



Sen. Michael E. Hastings

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1 AMENDMENT TO SENATE BILL 3561

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3561 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Buy-Now-Pay-Later Loan Consumer Protection Act.

6 Section 2. Definitions. As used in this Act:

7 "Applicant" means a person who has submitted an  
8 application for a license under this Act.

9 "Annual percentage rate" means the nominal annual  
10 percentage rate of finance charge determined in accordance  
11 with the actuarial method of computation with an accuracy at  
12 least to the nearest 1/4 of 1% or, at the option of the  
13 licensee by application of the federal rule, so that it may be  
14 disclosed with an accuracy at least to the nearest 1/4 of 1%.

15 "Buy-now-pay-later loan" or "loan" means credit provided  
16 to a consumer at the time of a transaction in connection with

1 the consumer's particular purchase of goods or services that:

2 (1) is payable in 4 or fewer installments; or

3 (2) has a term of 120 days or less.

4 "Buy-now-pay-later loan" or "loan" includes any other loan  
5 identified by the Secretary by rule. "Buy-now-pay-later loan"  
6 or "loan" also includes (i) a buy-now-pay-later loan payable  
7 in one or more installments without any interest or finance  
8 charge and (ii) a buy-now-pay-later loan with either interest  
9 or finance charges or both.

10 "Buy-now-pay-later loan" or "loan" does not include credit  
11 where the creditor is the seller of the goods or services,  
12 unless it is credit pursuant to an agreement where, at a  
13 consumer's request, the creditor purchases specific goods or  
14 services from a seller and resells the specific goods or  
15 services to the consumer on closed-end credit.  
16 "Buy-now-pay-later loan" or "loan" also does not include (i) a  
17 loan for a motor vehicle or (ii) a residential mortgage loan,  
18 as that term is defined in Section 1-4 of the Residential  
19 Mortgage License Act of 1987.

20 "Consumer" means a natural person who, singly or jointly  
21 with another consumer, enters into, seeks out, applies for, or  
22 requests a buy-now-pay-later loan.

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

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

1 "Finance charge" means the cost of financing as a dollar  
2 amount.

3 "Lender" means a person that offers or makes a  
4 buy-now-pay-later loan to a person in this State or is  
5 otherwise subject to this Act.

6 "Licensee" means a person licensed under this Act.

7 "Motor vehicle" means a vehicle which is self-propelled  
8 and every vehicle which is propelled by electric power  
9 obtained from overhead trolley wires, but not operated upon  
10 rails, except for vehicles moved solely by human power,  
11 motorized wheelchairs, low-speed electric bicycles, and  
12 low-speed gas bicycles.

13 "Multistate licensing system" means a third-party,  
14 multistate licensing system used by the Secretary for  
15 licensing, examinations, or any other regulatory purpose under  
16 this Act.

17 "Person" means an individual, a partnership, joint  
18 venture, trust, estate, firm, corporation, cooperative society  
19 or association, or any other form of business association or  
20 legal entity. "Person" includes the employees, owners, agents,  
21 managers, members, principals, and directors of a person.

22 "Secretary" means the Secretary of Financial and  
23 Professional Regulation or the Secretary's designee, including  
24 the Director of the Division of Financial Institutions.

25 Section 3. Administration by the Division of Financial

1 Institutions. This Act shall be administered by the Division  
2 on behalf of the Secretary.

3 Section 4. Licensure requirement. No person shall engage  
4 in the business regulated by this Act without licensure under  
5 this Act. The Secretary may investigate any person the  
6 Secretary believes may require licensure under this Act,  
7 including, but not limited to, compelling production of  
8 testimony, books, records, or any other information necessary  
9 for the Secretary to determine whether the person requires  
10 licensure.

11 Section 5. Applicability.

12 (a) Except as otherwise provided in this Section, this Act  
13 applies to any person, including any affiliate or subsidiary  
14 of a person, that offers or makes a loan, buys a whole or  
15 partial interest in a loan, arranges a loan for a third party,  
16 or acts as an agent for a third party in making a loan to a  
17 consumer, regardless of whether approval, acceptance, or  
18 ratification by the third party is necessary to create a legal  
19 obligation for the third party, and includes any other person  
20 or entity if the Department determines that the person or  
21 entity is engaged in a transaction that is in substance a  
22 disguised loan or a subterfuge for the purpose of avoiding  
23 this Act. This Act applies to loan transactions conducted by  
24 any medium, including, but not limited to, paper, facsimile,

1 Internet, or telephone. This Act also applies to any servicer  
2 of a loan. This Act does not apply to a merchant or merchant  
3 platform that makes a buy-now-pay-later loan available to a  
4 consumer through an agreement with a licensed  
5 buy-now-pay-later lender, if the merchant or merchant platform  
6 does not originate, underwrite, service, or hold an interest  
7 in any buy-now-pay-later loan.

8 (b) The provisions of this Act apply to any person that  
9 seeks to evade its applicability by any device, subterfuge, or  
10 pretense or making, offering, assisting, or arranging a  
11 consumer to obtain a loan with a greater rate of interest,  
12 consideration, or charge than is permitted by this Act through  
13 any method, including mail, telephone, Internet, or any  
14 electronic means regardless of whether the person or entity  
15 has a physical location in this State.

16 (c) The provisions of this Act apply to any person that  
17 facilitates or aids or abets a violation of this Act or rules  
18 adopted under this Act.

19 (d) Banks, savings banks, savings and loan associations,  
20 credit unions, and insurance companies organized, chartered,  
21 or holding a certificate of authority to do business under the  
22 laws of this State, any other state, or the United States are  
23 exempt from the provisions of this Act and rules adopted under  
24 this Act. The Secretary may exempt from this Act other persons  
25 or transactions by rule on a finding that the application of  
26 the Act to the persons or transactions is not necessary to

1 achieve the purposes of this Act.

2 Section 5.5. Licensee name. No person engaged in the  
3 business regulated by this Act shall operate the business  
4 under a name other than the real name of the person conducting  
5 business. The business may, as authorized by the Secretary,  
6 also operate under an assumed corporate name under the  
7 Business Corporation Act of 1983, an assumed limited liability  
8 company name under the Limited Liability Company Act, or an  
9 assumed business name under the Assumed Business Name Act.

10 Section 6. Application process; investigation; fees.

11 (a) The Secretary may issue a license to a person after the  
12 person completes the following:

13 (1) the filing of an application for licensure with  
14 the Secretary or the multistate licensing system, as  
15 approved by the Secretary;

16 (2) the filing with the Secretary or the multistate  
17 licensing system, as approved by the Secretary, of a  
18 listing of judgments entered against, and bankruptcy  
19 petitions by, the applicant for the preceding 10 years;

20 (3) the payment, in certified funds, of investigation  
21 and application fees, the total of which shall be in an  
22 amount equal to \$5,000, unless modified by the Secretary  
23 in accordance with subsection (b) of Section 11; and

24 (4) the filing of an audited balance sheet, including

1 all footnotes prepared by a certified public accountant in  
2 accordance with generally accepted accounting principles  
3 and generally accepted auditing standards; notwithstanding  
4 the requirements of this subsection, an applicant that is  
5 a subsidiary may submit audited consolidated financial  
6 statements of its parent, intermediary parent, or ultimate  
7 parent as long as the consolidated statements are  
8 supported by consolidating statements that include the  
9 applicant's financial statement; if the consolidating  
10 statements are unaudited, the applicant's chief financial  
11 officer shall attest to the applicant's financial  
12 statements disclosed in the consolidating statements.

13 (b) The Secretary may, for good cause shown, waive or  
14 modify the requirements of paragraph (4) of subsection (a).

15 (c) Upon receipt of the license, a licensee shall be  
16 authorized to engage in the business regulated by this Act.  
17 The license shall remain in full force and effect until it  
18 expires, is surrendered by the licensee, or is revoked or  
19 suspended as provided in this Act.

20 (d) The Secretary may impose conditions on a license if  
21 the Secretary determines that those conditions are necessary  
22 or appropriate. The conditions shall be imposed in writing and  
23 shall continue in effect for the period prescribed by the  
24 Secretary.

25 Section 7. Application form.

1 (a) Application for a license shall be made in accordance  
2 with this Act and in accordance with requirements of the  
3 multistate licensing system, if required by the Secretary. The  
4 application shall be in writing, under oath, and on a form  
5 obtained from and prescribed by the Secretary. The Secretary  
6 may require part or all of the application to be submitted  
7 electronically, with attestation, to the multistate licensing  
8 system.

9 (b) The application shall contain the name and complete  
10 business and residential address of the applicant. The  
11 application shall also include a description of the activities  
12 of the applicant in such detail and for such periods as the  
13 Secretary may require, including the following:

14 (1) an affirmation that the applicant and its owners,  
15 principals, officers, and directors, as may be  
16 appropriate, are at least 18 years of age;

17 (2) information as to the name, complete business  
18 address, complete residential address, character, fitness,  
19 financial and business responsibility, background,  
20 experience, and criminal record of any:

21 (i) person, including an ultimate equitable owner,  
22 that directly or indirectly owns or controls 10% or  
23 more of any class of stock of the applicant;

24 (ii) person, including an ultimate equitable owner  
25 that is not a depository institution, as defined in  
26 Section 17.50 of the Savings Bank Act, that lends,

1 provides, or infuses, directly or indirectly, in any  
2 way, funds to or into an applicant in an amount equal  
3 to or more than 10% of the applicant's net worth;

4 (iii) person, including an ultimate equitable  
5 owner that controls, directly or indirectly, the  
6 election of 25% or more of the members of the board of  
7 directors of an applicant;

8 (iv) person, including an ultimate equitable owner  
9 that the Secretary finds influences the management of  
10 the applicant;

11 (v) directors of an applicant; and

12 (vi) principal officers of an applicant; and

13 (3) any other information as required by the Secretary  
14 to assess whether the applicant and its owners, officers,  
15 and directors have the financial responsibility, financial  
16 condition, business experience, character, and general  
17 fitness to justify the confidence of the public and that  
18 the applicant and its owners, officers, and directors are  
19 fit, willing, and able to carry on the proposed business  
20 in a lawful and fair manner.

21 Section 8. License application and issuance.

22 (a) Applicants for a license shall apply in a form  
23 prescribed by the Secretary. The form may be changed or  
24 updated by the Secretary to carry out the purposes of this Act.

25 (b) In order to fulfill the purposes of this Act, the

1 Secretary may establish relationships or contracts with a  
2 multistate licensing system or other persons to collect and  
3 maintain records and process fees related to licensees or  
4 other persons subject to this Act.

5 (c) In connection with an application for licensing, the  
6 applicant, owners, officers, and directors of an applicant may  
7 be required, at a minimum, to furnish to the Secretary or the  
8 multistate licensing system information concerning the  
9 identity of the applicant, owners, officers, and directors,  
10 including personal history and experience in a form prescribed  
11 by the Secretary or the multistate licensing system including,  
12 but not limited to:

13 (1) a complete and accurate copy of an independent  
14 credit report obtained from a consumer reporting agency as  
15 described in Section 603(p) of the Fair Credit Reporting  
16 Act (15 U.S.C. 1681a(p)); and

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

19 (d) For the purposes of this Section, and to reduce the  
20 points of contact that the Secretary may have to maintain, the  
21 Secretary may use a multistate licensing system as a  
22 channeling agent for requesting and distributing information  
23 to and from any source.

24 (e) Each application shall be accompanied by averments as  
25 determined by the Secretary to fulfill the purposes of this  
26 Act.

1           Section 9. Refusal to issue license. The Secretary may  
2 refuse to issue or renew a license if the Secretary determines  
3 that:

4           (a) the applicant has not complied with a provision of  
5 this Act, rule adopted under this Act, or other laws that  
6 apply to the applicant;

7           (b) there is substantial continuity between the  
8 applicant and any violator of this Act, rule adopted under  
9 this Act, or other laws that apply to the applicant or  
10 related violator; and

11           (c) the applicant or its owners, officers, or  
12 directors do not have the financial responsibility,  
13 financial condition, business experience, character, and  
14 general fitness to justify the confidence of the public  
15 and that the license applicant and its owners, officers,  
16 and directors are not fit, willing, and able to carry on  
17 the proposed business in a lawful and fair manner.

18           Section 10. License issuance and renewal.

19           (a) Absent a written extension from the Department and  
20 payment of any late fees required by the Department, a license  
21 shall expire on the last day of December of each calendar year  
22 if a licensee fails to timely submit a properly completed  
23 renewal application form and fees.

24           (b) Licensees shall apply to renew their license every

1 calendar year. Licensees may submit properly completed renewal  
2 application forms and filing fees 60 days before the license  
3 expiration date. To be deemed timely, the completed renewal  
4 application forms and filing fees must be received by the  
5 Secretary at least 30 days before the license expiration date.

6 (c) It shall be the responsibility of each licensee to  
7 accomplish timely renewal of its license.

8 (d) No activity regulated by this Act shall be conducted  
9 by a licensee whose license has expired. The Secretary may,  
10 within the Secretary's discretion, reinstate an expired  
11 license upon payment of the renewal fee, payment of a  
12 reactivation fee equal to 5 times the renewal fee, submission  
13 of a completed renewal application, and an affidavit of good  
14 cause for late renewal.

15 Section 11. Fees.

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

23 (b) The Secretary may modify any fees established by this  
24 Act by rule beginning one year after the effective date of this  
25 Act.

1           Section 12. Functions; powers; duties. The functions,  
2 powers, and duties of the Secretary shall include, but shall  
3 not be limited to:

4           (a) to issue or refuse to issue any license or  
5 renewal;

6           (b) to impose fines, revoke, or suspend for cause any  
7 license issued under this Act;

8           (c) to impose fines for any unlicensed activity under  
9 this Act;

10          (d) to keep records of all licenses issued under this  
11 Act;

12          (e) to receive, consider, investigate, and act upon  
13 complaints made by any person in connection with any  
14 licensee in this State or unlicensed activity under this  
15 Act of any person;

16          (f) to prescribe the forms of and receive:

17               (1) applications for licenses and renewals; and

18               (2) all reports and all books and records required  
19 to be made by any licensee, including annual audited  
20 financial statements if required by the Secretary and  
21 annual reports of activity;

22          (g) to adopt rules necessary and proper for the  
23 administration of this Act, to protect consumers and to  
24 promote fair competition;

25          (h) to subpoena documents and witnesses and compel

1 attendance and production, to administer oaths, and to  
2 require the production of any books, papers, or other  
3 materials relevant to any inquiry authorized by this Act  
4 or rules adopted under this Act;

5 (i) to issue orders against any person if the  
6 Secretary has reasonable cause to believe that an unsafe,  
7 unsound, or unlawful practice has occurred, is occurring,  
8 or is about to occur; if any person is violating, or is  
9 about to violate any law, rule, or written agreement with  
10 the Secretary; or for the purpose of administering the  
11 provisions of this Act and any rule adopted in accordance  
12 with this Act;

13 (j) to address any inquiries to any licensee, or the  
14 owners, officers, or directors, in relation to its  
15 activities and conditions, or any other matter connected  
16 with its affairs, and it shall be the duty of any licensee  
17 or person so addressed to promptly reply in writing to  
18 those inquiries; and to require reports from any licensee  
19 at any time the Secretary may deem desirable;

20 (k) to examine the books and records of every licensee  
21 or any person requiring a license or who the Secretary  
22 reasonably believes may require a license at any time  
23 interval reasonably determined appropriate by the  
24 Secretary;

25 (l) to enforce provisions of this Act and rules  
26 adopted under this Act;

1 (m) to levy fees including, but not limited to,  
2 contingent fees, assessments, examination fees, licensing  
3 fees, fines, and charges for services performed in  
4 administering this Act;

5 (n) to issue refunds to licensees within one year of  
6 any overpayment for good cause shown;

7 (o) to appoint examiners, supervisors, experts, and  
8 special assistants as needed to effectively and  
9 efficiently administer this Act;

10 (p) to conduct hearings for the purpose of carrying  
11 out the purposes of this Act;

12 (q) to exercise visitorial power over a licensee;

13 (r) to enter into cooperative agreements with state  
14 regulatory authorities of other states to provide for  
15 examination of corporate offices or branches in those  
16 states, participate in joint examinations with other  
17 regulators, and to accept reports of the examinations;

18 (s) to assign an examiner or examiners to monitor the  
19 affairs of a licensee with whatever frequency the  
20 Secretary determines appropriate and to charge the  
21 licensee for reasonable and necessary expenses of the  
22 Secretary if in the opinion of the Secretary an emergency  
23 exists or appears likely to occur;

24 (t) to impose civil penalties of up to \$1,000 per day  
25 against a licensee for failing to respond to a regulatory  
26 request or reporting requirement; and

1           (u) to enter into agreements in connection with a  
2           multistate licensing system.

3           Section 13. Financial Institutions Fund. All moneys  
4           received by the Secretary under this Act shall be paid into the  
5           Financial Institutions Fund. The amounts deposited into the  
6           Fund shall be used for the ordinary and contingent expenses of  
7           the Department. Nothing in this Act shall prevent paying  
8           expenses involving salaries, retirement, social security, and  
9           State-paid insurance of State employees, or any other expenses  
10          incurred under this Act by appropriation from the General  
11          Revenue Fund, PIC Fund, or any other fund.

12          Section 14. Examination; prohibited activities.

13          (a) The Secretary shall examine the business affairs of a  
14          licensee as often as the Secretary deems necessary and proper.  
15          The Secretary may adopt rules with respect to the frequency  
16          and manner of examination. The Secretary shall appoint a  
17          suitable person to perform the examination. The Secretary and  
18          the Secretary's appointees may examine the entire books,  
19          records, documents, and operations of each licensee and its  
20          subsidiary, affiliate, or agent, and may examine any of the  
21          licensee's or its subsidiaries', owners', affiliates', or  
22          agents' officers, directors, employees, and agents under oath.

23          (b) Affiliates of a licensee shall be subject to  
24          examination by the Secretary only to the extent reasonably

1 necessary to evaluate the licensee's compliance with this Act  
2 and only with respect to records directly related to the  
3 licensee's regulated activities under this Act.

4 (c) The expenses of any examination of the licensee or its  
5 affiliates shall be borne by the licensee and assessed by the  
6 Secretary as may be established by rule.

7 (d) All confidential supervisory information, including  
8 the examination report and the work papers of the report,  
9 shall belong to the Secretary's office and may not be  
10 disclosed to anyone other than the licensee, law enforcement  
11 officials, or other regulatory agencies that have an  
12 appropriate regulatory interest as determined by the  
13 Secretary, or to a party presenting a lawful subpoena to the  
14 Department. The Secretary may, through the Attorney General,  
15 immediately appeal to the court of jurisdiction the disclosure  
16 of the confidential supervisory information and seek a stay of  
17 the subpoena pending the outcome of the appeal. Reports  
18 required of licensees by the Secretary under this Act and  
19 results of examinations performed by the Secretary under this  
20 Act shall be the property of only the Secretary, but may be  
21 shared with the licensee. Any person demanded to produce the  
22 Department's confidential supervisory information, whether by  
23 subpoena, order, or other judicial or administrative process,  
24 shall withhold production of the confidential supervisory  
25 information and notify the Secretary of the demand. The  
26 Secretary may intervene for the purpose of enforcing the

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

24 Section 15. Subpoena power of the Secretary.

25 (a) The Secretary shall have the power to issue and to

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

7 (b) If a person does not comply with the Secretary's  
8 subpoena or subpoena duces tecum, the Secretary may, through  
9 the Attorney General, petition the circuit court of the county  
10 in which the subpoenaed person resides or has its principal  
11 place of business for an order requiring the subpoenaed person  
12 to testify and to comply with the subpoena duces tecum.

13 (c) The court may grant injunctive relief restraining the  
14 person from engaging in activity regulated by this Act. The  
15 court may grant other relief, including, but not limited to,  
16 the restraint, by injunction or appointment of a receiver, of  
17 any transfer, pledge, assignment, or other disposition of the  
18 person's assets, concealment, destruction, or other  
19 disposition of books, accounts, records, or other documents  
20 and materials as the court deems appropriate, until the person  
21 has fully complied with the subpoena or subpoena duces tecum  
22 and the Secretary has completed an investigation or  
23 examination.

24 (d) If it appears to the Secretary that the compliance  
25 with a subpoena or subpoena duces tecum issued or caused to be  
26 issued by the Secretary under this Section is essential to an

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

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

18 Section 16. Reports required of licensee. Every licensee  
19 shall produce to the Department written reports or answers to  
20 questions in the time and manner requested by the Secretary.

21 Section 17. Suspension; revocation of licenses; fines and  
22 other discipline.

23 (a) The Secretary may enter an order imposing one or more  
24 of the following penalties:

1 (1) revocation of license;

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

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

8 (4) issuance of a reprimand;

9 (5) imposition of a civil penalty or fine not to  
10 exceed \$25,000 for each count of separate offense;

11 (6) restitution, refunds, or any other relief  
12 necessary to protect consumers; and

13 (7) denial of a license.

14 (b) Grounds for penalties include:

15 (1) when a person has violated or aided another to  
16 violate, any provisions of this Act, any rule adopted by  
17 the Secretary, or any other law, rule, or regulation of  
18 this State, any other state, or the United States;

19 (2) that any fact or condition exists that, if it had  
20 existed at the time of the original application for the  
21 license, would have warranted the Secretary in refusing to  
22 issue the original license;

23 (3) that a licensee that is not an individual has  
24 acted or failed to act in a way that would be cause for  
25 suspending or revoking a license to an individual;

26 (4) that a person engaged in unsafe, unsound, unfair,

1       deceptive, or abusive business practices related to the  
2       activity covered by this Act;

3           (5) that a person has been adjudicated guilty of a  
4       crime against the law of this State, any other state, or of  
5       the United States involving moral turpitude, abusive,  
6       deceptive, fraudulent, or dishonest dealing;

7           (6) that a final judgment has been entered against a  
8       person in a civil action upon grounds of abusive conduct,  
9       conversion, fraud, misrepresentation, or deceit;

10          (7) that a person made a material misstatement in its  
11       application for licensure or any other communication to  
12       the Secretary;

13          (8) that a person has demonstrated by course of  
14       conduct, negligence or incompetence in performing any act  
15       for which it is required to hold a license under this Act;

16          (9) that a person has failed to advise the Secretary  
17       in writing of any changes to the information submitted on  
18       the person's most recent application for license within 30  
19       days after the change;

20          (10) that a licensee failed to submit to periodic  
21       examination by the Secretary as required by this Act or  
22       failed to maintain, preserve, and keep available for  
23       examination all books, accounts, or other documents  
24       required by the provisions of this Act and rules adopted  
25       under this Act for a period of at least 2 years after the  
26       loan is paid in full or any time period set forth by rule;

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

10           (12) that a person failed to disburse funds in  
11 accordance with agreements or law;

12           (13) that a person had a license, or the equivalent,  
13 to practice any profession, occupation, other industry or  
14 activity requiring licensure revoked, suspended,  
15 disciplined, or otherwise acted against, including the  
16 denial of licensure by a licensing authority of this State  
17 or another state, territory, or country for fraud,  
18 dishonest dealing, misrepresentations, incompetence,  
19 conversion, any act of moral turpitude or any other  
20 grounds that would constitute grounds for discipline under  
21 this Act;

22           (14) that a person licensed under this Act failed to  
23 timely notify the Department that the person has been  
24 disciplined by a licensing authority of this State or  
25 another state;

26           (15) that a person engaged in activities regulated by

1 the Act without a current, active license unless  
2 specifically exempted by this Act;

3 (16) that a person failed to timely pay any fee,  
4 charge, or fine assessed under this Act; and

5 (17) that a person refused, obstructed, evaded, or  
6 unreasonably delayed an investigation, information  
7 request, or examination authorized under this Act, or  
8 refused, obstructed, evaded, or unreasonably delayed  
9 compliance with the Secretary's subpoena or subpoena duces  
10 tecum.

11 (c) No license shall be suspended or revoked, except as  
12 provided in this Section nor shall any licensee be fined,  
13 without notice of the licensee's right to a hearing.

14 (d) The Secretary may suspend any license for a period not  
15 exceeding 90 days pending investigation for good cause shown  
16 that an emergency exists.

17 (e) No revocation, suspension, or surrender of any license  
18 shall impair or affect the obligation of any preexisting  
19 lawful contract between the licensee and any person. The  
20 Secretary's approval of a licensee's application to surrender  
21 its license shall not affect the licensee's civil or criminal  
22 liability for acts committed prior to surrender. Surrender of  
23 a license does not entitle the licensee to a return of any part  
24 of the fee for initial licensure or any part of the fee for  
25 annual license renewal.

26 (f) Every license issued under this Act shall remain in

1 force and effect until the license expires, is surrendered, is  
2 revoked, or is suspended in accordance with the provisions of  
3 this Act. The Secretary may reinstate a suspended license or  
4 issue a new license to a licensee whose license has been  
5 revoked or surrendered if no fact or condition then exists  
6 which would have warranted the Secretary in refusing  
7 originally to issue that license under this Act.

8 (g) If the Secretary imposes discipline authorized by this  
9 Section, the Secretary shall execute a written order to that  
10 effect. The Secretary shall serve a copy of the order upon the  
11 person. The Secretary shall serve the person with notice of  
12 the order, including a statement of the reasons for the order,  
13 either personally, or by certified mail. Service by certified  
14 mail shall be deemed completed when the notice is deposited  
15 into the U.S. Mail.

16 (h) An order assessing a fine, an order imposing  
17 conditions upon a license, an order revoking or suspending a  
18 license, or an order denying renewal of a license shall take  
19 effect upon service of the order unless the licensee serves  
20 the Department with a written request for a hearing in the  
21 manner required by the notice within 20 days after the date of  
22 service of the order. If a person requests a hearing, the order  
23 shall be stayed from its date of service until the Department  
24 enters a final administrative order.

25 (1) If the licensee requests a hearing, the Secretary  
26 shall schedule a preliminary hearing within 90 days after

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

3 (2) The preliminary hearing shall be held at the time  
4 and place designated by the Secretary. The Secretary and  
5 any administrative law judge designated by the Secretary  
6 shall have the power to administer oaths and affirmations,  
7 subpoena witnesses and compel their attendance, take  
8 evidence, and require the production of books, papers,  
9 correspondence, and other records or information that the  
10 Secretary considers relevant or material to the inquiry.

11 (i) The costs of administrative hearings conducted under  
12 this Section shall be paid by the licensee or other person  
13 subject to the hearing.

14 (j) A licensee and other persons subject to this Act shall  
15 be subject to the disciplinary actions specified in this Act  
16 for any violations conducted by any officer, director,  
17 shareholder, joint venture, partner, owner, including, but not  
18 limited to, ultimate equitable owner.

19 Section 18. Investigation of complaints. The Secretary may  
20 investigate any complaints and inquiries made concerning this  
21 Act and any licensees or persons the Secretary believes may  
22 require a license under this Act. Each licensee or person the  
23 Secretary believes may require a license under this Act shall  
24 open the licensee or person's books, records, documents, and  
25 offices wherever situated to the Secretary as needed to

1 facilitate the investigations.

2 Section 19. 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 (a) For purposes of initial licensing, license  
7 renewal, license suspension, license conditioning, license  
8 probation, license revocation or termination, or general  
9 or specific inquiry or investigation to determine  
10 compliance with this Act, the Secretary shall have the  
11 authority to access, receive, and use any books, accounts,  
12 records, files, documents, information, or evidence,  
13 including, but not limited to, the following:

14 (1) criminal, civil, licensure, and administrative  
15 history information, including nonconviction data as  
16 specified in the Criminal Identification Act;

17 (2) 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 (3) 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.

1           (b) For the purposes of investigating violations or  
2           complaints arising under this Act or for the purposes of  
3           examination, the Secretary may review, investigate, or  
4           examine any licensee, individual, or person subject to  
5           this Act as often as necessary in order to carry out the  
6           purposes of this Act. The Secretary may direct, subpoena,  
7           or order the attendance of, and examine under oath all  
8           persons; and order any person to produce records, files,  
9           and any other documents the Secretary deems relevant to an  
10          inquiry.

11          (c) Each person subject to this Act shall make  
12          available to the Secretary upon request the books and  
13          records relating to the operations of the person subject  
14          to this Act. The Secretary shall have access to those  
15          books and records and may interview the owners, officers,  
16          principals, employees, independent contractors, agents,  
17          vendors, and customers of any licensee or person subject  
18          to this Act.

19          (d) Each person subject to this Act shall make or  
20          compile reports or prepare other information as directed  
21          by the Secretary to carry out the purposes of this  
22          Section, including, but not limited to:

23                 (1) accounting compilations;

24                 (2) information lists and data concerning  
25                 transactions in a format prescribed by the Secretary;

26                 or

1           (3) other information deemed necessary to carry  
2           out the purposes of this Section.

3           (e) In making any examination or investigation  
4           authorized by this Act, the Secretary may control access  
5           to any documents and records of the licensee or person  
6           under examination or investigation. The Secretary may take  
7           possession of the documents and records or otherwise take  
8           constructive control of the documents. During the period  
9           of control, no person shall remove or alter any of the  
10          documents or records, except in accordance with a court  
11          order or with the consent of the Secretary. Unless the  
12          Secretary has reasonable grounds to believe the documents  
13          or records of the licensee have been or are at risk of  
14          being altered or destroyed for purposes of concealing a  
15          violation of this Act, the licensee or owner of the  
16          documents and records shall have access to the documents  
17          or records as necessary to conduct its ordinary business  
18          affairs.

19          (f) In order to carry out the purposes of this  
20          Section, the Secretary may:

21                 (1) retain attorneys, accountants, or other  
22                 professionals and specialists as examiners, auditors,  
23                 or investigators to conduct or assist in the conduct  
24                 of examinations or investigations;

25                 (2) enter into agreements or relationships with  
26                 other government officials or regulatory associations

1 to protect consumers, improve efficiencies, and reduce  
2 regulatory burden by sharing resources, standardized  
3 or uniform methods or procedures, and documents,  
4 records, information, or evidence obtained under this  
5 Section;

6 (3) use, hire, contract, or employ publicly or  
7 privately available analytical systems, methods, or  
8 software to examine or investigate the licensee,  
9 individual, or person subject to this Act;

10 (4) accept and rely on examination or  
11 investigation reports made by other government  
12 officials, within or outside this State; or

13 (5) accept audit reports made by an independent  
14 certified public accountant for the person subject to  
15 this Act and incorporate the audit report in the  
16 report of the examination, report of investigation, or  
17 other writing of the Secretary.

18 (g) The authority of this Section shall remain in  
19 effect, whether a person subject to this Act acts or  
20 claims to act under any licensing or registration law of  
21 this State or claims to act without authority.

22 (h) No licensee or person subject to investigation or  
23 examination under this Section may knowingly withhold,  
24 alter, abstract, remove, mutilate, destroy, hide, or  
25 conceal any books, records, computer records, or other  
26 information or take actions designed to delay or

1           complicate review of records.

2           Section 20. Confidentiality. To promote more effective  
3 regulation, protect consumers, and reduce regulatory burden  
4 through inter-regulator sharing of confidential supervisory  
5 information:

6           (a) The privacy or confidentiality of any information  
7 or material provided to the multistate licensing system,  
8 including all privileges arising under federal or State  
9 court rules and law, shall continue to apply to the  
10 information or material after the information or material  
11 has been disclosed to the multistate licensing system.  
12 Information and material may be shared with the multistate  
13 licensing system, federal and state regulatory officials  
14 with relevant oversight authority, and law enforcement  
15 without the loss of privilege or the loss of  
16 confidentiality protections.

17           (b) The Secretary may enter into agreements or sharing  
18 arrangements with other governmental agencies, the  
19 Conference of State Bank Supervisors, and other  
20 associations representing governmental agencies.

21           (c) Information or material that is privileged or  
22 confidential under this Act as determined by the Secretary  
23 shall not be subject to the following:

24                   (1) disclosure under any State law governing the  
25 disclosure to the public of information held by an

1 officer or an agency of this State; or

2 (2) subpoena, discovery, or admission into  
3 evidence, in any private civil action or  
4 administrative process except as authorized by the  
5 Secretary.

6 (d) Any other law relating to the disclosure of  
7 confidential supervisory information that is inconsistent  
8 with this Act shall be superseded by the requirements of  
9 this Section to the extent the other law provides less  
10 confidentiality or a weaker privilege for information that  
11 is privileged or confidential under this Act.

12 (e) Confidential or privileged information received  
13 from the multistate licensing system, another licensing  
14 body, federal and state regulatory officials, or law  
15 enforcement shall be protected to the same extent as the  
16 Secretary's confidential and privileged information is  
17 protected under this Act. The Secretary may also protect  
18 from disclosure confidential or privileged information  
19 that would be exempt from disclosure to the extent it is  
20 held directly by the multistate licensing system, another  
21 licensing body, federal and state regulatory officials, or  
22 law enforcement.

23 Section 21. Rules.

24 (a) In addition to the powers set forth in this Act and  
25 other laws, the Secretary may adopt rules consistent with the

1 purposes of this Act, including, but not limited to, rules to:

2 (1) protect consumers in this State in connection with  
3 the activities of persons subject to this Act;

4 (2) define improper, deceptive, unfair, abusive, or  
5 fraudulent business practices in connection with providing  
6 products and services under this Act;

7 (3) define terms used in this Act to interpret and  
8 implement this Act;

9 (4) promote competition and price transparency; and

10 (5) enforce the provisions of this Act.

11 (b) The Secretary may make specific rulings, demands, and  
12 findings deemed necessary for the proper conduct of the  
13 buy-now-pay-later loan industry.

14 Section 22. Appeal and review.

15 (a) The Secretary may, in accordance with the Illinois  
16 Administrative Procedure Act, adopt rules to provide for  
17 review within the Department of the Secretary's decisions  
18 affecting the rights of persons under this Act. The review  
19 shall provide for, at a minimum:

20 (1) appointment of a hearing officer;

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

23 (3) provisions for apportioning costs among parties to  
24 the appeal.

25 (b) All final agency determinations of appeals to

1 decisions of the Secretary may be reviewed in accordance with  
2 and under the provisions of the Administrative Review Law.  
3 Appeals from all final orders and judgments entered by a court  
4 in review of any final administrative decision of the  
5 Secretary or of any final agency review of a decision of the  
6 Secretary may be taken as in other civil cases.

7 Section 23. Licensure fees.

8 (a) The nonrefundable fee for initial licensure shall be  
9 \$5,000, unless modified by the Secretary in accordance with  
10 subsection (b) of Section 11.

11 (b) The nonrefundable fee for annual license renewal shall  
12 be \$5,000, unless modified by the Secretary in accordance with  
13 subsection (b) of Section 11.

14 (c) The Department shall impose a contingent fee  
15 sufficient to cover its operating expenses in administering  
16 this Act not otherwise covered by all other revenue collected  
17 under this Act. Each licensee shall pay to the Division its pro  
18 rata share, based on number or volume of transactions or  
19 revenue or any other metric established by the Department by  
20 rule, of the cost for administration of the Act that exceeds  
21 other fees listed in this Section, as estimated by the  
22 Division, for the current year and any deficit actually  
23 incurred in the administration of the Act in prior years.

24 Section 24. Cease and desist order.

1           (a) The Secretary may issue a cease and desist order to any  
2 licensee or person doing business without the required  
3 license, when in the opinion of the Secretary the licensee or  
4 other person has violated, is violating, or is about to  
5 violate any provision of this Act or any rule adopted by the  
6 Department under this Act or any requirement imposed in  
7 writing by the Department as a condition of granting any  
8 authorization permitted by this Act. The cease and desist  
9 order authorized by this Section may be issued prior to a  
10 hearing.

11           (b) The Secretary shall serve notice of the order, either  
12 personally or by certified mail. Service by certified mail  
13 shall be deemed completed when the notice is deposited into  
14 the U.S. Mail. The Secretary's notice shall include a  
15 statement of the reasons for the action.

16           (c) Within 15 days after service of the cease and desist  
17 order, the person subject to the order may request a hearing in  
18 writing. The Secretary shall schedule a preliminary hearing  
19 within 60 days after the request for a hearing unless the  
20 parties agree to a later date.

21           (d) If it is determined that the Secretary had the  
22 authority to issue the cease and desist order, the Secretary  
23 may issue orders as may be reasonably necessary to correct,  
24 eliminate, deter, or remedy the conduct described in the order  
25 and resulting harms.

26           (e) The powers vested in the Secretary by this Section are

1 additional to all other powers and remedies vested in the  
2 Secretary by any law. Nothing in this Section shall be  
3 construed as requiring that the Secretary must employ the  
4 power conferred in this subsection instead of or as a  
5 condition precedent to the exercise of any other power or  
6 remedy vested in the Secretary.

7 Section 25. Injunction. The Secretary may maintain an  
8 action in the name of the people of the State of Illinois  
9 through the Attorney General and may apply for an injunction  
10 in the circuit court to enjoin a person from violating this Act  
11 or rules adopted under this Act.

12 Section 26. Underwriting. A lender shall, before providing  
13 or causing to be provided a loan to a consumer, perform, or  
14 cause to be performed, reasonable risk-based underwriting  
15 which shall include, at a minimum, an assessment of the  
16 outstanding loans taken out by the consumer from the lender. A  
17 lender shall maintain or cause to be maintained policies and  
18 procedures for underwriting loans, and shall disclose factors  
19 considered in the underwriting process, in a clear and  
20 conspicuous manner to the consumer. No lender shall collect,  
21 evaluate, report, or maintain in the file on a borrower the  
22 credit worthiness, credit standing, or credit capacity of  
23 members of the borrower's social network for purposes of  
24 determining the credit worthiness of the borrower; the average

1 credit worthiness, credit standing, or credit capacity of  
2 members of the borrower's social network; or any group score  
3 that is not the borrower's own credit worthiness, credit  
4 standing, or credit capacity. The Department may adopt rules  
5 with respect to underwriting.

6 Section 27. Consumer protections.

7 (a) A lender shall provide the following disclosures to a  
8 consumer, in a clear and conspicuous manner, at the time of  
9 extending a specific offer of a loan:

10 (1) how to file a complaint with the Department;

11 (2) the terms of buy-now-pay-later loans, including,  
12 without limitation, the cost, such as interest and fees,  
13 the repayment schedule, the means by which a person may  
14 dispute billing practices, whether the transaction will or  
15 will not be reported to a credit reporting agency, and  
16 other material conditions, in a clear and conspicuous  
17 manner and in a manner that complies with applicable  
18 federal regulations, including, but not limited to,  
19 Regulation Z of Title I of the Consumer Credit Protection  
20 Act;

21 (3) policies and procedures for underwriting loans,  
22 and factors considered in the underwriting process; and

23 (4) Any other disclosures required by the Secretary by  
24 rule.

25 (b) A lender shall maintain policies and procedures for

1 maintaining accurate data that may be reported to credit  
2 reporting agencies. A lender may use, sell, or share the data  
3 of a consumer, other than in connection with the making of a  
4 particular loan to the consumer, only with the consumer's  
5 consent. A lender shall disclose or cause to be disclosed to a  
6 consumer in a clear and conspicuous manner how the consumer's  
7 data may be used, shared, or sold by the lender before  
8 obtaining the consumer's consent and also shall disclose or  
9 cause to be disclosed to the consumer in a clear and  
10 conspicuous manner how the consumer may subsequently withdraw  
11 consent to the use, sharing, or sale. A lender shall maintain  
12 policies and procedures regarding its use, sale, and sharing  
13 of consumers' data. Nothing in this subsection shall prevent a  
14 lender from using information in accordance with the Fair  
15 Credit Reporting Act or furnishing credit reporting data to a  
16 credit reporting agency. The Secretary may adopt rules related  
17 to data privacy. No lender shall share consumer data in a  
18 manner inconsistent with this Act and rules adopted under this  
19 Act.

20 (c) A lender shall resolve disputes in a manner that is  
21 fair and transparent to consumers. A lender shall create a  
22 readily available and prominently disclosed method for  
23 consumers to bring a dispute to the lender. A lender shall  
24 maintain policies and procedures for handling consumer  
25 disputes. A lender shall apply to loans the dispute rights and  
26 unauthorized charges requirements that apply to credit cards

1 under the federal Truth in Lending Act, regardless of whether  
2 the law applies to loans or whether the lender offers a credit  
3 card within the scope of the law.

4 (d) A lender shall provide refunds or credits for goods or  
5 services purchased in connection with a loan, if the consumer  
6 requests and is entitled to a refund, in a manner that is fair,  
7 transparent, and not unduly burdensome to consumers. A lender  
8 shall maintain policies and procedures to provide the refunds  
9 or credits. The policies and procedures shall be fair,  
10 transparent, and not unduly burdensome to the consumer. A  
11 lender shall disclose to consumers, in a clear and conspicuous  
12 manner, the process by which they can obtain refunds or  
13 credits for goods or services they have purchased in  
14 connection with a loan.

15 (e) A lender shall not require consumers to authorize  
16 automatic payment from the consumer's accounts. If a consumer  
17 voluntarily elects to use automatic payments in relation to  
18 the loan, the lender shall not charge the consumer any amount  
19 to cancel automatic payments should the consumer request to do  
20 so.

21 (f) A lender shall not require payment by a consumer by  
22 credit card.

23 (g) A lender shall not attempt to debit a consumer's  
24 account if it is notified that there are insufficient funds to  
25 pay in the account or if it has reason to believe there are  
26 insufficient funds to pay in the account without seeking

1 additional, express approval from the consumer. A lender shall  
2 present an ACH debit for payment not more than twice.

3 (h) The lender's license shall be kept conspicuously  
4 posted on the mobile application, website, or other consumer  
5 interface of the lender, as well as listed in the terms and  
6 conditions of any loan offered or entered into by the lender.

7 (i) A consumer shall be permitted to pay off the loan at  
8 any time. A lender may not impose, directly or indirectly, any  
9 additional fee or finance charge other than interest accrued  
10 since the consumer's last payment or the start of the loan if  
11 the consumer elects to pay off or refinance the loan before  
12 full repayment.

13 (j) A lender may not accept tips, expedited payment fees,  
14 or any other fee identified by the Department by rule from  
15 consumers. Additionally, the Department may limit any fee,  
16 charge, or payment which may be charged to a consumer by a  
17 lender.

18 (k) All requirements set forth in this Section or in any  
19 rules adopted by the Department relating to servicing of a  
20 loan shall apply to a subsequent purchaser or assignee of a  
21 loan, an agent of the lender, or any other person servicing a  
22 loan.

23 Section 27.5. Compliance with federal law. All disclosures  
24 required by this Act shall be made in a manner that complies  
25 with the federal Truth in Lending Act, amendments thereto, and

1 any regulations issued or which may be issued thereunder.

2 Section 28. Rate cap. A loan entered into under this Act is  
3 subject to the rate cap set forth in Section 15-5-5 of the  
4 Predatory Loan Prevention Act.

5 Section 29. Nullification of loans. Any loan made by a  
6 person not licensed or otherwise exempt under this Act is null  
7 and void and no person or entity shall have any right to  
8 collect, attempt to collect, receive, or retain any principal,  
9 fee, interest, or charges related to the loan.

10 Section 30. Annual report. The Secretary may require an  
11 annual report from all licensees in a form and manner  
12 prescribed by the Secretary. The Department may publish  
13 reports containing a compilation of aggregate data concerning  
14 the buy-now-pay-later loan industry.

15 Section 31. Surety bond.

16 (a) An applicant for a license shall post and a licensee  
17 must maintain with the Secretary a bond or bonds issued by  
18 corporations qualified to do business as surety companies in  
19 this State.

20 (b) The applicant or licensee shall post a bond in a  
21 minimum amount of \$50,000. If the Secretary finds at any time  
22 that a bond is of insufficient size, is insecure, exhausted,

1 or otherwise doubtful, an additional bond in the amount as  
2 determined by the Secretary shall be filed by the licensee  
3 within 30 days after written demand by the Secretary.

4 (c) The bond must be in a form satisfactory to the  
5 Secretary and shall run to the State of Illinois for the  
6 benefit of any claimant against the applicant or licensee with  
7 respect to any activity regulated by this Act, including  
8 unpaid fees, fines, or penalties owed to the Department. A  
9 claimant damaged by a breach of the conditions of a bond shall  
10 have a right of action upon the bond for damages suffered and  
11 may bring suit directly on the bond, or the Secretary may bring  
12 suit on behalf of the claimant.

13 Section 32. Relation to other laws. Nothing in this Act  
14 shall be construed to limit the obligation of a licensee to  
15 comply with any other applicable laws or rules, including, but  
16 not limited to, the Predatory Loan Prevention Act. Any  
17 protections, rights, and remedies provided in this Act to a  
18 consumer with respect to an agreement with a lender shall be  
19 intended to supplement and not be exclusive of any  
20 protections, rights, and remedies otherwise available under  
21 any other law.

22 Section 33. Limitation on liability. No provision of this  
23 Act imposes any liability on a lender as a result of the actual  
24 annual percentage rate charged by a lender differing from the

1 estimated annual percentage rate disclosed in conformity with  
2 any regulation, order, or written interpretive opinion of the  
3 Secretary or any opinion of the Attorney General, whether or  
4 not the regulation, order, or written interpretive opinion is  
5 later amended, rescinded, or repealed or determined by  
6 judicial or other authority to be invalid for any reason.

7 Section 34. Liberal construction and purpose. This Act  
8 shall be liberally construed to protect consumers.

9 Section 35. Compliance. No person shall be required to  
10 comply with this Act until January 1, 2028, or a later date  
11 established by the Department by rule.

12 Section 37. Violations.

13 (a) Nothing in this Act shall be construed to restrict the  
14 exercise of powers or the performance of the duties of the  
15 Attorney General that the Attorney General is authorized to  
16 exercise or perform by law.

17 (b) A violation of this Act constitutes an unlawful  
18 practice under the Consumer Fraud and Deceptive Business  
19 Practices Act. All remedies, penalties, and authority granted  
20 to the Attorney General by the Consumer Fraud and Deceptive  
21 Business Practices Act shall be available to the Attorney  
22 General for the enforcement of this Act.

1           Section 38. Other licenses. A person holding (i) a license  
2 under the Consumer Installment Loan Act, (ii) a license under  
3 the Collection Agency Act, (iii) a license under the Sales  
4 Finance Agency Act, or (iv) a license identified by the  
5 Department by rule is not required to be licensed under this  
6 Act including, but not limited to, the payment of fees  
7 relating to the activity subject to this Act. Any such person  
8 shall notify the Department that it is conducting activity  
9 subject to this Act at the time of the renewal of its license,  
10 but is otherwise required to comply with this Act.

11           Section 39. Safe harbor. A person that (i) was providing  
12 buy-now-pay-later loans in this State before January 1, 2028  
13 and (ii) submits an application for a license on or before  
14 January 1, 2028 shall be deemed a provisional licensee  
15 authorized to continue operating under this Act until the  
16 Department acts on the application. In addition to the bases  
17 for denying an application set forth elsewhere under this Act,  
18 the Department may also deny such an application upon a  
19 finding that the application was not submitted in good faith  
20 or that continuation of operations poses a risk of consumer  
21 harm.

22           Section 40. Relation to other laws. Any loan made under  
23 and in compliance with this Act is not required to comply with  
24 the Consumer Installment Loan Act or the Payday Loan Reform

1 Act.

2 Section 900. The Consumer Fraud and Deceptive Business  
3 Practices Act is amended by adding Section 2MMMM as follows:

4 (815 ILCS 505/2MMMM new)

5 Sec. 2MMMM. Violations of the Buy-Now-Pay-Later Loan  
6 Consumer Protection Act. A person who violates the  
7 Buy-Now-Pay-Later Loan Consumer Protection Act commits an  
8 unlawful practice within the meaning of this Act.

9 Section 997. Severability. If any provision of this Act or  
10 the application of the provision is held invalid, the  
11 invalidity shall not affect other provisions or applications  
12 of the Act which can be given effect without the invalidated  
13 provision or application.

14 Section 999. Effective date. This Act takes effect upon  
15 becoming law."