101ST GENERAL ASSEMBLY
State of Illinois
2019 and 2020
SB3178


SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Credit Union Act, the Transmitters of Money Act, the Sales Finance Agency Act, the Debt Management Service Act, the Consumer Installment Loan Act, the Debt Settlement Consumer Protection Act, and the Payday Loan Reform Act. Requires applicants for a license or renewal of a license to operate a credit union, operate as a transmitter of money, engage in the business of a sales finance agency, engage in a debt management service, make consumer installment loans, operate as a debt settlement provider, or operate as a lender of payday loans to provide an email address of record to the Department of Financial and Professional Regulation. In provisions concerning service of certain notices and orders, allows service by email to the email address of record. Provides that service to an email address of record is deemed complete when sent. Provides that service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Defines the term "email address of record". Makes other changes.

LRB101 20574 BMS 70196 b
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, 8, 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.

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.

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 union.

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.
(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, the subscribers shall provide an email address of record.

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

(205 ILCS 305/8) (from Ch. 17, par. 4409)

Sec. 8. Secretary's powers and duties. Credit unions are regulated by the Department. The Secretary in executing the powers and discharging the duties vested by law in the Department has the following powers and duties:

(1) To exercise the rights, powers and duties set forth in this Act or any related Act. The Director shall oversee the functions of the Division and report to the Secretary, with respect to the Director's exercise of any of the rights, powers, and duties vested by law in the Secretary under this Act. 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 relating to the regulatory supervision of
credit unions under this Act.

(2) To prescribe rules and regulations for the
administration of this Act. The provisions of the Illinois
Administrative Procedure Act are hereby expressly adopted
and incorporated herein as though a part of this Act, and
shall apply to all administrative rules and procedures of
the Department under this Act.

(3) To direct and supervise all the administrative and
technical activities of the Department including the
employment of a Credit Union Supervisor who shall have
knowledge in the theory and practice of, or experience in,
the operations or supervision of financial institutions,
preferably credit unions, and such other persons as are
necessary to carry out his functions. The Secretary shall
ensure that all examiners appointed or assigned to examine
the affairs of State-chartered credit unions possess the
necessary training and continuing education to effectively
execute their jobs.

(4) To issue cease and desist orders when in the
opinion of the Secretary, a credit union is engaged or has
engaged, or the Secretary has reasonable cause to believe
the credit union is about to engage, in an unsafe or
unsound practice, or is violating or has violated or the
Secretary has reasonable cause to believe is about to
violate a law, rule or regulation or any condition imposed in writing by the Department.

(5) To suspend from office and to prohibit from further participation in any manner in the conduct of the affairs of his credit union any director, officer or committee member who has committed any violation of a law, rule, regulation or of a cease and desist order or who has engaged or participated in any unsafe or unsound practice in connection with the credit union or who has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer or committee member, when the Secretary has determined that such action or actions have resulted or will result in substantial financial loss or other damage that seriously prejudices the interests of the members.

(6) To assess a civil penalty against a credit union provided that:

(A) the Secretary reasonably determines, based on objective facts and an accurate assessment of applicable legal standards, that the credit union has:

(i) committed a violation of this Act, any rule adopted in accordance with this Act, or any order of the Secretary issued pursuant to his or her authority under this Act; or

(ii) engaged or participated in any unsafe or unsound practice;
(B) before a civil penalty is assessed under this item (6), the Secretary must make the further reasonable determination, based on objective facts and an accurate assessment of applicable legal standards, that the credit union's action constituting a violation under subparagraph (i) of paragraph (A) of item (6) or an unsafe and unsound practice under subparagraph (ii) of paragraph (A) of item (6):

(i) directly resulted in a substantial and material financial loss or created a reasonable probability that a substantial and material financial loss will directly result; or

(ii) constituted willful misconduct or a material breach of fiduciary duty of any director, officer, or committee member of the credit union;

Material financial loss, as referenced in this paragraph (B), shall be assessed in light of surrounding circumstances and the relative size and nature of the financial loss or probable financial loss. Certain benchmarks shall be used in determining whether financial loss is material, such as a percentage of total assets or total gross income for the immediately preceding 12-month period. Absent compelling and extraordinary circumstances, no civil penalty shall be assessed, unless the financial loss or probable financial loss is equal to or greater than
either 1% of the credit union's total assets for the
immediately preceding 12-month period, or 1% of the
credit union's total gross income for the immediately
preceding 12-month period, whichever is less;

(C) before a civil penalty is assessed under this
item (6), the credit union must be expressly advised in
writing of the:

   (i) specific violation that could subject it
to a penalty under this item (6); and

   (ii) specific remedial action to be taken
within a specific and reasonable time frame to
avoid imposition of the penalty;

(D) Civil penalties assessed under this item (6)
shall be remedial, not punitive, and reasonably
tailored to ensure future compliance by the credit
union with the provisions of this Act and any rules
adopted pursuant to this Act;

(E) a credit union's failure to take timely
remedial action with respect to the specific violation
may result in the issuance of an order assessing a
civil penalty up to the following maximum amount, based
upon the total assets of the credit union:

   (i) Credit unions with assets of less than $10
   million ........................................... $1,000

   (ii) Credit unions with assets of at least $10
   million and less than $50 million ............ $2,500
(iii) Credit unions with assets of at least $50 million and less than $100 million ........ $5,000
(iv) Credit unions with assets of at least $100 million and less than $500 million ...... $10,000
(v) Credit unions with assets of at least $500 million and less than $1 billion ........ $25,000
(vi) Credit unions with assets of $1 billion and greater................................. $50,000; and
(F) an order assessing a civil penalty under this item (6) shall be served by certified mail or email to the email address of record and take effect upon service of the order, unless the credit union makes a written request for a hearing under 38 IL. Adm. Code 190.20 of the Department's rules for credit unions within 90 days after issuance of the order; in that event, the order shall be stayed until a final administrative order is entered. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Service to the email address of record shall be deemed completed when sent.

This item (6) shall not apply to violations separately addressed in rules as authorized under item (7) of this Section.

(7) Except for the fees established in this Act, to prescribe, by rule and regulation, fees and penalties for
preparing, approving, and filing reports and other
documents; furnishing transcripts; holding hearings;
investigating applications for permission to organize,
merge, or convert; failure to maintain accurate books and
records to enable the Department to conduct an examination;
and taking supervisory actions.

(8) To destroy, in his discretion, any or all books and
records of any credit union in his possession or under his
control after the expiration of three years from the date
of cancellation of the charter of such credit unions.

(9) To make investigations and to conduct research and
studies and to publish some of the problems of persons in
obtaining credit at reasonable rates of interest and of the
methods and benefits of cooperative saving and lending for
such persons.

(10) To authorize, foster or establish experimental,
developmental, demonstration or pilot projects by public
or private organizations including credit unions which:

(a) promote more effective operation of credit
unions so as to provide members an opportunity to use
and control their own money to improve their economic
and social conditions; or

(b) are in the best interests of credit unions,
their members and the people of the State of Illinois.

(11) To cooperate in studies, training or other
administrative activities with, but not limited to, the
NCUA, other state credit union regulatory agencies and
industry trade associations in order to promote more
effective and efficient supervision of Illinois chartered
credit unions.

(12) Notwithstanding the provisions of this Section,
the Secretary shall not:

(1) issue an order against a credit union organized
under this Act for unsafe or unsound banking practices
solely because the entity provides or has provided
financial services to a cannabis-related legitimate
business;

(2) prohibit, penalize, or otherwise discourage a
credit union from providing financial services to a
cannabis-related legitimate business solely because
the entity provides or has provided financial services
to a cannabis-related legitimate business;

(3) recommend, incentivize, or encourage a credit
union not to offer financial services to an account
holder or to downgrade or cancel the financial services
offered to an account holder solely because:

(A) the account holder is a manufacturer or
producer, or is the owner, operator, or employee of
a cannabis-related legitimate business;

(B) the account holder later becomes an owner
or operator of a cannabis-related legitimate
business; or
(C) the credit union was not aware that the account holder is the owner or operator of a cannabis-related legitimate business; and

(4) take any adverse or corrective supervisory action on a loan made to an owner or operator of:

(A) a cannabis-related legitimate business solely because the owner or operator owns or operates a cannabis-related legitimate business;

or

(B) real estate or equipment that is leased to a cannabis-related legitimate business solely because the owner or operator of the real estate or equipment leased the equipment or real estate to a cannabis-related legitimate business.

(Source: P.A. 101-27, eff. 6-25-19.)

(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 by registered or certified mail, or by email to the email address of record, of such suspension, which notice shall include the reasons for such suspension and a list of specific violations of the Act. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Service to the email address of record shall be deemed 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 considers 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 Transmitters of Money Act is amended by changing Sections 5, 25, 40, 80, 90, and 100 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 and Professional Regulation Institutions.

"Director" means the Director of Financial Institutions.

"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 of Financial Institutions in the applicant's applicant file or the licensee's license file, as maintained by the Division of Financial Institutions.
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.)

(205 ILCS 657/25)

Sec. 25. Application for license.

(a) An application for a license must be in writing, under oath, and in the form the Director prescribes. At the time of application, each applicant shall provide an email address of record. 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 individual;

(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
(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) All additional information the Director considers necessary in order to determine whether or not to issue the applicant a license under this Act.

(a-5) The proprietor, partner, officer, director, and controlling person of the applicant shall submit their fingerprints to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information as prescribed by the Department of State Police. These fingerprints shall be retained and checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases now and hereafter filed, including latent fingerprint searches. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish records of Illinois convictions to the Department pursuant to positive identification and shall forward the
national criminal history record information to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or to a Department-designated or Department-approved vendor. The Department, in its discretion, may allow a proprietor, partner, officer, director, or controlling person of an applicant who does not have reasonable access to a designated vendor to provide his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted. The Department may adopt any rules necessary to implement this subsection.

(b) The Director may, for good cause shown, waive, in part, any of the requirements of this Section.
(Source: P.A. 100-979, eff. 8-19-18.)

(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. At the time of renewal, each licensee shall provide an email address of record. 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.
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,
examined, 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.

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

(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, to the email address of record, or by certified mail, return receipt requested. Service by certified mail shall be deemed completed if the notice is deposited in the United States mail post office, postage paid, addressed to the last known address specified in the application for a license. Service to the email address of record shall be deemed completed when sent.

(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, to the email address of record, or
by certified mail, return receipt requested. Service by
certified mail shall be deemed completed if the notice is
deposited in the United States mail post office, postage paid,
addressed to the last known address for a license. Service to
the email address of record shall be deemed completed when
sent.

(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
(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.)
Sec. 100. Consent to service of process.

(a) A licensee, before doing business in this State, shall appoint the Director its true and lawful attorney-in-fact upon whom all lawful process in any action or legal proceeding against it may be served and shall agree that any lawful process against it that may be served upon its attorney shall be of the same force and validity as if served on itself. The consent to the service of process shall be in the form prescribed by the Director, shall be irrevocable, and shall provide that actions or proceedings arising out of or founded upon the conduct of the licensee's business may be commenced against the licensee in any court of competent jurisdiction and proper venue within this State by the service of process or other notice of the institution of proceedings on the Director.

(b) Service of process or other notice, accompanied by the fee provided in Section 45, shall be by duplicate copies, one of which shall be filed with the Director and the other forwarded by the Director within 5 business days by certified mail with a return receipt to the licensee against whom the process or other notice is directed at its latest address on file with the Department or to the email address of record. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Service to the email address of record shall be deemed completed when sent.
(c) No judgment shall be entered against a licensee pursuant to service upon the Director until at least 30 days have elapsed after process or notice has been served on the Director.

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

Section 15. 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 and Professional Regulation Institutions.

"Director" means the Director of Financial Institutions.

"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 of Financial Institutions in the applicant’s applicant file or the licensee’s license file, as maintained by the Division of Financial Institutions’ 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, each applicant shall provide an email address of
record.

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, to the email address of record, or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States U.S. mail. Service to the email address of record shall be deemed 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, to the email address of record, or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States U.S. mail. Service to the email address of record shall be deemed 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.

(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 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 20. The Debt Management Service Act is amended by changing Sections 2, 4, 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.

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

"Director" means the Director of Financial Institutions.

"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 of Financial Institutions in the applicant's applicant file or the licensee's license file, as maintained by the Division of Financial Institutions' 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 or a person authorized by the Secretary to act in the Secretary's stead.
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. Each applicant shall provide an email address of record.

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 665/10) (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, to the email address of record, or by certified mail, return receipt requested. Service by mail shall be deemed completed if the notice is deposited in the United States mail U.S. Mail. Service to the email address of record shall be deemed 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, to the email address of record, or by certified
mail, return receipt requested. Service by mail shall be deemed
completed if the notice is deposited in the U.S. Mail. Service
to the email address of record shall be deemed 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 25. The Consumer Installment Loan Act is amended by
changing Sections 2, 3, 8, 9, and 20.5 and by adding Section
0.5 as follows:
Sec. 0.5. Definitions. As used in this Act:

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

"Director" means the Director of the Division of Financial Institutions.

"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 of Financial Institutions in the applicant's applicant file or the licensee's license file, as maintained by the Division of Financial Institutions' licensure unit.

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

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, each applicant shall provide an email address of record. 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 670/3) (from Ch. 17, par. 5403)

Sec. 3. Appointment of attorney-in-fact for service of process. Every licensee shall appoint, in writing, the Director of Financial Institutions (hereinafter called Director) and
his successors in office or any official who shall hereafter be charged with the administration of this Act, as attorney-in-fact upon whom all lawful process against such licensee may be served with the same legal force and validity as if served on such licensee. A copy of such written appointment, duly certified, shall be filed in the office of the Director; and a copy thereof certified by him shall be sufficient evidence. This appointment shall remain in effect while any liability remains outstanding in this State against the licensee. When summons is served upon the Director as attorney-in-fact for such licensee, the Director shall immediately notify the licensee by certified registered mail, return receipt requested, or by email to the email address of record, enclosing the summons and specifying the hour and day of service. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Service to the email address of record shall be deemed completed when sent.

(Source: Laws 1963, p. 3526.)

(205 ILCS 670/8) (from Ch. 17, par. 5408)

Sec. 8. Annual license fee; expenses fee. Expenses. Before the 1st 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, each licensee shall provide an email address of record.

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. 100-958, eff. 8-19-18.)

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

Sec. 9. Fines; suspension or revocation, Suspension or Revocation of license.

(a) The Director may, after 10 days notice by certified registered mail to the licensee at the address set forth in the license, or by email to the email address of record, 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.

Service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Service to the email address of record shall be deemed completed when sent.

(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, to the email address of record, or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail U.S. Mail. Service to the email address of record shall be deemed 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 by rule.

(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, to the email address of record, or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States U.S. mail. Service to the email address of record shall be deemed 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.
Section 30. The Debt Settlement Consumer Protection Act is amended by changing Sections 10, 20, 50, 80, and 95 as follows:

(225 ILCS 429/10)

Sec. 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.

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

"Director" means the Director of the Division of Financial
Institutions.

"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 of Financial Institutions in
the applicant's applicant file or the licensee's license file,
as maintained by the Division of Financial Institutions'
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 or a person authorized by the Secretary to act in the Secretary's stead.

"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 shall provide an email address of record.

Each applicant, at the time of making such application, shall pay to the Secretary the required fee as set by rule.

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 429/50)
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, to the email address of record, or
by certified mail, return receipt requested. Service by mail
shall be deemed completed if the notice is deposited in the
United States mail U.S. Mail. Service to the email address of
record shall be deemed 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 429/80)

Sec. 80. Penalties.

(a) Any person who operates as a debt settlement provider without a license shall be guilty of a Class 4 felony.

  (b) Any contract of debt settlement service as defined in this Act made by an unlicensed person shall be null and void and of no legal effect.

  (c) The Secretary may, after 10 days notice by certified registered mail to the debt settlement service provider at the address on the license or unlicensed entity engaging in the debt settlement service business, or by email to the email address of record, stating the contemplated action and in general the grounds therefore, fine such debt settlement service provider or unlicensed entity an amount not exceeding $10,000 per violation, and revoke or suspend any license issued hereunder if he or she finds that:

    (1) The debt settlement service provider 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.

Service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Service to the email address of record shall be deemed completed when sent.

(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, to the email address of record, or by certified mail, return receipt requested. Service by mail shall be deemed completed if the notice is deposited in the United States mail U.S. Mail. Service to the email address of record shall be deemed 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 35. 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.

"Director" means the Director of the Division of Financial Institutions.
"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 of Financial Institutions in the applicant's applicant file or the licensee's license file, as maintained by the Division of Financial Institutions' licensure unit.

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

"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. 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. Each applicant shall provide an email address of record. 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 certified registered mail, return receipt requested, or to the email address of record, enclosing the summons and specifying the hour and day of service. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Service to the email address of record shall be deemed completed when sent.

(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 1, 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
Illinois Gambling Act, within one mile of the location at which a riverboat subject to the Illinois 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. 100-958, eff. 8-19-18; 101-31, eff. 6-28-19.)

(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, to the email address of record,
or by certified mail, return receipt requested. Service by
certified mail shall be deemed completed when the notice is
deposited in the United States mail U.S. Mail. Service to the
email address of record shall be deemed 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 certified registered mail to the licensee at the address set forth in the license, or by email to the email address of record, 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, to the email address of record, or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail U.S. Mail. Service to the email address of record shall be deemed 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.)
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Statutes amended in order of appearance

3  205 ILCS 305/1.1 from Ch. 17, par. 4402
4  205 ILCS 305/2 from Ch. 17, par. 4403
5  205 ILCS 305/8 from Ch. 17, par. 4409
6  205 ILCS 305/21 from Ch. 17, par. 4422
7  205 ILCS 305/61 from Ch. 17, par. 4462
8  205 ILCS 657/5
9  205 ILCS 657/25
10 205 ILCS 657/40
11 205 ILCS 657/80
12 205 ILCS 657/90
13 205 ILCS 657/100
14 205 ILCS 660/2 from Ch. 17, par. 5202
15 205 ILCS 660/6 from Ch. 17, par. 5206
16 205 ILCS 660/10 from Ch. 17, par. 5223
17 205 ILCS 660/16.5
18 205 ILCS 665/2 from Ch. 17, par. 5302
19 205 ILCS 665/4 from Ch. 17, par. 5304
20 205 ILCS 665/10 from Ch. 17, par. 5310
21 205 ILCS 665/20 from Ch. 17, par. 5323
22 205 ILCS 670/0.5 new
23 205 ILCS 670/2 from Ch. 17, par. 5402
24 205 ILCS 670/3 from Ch. 17, par. 5403
25 205 ILCS 670/8 from Ch. 17, par. 5408
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6 225 ILCS 429/80
7 225 ILCS 429/95
8 815 ILCS 122/1-10
9 815 ILCS 122/3-5
10 815 ILCS 122/4-10