

1 AN ACT concerning deferred deposit lending practices.

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

4 Section 5. The State Finance Act is amended by adding  
5 Section 5.570 as follows:

6 (30 ILCS 105/5.570 new)

7 Sec. 5.570. The Financial Literacy and Responsibility  
8 Fund.

9 Section 10. The Consumer Installment Loan act is amended  
10 by changing Section 15d and adding Sections 1.5, 2.5, 8.2,  
11 8.3, 8.4, 17.1, 17.2, 17.3, 17.4, 17.5, and 22.1 as follows:

12 (205 ILCS 670/1.5 new)

13 Sec. 1.5. Definitions.

14 "Deferred deposit loan" means a loan having a term of not  
15 more than 60 days upon which interest is charged at an annual  
16 percentage rate exceeding 36% pursuant to a written agreement  
17 between a licensee and the maker of a check whereby the  
18 licensee accepts a post dated check from the maker dated on  
19 the date the is due.

20 "Deferred deposit lender" means any lender (i) engaged in  
21 making any deferred deposit loans, (ii) who arranges a  
22 deferred deposit loan for a third party, or (iii) who acts as  
23 an agent for a third party, regardless of whether the third  
24 party is exempt from licensing under this Act or whether  
25 approval, acceptance, or ratification by the third party is  
26 necessary to create a legal obligation for the third party.  
27 Notwithstanding that a bank, a saving and loan association, a  
28 credit union, or other lender may be exempted by federal law  
29 from this Act's interest rate, finance charges, and licensure

1 provisions, all other applicable provisions of this Act apply  
2 to both a deferred deposit loan and a deferred deposit  
3 lender.

4 "Interest bearing loan" means a loan in which interest  
5 is charged upon the principal amount borrowed.

6 "Simple interest" means that the interest on all deferred  
7 deposit loans is computed as simple interest as defined in 38  
8 Ill. Adm. Code 110.80.

9 "Check" means a personal check, draft, or other  
10 negotiable instrument signed by the obligor and made payable  
11 to a licensee.

12 "Refinance" means to renew or extend a loan beyond its  
13 original term.

14 "Consecutive deferred deposit loan" means a new deferred  
15 deposit loan that a lender enters with the same obligor  
16 within 3 calendar days after a previous deferred deposit loan  
17 made to that obligor is paid in full.

18 (205 ILCS 670/2.5 new)

19 Sec. 2.5. Additional application requirements for  
20 deferred deposit lenders. In addition to the licensing  
21 requirements of Section 2, an applicant that is a deferred  
22 deposit lender shall prove in form satisfactory to the  
23 Director that the applicant is in compliance with any and all  
24 applicable local ordinances pertaining to the licensed  
25 business.

26 (205 ILCS 670/8.2 new)

27 Sec. 8.2. Additional renewal requirements for deferred  
28 deposit lenders. In addition to the requirements of Section  
29 8, an applicant that is a deferred deposit lender shall prove  
30 in form satisfactory to the Director that the applicant is in  
31 compliance with any and all applicable local ordinances  
32 pertaining to the licensed business.

1 (205 ILCS 670/8.3 new)

2 Sec. 8.3. The Financial Literacy and Responsibility  
3 Fund. A deferred deposit lender shall remit \$0.25 from each  
4 deferred deposit loan transaction to the Department of  
5 Financial Institutions for deposit into the Financial  
6 Literacy and Responsibility Fund, a special fund created in  
7 the State treasury. Moneys in the Fund shall be used by or  
8 through the Department to educate and counsel Illinois  
9 consumers on financial literacy and responsibility.

10 (205 ILCS 670/8.4 new)

11 Sec. 8.4. Availability of debt management services.

12 (a) Before entering into a deferred deposit loan  
13 agreement, a licensee must give to the obligor a pamphlet,  
14 approved by the Director, describing the availability of debt  
15 management services and the obligor's rights and  
16 responsibilities in the transaction.

17 (b) Each deferred deposit loan agreement and refinancing  
18 agreement executed by a licensee shall include a statement,  
19 which shall be initialed by the obligor, as follows: "I have  
20 received from (name of lender) a toll free number from the  
21 Department of Financial Institutions that I can call for  
22 information regarding debt management services."

23 (c) At the time a deferred deposit lender conveys any  
24 written notice to an obligor indicating the obligor is in  
25 arrears or that the obligor is in default, the lender shall  
26 include with the notice a statement indicating a toll free  
27 number of the Department of Financial Institutions that the  
28 obligor may contact for the purpose of the obligor receiving  
29 information from the Department regarding debt management  
30 services. The form and method of providing the information  
31 shall be subject to approval of the Department.

32 (205 ILCS 670/15d) (from Ch. 17, par. 5419)

1           Sec. 15d. Extra charges prohibited; exceptions. No  
2 amount in addition to the charges authorized by this Act  
3 shall be directly or indirectly charged, contracted for, or  
4 received, except (1) lawful fees paid to any public officer  
5 or agency to record, file or release security; (2) (i) costs  
6 and disbursements actually incurred in connection with a real  
7 estate loan, for any title insurance, title examination,  
8 abstract of title, survey, or appraisal, or paid to a trustee  
9 in connection with a trust deed, and (ii) in connection with  
10 a real estate loan those charges authorized by Section 4.1a  
11 of the Interest Act, whether called "points" or otherwise,  
12 which charges are imposed as a condition for making the loan  
13 and are not refundable in the event of prepayment of the  
14 loan; (3) costs and disbursements, including reasonable  
15 attorney's fees, incurred in legal proceedings to collect a  
16 loan or to realize on a security after default; (4) an amount  
17 not exceeding \$25, plus any actual expenses incurred in  
18 connection with a check or draft that is not honored because  
19 of insufficient or uncollected funds or because no such  
20 account exists; and (5) a document preparation fee not to  
21 exceed \$25 for obtaining and reviewing credit reports and  
22 preparation of other documents; and (6) a deferred deposit  
23 loan delinquency fee, if provided for in the written  
24 agreement between licensee and obligor, not to exceed \$5 for  
25 a deferred deposit loan in default in any amount for a period  
26 not less than 10 days, which may be assessed once on any loan  
27 regardless of the period during which it remains in default.  
28 A deferred deposit lender may not contract for or collect  
29 attorney's fees from obligors on legal actions arising from  
30 deferred deposit loans made under this Act, unless the legal  
31 action against the obligor is based upon fraud, nor may a  
32 deferred deposit lender use or threaten to use the criminal  
33 process to collect a deferred deposit loan. This Section does  
34 not prohibit the receipt of a commission, dividend, charge,

1 or other benefit by the licensee or by an employee,  
 2 affiliate, or associate of the licensee from the insurance  
 3 permitted by Sections 15a and 15b of this Act or from  
 4 insurance in lieu of perfecting a security interest provided  
 5 that the premiums for such insurance do not exceed the fees  
 6 that otherwise could be contracted for by the licensee under  
 7 this Section. Obtaining any of the items referred to in  
 8 clause (i) of item (2) of this Section through the licensee  
 9 or from any person specified by the licensee shall not be a  
 10 condition precedent to the granting of the loan.

11 (Source: P.A. 89-400, eff. 8-20-95; 90-437, eff. 1-1-98.)

12 (205 ILCS 670/17.1 new)

13 Sec. 17.1 Deferred deposit loan terms.

14 (a) A deferred deposit loan may not exceed \$400 in  
 15 principal amount. However, no loan shall be made in such  
 16 amount that the principal and interest payments for the  
 17 stated duration of the loan exceed 50% of the obligor's gross  
 18 income for that period.

19 (b) A deferred deposit loan may be refinanced a maximum  
 20 of 2 times, but only when the outstanding balance of the loan  
 21 has been reduced by at least 25%. If an obligor is allowed to  
 22 refinance a deferred deposit loan the maximum number of 2  
 23 times, no deferred deposit loan may be made to that obligor  
 24 within 30 days after the termination of the second refinanced  
 25 deferred deposit loan.

26 (c) If twice, during any 12-month period, an obligor  
 27 defaults on a deferred deposit loan and fails to repay the  
 28 loan within 30 days of its due date, then no deferred deposit  
 29 loan may be made to that obligor within 120 days of the date  
 30 of the second default.

31 (d) After an obligor's third consecutive deferred  
 32 deposit loan, no deferred deposit loan may be made to that  
 33 obligor within 3 days of the termination of that obligor's

1 third consecutive deferred deposit loan.

2 (e) The post-dated check used as security for a deferred  
3 deposit loan must name the lender as payee.

4 (f) The loan agreement for a deferred deposit loan must  
5 include a separate statement signed by the obligor attesting  
6 that the obligor is not barred from obtaining a deferred  
7 deposit loan under the requirements of this Act. The lender  
8 shall further verify the statement by means of any database  
9 created by or approved by the Department of Financial  
10 Institutions that purpose.

11 (g) The loan agreement shall advise the obligor that  
12 matters involving improprieties in the making of the loan or  
13 in loan collection practices may be referred to the  
14 Department and shall prominently disclose the Department's  
15 address and telephone number.

16 (h) Each deferred deposit loan refinancing agreement  
17 executed by a licensee shall include a statement, which shall  
18 be initialed by the obligor, as follows: "I have received  
19 from (name of lender) a toll free number from the Department  
20 of Financial Institutions that I can call for information  
21 regarding debt management services."

22 (205 ILCS 670/17.2 new)

23 Sec. 17.2. Deferred deposit loan notifications. At the  
24 time a deferred deposit lender conveys a second notice to an  
25 obligor indicating the obligor is in arrears or at the time  
26 of any notice that the obligor is in default for a debt owed  
27 to the deferred deposit lender, the licensee shall include  
28 with the notice a statement indicating a telephone number of  
29 the Department of Financial Institutions that the obligor may  
30 contact for the purpose of the obligor receiving information  
31 from the Department regarding debt management services for  
32 assisting the obligor. The form and method of the notice  
33 provided by the lender shall be subject to approval by the

1 Director.

2 (205 ILCS 670/17.3 new)

3 Sec. 17.3. Security interest. A deferred deposit lender  
4 shall not take a security interest in any of the obligor's  
5 property other than the check as tendered to the lender at  
6 the time of the making of the loan.

7 (205 ILCS 670/17.4 new)

8 Sec. 17.4. Deferred deposit loan proceeds. A deferred  
9 deposit lender must issue the proceeds of a deferred deposit  
10 loan in the form of a check drawn on the licensee's bank  
11 account, in cash, or by money order. When the proceeds are  
12 issued in the form of a check drawn on the lender's bank  
13 account or by money order, the lender may not charge a fee  
14 for cashing the check or money order if cashing services are  
15 offered at the location. When the proceeds are issued in  
16 cash, the lender must provide the obligor with a written  
17 verification of the cash transaction and shall maintain a  
18 record of the transaction.

19 (205 ILCS 670/17.5 new)

20 Sec. 17.5. Right of rescission. An obligor may rescind a  
21 deferred deposit loan agreement without cost no later than  
22 the end of the business day immediately following the day on  
23 which the deferred deposit loan was made. To rescind the  
24 deferred deposit loan, an obligor must inform the lender that  
25 the obligor wants to rescind the deferred deposit loan and  
26 return cash in an amount equal to the amount loaned pursuant  
27 to the written agreement.

28 (205 ILCS 670/22.1 new)

29 Sec. 22.1. Preemption of administrative rules. The  
30 provisions of this Act that are applicable to deferred

1 deposit lenders, including Sections 1.5, 2.5, 8.2, 8.3, 8.4,  
2 15d, 17.1, 17.2, 17.3, 17.4, and 17.5, preempt the provisions  
3 of the Illinois Administrative Code that are applicable to  
4 short-term lenders providing short-term loans, including 38  
5 Ill. Adm. Code 110.300, 110.310, 110.320, 110.330, 110.360,  
6 110.370, 110.380, 110.390, 110.400, and 110.410.