Act, the words and phrases following shall have the following meanings unless the context requires otherwise:

(1) "Title insurance business" or "business of title insurance" means:

(A) Issuing as insurer or offering to issue as insurer title insurance; and

(B) Transacting or proposing to transact one or more of the following activities when conducted or performed in contemplation of or in conjunction with the issuance of title insurance;

   (i) soliciting or negotiating the issuance of title insurance;

   (ii) guaranteeing, warranting, or otherwise insuring the correctness of title searches for all instruments affecting titles to real property, any interest in real property, cooperative units and proprietary leases, and for all liens or charges affecting the same;

   (iii) handling of escrows, settlements, or closings;
(iv) executing title insurance policies;
(v) effecting contracts of reinsurance;
(vi) abstracting, searching, or examining titles;
or
(vii) issuing insured closing letters or closing protection letters;

(C) Guaranteeing, warranting, or insuring searches or examinations of title to real property or any interest in real property, with the exception of preparing an attorney's opinion of title; or

(D) Guaranteeing or warranting the status of title as to ownership of or liens on real property and personal property by any person other than the principals to the transaction; or

(E) Doing or proposing to do any business substantially equivalent to any of the activities listed in this subsection, provided that the preparation of an attorney's opinion of title pursuant to paragraph (1)(C) is not intended to be within the definition of "title insurance business" or "business of title insurance".

(1.5) "Title insurance" means insuring, guaranteeing, warranting, or indemnifying owners of real or personal property or the holders of liens or encumbrances thereon or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in, or the unmarketability of the title to the property; the invalidity or unenforceability
of any liens or encumbrances thereon; or doing any business in
substance equivalent to any of the foregoing. "Warranting" for
purpose of this provision shall not include any warranty
contained in instruments of encumbrance or conveyance. Title
insurance is a single line form of insurance, also known as
monoline. An attorney's opinion of title pursuant to paragraph
(1)(C) is not intended to be within the definition of "title
insurance".

(2) "Title insurance company" means any domestic company
organized under the laws of this State for the purpose of
conducting the business of title insurance and any title
insurance company organized under the laws of another State,
the District of Columbia or foreign government and authorized
to transact the business of title insurance in this State.

(3) "Title insurance agent" means a person, firm,
partnership, association, corporation or other legal entity
registered by a title insurance company and authorized by such
company to determine insurability of title in accordance with
generally acceptable underwriting rules and standards in
reliance on either the public records or a search package
prepared from a title plant, or both, and authorized by such
title insurance company in addition to do any of the following:
act as an escrow agent pursuant to subsections (f), (g), and
(h) of Section 16 of this Act, solicit title insurance, collect
premiums, or issue title insurance commitments, policies, and
endorsements of the title insurance company; provided,
however, the term "title insurance agent" shall not include
officers and salaried employees of any title insurance company.

(4) "Producer of title business" is any person, firm,
partnership, association, corporation or other legal entity
engaged in this State in the trade, business, occupation or
profession of (i) buying or selling interests in real property,
(ii) making loans secured by interests in real property, or
(iii) acting as broker, agent, attorney, or representative of
natural persons or other legal entities that buy or sell
interests in real property or that lend money with such
interests as security.

(5) "Associate" is any firm, association, partnership,
corporation or other legal entity organized for profit in which
a producer of title business is a director, officer, or partner
thereof, or owner of a financial interest, as defined herein,
in such entity; any legal entity that controls, is controlled
by, or is under common control with a producer of title
business; and any natural person or legal entity with whom a
producer of title business has any agreement, arrangement, or
understanding or pursues any course of conduct the purpose of
which is to evade the provisions of this Act.

(6) "Financial interest" is any ownership interest, legal
or beneficial, except ownership of publicly traded stock.

(7) "Refer" means to place or cause to be placed, or to
exercise any power or influence over the placing of title
business, whether or not the consent or approval of any other
person is sought or obtained with respect to the referral.

(8) "Escrow Agent" means any title insurance company or any title insurance agent, including independent contractors of either, acting on behalf of a title insurance company, which receives deposits, in trust, of funds or documents, or both, for the purpose of effecting the sale, transfer, encumbrance or lease of real property to be held by such escrow agent until title to the real property that is the subject of the escrow is in a prescribed condition. An escrow agent conducting closings shall be subject to the provisions of paragraphs (1) through (4) of subsection (e) of Section 16 of this Act.

(9) "Independent Escrowee" means any firm, person, partnership, association, corporation or other legal entity, other than a title insurance company or a title insurance agent, which receives deposits, in trust, of funds or documents, or both, for the purpose of effecting the sale, transfer, encumbrance or lease of real property to be held by such escrowee until title to the real property that is the subject of the escrow is in a prescribed condition. Federal and State chartered banks, savings and loan associations, credit unions, mortgage bankers, banks or trust companies authorized to do business under the Illinois Corporate Fiduciary Act, licensees under the Consumer Installment Loan Act, real estate brokers licensed pursuant to the Real Estate License Act of 2000, as such Acts are now or hereafter amended, and licensed attorneys when engaged in the attorney-client relationship are
exempt from the escrow provisions of this Act. "Independent
Escrowee" does not include employees or independent
contractors of a title insurance company or title insurance
agent authorized by a title insurance company to perform
closing, escrow, or settlement services.

(10) "Single risk" means the insured amount of any title
insurance policy, except that where 2 or more title insurance
policies are issued simultaneously covering different estates
in the same real property, "single risk" means the sum of the
insured amounts of all such title insurance policies. Any title
insurance policy insuring a mortgage interest, a claim payment
under which reduces the insured amount of a fee or leasehold
title insurance policy, shall be excluded in computing the
amount of a single risk to the extent that the insured amount
of the mortgage title insurance policy does not exceed the
insured amount of the fee or leasehold title insurance policy.

(11) "Department" means the Department of Financial and
Professional Regulation.

(12) "Secretary" means the Secretary of Financial and
Professional Regulation.

(13) "Insured closing letter" or "closing protection
letter" means an indemnification or undertaking to a party to a
real property transaction, from a principal such as a title
insurance company, setting forth in writing the extent of the
principal's responsibility for intentional misconduct or
errors in closing the real property transaction on the part of
a settlement agent, such as a title insurance agent or other settlement service provider, or an indemnification or undertaking given by a title insurance company or an independent escrowee setting forth in writing the extent of the title insurance company's or independent escrowee's responsibility to a party to a real property transaction which indemnifies the party against the intentional misconduct or errors in closing the real property transaction on the part of the title insurance company or independent escrowee and includes protection afforded pursuant to subsections (f), (g), and (h) of Section 16, Section 16.1, subsection (h) of Section 17, and Section 17.1 of this Act even if such protection is afforded by contract.

(14) "Residential real property" means a building or buildings consisting of one to 4 residential units or a residential condominium unit where at least one of the residential units or condominium units is occupied or intended to be occupied as a residence by the purchaser or borrower, or in the event that the purchaser or borrower is the trustee of a trust, by a beneficiary of that trust.

(15) "Financial institution" means any bank subject to the Illinois Banking Act, any savings and loan association subject to the Illinois Savings and Loan Act of 1985, any savings bank subject to the Savings Bank Act, any credit union subject to the Illinois Credit Union Act, and any federally chartered commercial bank, savings and loan association, savings bank, or
credit union organized and operated in this State pursuant to the laws of the United States.

(16) "Email address of record" means the designated email address recorded by the Division in the applicant's applicant file or the licensee's license file maintained by the Division's licensure unit.

(Source: P.A. 100-485, eff. 9-8-17.)

(215 ILCS 155/21) (from Ch. 73, par. 1421)

Sec. 21. Regulatory action.

(a) The Secretary may refuse to grant, and may suspend or revoke, any certificate of authority, registration, or license issued pursuant to this Act or may impose a fine for a violation of this Act if he determines that the holder of or applicant for such certificate, registration or license:

(1) has intentionally made a material misstatement or fraudulent misrepresentation in relation to a matter covered by this Act;

(2) has misappropriated or tortiously converted to its own use, or illegally withheld, monies held in a fiduciary capacity;

(3) has demonstrated untrustworthiness or incompetency in transacting the business of guaranteeing titles to real estate in such a manner as to endanger the public;

(4) has materially misrepresented the terms or conditions of contracts or agreements to which it is a
(5) has paid any commissions, discounts or any part of its premiums, fees or other charges to any person in violation of any State or federal law or regulations or opinion letters issued under the federal Real Estate Settlement Procedures Act of 1974;

(6) has failed to comply with the deposit and reserve requirements of this Act or any other requirements of this Act;

(7) has committed fraud or misrepresentation in applying for or procuring any certificate of authority, registration, or license issued pursuant to this Act;

(8) has a conviction or plea of guilty or plea of nolo contendere in this State or any other jurisdiction to (i) any felony or (ii) a misdemeanor, an essential element of which is dishonesty or fraud or larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game;

(9) has been disciplined by another state, the District of Columbia, a territory, foreign nation, a governmental agency, or any entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or equivalent to one of the grounds for which a title insurance company, title insurance agent, or independent escrowee may be disciplined under this Act or if at least one of the grounds for that discipline involves dishonesty;
a certified copy of the record of the action by the other state or jurisdiction shall be prima facie evidence thereof;

(10) has advertising that is inaccurate, misleading, or contrary to the provisions of this Act;

(11) has knowingly and willfully made any substantial misrepresentation or untruthful advertising;

(12) has made any false promises of a character likely to influence, persuade, or induce;

(13) has knowingly failed to account for or remit any money or documents coming into the possession of a title insurance company, title insurance agent, or independent escrowee that belong to others;

(14) has engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;

(15) has violated the terms of a disciplinary order issued by the Department;

(16) has disregarded or violated any provision of this Act or the published rules adopted by the Department to enforce this Act or has aided or abetted any individual, partnership, registered limited liability partnership, limited liability company, or corporation in disregarding any provision of this Act or the published rules; or

(17) has acted as a title insurance company, title insurance agent, or independent escrowee without a
certificate of authority, registration, or license after
the title insurance company, title insurance agent, or
independent escrowee's certificate of authority,
registration, or license was inoperative.

(b) In every case where a registration or certificate is
suspended or revoked, or an application for a registration or
certificate or renewal thereof is refused, the Secretary shall
serve notice of his action, by mail or to the title insurance
company's email address of record, including a statement of the
reasons for his action, as provided by this Act. When a notice
of suspension or revocation of a certificate of authority is
given to a title insurance company, the Secretary shall also
notify all the registered agents of that title insurance
company of the Secretary's action. Service by mail is completed
if the notice is deposited in the U.S. Mail. Service by email
is completed when sent.

(c) In the case of a refusal to issue or renew a
certificate or accept a registration, the applicant or
registrant may request in writing, within 30 days after the
date of service, a hearing. In the case of a refusal to renew,
the expiring registration or certificate shall be deemed to
continue in force until 30 days after the service of the notice
of refusal to renew, or if a hearing is requested during that
period, until a final order is entered pursuant to such
hearing.

(d) The suspension or revocation of a registration or
The holder of any such suspended registration or certificate may request in writing, within 30 days of such service, a hearing.

(e) In cases of suspension or revocation of registration pursuant to subsection (a), the Secretary may, in the public interest, issue an order of suspension or revocation which shall take effect upon service of notification thereof. Such order shall become final 60 days from the date of service unless the registrant requests in writing, within such 60 days, a formal hearing thereon. In the event a hearing is requested, the order shall remain temporary until a final order is entered pursuant to such hearing.

(f) Hearing shall be held at such time and place as may be designated by the Secretary either in the City of Springfield, the City of Chicago, or in the county in which the principal business office of the affected registrant or certificate holder is located.

(g) The suspension or revocation of a registration or certificate or the refusal to issue or renew a registration or certificate shall not in any way limit or terminate the responsibilities of any registrant or certificate holder arising under any policy or contract of title insurance to which it is a party. No new contract or policy of title insurance may be issued, nor may any existing policy or contract to title insurance be renewed by any registrant or
certificate holder during any period of suspension or revocation of a registration or certificate.

(h) The Secretary may issue a cease and desist order to a title insurance company, agent, or other entity doing business without the required license or registration, when in the opinion of the Secretary, the company, agent, or other entity is violating or is about to violate any provision of this Act or any law or of any rule or condition imposed in writing by the Department.

The Secretary may issue the cease and desist order without notice and before a hearing.

The Secretary shall have the authority to prescribe rules for the administration of this Section.

If it is determined that the Secretary had the authority to issue the cease and desist order, he may issue such orders as may be reasonably necessary to correct, eliminate or remedy such conduct.

Any person or company subject to an order pursuant to this Section is entitled to judicial review of the order in accordance with the provisions of the Administrative Review Law.

The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law, and nothing in this Section shall be construed as requiring that the Secretary shall employ the powers conferred in this Section instead of or as a condition
precedent to the exercise of any other power or remedy vested in the Secretary.
(Source: P.A. 98-398, eff. 1-1-14.)

(215 ILCS 155/21.1)
Sec. 21.1. Receiver and involuntary liquidation.
(a) The Secretary's proceedings under this Section shall be the exclusive remedy and the only proceedings commenced in any court for the dissolution of, the winding up of the affairs of, or the appointment of a receiver for a title insurance company.
(b) If the Secretary, with respect to a title insurance company, finds that (i) its capital is impaired or it is otherwise in an unsound condition, (ii) its business is being conducted in an unlawful, fraudulent, or unsafe manner, (iii) it is unable to continue operations, or (iv) its examination has been obstructed or impeded, the Secretary may give notice to the board of directors of the title insurance company of his or her finding by mail or to the title insurance company's email address of record or findings. If the Secretary's findings are not corrected to his or her satisfaction within 60 days after the company receives the notice, the Secretary shall take possession and control of the title insurance company, its assets, and assets held by it for any person for the purpose of examination, reorganization, or liquidation through receivership.
If, in addition to making a finding as provided in this
subsection (b), the Secretary is of the opinion and finds that an emergency that may result in serious losses to any person exists, the Secretary may, in his or her discretion, without having given the notice provided for in this subsection, and whether or not proceedings under subsection (a) of this Section have been instituted or are then pending, take possession and control of the title insurance company and its assets for the purpose of examination, reorganization, or liquidation through receivership.

(c) The Secretary may take possession and control of a title insurance company, its assets, and assets held by it for any person by posting upon the premises of each office located in the State of Illinois at which it transacts its business as a title insurance company a notice reciting that the Secretary is assuming possession pursuant to this Act and the time when the possession shall be deemed to commence.

(d) Promptly after taking possession and control of a title insurance company the Secretary, represented by the Attorney General, shall file a copy of the notice posted upon the premises in the Circuit Court of either Cook County or Sangamon County, which cause shall be entered as a court action upon the dockets of the court under the name and style of "In the matter of the possession and control by the Secretary of the Department of Financial and Professional Regulation of (insert the name of the title insurance company)". If the Secretary determines (which determination may be made at the time of, or
at any time subsequent to, taking possession and control of a
title insurance company) that no practical possibility exists
to reorganize the title insurance company after reasonable
efforts have been made, the Secretary, represented by the
Attorney General, shall also file a complaint, if it has not
already been done, for the appointment of a receiver or other
proceeding as is appropriate under the circumstances. The court
where the cause is docketed shall be vested with the exclusive
jurisdiction to hear and determine all issues and matters
pertaining to or connected with the Secretary's possession and
control of the title insurance company as provided in this Act,
and any further issues and matters pertaining to or connected
with the Secretary's possession and control as may be submitted
to the court for its adjudication.

The Secretary, upon taking possession and control of a
title insurance company, may, and if not previously done shall,
immediately upon filing a complaint for dissolution make an
examination of the affairs of the title insurance company or
appoint a suitable person to make the examination as the
Secretary's agent. The examination shall be conducted in
accordance with and pursuant to the authority granted under
Section 12 of this Act. The person conducting the examination
shall have and may exercise on behalf of the Secretary all of
the powers and authority granted to the Secretary under Section
12. A copy of the report shall be filed in any dissolution
proceeding filed by the Secretary. The reasonable fees and
necessary expenses of the examining person, as approved by the Secretary or as recommended by the Secretary and approved by the court if a dissolution proceeding has been filed, shall be borne by the subject title insurance company and shall have the same priority for payment as the reasonable and necessary expenses of the Secretary in conducting an examination. The person appointed to make the examination shall make a proper accounting, in the manner and scope as determined by the Secretary to be practical and advisable under the circumstances, on behalf of the title insurance company and no guardian ad litem need be appointed to review the accounting.

(e) The Secretary, upon taking possession and control of a title insurance company and its assets, shall be vested with the full powers of management and control including, but not limited to, the following:

(1) the power to continue or to discontinue the business;

(2) the power to stop or to limit the payment of its obligations;

(3) the power to collect and to use its assets and to give valid receipts and acquittances therefor;

(4) the power to transfer title and liquidate any bond or deposit made under Section 4 of this Act;

(5) the power to employ and to pay any necessary assistants;

(6) the power to execute any instrument in the name of
the title insurance company;

(7) the power to commence, defend, and conduct in the title insurance company's name any action or proceeding in which it may be a party;

(8) the power, upon the order of the court, to sell and convey the title insurance company's assets, in whole or in part, and to sell or compound bad or doubtful debts upon such terms and conditions as may be fixed in that order;

(9) the power, upon the order of the court, to make and to carry out agreements with other title insurance companies, financial institutions, or with the United States or any agency of the United States for the payment or assumption of the title insurance company's liabilities, in whole or in part, and to transfer assets and to make guaranties, in whole or in part, in connection therewith;

(10) the power, upon the order of the court, to borrow money in the name of the title insurance company and to pledge its assets as security for the loan;

(11) the power to terminate his or her possession and control by restoring the title insurance company to its board of directors;

(12) the power to appoint a receiver which may be the Secretary of the Department of Financial and Professional Regulation, another title insurance company, or another suitable person and to order liquidation of the title
insurance company as provided in this Act; and

(13) the power, upon the order of the court and without
the appointment of a receiver, to determine that the title
insurance company has been closed for the purpose of
liquidation without adequate provision being made for
payment of its obligations, and thereupon the title
insurance company shall be deemed to have been closed on
account of inability to meet its obligations to its
insureds or escrow depositors.

(f) Upon taking possession, the Secretary shall make an
examination of the condition of the title insurance company, an
inventory of the assets and, unless the time shall be extended
by order of the court or unless the Secretary shall have
otherwise settled the affairs of the title insurance company
pursuant to the provisions of this Act, within 90 days after
the time of taking possession and control of the title
insurance company, the Secretary shall either terminate his or
her possession and control by restoring the title insurance
company to its board of directors or appoint a receiver, which
may be the Secretary of the Department of Financial and
Professional Regulation, another title insurance company, or
another suitable person and order the liquidation of the title
insurance company as provided in this Act. All necessary and
reasonable expenses of the Secretary's possession and control
shall be a priority claim and shall be borne by the title
insurance company and may be paid by the Secretary from the
title insurance company's own assets as distinguished from assets held for any other person.

(g) If the Secretary takes possession and control of a title insurance company and its assets, any period of limitation fixed by a statute or agreement that would otherwise expire on a claim or right of action of the title insurance company, on its own behalf or on behalf of its insureds or escrow depositors, or upon which an appeal must be taken or a pleading or other document filed by the title insurance company in any pending action or proceeding, shall be tolled until 6 months after the commencement of the possession, and no judgment, lien, levy, attachment, or other similar legal process may be enforced upon or satisfied, in whole or in part, from any asset of the title insurance company or from any asset of an insured or escrow depositor while it is in the possession of the Secretary.

(h) If the Secretary appoints a receiver to take possession and control of the assets of insureds or escrow depositors for the purpose of holding those assets as fiduciary for the benefit of the insureds or escrow depositors pending the winding up of the affairs of the title insurance company being liquidated and the appointment of a successor escrowee for those assets, any period of limitation fixed by statute, rule of court, or agreement that would otherwise expire on a claim or right of action in favor of or against the insureds or escrow depositors of those assets or upon which an appeal must
be taken or a pleading or other document filed by a title
insurance company on behalf of an insured or escrow depositor
in any pending action or proceeding shall be tolled for a
period of 6 months after the appointment of a receiver, and no
judgment, lien, levy, attachment, or other similar legal
process shall be enforced upon or satisfied, in whole or in
part, from any asset of the insured or escrow depositor while
it is in the possession of the receiver.

(i) If the Secretary determines at any time that no
reasonable possibility exists for the title insurance company
to be operated by its board of directors in accordance with the
provisions of this Act after reasonable efforts have been made
and that it should be liquidated through receivership, he or
she shall appoint a receiver. The Secretary may require of the
receiver such bond and security as the Secretary deems proper.
The Secretary, represented by the Attorney General, shall file
a complaint for the dissolution or winding up of the affairs of
the title insurance company in a court of the county in which
the principal office of the title insurance company is located
and shall cause notice to be given in a newspaper of general
circulation once each week for 4 consecutive weeks so that
persons who may have claims against the title insurance company
may present them to the receiver and make legal proof thereof
and notifying those persons and all to whom it may concern of
the filing of a complaint for the dissolution or winding up of
the affairs of the title insurance company and stating the name
and location of the court. All persons who may have claims
against the assets of the title insurance company, as
distinguished from the assets of insureds and escrow depositors
held by the title insurance company, and the receiver to whom
those persons have presented their claims may present the
claims to the clerk of the court, and the allowance or
disallowance of the claims by the court in connection with the
proceedings shall be deemed an adjudication in a court of
competent jurisdiction. Within a reasonable time after
completion of publication, the receiver shall file with the
court a correct list of all creditors of the title insurance
company as shown by its books, who have not presented their
claims and the amount of their respective claims after allowing
adjusted credit, deductions, and set-offs as shown by the books
of the title insurance company. The claims so filed shall be
deemed proven unless objections are filed thereto by a party or
parties interested therein within the time fixed by the court.

(j) The receiver for a title insurance company has the
power and authority and is charged with the duties and
responsibilities as follows:

(1) To take possession of and, for the purpose of the
receivership, title to the books, records, and assets of
every description of the title insurance company.

(2) To proceed to collect all debts, dues, and claims
belonging to the title insurance company.

(3) To sell and compound all bad and doubtful debts on
such terms as the court shall direct.

(4) To sell the real and personal property of the title insurance company, as distinguished from the real and personal property of the insureds or escrow depositors, on such terms as the court shall direct.

(5) To file with the Secretary a copy of each report that he or she makes to the court, together with such other reports and records as the Secretary may require.

(6) To sue and defend in his or her own name and with respect to the affairs, assets, claims, debts, and choses in action of the title insurance company.

(7) To surrender to the insureds and escrow depositors of the title insurance company, when requested in writing directed to the receiver by them, the escrowed funds (on a pro rata basis), and escrowed documents in the receiver's possession upon satisfactory proof of ownership and determination by the receiver of available escrow funds.

(8) To redeem or take down collateral hypothecated by the title insurance company to secure its notes and other evidence of indebtedness whenever the court deems it to be in the best interest of the creditors of the title insurance company and directs the receiver so to do.

(k) Whenever the receiver finds it necessary in his or her opinion to use and employ money of the title insurance company in order to protect fully and benefit the title insurance company by the purchase or redemption of property, real or
personal, in which the title insurance company may have any
equity.
dissolution proceeding and thereupon turn over to the Secretary a certified copy of the judgment.

The receiver may cause all assets of the insureds and escrow depositors of the title insurance company to be registered in the name of the receiver or in the name of the receiver's nominee.

For its services in administering the escrows held by the title insurance company during the period of winding up the affairs of the title insurance company, the receiver is entitled to be reimbursed for all costs and expenses incurred by the receiver and shall also be entitled to receive out of the assets of the individual escrows being administered by the receiver during the period of winding up the affairs of the title insurance company and prior to the appointment of a successor escrowee the usual and customary fees charged by an escrowee for escrows or reasonable fees approved by the court.

The receiver, during its administration of the escrows of the title insurance company during the winding up of the affairs of the title insurance company, shall have all of the powers that are vested in trustees under the terms and provisions of the Trusts and Trustees Act.

Upon the appointment of a successor escrowee, the receiver shall deliver to the successor escrowee all of the assets belonging to each individual escrow to which the successor escrowee succeeds, and the receiver shall thereupon be relieved of any further duties or obligations with respect thereto.
(1) The receiver shall, upon approval by the court, pay all claims against the assets of the title insurance company allowed by the court pursuant to subsection (i) of this Section, as well as claims against the assets of insureds and escrow depositors of the title insurance company in accordance with the following priority:

(1) All necessary and reasonable expenses of the Secretary's possession and control and of its receivership shall be paid from the assets of the title insurance company.

(2) All usual and customary fees charged for services in administering escrows shall be paid from the assets of the individual escrows being administered. If the assets of the individual escrows being administered are insufficient, the fees shall be paid from the assets of the title insurance company.

(3) Secured claims, including claims for taxes and debts due the federal or any state or local government, that are secured by liens perfected prior to the date of filing of the complaint for dissolution, shall be paid from the assets of the title insurance company.

(4) Claims by policyholders, beneficiaries, insureds, and escrow depositors of the title insurance company shall be paid from the assets of the insureds and escrow depositors. If there are insufficient assets of the insureds and escrow depositors, claims shall be paid from
the assets of the title insurance company.

(5) Any other claims due the federal government shall be paid from the assets of the title insurance company.

(6) Claims for wages or salaries, excluding vacation, severance, and sick leave pay earned by employees for services rendered within 90 days prior to the date of filing of the complaint for dissolution, shall be paid from the assets of the title insurance company.

(7) All other claims of general creditors not falling within any priority under this subsection (1) including claims for taxes and debts due any state or local government which are not secured claims and claims for attorney's fees incurred by the title insurance company in contesting the dissolution shall be paid from the assets of the title insurance company.

(8) Proprietary claims asserted by an owner, member, or stockholder of the title insurance company in receivership shall be paid from the assets of the title insurance company.

The receiver shall pay all claims of equal priority according to the schedule set out in this subsection, and shall not pay claims of lower priority until all higher priority claims are satisfied. If insufficient assets are available to meet all claims of equal priority, those assets shall be distributed pro rata among those claims. All unclaimed assets of the title insurance company shall be deposited with the
receiver to be paid out by him or her when such claims are
submitted and allowed by the court.

(m) At the termination of the receiver's administration,
the receiver shall petition the court for the entry of a
judgment of dissolution. After a hearing upon the notice as the
court may prescribe, the court may enter a judgment of
dissolution whereupon the title insurance company's corporate
existence shall be terminated and the receivership concluded.

(n) The receiver shall serve at the pleasure of the
Secretary and upon the death, inability to act, resignation, or
removal by the Secretary of a receiver, the Secretary may
appoint a successor, and upon the appointment, all rights and
duties of the predecessor shall at once devolve upon the
appointee.

(o) Whenever the Secretary shall have taken possession and
control of a title insurance company or a title insurance agent
and its assets for the purpose of examination, reorganization
or liquidation through receivership, or whenever the Secretary
shall have appointed a receiver for a title insurance company
or title insurance agent and filed a complaint for the
dissolution or winding up of its affairs, and the title
insurance company or title insurance agent denies the grounds
for such actions, it may at any time within 10 days apply to
the Circuit Court of Cook or Sangamon County to enjoin further
proceedings in the premises; and the Court shall cite the
Secretary to show cause why further proceedings should not be
enjoined, and if the Court shall find that grounds do not
exist, the Court shall make an order enjoining the Secretary or
any receiver acting under his direction from all further
proceedings on account of the alleged grounds.
(Source: P.A. 94-893, eff. 6-20-06.)

(215 ILCS 155/21.2)
Sec. 21.2. Notice.
(a) Notice of any action by the Secretary under this Act or
regulations or orders promulgated under it shall be made either
personally, or by registered or certified mail, to the
licensee's email address of record, or return receipt
requested, and by sending a copy of the notice by telephone
facsimile or electronic mail, if known and operating, and if
unknown or not operating, then by regular mail. Service by mail
shall be deemed completed if the notice is deposited as
registered or certified mail in the post office, postage paid,
adressed to the last known address specified in the
application for the certificate of authority to do business or
certificate of registration of the holder or registrant.
Service by mail is completed if the notice is deposited in the
U.S. Mail. Service by email is completed when sent.
(b) The Secretary shall notify all registered agents of a
title insurance company when that title insurance company's
certificate of authority is suspended or revoked.
(Source: P.A. 94-893, eff. 6-20-06.)
Section 40. The Debt Settlement Consumer Protection Act is amended by changing Sections 10, 20, 30, 50, and 95 as follows:

(225 ILCS 429/10)
Section 10. Definitions. As used in this Act:
"Consumer" means any person who purchases or contracts for the purchase of debt settlement services.
"Consumer settlement account" means any account or other means or device in which payments, deposits, or other transfers from a consumer are arranged, held, or transferred by or to a debt settlement provider for the accumulation of the consumer's funds in anticipation of proffering an adjustment or settlement of a debt or obligation of the consumer to a creditor on behalf of the consumer.
"Debt settlement provider" means any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement service in exchange for any fee or compensation, or any person who solicits for or acts on behalf of any person or entity engaging in, or holding itself out as engaging in, the business of providing debt settlement service in exchange for any fee or compensation. "Debt settlement provider" does not include:
(1) attorneys licensed, or otherwise authorized, to practice in Illinois who are engaged in the practice of law;
(2) escrow agents, accountants, broker dealers in securities, or investment advisors in securities, when acting in the ordinary practice of their professions and through the entity used in the ordinary practice of their profession;

(3) any bank, agent of a bank, operating subsidiary of a bank, affiliate of a bank, trust company, savings and loan association, savings bank, credit union, crop credit association, development credit corporation, industrial development corporation, title insurance company, title insurance agent, independent escrowee or insurance company operating or organized under the laws of a state or the United States, or any other person authorized to make loans under State law while acting in the ordinary practice of that business;

(4) any person who performs credit services for his or her employer while receiving a regular salary or wage when the employer is not engaged in the business of offering or providing debt settlement service;

(5) a collection agency licensed pursuant to the Collection Agency Act that is collecting a debt on its own behalf or on behalf of a third party;

(6) an organization that is described in Section 501(c)(3) and subject to Section 501(q) of Title 26 of the United States Code and exempt from tax under Section 501(a) of Title 26 of the United States Code and governed by the
Debt Management Service Act;

(7) public officers while acting in their official capacities and persons acting under court order;

(8) any person while performing services incidental to the dissolution, winding up, or liquidating of a partnership, corporation, or other business enterprise; or

(9) persons licensed under the Real Estate License Act of 2000 when acting in the ordinary practice of their profession and not holding themselves out as debt settlement providers.

"Debt settlement service" means:

(1) offering to provide advice or service, or acting as an intermediary between or on behalf of a consumer and one or more of a consumer's creditors, where the primary purpose of the advice, service, or action is to obtain a settlement, adjustment, or satisfaction of the consumer's unsecured debt to a creditor in an amount less than the full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt; or

(2) offering to provide services related to or providing services advising, encouraging, assisting, or counseling a consumer to accumulate funds for the primary purpose of proposing or obtaining or seeking to obtain a settlement, adjustment, or satisfaction of the consumer's unsecured debt to a creditor in an amount less than the
full amount of the principal amount of the debt or in an amount less than the current outstanding balance of the debt.

"Debt settlement service" does not include (A) the services of attorneys licensed, or otherwise authorized, to practice in Illinois who are engaged in the practice of law or (B) debt management service as defined in the Debt Management Service Act.

"Email address of record" means the designated email address recorded by the Division in the applicant's applicant file or the licensee's license file maintained by the Division's licensure unit.

"Enrollment or set up fee" means any fee, obligation, or compensation paid or to be paid by the consumer to a debt settlement provider in consideration of or in connection with establishing a contract or other agreement with a consumer related to the provision of debt settlement service.

"Maintenance fee" means any fee, obligation, or compensation paid or to be paid by the consumer on a periodic basis to a debt settlement provider in consideration of maintaining the relationship and services to be provided by a debt settlement provider in accordance with a contract with a consumer related to the provision of debt settlement service.

"Principal amount of the debt" means the total amount or outstanding balance owed by a consumer to one or more creditors for a debt that is included in a contract for debt settlement.
service at the time when the consumer enters into a contract for debt settlement service.

"Savings" means the difference between the principal amount of the debt and the amount paid by the debt settlement provider to the creditor or negotiated by the debt settlement provider and paid by the consumer to the creditor pursuant to a settlement negotiated by the debt settlement provider on behalf of the consumer as full and complete satisfaction of the creditor's claim with regard to that debt.

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

"Settlement fee" means any fee, obligation, or compensation paid or to be paid by the consumer to a debt settlement provider in consideration of or in connection with a completed agreement or other arrangement on the part of a creditor to accept less than the principal amount of the debt as satisfaction of the creditor's claim against the consumer.

(Source: P.A. 96-1420, eff. 8-3-10.)

(225 ILCS 429/20)

Sec. 20. Application for license. An application for a license to operate as a debt settlement provider in this State shall be made to the Secretary and shall be in writing, under oath, and in the form prescribed by the Secretary.

Each applicant, at the time of making such application, shall pay to the Secretary the required fee as set by rule. At
the time of application, an applicant shall provide the Department with an accurate and up-to-date email address.

Every applicant shall submit to the Secretary, at the time of the application for a license, a bond to be approved by the Secretary in which the applicant shall be the obligor, in the sum of $100,000 or an additional amount as required by the Secretary, and in which an insurance company, which is duly authorized by the State of Illinois to transact the business of fidelity and surety insurance, shall be a surety.

The bond shall run to the Secretary for the use of the Department or of any person or persons who may have a cause of action against the obligor in said bond arising out of any violation of this Act or rules by a debt settlement provider. Such bond shall be conditioned that the obligor must faithfully conform to and abide by the provisions of this Act and of all rules, regulations, and directions lawfully made by the Secretary and pay to the Secretary or to any person or persons any and all money that may become due or owing to the State or to such person or persons, from the obligor under and by virtue of the provisions of this Act.

(Source: P.A. 96-1420, eff. 8-3-10.)

(225 ILCS 429/30)

Sec. 30. Renewal of license. Each debt settlement provider under the provisions of this Act may make application to the Secretary for renewal of its license, which application for
renewal shall be on the form prescribed by the Secretary and shall be accompanied by a fee of $1,000 together with a bond or other surety as required, in a minimum amount of $100,000 or an amount as required by the Secretary based on the amount of disbursements made by the licensee in the previous year. **At the time of renewal, a licensee shall provide the Department with an accurate and up-to-date email address.** The application must be received by the Department no later than December 1 of the year preceding the year for which the application applies.

(Source: P.A. 96-1420, eff. 8-3-10; 97-333, eff. 8-12-11.)

(225 ILCS 429/50)

Sec. 50. Revocation or suspension of license.

(a) The Secretary may revoke or suspend any license if he or she finds that:

(1) any debt settlement provider has failed to pay the annual license fee or to maintain in effect the bond required under the provisions of this Act;

(2) the debt settlement provider has violated any provisions of this Act or any rule lawfully made by the Secretary under the authority of this Act;

(3) any fact or condition exists that, if it had existed at the time of the original application for a license, would have warranted the Secretary in refusing its issuance; or

(4) any applicant has made any false statement or
representation to the Secretary in applying for a license under this Act.

(b) In every case in which a license is suspended or revoked or an application for a license or renewal of a license is denied, the Secretary shall serve notice of his or her action, including a statement of the reasons for his or her actions, either personally, by mail, or to the licensee's email address of record or by certified mail, return receipt requested. Service by mail is deemed completed if the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent.

(c) In the case of a denial of an application or renewal of a license, the applicant or debt settlement provider may request, in writing, a hearing within 30 days after the date of service. In the case of a denial of a renewal of a license, the license shall be deemed to continue in force until 30 days after the service of the notice of denial, or if a hearing is requested during that period, until a final administrative order is entered.

(d) An order of revocation or suspension of a license shall take effect upon service of the order unless the debt settlement provider requests, in writing, a hearing within 10 days after the date of service. In the event a hearing is requested, the order shall be stayed until a final administrative order is entered.

(e) If the debt settlement provider requests a hearing,
then the Secretary shall schedule the hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) The hearing shall be held at the time and place designated by the Secretary. The Secretary and any administrative law judge designated by the Secretary have the power to administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that the Secretary considers relevant or material to the injury.

(g) The costs for the administrative hearing shall be set by rule.

(Source: P.A. 96-1420, eff. 8-3-10.)

(225 ILCS 429/95)

Sec. 95. Cease and desist orders.

(a) The Secretary may issue a cease and desist order to any debt settlement provider or other person doing business without the required license when, in the opinion of the Secretary, the debt settlement provider or other person is violating or is about to violate any provision of the Act or any rule or condition imposed in writing by the Department.

(b) The Secretary may issue a cease and desist order prior to a hearing.

(c) The Secretary shall serve notice of his or her action,
including a statement of the reasons for his or her action either personally, by mail, or to the licensee's email address of record or by certified mail, return receipt requested. Service by mail is deemed completed if the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent.

(d) Within 10 days after service of the cease and desist order, the licensee or other person may request, in writing, a hearing.

(e) The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) If it is determined that the Secretary had the authority to issue the cease and desist order, then he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy that conduct.

(g) The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law, and nothing in this Section shall be construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

(h) The cost for the administrative hearing shall be set by rule.

(Source: P.A. 96-1420, eff. 8-3-10.)
Section 45. The Payday Loan Reform Act is amended by changing Sections 1-10, 3-5, and 4-10 as follows:

(815 ILCS 122/1-10)

Sec. 1-10. Definitions. As used in this Act:

"Check" means a "negotiable instrument", as defined in Article 3 of the Uniform Commercial Code, that is drawn on a financial institution.

"Commercially reasonable method of verification" or "certified database" means a consumer reporting service database certified by the Department as effective in verifying that a proposed loan agreement is permissible under this Act, or, in the absence of the Department's certification, any reasonably reliable written verification by the consumer concerning (i) whether the consumer has any outstanding payday loans, (ii) the principal amount of those outstanding payday loans, and (iii) whether any payday loans have been paid in full by the consumer in the preceding 7 days.

"Consumer" means any natural person who, singly or jointly with another consumer, enters into a loan.

"Consumer reporting service" means an entity that provides a database certified by the Department.

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

"Email address of record" means the designated email
address recorded by the Division in the credit union's file
maintained by the Division's licensure unit.

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

"Gross monthly income" means monthly income as
demonstrated by official documentation of the income,
including, but not limited to, a pay stub or a receipt
reflecting payment of government benefits, for the period 30
days prior to the date on which the loan is made.

"Lender" and "licensee" mean any person or entity,
including any affiliate or subsidiary of a lender or licensee,
that offers or makes a payday loan, buys a whole or partial
interest in a payday loan, arranges a payday loan for a third
party, or acts as an agent for a third party in making a payday
loan, regardless of whether approval, acceptance, or
ratification by the third party is necessary to create a legal
obligation for the third party, and includes any other person
or entity if the Department determines that the person or
entity is engaged in a transaction that is in substance a
disguised payday loan or a subterfuge for the purpose of
avoiding this Act.

"Loan agreement" means a written agreement between a lender
and consumer to make a loan to the consumer, regardless of
whether any loan proceeds are actually paid to the consumer on
the date on which the loan agreement is made.

"Member of the military" means a person serving in the
armed forces of the United States, the Illinois National Guard, or any reserve component of the armed forces of the United States. "Member of the military" includes those persons engaged in (i) active duty, (ii) training or education under the supervision of the United States preliminary to induction into military service, or (iii) a period of active duty with the State of Illinois under Title 10 or Title 32 of the United States Code pursuant to order of the President or the Governor of the State of Illinois.

"Outstanding balance" means the total amount owed by the consumer on a loan to a lender, including all principal, finance charges, fees, and charges of every kind.

"Payday loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

1. A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

2. A lender accepts one or more authorizations to debit a consumer's bank account; or

3. A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.
The term "payday loan" includes "installment payday loan", unless otherwise specified in this Act.

"Principal amount" means the amount received by the consumer from the lender due and owing on a loan, excluding any finance charges, interest, fees, or other loan-related charges.

"Rollover" means to refinance, renew, amend, or extend a loan beyond its original term.

(Source: P.A. 96-936, eff. 3-21-11.)

(815 ILCS 122/3-5)

Sec. 3-5. Licensure.

(a) A license to make a payday loan shall state the address, including city and state, at which the business is to be conducted and shall state fully the name of the licensee. At the time of application and renewal, an applicant shall provide the Department with an accurate and up-to-date email address. The license shall be conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

(b) An application for a license shall be in writing and in a form prescribed by the Secretary. The Secretary may not issue a payday loan license unless and until the following findings are made:

(1) that the financial responsibility, experience, character, and general fitness of the applicant are such as
to command the confidence of the public and to warrant the belief that the business will be operated lawfully and fairly and within the provisions and purposes of this Act; and

(2) that the applicant has submitted such other information as the Secretary may deem necessary.

(c) A license shall be issued for no longer than one year, and no renewal of a license may be provided if a licensee has substantially violated this Act and has not cured the violation to the satisfaction of the Department.

(d) A licensee shall appoint, in writing, the Secretary as attorney-in-fact upon whom all lawful process against the licensee may be served with the same legal force and validity as if served on the licensee. A copy of the written appointment, duly certified, shall be filed in the office of the Secretary, and a copy thereof certified by the Secretary shall be sufficient evidence to subject a licensee to jurisdiction in a court of law. This appointment shall remain in effect while any liability remains outstanding in this State against the licensee. When summons is served upon the Secretary as attorney-in-fact for a licensee, the Secretary shall immediately notify the licensee by registered mail, enclosing the summons and specifying the hour and day of service.

(e) A licensee must pay an annual fee of $1,000. In addition to the license fee, the reasonable expense of any examination or hearing by the Secretary under any provisions of
this Act shall be borne by the licensee. If a licensee fails to renew its license by December 31, its license shall automatically expire; however, the Secretary, in his or her discretion, may reinstate an expired license upon:

(1) payment of the annual fee within 30 days of the date of expiration; and

(2) proof of good cause for failure to renew.

(f) Not more than one place of business shall be maintained under the same license, but the Secretary may issue more than one license to the same licensee upon compliance with all the provisions of this Act governing issuance of a single license. The location, except those locations already in existence as of June 1, 2005, may not be within one mile of a horse race track subject to the Illinois Horse Racing Act of 1975, within one mile of a facility at which gambling is conducted under the Riverboat Gambling Act, within one mile of the location at which a riverboat subject to the Riverboat Gambling Act docks, or within one mile of any State of Illinois or United States military base or naval installation.

(g) No licensee shall conduct the business of making loans under this Act within any office, suite, room, or place of business in which (1) any loans are offered or made under the Consumer Installment Loan Act other than title secured loans as defined in subsection (a) of Section 15 of the Consumer Installment Loan Act and governed by Title 38, Section 110.330 of the Illinois Administrative Code or (2) any other business
is solicited or engaged in unless the other business is licensed by the Department or, in the opinion of the Secretary, the other business would not be contrary to the best interests of consumers and is authorized by the Secretary in writing.

(g-5) Notwithstanding subsection (g) of this Section, a licensee may obtain a license under the Consumer Installment Loan Act (CILA) for the exclusive purpose and use of making title secured loans, as defined in subsection (a) of Section 15 of CILA and governed by Title 38, Section 110.300 of the Illinois Administrative Code. A licensee may continue to service Consumer Installment Loan Act loans that were outstanding as of the effective date of this amendatory Act of the 96th General Assembly.

(h) The Secretary shall maintain a list of licensees that shall be available to interested consumers and lenders and the public. The Secretary shall maintain a toll-free number whereby consumers may obtain information about licensees. The Secretary shall also establish a complaint process under which an aggrieved consumer may file a complaint against a licensee or non-licensee who violates any provision of this Act.

(Source: P.A. 96-936, eff. 3-21-11.)

(815 ILCS 122/4-10)

Sec. 4-10. Enforcement and remedies.

(a) The remedies provided in this Act are cumulative and apply to persons or entities subject to this Act.
(b) Any material violation of this Act, including the commission of an act prohibited under Section 4-5, constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act.

(c) If any provision of the written agreement described in subsection (b) of Section 2-20 violates this Act, then that provision is unenforceable against the consumer.

(d) Subject to the Illinois Administrative Procedure Act, the Secretary may hold hearings, make findings of fact, conclusions of law, issue cease and desist orders, have the power to issue fines of up to $10,000 per violation, refer the matter to the appropriate law enforcement agency for prosecution under this Act, and suspend or revoke a license granted under this Act. All proceedings shall be open to the public.

(e) The Secretary may issue a cease and desist order to any licensee or other person doing business without the required license, when in the opinion of the Secretary the licensee or other person is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department as a condition of granting any authorization permitted by this Act. The cease and desist order permitted by this subsection (e) may be issued prior to a hearing.

The Secretary shall serve notice of his or her action, including, but not limited to, a statement of the reasons for the action, either personally, by mail, or to the licensee's
email address of record or by certified mail, return receipt requested. Service by certified mail is shall be deemed completed when the notice is deposited in the U.S. Mail. Service to the email address of record is completed when sent.

Within 10 days of service of the cease and desist order, the licensee or other person may request a hearing in writing. The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

If it is determined that the Secretary had the authority to issue the cease and desist order, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy the conduct.

The powers vested in the Secretary by this subsection (e) are additional to any and all other powers and remedies vested in the Secretary by law, and nothing in this subsection (e) shall be construed as requiring that the Secretary shall employ the power conferred in this subsection instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

(f) The Secretary may, after 10 days notice by registered mail to the licensee at the address set forth in the license stating the contemplated action and in general the grounds therefore, fine the licensee an amount not exceeding $10,000 per violation, or revoke or suspend any license issued hereunder if he or she finds that:
(1) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or

(2) any fact or condition exists which, 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.

The Secretary may fine, suspend, or revoke only the particular license with respect to which grounds for the fine, revocation, or suspension occur or exist, but if the Secretary finds that grounds for revocation are of general application to all offices or to more than one office of the licensee, the Secretary shall fine, suspend, or revoke every license to which the grounds apply.

The Department shall establish by rule and publish a schedule of fines that are reasonably tailored to ensure compliance with the provisions of this Act and which include remedial measures intended to improve licensee compliance. Such rules shall set forth the standards and procedures to be used in imposing any such fines and remedies.

No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any obligor.

The Secretary may issue a new license to a licensee whose license has been revoked when facts or conditions which clearly
would have warranted the Secretary in refusing originally to
issue the license no longer exist.

In every case in which a license is suspended or revoked or
an application for a license or renewal of a license is denied,
the Secretary shall serve the licensee with notice of his or
her action, including a statement of the reasons for his or her
actions, either personally, by mail, or to the licensee's email
address of record, by certified mail, return receipt requested.
Service by certified mail is completed when the notice is deposited in the U.S. Mail. Service to the email
address of record is completed when sent.

An order assessing a fine, an order revoking or suspending
a license, or an order denying renewal of a license shall take
effect upon service of the order unless the licensee requests a
hearing, in writing, within 10 days after the date of service.
In the event a hearing is requested, the order shall be stayed
until a final administrative order is entered.

If the licensee requests a hearing, the Secretary shall
schedule a hearing within 30 days after the request for a
hearing unless otherwise agreed to by the parties.

The hearing shall be held at the time and place designated
by the Secretary. The Secretary and any administrative law
judge designated by him or her shall have the power to
administer oaths and affirmations, subpoena witnesses and
compel their attendance, take evidence, and require the
production of books, papers, correspondence, and other records
or information that he or she considers relevant or material to
the inquiry.

(g) The costs of administrative hearings conducted
pursuant to this Section shall be paid by the licensee.

(h) Notwithstanding any other provision of this Section, if
a lender who does not have a license issued under this Act
makes a loan pursuant to this Act to an Illinois consumer, then
the loan shall be null and void and the lender who made the
loan shall have no right to collect, receive, or retain any
principal, interest, or charges related to the loan.

(Source: P.A. 97-1039, eff. 1-1-13; 98-209, eff. 1-1-14.)

Section 99. Effective date. This Act takes effect upon
becoming law.
Statutes amended in order of appearance

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