97TH GENERAL ASSEMBLY
State of Illinois
2011 and 2012
SB3535


SYNOPSIS AS INTRODUCED:

See Index

Amends the Currency Exchange Act, the Consumer Installment Loan Act, and the Payday Loan Reform Act. Provides that a business licensed under one of those Acts may offer any product or service that is permitted under any of those Acts, so long as the business is licensed under the appropriate Act. Further amends the Currency Exchange Act. Provides that a licensee who holds more than one community currency exchange license may hold the aggregate minimum liquid funds required for all the licensee's locations in a single account in the licensee's name. Further amends the Consumer Installment Loan Act. Provides that the Director of Financial Institutions may fine a licensee an amount not exceeding $500 (now, $10,000) per violation. Provides that an examination of the books and records of a licensee by the Director shall take no more than 4 hours to complete and must occur during a single business day. Repeals provisions concerning a limited purpose branch and the prohibition against accepting certain checks. Makes other changes. Further amends the Payday Loan Reform Act. Provides that an examination of the books and records of a licensee by the Secretary of Financial and Professional Regulation shall take no more than 4 hours to complete and must occur during a single business day. Provides that a licensee must pay an annual fee of $450 (now $1,000). Provides that the Secretary may fine a licensee an amount not exceeding $500 (now, $10,000) per violation. Provides that the Secretary may approve the conduct of other businesses in a licensee's place of business, unless the Secretary finds that the conduct will conceal or facilitate evasion of violation of the Act. Repeals a provision concerning the superiority of the Act over any other State financial regulation laws. Makes other changes.

FISCAL NOTE ACT MAY APPLY

A BILL FOR
AN ACT concerning regulation.

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

Section 5. The Currency Exchange Act is amended by changing Sections 1, 3, and 7 and by adding Section 3.4 as follows:

(205 ILCS 405/1) (from Ch. 17, par. 4802)

Sec. 1. Definitions; application of Act.

(a) For the purposes of this Act:

"Community currency exchange" means any person, firm, association, partnership, limited liability company, or corporation, except an ambulatory currency exchange as hereinafter defined, banks incorporated under the laws of this State and National Banks organized pursuant to the laws of the United States, engaged in the business or service of, and providing facilities for, cashing checks, drafts, money orders or any other evidences of money acceptable to such community currency exchange, for a fee or service charge or other consideration, or engaged in the business of selling or issuing money orders under his or their or its name, or any other money orders (other than United States Post Office money orders, Postal Telegraph Company money orders, or Western Union Telegraph Company money orders), or engaged in both such businesses, or engaged in performing any one or more of the
foregoing services.

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

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

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

"Ambulatory Currency Exchange" means any person, firm, association, partnership, limited liability company, or corporation, except banks organized under the laws of this State and National Banks organized pursuant to the laws of the United States, engaged in one or both of the foregoing businesses, or engaged in performing any one or more of the foregoing services, solely on the premises of the employer whose employees are being served.

"Location" when used with reference to an ambulatory currency exchange means the premises of the employer whose employees are or are to be served by an ambulatory currency exchange.

"Secretary" means the Secretary of Financial and Professional Regulation or a person authorized by the Secretary or this Act to act in the Secretary's stead. All references in this Act to the Secretary shall be deemed to include the Director, as a person authorized by the Secretary or this Act
to assume responsibility for the oversight of the functions of
the Department relative to the regulatory supervision of
community currency exchanges and ambulatory currency exchanges
under this Act.

(b) Nothing in this Act shall be held to apply to any
person, firm, association, partnership, limited liability
company, or corporation who is engaged primarily in the
business of transporting for hire, bullion, currency,
securities, negotiable or non-negotiable documents, jewels or
other property of great monetary value and who in the course of
such business and only as an incident thereto, cashes checks,
drafts, money orders or other evidences of money directly for,
or for the employees of and with the funds of and at a cost only
to, the person, firm, association, partnership, limited
liability company, or corporation for whom he or it is then
actually transporting such bullion, currency, securities,
negotiable or non-negotiable documents, jewels, or other
property of great monetary value, pursuant to a written
contract for such transportation and all incidents thereof, nor
shall it apply to any person, firm, association, partnership,
limited liability company, or corporation engaged in the
business of selling tangible personal property at retail who,
in the course of such business and only as an incident thereto,
cashes checks, drafts, money orders or other evidences of money
and does not hold itself out as a check cashing service.

(Source: P.A. 97-315, eff. 1-1-12.)
(205 ILCS 405/3) (from Ch. 17, par. 4804)

Sec. 3. Powers of community currency exchanges. No community or ambulatory currency exchange shall be permitted to accept money or evidences of money as a deposit to be returned to the depositor or upon the depositor's order. No community or ambulatory currency exchange shall be permitted to act as bailee or agent for persons, firms, partnerships, limited liability companies, associations or corporations to hold money or evidences thereof or the proceeds therefrom for the use and benefit of the owners thereof, and deliver such money or proceeds of evidence of money upon request and direction of such owner or owners. A community or ambulatory currency exchange is permitted to engage in, and charge a fee for, the following activities, either directly or as a third-party agent: (i) cashing of checks, drafts, money orders, or any other evidences of money acceptable to the currency exchange, (ii) selling or issuing money orders, (iii) obtaining reports, certificates, governmental permits, licenses, and vital statistics and the preparation of necessary applications to obtain the same, (iv) the sale and distribution of bond cards, (v) obtaining, distributing, providing, or selling: State vehicle registration renewals, title transfers and tax remittance forms, city vehicle licenses, and other governmental services, (vi) photocopying and sending and receiving facsimile transmissions, (vii) notary service either
by the proprietor of the currency exchange or any currency
exchange employee, authorized by the State to act as a notary
public, (viii) issuance of travelers checks obtained by the
currency exchange from a banking institution under a trust
receipt, (ix) accepting for payment utility and other
companies' bills, (x) issuance and acceptance of any
third-party debit, credit, or stored value card and loading or
unloading, (xi) on-premises automated cash dispensing
machines, (xii) sale of rolled coin and paper money, (xiii)
exchange of foreign currency through a third-party, (xiv) sale
of cards, passes, or tokens for public transit, (xv) providing
mail box service, (xvi) sale of phone cards and other pre-paid
telecommunication services, (xvii) on-premises public
telephone, (xviii) sale of U.S. postage, (xix) money
transmission through a licensed third-party money transmitter,
(xx) sale of candy, gum, other packaged foods, soft drinks, and
other products and services by means of on-premises vending
machines, (xxi) any financial service, provided that the
licensee holds any license required for that service, and
(xxii) other products and services as may be approved by
the Secretary. Any community or ambulatory currency exchange
may enter into agreements with any utility and other companies
to act as the companies' agent for the acceptance of payment of
utility and other companies' bills without charge to the
customer and, acting under such agreement, may receipt for
payments in the names of the utility and other companies. Any
community or ambulatory currency exchange may also receive
payment of utility and other companies' bills for remittance to
companies with which it has no such agency agreement and may
charge a fee for such service but may not, in such cases, issue
a receipt for such payment in the names of the utility and
other companies. However, funds received by currency exchanges
for remittance to utility and other companies with which the
currency exchange has no agency agreement shall be forwarded to
the appropriate utility and other companies by the currency
exchange before the end of the next business day.

For the purpose of this Section, "utility and other
companies" means any utility company and other company with
which the currency exchange may or may not have a contractual
agreement and for which the currency exchange accepts payments
from consumers for remittance to the utility or other company
for the payment of bills.
(Source: P.A. 97-315, eff. 1-1-12.)

(205 ILCS 405/3.4 new)

Sec. 3.4. Other products or services. Notwithstanding any
other law to the contrary, a currency exchange may offer any
product or service that is permitted under the Consumer
Installment Loan Act, the Payday Loan Reform Act, or the Sales
Finance Agency Act, so long as the licensee is also licensed
under the appropriate Act.
Sec. 7. Available funds; minimum amount. Each community currency exchange shall have, at all times, a minimum of $5,000 of its own cash funds available for the uses and purposes of its business and said minimum sum shall be exclusive of and in addition to funds received for exchange or transfer; and in addition thereto each such licensee shall at all times have on hand an amount of liquid funds sufficient to pay on demand all outstanding money orders issued by it. Whenever the same licensee holds more than one community currency exchange license, the aggregate of the minimum liquid funds required under this Section for all of the licensee's locations may be held by the licensee in a single account in the licensee's name; provided that the total liquid funds equal a minimum of the number of the licensee's licenses multiplied by the minimum sum required for each location.

In the event a receiver is appointed in accordance with Section 15.1 of this Act, and the Secretary determines that the business of the currency exchange should be liquidated, and if it shall appear that the said minimum sum was not on hand or available at the time of the appointment of the receiver, then the receiver shall have the right to recover in any court of competent jurisdiction from the owner or owners of such currency exchange, or from the stockholders and directors thereof if such currency exchange was operated by a corporation, or from the members if the currency exchange was
operated as a limited liability company, said sum or that part
thereof which was not on hand or available at the time of the
appointment of such receiver. Nothing contained in this Section
shall limit or impair the liability of any bonding or insurance
company on any bond or insurance policy relating to such
community currency exchange issued pursuant to the
requirements of this Act, nor shall anything contained herein
limit or impair such other rights or remedies as the receiver
may otherwise have.
(Source: P.A. 97-315, eff. 1-1-12.)

Section 10. The Consumer Installment Loan Act is amended by
changing Sections 1, 9, and 10 and by adding Section 0.5 as
follows:

(205 ILCS 670/0.5 new)
Sec. 0.5. Director of Financial Institutions; Secretary of
Financial and Professional Regulation. All references in this
Act to the Director of Financial Institutions are deemed, in
appropriate contexts, to be the Secretary of Financial and
Professional Regulation, or his or her designee.

(205 ILCS 670/1) (from Ch. 17, par. 5401)
Sec. 1. License required to engage in business. No person,
partnership, association, limited liability company, or
corporation shall engage in the business of making loans of
money in a principal amount not exceeding $40,000, and charge,
contract for, or receive on any such loan a greater rate of
interest, discount, or consideration therefor than the lender
would be permitted by law to charge if he were not a licensee
hereunder, except as authorized by this Act after first
obtaining a license from the Director of Financial Institutions
(hereinafter called the Director). **Notwithstanding any other**
law to the contrary, licensees may offer any product or service
that is permitted under the Payday Loan Reform Act or the
Currency Exchange Act, so long as the licensee is also licensed
under the appropriate Act. No licensee, or employee or
affiliate thereof, that is licensed under the Payday Loan
Reform Act shall obtain a license under this Act except that a
licensee under the Payday Loan Reform Act may obtain a license
under this Act for the exclusive purpose and use of making
title-secured loans, as defined in subsection (a) of Section 15
of this Act and governed by Title 38, Section 110.300 of the
Illinois Administrative Code. For the purpose of this Section,
"affiliate" means any person or entity that directly or
indirectly controls, is controlled by, or shares control with
another person or entity. A person or entity has control over
another if the person or entity has an ownership interest of
25% or more in the other.
(Source: P.A. 96-936, eff. 3-21-11; 97-420, eff. 1-1-12.)

(205 ILCS 670/9) (from Ch. 17, par. 5409)
Sec. 9. Fines, Suspension or Revocation of license.

(a) The Director may, after 10 days notice by registered mail to the licensee at the address set forth in the license, stating the contemplated action, and in general the particular grounds therefor, the action required by the licensee to correct the violation, and that the licensee has 30 days in which to correction the violation, fine such licensee, for the purpose of obtaining compliance with this Act, an amount not exceeding $500 per violation type annually, but only after the licensee fails to correct the cause of the violation within 30 days after notification, or revoke or suspend any license issued hereunder if, on good cause shown, he or she finds that the: (1) The licensee has materially failed to comply with any provision of this Act or any order, decision, finding, rule, regulation or direction of the Director lawfully made pursuant to the authority of this Act. Any notice of a contemplated action by the Director under this Section that is based upon findings of an examination conducted under Section 10 shall be served within 60 days after the date of the examination; or (2) Any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the Director in refusing to issue the license.

(b) (Blank) The Director may fine, suspend, or revoke only the particular license with respect to which grounds for the fine, revocation or suspension occur or exist, but if the
Director shall find that grounds for revocation are of general application to all offices or to more than one office of the licensee, the Director shall fine, suspend, or revoke every license to which such grounds apply.

(c) (Blank).

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

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

(f) (Blank).

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

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

(i) If the licensee requests a hearing, the Director shall conduct a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties. If the Director fails to conduct the hearing within 30 days after the date of service of a hearing request, the Director may take no further action against the licensee on the matter, and the issue shall be considered closed. The hearing shall be held at the time and place designated by the Director and agreed to by the licensee.

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

(k) The costs for the administrative hearing shall be limited to $100 and shall be paid by the licensee set by rule.

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

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

(205 ILCS 670/10) (from Ch. 17, par. 5410)

Sec. 10. Investigation of conduct of business. For the
purpose of discovering violations of this Act or securing
information lawfully required by it, the Director shall have
the authority to schedule examinations of the books, records,
and loan documents of each licensee at a time convenient to the
licensee may at any time investigate the loans and business and
examine the books, accounts, records, and files used therein,
of every licensee and of every person, partnership,
association, limited liability company, and corporation
engaged in the business described in Section 1 of this Act,
whether such person, partnership, association, limited
liability company, or corporation shall act or claim to act as
principal or agent or within or without the authority of this
Act. For such purpose the Director shall have free access to
the offices and places of business, books, accounts, papers,
records, files, safes, and vaults of such persons,
partnerships, associations, limited liability companies, and
corporations. The Director may require the attendance of and
examine under oath all persons whose testimony he or she may
require relative to such loans or such business, and in such
cases the Director shall have power to administer oaths to all
persons called as witnesses; and the Director may conduct such
examinations.

The Director shall make an examination of the affairs,
business, office and records of each licensee at least once
each year. No examination may take more than 4 hours to
complete and must occur during a single business day. Remote
examinations are permitted by using information contained in
the consumer reporting service. The licensee shall pay no more
than $250 annually for all examinations under this Act. The
Director shall by rule and regulation set the fee to be charged
for each examination day, including travel expenses for
out-of-state licensed locations. The fee shall reasonably
reflect actual costs. The Director shall also have authority to
examine the books and records of any business made by a former
licensee which is being liquidated, as the Director deems
necessary, and may charge the examination fees otherwise
required for licensees.
(Source: P.A. 90-437, eff. 1-1-98.)

(205 ILCS 670/12.5 rep.)
(205 ILCS 670/19.2 rep.)

Section 15. The Consumer Installment Loan Act is amended by
repealing Sections 12.5 and 19.2.

Section 20. The Payday Loan Reform Act is amended by
changing Sections 2-55, 3-5, 4-5, and 4-10 and by adding
Section 3-7 as follows:

(815 ILCS 122/2-55)

Sec. 2-55. Information, reporting, and examination.
(a) A licensee shall keep and use books, accounts, and
records that will enable the Secretary to determine if the
licensee is complying with the provisions of this Act and
maintain any other records as required by the Secretary.

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

(1) the total number of payday loans made during the
preceeding calendar year;

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

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

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

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

The report shall be verified by the oath or affirmation of
the owner, manager, or president of the licensee. The report
must be filed with the Secretary no later than March 1 of the
year following the year for which the report discloses the
information specified in this subsection (b). The Secretary may
impose upon the licensee a fine of $25 per day for each day
beyond the filing deadline that the report is not filed.

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

(d) The Department shall have the authority to schedule examinations of the books, records, and loan documents at any time convenient to the licensee. No examination may take more than 4 hours to complete and must occur during a single business day. Remote examinations are permitted by using information contained in the consumer reporting service.

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

(815 ILCS 122/3-5)

Sec. 3-5. Licensure.

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

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

(1) that the financial responsibility, experience,
character, and general fitness of the applicant are such as
to command the confidence of the public and to warrant the
belief that the business will be operated lawfully and
fairly and within the provisions and purposes of this Act;
and
(2) that the applicant has submitted such other
information as the Secretary may deem necessary.
(c) A license shall be issued for no longer than one year,
and no renewal of a license may be provided if a licensee has
substantially violated this Act and has not cured the violation
to the satisfaction of the Department.
(d) A licensee shall appoint, in writing, the Secretary as
attorney-in-fact upon whom all lawful process against the
licensee may be served with the same legal force and validity
as if served on the licensee. A copy of the written
appointment, duly certified, shall be filed in the office of
the Secretary, and a copy thereof certified by the Secretary
shall be sufficient evidence to subject a licensee to
jurisdiction in a court of law. This appointment shall remain
in effect while any liability remains outstanding in this State
against the licensee. When summons is served upon the Secretary
as attorney-in-fact for a licensee, the Secretary shall
immediately notify the licensee by registered mail, enclosing
the summons and specifying the hour and day of service.
(e) A licensee must pay an annual fee of $450 $1,000. In
addition to the license fee, the reasonable expense of any
examination or hearing by the Secretary under any provisions of this Act shall be borne by the licensee, except that the licensee shall pay no more than $250 annually for all examinations under this Act and no more than $100 per hearing. If a licensee fails to renew its license by December 31, its license shall automatically expire; however, the Secretary, in his or her discretion, may reinstate an expired license upon:

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

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

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

(g) Notwithstanding any other law to the contrary, licensees may offer any product or service that is permitted under the Consumer Installment Loan Act, the Currency Exchange Act, or the Sales Finance Agency Act, so long as the licensee
is also licensed under the appropriate Act. No licensee shall conduct the business of making loans under this Act within any office, suite, room, or place of business in which (1) any loans are offered or made under the Consumer Installment Loan Act other than title secured loans as defined in subsection (a) of Section 15 of the Consumer Installment Loan Act and governed by Title 38, Section 110.330 of the Illinois Administrative Code or (2) any other business is solicited or engaged in unless the other business is licensed by the Department or, in the opinion of the Secretary, the other business would not be contrary to the best interests of consumers and is authorized by the Secretary in writing.

(g-5) (Blank) Notwithstanding subsection (g) of this Section, a licensee may obtain a license under the Consumer Installment Loan Act (CILA) for the exclusive purpose and use of making title secured loans, as defined in subsection (a) of Section 15 of CILA and governed by Title 38, Section 110.300 of the Illinois Administrative Code. A licensee may continue to service Consumer Installment Loan Act loans that were outstanding as of the effective date of this amendatory Act of the 96th General Assembly.

(h) The Secretary shall maintain a list of licensees that shall be available to interested consumers and lenders and the public. The Secretary shall maintain a toll-free number whereby consumers may obtain information about licensees. The Secretary shall also establish a complaint process under which
an aggrieved consumer may file a complaint against a licensee
or non-licensee who violates any provision of this Act.
(Source: P.A. 96-936, eff. 3-21-11.)

(815 ILCS 122/3-7 new)

Sec. 3-7. Other business.

(a) Upon application by the licensee and approval by the
Secretary, the Secretary may approve the conduct of other
businesses not specifically permitted by this Act in the
licensee's place of business, unless the Secretary finds that
the conduct will conceal or facilitate evasion or violation of
this Act. The Secretary's approval shall be in writing and
shall describe the other businesses which may be conducted in
the licensed office.

(b) A licensee may, without notice to or approval of the
Secretary, in addition to the business permitted by this Act, conduct the following business:

(1) the business of a sales finance agency as defined
in the Sales Finance Agency Act;

(2) the business of soliciting or selling any type of
insurance provided that all insurance transactions are
conducted in accordance with and are regulated under the
Illinois Insurance Code;

(3) the business of financing premiums for insurance;

and

(4) making loans pursuant to the Illinois Financial
Services Development Act.

The Secretary shall make and enforce reasonable rules and regulations in accordance with the Illinois Administrative Procedure Act for the conduct of business under this Act in the same office with other businesses as may be necessary to prevent evasions or violations of this Act. The Secretary may investigate any business conducted in the licensed office to determine whether any evasion or violation of this Act has occurred.

(815 ILCS 122/4-5)

Sec. 4-5. Prohibited acts. A licensee or unlicensed person or entity making payday loans may not commit, or have committed on behalf of the licensee or unlicensed person or entity, any of the following acts:

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

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

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

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

(5) Knowingly accepting payment in whole or in part of a payday loan through the proceeds of another payday loan provided by any licensee, except as provided in subsection (c) of Section 2.5.

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

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

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

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

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

   (A) a confession of judgment clause;

   (B) a waiver of the right to a jury trial, if applicable, in any action brought by or against a consumer, unless the waiver is included in an arbitration clause allowed under subparagraph (C) of this paragraph (11);

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

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

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

(12) Taking any power of attorney.

(13) Taking any security interest in real estate.

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

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

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

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

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

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

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

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

(22) (Blank) Making or offering to make any loan other
than a payday loan or a title-secured loan, provided
however, that to make or offer to make a title-secured
loan, a licensee must obtain a license under the Consumer
Installment Loan Act.

(Source: P.A. 96-936, eff. 3-21-11.)

(815 ILCS 122/4-10)

Sec. 4-10. Enforcement and remedies.

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

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

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

(d) Subject to the Illinois Administrative Procedure Act,
the Secretary may hold hearings, make findings of fact,
conclusions of law, issue cease and desist orders, have the
power to issue fines, for the purpose of obtaining compliance with this Act, of up to $500 $10,000 per violation type annually, but only after the licensee fails to correct the cause of the violation within 30 days after service of the notification described in subsection (f) of this Section, refer the matter to the appropriate law enforcement agency for prosecution under this Act, and suspend or revoke a license granted under this Act. All proceedings shall be open to the public.

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

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

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

If it is determined that the Secretary had the authority to issue the cease and desist order, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy the conduct.

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

(f) The Secretary may, after 10 days notice by registered mail to the licensee at the address set forth in the license stating the contemplated action, and in general the particular grounds therefore, the action required by the licensee to correct the violation, and that the licensee has 30 days in which to correct the violation, fine the licensee, for the purpose of obtaining compliance with this Act, an amount not exceeding $500 $10,000 per violation type annually, but only after the licensee fails to correct the cause of the violation within 30 days after notification, or revoke or suspend any license issued hereunder if, on good cause shown, he or she finds that: (1) the licensee has materially failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made
pursuant to the authority of this Act. Any notice of a
contemplated action by the Secretary under this subsection (f)
that is based upon findings of an examination conducted under
subsection (d) of Section 2-55 shall be served within 60 days
after the date of the examination; or (2) any fact or
condition exists which, if it had existed at the time of the
original application for the license, clearly would have
warranted the Secretary in refusing to issue the license.

The Secretary may fine, suspend, or revoke only the
particular license with respect to which grounds for the fine,
revocation, or suspension occur or exist, but if the Secretary
finds that grounds for revocation are of general application to
two offices or to more than one office of the licensee, the
Secretary shall fine, suspend, or revoke every license to which
the grounds apply.

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

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

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

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

If the licensee requests a hearing, the Secretary shall **conduct** schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties. **If the Secretary fails to conduct the hearing within 30 days after the date of service of a hearing request, the Secretary may take no further action against the licensee on the matter, and the issue shall be considered closed.**

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

**(g) The costs of administrative hearings conducted**
pursuant to this Section are limited to $100 and shall be paid by the licensee.  
(Source: P.A. 94-13, eff. 12-6-05.)

(815 ILCS 122/4-45 rep.)

Section 25. The Payday Loan Reform Act is amended by repealing Section 4-45.
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