



Rep. David E. Miller

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LRB095 08216 WGH 35553 a

1 AMENDMENT TO HOUSE BILL 1437

2 AMENDMENT NO. _____. Amend House Bill 1437, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

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

1 device, subterfuge, or pretense whatsoever.

2 Section 10. Definitions. The following definitions apply
3 in this Act:

4 "Applicant" means a person who applies for registration as
5 a facilitator of refund anticipation loans or refund
6 anticipation checks.

7 "Consumer" means any individual who, singly or jointly with
8 another individual, is solicited for, applies for, or receives
9 the proceeds of a refund anticipation loan or refund
10 anticipation check.

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

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

15 "Facilitator" means a person who individually or in
16 conjunction or cooperation with another person (i) solicits the
17 execution of, processes, receives, or accepts an application or
18 agreement for a refund anticipation loan or refund anticipation
19 check or (ii) in any other manner facilitates the making of a
20 refund anticipation loan or refund anticipation check.

21 "Person" means an individual, firm, partnership,
22 association, corporation, or another entity.

23 "Refund anticipation check" means a check or other payment
24 mechanism:

25 (1) representing the proceeds of a consumer's tax

1 refund;

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

5 (3) for which the consumer has paid a fee or other
6 consideration.

7 "Refund anticipation loan" means a loan that is secured by
8 or that the creditor arranges to be repaid directly or
9 indirectly from the proceeds of the consumer's income tax
10 refund or tax credits. "Refund anticipation loan" also includes
11 any sale, assignment, or purchase of a consumer's tax refund at
12 a discount or for a fee, whether or not the consumer is
13 required to repay the buyer or assignee if the Internal Revenue
14 Service denies or reduces the consumer's tax refund.

15 "Refund anticipation loan fee" means the total charges,
16 fees, or other consideration charged or imposed directly or
17 indirectly by the creditor or facilitator for the making of or
18 in connection with a refund anticipation loan. "Refund
19 anticipation loan fee" includes any charges, fees, or other
20 consideration for a deposit account if the deposit account is
21 used for receipt of the consumer's tax refund to repay the
22 amount owed on the loan. "Refund anticipation loan fee" does
23 not include any charges, fees, or other consideration usually
24 charged or imposed by the facilitator in the ordinary course of
25 business, such as fees for tax return preparation and fees for
26 electronic filing of tax returns, if the same fees in the same

1 amount are charged to the facilitator's customers who do not
2 receive refund anticipation loans or refund anticipation
3 checks.

4 "Refund anticipation loan interest rate" means the
5 interest rate for a refund anticipation loan calculated as
6 follows: the total amount of refund anticipation loan fees
7 divided by the loan amount (minus any loan fees), then divided
8 by the number of days in the loan term, then multiplied by 365
9 and expressed as a percentage. If a deposit account is
10 established or maintained in whole or in part for the purpose
11 of receiving the consumer's tax refund to repay the amount owed
12 on a refund anticipation loan:

13 (1) the maturity of the loan for the purpose of
14 determining the refund anticipation loan interest rate
15 shall be assumed to be the estimated date when the tax
16 refund will be deposited in the deposit account; and

17 (2) any fee charged to the consumer for the deposit
18 account shall be considered a loan fee and shall be
19 included in the calculation of the refund anticipation loan
20 interest rate.

21 If no deposit account is established or maintained for the
22 repayment of the loan, the maturity of the loan shall be
23 assumed to be the estimated date when the tax refund is
24 received by the creditor.

25 In no event shall the refund anticipation loan interest
26 rate exceed 36% per annum.

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

4 Section 15. Registration and bond requirement.

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

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

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

20 Section 20. Registration procedure; informal hearing.

21 (a) An application to become registered as a facilitator
22 shall be in writing, under oath, and in a form prescribed by
23 the Department. Each application for registration shall be
24 accompanied by a fee of \$1,000 for each office at which the

1 applicant intends to facilitate refund anticipation loans or
2 refund anticipation checks.

3 Upon the filing of an application for registration, if the
4 Department finds that the responsibility and general fitness of
5 the applicant are sufficient to command the confidence of the
6 community and to warrant belief that the business of
7 facilitating refund anticipation loans or refund anticipation
8 checks will be operated within the purposes of this Act, the
9 Department shall register the applicant and shall issue to the
10 applicant a certificate of registration. Upon receipt of a
11 certificate of registration, the applicant is registered under
12 this Act and may engage in the business of facilitating refund
13 anticipation loans and refund anticipation checks at the
14 offices identified on the application for registration.

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

1 applicant's demand for a hearing.

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

8 Section 25. Posting of registration, fee schedules, and
9 disclosures.

10 (a) Each registrant shall prominently display in each place
11 of business in this State in which it facilitates the making of
12 refund anticipation loans or refund anticipation checks, a
13 certificate of registration under this Act and a schedule
14 showing the current fees:

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

17 (2) for refund anticipation checks facilitated at the
18 office; and

19 (3) for the electronic filing of the consumer's tax
20 return.

21 (b) Each registrant shall display on each fee schedule
22 examples of the refund anticipation loan interest rates for
23 refund anticipation loans of \$200, \$500, \$1,000, \$1,500,
24 \$2,000, and \$5,000.

25 (c) Each registrant shall also prominently display all of

1 the following on each fee schedule:

2 (1) A legend, centered, in bold, capital, one-inch
3 letters stating: "NOTICE CONCERNING REFUND ANTICIPATION
4 LOANS".

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

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

20 (e) No registrant may facilitate a refund anticipation loan
21 or refund anticipation check unless (i) the postings required
22 under this Section are displayed in the manner required under
23 this Section and (ii) the fee actually charged for the refund
24 anticipation loan or refund anticipation check is the same as
25 the fee displayed on the schedule.

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

6 (1) The refund anticipation loan fee.

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

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

11 (4) For refund anticipation loans, the following
12 disclosures:

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

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

25 (5) For refund anticipation loans, disclosure of the
26 refund anticipation loan interest rate.

1 (6) For refund anticipation checks, the following
2 disclosures:

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

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

14 Section 35. Duties of registrant. Each registrant shall do
15 all of the following:

16 (1) Arrange the refund anticipation loan or refund
17 anticipation check, or inform the consumer that the
18 application is rejected, promptly after the consumer
19 applies for the refund anticipation loan or refund
20 anticipation check.

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

24 (A) a copy of the completed loan or check
25 application and agreement;

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

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

4 (3) Provide the disclosures required by Section 30 in
5 English and in the language in which the loan was
6 negotiated.

7 Section 40. Prohibited activities. No person, including,
8 but not limited to, any officer, agent, employee, or
9 representative, in the making or facilitating of a refund
10 anticipation loan or refund anticipation check shall do any of
11 the following:

12 (1) Misrepresent a factor or condition of the refund
13 anticipation loan or refund anticipation check or make any
14 oral statements contradicting any of the information
15 required to be disclosed under this Act.

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

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

20 (4) Make or facilitate a refund anticipation loan for
21 which the refund anticipation loan interest rate is greater
22 than 36% per annum. Any refund anticipation loan for which
23 the refund anticipation loan interest rate exceeds 36% per
24 annum is void ab initio.

25 (5) Directly or indirectly charge or arrange for the

1 charging of any interest, fee, or charge related to a
2 refund anticipation loan or refund anticipation check,
3 other than those specifically authorized by this Act,
4 including, but not limited to:

5 (A) charges for insurance;

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

7 (C) check cashing fees.

8 (6) Include any of the following provisions in any
9 document provided or signed in connection with a refund
10 anticipation loan or refund anticipation check, including
11 the loan application or agreement:

12 (A) A hold harmless clause.

13 (B) A confession of judgment clause.

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

17 (D) Any assignment of or order for payment of wages
18 or other compensation for services.

19 (E) A provision in which the consumer agrees not to
20 assert any claim or defense arising out of the contract
21 or to seek any remedies pursuant to Section 50 of this
22 Act.

23 (F) A waiver of any provision of this Act. Any
24 waiver of any provision of this Act is null and void
25 and of no force and effect.

26 (G) A waiver of the right to injunctive,

1 declaratory, or other equitable relief or relief on a
2 class-wide basis.

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

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

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

26 (9) Facilitate, refer, or solicit consumers on behalf

1 of a third party engaged in check cashing for a fee or
2 permit third party check cashing for a fee in any place of
3 business identified on the application for registration.

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

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

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

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

15 Section 45. Administrative remedies.

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

1 All hearings shall be open to the public.

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

6 (b) After notice and a hearing and upon the finding that a
7 facilitator has (i) engaged in a course of conduct that is in
8 violation of this Act or (ii) continued to engage in an action
9 in violation of a cease and desist order of the Department that
10 has not been stayed upon application of the facilitator, the
11 Department may, at its discretion, either temporarily suspend
12 or permanently revoke the registration of the facilitator. The
13 revocation, suspension, or surrender of any registration under
14 this Act shall not relieve the registrant from civil or
15 criminal liability for acts committed prior thereto.

16 (c) The Department shall:

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

19 (2) establish a toll-free telephone number whereby
20 consumers may obtain information about registrants and
21 complaint forms; and

22 (3) establish a complaint process whereby an aggrieved
23 consumer or any member of the public may file a complaint
24 against any facilitator who violates any provision of this
25 Act.

26 All complaints shall be considered public records pursuant

1 to the Freedom of Information Act, except that any portion of a
2 complaint that includes the complainant's name, address, or
3 other personal identifying information shall be exempt from
4 public inspection under the Freedom of Information Act. The
5 Department shall hold a hearing pursuant to subsection (a) of
6 this Section upon the request of a party to the complaint. The
7 Department may, after the hearing, issue cease and desist
8 orders pursuant to subsection (a) or suspend or revoke the
9 facilitator's certificate of registration, as provided in
10 subsection (b) of this Section.

11 Section 50. Private right of action.

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

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

16 (1) Actual and consequential damages.

17 (2) Statutory damages of \$2,000 (to be increased
18 annually based proportionally on changes in the Consumer
19 Price Index, with fractional amounts rounded to the nearest
20 dollar) or 3 times the amount of the refund anticipation
21 loan fee or other unauthorized charge, whichever is
22 greater.

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

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

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

5 (1) Actual and consequential damages for each class
6 member.

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

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

10 (e) The remedies provided in this Section are not intended
11 to be the exclusive remedies available to a consumer nor must
12 the consumer exhaust any administrative remedies provided
13 under this Act or any other applicable law.

14 Section 55. Consumer fraud and deceptive business
15 practices. Any violation of this Act constitutes a violation of
16 the Consumer Fraud and Deceptive Business Practices Act.

17 Section 60. Rules. The Department may adopt rules necessary
18 to effectuate the purposes of this Act, to provide for the
19 protection of the borrowing public, and to assist facilitators
20 in interpreting this Act. The Department may modify the
21 disclosures required in subsection (c) of Section 25 and
22 subsection (d) of Section 30 of this Act to the extent that a
23 revision of the 10-day estimate for receiving a refund from the
24 Internal Revenue Service (with electronic filing and direct

1 deposit) is appropriate.

2 Section 65. Annual reports. Beginning on July 1, 2008 and
3 on or before July 1 of each year thereafter, each registrant
4 shall file an annual report with the Department pursuant to
5 procedures established by the Department by rule. The
6 Department shall compile an annual consolidated report
7 combining the annual reports of all registrants and make it
8 available to the public. These reports shall include all of the
9 following items for the time period beginning on April 15 of
10 the year prior to the year in which the report is filed and
11 through April 14 of the year in which the report is filed:

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

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

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

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

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

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

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

3 (5 ILCS 140/7) (from Ch. 116, par. 207)

4 Sec. 7. Exemptions.

5 (1) The following shall be exempt from inspection and
6 copying:

7 (a) Information specifically prohibited from
8 disclosure by federal or State law or rules and regulations
9 adopted under federal or State law.

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

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

24 (ii) personnel files and personal information

1 maintained with respect to employees, appointees or
2 elected officials of any public body or applicants for
3 those positions;

4 (iii) files and personal information maintained
5 with respect to any applicant, registrant or licensee
6 by any public body cooperating with or engaged in
7 professional or occupational registration, licensure
8 or discipline;

9 (iv) information required of any taxpayer in
10 connection with the assessment or collection of any tax
11 unless disclosure is otherwise required by State
12 statute;

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

23 (vi) the names, addresses, or other personal
24 information of participants and registrants in park
25 district, forest preserve district, and conservation
26 district programs.

1 (c) Records compiled by any public body for
2 administrative enforcement proceedings and any law
3 enforcement or correctional agency for law enforcement
4 purposes or for internal matters of a public body, but only
5 to the extent that disclosure would:

6 (i) interfere with pending or actually and
7 reasonably contemplated law enforcement proceedings
8 conducted by any law enforcement or correctional
9 agency;

10 (ii) interfere with pending administrative
11 enforcement proceedings conducted by any public body;

12 (iii) deprive a person of a fair trial or an
13 impartial hearing;

14 (iv) unavoidably disclose the identity of a
15 confidential source or confidential information
16 furnished only by the confidential source;

17 (v) disclose unique or specialized investigative
18 techniques other than those generally used and known or
19 disclose internal documents of correctional agencies
20 related to detection, observation or investigation of
21 incidents of crime or misconduct;

22 (vi) constitute an invasion of personal privacy
23 under subsection (b) of this Section;

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

26 (viii) obstruct an ongoing criminal investigation.

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

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

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

10 (iii) court records that are public;

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

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

17 "Criminal history record information" means data
18 identifiable to an individual and consisting of
19 descriptions or notations of arrests, detentions,
20 indictments, informations, pre-trial proceedings, trials,
21 or other formal events in the criminal justice system or
22 descriptions or notations of criminal charges (including
23 criminal violations of local municipal ordinances) and the
24 nature of any disposition arising therefrom, including
25 sentencing, court or correctional supervision,
26 rehabilitation and release. The term does not apply to

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

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

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

16 (g) Trade secrets and commercial or financial
17 information obtained from a person or business where the
18 trade secrets or information are proprietary, privileged
19 or confidential, or where disclosure of the trade secrets
20 or information may cause competitive harm, including:

21 (i) All information determined to be confidential
22 under Section 4002 of the Technology Advancement and
23 Development Act.

24 (ii) All trade secrets and commercial or financial
25 information obtained by a public body, including a
26 public pension fund, from a private equity fund or a

1 privately held company within the investment portfolio
2 of a private equity fund as a result of either
3 investing or evaluating a potential investment of
4 public funds in a private equity fund. The exemption
5 contained in this item does not apply to the aggregate
6 financial performance information of a private equity
7 fund, nor to the identity of the fund's managers or
8 general partners. The exemption contained in this item
9 does not apply to the identity of a privately held
10 company within the investment portfolio of a private
11 equity fund, unless the disclosure of the identity of a
12 privately held company may cause competitive harm.

13 Nothing contained in this paragraph (g) shall be construed
14 to prevent a person or business from consenting to disclosure.

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

23 (i) Valuable formulae, computer geographic systems,
24 designs, drawings and research data obtained or produced by
25 any public body when disclosure could reasonably be
26 expected to produce private gain or public loss. The

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

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

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

22 (l) Library circulation and order records identifying
23 library users with specific materials.

24 (m) Minutes of meetings of public bodies closed to the
25 public as provided in the Open Meetings Act until the
26 public body makes the minutes available to the public under

1 Section 2.06 of the Open Meetings Act.

2 (n) Communications between a public body and an
3 attorney or auditor representing the public body that would
4 not be subject to discovery in litigation, and materials
5 prepared or compiled by or for a public body in
6 anticipation of a criminal, civil or administrative
7 proceeding upon the request of an attorney advising the
8 public body, and materials prepared or compiled with
9 respect to internal audits of public bodies.

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

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

23 (q) Documents or materials relating to collective
24 negotiating matters between public bodies and their
25 employees or representatives, except that any final
26 contract or agreement shall be subject to inspection and

1 copying.

2 (r) Drafts, notes, recommendations and memoranda
3 pertaining to the financing and marketing transactions of
4 the public body. The records of ownership, registration,
5 transfer, and exchange of municipal debt obligations, and
6 of persons to whom payment with respect to these
7 obligations is made.

8 (s) The records, documents and information relating to
9 real estate purchase negotiations until those negotiations
10 have been completed or otherwise terminated. With regard to
11 a parcel involved in a pending or actually and reasonably
12 contemplated eminent domain proceeding under the Eminent
13 Domain Act, records, documents and information relating to
14 that parcel shall be exempt except as may be allowed under
15 discovery rules adopted by the Illinois Supreme Court. The
16 records, documents and information relating to a real
17 estate sale shall be exempt until a sale is consummated.

18 (t) Any and all proprietary information and records
19 related to the operation of an intergovernmental risk
20 management association or self-insurance pool or jointly
21 self-administered health and accident cooperative or pool.

22 (u) Information concerning a university's adjudication
23 of student or employee grievance or disciplinary cases, to
24 the extent that disclosure would reveal the identity of the
25 student or employee and information concerning any public
26 body's adjudication of student or employee grievances or

1 disciplinary cases, except for the final outcome of the
2 cases.

3 (v) Course materials or research materials used by
4 faculty members.

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

7 (x) Information contained in or related to
8 examination, operating, or condition reports prepared by,
9 on behalf of, or for the use of a public body responsible
10 for the regulation or supervision of financial
11 institutions or insurance companies, unless disclosure is
12 otherwise required by State law.

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

15 (z) Manuals or instruction to staff that relate to
16 establishment or collection of liability for any State tax
17 or that relate to investigations by a public body to
18 determine violation of any criminal law.

19 (aa) Applications, related documents, and medical
20 records received by the Experimental Organ Transplantation
21 Procedures Board and any and all documents or other records
22 prepared by the Experimental Organ Transplantation
23 Procedures Board or its staff relating to applications it
24 has received.

25 (bb) Insurance or self insurance (including any
26 intergovernmental risk management association or self

1 insurance pool) claims, loss or risk management
2 information, records, data, advice or communications.

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

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

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

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

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

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

26 (ii) Beginning July 1, 1999, information that would

1 disclose or might lead to the disclosure of secret or
2 confidential information, codes, algorithms, programs, or
3 private keys intended to be used to create electronic or
4 digital signatures under the Electronic Commerce Security
5 Act.

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

10 (kk) Information and data concerning the distribution
11 of surcharge moneys collected and remitted by wireless
12 carriers under the Wireless Emergency Telephone Safety
13 Act.

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

1 tactical operations.

2 (mm) Maps and other records regarding the location or
3 security of a utility's generation, transmission,
4 distribution, storage, gathering, treatment, or switching
5 facilities.

6 (nn) Law enforcement officer identification
7 information or driver identification information compiled
8 by a law enforcement agency or the Department of
9 Transportation under Section 11-212 of the Illinois
10 Vehicle Code.

11 (oo) Records and information provided to a residential
12 health care facility resident sexual assault and death
13 review team or the Executive Council under the Abuse
14 Prevention Review Team Act.

15 (pp) Information provided to the predatory lending
16 database created pursuant to Article 3 of the Residential
17 Real Property Disclosure Act, except to the extent
18 authorized under that Article.

19 (qq) Defense budgets and petitions for certification
20 of compensation and expenses for court appointed trial
21 counsel as provided under Sections 10 and 15 of the Capital
22 Crimes Litigation Act. This subsection (qq) shall apply
23 until the conclusion of the trial of the case, even if the
24 prosecution chooses not to pursue the death penalty prior
25 to trial or sentencing.

26 (rr) 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. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
8 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
9 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.
10 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff.
11 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; revised
12 8-3-06.)

13 Section 905. The Consumer Installment Loan Act is amended
14 by adding Section 15f as follows:

15 (205 ILCS 670/15f new)

16 Sec. 15f. Practices concerning members of the military.

17 (a) A licensee may not garnish the wages or salaries of a
18 borrower who is a member of the military or is the spouse of a
19 member of the military.

20 (b) In addition to any rights and obligations provided
21 under the federal Servicemembers Civil Relief Act, a licensee
22 shall suspend and defer collection activity against a borrower
23 who is a member of the military and who has been deployed to a
24 combat or combat support posting, or to the spouse of a

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

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

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

11 (e) A licensee may not use any military design or insignia
12 on any advertising material or other material distributed to a
13 member of the military or the spouse of a member of the
14 military that suggests military approval or endorsement of any
15 product of that licensee.

16 (f) For purposes of this Section, "member of the military"
17 means a person serving in the armed forces of the United
18 States, the Illinois National Guard, or any reserve component
19 of the armed forces of the United States. "Member of the
20 military" includes those persons engaged in (i) active duty,
21 (ii) training or education under the supervision of the United
22 States preliminary to induction into military service, or (iii)
23 a period of active duty with the State of Illinois under Title
24 10 or Title 32 of the United States Code pursuant to order of
25 the President or the Governor of the State of Illinois.

1 Section 910. The Payday Loan Reform Act is amended by
2 changing Section 2-50 as follows:

3 (815 ILCS 122/2-50)

4 Sec. 2-50. Practices concerning members of the military.

5 (a) A lender may not garnish the wages or salaries of a
6 consumer who is a member of the military or is the spouse of a
7 member of the military.

8 (b) In addition to any rights and obligations provided
9 under the federal Servicemembers Civil Relief Act, a lender
10 shall suspend and defer collection activity against a consumer
11 who is a member of the military and who has been deployed to a
12 combat or combat support posting, or to the spouse of a
13 consumer who is a member of the military and who has been
14 deployed to a combat or combat support posting, for the
15 duration of the deployment.

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

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

23 (e) A lender may not use any military design or insignia on
24 any advertising material or other material distributed to a
25 member of the military or the spouse of a member of the

1 military that suggests military approval or endorsement of any
2 product of that lender.

3 (Source: P.A. 94-13, eff. 12-6-05.)

4 (815 ILCS 177/Act rep.)

5 Section 915. The Tax Refund Anticipation Loan Disclosure
6 Act is repealed.

7 Section 920. The Consumer Fraud and Deceptive Business
8 Practices Act is amended by changing Section 2Z as follows:

9 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

10 Sec. 2Z. Violations of other Acts. Any person who knowingly
11 violates the Automotive Repair Act, the Automotive Collision
12 Repair Act, the Home Repair and Remodeling Act, the Dance
13 Studio Act, the Physical Fitness Services Act, the Hearing
14 Instrument Consumer Protection Act, the Illinois Union Label
15 Act, the Job Referral and Job Listing Services Consumer
16 Protection Act, the Travel Promotion Consumer Protection Act,
17 the Credit Services Organizations Act, the Automatic Telephone
18 Dialers Act, the Pay-Per-Call Services Consumer Protection
19 Act, the Telephone Solicitations Act, the Illinois Funeral or
20 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
21 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
22 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
23 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax

1 Act, the Payday Loan Reform Act, subsection (a) or (b) of
2 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
3 Act, paragraph (6) of subsection (k) of Section 6-305 of the
4 Illinois Vehicle Code, Article 3 of the Residential Real
5 Property Disclosure Act, the Automatic Contract Renewal Act,
6 the Tax Refund Anticipation Loan Act, or the Personal
7 Information Protection Act commits an unlawful practice within
8 the meaning of this Act.

9 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,
10 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,
11 eff. 1-1-06; 94-822, eff. 1-1-07.)

12 Section 999. Effective date. This Act takes effect upon
13 becoming law."