



Sen. Jeffrey M. Schoenberg

Filed: 3/31/2005

09400SB1958sam001

LRB094 11406 LJB 44118 a

1 AMENDMENT TO SENATE BILL 1958

2 AMENDMENT NO. _____. Amend Senate Bill 1958 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Tax
5 Refund Anticipation Loan Act.

6 Section 5. Scope. No person, including, but not limited to,
7 any officer, agent, employee, or representative, may
8 individually or in conjunction or cooperation with another
9 person (i) solicit the execution of, process, receive, or
10 accept an application or agreement for a refund anticipation
11 loan or refund anticipation check or (ii) in any other manner
12 facilitate the making of a refund anticipation loan or refund
13 anticipation check unless the person has complied with the
14 provisions of this Act. The provisions of this Act shall apply
15 to any person who seeks to evade its applicability by any
16 device, subterfuge, or pretense whatsoever.

17 Section 10. Definitions. The following definitions apply
18 in this Act:

19 "Applicant" means a person who applies for registration as
20 a facilitator of refund anticipation loans or refund
21 anticipation checks.

22 "Consumer" means any individual who, singly or jointly with
23 another individual, is solicited for, applies for, or receives

1 the proceeds of a refund anticipation loan or refund
2 anticipation check.

3 "Creditor" means any person who makes a refund anticipation
4 loan or who takes an assignment of a refund anticipation loan.

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

7 "Facilitator" means a person who individually or in
8 conjunction or cooperation with another person (i) solicits the
9 execution of, processes, receives, or accepts an application or
10 agreement for a refund anticipation loan or refund anticipation
11 check or (ii) in any other manner facilitates the making of a
12 refund anticipation loan or refund anticipation check.

13 "Person" means an individual, firm, partnership,
14 association, corporation, or another entity.

15 "Refund anticipation check" means a check or other payment
16 mechanism:

17 (1) representing the proceeds of a consumer's tax
18 refund;

19 (2) that was issued by a depository institution or
20 other person that received a direct deposit of the
21 consumer's tax refund or tax credits; and

22 (3) for which the consumer has paid a fee or other
23 consideration.

24 "Refund anticipation loan" means a loan that is secured by
25 or that the creditor arranges to be repaid directly or
26 indirectly from the proceeds of the consumer's income tax
27 refund or tax credits. "Refund anticipation loan" also includes
28 any sale, assignment, or purchase of a consumer's tax refund at
29 a discount or for a fee, whether or not the consumer is
30 required to repay the buyer or assignee if the Internal Revenue
31 Service denies or reduces the consumer's tax refund.

32 "Refund anticipation loan fee" means the total charges,
33 fees, or other consideration charged or imposed directly or
34 indirectly by the creditor or facilitator for the making of or

1 in connection with a refund anticipation loan. "Refund
2 anticipation loan fee" includes any charges, fees, or other
3 consideration for a deposit account if the deposit account is
4 used for receipt of the consumer's tax refund to repay the
5 amount owed on the loan. "Refund anticipation loan fee" does
6 not include any charges, fees, or other consideration usually
7 charged or imposed by the facilitator in the ordinary course of
8 business, such as fees for tax return preparation and fees for
9 electronic filing of tax returns, if the same fees in the same
10 amount are charged to the facilitator's customers who do not
11 receive refund anticipation loans or refund anticipation
12 checks.

13 "Refund anticipation loan interest rate" means the
14 interest rate for a refund anticipation loan calculated as
15 follows: the total amount of refund anticipation loan fees
16 divided by the loan amount (minus any loan fees), then divided
17 by the number of days in the loan term, then multiplied by 365
18 and expressed as a percentage. If a deposit account is
19 established or maintained in whole or in part for the purpose
20 of receiving the consumer's tax refund to repay the amount owed
21 on a refund anticipation loan:

22 (1) the maturity of the loan for the purpose of
23 determining the refund anticipation loan interest rate
24 shall be assumed to be the estimated date when the tax
25 refund will be deposited in the deposit account; and

26 (2) any fee charged to the consumer for the deposit
27 account shall be considered a loan fee and shall be
28 included in the calculation of the refund anticipation loan
29 interest rate.

30 If no deposit account is established or maintained for the
31 repayment of the loan, the maturity of the loan shall be
32 assumed to be the estimated date when the tax refund is
33 received by the creditor.

34 In no event shall the refund anticipation loan interest

1 rate exceed 36% per annum.

2 "Registrant" means a person who is registered as a
3 facilitator of refund anticipation loans or refund
4 anticipation checks under this Act.

5 Section 15. Registration and bond requirement.

6 (a) No person may individually or in conjunction or
7 cooperation with another person solicit the execution of,
8 process, receive, or accept an application or agreement for a
9 refund anticipation loan or refund anticipation check without
10 first (i) being registered as a facilitator with the Department
11 and (ii) posting a bond in accordance with this Act.

12 (b) Each registrant must post a bond in the amount of
13 \$100,000 per location, which must continue in effect for 5
14 years after the registrant ceases operation in the State. The
15 bond shall be available to pay damages and penalties to
16 consumers harmed by any violation of this Act.

17 (c) This Section does not apply to any bank, savings and
18 loan association, credit union, or licensee under the Consumer
19 Installment Loan Act and operating under the laws of the United
20 States or of this State.

21 Section 20. Registration procedure; informal hearing.

22 (a) An application to become registered as a facilitator
23 shall be in writing, under oath, and in a form prescribed by
24 the Department. Each application for registration shall be
25 accompanied by a fee of \$1,000 for each office at which the
26 applicant intends to facilitate refund anticipation loans or
27 refund anticipation checks.

28 Upon the filing of an application for registration, if the
29 Department finds that the responsibility and general fitness of
30 the applicant are sufficient to command the confidence of the
31 community and to warrant belief that the business of
32 facilitating refund anticipation loans or refund anticipation

1 checks will be operated within the purposes of this Act, the
2 Department shall register the applicant and shall issue to the
3 applicant a certificate of registration. Upon receipt of a
4 certificate of registration, the applicant is registered under
5 this Act and may engage in the business of facilitating refund
6 anticipation loans and refund anticipation checks at the
7 offices identified on the application for registration.

8 (b) If the Department does not find that the applicant's
9 responsibility and general fitness are sufficient to command
10 the confidence of the community and to warrant that the
11 business of facilitating refund anticipation loans and refund
12 anticipation checks will be operated within the purposes of
13 this Act, the Department shall deny the applicant's application
14 for registration and shall notify the applicant of the reasons
15 for the denial. Within 5 days after receipt of notice of the
16 Department's denial of its application for registration, the
17 applicant may make written demand to the Department for a
18 hearing. The Department shall conduct an informal hearing on
19 the matter within a reasonable time after receipt of the
20 applicant's demand for a hearing.

21 (c) On or before December 31 of the year in which the
22 initial application was approved under subsection (a) of this
23 Section and on or before December 31 of each year thereafter,
24 each registrant shall pay an annual fee of \$1,000 for each
25 office at which the registrant intends to facilitate refund
26 anticipation loans or refund anticipation checks.

27 Section 25. Posting of registration, fee schedules, and
28 disclosures.

29 (a) Each registrant shall prominently display in each place
30 of business in this State in which it facilitates the making of
31 refund anticipation loans or refund anticipation checks, a
32 certificate of registration under this Act and a schedule
33 showing the current fees:

1 (1) for refund anticipation loans facilitated at the
2 office;

3 (2) for refund anticipation checks facilitated at the
4 office; and

5 (3) for the electronic filing of the consumer's tax
6 return.

7 (b) Each registrant shall display on each fee schedule
8 examples of the refund anticipation loan interest rates for
9 refund anticipation loans of \$200, \$500, \$1,000, \$1,500,
10 \$2,000, and \$5,000.

11 (c) Each registrant shall also prominently display all of
12 the following on each fee schedule:

13 (1) A legend, centered, in bold, capital, one-inch
14 letters stating: "NOTICE CONCERNING REFUND ANTICIPATION
15 LOANS".

16 (2) The following statement: "When you take out a
17 refund anticipation loan, you are borrowing money against
18 your tax refund. If your tax refund is less than expected,
19 you must still repay the entire amount of the loan. If your
20 refund is delayed, you may have to pay additional costs.
21 YOU CAN GET YOUR REFUND IN ABOUT 10 DAYS WITHOUT GETTING A
22 LOAN. You can have your tax return filed electronically and
23 your refund direct deposited into your own bank account
24 without obtaining a loan or paying fees for an extra
25 product.".

26 (d) The postings required under this Section shall be made
27 in no less than 28-point type on a document measuring no less
28 than 16 inches by 20 inches and shall be displayed in a
29 prominent location at each office in which the registrant is
30 facilitating refund anticipation loans.

31 (e) No registrant may facilitate a refund anticipation loan
32 or refund anticipation check unless (i) the postings required
33 under this Section are displayed in the manner required under
34 this Section and (ii) the fee actually charged for the refund

1 anticipation loan or refund anticipation check is the same as
2 the fee displayed on the schedule.

3 Section 30. Application disclosures. At the time a consumer
4 applies for a refund anticipation loan or refund anticipation
5 check, the registrant shall disclose to the consumer, on a form
6 separate from the application, in 14-point type, unless
7 otherwise noted, all of the following:

8 (1) The refund anticipation loan fee.

9 (2) The fee for electronic filing of a tax return.

10 (3) The time within which the proceeds of the refund
11 anticipation loan or refund anticipation check will be paid
12 to the consumer if the loan or check is approved.

13 (4) For refund anticipation loans, the following
14 disclosures:

15 (A) a legend, centered, in bold, capital letters,
16 and in 18-point type stating "NOTICE"; and

17 (B) the following statement: "This is a loan. This
18 loan is borrowing money against your tax refund. If
19 your tax refund is less than expected, you must still
20 repay the entire amount of the loan. If your refund is
21 delayed, you may have to pay additional costs. YOU CAN
22 GET YOUR REFUND IN ABOUT 10 DAYS WITHOUT GETTING THIS
23 LOAN. You can have your tax return filed electronically
24 and your refund direct deposited into your own bank
25 account without obtaining a loan or other paid
26 product.".

27 (5) For refund anticipation loans, disclosure of the
28 refund anticipation loan interest rate.

29 (6) For refund anticipation checks, the following
30 disclosures:

31 (A) a legend, centered, in bold, capital letters,
32 and in 18-point type stating "NOTICE"; and

33 (B) the following statement: "You are paying

1 (amount of refund anticipation check fee) to get your
2 refund check through (name of issuer of refund
3 anticipation check). YOU CAN AVOID THIS FEE AND STILL
4 RECEIVE YOUR REFUND IN ABOUT 10 DAYS BY HAVING THE IRS
5 DIRECT DEPOSIT YOUR REFUND INTO YOUR OWN BANK ACCOUNT.
6 You can also wait for the IRS to mail you a check. If
7 you do not have a bank account, you may wish to
8 consider getting one.".

9 Section 35. Duties of registrant. Each registrant shall do
10 all of the following:

11 (1) Arrange the refund anticipation loan or refund
12 anticipation check, or inform the consumer that the
13 application is rejected, promptly after the consumer
14 applies for the refund anticipation loan or refund
15 anticipation check.

16 (2) Provide to the consumer, prior to consummation of
17 the loan or check transaction, in a form that can be kept
18 by the consumer:

19 (A) a copy of the completed loan or check
20 application and agreement;

21 (B) the disclosures required by Section 30; and

22 (C) for refund anticipation loans, the disclosures
23 required by the federal Truth In Lending Act.

24 (3) Provide the disclosures required by Section 30 in
25 English and in the language in which the loan was
26 negotiated.

27 Section 40. Prohibited activities. No person, including,
28 but not limited to, any officer, agent, employee, or
29 representative, in the making or facilitating of a refund
30 anticipation loan or refund anticipation check shall do any of
31 the following:

32 (1) Misrepresent a factor or condition of the refund

1 anticipation loan or refund anticipation check or make any
2 oral statements contradicting any of the information
3 required to be disclosed under this Act.

4 (2) Fail to comply with any provision of this Act.

5 (3) Threaten to take any action that is prohibited by
6 this Act or by any other law or that the person does not
7 actually intend to take.

8 (4) Make or facilitate a refund anticipation loan for
9 which the refund anticipation loan interest rate is greater
10 than 36% per annum. Any refund anticipation loan for which
11 the refund anticipation loan interest rate exceeds 36% per
12 annum is void ab initio.

13 (5) Directly or indirectly charge or arrange for the
14 charging of any interest, fee, or charge related to a
15 refund anticipation loan or refund anticipation check,
16 other than those specifically authorized by this Act,
17 including, but not limited to:

18 (A) charges for insurance;

19 (B) attorney's fees or other collection costs; or

20 (C) check cashing fees.

21 (6) Include any of the following provisions in any
22 document provided or signed in connection with a refund
23 anticipation loan or refund anticipation check, including
24 the loan application or agreement:

25 (A) A hold harmless clause.

26 (B) A confession of judgment clause.

27 (C) A waiver of the right to a jury trial, if
28 applicable, in any action brought by or against the
29 consumer.

30 (D) Any assignment of or order for payment of wages
31 or other compensation for services.

32 (E) A provision in which the consumer agrees not to
33 assert any claim or defense arising out of the contract
34 or to seek any remedies pursuant to Section 50 of this

1 Act.

2 (F) A waiver of any provision of this Act. Any
3 waiver of any provision of this Act is null and void
4 and of no force and effect.

5 (G) A waiver of the right to injunctive,
6 declaratory, or other equitable relief or relief on a
7 class-wide basis.

8 (H) A provision requiring that any aspect of a
9 resolution of a dispute between the parties to the
10 agreement be kept confidential. This subparagraph (H)
11 shall not affect the right of the parties to agree that
12 certain specified information is a trade secret or
13 otherwise confidential or to later agree, after the
14 dispute arises, to keep a resolution confidential.

15 (7) Take or arrange for a creditor to take a security
16 interest in any property of the consumer other than the
17 proceeds of the consumer's tax refund in order to secure
18 payment of a refund anticipation loan.

19 (8) Directly or indirectly, individually or in
20 conjunction or cooperation with another person, engage in
21 the collection of an outstanding or delinquent refund
22 anticipation loan for any creditor or assignee, including,
23 but not limited to, soliciting the execution of,
24 processing, receiving, or accepting an application or
25 agreement for a refund anticipation loan or refund
26 anticipation check that contains a provision permitting
27 the creditor to repay, by offset or other means, an
28 outstanding or delinquent refund anticipation loan for
29 that creditor or any creditor from the proceeds of the
30 consumer's tax refund.

31 (9) Facilitate, refer, or solicit consumers on behalf
32 of a third party engaged in check cashing for a fee or
33 permit third party check cashing for a fee in any place of
34 business identified on the application for registration.

1 (10) Facilitate any loan that is secured by or that the
2 creditor arranges to be repaid directly from the proceeds
3 of the consumer's State income tax refund from the State
4 treasury.

5 (11) Make a misrepresentation of fact in obtaining or
6 attempting to obtain a registration as a facilitator.

7 (12) Use or permit the use of a consumer's federal or
8 State earned income tax credit to secure a refund
9 anticipation loan.

10 (13) Engage in any other action prohibited by rule by
11 the Department.

12 Section 45. Administrative remedies.

13 (a) Whenever the Department believes or has notice that any
14 facilitator is in violation of this Act, the Department shall
15 give reasonable notice to the facilitator of the suspected
16 violation, and shall provide an opportunity for the facilitator
17 to be heard. If, following the hearing, the Department finds
18 that any action of the facilitator is in violation of this Act,
19 the Department shall order the facilitator to cease and desist
20 from the action. The Department may make investigations,
21 subpoena witnesses, and require audits and reports in
22 preparation for the hearing and shall make findings of fact.
23 All hearings shall be open to the public.

24 If the facilitator continues to engage in an action in
25 violation of the Department's order to cease and desist, a
26 penalty of \$1,000 shall be imposed against the facilitator for
27 each action in violation of the Department's order.

28 (b) After notice and a hearing and upon the finding that a
29 facilitator has (i) engaged in a course of conduct that is in
30 violation of this Act or (ii) continued to engage in an action
31 in violation of a cease and desist order of the Department that
32 has not been stayed upon application of the facilitator, the
33 Department may, at its discretion, either temporarily suspend

1 or permanently revoke the registration of the facilitator. The
2 revocation, suspension, or surrender of any registration under
3 this Act shall not relieve the registrant from civil or
4 criminal liability for acts committed prior thereto.

5 (c) The Department shall:

6 (1) maintain a list of registrants that shall be
7 available to interested persons and the public;

8 (2) establish a toll-free telephone number whereby
9 consumers may obtain information about registrants and
10 complaint forms; and

11 (3) establish a complaint process whereby an aggrieved
12 consumer or any member of the public may file a complaint
13 against any facilitator who violates any provision of this
14 Act.

15 All complaints shall be considered public records pursuant
16 to the Freedom of Information Act, except that any portion of a
17 complaint that includes the complainant's name, address, or
18 other personal identifying information shall be exempt from
19 public inspection under the Freedom of Information Act. The
20 Department shall hold a hearing pursuant to subsection (a) of
21 this Section upon the request of a party to the complaint. The
22 Department may, after the hearing, issue cease and desist
23 orders pursuant to subsection (a) or suspend or revoke the
24 facilitator's certificate of registration, as provided in
25 subsection (b) of this Section.

26 Section 50. Private right of action.

27 (a) The remedies provided in this Section are cumulative
28 and apply to all facilitators.

29 (b) A facilitator who fails to comply with any provision of
30 this Act is liable to the consumer for all of the following:

31 (1) Actual and consequential damages.

32 (2) Statutory damages of \$2,000 (to be increased
33 annually based proportionally on changes in the Consumer

1 Price Index, with fractional amounts rounded to the nearest
2 dollar) or 3 times the amount of the refund anticipation
3 loan fee or other unauthorized charge, whichever is
4 greater.

5 (3) Reasonable attorney's fees and costs.

6 (c) Any person may sue for injunctive or other appropriate
7 equitable relief to enforce this Act.

8 (d) Any consumer may bring a class action suit to enforce
9 this Act. In any class action, a facilitator who fails to
10 comply with any provision of this Act is liable for all of the
11 following:

12 (1) Actual and consequential damages for each class
13 member.

14 (2) Statutory damages as set forth in item (2) of
15 subsection (b) of this Section for each class member.

16 (3) Reasonable attorney's fees and costs.

17 (e) The remedies provided in this Section are not intended
18 to be the exclusive remedies available to a consumer nor must
19 the consumer exhaust any administrative remedies provided
20 under this Act or any other applicable law.

21 Section 55. Consumer fraud and deceptive business
22 practices. Any violation of this Act constitutes a violation of
23 the Consumer Fraud and Deceptive Business Practices Act.

24 Section 60. Rules. The Department may adopt rules necessary
25 to effectuate the purposes of this Act, to provide for the
26 protection of the borrowing public, and to assist facilitators
27 in interpreting this Act. The Department may modify the
28 disclosures required in subsection (c) of Section 25 and
29 subsection (d) of Section 30 of this Act to the extent that a
30 revision of the 10-day estimate for receiving a refund from the
31 Internal Revenue Service (with electronic filing and direct
32 deposit) is appropriate.

1 Section 65. Annual reports. Beginning on July 1, 2007 and
2 on or before July 1 of each year thereafter, each registrant
3 shall file an annual report with the Department pursuant to
4 procedures established by the Department by rule. The
5 Department shall compile an annual consolidated report
6 combining the annual reports of all registrants and make it
7 available to the public. These reports shall include all of the
8 following items for the time period beginning on April 15 of
9 the year prior to the year in which the report is filed and
10 through April 14 of the year in which the report is filed:

11 (1) The total number and dollar amount of refund
12 anticipation loans facilitated by each registrant.

13 (2) The total number and dollar amount of refund
14 anticipation checks facilitated by each registrant.

15 (3) The average number of days for which refund
16 anticipation loans facilitated by each registrant were
17 outstanding before being repaid.

18 (4) The name and address of each creditor or person for
19 whom the registrant facilitates refund anticipation loans
20 or refund anticipation checks.

21 (5) Any other information required by the Department.

22 Section 97. Severability. The provisions of this Act are
23 severable under Section 1.31 of the Statute on Statutes.

24 Section 900. The Freedom of Information Act is amended by
25 changing Section 7 as follows:

26 (5 ILCS 140/7) (from Ch. 116, par. 207)

27 Sec. 7. Exemptions.

28 (1) The following shall be exempt from inspection and
29 copying:

30 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and regulations
2 adopted under federal or State law.

3 (b) Information that, if disclosed, would constitute a
4 clearly unwarranted invasion of personal privacy, unless
5 the disclosure is consented to in writing by the individual
6 subjects of the information. The disclosure of information
7 that bears on the public duties of public employees and
8 officials shall not be considered an invasion of personal
9 privacy. Information exempted under this subsection (b)
10 shall include but is not limited to:

11 (i) files and personal information maintained with
12 respect to clients, patients, residents, students or
13 other individuals receiving social, medical,
14 educational, vocational, financial, supervisory or
15 custodial care or services directly or indirectly from
16 federal agencies or public bodies;

17 (ii) personnel files and personal information
18 maintained with respect to employees, appointees or
19 elected officials of any public body or applicants for
20 those positions;

21 (iii) files and personal information maintained
22 with respect to any applicant, registrant or licensee
23 by any public body cooperating with or engaged in
24 professional or occupational registration, licensure
25 or discipline;

26 (iv) information required of any taxpayer in
27 connection with the assessment or collection of any tax
28 unless disclosure is otherwise required by State
29 statute;

30 (v) information revealing the identity of persons
31 who file complaints with or provide information to
32 administrative, investigative, law enforcement or
33 penal agencies; provided, however, that identification
34 of witnesses to traffic accidents, traffic accident

1 reports, and rescue reports may be provided by agencies
2 of local government, except in a case for which a
3 criminal investigation is ongoing, without
4 constituting a clearly unwarranted per se invasion of
5 personal privacy under this subsection; and

6 (vi) the names, addresses, or other personal
7 information of participants and registrants in park
8 district, forest preserve district, and conservation
9 district programs.

10 (c) Records compiled by any public body for
11 administrative enforcement proceedings and any law
12 enforcement or correctional agency for law enforcement
13 purposes or for internal matters of a public body, but only
14 to the extent that disclosure would:

15 (i) interfere with pending or actually and
16 reasonably contemplated law enforcement proceedings
17 conducted by any law enforcement or correctional
18 agency;

19 (ii) interfere with pending administrative
20 enforcement proceedings conducted by any public body;

21 (iii) deprive a person of a fair trial or an
22 impartial hearing;

23 (iv) unavoidably disclose the identity of a
24 confidential source or confidential information
25 furnished only by the confidential source;

26 (v) disclose unique or specialized investigative
27 techniques other than those generally used and known or
28 disclose internal documents of correctional agencies
29 related to detection, observation or investigation of
30 incidents of crime or misconduct;

31 (vi) constitute an invasion of personal privacy
32 under subsection (b) of this Section;

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

1 (viii) obstruct an ongoing criminal investigation.

2 (d) Criminal history record information maintained by
3 State or local criminal justice agencies, except the
4 following which shall be open for public inspection and
5 copying:

6 (i) chronologically maintained arrest information,
7 such as traditional arrest logs or blotters;

8 (ii) the name of a person in the custody of a law
9 enforcement agency and the charges for which that
10 person is being held;

11 (iii) court records that are public;

12 (iv) records that are otherwise available under
13 State or local law; or

14 (v) records in which the requesting party is the
15 individual identified, except as provided under part
16 (vii) of paragraph (c) of subsection (1) of this
17 Section.

18 "Criminal history record information" means data
19 identifiable to an individual and consisting of
20 descriptions or notations of arrests, detentions,
21 indictments, informations, pre-trial proceedings, trials,
22 or other formal events in the criminal justice system or
23 descriptions or notations of criminal charges (including
24 criminal violations of local municipal ordinances) and the
25 nature of any disposition arising therefrom, including
26 sentencing, court or correctional supervision,
27 rehabilitation and release. The term does not apply to
28 statistical records and reports in which individuals are
29 not identified and from which their identities are not
30 ascertainable, or to information that is for criminal
31 investigative or intelligence purposes.

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

34 (f) Preliminary drafts, notes, recommendations,

1 memoranda and other records in which opinions are
2 expressed, or policies or actions are formulated, except
3 that a specific record or relevant portion of a record
4 shall not be exempt when the record is publicly cited and
5 identified by the head of the public body. The exemption
6 provided in this paragraph (f) extends to all those records
7 of officers and agencies of the General Assembly that
8 pertain to the preparation of legislative documents.

9 (g) Trade secrets and commercial or financial
10 information obtained from a person or business where the
11 trade secrets or information are proprietary, privileged
12 or confidential, or where disclosure of the trade secrets
13 or information may cause competitive harm, including all
14 information determined to be confidential under Section
15 4002 of the Technology Advancement and Development Act.
16 Nothing contained in this paragraph (g) shall be construed
17 to prevent a person or business from consenting to
18 disclosure.

19 (h) Proposals and bids for any contract, grant, or
20 agreement, including information which if it were
21 disclosed would frustrate procurement or give an advantage
22 to any person proposing to enter into a contractor
23 agreement with the body, until an award or final selection
24 is made. Information prepared by or for the body in
25 preparation of a bid solicitation shall be exempt until an
26 award or final selection is made.

27 (i) Valuable formulae, computer geographic systems,
28 designs, drawings and research data obtained or produced by
29 any public body when disclosure could reasonably be
30 expected to produce private gain or public loss. The
31 exemption for "computer geographic systems" provided in
32 this paragraph (i) does not extend to requests made by news
33 media as defined in Section 2 of this Act when the
34 requested information is not otherwise exempt and the only

1 purpose of the request is to access and disseminate
2 information regarding the health, safety, welfare, or
3 legal rights of the general public.

4 (j) Test questions, scoring keys and other examination
5 data used to administer an academic examination or
6 determined the qualifications of an applicant for a license
7 or employment.

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

18 (l) Library circulation and order records identifying
19 library users with specific materials.

20 (m) Minutes of meetings of public bodies closed to the
21 public as provided in the Open Meetings Act until the
22 public body makes the minutes available to the public under
23 Section 2.06 of the Open Meetings Act.

24 (n) Communications between a public body and an
25 attorney or auditor representing the public body that would
26 not be subject to discovery in litigation, and materials
27 prepared or compiled by or for a public body in
28 anticipation of a criminal, civil or administrative
29 proceeding upon the request of an attorney advising the
30 public body, and materials prepared or compiled with
31 respect to internal audits of public bodies.

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

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

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

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

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

33 (t) Any and all proprietary information and records
34 related to the operation of an intergovernmental risk

1 management association or self-insurance pool or jointly
2 self-administered health and accident cooperative or pool.

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

10 (v) Course materials or research materials used by
11 faculty members.

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

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

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

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

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

32 (bb) Insurance or self insurance (including any
33 intergovernmental risk management association or self
34 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.

1 (kk) Information and data concerning the distribution
2 of surcharge moneys collected and remitted by wireless
3 carriers under the Wireless Emergency Telephone Safety
4 Act.

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

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

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

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

34 (pp) Information the disclosure of which is exempted

1 under subsection (c) of Section 45 of the Tax Refund
2 Anticipation Loan Act.

3 (2) This Section does not authorize withholding of
4 information or limit the availability of records to the public,
5 except as stated in this Section or otherwise provided in this
6 Act.

7 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
8 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
9 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
10 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
11 8-21-03; 93-617, eff. 12-9-03.)

12 Section 905. The Consumer Fraud and Deceptive Business
13 Practices Act is amended by changing Section 2Z as follows:

14 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

15 Sec. 2Z. Violations of other Acts. Any person who knowingly
16 violates the Automotive Repair Act, the Home Repair and
17 Remodeling Act, the Dance Studio Act, the Physical Fitness
18 Services Act, the Hearing Instrument Consumer Protection Act,
19 the Illinois Union Label Act, the Job Referral and Job Listing
20 Services Consumer Protection Act, the Travel Promotion
21 Consumer Protection Act, the Credit Services Organizations
22 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
23 Services Consumer Protection Act, the Telephone Solicitations
24 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
25 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
26 Sales Act, the High Risk Home Loan Act, subsection (a) or (b)
27 of Section 3-10 of the Cigarette Tax Act, subsection (a) or (b)
28 of Section 3-10 of the Cigarette Use Tax Act, the Electronic
29 Mail Act, paragraph (6) of subsection (k) of Section 6-305 of
30 the Illinois Vehicle Code, the Tax Refund Anticipation Loan
31 Act, or the Automatic Contract Renewal Act commits an unlawful
32 practice within the meaning of this Act.

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

3 (815 ILCS 177/Act rep.)

4 Section 910. The Tax Refund Anticipation Loan Disclosure
5 Act is repealed.".