

1 AN ACT concerning regulation.

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

4 Article 1. General Provisions

5 Section 1-1. Short title. This Act may be cited as the
6 Payday Loan Reform Act.

7 Section 1-5. Purpose and construction. The purpose of this
8 Act is to protect consumers who enter into payday loans and to
9 regulate the lenders of payday loans. This Act shall be
10 construed as a consumer protection law for all purposes. This
11 Act shall be liberally construed to effectuate its purpose.

12 Section 1-10. Definitions. As used in this Act:

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

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

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

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

30 "Director" means the Director of the Division of Financial

1 Institutions of the Department of Financial and Professional
2 Regulation.

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

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

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

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

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

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

6 (1) A lender accepts one or more checks dated on the
7 date written and agrees to hold them for a period of days
8 before deposit or presentment, or accepts one or more
9 checks dated subsequent to the date written and agrees to
10 hold them for deposit; or

11 (2) A lender accepts one or more authorizations to
12 debit a consumer's bank account; or

13 (3) A lender accepts an interest in a consumer's wages,
14 including, but not limited to, a wage assignment.

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

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

21 Section 1-15. Applicability.

22 (a) Except as otherwise provided in this Section, this Act
23 applies to any lender that offers or makes a payday loan to a
24 consumer in Illinois.

25 (b) The provisions of this Act apply to any person or
26 entity that seeks to evade its applicability by any device,
27 subterfuge, or pretense whatsoever.

28 (c) Retail sellers who cash checks incidental to a retail
29 sale and who charge no more than the fees as provided by the
30 Check Cashing Act per check for the service are exempt from the
31 provisions of this Act.

32 (d) Banks, savings banks, savings and loan associations,
33 credit unions, and insurance companies organized, chartered,
34 or holding a certificate of authority to do business under the
35 laws of this State or any other state or under the laws of the

1 United States are exempt from the provisions of this Act.

2 (e) A lender, as defined in Section 1-10, that is an agent
3 for a bank, savings bank, savings and loan association, credit
4 union, or insurance company for the purpose of brokering,
5 selling, or otherwise offering payday loans made by the bank,
6 savings bank, savings and loan association, credit union, or
7 insurance company shall be subject to all of the provisions of
8 this Act, except those provisions related to finance charges.

9 Article 2. Payday Loans

10 Section 2-5. Loan terms.

11 (a) Without affecting the right of a consumer to prepay at
12 any time without cost or penalty, no payday loan may have a
13 minimum term of less than 13 days.

14 (b) No payday loan may be made to a consumer if the loan
15 would result in the consumer being indebted to one or more
16 payday lenders for a period in excess of 45 consecutive days.
17 Except as provided under Section 2-40, if a consumer has or has
18 had loans outstanding for a period in excess of 45 consecutive
19 days, no payday lender may offer or make a loan to the consumer
20 for at least 7 calendar days after the date on which the
21 outstanding balance of all payday loans made during the 45
22 consecutive day period is paid in full. For purposes of this
23 subsection, the term "consecutive days" means a series of
24 continuous calendar days in which the consumer has an
25 outstanding balance on one or more payday loans; however, if a
26 payday loan is made to a consumer within 6 days or less after
27 the outstanding balance of all loans is paid in full, those
28 days are counted as "consecutive days" for purposes of this
29 subsection.

30 (c) No lender may make a payday loan to a consumer if the
31 total principal amount of the loan, when combined with the
32 principal amount of all of the consumer's other outstanding
33 payday loans, exceeds \$1,000 or 25% of the consumer's gross
34 monthly income, whichever is less.

1 (d) No payday loan may be made to a consumer who has an
2 outstanding balance on 2 payday loans.

3 (e) No lender may charge more than \$16 per \$100 loaned on
4 any payday loan over the term of the loan.

5 (f) A lender may not take or attempt to take an interest in
6 any of the consumer's personal property to secure a payday
7 loan.

8 (g) A consumer has the right to redeem a check or any other
9 item described in the definition of payday loan under Section
10 1-10 issued in connection with a payday loan from the lender
11 holding the check or other item at any time before the payday
12 loan becomes payable by paying the full amount of the check or
13 other item, less the unearned portion of the finance charge
14 calculated on a simple interest basis.

15 Section 2-7. Wage assignments. Any payday loan that is a
16 transaction in which the lender accepts a wage assignment must
17 meet the requirements of this Act, the requirements of the
18 Illinois Wage Assignment Act, and the requirements of 16 C.F.R.
19 444.2(a)(3)(i) (2003, no subsequent amendments or editions are
20 included). A violation of this Section constitutes a material
21 violation of the Payday Loan Reform Act.

22 Section 2-10. Permitted fees.

23 (a) If there are insufficient funds to pay a check,
24 Automatic Clearing House (ACH) debit, or any other item
25 described in the definition of payday loan under Section 1-10
26 on the day of presentment and only after the lender has
27 incurred an expense, a lender may charge a fee not to exceed
28 \$25. Only one such fee may be collected by the lender with
29 respect to a particular check, ACH debit, or item even if it
30 has been deposited and returned more than once. A lender shall
31 present the check, ACH debit, or other item described in the
32 definition of payday loan under Section 1-10 for payment not
33 more than twice. A fee charged under this subsection (a) is a
34 lender's exclusive charge for late payment.

1 (b) When a consumer repays a payday loan in full before its
2 due date, the lender must refund the finance charges to the
3 consumer on a simple interest basis as of the time of
4 repayment.

5 (c) Except for the finance charges described in Section 2-5
6 and as specifically allowed by this Section, a lender may not
7 impose on a consumer any additional finance charges, interest,
8 fees, or charges of any sort for any purpose.

9 Section 2-15. Verification.

10 (a) Before entering into a loan agreement with a consumer,
11 a lender must use a commercially reasonable method of
12 verification to verify that the proposed loan agreement is
13 permissible under this Act.

14 (b) Within 6 months after the effective date of this Act,
15 the Division shall certify that one or more consumer reporting
16 services are commercially reasonable methods of verification.
17 Upon certifying that a consumer reporting service is a
18 commercially reasonable method of verification, the Division
19 shall:

20 (1) provide reasonable notice to all licensees
21 identifying the commercially reasonable methods of
22 verification that are available; and

23 (2) immediately upon certification, require each
24 licensee to use a commercially reasonable method of
25 verification as a means of complying with subsection (a) of
26 this Section.

27 (c) Except as otherwise provided in this Section, all
28 information contained in the certified database regarding any
29 consumer is strictly confidential and is exempt from disclosure
30 under the Freedom of Information Act.

31 (d) Notwithstanding any other provision of law to the
32 contrary, a consumer seeking a payday loan may make a direct
33 inquiry to the certified database provider to request a more
34 detailed explanation of the basis for a database's
35 determination that the consumer is ineligible for a new payday

1 loan.

2 (e) In certifying a commercially reasonable method of
3 verification, the Division shall ensure that the database:

4 (1) provides real-time access through an Internet
5 connection or, if real-time access through an Internet
6 connection becomes unavailable to lenders due to a database
7 provider's technical problems incurred by the database
8 provider, through alternative verification mechanisms,
9 including, but not limited to, verification by telephone;

10 (2) is accessible to the Division and to licensees in
11 order to ensure compliance with this Act and in order to
12 provide any other information that the Division deems
13 necessary;

14 (3) requires licensees to input whatever information
15 is required by the Division;

16 (4) maintains a real-time copy of the required
17 reporting information that is available to the Division at
18 all times and is the property of the Division;

19 (5) provides licensees only with a statement that a
20 consumer is eligible or ineligible for a new payday loan
21 and a description of the reason for the determination; and

22 (6) contains safeguards to ensure that all information
23 contained in the database regarding consumers is kept
24 strictly confidential.

25 (f) The licensee shall update the database by inputting all
26 information required under item (3) of subsection (e):

27 (1) on the same day that a payday loan is made;

28 (2) on the same day that a consumer elects a repayment
29 plan, as provided in Section 2-40; and

30 (3) on the same day that a consumer's payday loan is
31 paid in full.

32 (g) A licensee may rely on the information contained in the
33 certified database as accurate and is not subject to any
34 administrative penalty or liability as a result of relying on
35 inaccurate information contained in the database.

36 (h) The certified consumer reporting service shall

1 indemnify the licensee against all claims and actions arising
2 from illegal or willful or wanton acts on the part of the
3 certified consumer reporting service.

4 Section 2-17. Consumer reporting services qualification
5 and bonding.

6 (a) Each consumer reporting service shall have at all times
7 a net worth of not less than \$1,000,000 calculated in
8 accordance with generally accepted accounting principles.

9 (b) Each application for certification under this Act shall
10 be accompanied by a surety bond acceptable to the Division in
11 the amount of \$1,000,000. The surety bond shall be in a form
12 satisfactory to the Division and shall run to the State of
13 Illinois for the benefit of any claimants against the consumer
14 reporting service to secure the faithful performance of its
15 obligations under this Act. The aggregate liability of the
16 surety may exceed the principal sum of the bond. Claimants
17 against the consumer reporting service may themselves bring
18 suit directly on the surety bond or the Division may bring suit
19 on behalf of claimants, either in one action or in successive
20 actions.

21 (c) The surety bond shall remain in effect until
22 cancellation, which may occur only after 90 days' written
23 notice to the Division. Cancellation shall not affect any
24 liability incurred or accrued during that period.

25 (d) The surety bond shall remain in place for 5 years after
26 the consumer reporting service ceases operation in the State.

27 (e) The surety bond proceeds and any cash or other
28 collateral posted as security by a consumer reporting service
29 shall be deemed by operation of law to be held in trust for any
30 claimants under this Act in the event of the bankruptcy of the
31 consumer reporting service.

32 (f) To the extent that any indemnity or fine exceeds the
33 amount of the surety bond described under this Section, the
34 consumer reporting service shall be liable for that amount.

35 (g) Each application for certification under this Act shall

1 be accompanied by a nonrefundable investigation fee of \$2,500,
2 together with an initial certification fee of \$1,000.

3 (h) On or before March 1 of each year, each consumer
4 reporting service qualified under this Section shall pay to the
5 Division a certification fee in the amount of \$1,000.

6 Section 2-20. Required disclosures.

7 (a) Before a payday loan is made, a lender shall deliver to
8 the consumer a pamphlet prepared by the Director that:

9 (1) explains, in simple English and Spanish, all of the
10 consumer's rights and responsibilities in a payday loan
11 transaction;

12 (2) includes a toll-free number to the Director's
13 office to handle concerns or provide information about
14 whether a lender is licensed, whether complaints have been
15 filed with the Director, and the resolution of those
16 complaints; and

17 (3) provides information regarding the availability of
18 debt management services.

19 (b) Lenders shall provide consumers with a written
20 agreement that may be kept by the consumer. The written
21 agreement must include the following information in English and
22 in the language in which the loan was negotiated:

23 (1) the name and address of the lender making the
24 payday loan, and the name and title of the individual
25 employee who signs the agreement on behalf of the lender;

26 (2) disclosures required by the federal Truth in
27 Lending Act;

28 (3) a clear description of the consumer's payment
29 obligations under the loan;

30 (4) the following statement, in at least 14-point bold
31 type face: "You cannot be prosecuted in criminal court to
32 collect this loan.". The information required to be
33 disclosed under this subdivision (4) must be conspicuously
34 disclosed in the loan document and shall be located
35 immediately preceding the signature of the consumer; and

1 (5) the following statement, in at least 14-point bold
2 type face:

3 "WARNING: This loan is not intended to meet long-term
4 financial needs. This loan should be used only to meet
5 short-term cash needs. The cost of your loan may be higher
6 than loans offered by other lending institutions. This loan
7 is regulated by the Department of Financial and
8 Professional Regulation."

9 (c) The following notices in English and Spanish must be
10 conspicuously posted by a lender in each location of a business
11 providing payday loans:

12 (1) A notice that informs consumers that the lender
13 cannot use the criminal process against a consumer to
14 collect any payday loan.

15 (2) The schedule of all finance charges to be charged
16 on loans with an example of the amounts that would be
17 charged on a \$100 loan payable in 13 days and a \$400 loan
18 payable in 30 days, giving the corresponding annual
19 percentage rate.

20 (3) In one-inch bold type, a notice to the public in
21 the lending area of each business location containing the
22 following statement:

23 "WARNING: This loan is not intended to meet long-term
24 financial needs. This loan should be used only to meet
25 short-term cash needs. The cost of your loan may be higher
26 than loans offered by other lending institutions. This loan
27 is regulated by the Department of Financial and
28 Professional Regulation."

29 (4) In one-inch bold type, a notice to the public in
30 the lending area of each business location containing the
31 following statement:

32 "INTEREST-FREE REPAYMENT PLAN: If you still owe on one
33 or more payday loans after 35 days, you are entitled to
34 enter into a repayment plan. The repayment plan will give
35 you at least 56 days to repay your loan in installments
36 with no additional finance charges, interest, fees, or

1 other charges of any kind."

2 Section 2-25. Right to cancel future payment obligations. A
3 consumer may cancel future payment obligations on a payday
4 loan, without cost or finance charges, no later than the end of
5 the second business day immediately following the day on which
6 the payday loan agreement was executed. To cancel future
7 payment obligations on a payday loan, the consumer must inform
8 the lender in writing that the consumer wants to cancel the
9 future payment obligations on the payday loan and must return
10 the uncashed proceeds, check or cash, in an amount equal to the
11 principal amount of the loan.

12 Section 2-30. Rollovers prohibited. Rollover of a payday
13 loan by any lender is prohibited.

14 Section 2-35. Proceeds and payments.

15 (a) A lender may issue the proceeds of a loan in the form
16 of a check drawn on the lender's bank account, in cash, by
17 money order, by debit card, or by electronic funds transfer.
18 When the proceeds are issued in the form of a check drawn on
19 the lender's bank account, by money order, or by electronic
20 funds transfer, the lender may not charge a fee for cashing the
21 check, money order, or electronic funds transfer. When the
22 proceeds are issued in cash, the lender must provide the
23 consumer with written verification of the cash transaction and
24 shall maintain a record of the transaction for at least 3
25 years.

26 (b) After each payment made in full or in part on any loan,
27 the lender shall give the consumer making the payment either a
28 signed, dated receipt or a signed, computer-generated receipt
29 showing the amount paid and the balance due on the loan.

30 (c) Before a loan is made, the lender must provide the
31 consumer, or each consumer if there is more than one, with a
32 copy of the loan documents described in Section 2-20.

33 (d) The holder or assignee of any loan agreement or of any

1 check written by a consumer in connection with a payday loan
2 takes the loan agreement or check subject to all claims and
3 defenses of the consumer against the maker.

4 (e) Upon receipt of a check from a consumer for a loan, the
5 lender must immediately stamp the back of the check with an
6 endorsement that states: "This check is being negotiated as
7 part of a loan under the Payday Loan Reform Act, and any holder
8 of this check takes it subject to all claims and defenses of
9 the maker."

10 (f) Loan payments may be electronically debited from the
11 consumer's bank account. Except as provided by federal law, the
12 lender must obtain prior written approval from the consumer.

13 (g) A consumer may prepay on a loan in increments of \$5 or
14 more at any time without cost or penalty.

15 (h) A loan is made on the date on which a loan agreement is
16 signed by both parties, regardless of whether the lender gives
17 any moneys to the consumer on that date.

18 Section 2-40. Repayment plan.

19 (a) At the time a payday loan is made, the lender must
20 provide the consumer with a separate written notice signed by
21 the consumer of the consumer's right to request a repayment
22 plan. The written notice must comply with the requirements of
23 subsection (c).

24 (b) The loan agreement must include the following language
25 in at least 14-point bold type: IF YOU STILL OWE ON ONE OR MORE
26 PAYDAY LOANS AFTER 35 DAYS, YOU ARE ENTITLED TO ENTER INTO A
27 REPAYMENT PLAN. THE REPAYMENT PLAN WILL GIVE YOU AT LEAST 56
28 DAYS TO REPAY YOUR LOAN IN INSTALLMENTS WITH NO ADDITIONAL
29 FINANCE CHARGES, INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

30 (c) At the time a payday loan is made, on the first page of
31 the loan agreement and in a separate document signed by the
32 consumer, the following shall be inserted in at least 14-point
33 bold type: I UNDERSTAND THAT IF I STILL OWE ON ONE OR MORE
34 PAYDAY LOANS AFTER 35 DAYS, I AM ENTITLED TO ENTER INTO A
35 REPAYMENT PLAN THAT WILL GIVE ME AT LEAST 56 DAYS TO REPAY THE

1 LOAN IN INSTALLMENTS WITH NO ADDITIONAL FINANCE CHARGES,
2 INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

3 (d) If the consumer has or has had one or more payday loans
4 outstanding for 35 consecutive days, any payday loan
5 outstanding on the 35th consecutive day shall be payable under
6 the terms of a repayment plan as provided for in this Section,
7 if the consumer requests the repayment plan. As to any loan
8 that becomes eligible for a repayment plan under this
9 subsection, the consumer has until 28 days after the default
10 date of the loan to request a repayment plan. Within 48 hours
11 after the request for a repayment plan is made, the lender must
12 prepare the repayment plan agreement and both parties must
13 execute the agreement. Execution of the repayment plan
14 agreement shall be made in the same manner in which the loan
15 was made and shall be evidenced in writing.

16 (e) The terms of the repayment plan for a payday loan must
17 include the following:

18 (1) The lender may not impose any charge on the
19 consumer for requesting or using a repayment plan.
20 Performance of the terms of the repayment plan extinguishes
21 the consumer's obligation on the loan.

22 (2) No lender shall charge the consumer any finance
23 charges, interest, fees, or other charges of any kind,
24 except a fee for insufficient funds, as provided under
25 Section 2-10.

26 (3) The consumer shall be allowed to repay the loan in
27 at least 4 equal installments with at least 13 days between
28 installments, provided that the term of the repayment plan
29 does not exceed 90 days. The first payment under the
30 repayment plan shall not be due before at least 13 days
31 after the repayment plan is signed by both parties. The
32 consumer may prepay the amount due under the repayment plan
33 at any time, without charge or penalty.

34 (4) The length of time between installments may be
35 extended by the parties so long as the total period of
36 repayment does not exceed 90 days. Any such modification

1 must be in writing and signed by both parties.

2 (f) Notwithstanding any provision of law to the contrary, a
3 lender is prohibited from making a payday loan to a consumer
4 who has a payday loan outstanding under a repayment plan and
5 for at least 14 days after the outstanding balance of the loan
6 under the repayment plan and the outstanding balance of all
7 other payday loans outstanding during the term of the repayment
8 plan are paid in full.

9 (g) A lender may not accept postdated checks for payments
10 under a repayment plan.

11 (h) Notwithstanding any provision of law to the contrary, a
12 lender may voluntarily agree to enter into a repayment plan
13 with a consumer at any time. If a consumer is eligible for a
14 repayment plan under subsection (d), any repayment agreement
15 constitutes a repayment plan under this Section and all
16 provisions of this Section apply to that agreement.

17 Section 2-45. Default.

18 (a) No legal proceeding of any kind, including, but not
19 limited to, a lawsuit or arbitration, may be filed or initiated
20 against a consumer to collect on a payday loan until 28 days
21 after the default date of the loan, or, in the case of a payday
22 loan under a repayment plan, for 28 days after the default date
23 under the terms of the repayment plan.

24 (b) Upon and after default, a lender shall not charge the
25 consumer any finance charges, interest, fees, or charges of any
26 kind, other than the insufficient fund fee described in Section
27 2-10.

28 Section 2-50. Practices concerning members of the
29 military.

30 (a) A lender may not garnish the wages or salaries of a
31 consumer who is a member of the military.

32 (b) In addition to any rights and obligations provided
33 under the federal Servicemembers Civil Relief Act, a lender
34 shall suspend and defer collection activity against a consumer

1 who is a member of the military and who has been deployed to a
2 combat or combat support posting for the duration of the
3 deployment.

4 (c) A lender may not knowingly contact the military chain
5 of command of a consumer who is a member of the military in an
6 effort to collect on a payday loan.

7 (d) Lenders must honor the terms of any repayment plan that
8 they have entered into with any consumer, including a repayment
9 agreement negotiated through military counselors or
10 third-party credit counselors.

11 Section 2-55. Information, reporting, and examination.

12 (a) A licensee shall keep and use books, accounts, and
13 records that will enable the Director to determine if the
14 licensee is complying with the provisions of this Act and
15 maintain any other records as required by the Director.

16 (b) A licensee shall collect and maintain information
17 annually for a report that shall disclose in detail and under
18 appropriate headings:

19 (1) the total number of payday loans made during the
20 preceding calendar year;

21 (2) the total number of payday loans outstanding as of
22 December 31 of the preceding calendar year;

23 (3) the minimum, maximum, and average dollar amount of
24 payday loans made during the preceding calendar year;

25 (4) the average annual percentage rate and the average
26 term of payday loans made during the preceding calendar
27 year; and

28 (5) the total number of payday loans paid in full, the
29 total number of loans that went into default, and the total
30 number of loans written off during the preceding calendar
31 year.

32 The report shall be verified by the oath or affirmation of
33 the owner, manager, or president of the licensee. The report
34 must be filed with the Director no later than March 1 of the
35 year following the year for which the report discloses the

1 information specified in this subsection (b). The Director may
2 impose upon the licensee a fine of \$25 per day for each day
3 beyond the filing deadline that the report is not filed.

4 (c) No later than July 31 of the second year following the
5 effective date of this Act, the Division shall publish a
6 biennial report that contains a compilation of aggregate data
7 concerning the payday lending industry and shall make the
8 report available to the Governor, the General Assembly, and the
9 general public.

10 (d) The Division shall have the authority to conduct
11 examinations of the books, records, and loan documents at any
12 time.

13 Section 2-60. Advertising.

14 (a) Advertising for loans transacted under this Act may not
15 be false, misleading, or deceptive. Payday loan advertising, if
16 it states a rate or amount of charge for a loan, must state the
17 rate as an annual percentage rate. No licensee may advertise in
18 any manner so as to indicate or imply that its rates or charges
19 for loans are in any way recommended, approved, set, or
20 established by the State government or by this Act.

21 (b) If any advertisement to which this Section applies
22 states the amount of any installment payment, the dollar amount
23 of any finance charge, or the number of installments or the
24 period of repayment, then the advertisement shall state all of
25 the following items:

26 (1) The amount of the loan.

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

30 (3) The finance charge expressed as an annual
31 percentage rate.

32 Article 3. Licensure

33 Section 3-3. Licensure requirement.

1 (a) Except as provided in subsection (b), on and after the
2 effective date of this Act, a person or entity acting as a
3 payday lender must be licensed by the Division as provided in
4 this Article.

5 (b) A person or entity acting as a payday lender who is
6 licensed on the effective date of this Act under the Consumer
7 Installment Loan Act need not comply with subsection (a) until
8 the Division takes action on the person's or entity's
9 application for a payday loan license. The application must be
10 submitted to the Division within 9 months after the effective
11 date of this Act. If the application is not submitted within 9
12 months after the effective date of this Act, the person or
13 entity acting as a payday lender is subject to subsection (a).

14 Section 3-5. Licensure.

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

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

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

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

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

1 to the satisfaction of the Division.

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

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

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

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

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

1 (g) No licensee shall conduct the business of making loans
2 under this Act within any office, suite, room, or place of
3 business in which any other business is solicited or engaged in
4 unless the other business is licensed by the Division or, in
5 the opinion of the Director, the other business would not be
6 contrary to the best interests of consumers and is authorized
7 by the Director in writing.

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

15 Section 3-10. Closing of business; surrender of license. At
16 least 10 days before a licensee ceases operations, closes the
17 business, or files for bankruptcy, the licensee shall:

18 (1) Notify the Division of its intended action in
19 writing.

20 (2) With the exception of filing for bankruptcy,
21 surrender its license to the Director for cancellation. The
22 surrender of the license shall not affect the licensee's
23 civil or criminal liability for acts committed before or
24 after the surrender or entitle the licensee to a return of
25 any part of the annual license fee.

26 (3) Notify the Division of the location where the
27 books, accounts, contracts, and records will be
28 maintained.

29 The accounts, books, records, and contracts shall be
30 maintained and serviced by the licensee, by another licensee
31 under this Act, or by the Division.

32 Article 4. Administrative Provisions

33 Section 4-5. Prohibited acts. A licensee or unlicensed

1 person or entity making payday loans may not commit, or have
2 committed on behalf of the licensee or unlicensed person or
3 entity, any of the following acts:

4 (1) Threatening to use or using the criminal process in
5 this or any other state to collect on the loan.

6 (2) Using any device or agreement that would have the
7 effect of charging or collecting more fees or charges than
8 allowed by this Act, including, but not limited to,
9 entering into a different type of transaction with the
10 consumer.

11 (3) Engaging in unfair, deceptive, or fraudulent
12 practices in the making or collecting of a payday loan.

13 (4) Using or attempting to use the check provided by
14 the consumer in a payday loan as collateral for a
15 transaction not related to a payday loan.

16 (5) Knowingly accepting payment in whole or in part of
17 a payday loan through the proceeds of another payday loan
18 provided by any licensee.

19 (6) Knowingly accepting any security, other than that
20 specified in the definition of payday loan in Section 1-10,
21 for a payday loan.

22 (7) Charging any fees or charges other than those
23 specifically authorized by this Act.

24 (8) Threatening to take any action against a consumer
25 that is prohibited by this Act or making any misleading or
26 deceptive statements regarding the payday loan or any
27 consequences thereof.

28 (9) Making a misrepresentation of a material fact by an
29 applicant for licensure in obtaining or attempting to
30 obtain a license.

31 (10) Including any of the following provisions in loan
32 documents required by subsection (b) of Section 2-20:

33 (A) a confession of judgment clause;

34 (B) a waiver of the right to a jury trial, if
35 applicable, in any action brought by or against a
36 consumer, unless the waiver is included in an

1 arbitration clause allowed under subparagraph (C) of
2 this paragraph (11);

3 (C) a mandatory arbitration clause that is
4 oppressive, unfair, unconscionable, or substantially
5 in derogation of the rights of consumers; or

6 (D) a provision in which the consumer agrees not to
7 assert any claim or defense arising out of the
8 contract.

9 (11) Selling any insurance of any kind whether or not
10 sold in connection with the making or collecting of a
11 payday loan.

12 (12) Taking any power of attorney.

13 (13) Taking any security interest in real estate.

14 (14) Collecting a delinquency or collection charge on
15 any installment regardless of the period in which it
16 remains in default.

17 (15) Collecting treble damages on an amount owing from
18 a payday loan.

19 (16) Refusing, or intentionally delaying or
20 inhibiting, the consumer's right to enter into a repayment
21 plan pursuant to this Act.

22 (17) Charging for, or attempting to collect,
23 attorney's fees, court costs, or arbitration costs
24 incurred in connection with the collection of a payday
25 loan.

26 (18) Making a loan in violation of this Act.

27 (19) Garnishing the wages or salaries of a consumer who
28 is a member of the military.

29 (20) Failing to suspend or defer collection activity
30 against a consumer who is a member of the military and who
31 has been deployed to a combat or combat-support posting.

32 (21) Contacting the military chain of command of a
33 consumer who is a member of the military in an effort to
34 collect on a payday loan.

35 Section 4-10. Enforcement and remedies.

1 (a) The remedies provided in this Act are cumulative and
2 apply to persons or entities subject to this Act.

3 (b) Any material violation of this Act, including the
4 commission of an act prohibited under Section 4-5, constitutes
5 a violation of the Consumer Fraud and Deceptive Business
6 Practices Act.

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

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

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

26 The Director shall serve notice of his or her action,
27 including, but not limited to, a statement of the reasons for
28 the action, either personally or by certified mail, return
29 receipt requested. Service by certified mail shall be deemed
30 completed when the notice is deposited in the U.S. Mail.

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

36 If it is determined that the Director had the authority to

1 issue the cease and desist order, he or she may issue such
2 orders as may be reasonably necessary to correct, eliminate, or
3 remedy the conduct.

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

11 The cost for the administrative hearing under this
12 subsection (e) shall be paid by the lender.

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

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

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

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

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

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

5 In every case in which a license is suspended or revoked or
6 an application for a license or renewal of a license is denied,
7 the Director shall serve the licensee with notice of his or her
8 action, including a statement of the reasons for his or her
9 actions, either personally, or by certified mail, return
10 receipt requested. Service by certified mail shall be deemed
11 completed when the notice is deposited in the U.S. Mail.

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

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

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

28 The costs for the administrative hearing shall be paid by
29 the lender.

30 Section 4-15. Bonding.

31 (a) A person or entity engaged in making payday loans under
32 this Act shall post a bond to the Division in the amount of
33 \$50,000 for each location where loans will be made, up to a
34 maximum bond amount of \$500,000.

35 (b) A bond posted under subsection (a) must continue in

1 effect for the period of licensure and for 3 additional years
2 if the bond is still available. The bond must be available to
3 pay damages and penalties to a consumer harmed by a violation
4 of this Act.

5 (c) From time to time the Director may require a licensee
6 to file a bond in an additional sum if the Director determines
7 it to be necessary. In no case shall the bond be more than the
8 outstanding liabilities of the licensee.

9 Section 4-20. Preemption of administrative rules. Any
10 administrative rule promulgated prior to the effective date of
11 this Act by the Division regarding payday loans is preempted.

12 Section 4-25. Reporting of violations. The Division shall
13 report to the Attorney General all material violations of this
14 Act of which it becomes aware.

15 Section 4-30. Rulemaking; industry review.

16 (a) The Division may make and enforce such reasonable
17 rules, regulations, directions, orders, decisions, and
18 findings as the execution and enforcement of the provisions of
19 this Act require, and as are not inconsistent therewith. All
20 rules, regulations, and directions of a general character shall
21 be printed and copies thereof mailed to all licensees.

22 (b) Within 6 months after the effective date of this Act,
23 the Department of Financial and Professional Regulation shall
24 promulgate reasonable rules regarding the issuance of payday
25 loans by banks, savings banks, savings and loan associations,
26 credit unions, and insurance companies. These rules shall be
27 consistent with this Act and shall be limited in scope to the
28 actual products and services offered by lenders governed by
29 this Act.

30 (c) After the effective date of this Act, the Division
31 shall, over a 3-year period, conduct a study of the payday loan
32 industry to determine the impact and effectiveness of this Act.
33 The Division shall report its findings to the General Assembly

1 within 3 months of the third anniversary of the effective date
2 of this Act. The study shall determine the effect of this Act
3 on the protection of consumers in this State and on the fair
4 and reasonable regulation of the payday loan industry. The
5 study shall include, but shall not be limited to, an analysis
6 of the ability of the industry to use private reporting tools
7 that:

8 (1) ensure substantial compliance with this Act,
9 including real time reporting of outstanding payday loans;
10 and

11 (2) provide data to the Division in an appropriate form
12 and with appropriate content to allow the Division to
13 adequately monitor the industry.

14 The report of the Division shall, if necessary, identify
15 and recommend specific amendments to this Act to further
16 protect consumers and to guarantee fair and reasonable
17 regulation of the payday loan industry.

18 Section 4-35. Judicial review. All final administrative
19 decisions of the Division under this Act are subject to
20 judicial review pursuant to the provisions of the
21 Administrative Review Law and any rules adopted pursuant
22 thereto.

23 Section 4-40. No waivers. There shall be no waiver of any
24 provision of this Act.

25 Section 4-45. Superiority of Act. To the extent this Act
26 conflicts with any other State financial regulation laws, this
27 Act is superior and supersedes those laws for the purposes of
28 regulating payday loans in Illinois, provided that nothing
29 herein shall apply to any lender that is a bank, savings bank,
30 savings and loan association, credit union, or insurance
31 company organized, chartered, or holding a certificate of
32 authority to do business under the laws of this State or any
33 other state or under the laws of the United States.

1 Section 4-50. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Article 90. Amendatory Provisions

4 Section 90-3. The Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) The following shall be exempt from inspection and
9 copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and regulations
12 adopted under federal or State law.

13 (b) Information that, if disclosed, would constitute a
14 clearly unwarranted invasion of personal privacy, unless
15 the disclosure is consented to in writing by the individual
16 subjects of the information. The disclosure of information
17 that bears on the public duties of public employees and
18 officials shall not be considered an invasion of personal
19 privacy. Information exempted under this subsection (b)
20 shall include but is not limited to:

21 (i) files and personal information maintained with
22 respect to clients, patients, residents, students or
23 other individuals receiving social, medical,
24 educational, vocational, financial, supervisory or
25 custodial care or services directly or indirectly from
26 federal agencies or public bodies;

27 (ii) personnel files and personal information
28 maintained with respect to employees, appointees or
29 elected officials of any public body or applicants for
30 those positions;

31 (iii) files and personal information maintained
32 with respect to any applicant, registrant or licensee

1 by any public body cooperating with or engaged in
2 professional or occupational registration, licensure
3 or discipline;

4 (iv) information required of any taxpayer in
5 connection with the assessment or collection of any tax
6 unless disclosure is otherwise required by State
7 statute;

8 (v) information revealing the identity of persons
9 who file complaints with or provide information to
10 administrative, investigative, law enforcement or
11 penal agencies; provided, however, that identification
12 of witnesses to traffic accidents, traffic accident
13 reports, and rescue reports may be provided by agencies
14 of local government, except in a case for which a
15 criminal investigation is ongoing, without
16 constituting a clearly unwarranted per se invasion of
17 personal privacy under this subsection; and

18 (vi) the names, addresses, or other personal
19 information of participants and registrants in park
20 district, forest preserve district, and conservation
21 district programs.

22 (c) Records compiled by any public body for
23 administrative enforcement proceedings and any law
24 enforcement or correctional agency for law enforcement
25 purposes or for internal matters of a public body, but only
26 to the extent that disclosure would:

27 (i) interfere with pending or actually and
28 reasonably contemplated law enforcement proceedings
29 conducted by any law enforcement or correctional
30 agency;

31 (ii) interfere with pending administrative
32 enforcement proceedings conducted by any public body;

33 (iii) deprive a person of a fair trial or an
34 impartial hearing;

35 (iv) unavoidably disclose the identity of a
36 confidential source or confidential information

1 furnished only by the confidential source;

2 (v) disclose unique or specialized investigative
3 techniques other than those generally used and known or
4 disclose internal documents of correctional agencies
5 related to detection, observation or investigation of
6 incidents of crime or misconduct;

7 (vi) constitute an invasion of personal privacy
8 under subsection (b) of this Section;

9 (vii) endanger the life or physical safety of law
10 enforcement personnel or any other person; or

11 (viii) obstruct an ongoing criminal investigation.

12 (d) Criminal history record information maintained by
13 State or local criminal justice agencies, except the
14 following which shall be open for public inspection and
15 copying:

16 (i) chronologically maintained arrest information,
17 such as traditional arrest logs or blotters;

18 (ii) the name of a person in the custody of a law
19 enforcement agency and the charges for which that
20 person is being held;

21 (iii) court records that are public;

22 (iv) records that are otherwise available under
23 State or local law; or

24 (v) records in which the requesting party is the
25 individual identified, except as provided under part
26 (vii) of paragraph (c) of subsection (1) of this
27 Section.

28 "Criminal history record information" means data
29 identifiable to an individual and consisting of
30 descriptions or notations of arrests, detentions,
31 indictments, informations, pre-trial proceedings, trials,
32 or other formal events in the criminal justice system or
33 descriptions or notations of criminal charges (including
34 criminal violations of local municipal ordinances) and the
35 nature of any disposition arising therefrom, including
36 sentencing, court or correctional supervision,

1 rehabilitation and release. The term does not apply to
2 statistical records and reports in which individuals are
3 not identified and from which their identities are not
4 ascertainable, or to information that is for criminal
5 investigative or intelligence purposes.

6 (e) Records that relate to or affect the security of
7 correctional institutions and detention facilities.

8 (f) Preliminary drafts, notes, recommendations,
9 memoranda and other records in which opinions are
10 expressed, or policies or actions are formulated, except
11 that a specific record or relevant portion of a record
12 shall not be exempt when the record is publicly cited and
13 identified by the head of the public body. The exemption
14 provided in this paragraph (f) extends to all those records
15 of officers and agencies of the General Assembly that
16 pertain to the preparation of legislative documents.

17 (g) Trade secrets and commercial or financial
18 information obtained from a person or business where the
19 trade secrets or information are proprietary, privileged
20 or confidential, or where disclosure of the trade secrets
21 or information may cause competitive harm, including all
22 information determined to be confidential under Section
23 4002 of the Technology Advancement and Development Act.
24 Nothing contained in this paragraph (g) shall be construed
25 to prevent a person or business from consenting to
26 disclosure.

27 (h) Proposals and bids for any contract, grant, or
28 agreement, including information which if it were
29 disclosed would frustrate procurement or give an advantage
30 to any person proposing to enter into a contractor
31 agreement with the body, until an award or final selection
32 is made. Information prepared by or for the body in
33 preparation of a bid solicitation shall be exempt until an
34 award or final selection is made.

35 (i) Valuable formulae, computer geographic systems,
36 designs, drawings and research data obtained or produced by

1 any public body when disclosure could reasonably be
2 expected to produce private gain or public loss. The
3 exemption for "computer geographic systems" provided in
4 this paragraph (i) does not extend to requests made by news
5 media as defined in Section 2 of this Act when the
6 requested information is not otherwise exempt and the only
7 purpose of the request is to access and disseminate
8 information regarding the health, safety, welfare, or
9 legal rights of the general public.

10 (j) Test questions, scoring keys and other examination
11 data used to administer an academic examination or
12 determined the qualifications of an applicant for a license
13 or employment.

14 (k) Architects' plans, engineers' technical
15 submissions, and other construction related technical
16 documents for projects not constructed or developed in
17 whole or in part with public funds and the same for
18 projects constructed or developed with public funds, but
19 only to the extent that disclosure would compromise
20 security, including but not limited to water treatment
21 facilities, airport facilities, sport stadiums, convention
22 centers, and all government owned, operated, or occupied
23 buildings.

24 (l) Library circulation and order records identifying
25 library users with specific materials.

26 (m) Minutes of meetings of public bodies closed to the
27 public as provided in the Open Meetings Act until the
28 public body makes the minutes available to the public under
29 Section 2.06 of the Open Meetings Act.

30 (n) Communications between a public body and an
31 attorney or auditor representing the public body that would
32 not be subject to discovery in litigation, and materials
33 prepared or compiled by or for a public body in
34 anticipation of a criminal, civil or administrative
35 proceeding upon the request of an attorney advising the
36 public body, and materials prepared or compiled with

1 respect to internal audits of public bodies.

2 (o) Information received by a primary or secondary
3 school, college or university under its procedures for the
4 evaluation of faculty members by their academic peers.

5 (p) Administrative or technical information associated
6 with automated data processing operations, including but
7 not limited to software, operating protocols, computer
8 program abstracts, file layouts, source listings, object
9 modules, load modules, user guides, documentation
10 pertaining to all logical and physical design of
11 computerized systems, employee manuals, and any other
12 information that, if disclosed, would jeopardize the
13 security of the system or its data or the security of
14 materials exempt under this Section.

15 (q) Documents or materials relating to collective
16 negotiating matters between public bodies and their
17 employees or representatives, except that any final
18 contract or agreement shall be subject to inspection and
19 copying.

20 (r) Drafts, notes, recommendations and memoranda
21 pertaining to the financing and marketing transactions of
22 the public body. The records of ownership, registration,
23 transfer, and exchange of municipal debt obligations, and
24 of persons to whom payment with respect to these
25 obligations is made.

26 (s) The records, documents and information relating to
27 real estate purchase negotiations until those negotiations
28 have been completed or otherwise terminated. With regard to
29 a parcel involved in a pending or actually and reasonably
30 contemplated eminent domain proceeding under Article VII
31 of the Code of Civil Procedure, records, documents and
32 information relating to that parcel shall be exempt except
33 as may be allowed under discovery rules adopted by the
34 Illinois Supreme Court. The records, documents and
35 information relating to a real estate sale shall be exempt
36 until a sale is consummated.

1 (t) Any and all proprietary information and records
2 related to the operation of an intergovernmental risk
3 management association or self-insurance pool or jointly
4 self-administered health and accident cooperative or pool.

5 (u) Information concerning a university's adjudication
6 of student or employee grievance or disciplinary cases, to
7 the extent that disclosure would reveal the identity of the
8 student or employee and information concerning any public
9 body's adjudication of student or employee grievances or
10 disciplinary cases, except for the final outcome of the
11 cases.

12 (v) Course materials or research materials used by
13 faculty members.

14 (w) Information related solely to the internal
15 personnel rules and practices of a public body.

16 (x) Information contained in or related to
17 examination, operating, or condition reports prepared by,
18 on behalf of, or for the use of a public body responsible
19 for the regulation or supervision of financial
20 institutions or insurance companies, unless disclosure is
21 otherwise required by State law.

22 (y) Information the disclosure of which is restricted
23 under Section 5-108 of the Public Utilities Act.

24 (z) Manuals or instruction to staff that relate to
25 establishment or collection of liability for any State tax
26 or that relate to investigations by a public body to
27 determine violation of any criminal law.

28 (aa) Applications, related documents, and medical
29 records received by the Experimental Organ Transplantation
30 Procedures Board and any and all documents or other records
31 prepared by the Experimental Organ Transplantation
32 Procedures Board or its staff relating to applications it
33 has received.

34 (bb) Insurance or self insurance (including any
35 intergovernmental risk management association or self
36 insurance pool) claims, loss or risk management

1 information, records, data, advice or communications.

2 (cc) Information and records held by the Department of
3 Public Health and its authorized representatives relating
4 to known or suspected cases of sexually transmissible
5 disease or any information the disclosure of which is
6 restricted under the Illinois Sexually Transmissible
7 Disease Control Act.

8 (dd) Information the disclosure of which is exempted
9 under Section 30 of the Radon Industry Licensing Act.

10 (ee) Firm performance evaluations under Section 55 of
11 the Architectural, Engineering, and Land Surveying
12 Qualifications Based Selection Act.

13 (ff) Security portions of system safety program plans,
14 investigation reports, surveys, schedules, lists, data, or
15 information compiled, collected, or prepared by or for the
16 Regional Transportation Authority under Section 2.11 of
17 the Regional Transportation Authority Act or the St. Clair
18 County Transit District under the Bi-State Transit Safety
19 Act.

20 (gg) Information the disclosure of which is restricted
21 and exempted under Section 50 of the Illinois Prepaid
22 Tuition Act.

23 (hh) Information the disclosure of which is exempted
24 under the State Officials and Employees Ethics Act.

25 (ii) Beginning July 1, 1999, information that would
26 disclose or might lead to the disclosure of secret or
27 confidential information, codes, algorithms, programs, or
28 private keys intended to be used to create electronic or
29 digital signatures under the Electronic Commerce Security
30 Act.

31 (jj) Information contained in a local emergency energy
32 plan submitted to a municipality in accordance with a local
33 emergency energy plan ordinance that is adopted under
34 Section 11-21.5-5 of the Illinois Municipal Code.

35 (kk) Information and data concerning the distribution
36 of surcharge moneys collected and remitted by wireless

1 carriers under the Wireless Emergency Telephone Safety
2 Act.

3 (ll) Vulnerability assessments, security measures, and
4 response policies or plans that are designed to identify,
5 prevent, or respond to potential attacks upon a community's
6 population or systems, facilities, or installations, the
7 destruction or contamination of which would constitute a
8 clear and present danger to the health or safety of the
9 community, but only to the extent that disclosure could
10 reasonably be expected to jeopardize the effectiveness of
11 the measures or the safety of the personnel who implement
12 them or the public. Information exempt under this item may
13 include such things as details pertaining to the
14 mobilization or deployment of personnel or equipment, to
15 the operation of communication systems or protocols, or to
16 tactical operations.

17 (mm) Maps and other records regarding the location or
18 security of a utility's generation, transmission,
19 distribution, storage, gathering, treatment, or switching
20 facilities.

21 (nn) Law enforcement officer identification
22 information or driver identification information compiled
23 by a law enforcement agency or the Department of
24 Transportation under Section 11-212 of the Illinois
25 Vehicle Code.

26 (oo) Records and information provided to a residential
27 health care facility resident sexual assault and death
28 review team or the Residential Health Care Facility
29 Resident Sexual Assault and Death Review Teams Executive
30 Council under the Residential Health Care Facility
31 Resident Sexual Assault and Death Review Team Act.

32 (pp) Information contained in the database certified
33 by the Division of Financial Institutions of the Department
34 of Financial and Professional Regulation in accordance
35 with Section 2-15 of the Payday Loan Reform Act.

36 (2) This Section does not authorize withholding of

1 information or limit the availability of records to the public,
2 except as stated in this Section or otherwise provided in this
3 Act.

4 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
5 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
6 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
7 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
8 8-21-03; 93-617, eff. 12-9-03.)

9 Section 90-5. The Financial Institutions Code is amended by
10 changing Sections 4 and 6 as follows:

11 (20 ILCS 1205/4) (from Ch. 17, par. 104)

12 Sec. 4. As used in this Act:

13 (a) "Department" means the Department of Financial
14 Institutions.

15 (b) "Director" means the Director of Financial
16 Institutions.

17 (c) "Person" means any individual, partnership, joint
18 venture, trust, estate, firm, corporation, association or
19 cooperative society or association.

20 (d) "Financial institutions" means ambulatory and
21 community currency exchanges, credit unions, guaranteed credit
22 unions, persons engaged in the business of transmitting money
23 to foreign countries or buying and selling foreign money,
24 pawners' societies, title insuring or guaranteeing companies,
25 and persons engaged in the business of making loans of \$800 or
26 less, all as respectively defined in the laws referred to in
27 Section 6 of this Act. The term includes sales finance
28 agencies, as defined in the "Sales Finance Agency Act", enacted
29 by the 75th General Assembly.

30 (e) "Payday loan" has the meaning ascribed to that term in
31 the Payday Loan Reform Act.

32 (Source: Laws 1967, p. 2211.)

33 (20 ILCS 1205/6) (from Ch. 17, par. 106)

1 Sec. 6. In addition to the duties imposed elsewhere in this
2 Act, the Department has the following powers:

3 (1) To exercise the rights, powers and duties vested by law
4 in the Auditor of Public Accounts under "An Act to provide for
5 the incorporation, management and regulation of pawners'
6 societies and limiting the rate of compensation to be paid for
7 advances, storage and insurance on pawns and pledges and to
8 allow the loaning of money upon personal property", approved
9 March 29, 1899, as amended.

10 (2) To exercise the rights, powers and duties vested by law
11 in the Auditor of Public Accounts under "An Act in relation to
12 the definition, licensing and regulation of community currency
13 exchanges and ambulatory currency exchanges, and the operators
14 and employees thereof, and to make an appropriation therefor,
15 and to provide penalties and remedies for the violation
16 thereof", approved June 30, 1943, as amended.

17 (3) To exercise the rights, powers, and duties vested by
18 law in the Auditor of Public Accounts under "An Act in relation
19 to the buying and selling of foreign exchange and the
20 transmission or transfer of money to foreign countries",
21 approved June 28, 1923, as amended.

22 (4) To exercise the rights, powers, and duties vested by
23 law in the Auditor of Public Accounts under "An Act to provide
24 for and regulate the business of guaranteeing titles to real
25 estate by corporations", approved May 13, 1901, as amended.

26 (5) To exercise the rights, powers and duties vested by law
27 in the Department of Insurance under "An Act to define,
28 license, and regulate the business of making loans of eight
29 hundred dollars or less, permitting an interest charge thereon
30 greater than otherwise allowed by law, authorizing and
31 regulating the assignment of wages or salary when taken as
32 security for any such loan or as consideration for a payment of
33 eight hundred dollars or less, providing penalties, and to
34 repeal Acts therein named", approved July 11, 1935, as amended.

35 (6) To administer and enforce "An Act to license and
36 regulate the keeping and letting of safety deposit boxes,

1 safes, and vaults, and the opening thereof, and to repeal a
2 certain Act therein named", approved June 13, 1945, as amended.

3 (7) Whenever the Department is authorized or required by
4 law to consider some aspect of criminal history record
5 information for the purpose of carrying out its statutory
6 powers and responsibilities, then, upon request and payment of
7 fees in conformance with the requirements of Section 2605-400
8 of the Department of State Police Law (20 ILCS 2605/2605-400),
9 the Department of State Police is authorized to furnish,
10 pursuant to positive identification, such information
11 contained in State files as is necessary to fulfill the
12 request.

13 (8) To administer the Payday Loan Reform Act.

14 (Source: P.A. 91-239, eff. 1-1-00.)

15 Section 90-10. The Consumer Installment Loan Act is amended
16 by changing Section 21 as follows:

17 (205 ILCS 670/21) (from Ch. 17, par. 5427)

18 Sec. 21. Application of act. This Act does not apply to any
19 person, partnership, association, limited liability company,
20 or corporation doing business under and as permitted by any law
21 of this State or of the United States relating to banks,
22 savings and loan associations, savings banks, credit unions, or
23 licensees under the Residential Mortgage License Act for
24 residential mortgage loans made pursuant to that Act. This Act
25 does not apply to business loans. This Act does not apply to
26 payday loans.

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

28 Section 90-15. The Consumer Fraud and Deceptive Business
29 Practices Act is amended by changing Section 2Z as follows:

30 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

31 Sec. 2Z. Violations of other Acts. Any person who knowingly
32 violates the Automotive Repair Act, the Home Repair and

1 Remodeling Act, the Dance Studio Act, the Physical Fitness
2 Services Act, the Hearing Instrument Consumer Protection Act,
3 the Illinois Union Label Act, the Job Referral and Job Listing
4 Services Consumer Protection Act, the Travel Promotion
5 Consumer Protection Act, the Credit Services Organizations
6 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
7 Services Consumer Protection Act, the Telephone Solicitations
8 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
9 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
10 Sales Act, the High Risk Home Loan Act, the Payday Loan Reform
11 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
12 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use
13 Tax Act, the Electronic Mail Act, paragraph (6) of subsection
14 (k) of Section 6-305 of the Illinois Vehicle Code, or the
15 Automatic Contract Renewal Act commits an unlawful practice
16 within the meaning of this Act.

17 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,
18 eff. 1-1-05.)

19 Article 99. Effective Date

20 Section 99. Effective date. This Act takes effect 90 days
21 after becoming law.