

1 AN ACT concerning certain lending practices.

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

4 Section 5. The Consumer Installment Loan Act is amended  
5 by adding Sections 1.5, 15f, 17.1, 17.2, 17.3, 17.4, 17.5,  
6 17.6, 17.7, 17.8, 17.9, 17.10, 17.11, 17.12, 17.13, 17.14,  
7 17.15, 17.16, 17.17, 17.18, 17.19, 17.20, 17.21, 17.22 and  
8 17.23 as follows:

9 (205 ILCS 670/1.5 new)

10 Sec. 1.5. Definitions.

11 "Check" means a personal check, draft, or other  
12 negotiable instrument signed by the borrower and made payable  
13 to a licensee.

14 "Short-term loan" means a transaction pursuant to a  
15 written agreement between a licensee and the borrower whereby  
16 the licensee:

17 (1) accepts a check from the borrower dated on the  
18 date it was written;

19 (2) agrees to hold the check for a period of time  
20 prior to negotiation or presentment of the check; and

21 (3) pays to the borrower the amount of the check,  
22 less the finance charge permitted by Section 17.11 of  
23 this Act.

24 "Title-secured loan" means a loan wherein, at  
25 consummation, a borrower provides to the licensee, as  
26 security for the loan, physical possession of the borrower's  
27 title to a motor vehicle.

28 (205 ILCS 670/15f new)

29 Sec. 15f. Simple interest. A licensee must compute  
30 interest on all short-term loans as simple interest as

1 defined in 38 Ill. Adm. Code 110.80.

2 (205 ILCS 670/17.1 new)

3 Sec. 17.1. Release of lien.

4 (a) A licensee that secures a short-term loan by a title  
5 to a motor vehicle must immediately take into possession  
6 evidence of the borrower's ownership in the motor vehicle  
7 that has been registered with the Illinois Secretary of State  
8 or the appropriate state agency of any other state of the  
9 United States and shall note on the face of the loan  
10 agreement the vehicle's make, model, year of manufacture, and  
11 vehicle identification number.

12 (b) Within 24 hours after payment in full of the amount  
13 due under the agreement, the licensee must release any filed  
14 or recorded liens, provide evidence of the release of lien to  
15 the borrower and return the title to the borrower or cause  
16 the title to be returned to the borrower. If payment has been  
17 made by a personal or business check, the licensee may delay  
18 the release of lien or return of title by 5 business days for  
19 the purpose of confirming availability of funds.

20 (205 ILCS 670/17.2 new)

21 Sec. 17.2. Availability of debt management services.

22 (a) Before entering into a short-term loan agreement, a  
23 licensee must give to the borrower a pamphlet, approved by  
24 the Director, describing the availability of debt management  
25 services and the borrower's rights and responsibilities in  
26 the transaction.

27 (b) Each short-term loan agreement and refinancing  
28 agreement executed by a licensee shall include a statement,  
29 which shall be initialed by the borrower, as follows: "I  
30 have received from (name of licensee) a toll free number for  
31 the Department of Financial Institutions that I can call for  
32 information regarding debt management services."

1       (c) At the time a licensee conveys any written notice  
2 with respect to a short-term loan to a borrower indicating  
3 that the borrower is in arrears or that the borrower is in  
4 default, the licensee must include with the notice a listing  
5 of telephone numbers for debt management service providers  
6 licensed by the Department of Financial Institutions to  
7 provide consumer debt counseling.

8           (205 ILCS 670/17.3 new)

9       Sec. 17.3. Collection practices notification. The loan  
10 agreement shall advise the borrower that matters involving  
11 improprieties in the making of the loan or in loan collection  
12 practices may be referred to the Department and shall  
13 prominently disclose the Department's address and telephone  
14 number.

15           (205 ILCS 670/17.4 new)

16       Sec. 17.4. Defaults; second notice. At the time a  
17 licensee conveys a second notice with respect to a short-term  
18 loan to a borrower indicating that the borrower is in arrears  
19 or that the borrower is in default, the licensee must include  
20 with the notice a listing of telephone numbers for debt  
21 management service providers licensed by the Department of  
22 Financial Institutions to provide consumer debt counseling.

23           (205 ILCS 670/17.5 new)

24       Sec. 17.5. Possession of vehicle.

25       (a) Unless otherwise provided for in the loan agreement,  
26 a licensee shall not take or retain possession of the keys  
27 (or a copy thereof) to a motor vehicle used to secure a  
28 title-secured loan.

29       (b) A licensee may not take possession of a vehicle  
30 under a short-term loan transaction without first:

31           (1) giving notice to the borrower;

1           (2) affording the borrower the opportunity to make  
2           the vehicle available to the licensee at a place, date,  
3           and time reasonably convenient to the licensee and  
4           borrower; and

5           (3) permitting the borrower to remove any personal  
6           belongings from the vehicle without charge or additional  
7           cost to the borrower.

8           (c) A licensee may not dispose of a vehicle repossessed  
9           under a short-term loan transaction without first giving at  
10           least 10 days written notice to the borrower prior to the  
11           sale and giving to the borrower the opportunity to cure the  
12           default. The notice shall disclose the date, time, and place  
13           of the sale and provide the borrower with a written  
14           accounting of the amount owed on the loan.

15           (d) A licensee may not take possession of a motor  
16           vehicle because of a loan default under a short-term loan  
17           transaction and lease the vehicle back to the borrower.

18           (205 ILCS 670/17.6 new)

19           Sec. 17.6. Dispersal of loan proceeds. A licensee must  
20           issue the proceeds of a short-term loan in the form of a  
21           check drawn on the licensee's bank account, in cash, or by  
22           money order. When the proceeds are issued in the form of a  
23           check drawn on the licensee's bank account or by money order,  
24           the licensee may not charge a fee for cashing the check or  
25           money order if cashing service is offered at the location.  
26           When the proceeds are issued in cash, the licensee must  
27           provide the borrower with a written verification of the cash  
28           transaction and shall maintain a record of the transaction.

29           (205 ILCS 670/17.7 new)

30           Sec. 17.7. Security interest. A licensee may not take a  
31           security interest with respect to a short-term loan in any of  
32           the borrower's property other than the borrower's check or

1 motor vehicle title tendered to the licensee at the time of  
2 the making of the loan.

3 (205 ILCS 670/17.8 new)

4 Sec. 17.8. Written agreement. A short-term loan  
5 transaction must be documented by a written agreement signed  
6 by both the borrower and the licensee accepting the check.  
7 The written agreement must contain the name of the licensee,  
8 the transaction date, the amount of the check, and a  
9 statement of the total amount of fees charged, expressed both  
10 as a dollar amount and as an annual percentage rate (APR).  
11 The written agreement must authorize the licensee to defer  
12 presentment or negotiation of the check until a specific  
13 date, which date may not be later than 31 calendar days  
14 following the date of the transaction.

15 (205 ILCS 670/17.9 new)

16 Sec. 17.9. Notice to borrower. A licensee providing a  
17 short-term loan shall provide a notice in a prominent place  
18 on each short-term loan agreement in at least 10-point type  
19 in substantially the following form:

20 "(1) A SHORT-TERM LOAN IS NOT INTENDED TO MEET  
21 LONG-TERM FINANCIAL NEEDS.

22 (2) YOU SHOULD USE A SHORT-TERM LOAN ONLY TO MEET  
23 SHORT-TERM CASH NEEDS.

24 (3) YOU WILL BE REQUIRED TO PAY ADDITIONAL FEES IF  
25 YOU RENEW THE SHORT-TERM LOAN RATHER THAN PAY THE DEBT IN  
26 FULL WHEN DUE."

27 (205 ILCS 670/17.10 new)

28 Sec. 17.10. Borrower's right to rescind. A borrower may  
29 rescind a short-term loan agreement, at no cost if the  
30 borrower returns the full amount of the loan by the close of  
31 business on the day following the transaction.

1 (205 ILCS 670/17.11 new)

2 Sec. 17.11. Authorized finance charge. A licensee may  
3 charge a finance charge for each short-term loan transaction.  
4 No other fees or charges may be charged or collected for the  
5 short-term loan transaction.

6 (205 ILCS 670/17.12 new)

7 Sec. 17.12. Maximum transaction amount. The maximum  
8 amount a licensee may pay to a borrower under a short-term  
9 loan transaction is \$2,000. No check held by a licensee in  
10 connection with a short-term loan may exceed the sum of  
11 \$2,000 plus the finance charge authorized by Section 17.11 of  
12 this Act.

13 (205 ILCS 670/17.13 new)

14 Sec. 17.13. Multiple outstanding transactions.

15 (a) A licensee may not have more than 2 outstanding  
16 short-term loans with any one borrower at the same time. The  
17 aggregate face value of all outstanding checks in connection  
18 with a short-term loan held by a licensee from any one  
19 borrower may not exceed \$2,000, exclusive of the finance  
20 charge authorized by Section 17.11 of this Act.

21 (b) A licensee providing a short-term loan must provide  
22 a notice in a prominent place on each short-term loan  
23 agreement in at least 10-point type in substantially the  
24 following form:

25 "STATE LAW PROHIBITS YOU FROM HAVING OUTSTANDING, AT ANY  
26 ONE TIME, SHORT-TERM LOANS TOTALING MORE THAN \$2,000  
27 (EXCLUDING APPLICABLE FINANCE CHARGES). FAILURE TO OBEY THIS  
28 LAW COULD CREATE FINANCIAL HARDSHIPS FOR YOU AND YOUR  
29 FAMILY."

30 (205 ILCS 670/17.14 new)

31 Sec. 17.14. Renewals. A short-term loan may be renewed

1 no more than 3 consecutive times, after which time either the  
2 borrower must pay off the short-term loan in cash or its  
3 equivalent or the licensee must deposit the borrower's check.  
4 Once the borrower has completed a short-term loan with a  
5 licensee, the borrower may enter into a new agreement for a  
6 short-term loan with that licensee. A transaction is  
7 completed when a check is presented for payment, deposited,  
8 or redeemed by the borrower by paying the full amount of the  
9 check to the licensee holding the check, less the unearned  
10 portion of the finance charge calculated pursuant to the  
11 simple interest method.

12 (205 ILCS 670/17.15 new)

13 Sec. 17.15. Form of transaction proceeds. A licensee may  
14 pay the proceeds from a short-term loan to the borrower in  
15 the form of the licensee's business check, money order, or  
16 cash. A licensee may not charge a fee for cashing the  
17 licensee's business check.

18 (205 ILCS 670/17.16 new)

19 Sec. 17.16. Endorsement of check. Before a licensee may  
20 negotiate or present for payment a check relating to a  
21 short-term loan transaction, the check must be endorsed with  
22 the actual name under which the licensee is doing business.

23 (205 ILCS 670/17.17 new)

24 Sec. 17.17. Redemption of check. A borrower has the  
25 right to redeem a check issued in connection with a  
26 short-term loan transaction from the licensee holding the  
27 check at any time before the negotiation or presentment of  
28 the check by paying the full amount of the check, less the  
29 unearned portion of the finance charge calculated pursuant to  
30 the simple interest method, in the form of cash or its  
31 equivalent.

1 (205 ILCS 670/17.18 new)

2 Sec. 17.18. Electronic funds transfer. A licensee may  
3 offer electronic funds transfer services to borrowers. Loan  
4 proceeds may be electronically credited and debited to the  
5 borrower's account. No electronic transfers may occur  
6 without the prior written approval of the borrower.

7 (205 ILCS 670/17.19 new)

8 Sec. 17.19. Authorized fee for dishonored check. If a  
9 check written in connection with a short-term loan is  
10 returned to a person from a payor financial institution due  
11 to insufficient funds, a closed account, or a stop payment  
12 order, the licensee has the right to exercise all civil means  
13 available and allowable by law to collect the face value of  
14 the check. Additionally, the licensee may contract for and  
15 collect a returned check charge not to exceed \$25 plus any  
16 court costs, including reasonable attorney fees, incurred as  
17 a result of the returned check. No other fees may be  
18 collected as a result of a returned check or the default by  
19 the maker under a short-term loan agreement.

20 (205 ILCS 670/17.20 new)

21 Sec. 17.20. Posting of charges. A licensee offering  
22 short-term loans must post at the point-of-sale a notice of  
23 the charges imposed for a short-term loan transaction.

24 (205 ILCS 670/17.21 new)

25 Sec. 17.21. No criminal culpability. A borrower who  
26 enters into a short-term loan agreement may not be subject to  
27 any criminal penalty for entering into that agreement and may  
28 not be subject to any criminal penalty in the event the  
29 borrower's check is dishonored, unless the account on which  
30 the check was written was closed on the date of the  
31 transaction or before the agreed upon negotiation date.



1 (205 ILCS 670/17.22 new)

2 Sec. 17.22. Other types of businesses. A licensee may  
3 conduct other types of business at a location where it  
4 engages in short-term loan transactions, unless the licensee  
5 carries on those other types of business for the purpose of  
6 evading or violating this Act.

7 (205 ILCS 670/17.23 new)

8 Sec. 17.23. Unfair or deceptive practices. A licensee  
9 may not engage in unfair or deceptive acts, practices, or  
10 advertising in connection with a short-term loan transaction.

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