



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0600

Introduced 1/27/2005, by Rep. James H. Meyer

#### SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 1205/8

815 ILCS 505/2E

from Ch. 17, par. 109

from Ch. 121 1/2, par. 262E

Creates the Short-term Loan Act. Provides for the regulation of entities that make payday loans and motor vehicle title loans having a term of fewer than 93 days and in an amount that does not exceed \$1,000. Limits charges that may be imposed in connection with the loans. Requires lenders to obtain a license from the Director of the Division of Financial Institutions in the Department of Financial and Professional Regulation. Amends the Financial Institutions Code to require the Director of the Division of Financial Institutions to establish a complaint registry regarding licensees under the Short-term Loan Act. Amends the Consumer Fraud and Deceptive Business Practices Act to provide that 3 or more violations of the Short-term Loan Act constitute a violation of the Consumer Fraud and Deceptive Business Practices Act. Effective January 1, 2006.

LRB094 06800 MKM 36902 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning regulation.

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

4 Section 1. Short title. This Act may be cited as the  
5 Short-term Loan Act.

6 Section 5. Definitions.

7 "Director" means the Director of the Division of Financial  
8 Institutions in the Department of Financial and Professional  
9 Regulation.

10 "Motor vehicle title loan firm" means any business that  
11 loans money to a borrower in a transaction in which the  
12 borrower turns over custody of a title to a motor vehicle as  
13 security for the loan.

14 "Net worth" means total assets minus total liabilities.

15 "Payday loan firm" means any business that loans money to a  
16 borrower in a transaction in which the loan is due and payable  
17 upon the next payday of the borrower or any member of the  
18 borrower's immediate family.

19 Section 10. License required to engage in business. No  
20 person, partnership, association, limited liability company,  
21 or corporation shall engage in the business of making loans of  
22 money for terms of 92 days or less except as authorized by this  
23 Act after first obtaining a license from the Director.

24 Section 15. Application; fees. Application for a license  
25 shall be in writing, under oath, and in the form prescribed by  
26 the Director. The applicant, at the time of making the  
27 application, shall pay to the Director an application fee and  
28 annual license fee to be fixed by the Director by rule. The  
29 application fee and the annual license fee shall in no case be  
30 less than the amounts determined by the Director to be

1 necessary to cover his or her duties prescribed by this Act,  
2 including the cost of maintaining and operating a consumer  
3 complaint system.

4 Section 20. Positive net worth; bond. Before a license is  
5 granted, the applicant shall prove in form satisfactory to the  
6 Director that the applicant has a positive net worth of a  
7 minimum of \$50,000. An applicant shall maintain a surety bond  
8 in the principal sum of \$5,000 issued by a bonding company  
9 authorized to do business in this State and which shall be  
10 approved by the Director. This bond shall run to the Director  
11 and shall be for the benefit of any person who incurs damages  
12 as a result of the actions of a licensee and who is lawfully  
13 awarded these damages pursuant to an appropriate court order.  
14 If the Director finds at any time that a bond is of  
15 insufficient size or otherwise doubtful, an additional bond in  
16 any amount determined by the Director shall be filed by the  
17 licensee within 30 days after written demand by the Director.

18 Section 25. Appointment of attorney-in-fact for service of  
19 process. A licensee shall appoint, in writing, the Director as  
20 attorney-in-fact upon whom all lawful process against the  
21 licensee may be served with the same legal force and validity  
22 as if served on the licensee. A copy of the written  
23 appointment, duly certified, shall be filed in the office of  
24 the Director, and a copy thereof certified by the Director  
25 shall be sufficient evidence. This appointment shall remain in  
26 effect while any liability remains outstanding in this State  
27 against the licensee. When summons is served upon the Director  
28 as attorney-in-fact for the licensee, the Director shall  
29 immediately notify the licensee by registered mail, enclosing  
30 the summons and specifying the hour and day of service.

31 Section 30. Investigation to determine whether license  
32 shall be issued. Upon the filing of an application and the  
33 payment of the required fees, the Director shall investigate to

1 determine (i) that the reputation of the applicant, including  
2 managers, partners, owners, officers, or directors of a limited  
3 liability company, is such as to warrant belief that the  
4 business will be operated honestly and fairly within the  
5 purposes of this Act and (ii) that the applicant meets the  
6 positive net worth requirement set forth in Section 20 of this  
7 Act. Unless the Director finds that the application meets both  
8 of these criteria, the Director shall not issue a license,  
9 shall notify the applicant of the denial, and shall return to  
10 the applicant the sum paid by the applicant as an annual  
11 license fee, but shall retain the application fee. The Director  
12 shall approve or deny every application for licensure under  
13 this Act within 60 days from the filing of the application and  
14 submission of the required fees.

15 Section 35. License; consumer information to be posted.

16 (a) The license shall state the address, including city and  
17 state, at which the business is to be conducted and shall state  
18 fully the name of the licensee. The license shall be  
19 conspicuously posted in the place of business of the licensee  
20 and shall not be transferable or assignable.

21 (b) In addition to posting the license, the licensee shall  
22 legibly post in each of his or her offices where business is  
23 done with the public, in a format to be determined by the  
24 Director by rule, the name, address, and telephone number of a  
25 short-term consumer lending customer complaint gathering  
26 service or hotline that the Director shall use to gather  
27 information about each licensee and take appropriate action.

28 Section 40. More than one license to same licensee. Not  
29 more than one place of business shall be maintained under the  
30 same license, but the Director may issue more than one license  
31 to the same licensee upon compliance with all the provisions of  
32 this Act governing an original issuance of a license.

33 Section 45. Changing place of business. Whenever a licensee

1 changes his or her place of business to a location other than  
2 that set forth in his or her license, the licensee shall give  
3 written notice of the change to the Director at least 10 days  
4 prior to the relocation. However, if the new location is more  
5 than 15 miles from the previous location, the licensee shall  
6 obtain written approval from the Director prior to the  
7 relocation.

8 Section 50. Annual license fee. A licensee shall, on or  
9 before December 15 of each year, pay to the Director the annual  
10 license fee required by Section 15 of this Act for the next  
11 succeeding calendar year. The license shall expire on January 1  
12 unless the license fee has been timely paid to renew the  
13 license.

14 Section 55. Expenses. In addition to the licensee fee, the  
15 licensee shall bear the reasonable expense of any examination,  
16 investigation, or custody by the Director under any provisions  
17 of this Act.

18 Section 60. License expirations and reinstatements. If a  
19 licensee fails to renew a license by December 31 of any year,  
20 the license shall automatically expire and the licensee is not  
21 entitled to a hearing. The Director, at his or her discretion,  
22 may reinstate an expired license upon payment of the annual  
23 renewal fee and proof of good cause for failure to renew.

24 Section 65. Deposits. All moneys received by the Director  
25 under this Act shall be deposited in the Financial Institution  
26 Fund created under Section 6z-26 of the State Finance Act.

27 Section 70. Fines, suspension, or revocation of license.

28 (a) The Director may, after 10 days notice by registered  
29 mail to the licensee at the address set forth in the license,  
30 stating the contemplated action and the general grounds for  
31 that action, fine the licensee an amount not exceeding \$10,000

1 per violation, or revoke or suspend any license issued under  
2 this Act, if the Director finds that:

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

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

11 (b) The Director may fine, suspend, or revoke only the  
12 particular license with respect to the grounds for which the  
13 fine, revocation, or suspension occur or exist. If the Director  
14 finds that the grounds for the fine, suspension, or revocation  
15 are of general application to all offices or to more than one  
16 office of the licensee, the Director shall fine, suspend, or  
17 revoke every license to which those grounds apply.

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

21 (d) The Director may issue a new license to a licensee  
22 whose license has been revoked if the facts or conditions that  
23 warranted the Director's original refusal to issue the license  
24 no longer exist.

25 (e) In every case in which a license is suspended or  
26 revoked or an application for a license or renewal of a license  
27 is denied, the Director shall serve the licensee with notice of  
28 the suspension, revocation, or denial, including a statement of  
29 the reasons for the suspension, revocation, or denial, either  
30 personally, or by certified mail, return receipt requested.  
31 Service by certified mail shall be deemed completed when the  
32 notice is deposited in the U.S. Mail.

33 (f) An order assessing a fine, an order revoking or  
34 suspending a license, and an order denying renewal of a license  
35 shall take effect upon service of the order on the licensee,  
36 unless the licensee requests a hearing, in writing, within 10

1 days after the date of service. If a hearing is requested, the  
2 order shall be stayed until a final administrative order is  
3 entered.

4 (g) If the licensee requests a hearing, the Director shall  
5 schedule a hearing within 30 days after the request for a  
6 hearing unless the parties otherwise agree to a later date.

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

15 (i) The costs for the administrative hearing shall be  
16 determined by the Director by rule.

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

19 Section 75. Closing of business; surrender of license.

20 (a) At least 10 days prior to a licensee ceasing  
21 operations, closing business, or filing for bankruptcy, the  
22 licensee shall notify the Director of its action in writing,  
23 and, unless the licensee is filing for bankruptcy, the licensee  
24 shall surrender its license to the Director for cancellation.  
25 The surrender of the license shall not affect the licensee's  
26 civil or criminal liability for acts committed prior to the  
27 surrender or entitle the licensee to a return of any part of  
28 the annual license fee.

29 (b) The licensee shall notify the Director of the location  
30 where the books, accounts, contracts, and records will be  
31 maintained and of the procedure to ensure prompt return of  
32 contracts, titles, and releases to customers.

33 (c) The accounts, books, records, and contracts shall be  
34 maintained and serviced by the licensee or another licensee  
35 under this Act or an entity exempt from licensure under this

1 Act.

2 (d) The Director shall have the authority to conduct  
3 examinations of the books, records, and loan documents at any  
4 time after surrender of the license, filing of bankruptcy, or  
5 the cessation of operations.

6 Section 80. Investigation of conduct of business. For the  
7 purpose of discovering violations of this Act or securing  
8 information lawfully required under this Act, the Director may  
9 at any time investigate the loans and business and examine the  
10 books, accounts, records, and files of any licensee and of any  
11 person, partnership, association, limited liability company,  
12 or corporation engaged in the business described in Section 10  
13 of this Act, whether the person, partnership, association,  
14 limited liability company, or corporation acts or claims to act  
15 as principal or agent or within or without the authority of  
16 this Act. For the purposes of this Section, the Director shall  
17 have free access to the offices and places of business and the  
18 books, accounts, papers, records, files, safes, and vaults of  
19 those persons, partnerships, associations, limited liability  
20 companies, and corporations. The Director may require the  
21 attendance of and examine under oath all persons whose  
22 testimony the Director may require relative to the loans or the  
23 business, and the Director shall have the power to administer  
24 oaths to all persons called as witnesses.

25 The Director shall make an examination of the affairs,  
26 business, office, and records of each licensee at least once  
27 each year. The Director shall establish by rule the fee to be  
28 charged for each examination day, including travel expenses for  
29 out-of-state licensed locations. The fee shall reasonably  
30 reflect actual costs. The Director shall also have authority to  
31 examine the books and records of any business made by a former  
32 licensee that is being liquidated, as the Director deems  
33 necessary, and may charge the examination fees otherwise  
34 required for licensees.



1           Section 85. Books and records. A licensee shall retain and  
2 use in its business or at another location approved by the  
3 Director any records required to enable the Director to  
4 determine whether the licensee is complying with the provisions  
5 of this Act and the rules promulgated under this Act. A  
6 licensee shall preserve the records of any loan for at least 2  
7 years after making the final entry for the loan. Accounting  
8 systems maintained in whole or in part by mechanical or  
9 electronic data processing methods that provide information  
10 equivalent to information that is otherwise required and that  
11 follow generally accepted accounting principles are acceptable  
12 for that purpose if approved by the Director in writing.

13           Section 90. Reports. A licensee shall annually, on or  
14 before the first day of March, file a report with the Director  
15 giving any information that the Director may reasonably require  
16 concerning the business and operations during the preceding  
17 calendar year for each licensed place of business conducted by  
18 the licensee. The report shall be made under oath and in a form  
19 prescribed by the Director. Whenever a licensee operates 2 or  
20 more licensed offices or whenever 2 or more affiliated  
21 licensees operate licensed offices, a composite report of that  
22 group of licensed offices may be filed in lieu of individual  
23 reports. The Director may make and publish annually an analysis  
24 and recapitulation of the reports. The Director may fine each  
25 licensee \$25 per day for each day after March 1 that the  
26 licensee fails to file the reports required under this Section.

27           Section 95. Other business; rules. Upon application by the  
28 licensee, the Director may approve the conduct of other  
29 business not specifically permitted by this Act in the  
30 licensee's place of business, unless the Director finds that  
31 the conduct of that business will conceal or facilitate evasion  
32 or violation of this Act. Any approval granted by the Director  
33 under this Section shall be in writing and shall describe the  
34 other businesses that may be conducted in the licensed office.

1 The Director shall make and enforce reasonable rules for the  
2 conduct of business under this Section. The Director may  
3 investigate any business conducted in the licensed office to  
4 determine whether any evasion or violation of this Act has  
5 occurred.

6 Section 100. Prohibition against taking power of attorney.  
7 No licensee shall take any power of attorney except to  
8 acknowledge the execution of an instrument or to confess  
9 judgement.

10 Section 105. Pledge or sale of note. No licensee or other  
11 person shall pledge, hypothecate, or sell a note entered into  
12 under the provisions of this Act by an obligor except to  
13 another licensee under this Act, a licensee under the Sales  
14 Finance Agency Act, a bank, a savings bank, a savings and loan  
15 association, or a credit union created under the laws of this  
16 State or the United States, or to other persons or entities  
17 authorized by the Director in writing. Sales of notes by  
18 licensees under this Act or other persons shall be made by  
19 agreement in writing and shall authorize the Director to  
20 examine the loan documents.

21 Section 110. Charges permitted.

22 (a) A licensee may lend to any borrower a principal amount  
23 not exceeding \$1,000 for a period not exceeding 92 days and may  
24 charge, contract for, and receive interest thereon at a rate  
25 agreed upon by the licensee and the obligor, but in no case  
26 exceeding 24% per year. All transactions between licensees and  
27 their contractors on the one hand, and obligors on the other,  
28 shall be subject to the provisions of this Act. Nothing in this  
29 authorization shall permit the further lending by any licensee  
30 of any additional sum of money to any borrower in violation of  
31 Section 140 of this Act.

32 (b) For purpose of this Section, the following terms shall  
33 have the meanings ascribed herein:

1 "Applicable interest" for a precomputed loan contract  
2 means the amount of interest attributable to each monthly  
3 installment period. It is computed as if each installment  
4 period were one month and any interest charged for extending  
5 the first installment period beyond one month is ignored. The  
6 applicable interest for any monthly installment period is that  
7 portion of the precomputed interest that bears the same ratio  
8 to the total precomputed interest as the balances scheduled to  
9 be outstanding during that month bear to the sum of all  
10 scheduled monthly outstanding balances in the original  
11 contract.

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

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

19 (c) Loans may be interest-bearing or precomputed. To  
20 compute time for either interest-bearing or precomputed loans  
21 for the calculation of interest and other purposes, a month  
22 shall be 1/12th of a year. A day shall be 1/365th of a year when  
23 calculation is made for a fraction of a month. When a period of  
24 time includes one or more whole months plus a fraction of a  
25 month, the licensee may charge interest for the fraction of the  
26 month at the rate of 1/365th of the agreed annual rate for each  
27 day actually elapsed.

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

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

1 proceeds of subsequent payments and is not added to the  
2 principal balance.

3 (2) Interest shall not be payable in advance or  
4 compounded.

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

9 (4) The lender or creditor may, if the contract  
10 provides, collect a delinquency or collection charge on  
11 each installment in default for a period of not less than  
12 10 days in an amount not exceeding 5% of the installment on  
13 installments in excess of \$200 or \$10 on installments of  
14 \$200 or less, but only one delinquency and collection  
15 charge may be collected on any installment regardless of  
16 the period during which it remains in default.

17 (e) With respect to precomputed loans:

18 (1) Payments shall be applied in the order in which  
19 they become due.

20 (2) When any loan contract is paid in full before the  
21 due date, the licensee shall refund or credit the obligor  
22 with the total of the applicable interest for all fully  
23 unexpired days.

24 (3) The lender or creditor may, if the contract  
25 provides, collect a delinquency or collection charge on  
26 each installment in default for a period of not less than  
27 10 days in an amount not exceeding 5% of the installment on  
28 installments in excess of \$200 or \$10 on installments of  
29 \$200 or less, but only one delinquency or collection charge  
30 may be collected on any installment regardless of the  
31 period during which it remains in default.

32 (4) Fifteen days after the final installment as  
33 originally scheduled or deferred, the licensee may, upon  
34 giving notice to the obligor, convert a precomputed loan to  
35 an interest-bearing loan and compute and charge interest on  
36 that loan at any rate of interest previously agreed to by

1 the parties to the loan.

2 Section 115. Credit insurance. Voluntary credit life  
3 insurance, credit accident and health insurance, involuntary  
4 unemployment insurance, credit property insurance, or other  
5 credit insurance policies approved or permitted by the Director  
6 of the Division of Insurance in the Department of Financial and  
7 Professional Regulation and any charge therefor which is  
8 deducted from the loan or paid by the obligor shall comply with  
9 the Illinois Insurance Code and all lawful requirements of the  
10 Director of the Division of Insurance. When there are 2 or more  
11 obligors on the loan contract, only one charge for credit life  
12 insurance and credit accident and health insurance may be made  
13 and only one of the obligors need be required to be insured,  
14 except that joint credit insurance may cover 2 obligors.  
15 Insurance obtained from, by, or through a licensee shall be in  
16 effect when the loan is transacted. The purchase of insurance  
17 through the licensee or from an agent, broker, or insurer  
18 specified by the licensee shall not be a condition precedent to  
19 the granting of the loan.

20 Section 120. Property insurance.

21 (a) A licensee may require the obligor to provide property  
22 damage insurance on real and personal property, all or part of  
23 which serves as security, against reasonable risks of loss,  
24 damage, and destruction in connection with loans exceeding an  
25 original principal amount of \$500. The amount and term of the  
26 insurance shall be reasonable in relation to the amount and  
27 term of the loan contract and the type and value of the  
28 property, and the insurance shall be procured in accordance  
29 with the insurance laws of this State. The purchase of  
30 insurance through the licensee or from an agent, broker, or  
31 insurer specified by the licensee shall not be a condition  
32 precedent to the granting of the loan. The premium charged  
33 shall not exceed that charged by the insurance company.

34 (b) If the obligor fails to furnish evidence that he or she

1 has procured insurance on the property, the licensee may  
2 purchase substitute insurance that may be substantially  
3 equivalent to or more limited than coverage the obligor is  
4 required to maintain. Such insurance must comply with the  
5 Collateral Protection Act.

6 Section 125. Extra charges prohibited. No amount in  
7 addition to the charges authorized by this Act shall be  
8 directly or indirectly charged, contracted for, or received,  
9 except: (i) lawful fees paid to any public officer or agency to  
10 record, file, or release security; (ii) costs and disbursements  
11 actually incurred in connection with a real estate loan, for  
12 any title insurance, title examination, abstract of title,  
13 survey, or appraisal, or paid to a trustee in connection with a  
14 trust deed; (iii) charges authorized by Section 4.1a of the  
15 Interest Act in connection with a real estate loan, whether  
16 called "points" or otherwise, that are imposed as a condition  
17 of making the loan and are not refundable in the event of  
18 prepayment of the loan; (iv) costs and disbursements, including  
19 reasonable attorney's fees, incurred in legal proceedings to  
20 collect a loan or to realize on a security after default; and  
21 (v) an amount not exceeding \$25, plus any actual expenses  
22 incurred in connection with a check or draft that is not  
23 honored because of insufficient or uncollected funds or because  
24 no such account exists. This Section does not prohibit the  
25 receipt of a commission, dividend, charge, or other benefit by  
26 the licensee or by an employee, affiliate, or associate of the  
27 licensee from the insurance permitted by Sections 115 and 120  
28 of this Act or from insurance in lieu of perfecting a security  
29 interest, provided that the premiums for the insurance do not  
30 exceed the fees that otherwise could be contracted for by the  
31 licensee under this Section. Obtaining any of the items  
32 referred to in clause (ii) of this Section through the licensee  
33 or from any person specified by the licensee shall not be a  
34 condition precedent to the granting of the loan.

1 Section 130. Disclosure of terms of contract. In any loan  
2 transaction under this Act, the licensee must disclose all of  
3 the following items to the obligor of the loan before the  
4 transaction is consummated:

5 (1) The amount and date of the loan contract.

6 (2) The original principal amount of the loan.

7 (3) Any deduction from the loan made by the licensee for  
8 any purpose prior to the loan being transferred to the obligor.

9 (4) Any payment made by the obligor in connection with  
10 obtaining the loan.

11 (5) The date on which the finance charge begins to accrue,  
12 if different from the date of the transaction.

13 (6) The total amount of the loan charge with a description  
14 of each amount included using the term "finance charge".

15 (7) The finance charge expressed as an annual percentage  
16 rate using the term "annual percentage rate". "Annual  
17 percentage rate" means the nominal annual percentage rate of  
18 finance charge determined in accordance with the actuarial  
19 method of computation with an accuracy at least to the nearest  
20 1/4 of 1% or, at the option of the licensee, by application of  
21 the United States rule so that it may be disclosed with an  
22 accuracy at least to the nearest 1/4 of 1%.

23 (8) For all payday loans, the fact that a post-dated check  
24 may be presented to a financial institution for payment in full  
25 on the date for which it has been made out.

26 (9) The number, amount, and due dates or periods of  
27 payments scheduled to repay the loan and the sum of such  
28 payments using the term "total of payments".

29 (10) The amount or method of computing the amount of any  
30 default, delinquency, or similar charges payable in the event  
31 of late payments.

32 (11) The right of the obligor to prepay the loan in full on  
33 any installment date and the fact that such prepayment in full  
34 will reduce the insurance charge for the loan.

35 (12) A description or identification of the type of any  
36 security interest held or to be retained or acquired by the

1 licensee in connection with the loan and a clear identification  
 2 of the property to which the security interest relates. If  
 3 after-acquired property will be subject to the security  
 4 interest or if other or future indebtedness is or may be  
 5 secured by any such property, this fact shall be clearly set  
 6 forth in conjunction with the description or identification of  
 7 the type of security interest held, retained, or acquired.

8 (13) A description of any penalty charge that may be  
 9 imposed by the licensee for prepayment of the principal of the  
 10 obligation with an explanation of the method of computation of  
 11 the penalty and the conditions under which it may be imposed.

12 (14) Identification and description of the method of  
 13 computing any unearned portion of the finance charge in the  
 14 event of prepayment of the loan, and, if the licensee uses the  
 15 "Rule of 78ths" method, a statement explaining that method  
 16 substantially as follows:

17 Unearned finance charges under the Rule of 78ths are  
 18 computed by calculating for all fully unexpired monthly  
 19 installment periods, as originally scheduled or deferred,  
 20 which follow the day of prepayment, the portion of the  
 21 precomputed interest that bears the same ratio to the total  
 22 precomputed interest as the balances scheduled to be  
 23 outstanding during that monthly installment period bear to  
 24 the sum of all scheduled monthly outstanding balances  
 25 originally contracted for.

26 The description shall also include an example of its  
 27 application solely for purposes of illustration in  
 28 substantially the following form:

29 PREPAYMENT - "RULE OF 78THS"

30	Unearned	Original	Sum of balances due every month after
31			prepayment
32	=	X	_____
33	Charge	Charge*	Sum of balances due every month of
34			contract

35 \*for Finance Charge (excluding any charges added for a first  
 36 payment period of more than one month) or credit insurance



1 charges.

2 Example: 12 monthly payments of \$10 (balance is \$120 1st month,  
 3 \$110 2nd month, and so on), \$20 Finance Charge. If 5 payments  
 4 are prepaid in full, unearned Finance Charge is:

5 
$$50+40+30+20+10$$

6 
$$\$20 \times \frac{\quad}{120+110+100+90+80+70+60+50+40+30+20+10} = \$3.85$$

7

8 The terms "finance charge" and "annual percentage rate"  
 9 shall be printed more conspicuously than other terminology  
 10 required by this Section.

11 At the time disclosures are made, the licensee shall  
 12 deliver to the obligor a duplicate of the instrument or  
 13 statement by which the required disclosures are made and on  
 14 which the licensee and obligor are identified and their  
 15 addresses stated. All of the disclosures shall be made clearly,  
 16 conspicuously and in meaningful sequence and made together on  
 17 either:

18 (i) the note or other instrument evidencing the  
 19 obligation. If a creditor elects to combine disclosures  
 20 with the contract, security agreement, and evidence of a  
 21 transaction in a single document, the disclosures required  
 22 under this Section shall be made on the face of the  
 23 document, on the reverse side, or on both sides; provided  
 24 that the amount of the finance charge and the annual  
 25 percentage rate shall appear on the face of the document,  
 26 and, if the reverse side is used, the printing on both  
 27 sides of the document shall be equally clear and  
 28 conspicuous, both sides shall contain the following  
 29 statement: "NOTICE: See other side for important  
 30 information", and a place for the obligor's signature shall  
 31 be provided following the full content of the document; or

32 (ii) One side of a separate statement that identifies  
 33 the transaction.

34 The amount of the finance charge shall be the sum of all  
 35 charges, payable directly or indirectly by the obligor, and  
 36 imposed directly or indirectly by the licensee as an incident

1 to or as a condition to the extension of credit, whether paid  
2 or payable by the obligor, by any other person on behalf of the  
3 obligor, to the licensee, or to a third party, including any of  
4 the following types of charges:

5 (A) Interest, time price differential, and any  
6 amount payable under a discount or other system of  
7 additional charges.

8 (B) Service, transaction, activity, or carrying  
9 charge.

10 (C) Loan fee, points, finder's fee, or similar  
11 charge.

12 (D) Fee for an appraisal, investigation, or credit  
13 report.

14 (E) Charges or premiums for credit life, accident,  
15 health, or loss of income insurance, written in  
16 connection with any credit transaction, unless:

17 (a) the insurance coverage is not required by  
18 the licensee and this fact is clearly and  
19 conspicuously disclosed in writing to the obligor;  
20 and

21 (b) any obligor desiring the insurance  
22 coverage gives specific dated and separately  
23 signed affirmative written indication of that  
24 desire after receiving written disclosure of the  
25 cost of the insurance.

26 (F) Charges or premiums for insurance, written in  
27 connection with any credit transaction, against loss  
28 of or damage to property or against liability arising  
29 out of the ownership or use of property, unless a  
30 clear, conspicuous, and specific statement in writing  
31 is furnished by the licensee to the obligor setting  
32 forth the cost of the insurance if obtained from or  
33 through the licensee and stating that the obligor may  
34 choose the person through which the insurance is to be  
35 obtained.

36 (G) Premium or other charge for any other guarantee

1 or insurance protecting the licensee against the  
2 obligor's default or other credit loss.

3 (H) Any charge imposed by a licensee upon another  
4 licensee for purchasing or accepting an obligation of  
5 an obligor if the obligor is required to pay any part  
6 of that charge in cash, as an addition to the  
7 obligation, or as a deduction from the proceeds of the  
8 obligation.

9 (15) A late payment, delinquency, default, reinstatement,  
10 or other charge is not a finance charge if imposed for actual  
11 unanticipated late payment, delinquency, default, or other  
12 occurrence.

13 (16) A licensee who complies with the federal Truth in  
14 Lending Act and any regulations issued under that Act is deemed  
15 to be in compliance with the provisions of this Section, except  
16 with respect to the disclosure in item (14), which may be set  
17 forth in any manner.

18 Section 135. No real estate security. A licensee shall not  
19 take any security interest in real estate, except a lien which  
20 results from obtaining a judgement.

21 Section 140. Maximum term and amount. The loan contract  
22 shall provide for repayment of the principal and charges within  
23 92 days from the date of the loan contract. No licensee shall  
24 furnish, loan, or otherwise provide an additional sum of money  
25 to any obligor under any circumstances during, on, or within 24  
26 hours after the expiration of the loan contract. Any  
27 contractual agreement entered into by the licensee and the  
28 obligor with respect to the transfer of money in violation of  
29 this Section is null and void. No licensee shall permit an  
30 obligor to owe any licensee, any affiliate of a licensee  
31 (including a corporation owned or managed by the licensee), or  
32 any agent of any licensee an aggregate principal amount of more  
33 than \$1,000 at any time for loans transacted pursuant to this  
34 Act.

1 Section 145. Advertising.

2 (a) Advertising for loans transacted under this Act may not  
3 be false, misleading, or deceptive. Advertising that states a  
4 rate or amount of charge for a loan must state the rate as an  
5 annual percentage rate. No licensee may advertise in any manner  
6 that indicates or implies that its interest rates or charges  
7 for loans are in any way "recommended", "approved", "set", or  
8 "established" by the State or by this Act.

9 (b) If any advertisement to which this Section applies  
10 states the amount of any installment payment, the dollar amount  
11 of any finance charge, or the number of installments or the  
12 period of repayment, then the advertisement shall state all of  
13 the following items:

14 (1) The amount of the loan.

15 (2) The number, amount, and due dates or period of  
16 payments scheduled to repay the indebtedness if the credit  
17 is extended.

18 (3) The rate of the finance charge expressed as an  
19 annual percentage rate.

20 Section 150. Incentives. A licensee may not pay money or  
21 any other thing of value to any person as an incentive or  
22 inducement to apply for a loan, to borrow money, or to refer  
23 potential borrowers to the licensee.

24 Section 155. Redemption of repossessed vehicle; transfer  
25 of certificate of title. Where the licensee repossesses a motor  
26 vehicle that was used as collateral and which is used primarily  
27 for the obligor's personal, family, or household purposes, the  
28 licensee shall be subject to the requirements of and shall  
29 transfer the certificate of title pursuant to Section 3-114 of  
30 the Illinois Vehicle Code.

31 Section 160. Collections; disciplinary action. Licensees  
32 and their contractors are bound by the Collection Agency Act

1 and are liable for disciplinary action, including refusal to  
2 issue a license, refusal to renew a license, revocation of  
3 license, suspension of license, probation, reprimand, or any  
4 other disciplinary action the Director deems proper, including  
5 fines not to exceed \$1,000 per licensee per complaint, for any  
6 act or omission that constitutes a violation of Section 9 of  
7 the Collection Agency Act.

8 Section 165. Collections; elderly or disabled persons.

9 (a) If a licensee violates Section 9 of the Collection  
10 Agency Act and if the victim of the violation is an elderly  
11 person or disabled person, the licensee is guilty of a Class A  
12 misdemeanor. For purposes of this Section, "elderly person"  
13 means a person 60 years of age or older and "disabled person"  
14 means a person who suffers from a permanent physical or mental  
15 impairment resulting from disease, injury, functional  
16 disorder, or congenital condition.

17 (b) The fine for a Class A misdemeanor committed under this  
18 Section shall not exceed \$10,000.

19 Section 170. Payday lending; threat of criminal  
20 prosecution. No licensee or contractor for any licensee shall  
21 at any time communicate with any obligor to threaten the  
22 obligor with criminal prosecution, criminal conviction, or  
23 criminal sentencing if the alleged criminal act upon which the  
24 threat is predicated is the act of writing a postdated personal  
25 check that is not made good by the obligor at the time and date  
26 written on the check.

27 Section 175. Penalties for violation.

28 (a) Any person who engages in business as a short-term  
29 lender without the license required by this Act is guilty of a  
30 Class 4 felony.

31 (b) The obligor, prior to the expiration of 2 years after  
32 the date of his or her last scheduled payment, may recover any  
33 reasonable attorney's fees and court costs that a court

1 assesses against any licensee or lender for a violation of  
2 Section 10, 95, 110, 115, 120, 125, 130, 140, 145, 155, 160,  
3 165, or 170. The balance due under the terms of the loan  
4 contract shall be reduced by the amount that the obligor is  
5 thus entitled to recover. A bona fide error by a licensee in  
6 calculating charges or rebates is not a violation if the  
7 licensee corrects the error within a reasonable time after  
8 discovery.

9 (c) A license issued under this Act may be revoked if the  
10 licensee or any directors, managers of a limited liability  
11 company, partners, or officers of the licensee are convicted of  
12 a felony.

13 (d) No provision of this Section imposing any liability  
14 shall apply to any act done or omitted in conformity with any  
15 rule or written interpretation of a rule by the Director, if,  
16 after the act or omission occurs, the rule or interpretation is  
17 amended, rescinded, or determined by judicial or other  
18 authority to be invalid for any reason. All interpretations  
19 must be written and signed by the Chief Counsel of the Division  
20 of Financial Institutions and approved by the Director.

21 Section 180. Cease and desist.

22 (a) The Director may issue a cease and desist order to any  
23 licensee or any person doing business without the required  
24 license that the Director determines is violating or is about  
25 to violate any provision of this Act or any rule imposed in  
26 writing by the Director as a condition of granting any  
27 authorization permitted by this Act. The Director may issue a  
28 cease and desist order prior to a hearing.

29 (b) The Director shall serve notice of the cease and desist  
30 order, including a statement of the reasons for the order,  
31 either personally or by certified mail, return receipt  
32 requested. Service by certified mail shall be deemed completed  
33 when the notice is deposited in the U.S. mail.

34 (c) Within 15 days of service of the cease and desist  
35 order, the licensee or other person may request, in writing, a

1 hearing.

2 (d) The Director shall schedule the hearing within 30 days  
3 after the request for a hearing is made unless the parties  
4 agree otherwise.

5 (e) The Director shall prescribe rules necessary for the  
6 administration of this Section.

7 (f) If it is determined at the hearing that the Director  
8 had the authority to issue the cease and desist order, the  
9 Director may issue any orders reasonably necessary to correct,  
10 eliminate, or remedy the conduct that resulted in the issuance  
11 of the order.

12 (g) The powers vested in the Director under this Section  
13 are in addition to any and all other powers and remedies vested  
14 in the Director by law, and nothing in this Section shall be  
15 construed as requiring that the Director employ the powers and  
16 remedies conferred in this Section instead of or as a condition  
17 precedent to the exercise of any other power or remedy vested  
18 in the Director.

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

21 Section 185. Civil action. A claim of violation of this Act  
22 may be asserted in a civil action.

23 Section 190. Scope of Act. This Act does not apply to  
24 licensees under the Consumer Installment Loan Act making loans  
25 of more than \$1,000 of any duration or loans of any amount with  
26 a term of 93 days or longer, any person, partnership,  
27 association, limited liability company, or corporation doing  
28 business under and as permitted by any law of this State or of  
29 the United States relating to banks, savings and loan  
30 associations, savings banks, or credit unions, or licensees  
31 under the Residential Mortgage License Act of 1987 for  
32 residential mortgage loans made pursuant to that Act. This Act  
33 does not apply to business loans.

1 Section 195. Rules. The Director may make and enforce any  
2 reasonable rules, orders, decisions, and findings required for  
3 the execution and enforcement of the provisions of this Act.  
4 All rules shall be printed and copies of the printed rules  
5 mailed to all licensees.

6 Section 200. Judicial review. All final administrative  
7 decisions of the Director under this Act shall be subject to  
8 judicial review pursuant to the provisions of the  
9 Administrative Review Law.

10 Section 205. Injunction; civil penalty; costs. If it  
11 appears to the Director that a person or any entity has  
12 committed or is about to commit a violation of this Act, a rule  
13 promulgated under this Act, or an order of the Director, the  
14 Director may apply to the circuit court for an order enjoining  
15 the person or entity from violating or continuing to violate  
16 this Act, the rule, or order and for injunctive or other relief  
17 that the nature of the case may require and may, in addition,  
18 request the court to assess a civil penalty of up to \$1,000  
19 along with costs and attorney's fees.

20 Section 210. Severability. The provisions of this Act are  
21 severable under Section 1.31 of the Statute on Statutes.

22 Section 215. Applicability. This Act shall not apply to any  
23 contract or transaction made before January 1, 2006.

24 Section 295. The Financial Institutions Code is amended by  
25 changing Section 8 as follows:

26 (20 ILCS 1205/8) (from Ch. 17, par. 109)

27 Sec. 8. The Director shall direct and supervise all  
28 Department administrative and technical activities, in  
29 addition to the duties imposed upon him elsewhere in this Code,  
30 and shall:



1 (1) Apply and carry out this Code and the laws and all  
2 rules adopted in pursuance thereof.

3 (2) Appoint, subject to the provisions of the Personnel  
4 Code, such employees of the Department and such experts and  
5 special assistants as may be necessary to carry out effectively  
6 the provisions of this Code.

7 (3) Foster and develop programs with financial  
8 institutions, for the best interests of these institutions,  
9 their services and the people of the State of Illinois.

10 (4) Attend meetings of the Advisory Boards created by laws  
11 relating to financial institutions.

12 (5) Make continuous studies and report his recommendations  
13 to the Governor for the improvement of the Department.

14 (6) Make an annual report regarding the work of the  
15 Department and such special reports as he may consider  
16 desirable to the Governor, or as the Governor may request.

17 (6.5) Operate an electronic consumer complaint reception  
18 service by telephone, computer, or any other means that the  
19 Director finds appropriate to receive and compile complaints  
20 from consumers concerning the operations of licensees under the  
21 Short-term Loan Act.

22 (7) Perform any other lawful acts which he may consider  
23 necessary or desirable to carry out the purposes and provisions  
24 of this Law.

25 (Source: Laws 1957, p. 369.)

26 Section 297. The Consumer Fraud and Deceptive Business  
27 Practices Act is amended by changing Section 2E as follows:

28 (815 ILCS 505/2E) (from Ch. 121 1/2, par. 262E)

29 Sec. 2E. Any person who is regularly engaged in the  
30 business of providing or furnishing merchandise to consumers or  
31 in making loans to consumers and who has committed in any  
32 calendar year 3 or more violations, as determined in any civil  
33 or criminal proceeding, of the ~~"Consumer Finance Act"; the~~  
34 ~~"Consumer Installment Loan Act,"~~ the "Retail Installment

1 Sales Act,~~"~~ the ~~"~~Motor Vehicle Retail Installment Sales Act,~~"~~  
2 ~~the Interest Act, the Illinois Wage Assignment Act, the~~  
3 ~~Short-term Loan Act,"; "An Act to revise the law in relation to~~  
4 ~~the rate of interest and to repeal certain acts therein named",~~  
5 ~~approved May 24, 1879, as amended; "An Act to promote the~~  
6 ~~welfare of wage earners by regulating the assignment of wages,~~  
7 ~~and prescribing a penalty for the violation thereof", approved~~  
8 ~~July 1, 1935, as amended; or Part 8 of Article XII of the Code~~  
9 ~~of Civil Procedure, as amended, or of any 2 or more of those~~  
10 Acts, is guilty of an unlawful practice within the meaning of  
11 this Act. Nothing in this Section prohibits the prosecution of  
12 a person under the Acts specified herein as well as under this  
13 Act.

14 (Source: P.A. 82-783.)

15 Section 999. Effective date. This Act takes effect January  
16 1, 2006.