

1 AN ACT concerning regulation.

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

4 Section 5. The Sales Finance Agency Act is amended by
5 changing Sections 2, 4, 6.1, 10.2, 10.6, 12, 13, 15.5, 16.5,
6 17, and 19 and by adding Sections 3.5, 4.1, 4.2, 4.3, 4.4, 4.5,
7 4.6, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 10.7, 10.8, 13.5, and
8 14.5 as follows:

9 (205 ILCS 660/2) (from Ch. 17, par. 5202)

10 Sec. 2. Definitions. In this Act, unless the context
11 otherwise requires:

12 ~~"Sales finance agency" means a person, irrespective of his~~
13 ~~or her state of domicile or place of business, engaged in this~~
14 ~~State, in whole or in part, in the business of purchasing, or~~
15 ~~making loans secured by, retail installment contracts, retail~~
16 ~~charge agreements or the outstanding balances under such~~
17 ~~contracts or agreements entered into in this State.~~

18 ~~"Holder" of a retail installment contract or a retail~~
19 ~~charge agreement means the retail seller of the goods or~~
20 ~~services under the contract or charge agreement, or if the~~
21 ~~outstanding balances thereunder are purchased by or~~
22 ~~transferred as security to a sales finance agency or other~~
23 ~~assignee, the sales finance agency or other assignee.~~

1 ~~"Person" means an individual, corporation, partnership,~~
2 ~~limited liability company, joint venture, or any other form of~~
3 ~~business association.~~

4 "Department" means the Department of Financial and
5 Professional Regulation Institutions.

6 ~~"Director" means the Director of Financial Institutions.~~

7 "Holder" of a retail installment contract or a retail
8 charge agreement means the retail seller of the goods or
9 services under the contract or charge agreement, or if the
10 outstanding balances thereunder are purchased by or
11 transferred as security to a sales finance agency or other
12 assignee, the sales finance agency or other assignee.

13 "Motor Vehicle Retail Installment Sales Act" and "Retail
14 Installment Sales Act" refer to the Acts having those titles
15 enacted by the 75th General Assembly.

16 "Person" means an individual, corporation, partnership,
17 limited liability company, joint venture, or any other form of
18 business association.

19 "Retail installment contract" and "retail charge
20 agreement" have the meanings ascribed to them in the Motor
21 Vehicle Retail Installment Sales Act and the Retail
22 Installment Sales Act.

23 "Sales finance agency" means a person, irrespective of the
24 person's state of domicile or place of business, engaged in
25 this State, in whole or in part, in the business of purchasing
26 or making loans secured by retail installment contracts,

1 retail charge agreements, or the outstanding balances under
2 such contracts or agreements entered into in this State.

3 "Secretary" means the Secretary of Financial and
4 Professional Regulation or the Secretary's designee. The
5 Director of the Division of Financial Institutions of the
6 Department of Financial and Professional Regulation is a
7 designee of the Secretary under this Act.

8 ~~"Special purpose vehicle" means an entity that, in~~
9 ~~connection with a securitization, private placement, or~~
10 ~~similar type of investment transaction, is administered by a~~
11 ~~State or national bank under a management agreement for the~~
12 ~~purpose of purchasing, making loans against, or in pools of,~~
13 ~~receivables, general intangibles, and other financial assets~~
14 ~~including retail installment contracts, retail charge~~
15 ~~agreements, or the outstanding balances or any portion of the~~
16 ~~outstanding balances under those contracts or agreements.~~

17 "Net Worth" means total assets minus total liabilities.

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

19 (205 ILCS 660/3.5 new)

20 Sec. 3.5. License application; Nationwide Multistate
21 Licensing System and Registry.

22 (a) Applicants for a license shall apply in a form
23 prescribed by the Secretary. Each form shall contain content
24 as set forth by rule, instruction, or procedure of the
25 Department and may be changed or updated as necessary by the

1 Department to carry out the purposes of this Act.

2 (b) To fulfill the purposes of this Act, the Secretary is
3 authorized to establish relationships or contracts with the
4 Nationwide Multistate Licensing System and Registry or other
5 entities designated by the Nationwide Multistate Licensing
6 System and Registry to collect and maintain records and
7 process transaction fees or other fees related to licensees or
8 other persons subject to this Act.

9 (c) In connection with an application for licensing, the
10 applicant may be required, at a minimum, to furnish to the
11 Nationwide Multistate Licensing System and Registry
12 information concerning the applicant's identity, including
13 personal history and experience in a form prescribed by the
14 Nationwide Multistate Licensing System and Registry, including
15 the submission of authorization for the Nationwide Multistate
16 Licensing System and Registry and the Secretary to obtain:

17 (1) an independent credit report obtained from a
18 consumer reporting agency described in Section 603(p) of
19 the Fair Credit Reporting Act, 15 U.S.C. 1681a(p); and

20 (2) information related to any administrative, civil,
21 or criminal findings by any governmental jurisdiction.

22 (d) For the purposes of this Section, and in order to
23 reduce the points of contact that the Secretary may have to
24 maintain for purposes of paragraph (2) of subsection (c), the
25 Secretary may use the Nationwide Multistate Licensing System
26 and Registry as a channeling agent for requesting and

1 distributing information to and from any source as directed by
2 the Secretary.

3 (205 ILCS 660/4) (from Ch. 17, par. 5204)

4 Sec. 4. After December 31, 1967, a person who is required
5 to be licensed under this Act must display at each of his
6 places of business, both physical and digital, a
7 non-transferable and non-assignable license. A licensee who
8 operates more than one place of business may obtain additional
9 licenses upon compliance with this Act as to each place of
10 business. Application for a license must be on a form
11 prescribed and furnished by the Department. A licensee may
12 move his place or places of business from one location to
13 another within a county without obtaining a new license if he
14 gives the Department at least 10 days' prior written notice of
15 the relocation.

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

17 (205 ILCS 660/4.1 new)

18 Sec. 4.1. Licensee name. No person, partnership,
19 association, corporation, limited liability company, or other
20 entity engaged in a business regulated by this Act shall
21 operate the business under a name other than the real names of
22 the entity and individuals conducting the business. The
23 business may, in addition, operate under an assumed corporate
24 name pursuant to the Business Corporation Act of 1983, an

1 assumed limited liability company name pursuant to the Limited
2 Liability Company Act, or an assumed business name pursuant to
3 the Assumed Business Name Act.

4 (205 ILCS 660/4.2 new)

5 Sec. 4.2. License application process; investigation.

6 (a) The Secretary may issue a license upon completion of
7 all of the following:

8 (1) the filing of an application for a license with
9 the Secretary or the Nationwide Multistate Licensing
10 System and Registry as required by the Secretary;

11 (2) the filing with the Secretary of a listing of
12 judgments entered against and bankruptcy petitions by the
13 license applicant for the preceding 10 years;

14 (3) the filing of an audited balance sheet, including
15 all footnotes prepared by a certified public accountant in
16 accordance with generally accepted accounting principles
17 and generally accepted auditing standards; notwithstanding
18 the requirements of this subsection, an applicant that is
19 a subsidiary may submit audited consolidated financial
20 statements of its parent, intermediary parent, or ultimate
21 parent if the consolidated statements are supported by
22 consolidating statements that include the applicant's
23 financial statement; if the consolidating statements are
24 unaudited, the applicant's chief financial officer shall
25 attest to the applicant's financial statements disclosed

1 in the consolidating statements; and

2 (4) an investigation of the averments required by
3 Section 4.4 which investigation must allow the Secretary
4 to issue positive findings stating that the financial
5 responsibility, experience, character, and general fitness
6 of the license applicant; of the members if the license
7 applicant is a partnership or association; of the officers
8 and directors if the license applicant is a corporation;
9 and of the managers and members that retain any authority
10 or responsibility under the operating agreement if the
11 license applicant is a limited liability company are such
12 as to command the confidence of the community and to
13 warrant belief that the business will be operated
14 honestly, fairly, and efficiently within the purpose of
15 this Act; if the Secretary does not so find, the Secretary
16 shall not issue the license and shall notify the license
17 applicant of the denial. The Secretary may impose
18 conditions on a license if the Secretary determines that
19 those conditions are necessary or appropriate. These
20 conditions shall be imposed in writing and shall continue
21 in effect for a period prescribed by the Secretary.

22 (b) All licenses shall be issued to the license applicant.
23 Upon receipt of the license, a sales finance agency licensee
24 shall be authorized to engage in the business regulated by
25 this Act. The license shall remain in full force and effect
26 until it expires, it is surrendered by the licensee, or it is

1 revoked or suspended as provided by this Act.

2 (c) The Secretary may, for good cause shown, waive, in
3 part, any of the requirements of this Section.

4 (205 ILCS 660/4.3 new)

5 Sec. 4.3. License application form.

6 (a) An application for a sales finance agency license must
7 be made in accordance with Section 4.2 and, if applicable, in
8 accordance with requirements of the Nationwide Multistate
9 Licensing System and Registry. The application shall be in
10 writing, under oath, and on a form obtained from and
11 prescribed by the Secretary, or may be submitted
12 electronically with attestation to the Nationwide Multistate
13 Licensing System and Registry.

14 (b) The application shall contain the name and complete
15 business and residential address or addresses of the license
16 applicant. If the license applicant is a partnership,
17 association, corporation, or other form of business
18 organization, the application shall contain the names and
19 complete business and residential addresses of each member,
20 director, and principal officer of the business. The
21 application shall also include a description of the activities
22 of the license applicant in such detail and for such periods as
23 the Secretary may require, including all of the following:

24 (1) an affirmation of financial solvency noting such
25 capitalization requirements as may be required by the

1 Secretary and access to such credit as may be required by
2 the Secretary;

3 (2) proof in a form satisfactory to the Secretary that
4 the applicant has and will maintain a positive net worth
5 of a minimum of \$30,000;

6 (3) an applicant shall submit to the Secretary with
7 the application for a license and every licensee shall
8 maintain a bond to be approved by the Secretary in which
9 the applicant shall be the obligor, in the sum of \$50,000
10 or such additional amount as required by the Secretary
11 based on the sales finance agency activity of the licensee
12 in the previous year, and in which an insurance company
13 that is duly authorized by this State to transact the
14 business of fidelity and surety insurance shall be a
15 surety. The surety bond shall run to the Secretary and
16 shall be for the benefit of the Department and of any
17 consumer who incurs damages as a result of any violation
18 of this Act or rules adopted pursuant to this Act by a
19 licensee;

20 (4) an affirmation that the license applicant or its
21 members, directors, or principals, as may be appropriate,
22 are at least 18 years of age;

23 (5) information as to the character, fitness,
24 financial and business responsibility, background,
25 experience, and criminal record of any:

26 (A) person, entity, or ultimate equitable owner

1 that owns or controls, directly or indirectly, 10% or
2 more of any class of stock of the license applicant;

3 (B) person, entity, or ultimate equitable owner
4 that is not a depository institution, as defined in
5 Section 1007.50 of the Savings Bank Act, that lends,
6 provides, or infuses, directly or indirectly, in any
7 way, funds to or into a license applicant in an amount
8 equal to or more than 10% of the license applicant's
9 net worth;

10 (C) person, entity, or ultimate equitable owner
11 that controls, directly or indirectly, the election of
12 25% or more of the members of the board of directors of
13 a license applicant; and

14 (D) person, entity, or ultimate equitable owner
15 that the Secretary finds influences management of the
16 license applicant; the provisions of this subparagraph
17 shall not apply to a public official serving on the
18 board of directors of a State guaranty agency; and

19 (6) any other information the Secretary reasonably
20 deems necessary to include in the application.

21 (205 ILCS 660/4.4 new)

22 Sec. 4.4. Averments of applicant. Each application for
23 license shall be accompanied by the following averments
24 stating that the applicant:

25 (1) will file with the Secretary or Nationwide

1 Multistate Licensing System and Registry, as applicable,
2 any report or reports that it is required to file under any
3 of the provisions of this Act when due;

4 (2) has not committed a crime against the law of this
5 State, any other state, or of the United States involving
6 moral turpitude or fraudulent or dishonest dealing, and
7 that no final judgment has been entered against it in a
8 civil action upon grounds of fraud, misrepresentation, or
9 deceit that has not been previously reported to the
10 Secretary;

11 (3) has not engaged in any conduct that would be cause
12 for denial of a license;

13 (4) has not become insolvent;

14 (5) has not submitted an application for a license
15 under this Act that contains a material misstatement;

16 (6) has not demonstrated by course of conduct,
17 negligence or incompetence in performing any act for which
18 it is required to hold a license under this Act;

19 (7) will advise the Secretary in writing or the
20 Nationwide Multistate Licensing System and Registry, as
21 applicable, of any changes to the information submitted on
22 the most recent application for license or averments of
23 record within 30 days after the change; the written notice
24 must be signed in the same form as the application for the
25 license being amended;

26 (8) will comply with the provisions of this Act and

1 with any lawful order, rule, or regulation made or issued
2 under the provisions of this Act;

3 (9) will submit to periodic examination by the
4 Secretary as required by this Act; and

5 (10) will advise the Secretary in writing of judgments
6 entered against and bankruptcy petitions by the license
7 applicant within 5 days after the occurrence.

8 A licensee who fails to fulfill the obligations of an
9 averment, fails to comply with averments made, or otherwise
10 violates any of the averments made under this Section shall be
11 subject to the penalties of this Act.

12 (205 ILCS 660/4.5 new)

13 Sec. 4.5. Refusal to issue license. The Secretary may
14 refuse to issue or renew a license if:

15 (1) it is determined that the applicant is not in
16 compliance with any provisions of this Act;

17 (2) there is substantial continuity between the
18 applicant and any violator of this Act; or

19 (3) the Secretary cannot make the findings specified
20 in Section 4.4.

21 (205 ILCS 660/4.6 new)

22 Sec. 4.6. License renewal; fees.

23 (a) Licenses shall be renewed every year using the common
24 renewal date of the Nationwide Multistate Licensing System and

1 Registry, as required by the Secretary. Properly completed
2 renewal application forms and filing fees may be received by
3 the Secretary 60 days before the license expiration date, but
4 to be deemed timely, the completed renewal application forms
5 and filing fees must be received by the Secretary no later than
6 30 days before the license expiration date.

7 (b) It shall be the responsibility of each licensee to
8 accomplish renewal of its license. Failure by a licensee to
9 submit a properly completed renewal application form and fees
10 in a timely fashion, absent a written extension from the
11 Secretary, shall result in the license becoming inactive.

12 (c) No activity regulated by this Act shall be conducted
13 by the licensee when a license becomes inactive. An inactive
14 license may be reactivated by the Secretary, at the
15 Secretary's discretion, upon payment of a renewal fee, payment
16 of a reactivation fee equal to the renewal fee, and proof of
17 good cause for failure to renew. Request for reactivation of a
18 license must be submitted no more than 90 days after
19 expiration of license.

20 (d) A licensee ceasing an activity or activities regulated
21 by this Act and desiring to no longer be licensed shall inform
22 the Secretary in writing and, at the same time, convey any
23 license issued and all other symbols or indicia of licensure.
24 The licensee shall include a plan for the withdrawal from the
25 regulated business, including a timetable for the disposition
26 of the business, and comply with the surrender guidelines or

1 rules of the Department. Upon receipt of such written notice,
2 the Secretary shall post the cancellation or issue a certified
3 statement canceling the license.

4 (e) The expenses of administering this Act, including
5 investigations and examinations provided for in this Act,
6 shall be borne by and assessed against entities regulated by
7 this Act. The fees listed in this Section shall be payable to
8 the Department or to the Nationwide Multistate Licensing
9 System and Registry for transfer to the required recipients by
10 the Secretary. The Secretary shall specify the form of payment
11 to the Department or to the Nationwide Multistate Licensing
12 System and Registry, which may include certified check, money
13 order, credit card, or other forms of payment authorized by
14 the Secretary. The Nationwide Multistate Licensing System and
15 Registry shall be authorized to collect and process
16 transaction fees or other fees related to licensees or other
17 persons subject to this Act.

18 (f) Applicants and licensees shall be subject to the
19 following fees:

20 (1) For each application for an initial company
21 license, the applicant shall pay a nonrefundable initial
22 application fee of \$1,000 and a nonrefundable background
23 investigation fee of \$800.

24 (2) For each application for an annual renewal of a
25 company license, the applicant shall pay a nonrefundable
26 renewal fee of \$300.

1 (3) For each application for an initial branch
2 license, the applicant shall pay a nonrefundable initial
3 application fee of \$100.

4 (4) For each application for an annual renewal of a
5 branch license, the applicant shall pay a nonrefundable
6 renewal fee of \$100.

7 (5) The licensee shall pay a nonrefundable fee of
8 \$1,000 for each notice of change of ownership or control
9 filed.

10 (6) The licensee shall pay a nonrefundable fee of \$50
11 for each notice of change of officers or directors or
12 change of name or address filed.

13 (7) Any licensee or person who delivers a check or
14 other payment to the Department that is returned unpaid by
15 the financial institution upon which it is drawn shall pay
16 to the Department, in addition to the amount already owed,
17 a fee of \$50.

18 (8) Time expended in the conduct of any examination of
19 the affairs of any licensee or its affiliates shall be
20 billed by the Department at a rate of \$1,200 per examiner
21 day. Examination fees shall be billed following completion
22 of the examination and shall be paid within 30 days after
23 receipt of the billing.

24 (9) If out-of-state travel occurs in the conduct of
25 any examination, the licensee shall make arrangements to
26 reimburse the Department for all charges for services,

1 including travel expenses such as airfare, hotel, and per
2 diem expenses incurred by the employee. These expenses are
3 to be in accord with applicable travel regulations
4 published by the Department of Central Management Services
5 and approved by the Governor's Travel Control Board.

6 (10) Each licensee shall pay to the Department its pro
7 rata share of the cost for administration of this Act that
8 exceeds other fees listed in this Section, as estimated by
9 the Department, for the current year and any deficit
10 actually incurred in the administration of this Act in the
11 previous 3 years. The calculation method for each
12 licensee's pro rata share shall be established by rule.

13 (g) The expenses of administering this Act, including
14 licensing, investigations, and examinations provided for in
15 this Act, shall be borne by and assessed against persons and
16 entities regulated by this Act in such proportions and in such
17 manner as the Secretary deems appropriate. The Secretary may
18 establish by rule the category and amount of any fees that such
19 persons and entities must pay to the Department.

20 (h) Any fees set forth in this Act may be amended by rule.

21 (205 ILCS 660/6.1)

22 Sec. 6.1. Financial Institution Fund. All moneys received
23 by the Secretary under this Act in conjunction with the
24 provisions relating to sales finance agencies shall be paid
25 into the Financial Institution Fund, and all expenses incurred

1 by the Secretary under this Act in conjunction with the
2 provisions relating to sales finance agencies shall be paid
3 from the Financial Institution Fund. All moneys received by
4 the Department of Financial Institutions under this Act shall
5 be deposited in the Financial Institution Fund created under
6 Section 6z-26 of the State Finance Act.

7 (Source: P.A. 98-463, eff. 8-16-13.)

8 (205 ILCS 660/6.2 new)

9 Sec. 6.2. Secretary of Financial and Professional
10 Regulation; functions and powers. The functions and powers of
11 the Secretary shall include the following:

12 (1) to issue or refuse to issue any license as
13 provided by this Act;

14 (2) to revoke or suspend for cause any license issued
15 under this Act;

16 (3) to keep records of all licenses issued under this
17 Act;

18 (4) to receive, consider, investigate, and act upon
19 complaints made by any person in connection with any
20 licensed sales finance agency in this State or unlicensed
21 sales finance agency activity;

22 (5) to prescribe the forms of and receive:

23 (A) applications for licenses; and

24 (B) all reports and all books and records required
25 to be made by any licensee under this Act, including

1 annual audited financial statements and annual reports
2 of sales finance agency activity;

3 (6) to subpoena documents and witnesses and compel
4 their attendance and production of documents, to
5 administer oaths, and to require the production of any
6 books, papers, written reports, or other materials
7 relevant to any inquiry authorized by this Act;

8 (7) to issue orders against any person:

9 (A) if the Secretary has reasonable cause to
10 believe that an unsafe, unsound, or unlawful practice
11 has occurred, is occurring, or is about to occur;

12 (B) if any person has violated, is violating, or
13 is about to violate any law, rule, or written
14 agreement with the Secretary; or

15 (C) for the purpose of administering the
16 provisions of this Act and any rule adopted in
17 accordance with this Act;

18 (8) to address any inquiries to any licensee, or the
19 officers of the licensee, in relation to the licensee's
20 activities and conditions or any other matter connected
21 with its affairs, and it shall be the duty of any licensee
22 or person so addressed to promptly reply in writing to
23 those inquiries; the Secretary may also require reports
24 from any licensee at any time the Secretary chooses;

25 (9) to examine the books and records of every licensee
26 under this Act;

- 1 (10) to enforce the provisions of this Act;
- 2 (11) to levy fees, fines, and charges for services
3 performed in administering this Act; the aggregate of all
4 fees collected by the Secretary on and after the effective
5 date of this amendatory Act of the 104th General Assembly
6 shall be paid promptly after receipt, accompanied by a
7 detailed statement of fees paid, into the Financial
8 Institutions Fund; the amounts deposited into that Fund
9 shall be used for the ordinary and contingent expenses of
10 the Department; nothing in this Act shall prevent the
11 continuation of the practice of paying expenses involving
12 salaries, retirement, social security, and State-paid
13 insurance of State officers by appropriation from the
14 General Revenue Fund or any other fund;
- 15 (12) to appoint examiners, supervisors, experts, and
16 special assistants as needed to effectively and
17 efficiently administer this Act;
- 18 (13) to conduct hearings for the purpose of:
- 19 (A) appeals of orders of the Secretary;
20 (B) suspensions or revocations of licenses;
21 (C) fining of licensees or unlicensed persons or
22 entities;
- 23 (D) investigating complaints against licensees or
24 unlicensed persons or entities; or
- 25 (E) carrying out the purposes of this Act;
- 26 (14) to exercise visitorial power over a licensee;

1 (15) to enter into cooperative agreements with state
2 regulatory authorities of other states to provide for
3 examination of corporate offices or branches of those
4 states and to accept reports of those examinations;

5 (16) to assign an examiner or examiners to monitor the
6 affairs of a licensee with whatever frequency the
7 Secretary determines appropriate and to charge the
8 licensee for reasonable and necessary expenses of the
9 Secretary if in the opinion of the Secretary an emergency
10 exists or appears likely to occur;

11 (17) to impose civil penalties of up to \$50 per day
12 against a licensee for failing to respond to a regulatory
13 request or reporting requirement; and

14 (18) to enter into agreements necessary to implement,
15 administer, or enforce this Act, including in connection
16 with the Nationwide Multistate Licensing System and
17 Registry.

18 (205 ILCS 660/6.3 new)

19 Sec. 6.3. Examination; prohibited activities.

20 (a) The business affairs of a licensee under this Act
21 shall be examined for compliance with this Act as often as the
22 Secretary deems necessary and proper. The Department may adopt
23 rules with respect to the frequency and manner of examination.
24 The Secretary shall appoint a suitable person to perform an
25 examination. The Secretary and the Secretary's appointees may

1 examine the entire books, records, documents, and operations
2 of each licensee and its subsidiary, affiliate, or agent and
3 may examine any of the licensee's or its subsidiaries',
4 affiliates', or agents' officers, directors, employees, and
5 agents under oath.

6 (b) The Secretary shall prepare a sufficiently detailed
7 report of each licensee's examination, shall issue a copy of
8 the report to the licensee, and shall take appropriate steps
9 to ensure correction of violations of this Act.

10 (c) Affiliates of a licensee shall be subject to
11 examination by the Secretary on the same terms as the
12 licensee, but only when reports from or examination of a
13 licensee provides for documented evidence of unlawful activity
14 between a licensee and affiliate benefiting, affecting, or
15 deriving from the activities regulated by this Act.

16 (d) The expenses of any examination of the licensee and
17 affiliates shall be borne by the licensee and assessed by the
18 Secretary as set forth in this Act or by rule.

19 (e) All confidential supervisory information, including
20 the examination report and the work papers of the report,
21 shall belong to the Secretary's office and may not be
22 disclosed to anyone other than the licensee, law enforcement
23 officials, or other regulatory agencies that have an
24 appropriate regulatory interest as determined by the Secretary
25 or to a party presenting a lawful subpoena to the Department.
26 The Secretary may, through the Attorney General, immediately

1 appeal to the court of jurisdiction the disclosure of such
2 confidential supervisory information and seek a stay of the
3 subpoena pending the outcome of the appeal. Reports required
4 of licensees by the Secretary under this Act and results of
5 examinations performed by the Secretary under this Act shall
6 be the property of only the Secretary, but may be shared with
7 the licensee. Access under this Act to the books and records of
8 each licensee shall be limited to the Secretary and the
9 Secretary's agents as provided in this Act and to the licensee
10 and its authorized agents and designees. No other person shall
11 have access to the books and records of a licensee under this
12 Act. Any person upon whom a demand for production of
13 confidential supervisory information is made, whether by
14 subpoena, order, or other judicial or administrative process,
15 must withhold production of the confidential supervisory
16 information and must notify the Secretary of the demand, at
17 which time the Secretary is authorized to intervene for the
18 purpose of enforcing the limitations of this Section or
19 seeking the withdrawal or termination of the attempt to compel
20 production of the confidential supervisory information. The
21 Secretary may impose any conditions and limitations on the
22 disclosure of confidential supervisory information that are
23 necessary to protect the confidentiality of that information.
24 Except as authorized by the Secretary, no person obtaining
25 access to confidential supervisory information may make a copy
26 of the confidential supervisory information. The Secretary may

1 condition a decision to disclose confidential supervisory
2 information on entry of a protective order by the court or
3 administrative tribunal presiding in the particular case or on
4 a written agreement of confidentiality. In a case in which a
5 protective order or agreement has already been entered between
6 parties other than the Secretary, the Secretary may
7 nevertheless condition approval for release of confidential
8 supervisory information upon the inclusion of additional or
9 amended provisions in the protective order. The Secretary may
10 authorize a party who obtained the records for use in one case
11 to provide them to another party in another case, subject to
12 any conditions that the Secretary may impose on either or both
13 parties. The requester shall promptly notify other parties to
14 a case of the release of confidential supervisory information
15 obtained and, upon entry of a protective order, shall provide
16 copies of confidential supervisory information to the other
17 parties.

18 (205 ILCS 660/6.4 new)

19 Sec. 6.4. Retail Installment Sales Act; Motor Vehicle
20 Retail Installment Sales Act.

21 (a) A sales finance agency may not aid or seek to aid any
22 person in the violation of the Retail Installment Sales Act or
23 the Motor Vehicle Retail Installment Sales Act.

24 (b) A sales finance agency may not purchase any retail
25 installment contract, any retail charge agreement, or evidence

1 of indebtedness thereunder that violates the Retail
2 Installment Sales Act or the Motor Vehicle Retail Installment
3 Sales Act.

4 (c) A sales finance agency may not purchase any retail
5 installment contract, any retail charge agreement, or evidence
6 of indebtedness thereunder with actual knowledge that the
7 contract, agreement, or indebtedness violates the Retail
8 Installment Sales Act or the Motor Vehicle Retail Installment
9 Sales Act.

10 (d) A sales finance agency may not purchase a retail
11 installment contract creating or providing for a security
12 interest in a motor vehicle that qualifies as consumer goods
13 under the Uniform Commercial Code, or purchase of the evidence
14 of indebtedness under such a contract, from a person who is not
15 licensed under the Illinois Vehicle Code, not licensed under
16 this Act, and not exempt from licensure under this Act.

17 (205 ILCS 660/6.5 new)

18 Sec. 6.5. Investigation of complaints. The Secretary may
19 receive, record, and investigate complaints and inquiries made
20 by any person concerning this Act and any licensees under this
21 Act. Each licensee shall open its books, records, documents,
22 and offices wherever situated to the Secretary or the
23 Secretary's appointees as needed to facilitate such
24 investigations.

1 (205 ILCS 660/6.6 new)

2 Sec. 6.6. Additional investigation and examination
3 authority. In addition to any authority allowed under this
4 Act, the Secretary shall have the authority to conduct
5 investigations and examinations as follows:

6 (1) For purposes of initial licensing, license
7 renewal, license suspension, license conditioning, license
8 revocation or termination, or general or specific inquiry
9 or investigation to determine compliance with this Act,
10 the Secretary shall have the authority to access, receive,
11 and use any books, accounts, records, files, documents,
12 information, or evidence, including, but not limited to,
13 the following:

14 (A) criminal, civil, and administrative history
15 information, including nonconviction data as specified
16 in the Criminal Code of 2012;

17 (B) personal history and experience information,
18 including independent credit reports obtained from a
19 consumer reporting agency described in Section 603(p)
20 of the federal Fair Credit Reporting Act; and

21 (C) any other documents, information, or evidence
22 the Secretary deems relevant to the inquiry or
23 investigation, regardless of the location, possession,
24 control, or custody of the documents, information, or
25 evidence.

26 (2) For the purposes of investigating violations or

1 complaints arising under this Act or for the purposes of
2 examination, the Secretary may review, investigate, or
3 examine any licensee, individual, or person subject to
4 this Act as often as necessary in order to carry out the
5 purposes of this Act. The Secretary may direct, subpoena,
6 or order the attendance of and examine under oath all
7 persons whose testimony may be required about the business
8 or subject matter of any such examination or investigation
9 and may direct, subpoena, or order the person to produce
10 books, accounts, records, files, and any other documents
11 the Secretary deems relevant to the inquiry.

12 (3) Each licensee, individual, or person subject to
13 this Act shall make available to the Secretary upon
14 request the books and records relating to the operations
15 of the licensee, individual, or person subject to this
16 Act. The Secretary shall have access to those books and
17 records and may interview the officers, principals,
18 employees, independent contractors, agents, and customers
19 of the licensee, individual, or person subject to this Act
20 concerning the business of the licensee, individual, or
21 person.

22 (4) Each licensee, individual, or person subject to
23 this Act shall make or compile reports or prepare other
24 information as directed by the Secretary in order to carry
25 out the purposes of this Section, including, but not
26 limited to:

1 (A) accounting compilations;

2 (B) information lists and data concerning sales
3 finance agency activity in a format prescribed by the
4 Secretary; or

5 (C) other information deemed necessary to carry
6 out the purposes of this Section.

7 (5) In making any examination or investigation
8 authorized by this Act, the Secretary may control access
9 to any documents and records of the licensee or person
10 under examination or investigation. The Secretary may take
11 possession of the documents and records or place a person
12 in exclusive charge of the documents and records in the
13 place where they are usually kept. During the period of
14 control, no person shall remove or attempt to remove any
15 of the documents or records, except pursuant to a court
16 order or with the consent of the Secretary. Unless the
17 Secretary has reasonable grounds to believe the documents
18 or records of the licensee have been or are at risk of
19 being altered or destroyed for purposes of concealing a
20 violation of this Act, the licensee or owner of the
21 documents and records shall have access to the documents
22 or records as necessary to conduct its ordinary business
23 affairs.

24 (6) In order to carry out the purposes of this
25 Section, the Secretary may:

26 (A) retain attorneys, accountants, or other

1 professionals and specialists as examiners, auditors,
2 or investigators to conduct or assist in the conduct
3 of examinations or investigations;

4 (B) enter into agreements or relationships with
5 other government officials or regulatory associations
6 in order to improve efficiencies and reduce regulatory
7 burden by sharing resources, standardized or uniform
8 methods or procedures, and documents, records,
9 information, or evidence obtained under this Section;

10 (C) use, hire, contract, or employ publicly or
11 privately available analytical systems, methods, or
12 software to examine or investigate the licensee,
13 individual, or person subject to this Act;

14 (D) accept and rely on examination or
15 investigation reports made by other government
16 officials within or outside this State; or

17 (E) accept audit reports made by an independent
18 certified public accountant for the licensee,
19 individual, or person subject to this Act in the
20 course of that part of the examination covering the
21 same general subject matter as the audit and may
22 incorporate the audit report in the report of the
23 examination, report of investigation, or other writing
24 of the Secretary.

25 (7) The authority of this Section shall remain in
26 effect if a licensee, individual, or person subject to

1 this Act acts or claims to act under any licensing or
2 registration law of this State or claims to act without
3 the authority.

4 (8) No licensee, individual, or person subject to
5 investigation or examination under this Section may
6 knowingly withhold, abstract, remove, mutilate, destroy,
7 or secrete any books, records, computer records, or other
8 information.

9 (205 ILCS 660/6.7 new)

10 Sec. 6.7. Confidential information. In hearings conducted
11 under this Act, information presented into evidence that was
12 acquired by the licensee when serving any individual in
13 connection with sales finance agency activity, including all
14 financial information of the individual, shall be deemed
15 strictly confidential and shall be made available only as part
16 of the record of a hearing under this Act or otherwise: (i)
17 when the record is required, in its entirety, for purposes of
18 judicial review or (ii) upon the express written consent of
19 the individual served, or in the case of the individual's
20 death or disability, the consent of the individual's personal
21 representative.

22 (205 ILCS 660/6.8 new)

23 Sec. 6.8. Information sharing. In order to promote more
24 effective regulation and reduce regulatory burden through

1 supervisory information sharing:

2 (1) Except as otherwise provided in any federal law or
3 State law regarding the privacy or confidentiality of any
4 information or material provided to the Nationwide
5 Multistate Licensing System and Registry, any privilege
6 arising under federal or State law, including the rules of
7 any federal or State court, with respect to such
8 information or material shall continue to apply to
9 information or material after the information or material
10 has been disclosed to the Nationwide Multistate Licensing
11 System and Registry. The information and material may be
12 shared with all State and federal regulatory officials
13 with relevant oversight authority without the loss of
14 privilege or the loss of confidentiality protections
15 provided by federal law or State law.

16 (2) The Secretary is authorized to enter into
17 agreements or sharing arrangements with other governmental
18 agencies, the Conference of State Bank Supervisors, or
19 other associations representing governmental agencies as
20 established by rule or order of the Department. The
21 sharing of confidential supervisory information or any
22 information or material described in paragraph (1)
23 pursuant to an agreement or sharing arrangement shall not
24 result in the loss of privilege or the loss of
25 confidentiality protections provided by federal law or
26 State law.

1 (3) Information or material that is subject to a
2 privilege or confidentiality under paragraph (1) shall not
3 be subject to the following:

4 (A) disclosure under any State law governing the
5 disclosure to the public of information held by an
6 officer or an agency of the State; or

7 (B) subpoena, discovery, or admission into
8 evidence in any private civil action or administrative
9 process, unless with respect to any privilege held by
10 the Nationwide Multistate Licensing System and
11 Registry with respect to the information or material,
12 the person to whom such information or material
13 pertains waives, in whole or in part, in the
14 discretion of that person, that privilege.

15 (4) Any other law relating to the disclosure of
16 confidential supervisory information or any information or
17 material described in paragraph (1) that is inconsistent
18 with paragraph (1) shall be superseded by the requirements
19 of this Section to the extent the other law provides less
20 confidentiality or a weaker privilege.

21 (205 ILCS 660/10.2) (from Ch. 17, par. 5225)

22 Sec. 10.2. Closing of business; surrender of license. At
23 least 10 days prior to a licensee ceasing operations, closing
24 business, or filing for bankruptcy, the licensee shall:

25 (a) Notify the Department of its action in writing.

1 (b) With the exception of filing for bankruptcy, surrender
2 its license to the Secretary ~~Director~~ for cancellation. The
3 surrender of the license shall not affect the licensee's civil
4 or criminal liability for acts committed prior to surrender or
5 entitle the licensee to a return of any part of the annual
6 license fee.

7 (c) The licensee shall notify the department of the
8 location where the books, accounts, contracts, and records
9 will be maintained and the procedure to ensure prompt return
10 of contracts, titles, and releases to the customers.

11 (d) The accounts, books, records, and contracts shall be
12 maintained and serviced by the licensee or another licensee
13 under this Act, or an entity exempt from licensure under this
14 Act.

15 (e) The Department shall have the authority to conduct
16 examinations of the books, records, and loan documents at any
17 time after surrender of the license, filing of bankruptcy, or
18 the cessation of operations.

19 (Source: P.A. 90-437, eff. 1-1-98; 90-575, eff. 3-20-98.)

20 (205 ILCS 660/10.6)

21 Sec. 10.6. Companion animals.

22 (a) No sales finance agency shall purchase:

23 (1) a retail installment contract for the sale of a
24 canine or feline;

25 (2) a retail charge agreement for the sale of a canine

1 or feline; or

2 (3) the outstanding balance under a retail installment
3 contract or a retail charge agreement for the sale of a
4 canine or feline.

5 (b) No sales finance agency shall make a loan secured by:

6 (1) a retail installment contract for the sale of a
7 canine or feline;

8 (2) a retail charge agreement for the sale of a canine
9 or feline; or

10 (3) the outstanding balance under a retail installment
11 contract or a retail charge agreements for the sale of a
12 canine or feline.

13 (c) Any sales finance agency that purchases a contract or
14 agreement subject to subsection (a) or makes a loan subject to
15 subsection (b) has no right to collect, receive, or retain any
16 principal, interest, or charges related to the contract,
17 agreement, or loan, and any such loan is null and void.

18 (d) The changes made to this Section by this amendatory
19 Act of the 103rd General Assembly shall apply prospectively
20 and shall not apply retroactively. This Section shall not
21 impair or affect the obligation of any retail installment
22 transaction or secured loan entered into before the effective
23 date of this amendatory Act of the 103rd General Assembly.

24 (Source: P.A. 102-128, eff. 1-1-22; 103-339, eff. 1-1-24.)

25 (205 ILCS 660/10.7 new)

1 Sec. 10.7. Subpoenas; other remedies.

2 (a) The Secretary shall have the power to issue and to
3 serve subpoenas and subpoenas duces tecum to compel the
4 attendance of witnesses and the production of all books,
5 accounts, records, and other documents and materials relevant
6 to an examination or investigation. The Secretary, or the
7 Secretary's duly authorized representative, shall have power
8 to administer oaths and affirmations to any person.

9 (b) In the event of noncompliance with a subpoena or
10 subpoena duces tecum issued or caused to be issued by the
11 Secretary, the Secretary may, through the Attorney General,
12 petition the circuit court of the county in which the person
13 subpoenaed resides or has its principal place of business for
14 an order requiring the subpoenaed person to appear and testify
15 and to produce such books, accounts, records, and other
16 documents as are specified in the subpoena duces tecum. The
17 court may grant injunctive relief restraining the person from
18 advertising, promoting, soliciting, entering into, offering to
19 enter into, continuing, or completing any sales finance agency
20 transaction. The court may grant other relief, including, but
21 not limited to, the restraint, by injunction or appointment of
22 a receiver, of any transfer, pledge, assignment, or other
23 disposition of the person's assets or any concealment,
24 alteration, destruction, or other disposition of books,
25 accounts, records, or other documents and materials as the
26 court deems appropriate, until the person has fully complied

1 with the subpoena or subpoena duces tecum and the Secretary
2 has completed an investigation or examination.

3 (c) The Secretary may, in addition to the other remedies
4 provided for in this Act, through the Attorney General, apply
5 for relief to the circuit court of the county in which the
6 subpoenaed person resides or has its principal place of
7 business. The court shall thereupon direct the issuance of an
8 order against the subpoenaed person requiring sufficient bond
9 conditioned on compliance with the subpoena or subpoena duces
10 tecum. The court shall cause to be endorsed on the order a
11 suitable amount of bond or payment pursuant to which the
12 person named in the order shall be freed, having a due regard
13 to the nature of the case.

14 (d) In addition, the Secretary may, through the Attorney
15 General, seek a writ of attachment or an equivalent order from
16 the circuit court having jurisdiction over the person who has
17 refused to obey a subpoena, who has refused to give testimony,
18 or who has refused to produce the matters described in the
19 subpoena duces tecum.

20 (205 ILCS 660/10.8 new)

21 Sec. 10.8. Suspension; revocation of licenses; fines.

22 (a) If the Secretary finds any person in violation of the
23 grounds set forth in this Section, the Secretary may enter an
24 order imposing one or more of the following penalties:

25 (1) revocation of license;

1 (2) suspension of a license subject to reinstatement
2 upon satisfying all reasonable conditions the Secretary
3 may specify;

4 (3) placement of the licensee or applicant on
5 probation for a period of time and subject to all
6 reasonable conditions as the Secretary may specify;

7 (4) issuance of a reprimand;

8 (5) imposition of a fine not to exceed \$25,000 per
9 violation; except that a fine may be imposed that shall
10 not exceed \$75,000 per violation in violation of paragraph
11 (2) or (15) of subsection (b);

12 (6) denial of a license; or

13 (7) restitution for the benefit of consumers.

14 (b) The following acts shall constitute grounds for which
15 the disciplinary actions specified in subsection (a) may be
16 taken:

17 (1) being convicted or found guilty, regardless of
18 pendency of an appeal, of a crime in any jurisdiction that
19 involves fraud, dishonest dealing, or any other act of
20 moral turpitude;

21 (2) fraud, misrepresentation, deceit, or negligence in
22 any relation to any sales finance agency activity;

23 (3) a material or intentional misstatement of fact on
24 an initial or renewal application;

25 (4) any fact or condition exists that, if it had
26 existed at the time of the original application for the

1 license, would have warranted the Secretary in refusing to
2 originally issue the license;

3 (5) insolvency or filing under any provision of the
4 United States Bankruptcy Code as a debtor;

5 (6) failure to account or deliver to any person any
6 property, such as any money, fund, deposit, check, draft,
7 or other document or thing of value, that has come into the
8 person's hands and that is not the person's property or
9 that the person is not in law or equity entitled to retain,
10 under the circumstances and at the time which has been
11 agreed upon or is required by law or, in the absence of a
12 fixed time, upon demand of the person entitled to such
13 accounting and delivery;

14 (7) failure to disburse funds in accordance with
15 agreements;

16 (8) having a license, or the equivalent, to practice
17 any profession or occupation revoked, suspended, or
18 otherwise acted against, including the denial of licensure
19 by a licensing authority of this State or another state,
20 territory, or country for fraud, dishonest dealing, or any
21 other act of moral turpitude;

22 (9) failure to comply with an order of the Secretary
23 or rule adopted under the provisions of this Act;

24 (10) engaging in activities regulated by this Act
25 without a current, active license unless specifically
26 exempted by this Act;

1 (11) failure to pay in a timely manner any fee,
2 charge, or fine under this Act;

3 (12) failure to maintain, preserve, and keep available
4 for examination all books, accounts, or other documents
5 required by the provisions of this Act and the rules of the
6 Department;

7 (13) refusing, obstructing, evading, or unreasonably
8 delaying an investigation, information request, or
9 examination authorized under this Act or refusing,
10 obstructing, evading, or unreasonably delaying compliance
11 with the Secretary's subpoena or subpoena duces tecum;

12 (14) failure to comply with or a violation of any
13 provision of this Act; and

14 (15) any unfair, deceptive, or abusive business
15 practice.

16 (c) No license shall be suspended or revoked, except as
17 provided in this Section, nor shall any licensee be fined
18 without notice of the licensee's right to a hearing as
19 provided in subsection (n).

20 (d) The Secretary, on good cause shown that an emergency
21 exists, may suspend any license for a period not exceeding 180
22 days, pending investigation.

23 (e) The provisions of subsection (d) of Section 4.6 shall
24 not affect a licensee's civil or criminal liability for acts
25 committed before surrender of a license.

26 (f) No revocation, suspension, or surrender of any license

1 shall impair or affect the obligation of any preexisting
2 lawful contract between the licensee and any person.

3 (g) Every license issued under this Act shall remain in
4 force and effect until the license expires without renewal, is
5 surrendered, is revoked, or is suspended in accordance with
6 the provisions of this Act, but the Secretary shall have
7 authority to reinstate a suspended license or to issue a new
8 license to a licensee whose license has been revoked if no fact
9 or condition then exists which would have warranted the
10 Secretary in refusing originally to issue that license under
11 this Act.

12 (h) Whenever the Secretary revokes or suspends a license
13 issued pursuant to this Act or fines a licensee under this Act,
14 the Secretary shall execute a written order to that effect.
15 The Secretary shall serve a copy of the order upon the
16 licensee. Any such order may be reviewed as provided for in
17 this Act.

18 (i) The Secretary may fine, suspend, or revoke only the
19 particular license with respect to which grounds for the fine,
20 revocation, or suspension occur or exist, but if the Secretary
21 finds that grounds for revocation are of general application
22 to all offices or to more than one office of the licensee, the
23 Secretary shall fine, suspend, or revoke every license to
24 which the grounds apply.

25 (j) No revocation, suspension, or surrender of any license
26 shall impair or affect the obligation of any preexisting

1 lawful contract between the licensee and any obligor.

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

6 (l) In every case in which a license is suspended or
7 revoked or an application for a license or renewal of a license
8 is denied, the Secretary shall serve the licensee with notice
9 of the Secretary's action, including a statement of the
10 reasons for the actions, either personally or by certified
11 mail. Service by certified mail shall be deemed completed when
12 the notice is deposited in the United States mail.

13 (m) An order assessing a fine, an order revoking or
14 suspending a license, or an order denying renewal of a license
15 shall take effect upon service of the order unless the
16 licensee requests a hearing, in writing, within 15 days after
17 the date of service. If a hearing is requested, the order shall
18 be stayed until a final administrative order is entered.

19 (1) If the licensee requests a hearing, the Secretary
20 shall schedule a preliminary hearing within 30 days after
21 the request for a hearing unless otherwise agreed to by
22 the parties.

23 (2) The hearing shall be held at the time and place
24 designated by the Secretary. The Secretary and any
25 administrative law judge designated by the Secretary shall
26 have the power to administer oaths and affirmations,

1 subpoena witnesses and compel their attendance, take
2 evidence, and require the production of books, papers,
3 correspondence, and other records or information that the
4 Secretary considers relevant or material to the inquiry.

5 (n) The costs of administrative hearings conducted
6 pursuant to this Section shall be paid by the licensee.

7 (o) A licensee shall be subject to the disciplinary
8 actions specified in this Act for violations of subsection (b)
9 by any officer, director, shareholder, joint venture, partner,
10 ultimate equitable owner, or employee of the licensee.

11 (p) A licensee shall be subject to suspension or
12 revocation for unauthorized employee actions only if there is
13 a pattern of repeated violations by employees, the licensee
14 has knowledge of the violations, or there is substantial harm
15 to a consumer. A licensee may be subject to fines for employee
16 actions, whether authorized or unauthorized, whether there is
17 a pattern of repeated violations or no pattern of repeated
18 violations.

19 (q) Any licensee may submit an application to surrender a
20 license, but, upon the Secretary approving the surrender, it
21 shall not affect the licensee's civil or criminal liability
22 for acts committed before surrender or entitle the licensee to
23 a return of any part of the license fee.

24 (205 ILCS 660/12) (from Ch. 17, par. 5230)

25 Sec. 12. Every licensee shall retain such records as are

1 required by the Department. Every licensee shall preserve the
2 records of each of its transactions for at least 2 years after
3 making the final entry for that transaction.

4 With the Secretary's ~~Director's~~ approval, a licensee may
5 maintain these records at a location other than the licensed
6 facility.

7 With the Secretary's ~~Director's~~ approval, a licensee may
8 contract for servicing of these accounts.

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

10 (205 ILCS 660/13) (from Ch. 17, par. 5231)

11 Sec. 13. Rules.

12 (a) In addition to such powers as may be prescribed by this
13 Act, the Department is hereby authorized and empowered to
14 adopt rules consistent with the purposes of this Act,
15 including, but not limited to:

16 (1) rules in connection with the activities of
17 licensees or unlicensed sales finance agencies as may be
18 necessary and appropriate for the protection of consumers
19 in this State;

20 (2) rules as may be necessary and appropriate to
21 define improper or fraudulent business practices in
22 connection with the activities of licensees in servicing
23 retail installment contracts or retail charge agreements;

24 (3) rules that define the terms used in this Act and as
25 may be necessary and appropriate to interpret and

1 implement the provisions of this Act; and

2 (4) rules as may be necessary for the enforcement and
3 administration of this Act.

4 (b) The Secretary is authorized and empowered to make
5 specific rulings, demands, and findings that the Secretary
6 deems necessary for the proper conduct of the sales finance
7 agency industry.

8 ~~The Department may make and enforce such reasonable rules,~~
9 ~~regulations, directions, orders, decisions and findings as the~~
10 ~~execution and enforcement of this Act require, and as are not~~
11 ~~inconsistent therewith. In addition, the Department may~~
12 ~~promulgate rules in connection with the activities of~~
13 ~~licensees that are necessary and appropriate for the~~
14 ~~protection of consumers in this State. All rules and~~
15 ~~regulations shall be sent electronically to all licensees.~~

16 (Source: P.A. 98-44, eff. 6-28-13.)

17 (205 ILCS 660/13.5 new)

18 Sec. 13.5. Appeal and review.

19 (a) The Department may, in accordance with the Illinois
20 Administrative Procedure Act, adopt rules to provide for
21 review within the Department of the Secretary's decisions
22 affecting the rights of persons or entities under this Act.
23 The review shall provide for, at a minimum:

24 (1) appointment of a hearing officer other than a
25 regular employee of the Division of Financial

1 Institutions;

2 (2) appropriate procedural rules, specific deadlines
3 for filings, and standards of evidence and of proof; and

4 (3) provision for apportioning costs among parties to
5 the appeal.

6 (b) All final agency determinations of appeals to
7 decisions of the Secretary may be reviewed in accordance with
8 and under the provisions of the Administrative Review Law.
9 Appeals from all final orders and judgments entered by a court
10 in review of any final administrative decision of the
11 Secretary or of any final agency review of a decision of the
12 Secretary may be taken as in other civil cases.

13 (205 ILCS 660/14.5 new)

14 Sec. 14.5. Collection of compensation. Unless exempt from
15 licensure under this Act, no person engaged in or offering to
16 engage in any act or service for which a license under this Act
17 is required may bring or maintain any action in any court of
18 this State to collect compensation for the performance of the
19 licensable services without alleging and proving that the
20 person was the holder of a valid sales finance agency license
21 under this Act at all times during the performance of those
22 services.

23 (205 ILCS 660/15.5)

24 Sec. 15.5. Civil action. A claim of violation of this Act

1 may be asserted in a civil action. Additionally, a court may
2 award reasonable attorney's fees and court costs to a person
3 asserting a claim under this Section.

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

5 (205 ILCS 660/16.5)

6 Sec. 16.5. Cease and desist orders.

7 (a) The Secretary ~~Director~~ may issue a cease and desist
8 order to a sales finance agency or other person doing business
9 without the required license when, in the opinion of the
10 Secretary ~~director~~, the licensee or other person is violating
11 or is about to violate any provision of this Act or any law,
12 rule, or requirement imposed in writing by the Department.

13 (b) The Secretary ~~Director~~ may issue a cease and desist
14 order prior to a hearing.

15 (c) The Secretary ~~Director~~ shall serve notice of the
16 Secretary's ~~his or her~~ action, designated as a cease and
17 desist order made pursuant to this Section, including a
18 statement of the reasons for the action, either personally or
19 by certified mail, return receipt requested. Service by
20 certified mail shall be deemed completed when the notice is
21 deposited in the U.S. mail.

22 (d) Within 15 days of service of the cease and desist
23 order, the sales finance agency or other person may request,
24 in writing, a hearing.

25 (e) The Secretary ~~Director~~ shall schedule a hearing within

1 30 days after the request for a hearing unless otherwise
2 agreed to by the parties.

3 (f) The Secretary ~~Director~~ shall have the authority to
4 prescribe rules for the administration of this Section.

5 (g) If it is determined that the Secretary ~~Director~~ had
6 the authority to issue the cease and desist order, the
7 Secretary ~~he or she~~ may issue such orders as may be reasonably
8 necessary to correct, eliminate, or remedy such conduct.

9 (h) The powers vested in the Secretary ~~Director~~ by this
10 Section are additional to any and all other powers and
11 remedies vested in the Secretary ~~Director~~ by law, and nothing
12 in this Section shall be construed as requiring that the
13 Secretary ~~Director~~ shall employ the powers conferred in this
14 Section instead of or as a condition precedent to the exercise
15 of any other power or remedy vested in the Secretary ~~Director~~.

16 (i) The cost for the administrative hearing shall be set
17 by rule.

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

19 (205 ILCS 660/17) (from Ch. 17, par. 5235)

20 Sec. 17. Application of Act.

21 (a) This Act does not apply to any credit union, bank,
22 banking association, trust company, savings bank, or savings
23 and loan association authorized to do business under the laws
24 of this State, any other state, or of the United States.

25 (b) This Act does not apply to a person or entity that, in

1 connection with a securitization, private placement, or
2 similar type of investment transaction, lends against or
3 purchases from an Illinois licensed sales finance agency
4 retail installment contracts, retail charge agreements, or the
5 outstanding balances or any portion of the outstanding
6 balances under those contracts or agreements, provided that
7 the licensed sales finance agency retains the servicing of the
8 agreements or contracts and maintains the records for those
9 agreements and contracts.

10 (c) This Act does not apply to a special purpose vehicle.
11 In this subsection, "special purpose vehicle" means an entity
12 that, in connection with a securitization, private placement,
13 or similar type of investment transaction, is administered by
14 a State or national bank under a management agreement for the
15 purpose of purchasing, making loans against, or in pools of,
16 receivables, general intangibles, and other financial assets
17 including retail installment contracts, retail charge
18 agreements, or the outstanding balances or any portion of the
19 outstanding balances under those contracts or agreements.

20 (Source: P.A. 89-400, eff. 8-20-95.)

21 (205 ILCS 660/19)

22 Sec. 19. Injunction; civil penalty; costs. If it appears
23 to the Secretary ~~Director~~ that a person has committed or is
24 about to commit a violation of this Act, a rule promulgated
25 under this Act, or an order of the Secretary ~~Director~~, the

1 Secretary ~~Director~~ may apply to the circuit court for an order
2 enjoining the person from violating or continuing to violate
3 this Act, the rule, or order and for injunctive or other relief
4 that the nature of the case may require and may, in addition,
5 request the court to assess a civil penalty up to \$10,000
6 ~~\$1,000~~ along with costs and attorney's fees.

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

8 (205 ILCS 660/5 rep.)

9 (205 ILCS 660/6 rep.)

10 (205 ILCS 660/7 rep.)

11 (205 ILCS 660/8 rep.)

12 (205 ILCS 660/8.1 rep.)

13 (205 ILCS 660/8.2 rep.)

14 (205 ILCS 660/8.3 rep.)

15 (205 ILCS 660/8.4 rep.)

16 (205 ILCS 660/8.5 rep.)

17 (205 ILCS 660/8.6 rep.)

18 (205 ILCS 660/8.8 rep.)

19 (205 ILCS 660/8.9 rep.)

20 (205 ILCS 660/8.10 rep.)

21 (205 ILCS 660/8.11 rep.)

22 (205 ILCS 660/8.12 rep.)

23 (205 ILCS 660/8.13 rep.)

24 (205 ILCS 660/8.14 rep.)

25 (205 ILCS 660/10 rep.)

1 (205 ILCS 660/10.1 rep.)

2 (205 ILCS 660/10.3 rep.)

3 (205 ILCS 660/10.4 rep.)

4 (205 ILCS 660/11 rep.)

5 (205 ILCS 660/14 rep.)

6 (205 ILCS 660/18 rep.)

7 Section 10. The Sales Finance Agency Act is amended by
8 repealing Sections 5, 6, 7, 8, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6,
9 8.8, 8.9, 8.10, 8.11, 8.12, 8.13, 8.14, 10, 10.1, 10.3, 10.4,
10 11, 14, and 18.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.

1		INDEX
2		Statutes amended in order of appearance
3	205 ILCS 660/2	from Ch. 17, par. 5202
4	205 ILCS 660/3.5 new	
5	205 ILCS 660/4	from Ch. 17, par. 5204
6	205 ILCS 660/4.1 new	
7	205 ILCS 660/4.2 new	
8	205 ILCS 660/4.3 new	
9	205 ILCS 660/4.4 new	
10	205 ILCS 660/4.5 new	
11	205 ILCS 660/4.6 new	
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19	205 ILCS 660/6.8 new	
20	205 ILCS 660/10.2	from Ch. 17, par. 5225
21	205 ILCS 660/10.6	
22	205 ILCS 660/10.7 new	
23	205 ILCS 660/10.8 new	
24	205 ILCS 660/12	from Ch. 17, par. 5230
25	205 ILCS 660/13	from Ch. 17, par. 5231

- 1 205 ILCS 660/13.5 new
- 2 205 ILCS 660/14.5 new
- 3 205 ILCS 660/15.5
- 4 205 ILCS 660/16.5
- 5 205 ILCS 660/17 from Ch. 17, par. 5235
- 6 205 ILCS 660/19
- 7 205 ILCS 660/5 rep.
- 8 205 ILCS 660/6 rep.
- 9 205 ILCS 660/7 rep.
- 10 205 ILCS 660/8 rep.
- 11 205 ILCS 660/8.1 rep.
- 12 205 ILCS 660/8.2 rep.
- 13 205 ILCS 660/8.3 rep.
- 14 205 ILCS 660/8.4 rep.
- 15 205 ILCS 660/8.5 rep.
- 16 205 ILCS 660/8.6 rep.
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- 18 205 ILCS 660/8.9 rep.
- 19 205 ILCS 660/8.10 rep.
- 20 205 ILCS 660/8.11 rep.
- 21 205 ILCS 660/8.12 rep.
- 22 205 ILCS 660/8.13 rep.
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- 24 205 ILCS 660/10 rep.
- 25 205 ILCS 660/10.1 rep.
- 26 205 ILCS 660/10.3 rep.

- 1 205 ILCS 660/10.4 rep.
- 2 205 ILCS 660/11 rep.
- 3 205 ILCS 660/14 rep.
- 4 205 ILCS 660/18 rep.