



Rep. David E. Miller

**Filed: 4/6/2005**

09400HB1100ham004

LRB094 09280 MKM 44458 a

1 AMENDMENT TO HOUSE BILL 1100

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1100, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Article 1. General Provisions

6 Section 1-1. Short title. This Act may be cited as the  
7 Payday Loan Reform Act.

8 Section 1-5. Purpose and construction. The purpose of this  
9 Act is to protect consumers who enter into payday loans and to  
10 regulate the lenders of payday loans. This Act shall be  
11 construed as a consumer protection law for all purposes. This  
12 Act shall be liberally construed to effectuate its purpose.

13 Section 1-10. Definitions. As used in this Act:

14 "Check" means a "negotiable instrument", as defined in  
15 Article 3 of the Uniform Commercial Code, that is drawn on a  
16 financial institution.

17 "Commercially reasonable method of verification" means a  
18 consumer reporting service certified by the Division as  
19 effective in verifying that a proposed loan agreement is  
20 permissible under this Act, or, in the absence of the  
21 Division's certification, any reasonably reliable written  
22 verification by the consumer concerning (i) whether the

1 consumer has any outstanding payday loans, (ii) the principal  
2 amount of those outstanding payday loans, and (iii) whether any  
3 payday loans have been paid in full by the consumer in the  
4 preceding 7 days.

5 "Consumer" means any natural person who, singly or jointly  
6 with another consumer, enters into a loan.

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

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

12 "Gross monthly income" means monthly income as  
13 demonstrated by official documentation of the income,  
14 including, but not limited to, a pay stub or a receipt  
15 reflecting payment of government benefits, for the period 30  
16 days prior to the date on which the loan is made.

17 "Lender" and "licensee" mean any person or entity,  
18 including any affiliate or subsidiary of a lender or licensee,  
19 that offers or makes a payday loan, buys a whole or partial  
20 interest in a payday loan, arranges a payday loan for a third  
21 party, or acts as an agent for a third party in making a payday  
22 loan, regardless of whether approval, acceptance, or  
23 ratification by the third party is necessary to create a legal  
24 obligation for the third party, and includes any other person  
25 or entity if the Division determines that the person or entity  
26 is engaged in a transaction that is in substance a disguised  
27 payday loan or a subterfuge for the purpose of avoiding this  
28 Act.

29 "Loan agreement" means a written agreement between a lender  
30 and consumer to make a loan to the consumer, regardless of  
31 whether any loan proceeds are actually paid to the consumer on  
32 the date on which the loan agreement is made.

33 "Member of the military" means a person serving in the  
34 armed forces of the United States, the Illinois National Guard,

1 or any reserve component of the armed forces of the United  
2 States. "Member of the military" includes those persons engaged  
3 in (i) active duty, (ii) training or education under the  
4 supervision of the United States preliminary to induction into  
5 military service, or (iii) a period of active duty with the  
6 State of Illinois under Title 10 or Title 32 of the United  
7 States Code pursuant to order of the President or the Governor  
8 of the State of Illinois.

9 "Outstanding balance" means the total amount owed by the  
10 consumer on a loan to a lender, including all principal,  
11 finance charges, fees, and charges of every kind.

12 "Payday loan" or "loan" means a loan with a finance charge  
13 exceeding an annual percentage rate of 36% and with a term that  
14 does not exceed 120 days, including any transaction conducted  
15 via any medium whatsoever, including, but not limited to,  
16 paper, facsimile, Internet, or telephone, in which:

17 (1) A lender accepts one or more checks dated on the  
18 date written and agrees to hold them for a period of days  
19 before deposit or presentment, or accepts one or more  
20 checks dated subsequent to the date written and agrees to  
21 hold them for deposit; or

22 (2) A lender accepts one or more authorizations to  
23 debit a consumer's bank account; or

24 (3) A lender accepts an interest in a consumer's wages,  
25 including, but not limited to, a wage assignment.

26 "Principal amount" means the amount received by the  
27 consumer from the lender due and owing on a loan, excluding any  
28 finance charges, interest, fees, or other loan-related  
29 charges.

30 "Rollover" means to refinance, renew, amend, or extend a  
31 loan beyond its original term.

32 Section 1-15. Applicability.

33 (a) Except as otherwise provided in this Section, this Act

1 applies to any lender that offers or makes a payday loan to a  
2 consumer in Illinois.

3 (b) The provisions of this Act apply to any person or  
4 entity that seeks to evade its applicability by any device,  
5 subterfuge, or pretense whatsoever.

6 (c) Retail sellers who cash checks incidental to a retail  
7 sale and who charge no more than the fees as provided by the  
8 Check Cashing Act per check for the service are exempt from the  
9 provisions of this Act.

10 (d) Banks, savings banks, savings and loan associations,  
11 credit unions, and insurance companies organized, chartered,  
12 or holding a certificate of authority to do business under the  
13 laws of this State or any other state or under the laws of the  
14 United States are exempt from the provisions of this Act.

15 (e) A lender, as defined in Section 1-10, that is an agent  
16 for a bank, savings bank, savings and loan association, credit  
17 union, or insurance company for the purpose of brokering,  
18 selling, or otherwise offering payday loans made by the bank,  
19 savings bank, savings and loan association, credit union, or  
20 insurance company shall be subject to all of the provisions of  
21 this Act, except those provisions related to finance charges.

## 22 Article 2. Payday Loans

### 23 Section 2-5. Loan terms.

24 (a) Without affecting the right of a consumer to prepay at  
25 any time without cost or penalty, no payday loan may have a  
26 minimum term of less than 13 days.

27 (b) No payday loan may be made to a consumer if the loan  
28 would result in the consumer being indebted to one or more  
29 payday lenders for a period in excess of 45 consecutive days.  
30 Except as provided under Section 2-40, if a consumer has or has  
31 had loans outstanding for a period in excess of 45 consecutive  
32 days, no payday lender may offer or make a loan to the consumer

1 for at least 7 calendar days after the date on which the  
2 outstanding balance of all payday loans made during the 45  
3 consecutive day period is paid in full. For purposes of this  
4 subsection, the term "consecutive days" means a series of  
5 continuous calendar days in which the consumer has an  
6 outstanding balance on one or more payday loans; however, if a  
7 payday loan is made to a consumer within 6 days or less after  
8 the outstanding balance of all loans is paid in full, those  
9 days are counted as "consecutive days" for purposes of this  
10 subsection.

11 (c) No lender may make a payday loan to a consumer if the  
12 total principal amount of the loan, when combined with the  
13 principal amount of all of the consumer's other outstanding  
14 payday loans, exceeds \$1,000 or 25% of the consumer's gross  
15 monthly income, whichever is less.

16 (d) No payday loan may be made to a consumer who has an  
17 outstanding balance on 2 payday loans.

18 (e) No lender may charge more than \$16 per \$100 loaned on  
19 any payday loan over the term of the loan.

20 (f) A lender may not take or attempt to take an interest in  
21 any of the consumer's personal property to secure a payday  
22 loan.

23 (g) A consumer has the right to redeem a check or any other  
24 item described in the definition of payday loan under Section  
25 1-10 issued in connection with a payday loan from the lender  
26 holding the check or other item at any time before the payday  
27 loan becomes payable by paying the full amount of the check or  
28 other item, less the unearned portion of the finance charge  
29 calculated on a simple interest basis.

30 Section 2-7. Wage assignments. Any payday loan that is a  
31 transaction in which the lender accepts a wage assignment must  
32 meet the requirements of this Act, the requirements of the  
33 Illinois Wage Assignment Act, and the requirements of 16 C.F.R.

1 444.2(a)(3)(i) (2003, no subsequent amendments or editions are  
2 included). A violation of this Section constitutes a material  
3 violation of the Payday Loan Reform Act.

4 Section 2-10. Permitted fees.

5 (a) If there are insufficient funds to pay a check,  
6 Automatic Clearing House (ACH) debit, or any other item  
7 described in the definition of payday loan under Section 1-10  
8 on the day of presentment and only after the lender has  
9 incurred an expense, a lender may charge a fee not to exceed  
10 \$25. Only one such fee may be collected by the lender with  
11 respect to a particular check, ACH debit, or item even if it  
12 has been deposited and returned more than once. A lender shall  
13 present the check, ACH debit, or other item described in the  
14 definition of payday loan under Section 1-10 for payment not  
15 more than twice. A fee charged under this subsection (a) is a  
16 lender's exclusive charge for late payment.

17 (b) When a consumer repays a payday loan in full before its  
18 due date, the lender must refund the finance charges to the  
19 consumer on a simple interest basis as of the time of  
20 repayment.

21 (c) Except for the finance charges described in Section 2-5  
22 and as specifically allowed by this Section, a lender may not  
23 impose on a consumer any additional finance charges, interest,  
24 fees, or charges of any sort for any purpose.

25 Section 2-15. Verification.

26 (a) Before entering into a loan agreement with a consumer,  
27 a lender must use a commercially reasonable method of  
28 verification to verify that the proposed loan agreement is  
29 permissible under this Act.

30 (b) Within 6 months after the effective date of this Act,  
31 the Division shall certify that one or more consumer reporting  
32 services are commercially reasonable methods of verification.

1 Upon certifying that a consumer reporting service is a  
2 commercially reasonable method of verification, the Division  
3 shall:

4 (1) provide reasonable notice to all licensees  
5 identifying the commercially reasonable methods of  
6 verification that are available; and

7 (2) immediately upon certification, require each  
8 licensee to use a commercially reasonable method of  
9 verification as a means of complying with subsection (a) of  
10 this Section.

11 (c) Except as otherwise provided in this Section, all  
12 information contained in the certified database regarding any  
13 consumer is strictly confidential and is exempt from disclosure  
14 under the Freedom of Information Act.

15 (d) Notwithstanding any other provision of law to the  
16 contrary, a consumer seeking a payday loan may make a direct  
17 inquiry to the certified database provider to request a more  
18 detailed explanation of the basis for a database's  
19 determination that the consumer is ineligible for a new payday  
20 loan.

21 (e) In certifying a commercially reasonable method of  
22 verification, the Division shall ensure that the database:

23 (1) provides real-time access through an Internet  
24 connection or, if real-time access through an Internet  
25 connection becomes unavailable to lenders due to a database  
26 provider's technical problems incurred by the database  
27 provider, through alternative verification mechanisms,  
28 including, but not limited to, verification by telephone;

29 (2) is accessible to the Division and to licensees in  
30 order to ensure compliance with this Act and in order to  
31 provide any other information that the Division deems  
32 necessary;

33 (3) requires licensees to input whatever information  
34 is required by the Division;

1 (4) maintains a real-time copy of the required  
2 reporting information that is available to the Division at  
3 all times and is the property of the Division;

4 (5) provides licensees only with a statement that a  
5 consumer is eligible or ineligible for a new payday loan  
6 and a description of the reason for the determination; and

7 (6) contains safeguards to ensure that all information  
8 contained in the database regarding consumers is kept  
9 strictly confidential.

10 (f) The licensee shall update the database by inputting all  
11 information required under item (3) of subsection (e):

12 (1) on the same day that a payday loan is made;

13 (2) on the same day that a consumer elects a repayment  
14 plan, as provided in Section 2-40; and

15 (3) on the same day that a consumer's payday loan is  
16 paid in full.

17 (g) A licensee may rely on the information contained in the  
18 certified database as accurate and is not subject to any  
19 administrative penalty or liability as a result of relying on  
20 inaccurate information contained in the database.

21 (h) The certified consumer reporting service shall  
22 indemnify the licensee against all claims and actions arising  
23 from illegal or willful or wanton acts on the part of the  
24 certified consumer reporting service.

25 Section 2-17. Consumer reporting services qualification  
26 and bonding.

27 (a) Each consumer reporting service shall have at all times  
28 a net worth of not less than \$1,000,000 calculated in  
29 accordance with generally accepted accounting principles.

30 (b) Each application for certification under this Act shall  
31 be accompanied by a surety bond acceptable to the Division in  
32 the amount of \$1,000,000. The surety bond shall be in a form  
33 satisfactory to the Division and shall run to the State of



1 Illinois for the benefit of any claimants against the consumer  
2 reporting service to secure the faithful performance of its  
3 obligations under this Act. The aggregate liability of the  
4 surety may exceed the principal sum of the bond. Claimants  
5 against the consumer reporting service may themselves bring  
6 suit directly on the surety bond or the Division may bring suit  
7 on behalf of claimants, either in one action or in successive  
8 actions.

9 (c) The surety bond shall remain in effect until  
10 cancellation, which may occur only after 90 days' written  
11 notice to the Division. Cancellation shall not affect any  
12 liability incurred or accrued during that period.

13 (d) The surety bond shall remain in place for 5 years after  
14 the consumer reporting service ceases operation in the State.

15 (e) The surety bond proceeds and any cash or other  
16 collateral posted as security by a consumer reporting service  
17 shall be deemed by operation of law to be held in trust for any  
18 claimants under this Act in the event of the bankruptcy of the  
19 consumer reporting service.

20 (f) To the extent that any indemnity or fine exceeds the  
21 amount of the surety bond described under this Section, the  
22 consumer reporting service shall be liable for that amount.

23 (g) Each application for certification under this Act shall  
24 be accompanied by a nonrefundable investigation fee of \$2,500,  
25 together with an initial certification fee of \$1,000.

26 (h) On or before March 1 of each year, each consumer  
27 reporting service qualified under this Section shall pay to the  
28 Division a certification fee in the amount of \$1,000.

29 Section 2-20. Required disclosures.

30 (a) Before a payday loan is made, a lender shall deliver to  
31 the consumer a pamphlet prepared by the Director that:

32 (1) explains, in simple English and Spanish, all of the  
33 consumer's rights and responsibilities in a payday loan

1 transaction;

2 (2) includes a toll-free number to the Director's  
3 office to handle concerns or provide information about  
4 whether a lender is licensed, whether complaints have been  
5 filed with the Director, and the resolution of those  
6 complaints; and

7 (3) provides information regarding the availability of  
8 debt management services.

9 (b) Lenders shall provide consumers with a written  
10 agreement that may be kept by the consumer. The written  
11 agreement must include the following information in English and  
12 in the language in which the loan was negotiated:

13 (1) the name and address of the lender making the  
14 payday loan, and the name and title of the individual  
15 employee who signs the agreement on behalf of the lender;

16 (2) disclosures required by the federal Truth in  
17 Lending Act;

18 (3) a clear description of the consumer's payment  
19 obligations under the loan;

20 (4) the following statement, in at least 14-point bold  
21 type face: "You cannot be prosecuted in criminal court to  
22 collect this loan.". The information required to be  
23 disclosed under this subdivision (4) must be conspicuously  
24 disclosed in the loan document and shall be located  
25 immediately preceding the signature of the consumer; and

26 (5) the following statement, in at least 14-point bold  
27 type face:

28 "WARNING: This loan is not intended to meet long-term  
29 financial needs. This loan should be used only to meet  
30 short-term cash needs. The cost of your loan may be higher  
31 than loans offered by other lending institutions. This loan  
32 is regulated by the Department of Financial and  
33 Professional Regulation."

34 (c) The following notices in English and Spanish must be

1 conspicuously posted by a lender in each location of a business  
2 providing payday loans:

3 (1) A notice that informs consumers that the lender  
4 cannot use the criminal process against a consumer to  
5 collect any payday loan.

6 (2) The schedule of all finance charges to be charged  
7 on loans with an example of the amounts that would be  
8 charged on a \$100 loan payable in 13 days and a \$400 loan  
9 payable in 30 days, giving the corresponding annual  
10 percentage rate.

11 (3) In one-inch bold type, a notice to the public in  
12 the lending area of each business location containing the  
13 following statement:

14 "WARNING: This loan is not intended to meet long-term  
15 financial needs. This loan should be used only to meet  
16 short-term cash needs. The cost of your loan may be higher  
17 than loans offered by other lending institutions. This loan  
18 is regulated by the Department of Financial and  
19 Professional Regulation."

20 (4) In one-inch bold type, a notice to the public in  
21 the lending area of each business location containing the  
22 following statement:

23 "INTEREST-FREE REPAYMENT PLAN: If you still owe on one  
24 or more payday loans after 35 days, you are entitled to  
25 enter into a repayment plan. The repayment plan will give  
26 you at least 56 days to repay your loan in installments  
27 with no additional finance charges, interest, fees, or  
28 other charges of any kind."

29 Section 2-25. Right to cancel future payment obligations. A  
30 consumer may cancel future payment obligations on a payday  
31 loan, without cost or finance charges, no later than the end of  
32 the second business day immediately following the day on which  
33 the payday loan agreement was executed. To cancel future

1 payment obligations on a payday loan, the consumer must inform  
2 the lender in writing that the consumer wants to cancel the  
3 future payment obligations on the payday loan and must return  
4 the uncashed proceeds, check or cash, in an amount equal to the  
5 principal amount of the loan.

6 Section 2-30. Rollovers prohibited. Rollover of a payday  
7 loan by any lender is prohibited.

8 Section 2-35. Proceeds and payments.

9 (a) A lender may issue the proceeds of a loan in the form  
10 of a check drawn on the lender's bank account, in cash, by  
11 money order, by debit card, or by electronic funds transfer.  
12 When the proceeds are issued in the form of a check drawn on  
13 the lender's bank account, by money order, or by electronic  
14 funds transfer, the lender may not charge a fee for cashing the  
15 check, money order, or electronic funds transfer. When the  
16 proceeds are issued in cash, the lender must provide the  
17 consumer with written verification of the cash transaction and  
18 shall maintain a record of the transaction for at least 3  
19 years.

20 (b) After each payment made in full or in part on any loan,  
21 the lender shall give the consumer making the payment either a  
22 signed, dated receipt or a signed, computer-generated receipt  
23 showing the amount paid and the balance due on the loan.

24 (c) Before a loan is made, the lender must provide the  
25 consumer, or each consumer if there is more than one, with a  
26 copy of the loan documents described in Section 2-20.

27 (d) The holder or assignee of any loan agreement or of any  
28 check written by a consumer in connection with a payday loan  
29 takes the loan agreement or check subject to all claims and  
30 defenses of the consumer against the maker.

31 (e) Upon receipt of a check from a consumer for a loan, the  
32 lender must immediately stamp the back of the check with an

1 endorsement that states: "This check is being negotiated as  
2 part of a loan under the Payday Loan Reform Act, and any holder  
3 of this check takes it subject to all claims and defenses of  
4 the maker."

5 (f) Loan payments may be electronically debited from the  
6 consumer's bank account. Except as provided by federal law, the  
7 lender must obtain prior written approval from the consumer.

8 (g) A consumer may prepay on a loan in increments of \$5 or  
9 more at any time without cost or penalty.

10 (h) A loan is made on the date on which a loan agreement is  
11 signed by both parties, regardless of whether the lender gives  
12 any moneys to the consumer on that date.

13 Section 2-40. Repayment plan.

14 (a) At the time a payday loan is made, the lender must  
15 provide the consumer with a separate written notice signed by  
16 the consumer of the consumer's right to request a repayment  
17 plan. The written notice must comply with the requirements of  
18 subsection (c).

19 (b) The loan agreement must include the following language  
20 in at least 14-point bold type: IF YOU STILL OWE ON ONE OR MORE  
21 PAYDAY LOANS AFTER 35 DAYS, YOU ARE ENTITLED TO ENTER INTO A  
22 REPAYMENT PLAN. THE REPAYMENT PLAN WILL GIVE YOU AT LEAST 56  
23 DAYS TO REPAY YOUR LOAN IN INSTALLMENTS WITH NO ADDITIONAL  
24 FINANCE CHARGES, INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

25 (c) At the time a payday loan is made, on the first page of  
26 the loan agreement and in a separate document signed by the  
27 consumer, the following shall be inserted in at least 14-point  
28 bold type: I UNDERSTAND THAT IF I STILL OWE ON ONE OR MORE  
29 PAYDAY LOANS AFTER 35 DAYS, I AM ENTITLED TO ENTER INTO A  
30 REPAYMENT PLAN THAT WILL GIVE ME AT LEAST 56 DAYS TO REPAY THE  
31 LOAN IN INSTALLMENTS WITH NO ADDITIONAL FINANCE CHARGES,  
32 INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

33 (d) If the consumer has or has had one or more payday loans

1 outstanding for 35 consecutive days, any payday loan  
2 outstanding on the 35th consecutive day shall be payable under  
3 the terms of a repayment plan as provided for in this Section,  
4 if the consumer requests the repayment plan. As to any loan  
5 that becomes eligible for a repayment plan under this  
6 subsection, the consumer has until 28 days after the default  
7 date of the loan to request a repayment plan. Within 48 hours  
8 after the request for a repayment plan is made, the lender must  
9 prepare the repayment plan agreement and both parties must  
10 execute the agreement. Execution of the repayment plan  
11 agreement shall be made in the same manner in which the loan  
12 was made and shall be evidenced in writing.

13 (e) The terms of the repayment plan for a payday loan must  
14 include the following:

15 (1) The lender may not impose any charge on the  
16 consumer for requesting or using a repayment plan.  
17 Performance of the terms of the repayment plan extinguishes  
18 the consumer's obligation on the loan.

19 (2) No lender shall charge the consumer any finance  
20 charges, interest, fees, or other charges of any kind,  
21 except a fee for insufficient funds, as provided under  
22 Section 2-10.

23 (3) The consumer shall be allowed to repay the loan in  
24 at least 4 equal installments with at least 13 days between  
25 installments, provided that the term of the repayment plan  
26 does not exceed 90 days. The first payment under the  
27 repayment plan shall not be due before at least 13 days  
28 after the repayment plan is signed by both parties. The  
29 consumer may prepay the amount due under the repayment plan  
30 at any time, without charge or penalty.

31 (4) The length of time between installments may be  
32 extended by the parties so long as the total period of  
33 repayment does not exceed 90 days. Any such modification  
34 must be in writing and signed by both parties.

1 (f) Notwithstanding any provision of law to the contrary, a  
2 lender is prohibited from making a payday loan to a consumer  
3 who has a payday loan outstanding under a repayment plan and  
4 for at least 14 days after the outstanding balance of the loan  
5 under the repayment plan and the outstanding balance of all  
6 other payday loans outstanding during the term of the repayment  
7 plan are paid in full.

8 (g) A lender may not accept postdated checks for payments  
9 under a repayment plan.

10 (h) Notwithstanding any provision of law to the contrary, a  
11 lender may voluntarily agree to enter into a repayment plan  
12 with a consumer at any time. If a consumer is eligible for a  
13 repayment plan under subsection (d), any repayment agreement  
14 constitutes a repayment plan under this Section and all  
15 provisions of this Section apply to that agreement.

16 Section 2-45. Default.

17 (a) No legal proceeding of any kind, including, but not  
18 limited to, a lawsuit or arbitration, may be filed or initiated  
19 against a consumer to collect on a payday loan until 28 days  
20 after the default date of the loan, or, in the case of a payday  
21 loan under a repayment plan, for 28 days after the default date  
22 under the terms of the repayment plan.

23 (b) Upon and after default, a lender shall not charge the  
24 consumer any finance charges, interest, fees, or charges of any  
25 kind, other than the insufficient fund fee described in Section  
26 2-10.

27 Section 2-50. Practices concerning members of the  
28 military.

29 (a) A lender may not garnish the wages or salaries of a  
30 consumer who is a member of the military.

31 (b) In addition to any rights and obligations provided  
32 under the federal Servicemembers Civil Relief Act, a lender

1 shall suspend and defer collection activity against a consumer  
2 who is a member of the military and who has been deployed to a  
3 combat or combat support posting for the duration of the  
4 deployment.

5 (c) A lender may not knowingly contact the military chain  
6 of command of a consumer who is a member of the military in an  
7 effort to collect on a payday loan.

8 (d) Lenders must honor the terms of any repayment plan that  
9 they have entered into with any consumer, including a repayment  
10 agreement negotiated through military counselors or  
11 third-party credit counselors.

12 Section 2-55. Information, reporting, and examination.

13 (a) A licensee shall keep and use books, accounts, and  
14 records that will enable the Director to determine if the  
15 licensee is complying with the provisions of this Act and  
16 maintain any other records as required by the Director.

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

20 (1) the total number of payday loans made during the  
21 preceding calendar year;

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

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

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

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

33 The report shall be verified by the oath or affirmation of



1 the owner, manager, or president of the licensee. The report  
2 must be filed with the Director no later than March 1 of the  
3 year following the year for which the report discloses the  
4 information specified in this subsection (b). The Director may  
5 impose upon the licensee a fine of \$25 per day for each day  
6 beyond the filing deadline that the report is not filed.

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

13 (d) The Division shall have the authority to conduct  
14 examinations of the books, records, and loan documents at any  
15 time.

16 Section 2-60. Advertising.

17 (a) Advertising for loans transacted under this Act may not  
18 be false, misleading, or deceptive. Payday loan advertising, if  
19 it states a rate or amount of charge for a loan, must state the  
20 rate as an annual percentage rate. No licensee may advertise in  
21 any manner so as to indicate or imply that its rates or charges  
22 for loans are in any way recommended, approved, set, or  
23 established by the State government or by this Act.

24 (b) If any advertisement to which this Section applies  
25 states the amount of any installment payment, the dollar amount  
26 of any finance charge, or the number of installments or the  
27 period of repayment, then the advertisement shall state all of  
28 the following items:

29 (1) The amount of the loan.

30 (2) The number, amount, and due dates or period of  
31 payments scheduled to repay the indebtedness if the credit  
32 is extended.

33 (3) The finance charge expressed as an annual

1 percentage rate.

2 Article 3. Licensure

3 Section 3-3. Licensure requirement.

4 (a) Except as provided in subsection (b), on and after the  
5 effective date of this Act, a person or entity acting as a  
6 payday lender must be licensed by the Division as provided in  
7 this Article.

8 (b) A person or entity acting as a payday lender who is  
9 licensed on the effective date of this Act under the Consumer  
10 Installment Loan Act need not comply with subsection (a) until  
11 the Division takes action on the person's or entity's  
12 application for a payday loan license. The application must be  
13 submitted to the Division within 9 months after the effective  
14 date of this Act. If the application is not submitted within 9  
15 months after the effective date of this Act, the person or  
16 entity acting as a payday lender is subject to subsection (a).

17 Section 3-5. Licensure.

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

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

28 (1) that the financial responsibility, experience,  
29 character, and general fitness of the applicant are such as  
30 to command the confidence of the public and to warrant the  
31 belief that the business will be operated lawfully and

1           fairly and within the provisions and purposes of this Act;  
2           and

3                 (2) that the applicant has submitted such other  
4           information as the Director may deem necessary.

5                 (c) A license shall be issued for no longer than one year,  
6           and no renewal of a license may be provided if a licensee has  
7           substantially violated this Act and has not cured the violation  
8           to the satisfaction of the Division.

9                 (d) A licensee shall appoint, in writing, the Director as  
10          attorney-in-fact upon whom all lawful process against the  
11          licensee may be served with the same legal force and validity  
12          as if served on the licensee. A copy of the written  
13          appointment, duly certified, shall be filed in the office of  
14          the Director, and a copy thereof certified by the Director  
15          shall be sufficient evidence to subject a licensee to  
16          jurisdiction in a court of law. This appointment shall remain  
17          in effect while any liability remains outstanding in this State  
18          against the licensee. When summons is served upon the Director  
19          as attorney-in-fact for a licensee, the Director shall  
20          immediately notify the licensee by registered mail, enclosing  
21          the summons and specifying the hour and day of service.

22                 (e) A licensee must pay an annual fee of \$1,000. In  
23          addition to the license fee, the reasonable expense of any  
24          examination or hearing by the Director under any provisions of  
25          this Act shall be borne by the licensee. If a licensee fails to  
26          renew its license by December 31, its license shall  
27          automatically expire; however, the Director, in his or her  
28          discretion, may reinstate an expired license upon:

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

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

32                 (f) Not more than one place of business shall be maintained  
33          under the same license, but the Director may issue more than  
34          one license to the same licensee upon compliance with all the

1 provisions of this Act governing issuance of a single license.  
2 The location, except those locations already in existence as of  
3 June 1, 2005, may not be within one mile of a horse race track  
4 subject to the Illinois Horse Racing Act of 1975, within one  
5 mile of a facility at which gambling is conducted under the  
6 Riverboat Gambling Act, within one mile of the location at  
7 which a riverboat subject to the Riverboat Gambling Act docks,  
8 or within one mile of any State of Illinois or United States  
9 military base or naval installation.

10 (g) No licensee shall conduct the business of making loans  
11 under this Act within any office, suite, room, or place of  
12 business in which any other business is solicited or engaged in  
13 unless the other business is licensed by the Division or, in  
14 the opinion of the Director, the other business would not be  
15 contrary to the best interests of consumers and is authorized  
16 by the Director in writing.

17 (h) The Director shall maintain a list of licensees that  
18 shall be available to interested consumers and lenders and the  
19 public. The Director shall maintain a toll-free number whereby  
20 consumers may obtain information about licensees. The Director  
21 shall also establish a complaint process under which an  
22 aggrieved consumer may file a complaint against a licensee or  
23 non-licensee who violates any provision of this Act.

24 Section 3-10. Closing of business; surrender of license. At  
25 least 10 days before a licensee ceases operations, closes the  
26 business, or files for bankruptcy, the licensee shall:

27 (1) Notify the Division of its intended action in  
28 writing.

29 (2) With the exception of filing for bankruptcy,  
30 surrender its license to the Director for cancellation. The  
31 surrender of the license shall not affect the licensee's  
32 civil or criminal liability for acts committed before or  
33 after the surrender or entitle the licensee to a return of

1 any part of the annual license fee.

2 (3) Notify the Division of the location where the  
3 books, accounts, contracts, and records will be  
4 maintained.

5 The accounts, books, records, and contracts shall be  
6 maintained and serviced by the licensee, by another licensee  
7 under this Act, or by the Division.

8 Article 4. Administrative Provisions

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

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

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

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

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

25 (5) Knowingly accepting payment in whole or in part of  
26 a payday loan through the proceeds of another payday loan  
27 provided by any licensee.

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

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

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

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

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

10           (A) a confession of judgment clause;

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

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

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

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

25           (12) Taking any power of attorney.

26           (13) Taking any security interest in real estate.

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

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

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

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

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

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

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

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

14           Section 4-10. Enforcement and remedies.

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

17           (b) Any material violation of this Act, including the  
18 commission of an act prohibited under Section 4-5, constitutes  
19 a violation of the Consumer Fraud and Deceptive Business  
20 Practices Act.

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

24           (d) Subject to the Illinois Administrative Procedure Act,  
25 the Director may hold hearings, make findings of fact,  
26 conclusions of law, issue cease and desist orders, have the  
27 power to issue fines of up to \$10,000 per violation, refer the  
28 matter to the appropriate law enforcement agency for  
29 prosecution under this Act, and suspend or revoke a license  
30 granted under this Act. All proceedings shall be open to the  
31 public.

32           (e) The Director may issue a cease and desist order to any  
33 licensee or other person doing business without the required

1 license, when in the opinion of the Director the licensee or  
2 other person is violating or is about to violate any provision  
3 of this Act or any rule or requirement imposed in writing by  
4 the Division as a condition of granting any authorization  
5 permitted by this Act. The cease and desist order permitted by  
6 this subsection (e) may be issued prior to a hearing.

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

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

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

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

28 The cost for the administrative hearing under this  
29 subsection (e) shall be paid by the lender.

30 (f) The Director may, after 10 days notice by registered  
31 mail to the licensee at the address set forth in the license  
32 stating the contemplated action and in general the grounds  
33 therefore, fine the licensee an amount not exceeding \$10,000  
34 per violation, or revoke or suspend any license issued



1 hereunder if he or she finds that:

2 (1) the licensee has failed to comply with any  
3 provision of this Act or any order, decision, finding,  
4 rule, regulation, or direction of the Director lawfully  
5 made pursuant to the authority of this Act; or

6 (2) any fact or condition exists which, if it had  
7 existed at the time of the original application for the  
8 license, clearly would have warranted the Director in  
9 refusing to issue the license.

10 The Director may fine, suspend, or revoke only the  
11 particular license with respect to which grounds for the fine,  
12 revocation, or suspension occur or exist, but if the Director  
13 finds that grounds for revocation are of general application to  
14 all offices or to more than one office of the licensee, the  
15 Director shall fine, suspend, or revoke every license to which  
16 the grounds apply.

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

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

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

31 An order assessing a fine, an order revoking or suspending  
32 a license, or an order denying renewal of a license shall take  
33 effect upon service of the order unless the licensee requests a  
34 hearing, in writing, within 10 days after the date of service.

1 In the event a hearing is requested, the order shall be stayed  
2 until a final administrative order is entered.

3 If the licensee requests a hearing, the Director shall  
4 schedule a hearing within 30 days after the request for a  
5 hearing unless otherwise agreed to by the parties.

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

13 The costs for the administrative hearing shall be paid by  
14 the lender.

15 Section 4-15. Bonding.

16 (a) A person or entity engaged in making payday loans under  
17 this Act shall post a bond to the Division in the amount of  
18 \$50,000 for each location where loans will be made, up to a  
19 maximum bond amount of \$500,000.

20 (b) A bond posted under subsection (a) must continue in  
21 effect for the period of licensure and for 3 additional years  
22 if the bond is still available. The bond must be available to  
23 pay damages and penalties to a consumer harmed by a violation  
24 of this Act.

25 (c) From time to time the Director may require a licensee  
26 to file a bond in an additional sum if the Director determines  
27 it to be necessary. In no case shall the bond be more than the  
28 outstanding liabilities of the licensee.

29 Section 4-20. Preemption of administrative rules. Any  
30 administrative rule promulgated prior to the effective date of  
31 this Act by the Division regarding payday loans is preempted.

1           Section 4-25. Reporting of violations. The Division shall  
2 report to the Attorney General all material violations of this  
3 Act of which it becomes aware.

4           Section 4-30. Rulemaking; industry review.

5           (a) The Division may make and enforce such reasonable  
6 rules, regulations, directions, orders, decisions, and  
7 findings as the execution and enforcement of the provisions of  
8 this Act require, and as are not inconsistent therewith. All  
9 rules, regulations, and directions of a general character shall  
10 be printed and copies thereof mailed to all licensees.

11           (b) Within 6 months after the effective of this Act, the  
12 Department of Financial and Professional Regulation shall  
13 promulgate reasonable rules regarding the issuance of payday  
14 loans by banks, savings banks, savings and loan associations,  
15 credit unions, and insurance companies. These rules shall be  
16 consistent with this Act and shall be limited in scope to the  
17 actual products and services offered by lenders governed by  
18 this Act.

19           (c) After the effective date of this Act, the Division  
20 shall, over a 3-year period, conduct a study of the payday loan  
21 industry to determine the impact and effectiveness of this Act.  
22 The Division shall report its findings to the General Assembly  
23 within 3 months of the third anniversary of the effective date  
24 of this Act. The study shall determine the effect of this Act  
25 on the protection of consumers in this State and on the fair  
26 and reasonable regulation of the payday loan industry. The  
27 study shall include, but shall not be limited to, an analysis  
28 of the ability of the industry to use private reporting tools  
29 that:

30           (1) ensure substantial compliance with this Act,  
31 including real time reporting of outstanding payday loans;  
32 and

33           (2) provide data to the Division in an appropriate form

1 and with appropriate content to allow the Division to  
2 adequately monitor the industry.

3 The report of the Division shall, if necessary, identify  
4 and recommend specific amendments to this Act to further  
5 protect consumers and to guarantee fair and reasonable  
6 regulation of the payday loan industry.

7 Section 4-35. Judicial review. All final administrative  
8 decisions of the Division under this Act are subject to  
9 judicial review pursuant to the provisions of the  
10 Administrative Review Law and any rules adopted pursuant  
11 thereto.

12 Section 4-40. No waivers. There shall be no waiver of any  
13 provision of this Act.

14 Section 4-45. Superiority of Act. To the extent this Act  
15 conflicts with any other State financial regulation laws, this  
16 Act is superior and supersedes those laws for the purposes of  
17 regulating payday loans in Illinois, provided that nothing  
18 herein shall apply to any lender that is a bank, savings bank,  
19 savings and loan association, credit union, or insurance  
20 company organized, chartered, or holding a certificate of  
21 authority to do business under the laws of this State or any  
22 other state or under the laws of the United States.

23 Section 4-50. Severability. The provisions of this Act are  
24 severable under Section 1.31 of the Statute on Statutes.

25 Article 90. Amendatory Provisions

26 Section 90-3. The Freedom of Information Act is amended by  
27 changing Section 7 as follows:

1 (5 ILCS 140/7) (from Ch. 116, par. 207)

2 Sec. 7. Exemptions.

3 (1) The following shall be exempt from inspection and  
4 copying:

5 (a) Information specifically prohibited from  
6 disclosure by federal or State law or rules and regulations  
7 adopted under federal or State law.

8 (b) Information that, if disclosed, would constitute a  
9 clearly unwarranted invasion of personal privacy, unless  
10 the disclosure is consented to in writing by the individual  
11 subjects of the information. The disclosure of information  
12 that bears on the public duties of public employees and  
13 officials shall not be considered an invasion of personal  
14 privacy. Information exempted under this subsection (b)  
15 shall include but is not limited to:

16 (i) files and personal information maintained with  
17 respect to clients, patients, residents, students or  
18 other individuals receiving social, medical,  
19 educational, vocational, financial, supervisory or  
20 custodial care or services directly or indirectly from  
21 federal agencies or public bodies;

22 (ii) personnel files and personal information  
23 maintained with respect to employees, appointees or  
24 elected officials of any public body or applicants for  
25 those positions;

26 (iii) files and personal information maintained  
27 with respect to any applicant, registrant or licensee  
28 by any public body cooperating with or engaged in  
29 professional or occupational registration, licensure  
30 or discipline;

31 (iv) information required of any taxpayer in  
32 connection with the assessment or collection of any tax  
33 unless disclosure is otherwise required by State  
34 statute;

1 (v) information revealing the identity of persons  
2 who file complaints with or provide information to  
3 administrative, investigative, law enforcement or  
4 penal agencies; provided, however, that identification  
5 of witnesses to traffic accidents, traffic accident  
6 reports, and rescue reports may be provided by agencies  
7 of local government, except in a case for which a  
8 criminal investigation is ongoing, without  
9 constituting a clearly unwarranted per se invasion of  
10 personal privacy under this subsection; and

11 (vi) the names, addresses, or other personal  
12 information of participants and registrants in park  
13 district, forest preserve district, and conservation  
14 district programs.

15 (c) Records compiled by any public body for  
16 administrative enforcement proceedings and any law  
17 enforcement or correctional agency for law enforcement  
18 purposes or for internal matters of a public body, but only  
19 to the extent that disclosure would:

20 (i) interfere with pending or actually and  
21 reasonably contemplated law enforcement proceedings  
22 conducted by any law enforcement or correctional  
23 agency;

24 (ii) interfere with pending administrative  
25 enforcement proceedings conducted by any public body;

26 (iii) deprive a person of a fair trial or an  
27 impartial hearing;

28 (iv) unavoidably disclose the identity of a  
29 confidential source or confidential information  
30 furnished only by the confidential source;

31 (v) disclose unique or specialized investigative  
32 techniques other than those generally used and known or  
33 disclose internal documents of correctional agencies  
34 related to detection, observation or investigation of

1 incidents of crime or misconduct;

2 (vi) constitute an invasion of personal privacy  
3 under subsection (b) of this Section;

4 (vii) endanger the life or physical safety of law  
5 enforcement personnel or any other person; or

6 (viii) obstruct an ongoing criminal investigation.

7 (d) Criminal history record information maintained by  
8 State or local criminal justice agencies, except the  
9 following which shall be open for public inspection and  
10 copying:

11 (i) chronologically maintained arrest information,  
12 such as traditional arrest logs or blotters;

13 (ii) the name of a person in the custody of a law  
14 enforcement agency and the charges for which that  
15 person is being held;

16 (iii) court records that are public;

17 (iv) records that are otherwise available under  
18 State or local law; or

19 (v) records in which the requesting party is the  
20 individual identified, except as provided under part  
21 (vii) of paragraph (c) of subsection (1) of this  
22 Section.

23 "Criminal history record information" means data  
24 identifiable to an individual and consisting of  
25 descriptions or notations of arrests, detentions,  
26 indictments, informations, pre-trial proceedings, trials,  
27 or other formal events in the criminal justice system or  
28 descriptions or notations of criminal charges (including  
29 criminal violations of local municipal ordinances) and the  
30 nature of any disposition arising therefrom, including  
31 sentencing, court or correctional supervision,  
32 rehabilitation and release. The term does not apply to  
33 statistical records and reports in which individuals are  
34 not identified and from which their identities are not

1 ascertainable, or to information that is for criminal  
2 investigative or intelligence purposes.

3 (e) Records that relate to or affect the security of  
4 correctional institutions and detention facilities.

5 (f) Preliminary drafts, notes, recommendations,  
6 memoranda and other records in which opinions are  
7 expressed, or policies or actions are formulated, except  
8 that a specific record or relevant portion of a record  
9 shall not be exempt when the record is publicly cited and  
10 identified by the head of the public body. The exemption  
11 provided in this paragraph (f) extends to all those records  
12 of officers and agencies of the General Assembly that  
13 pertain to the preparation of legislative documents.

14 (g) Trade secrets and commercial or financial  
15 information obtained from a person or business where the  
16 trade secrets or information are proprietary, privileged  
17 or confidential, or where disclosure of the trade secrets  
18 or information may cause competitive harm, including all  
19 information determined to be confidential under Section  
20 4002 of the Technology Advancement and Development Act.  
21 Nothing contained in this paragraph (g) shall be construed  
22 to prevent a person or business from consenting to  
23 disclosure.

24 (h) Proposals and bids for any contract, grant, or  
25 agreement, including information which if it were  
26 disclosed would frustrate procurement or give an advantage  
27 to any person proposing to enter into a contractor  
28 agreement with the body, until an award or final selection  
29 is made. Information prepared by or for the body in  
30 preparation of a bid solicitation shall be exempt until an  
31 award or final selection is made.

32 (i) Valuable formulae, computer geographic systems,  
33 designs, drawings and research data obtained or produced by  
34 any public body when disclosure could reasonably be



1 expected to produce private gain or public loss. The  
2 exemption for "computer geographic systems" provided in  
3 this paragraph (i) does not extend to requests made by news  
4 media as defined in Section 2 of this Act when the  
5 requested information is not otherwise exempt and the only  
6 purpose of the request is to access and disseminate  
7 information regarding the health, safety, welfare, or  
8 legal rights of the general public.

9 (j) Test questions, scoring keys and other examination  
10 data used to administer an academic examination or  
11 determined the qualifications of an applicant for a license  
12 or employment.

13 (k) Architects' plans, engineers' technical  
14 submissions, and other construction related technical  
15 documents for projects not constructed or developed in  
16 whole or in part with public funds and the same for  
17 projects constructed or developed with public funds, but  
18 only to the extent that disclosure would compromise  
19 security, including but not limited to water treatment  
20 facilities, airport facilities, sport stadiums, convention  
21 centers, and all government owned, operated, or occupied  
22 buildings.

23 (l) Library circulation and order records identifying  
24 library users with specific materials.

25 (m) Minutes of meetings of public bodies closed to the  
26 public as provided in the Open Meetings Act until the  
27 public body makes the minutes available to the public under  
28 Section 2.06 of the Open Meetings Act.

29 (n) Communications between a public body and an  
30 attorney or auditor representing the public body that would  
31 not be subject to discovery in litigation, and materials  
32 prepared or compiled by or for a public body in  
33 anticipation of a criminal, civil or administrative  
34 proceeding upon the request of an attorney advising the

1 public body, and materials prepared or compiled with  
2 respect to internal audits of public bodies.

3 (o) Information received by a primary or secondary  
4 school, college or university under its procedures for the  
5 evaluation of faculty members by their academic peers.

6 (p) Administrative or technical information associated  
7 with automated data processing operations, including but  
8 not limited to software, operating protocols, computer  
9 program abstracts, file layouts, source listings, object  
10 modules, load modules, user guides, documentation  
11 pertaining to all logical and physical design of  
12 computerized systems, employee manuals, and any other  
13 information that, if disclosed, would jeopardize the  
14 security of the system or its data or the security of  
15 materials exempt under this Section.

16 (q) Documents or materials relating to collective  
17 negotiating matters between public bodies and their  
18 employees or representatives, except that any final  
19 contract or agreement shall be subject to inspection and  
20 copying.

21 (r) Drafts, notes, recommendations and memoranda  
22 pertaining to the financing and marketing transactions of  
23 the public body. The records of ownership, registration,  
24 transfer, and exchange of municipal debt obligations, and  
25 of persons to whom payment with respect to these  
26 obligations is made.

27 (s) The records, documents and information relating to  
28 real estate purchase negotiations until those negotiations  
29 have been completed or otherwise terminated. With regard to  
30 a parcel involved in a pending or actually and reasonably  
31 contemplated eminent domain proceeding under Article VII  
32 of the Code of Civil Procedure, records, documents and  
33 information relating to that parcel shall be exempt except  
34 as may be allowed under discovery rules adopted by the

1 Illinois Supreme Court. The records, documents and  
2 information relating to a real estate sale shall be exempt  
3 until a sale is consummated.

4 (t) Any and all proprietary information and records  
5 related to the operation of an intergovernmental risk  
6 management association or self-insurance pool or jointly  
7 self-administered health and accident cooperative or pool.

8 (u) Information concerning a university's adjudication  
9 of student or employee grievance or disciplinary cases, to  
10 the extent that disclosure would reveal the identity of the  
11 student or employee and information concerning any public  
12 body's adjudication of student or employee grievances or  
13 disciplinary cases, except for the final outcome of the  
14 cases.

15 (v) Course materials or research materials used by  
16 faculty members.

17 (w) Information related solely to the internal  
18 personnel rules and practices of a public body.

19 (x) Information contained in or related to  
20 examination, operating, or condition reports prepared by,  
21 on behalf of, or for the use of a public body responsible  
22 for the regulation or supervision of financial  
23 institutions or insurance companies, unless disclosure is  
24 otherwise required by State law.

25 (y) Information the disclosure of which is restricted  
26 under Section 5-108 of the Public Utilities Act.

27 (z) Manuals or instruction to staff that relate to  
28 establishment or collection of liability for any State tax  
29 or that relate to investigations by a public body to  
30 determine violation of any criminal law.

31 (aa) Applications, related documents, and medical  
32 records received by the Experimental Organ Transplantation  
33 Procedures Board and any and all documents or other records  
34 prepared by the Experimental Organ Transplantation

1 Procedures Board or its staff relating to applications it  
2 has received.

3 (bb) Insurance or self insurance (including any  
4 intergovernmental risk management association or self  
5 insurance pool) claims, loss or risk management  
6 information, records, data, advice or communications.

7 (cc) Information and records held by the Department of  
8 Public Health and its authorized representatives relating  
9 to known or suspected cases of sexually transmissible  
10 disease or any information the disclosure of which is  
11 restricted under the Illinois Sexually Transmissible  
12 Disease Control Act.

13 (dd) Information the disclosure of which is exempted  
14 under Section 30 of the Radon Industry Licensing Act.

15 (ee) Firm performance evaluations under Section 55 of  
16 the Architectural, Engineering, and Land Surveying  
17 Qualifications Based Selection Act.

18 (ff) Security portions of system safety program plans,  
19 investigation reports, surveys, schedules, lists, data, or  
20 information compiled, collected, or prepared by or for the  
21 Regional Transportation Authority under Section 2.11 of  
22 the Regional Transportation Authority Act or the St. Clair  
23 County Transit District under the Bi-State Transit Safety  
24 Act.

25 (gg) Information the disclosure of which is restricted  
26 and exempted under Section 50 of the Illinois Prepaid  
27 Tuition Act.

28 (hh) Information the disclosure of which is exempted  
29 under the State Officials and Employees Ethics Act.

30 (ii) Beginning July 1, 1999, information that would  
31 disclose or might lead to the disclosure of secret or  
32 confidential information, codes, algorithms, programs, or  
33 private keys intended to be used to create electronic or  
34 digital signatures under the Electronic Commerce Security

1 Act.

2 (jj) Information contained in a local emergency energy  
3 plan submitted to a municipality in accordance with a local  
4 emergency energy plan ordinance that is adopted under  
5 Section 11-21.5-5 of the Illinois Municipal Code.

6 (kk) Information and data concerning the distribution  
7 of surcharge moneys collected and remitted by wireless  
8 carriers under the Wireless Emergency Telephone Safety  
9 Act.

10 (ll) Vulnerability assessments, security measures, and  
11 response policies or plans that are designed to identify,  
12 prevent, or respond to potential attacks upon a community's  
13 population or systems, facilities, or installations, the  
14 destruction or contamination of which would constitute a  
15 clear and present danger to the health or safety of the  
16 community, but only to the extent that disclosure could  
17 reasonably be expected to jeopardize the effectiveness of  
18 the measures or the safety of the personnel who implement  
19 them or the public. Information exempt under this item may  
20 include such things as details pertaining to the  
21 mobilization or deployment of personnel or equipment, to  
22 the operation of communication systems or protocols, or to  
23 tactical operations.

24 (mm) Maps and other records regarding the location or  
25 security of a utility's generation, transmission,  
26 distribution, storage, gathering, treatment, or switching  
27 facilities.

28 (nn) Law enforcement officer identification  
29 information or driver identification information compiled  
30 by a law enforcement agency or the Department of  
31 Transportation under Section 11-212 of the Illinois  
32 Vehicle Code.

33 (oo) Records and information provided to a residential  
34 health care facility resident sexual assault and death

1 review team or the Residential Health Care Facility  
2 Resident Sexual Assault and Death Review Teams Executive  
3 Council under the Residential Health Care Facility  
4 Resident Sexual Assault and Death Review Team Act.

5 (pp) Information contained in the database certified  
6 by the Division of Financial Institutions of the Department  
7 of Financial and Professional Regulation in accordance  
8 with Section 2-15 of the Payday Loan Reform Act.

9 (2) This Section does not authorize withholding of  
10 information or limit the availability of records to the public,  
11 except as stated in this Section or otherwise provided in this  
12 Act.

13 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,  
14 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,  
15 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;  
16 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.  
17 8-21-03; 93-617, eff. 12-9-03.)

18 Section 90-5. The Financial Institutions Code is amended by  
19 changing Sections 4 and 6 as follows:

20 (20 ILCS 1205/4) (from Ch. 17, par. 104)

21 Sec. 4. As used in this Act:

22 (a) "Department" means the Department of Financial  
23 Institutions.

24 (b) "Director" means the Director of Financial  
25 Institutions.

26 (c) "Person" means any individual, partnership, joint  
27 venture, trust, estate, firm, corporation, association or  
28 cooperative society or association.

29 (d) "Financial institutions" means ambulatory and  
30 community currency exchanges, credit unions, guaranteed credit  
31 unions, persons engaged in the business of transmitting money  
32 to foreign countries or buying and selling foreign money,

1 pawners' societies, title insuring or guaranteeing companies,  
2 and persons engaged in the business of making loans of \$800 or  
3 less, all as respectively defined in the laws referred to in  
4 Section 6 of this Act. The term includes sales finance  
5 agencies, as defined in the "Sales Finance Agency Act", enacted  
6 by the 75th General Assembly.

7 (e) "Payday loan" has the meaning ascribed to that term in  
8 the Payday Loan Reform Act.

9 (Source: Laws 1967, p. 2211.)

10 (20 ILCS 1205/6) (from Ch. 17, par. 106)

11 Sec. 6. In addition to the duties imposed elsewhere in this  
12 Act, the Department has the following powers:

13 (1) To exercise the rights, powers and duties vested by law  
14 in the Auditor of Public Accounts under "An Act to provide for  
15 the incorporation, management and regulation of pawners'  
16 societies and limiting the rate of compensation to be paid for  
17 advances, storage and insurance on pawns and pledges and to  
18 allow the loaning of money upon personal property", approved  
19 March 29, 1899, as amended.

20 (2) To exercise the rights, powers and duties vested by law  
21 in the Auditor of Public Accounts under "An Act in relation to  
22 the definition, licensing and regulation of community currency  
23 exchanges and ambulatory currency exchanges, and the operators  
24 and employees thereof, and to make an appropriation therefor,  
25 and to provide penalties and remedies for the violation  
26 thereof", approved June 30, 1943, as amended.

27 (3) To exercise the rights, powers, and duties vested by  
28 law in the Auditor of Public Accounts under "An Act in relation  
29 to the buying and selling of foreign exchange and the  
30 transmission or transfer of money to foreign countries",  
31 approved June 28, 1923, as amended.

32 (4) To exercise the rights, powers, and duties vested by  
33 law in the Auditor of Public Accounts under "An Act to provide

1 for and regulate the business of guaranteeing titles to real  
2 estate by corporations", approved May 13, 1901, as amended.

3 (5) To exercise the rights, powers and duties vested by law  
4 in the Department of Insurance under "An Act to define,  
5 license, and regulate the business of making loans of eight  
6 hundred dollars or less, permitting an interest charge thereon  
7 greater than otherwise allowed by law, authorizing and  
8 regulating the assignment of wages or salary when taken as  
9 security for any such loan or as consideration for a payment of  
10 eight hundred dollars or less, providing penalties, and to  
11 repeal Acts therein named", approved July 11, 1935, as amended.

12 (6) To administer and enforce "An Act to license and  
13 regulate the keeping and letting of safety deposit boxes,  
14 safes, and vaults, and the opening thereof, and to repeal a  
15 certain Act therein named", approved June 13, 1945, as amended.

16 (7) Whenever the Department is authorized or required by  
17 law to consider some aspect of criminal history record  
18 information for the purpose of carrying out its statutory  
19 powers and responsibilities, then, upon request and payment of  
20 fees in conformance with the requirements of Section 2605-400  
21 of the Department of State Police Law (20 ILCS 2605/2605-400),  
22 the Department of State Police is authorized to furnish,  
23 pursuant to positive identification, such information  
24 contained in State files as is necessary to fulfill the  
25 request.

26 (8) To administer the Payday Loan Reform Act.

27 (Source: P.A. 91-239, eff. 1-1-00.)

28 Section 90-10. The Consumer Installment Loan Act is amended  
29 by changing Section 21 as follows:

30 (205 ILCS 670/21) (from Ch. 17, par. 5427)

31 Sec. 21. Application of act. This Act does not apply to any  
32 person, partnership, association, limited liability company,



1 or corporation doing business under and as permitted by any law  
2 of this State or of the United States relating to banks,  
3 savings and loan associations, savings banks, credit unions, or  
4 licensees under the Residential Mortgage License Act for  
5 residential mortgage loans made pursuant to that Act. This Act  
6 does not apply to business loans. This Act does not apply to  
7 payday loans.

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

9 Section 90-15. The Consumer Fraud and Deceptive Business  
10 Practices Act is amended by changing Section 2Z as follows:

11 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

12 Sec. 2Z. Violations of other Acts. Any person who knowingly  
13 violates the Automotive Repair Act, the Home Repair and  
14 Remodeling Act, the Dance Studio Act, the Physical Fitness  
15 Services Act, the Hearing Instrument Consumer Protection Act,  
16 the Illinois Union Label Act, the Job Referral and Job Listing  
17 Services Consumer Protection Act, the Travel Promotion  
18 Consumer Protection Act, the Credit Services Organizations  
19 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call  
20 Services Consumer Protection Act, the Telephone Solicitations  
21 Act, the Illinois Funeral or Burial Funds Act, the Cemetery  
22 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery  
23 Sales Act, the High Risk Home Loan Act, the Payday Loan Reform  
24 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax  
25 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use  
26 Tax Act, the Electronic Mail Act, paragraph (6) of subsection  
27 (k) of Section 6-305 of the Illinois Vehicle Code, or the  
28 Automatic Contract Renewal Act commits an unlawful practice  
29 within the meaning of this Act.

30 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,  
31 eff. 1-1-05.)

1 Article 99. Effective Date

2 Section 99. Effective date. This Act takes effect 90 days  
3 after becoming law.".