

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 5-101, 5-102, and 5-102.7 as follows:

6 (625 ILCS 5/5-101) (from Ch. 95 1/2, par. 5-101)

7 Sec. 5-101. New vehicle dealers must be licensed.

8 (a) No person shall engage in this State in the business of
9 selling or dealing in, on consignment or otherwise, new
10 vehicles of any make, or act as an intermediary or agent or
11 broker for any licensed dealer or vehicle purchaser other than
12 as a salesperson, or represent or advertise that he is so
13 engaged or intends to so engage in such business unless
14 licensed to do so in writing by the Secretary of State under
15 the provisions of this Section.

16 (b) An application for a new vehicle dealer's license shall
17 be filed with the Secretary of State, duly verified by oath, on
18 such form as the Secretary of State may by rule or regulation
19 prescribe and shall contain:

20 1. The name and type of business organization of the
21 applicant and his established and additional places of
22 business, if any, in this State.

23 2. If the applicant is a corporation, a list of its

1 officers, directors, and shareholders having a ten percent
2 or greater ownership interest in the corporation, setting
3 forth the residence address of each; if the applicant is a
4 sole proprietorship, a partnership, an unincorporated
5 association, a trust, or any similar form of business
6 organization, the name and residence address of the
7 proprietor or of each partner, member, officer, director,
8 trustee, or manager.

9 3. The make or makes of new vehicles which the
10 applicant will offer for sale at retail in this State.

11 4. The name of each manufacturer or franchised
12 distributor, if any, of new vehicles with whom the
13 applicant has contracted for the sale of such new vehicles.
14 As evidence of this fact, the application shall be
15 accompanied by a signed statement from each such
16 manufacturer or franchised distributor. If the applicant
17 is in the business of offering for sale new conversion
18 vehicles, trucks or vans, except for trucks modified to
19 serve a special purpose which includes but is not limited
20 to the following vehicles: street sweepers, fertilizer
21 spreaders, emergency vehicles, implements of husbandry or
22 maintenance type vehicles, he must furnish evidence of a
23 sales and service agreement from both the chassis
24 manufacturer and second stage manufacturer.

25 5. A statement that the applicant has been approved for
26 registration under the Retailers' Occupation Tax Act by the

1 Department of Revenue: Provided that this requirement does
2 not apply to a dealer who is already licensed hereunder
3 with the Secretary of State, and who is merely applying for
4 a renewal of his license. As evidence of this fact, the
5 application shall be accompanied by a certification from
6 the Department of Revenue showing that that Department has
7 approved the applicant for registration under the
8 Retailers' Occupation Tax Act.

9 6. A statement that the applicant has complied with the
10 appropriate liability insurance requirement. A Certificate
11 of Insurance in a solvent company authorized to do business
12 in the State of Illinois shall be included with each
13 application covering each location at which he proposes to
14 act as a new vehicle dealer. The policy must provide
15 liability coverage in the minimum amounts of \$100,000 for
16 bodily injury to, or death of, any person, \$300,000 for
17 bodily injury to, or death of, two or more persons in any
18 one accident, and \$50,000 for damage to property. Such
19 policy shall expire not sooner than December 31 of the year
20 for which the license was issued or renewed. The expiration
21 of the insurance policy shall not terminate the liability
22 under the policy arising during the period for which the
23 policy was filed. Trailer and mobile home dealers are
24 exempt from this requirement.

25 If the permitted user has a liability insurance policy
26 that provides automobile liability insurance coverage of

1 at least \$100,000 for bodily injury to or the death of any
2 person, \$300,000 for bodily injury to or the death of any 2
3 or more persons in any one accident, and \$50,000 for damage
4 to property, then the permitted user's insurer shall be the
5 primary insurer and the dealer's insurer shall be the
6 secondary insurer. If the permitted user does not have a
7 liability insurance policy that provides automobile
8 liability insurance coverage of at least \$100,000 for
9 bodily injury to or the death of any person, \$300,000 for
10 bodily injury to or the death of any 2 or more persons in
11 any one accident, and \$50,000 for damage to property, or
12 does not have any insurance at all, then the dealer's
13 insurer shall be the primary insurer and the permitted
14 user's insurer shall be the secondary insurer.

15 When a permitted user is "test driving" a new vehicle
16 dealer's automobile, the new vehicle dealer's insurance
17 shall be primary and the permitted user's insurance shall
18 be secondary.

19 As used in this paragraph 6, a "permitted user" is a
20 person who, with the permission of the new vehicle dealer
21 or an employee of the new vehicle dealer, drives a vehicle
22 owned and held for sale or lease by the new vehicle dealer
23 which the person is considering to purchase or lease, in
24 order to evaluate the performance, reliability, or
25 condition of the vehicle. The term "permitted user" also
26 includes a person who, with the permission of the new

1 vehicle dealer, drives a vehicle owned or held for sale or
2 lease by the new vehicle dealer for loaner purposes while
3 the user's vehicle is being repaired or evaluated.

4 As used in this paragraph 6, "test driving" occurs when
5 a permitted user who, with the permission of the new
6 vehicle dealer or an employee of the new vehicle dealer,
7 drives a vehicle owned and held for sale or lease by a new
8 vehicle dealer that the person is considering to purchase
9 or lease, in order to evaluate the performance,
10 reliability, or condition of the vehicle.

11 As used in this paragraph 6, "loaner purposes" means
12 when a person who, with the permission of the new vehicle
13 dealer, drives a vehicle owned or held for sale or lease by
14 the new vehicle dealer while the user's vehicle is being
15 repaired or evaluated.

16 7. (A) An application for a new motor vehicle dealer's
17 license shall be accompanied by the following license fees:

18 (i) \$1,000 for applicant's established place of
19 business, and \$100 for each additional place of
20 business, if any, to which the application pertains;
21 but if the application is made after June 15 of any
22 year, the license fee shall be \$500 for applicant's
23 established place of business plus \$50 for each
24 additional place of business, if any, to which the
25 application pertains. License fees shall be returnable
26 only in the event that the application is denied by the

1 Secretary of State. All moneys received by the
2 Secretary of State as license fees under this
3 subparagraph (i) prior to applications for the 2004
4 licensing year shall be deposited into the Motor
5 Vehicle Review Board Fund and shall be used to
6 administer the Motor Vehicle Review Board under the
7 Motor Vehicle Franchise Act. Of the money received by
8 the Secretary of State as license fees under this
9 subparagraph (i) for the 2004 licensing year and
10 thereafter, 10% shall be deposited into the Motor
11 Vehicle Review Board Fund and shall be used to
12 administer the Motor Vehicle Review Board under the
13 Motor Vehicle Franchise Act and 90% shall be deposited
14 into the General Revenue Fund.

15 (ii) Except for dealers selling 25 or fewer
16 automobiles or as provided in subsection (h) of Section
17 5-102.7 of this Code, an Annual Dealer Recovery Fund
18 Fee in the amount of \$500 for the applicant's
19 established place of business, and \$50 for each
20 additional place of business, if any, to which the
21 application pertains; but if the application is made
22 after June 15 of any year, the fee shall be \$250 for
23 the applicant's established place of business plus \$25
24 for each additional place of business, if any, to which
25 the application pertains. For a license renewal
26 application, the fee shall be based on the amount of

1 automobiles sold in the past year according to the
2 following formula:

3 (1) \$0 for dealers selling 25 or less
4 automobiles;

5 (2) \$150 for dealers selling more than 25 but
6 less than 200 automobiles;

7 (3) \$300 for dealers selling 200 or more
8 automobiles but less than 300 automobiles; and

9 (4) \$500 for dealers selling 300 or more
10 automobiles.

11 License fees shall be returnable only in the event
12 that the application is denied by the Secretary of
13 State. Moneys received under this subparagraph (ii)
14 shall be deposited into the Dealer Recovery Trust Fund.

15 (B) An application for a new vehicle dealer's license,
16 other than for a new motor vehicle dealer's license, shall
17 be accompanied by the following license fees:

18 (i) \$1,000 for applicant's established place of
19 business, and \$50 for each additional place of
20 business, if any, to which the application pertains;
21 but if the application is made after June 15 of any
22 year, the license fee shall be \$500 for applicant's
23 established place of business plus \$25 for each
24 additional place of business, if any, to which the
25 application pertains. License fees shall be returnable
26 only in the event that the application is denied by the

1 Secretary of State. Of the money received by the
2 Secretary of State as license fees under this
3 subparagraph (i) for the 2004 licensing year and
4 thereafter, 95% shall be deposited into the General
5 Revenue Fund.

6 (ii) Except as provided in subsection (h) of
7 Section 5-102.7 of this Code, an Annual Dealer Recovery
8 Fund Fee in the amount of \$500 for the applicant's
9 established place of business, and \$50 for each
10 additional place of business, if any, to which the
11 application pertains; but if the application is made
12 after June 15 of any year, the fee shall be \$250 for
13 the applicant's established place of business plus \$25
14 for each additional place of business, if any, to which
15 the application pertains. License fees shall be
16 returnable only in the event that the application is
17 denied by the Secretary of State. Moneys received under
18 this subparagraph (ii) shall be deposited into the
19 Dealer Recovery Trust Fund.

20 8. A statement that the applicant's officers,
21 directors, shareholders having a 10% or greater ownership
22 interest therein, proprietor, a partner, member, officer,
23 director, trustee, manager or other principals in the
24 business have not committed in the past 3 years any one
25 violation as determined in any civil, criminal or
26 administrative proceedings of any one of the following

1 Acts:

2 (A) The Anti Theft Laws of the Illinois Vehicle
3 Code;

4 (B) The Certificate of Title Laws of the Illinois
5 Vehicle Code;

6 (C) The Offenses against Registration and
7 Certificates of Title Laws of the Illinois Vehicle
8 Code;

9 (D) The Dealers, Transporters, Wreckers and
10 Rebuilders Laws of the Illinois Vehicle Code;

11 (E) Section 21-2 of the Criminal Code of 1961 or
12 the Criminal Code of 2012, Criminal Trespass to
13 Vehicles; or

14 (F) The Retailers' Occupation Tax Act.

15 9. A statement that the applicant's officers,
16 directors, shareholders having a 10% or greater ownership
17 interest therein, proprietor, partner, member, officer,
18 director, trustee, manager or other principals in the
19 business have not committed in any calendar year 3 or more
20 violations, as determined in any civil, criminal or
21 administrative proceedings, of any one or more of the
22 following Acts:

23 (A) The Consumer Finance Act;

24 (B) The Consumer Installment Loan Act;

25 (C) The Retail Installment Sales Act;

26 (D) The Motor Vehicle Retail Installment Sales

1 Act;

2 (E) The Interest Act;

3 (F) The Illinois Wage Assignment Act;

4 (G) Part 8 of Article XII of the Code of Civil
5 Procedure; or

6 (H) The Consumer Fraud Act.

7 10. A bond or certificate of deposit in the amount of
8 \$20,000 for each location at which the applicant intends to
9 act as a new vehicle dealer. The bond shall be for the term
10 of the license, or its renewal, for which application is
11 made, and shall expire not sooner than December 31 of the
12 year for which the license was issued or renewed. The bond
13 shall run to the People of the State of Illinois, with
14 surety by a bonding or insurance company authorized to do
15 business in this State. It shall be conditioned upon the
16 proper transmittal of all title and registration fees and
17 taxes (excluding taxes under the Retailers' Occupation Tax
18 Act) accepted by the applicant as a new vehicle dealer.

19 11. Such other information concerning the business of
20 the applicant as the Secretary of State may by rule or
21 regulation prescribe.

22 12. A statement that the applicant understands Chapter
23 One through Chapter Five of this Code.

24 (c) Any change which renders no longer accurate any
25 information contained in any application for a new vehicle
26 dealer's license shall be amended within 30 days after the

1 occurrence of such change on such form as the Secretary of
2 State may prescribe by rule or regulation, accompanied by an
3 amendatory fee of \$2.

4 (d) Anything in this Chapter 5 to the contrary
5 notwithstanding no person shall be licensed as a new vehicle
6 dealer unless:

7 1. He is authorized by contract in writing between
8 himself and the manufacturer or franchised distributor of
9 such make of vehicle to so sell the same in this State, and

10 2. Such person shall maintain an established place of
11 business as defined in this Act.

12 (e) The Secretary of State shall, within a reasonable time
13 after receipt, examine an application submitted to him under
14 this Section and unless he makes a determination that the
15 application submitted to him does not conform with the
16 requirements of this Section or that grounds exist for a denial
17 of the application, under Section 5-501 of this Chapter, grant
18 the applicant an original new vehicle dealer's license in
19 writing for his established place of business and a
20 supplemental license in writing for each additional place of
21 business in such form as he may prescribe by rule or regulation
22 which shall include the following:

23 1. The name of the person licensed;

24 2. If a corporation, the name and address of its
25 officers or if a sole proprietorship, a partnership, an
26 unincorporated association or any similar form of business

1 organization, the name and address of the proprietor or of
2 each partner, member, officer, director, trustee or
3 manager;

4 3. In the case of an original license, the established
5 place of business of the licensee;

6 4. In the case of a supplemental license, the
7 established place of business of the licensee and the
8 additional place of business to which such supplemental
9 license pertains;

10 5. The make or makes of new vehicles which the licensee
11 is licensed to sell.

12 (f) The appropriate instrument evidencing the license or a
13 certified copy thereof, provided by the Secretary of State,
14 shall be kept posted conspicuously in the established place of
15 business of the licensee and in each additional place of
16 business, if any, maintained by such licensee.

17 (g) Except as provided in subsection (h) hereof, all new
18 vehicle dealer's licenses granted under this Section shall
19 expire by operation of law on December 31 of the calendar year
20 for which they are granted unless sooner revoked or cancelled
21 under the provisions of Section 5-501 of this Chapter.

22 (h) A new vehicle dealer's license may be renewed upon
23 application and payment of the fee required herein, and
24 submission of proof of coverage under an approved bond under
25 the "Retailers' Occupation Tax Act" or proof that applicant is
26 not subject to such bonding requirements, as in the case of an

1 original license, but in case an application for the renewal of
2 an effective license is made during the month of December, the
3 effective license shall remain in force until the application
4 is granted or denied by the Secretary of State.

5 (i) All persons licensed as a new vehicle dealer are
6 required to furnish each purchaser of a motor vehicle:

7 1. In the case of a new vehicle a manufacturer's
8 statement of origin and in the case of a used motor vehicle
9 a certificate of title, in either case properly assigned to
10 the purchaser;

11 2. A statement verified under oath that all identifying
12 numbers on the vehicle agree with those on the certificate
13 of title or manufacturer's statement of origin;

14 3. A bill of sale properly executed on behalf of such
15 person;

16 4. A copy of the Uniform Invoice-transaction reporting
17 return referred to in Section 5-402 hereof;

18 5. In the case of a rebuilt vehicle, a copy of the
19 Disclosure of Rebuilt Vehicle Status; and

20 6. In the case of a vehicle for which the warranty has
21 been reinstated, a copy of the warranty.

22 (j) Except at the time of sale or repossession of the
23 vehicle, no person licensed as a new vehicle dealer may issue
24 any other person a newly created key to a vehicle unless the
25 new vehicle dealer makes a copy of the driver's license or
26 State identification card of the person requesting or obtaining

1 the newly created key. The new vehicle dealer must retain the
2 copy for 30 days.

3 A new vehicle dealer who violates this subsection (j) is
4 guilty of a petty offense. Violation of this subsection (j) is
5 not cause to suspend, revoke, cancel, or deny renewal of the
6 new vehicle dealer's license.

7 This amendatory Act of 1983 shall be applicable to the 1984
8 registration year and thereafter.

9 (Source: P.A. 97-480, eff. 10-1-11; 97-1150, eff. 1-25-13.)

10 (625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

11 Sec. 5-102. Used vehicle dealers must be licensed.

12 (a) No person, other than a licensed new vehicle dealer,
13 shall engage in the business of selling or dealing in, on
14 consignment or otherwise, 5 or more used vehicles of any make
15 during the year (except house trailers as authorized by
16 paragraph (j) of this Section and rebuilt salvage vehicles sold
17 by their rebuilders to persons licensed under this Chapter), or
18 act as an intermediary, agent or broker for any licensed dealer
19 or vehicle purchaser (other than as a salesperson) or represent
20 or advertise that he is so engaged or intends to so engage in
21 such business unless licensed to do so by the Secretary of
22 State under the provisions of this Section.

23 (b) An application for a used vehicle dealer's license
24 shall be filed with the Secretary of State, duly verified by
25 oath, in such form as the Secretary of State may by rule or

1 regulation prescribe and shall contain:

2 1. The name and type of business organization
3 established and additional places of business, if any, in
4 this State.

5 2. If the applicant is a corporation, a list of its
6 officers, directors, and shareholders having a ten percent
7 or greater ownership interest in the corporation, setting
8 forth the residence address of each; if the applicant is a
9 sole proprietorship, a partnership, an unincorporated
10 association, a trust, or any similar form of business
11 organization, the names and residence address of the
12 proprietor or of each partner, member, officer, director,
13 trustee or manager.

14 3. A statement that the applicant has been approved for
15 registration under the Retailers' Occupation Tax Act by the
16 Department of Revenue. However, this requirement does not
17 apply to a dealer who is already licensed hereunder with
18 the Secretary of State, and who is merely applying for a
19 renewal of his license. As evidence of this fact, the
20 application shall be accompanied by a certification from
21 the Department of Revenue showing that the Department has
22 approved the applicant for registration under the
23 Retailers' Occupation Tax Act.

24 4. A statement that the applicant has complied with the
25 appropriate liability insurance requirement. A Certificate
26 of Insurance in a solvent company authorized to do business

1 in the State of Illinois shall be included with each
2 application covering each location at which he proposes to
3 act as a used vehicle dealer. The policy must provide
4 liability coverage in the minimum amounts of \$100,000 for
5 bodily injury to, or death of, any person, \$300,000 for
6 bodily injury to, or death of, two or more persons in any
7 one accident, and \$50,000 for damage to property. Such
8 policy shall expire not sooner than December 31 of the year
9 for which the license was issued or renewed. The expiration
10 of the insurance policy shall not terminate the liability
11 under the policy arising during the period for which the
12 policy was filed. Trailer and mobile home dealers are
13 exempt from this requirement.

14 If the permitted user has a liability insurance policy
15 that provides automobile liability insurance coverage of
16 at least \$100,000 for bodily injury to or the death of any
17 person, \$300,000 for bodily injury to or the death of any 2
18 or more persons in any one accident, and \$50,000 for damage
19 to property, then the permitted user's insurer shall be the
20 primary insurer and the dealer's insurer shall be the
21 secondary insurer. If the permitted user does not have a
22 liability insurance policy that provides automobile
23 liability insurance coverage of at least \$100,000 for
24 bodily injury to or the death of any person, \$300,000 for
25 bodily injury to or the death of any 2 or more persons in
26 any one accident, and \$50,000 for damage to property, or

1 does not have any insurance at all, then the dealer's
2 insurer shall be the primary insurer and the permitted
3 user's insurer shall be the secondary insurer.

4 When a permitted user is "test driving" a used vehicle
5 dealer's automobile, the used vehicle dealer's insurance
6 shall be primary and the permitted user's insurance shall
7 be secondary.

8 As used in this paragraph 4, a "permitted user" is a
9 person who, with the permission of the used vehicle dealer
10 or an employee of the used vehicle dealer, drives a vehicle
11 owned and held for sale or lease by the used vehicle dealer
12 which the person is considering to purchase or lease, in
13 order to evaluate the performance, reliability, or
14 condition of the vehicle. The term "permitted user" also
15 includes a person who, with the permission of the used
16 vehicle dealer, drives a vehicle owned or held for sale or
17 lease by the used vehicle dealer for loaner purposes while
18 the user's vehicle is being repaired or evaluated.

19 As used in this paragraph 4, "test driving" occurs when
20 a permitted user who, with the permission of the used
21 vehicle dealer or an employee of the used vehicle dealer,
22 drives a vehicle owned and held for sale or lease by a used
23 vehicle dealer that the person is considering to purchase
24 or lease, in order to evaluate the performance,
25 reliability, or condition of the vehicle.

26 As used in this paragraph 4, "loaner purposes" means

1 when a person who, with the permission of the used vehicle
2 dealer, drives a vehicle owned or held for sale or lease by
3 the used vehicle dealer while the user's vehicle is being
4 repaired or evaluated.

5 5. An application for a used vehicle dealer's license
6 shall be accompanied by the following license fees:

7 (A) \$1,000 for applicant's established place of
8 business, and \$50 for each additional place of
9 business, if any, to which the application pertains;
10 however, if the application is made after June 15 of
11 any year, the license fee shall be \$500 for applicant's
12 established place of business plus \$25 for each
13 additional place of business, if any, to which the
14 application pertains. License fees shall be returnable
15 only in the event that the application is denied by the
16 Secretary of State. Of the money received by the
17 Secretary of State as license fees under this
18 subparagraph (A) for the 2004 licensing year and
19 thereafter, 95% shall be deposited into the General
20 Revenue Fund.

21 (B) Except for dealers selling 25 or fewer
22 automobiles or as provided in subsection (h) of Section
23 5-102.7 of this Code, an Annual Dealer Recovery Fund
24 Fee in the amount of \$500 for the applicant's
25 established place of business, and \$50 for each
26 additional place of business, if any, to which the

1 application pertains; but if the application is made
2 after June 15 of any year, the fee shall be \$250 for
3 the applicant's established place of business plus \$25
4 for each additional place of business, if any, to which
5 the application pertains. For a license renewal
6 application, the fee shall be based on the amount of
7 automobiles sold in the past year according to the
8 following formula:

9 (1) \$0 for dealers selling 25 or less
10 automobiles;

11 (2) \$150 for dealers selling more than 25 but
12 less than 200 automobiles;

13 (3) \$300 for dealers selling 200 or more
14 automobiles but less than 300 automobiles; and

15 (4) \$500 for dealers selling 300 or more
16 automobiles.

17 License fees shall be returnable only in the event
18 that the application is denied by the Secretary of
19 State. Moneys received under this subparagraph (B)
20 shall be deposited into the Dealer Recovery Trust Fund.

21 6. A statement that the applicant's officers,
22 directors, shareholders having a 10% or greater ownership
23 interest therein, proprietor, partner, member, officer,
24 director, trustee, manager or other principals in the
25 business have not committed in the past 3 years any one
26 violation as determined in any civil, criminal or

1 administrative proceedings of any one of the following
2 Acts:

3 (A) The Anti Theft Laws of the Illinois Vehicle
4 Code;

5 (B) The Certificate of Title Laws of the Illinois
6 Vehicle Code;

7 (C) The Offenses against Registration and
8 Certificates of Title Laws of the Illinois Vehicle
9 Code;

10 (D) The Dealers, Transporters, Wreckers and
11 Rebuilders Laws of the Illinois Vehicle Code;

12 (E) Section 21-2 of the Illinois Criminal Code of
13 1961 or the Criminal Code of 2012, Criminal Trespass to
14 Vehicles; or

15 (F) The Retailers' Occupation Tax Act.

16 7. A statement that the applicant's officers,
17 directors, shareholders having a 10% or greater ownership
18 interest therein, proprietor, partner, member, officer,
19 director, trustee, manager or other principals in the
20 business have not committed in any calendar year 3 or more
21 violations, as determined in any civil or criminal or
22 administrative proceedings, of any one or more of the
23 following Acts:

24 (A) The Consumer Finance Act;

25 (B) The Consumer Installment Loan Act;

26 (C) The Retail Installment Sales Act;

1 (D) The Motor Vehicle Retail Installment Sales
2 Act;

3 (E) The Interest Act;

4 (F) The Illinois Wage Assignment Act;

5 (G) Part 8 of Article XII of the Code of Civil
6 Procedure; or

7 (H) The Consumer Fraud Act.

8 8. A bond or Certificate of Deposit in the amount of
9 \$20,000 for each location at which the applicant intends to
10 act as a used vehicle dealer. The bond shall be for the
11 term of the license, or its renewal, for which application
12 is made, and shall expire not sooner than December 31 of
13 the year for which the license was issued or renewed. The
14 bond shall run to the People of the State of Illinois, with
15 surety by a bonding or insurance company authorized to do
16 business in this State. It shall be conditioned upon the
17 proper transmittal of all title and registration fees and
18 taxes (excluding taxes under the Retailers' Occupation Tax
19 Act) accepted by the applicant as a used vehicle dealer.

20 9. Such other information concerning the business of
21 the applicant as the Secretary of State may by rule or
22 regulation prescribe.

23 10. A statement that the applicant understands Chapter
24 1 through Chapter 5 of this Code.

25 11. A copy of the certification from the prelicensing
26 education program.

1 (c) Any change which renders no longer accurate any
2 information contained in any application for a used vehicle
3 dealer's license shall be amended within 30 days after the
4 occurrence of each change on such form as the Secretary of
5 State may prescribe by rule or regulation, accompanied by an
6 amendatory fee of \$2.

7 (d) Anything in this Chapter to the contrary
8 notwithstanding, no person shall be licensed as a used vehicle
9 dealer unless such person maintains an established place of
10 business as defined in this Chapter.

11 (e) The Secretary of State shall, within a reasonable time
12 after receipt, examine an application submitted to him under
13 this Section. Unless the Secretary makes a determination that
14 the application submitted to him does not conform to this
15 Section or that grounds exist for a denial of the application
16 under Section 5-501 of this Chapter, he must grant the
17 applicant an original used vehicle dealer's license in writing
18 for his established place of business and a supplemental
19 license in writing for each additional place of business in
20 such form as he may prescribe by rule or regulation which shall
21 include the following:

22 1. The name of the person licensed;

23 2. If a corporation, the name and address of its
24 officers or if a sole proprietorship, a partnership, an
25 unincorporated association or any similar form of business
26 organization, the name and address of the proprietor or of

1 each partner, member, officer, director, trustee or
2 manager;

3 3. In case of an original license, the established
4 place of business of the licensee;

5 4. In the case of a supplemental license, the
6 established place of business of the licensee and the
7 additional place of business to which such supplemental
8 license pertains.

9 (f) The appropriate instrument evidencing the license or a
10 certified copy thereof, provided by the Secretary of State
11 shall be kept posted, conspicuously, in the established place
12 of business of the licensee and in each additional place of
13 business, if any, maintained by such licensee.

14 (g) Except as provided in subsection (h) of this Section,
15 all used vehicle dealer's licenses granted under this Section
16 expire by operation of law on December 31 of the calendar year
17 for which they are granted unless sooner revoked or cancelled
18 under Section 5-501 of this Chapter.

19 (h) A used vehicle dealer's license may be renewed upon
20 application and payment of the fee required herein, and
21 submission of proof of coverage by an approved bond under the
22 "Retailers' Occupation Tax Act" or proof that applicant is not
23 subject to such bonding requirements, as in the case of an
24 original license, but in case an application for the renewal of
25 an effective license is made during the month of December, the
26 effective license shall remain in force until the application

1 for renewal is granted or denied by the Secretary of State.

2 (i) All persons licensed as a used vehicle dealer are
3 required to furnish each purchaser of a motor vehicle:

4 1. A certificate of title properly assigned to the
5 purchaser;

6 2. A statement verified under oath that all identifying
7 numbers on the vehicle agree with those on the certificate
8 of title;

9 3. A bill of sale properly executed on behalf of such
10 person;

11 4. A copy of the Uniform Invoice-transaction reporting
12 return referred to in Section 5-402 of this Chapter;

13 5. In the case of a rebuilt vehicle, a copy of the
14 Disclosure of Rebuilt Vehicle Status; and

15 6. In the case of a vehicle for which the warranty has
16 been reinstated, a copy of the warranty.

17 (j) A real estate broker holding a valid certificate of
18 registration issued pursuant to "The Real Estate Brokers and
19 Salesmen License Act" may engage in the business of selling or
20 dealing in house trailers not his own without being licensed as
21 a used vehicle dealer under this Section; however such broker
22 shall maintain a record of the transaction including the
23 following:

24 (1) the name and address of the buyer and seller,

25 (2) the date of sale,

26 (3) a description of the mobile home, including the

1 vehicle identification number, make, model, and year, and

2 (4) the Illinois certificate of title number.

3 The foregoing records shall be available for inspection by
4 any officer of the Secretary of State's Office at any
5 reasonable hour.

6 (k) Except at the time of sale or repossession of the
7 vehicle, no person licensed as a used vehicle dealer may issue
8 any other person a newly created key to a vehicle unless the
9 used vehicle dealer makes a copy of the driver's license or
10 State identification card of the person requesting or obtaining
11 the newly created key. The used vehicle dealer must retain the
12 copy for 30 days.

13 A used vehicle dealer who violates this subsection (k) is
14 guilty of a petty offense. Violation of this subsection (k) is
15 not cause to suspend, revoke, cancel, or deny renewal of the
16 used vehicle dealer's license.

17 (l) Used vehicle dealers licensed under this Section shall
18 provide the Secretary of State a register for the sale at
19 auction of each salvage or junk certificate vehicle. Each
20 register shall include the following information:

21 1. The year, make, model, style and color of the
22 vehicle;

23 2. The vehicle's manufacturer's identification number
24 or, if applicable, the Secretary of State or Illinois
25 Department of State Police identification number;

26 3. The date of acquisition of the vehicle;

1 4. The name and address of the person from whom the
2 vehicle was acquired;

3 5. The name and address of the person to whom any
4 vehicle was disposed, the person's Illinois license number
5 or if the person is an out-of-state salvage vehicle buyer,
6 the license number from the state or jurisdiction where the
7 buyer is licensed; and

8 6. The purchase price of the vehicle.

9 The register shall be submitted to the Secretary of State
10 via written or electronic means within 10 calendar days from
11 the date of the auction.

12 (Source: P.A. 96-678, eff. 8-25-09; 97-480, eff. 10-1-11;
13 97-1150, eff. 1-25-13.)

14 (625 ILCS 5/5-102.7)

15 Sec. 5-102.7. Dealer Recovery Trust Fund.

16 (a) The General Assembly finds that motor vehicle dealers
17 that go out of business without fulfilling agreements to pay
18 off the balance of their customers' liens on traded-in vehicles
19 cause financial harm to those customers by leaving those
20 customers liable for multiple vehicle loans and cause harm to
21 the integrity of the motor vehicle retailing industry. It is
22 the intent of the General Assembly to protect vehicle
23 purchasers by creating a Dealer Recovery Trust Fund to
24 reimburse these consumers.

25 (b) The Dealer Recovery Trust Fund shall be used solely for

1 the limited purpose of helping victims of dealership closings.
2 Any interest accrued by moneys in the Fund shall be deposited
3 and become part of the Dealer Recovery Trust Fund and its
4 purpose. The sole beneficiaries of the Dealer Recovery Trust
5 Fund are victims of dealership closings.

6 (c) Except where the context otherwise requires, the
7 following words and phrases, when used in this Section, have
8 the meanings ascribed to them in this subsection (c):

9 "Applicant" means a person who applies for reimbursement
10 from the Dealer Recovery Trust Fund Board.

11 "Board" means the Dealer Recovery Trust Fund Board created
12 under this Section.

13 "Dealer" means a new vehicle dealer licensed under Section
14 5-101 or a used vehicle dealer licensed under Section 5-102,
15 excepting a dealer who primarily sells mobile homes,
16 recreational vehicles, or trailers ~~or any dealer who sells 25~~
17 ~~vehicles or fewer per calendar year.~~

18 "Fund" means the Dealer Recovery Trust Fund created under
19 this Section.

20 "Fund Administrator" means the private entity, which shall
21 be appointed by the Board, that administers the Dealer Recovery
22 Trust Fund.

23 (d) Beginning October 1, 2011, each application or renewal
24 for a new vehicle dealer's license and each application or
25 renewal for a used vehicle dealer's license shall be
26 accompanied by the applicable Annual Dealer Recovery Fund Fee

1 under Section 5-101 or 5-102 of this Code. The fee shall be in
2 addition to any other fees imposed under this Article, shall be
3 submitted at the same time an application or renewal for a new
4 vehicle dealer's license or used vehicle dealer's license is
5 submitted, and shall be made payable to and remitted directly
6 to the Dealer Recovery Trust Fund, a trust fund outside of the
7 State Treasury which is hereby created. In addition, the Dealer
8 Recovery Trust Fund may accept any federal, State, or private
9 moneys for deposit into the Fund.

10 (e) The Fund Administrator shall maintain a list of all
11 dealers who have paid the fee under subsection (d) of this
12 Section for the current year, which shall be available to the
13 Secretary of State and the Board. The Secretary of State shall
14 revoke the dealer license of any dealer who does not pay the
15 fee imposed under subsection (d) of this Section. The Secretary
16 of State and the Fund Administrator may enter into information
17 sharing agreements as needed to implement this Section.

18 (f) The Fund shall be audited annually by an independent
19 auditor who is a certified public accountant and who has been
20 selected by the Board. The independent auditor shall compile an
21 annual report, which shall be filed with the Board and shall be
22 a public record. The auditor shall be paid by the Fund,
23 pursuant to an order of the Board.

24 (g) The Fund shall be maintained by the Fund Administrator,
25 who shall keep current records of the amounts deposited into
26 the Fund and the amounts paid out of the Fund pursuant to an

1 order of the Board. These records shall be made available to
2 all members of the Board upon reasonable request during normal
3 business hours. The Fund Administrator shall report the balance
4 in the Fund to the Board monthly, by the 15th day of each
5 month. For purposes of determining the amount available to pay
6 claims under this Section at any meeting of the Board, the
7 Board shall use the Fund Administrator's most recent monthly
8 report. The Fund Administrator shall purchase liability
9 insurance to cover management of the Fund at a cost not to
10 exceed 2% of the balance in the Fund as of January 15th of that
11 year.

12 (h) In any year for which the balance in the Fund as of
13 August 31st is greater than \$3,500,000, the Fund Administrator
14 shall notify the Secretary of State and the Secretary of State
15 shall suspend collection of the fee for the following year for
16 any dealer who has not had a claim paid from the Fund, has not
17 had his or her license suspended or revoked, and has not been
18 assessed any civil penalties under this Code during the 3
19 previous years.

20 (i) Moneys in the Dealer Recovery Trust Fund may be paid
21 from the Fund only as directed by a written order of the Board
22 and used only for the following purposes:

23 (i) to pay claims under a written order of the Board as
24 provided in this Section; or

25 (ii) to reimburse the Fund Administrator for its
26 expenses related to the administration of the Fund,

1 provided that the reimbursement to the Fund Administrator
2 in any year shall not exceed 2% of the balance in the Fund
3 as of January 15th of that year.

4 (j) The Dealer Recovery Trust Fund Board is hereby created.
5 The Board shall consist of the Secretary of State, or his or
6 her designee, who shall serve as chair, the Attorney General,
7 or his or her designee, who shall serve as secretary, and one
8 person alternatively representing new and independent Illinois
9 automobile dealers, selected collectively by the Attorney
10 General, or his or her designee, and the Secretary of State, or
11 his or her designee. The Secretary of State may propose
12 procedures and employ personnel as necessary to implement this
13 Section. The Board shall meet quarterly, and as needed, as
14 directed by the chair. The Board may not pay out any claims
15 before the balance deposited into the Fund exceeds \$500,000.
16 Board meetings shall be open to the public. The Board has the
17 authority to take any action by at least a two-thirds majority
18 vote.

19 (k) The following persons may apply to the Board for
20 reimbursement from the Dealer Recovery Trust Fund:

21 (i) A retail customer who, on or after October 1, 2011,
22 purchases a vehicle from a dealer who subsequently files
23 for bankruptcy or whose vehicle dealer's license is
24 subsequently revoked by the Secretary of State or otherwise
25 terminated and, as part of the purchase transaction, trades
26 in a vehicle with an outstanding lien to the dealer if lien

1 satisfaction was a condition of the purchase agreement and
2 the retail customer determines that the lien has not been
3 satisfied;

4 (ii) A retail customer who, on or after October 1,
5 2011, purchases a vehicle with an undisclosed lien from a
6 dealer who subsequently files for bankruptcy or whose
7 vehicle dealer's license is subsequently revoked by the
8 Secretary of State or otherwise terminated;

9 (iii) A dealer who, on or after October 1, 2011,
10 purchases a vehicle with an undisclosed lien from another
11 dealer who subsequently files for bankruptcy or whose
12 vehicle dealer's license is subsequently revoked by the
13 Secretary of State or otherwise terminated.

14 (l) To be considered by the Board, an applicant must submit
15 his or her claim to the Board within 2 years ~~9 months~~ after the
16 date of the transaction that gave rise to the claim.

17 (m) At each meeting of the Board, it shall consider all
18 claims that are properly submitted to it on forms prescribed by
19 the Secretary of State at least 30 days before the date of the
20 Board's meeting. Before the Board may consider a claim against
21 a dealer, it must make a written determination that the dealer
22 has filed for bankruptcy under the provisions of 11 U.S.C.
23 Chapter 7; that the Secretary of State has revoked his or her
24 dealer's license; or that the license has been otherwise
25 terminated. Once the Board has made this determination, it may
26 consider the applicant's claim against the dealer. If a

1 two-thirds majority of the Board determines that the dealer has
2 committed a violation under subsection (k), it shall grant the
3 applicant's claim. Except as otherwise provided in this
4 Section, the maximum amount of any award for a claim under
5 paragraph (i) of subsection (k) of this Section shall be equal
6 to the amount of the unpaid balance of the lien that the dealer
7 agreed to pay off on behalf of the applicant as shown on the
8 bill of sale or the retail installment sales contract. The
9 maximum amount of any claim under paragraph (ii) or (iii) of
10 subsection (k) of this Section shall be equal to the amount of
11 the undisclosed lien. However, no award for a claim under
12 subsection (k) of this Section shall exceed \$35,000.

13 (n) If the balance in the Fund at the time of any Board
14 meeting is less than the amount of the total amount of all
15 claims awarded at that meeting, then all awards made at that
16 meeting shall be reduced, pro rata, so that the amount of
17 claims does not exceed the balance in the Fund. Before it
18 reviews new claims, the Board shall issue written orders to pay
19 the remaining portion of any claims that were so reduced,
20 provided that the balance in the Fund is sufficient to pay
21 those claims.

22 (o) Whenever the balance of the Fund falls below \$500,000,
23 the Board may charge dealers an additional assessment of up to
24 \$50 to bring the balance to at least \$500,000. Not more than
25 one additional assessment may be made against a dealer in any
26 12-month period.

1 (p) If the total amount of claims awarded against any
2 dealer exceeds 33% of the balance in the Fund, the Board may
3 permanently reduce the amount of those claims, pro rata, so
4 that those claims do not exceed 33% of the balance in the Fund.

5 (q) The Board shall issue a written order directing the
6 Fund Administrator to pay an applicant's claim to a secured
7 party where the Board has received a signed agreement between
8 the applicant and the secured party holding the lien. The
9 agreement must (i) state that the applicant and the secured
10 party agree to accept payment from the Fund to the secured
11 party as settlement in full of all claims against the dealer;
12 and (ii) release the lien and the title, if applicable, to the
13 vehicle that was the subject of the claim. The written order
14 shall state the amount of the claim and the name and address of
15 the secured party to whom the claim shall be paid. The Fund
16 Administrator shall pay the claim within 30 days after it
17 receives the Board's order.

18 (r) No dealer or principal associated with a dealer's
19 license is eligible for licensure, renewal or relicensure until
20 the full amount of reimbursement for an unpaid claim, plus
21 interest as determined by the Board, is paid to the Fund.
22 Nothing in this Section shall limit the authority of the
23 Secretary of State to suspend, revoke, or levy civil penalties
24 against a dealer, nor shall full repayment of the amount owed
25 to the Fund nullify or modify the effect of any action by the
26 Secretary.

1 (s) Nothing in this Section shall limit the right of any
2 person to seek relief through civil action against any other
3 person as an alternative to seeking reimbursement from the
4 Fund.

5 (Source: P.A. 97-480, eff. 10-1-11.)