

1 AN ACT concerning regulation.

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

4 Section 5. The Consumer Installment Loan Act is amended by  
5 changing Section 20 as follows:

6 (205 ILCS 670/20) (from Ch. 17, par. 5426)

7 Sec. 20. Penalties for violation.

8 (a) Any person who engages in business as a Consumer  
9 Installment Loan lender without the license required by this  
10 Act shall be guilty of a Class 4 felony.

11 (b) The obligor, prior to the expiration of 2 years after  
12 the date of his last scheduled payment, may recover such  
13 reasonable attorney's fees and court costs as a court may  
14 assess against such licensee or lender for a violation of  
15 Sections 1, 12, 15, 15a, 15b, 15d, 15e, 16, 17, 18, or 19.1.  
16 The balance due under the terms of the loan contract shall be  
17 reduced by the amount which the obligor is thus entitled to  
18 recover. A bona fide error by a licensee in calculating charges  
19 or rebates is not a violation if the licensee corrects the  
20 error within a reasonable time, after discovery.

21 (b-5) A license issued under this Act may be revoked if the  
22 licensee, or any directors, managers of a limited liability  
23 company, partners, or officer thereof is convicted of a felony.

1 (c) No provision of this Section imposing any liability  
2 shall apply to any act done or omitted in conformity with any  
3 rule or regulation or written interpretation thereof by the  
4 Department of Financial and Professional Regulation, Division  
5 of Financial Institutions, notwithstanding that after such act  
6 or omission has occurred, such rule, regulation or  
7 interpretation is amended, rescinded or determined by judicial  
8 or other authority to be invalid for any reason. All  
9 interpretations issued after January 1, 1998 must be written  
10 and signed by the Department's Chief Counsel and approved by  
11 the Director.

12 (d) Notwithstanding any other provision of this Section, if  
13 any person who does not have a license issued under this Act  
14 makes a loan pursuant to this Act to an Illinois consumer, then  
15 the loan shall be null and void and the person who made the  
16 loan shall have no right to collect, receive, or retain any  
17 principal, interest, or charges related to the loan.

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

19 Section 10. The Payday Loan Reform Act is amended by  
20 changing Section 4-10 as follows:

21 (815 ILCS 122/4-10)

22 Sec. 4-10. Enforcement and remedies.

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

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

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

8           (d) Subject to the Illinois Administrative Procedure Act,  
9 the Secretary may hold hearings, make findings of fact,  
10 conclusions of law, issue cease and desist orders, have the  
11 power to issue fines of up to \$10,000 per violation, refer the  
12 matter to the appropriate law enforcement agency for  
13 prosecution under this Act, and suspend or revoke a license  
14 granted under this Act. All proceedings shall be open to the  
15 public.

16           (e) The Secretary may issue a cease and desist order to any  
17 licensee or other person doing business without the required  
18 license, when in the opinion of the Secretary the licensee or  
19 other person is violating or is about to violate any provision  
20 of this Act or any rule or requirement imposed in writing by  
21 the Department as a condition of granting any authorization  
22 permitted by this Act. The cease and desist order permitted by  
23 this subsection (e) may be issued prior to a hearing.

24           The Secretary shall serve notice of his or her action,  
25 including, but not limited to, a statement of the reasons for  
26 the action, either personally or by certified mail, return

1 receipt requested. Service by certified mail shall be deemed  
2 completed when the notice is deposited in the U.S. Mail.

3 Within 10 days of service of the cease and desist order,  
4 the licensee or other person may request a hearing in writing.  
5 The Secretary shall schedule a hearing within 30 days after the  
6 request for a hearing unless otherwise agreed to by the  
7 parties.

8 If it is determined that the Secretary had the authority to  
9 issue the cease and desist order, he or she may issue such  
10 orders as may be reasonably necessary to correct, eliminate, or  
11 remedy the conduct.

12 The powers vested in the Secretary by this subsection (e)  
13 are additional to any and all other powers and remedies vested  
14 in the Secretary by law, and nothing in this subsection (e)  
15 shall be construed as requiring that the Secretary shall employ  
16 the power conferred in this subsection instead of or as a  
17 condition precedent to the exercise of any other power or  
18 remedy vested in the Secretary.

19 (f) The Secretary may, after 10 days notice by registered  
20 mail to the licensee at the address set forth in the license  
21 stating the contemplated action and in general the grounds  
22 therefore, fine the licensee an amount not exceeding \$10,000  
23 per violation, or revoke or suspend any license issued  
24 hereunder if he or she finds that:

25 (1) the licensee has failed to comply with any  
26 provision of this Act or any order, decision, finding,

1 rule, regulation, or direction of the Secretary lawfully  
2 made pursuant to the authority of this Act; or

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

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

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

17 The Secretary may issue a new license to a licensee whose  
18 license has been revoked when facts or conditions which clearly  
19 would have warranted the Secretary in refusing originally to  
20 issue the license no longer exist.

21 In every case in which a license is suspended or revoked or  
22 an application for a license or renewal of a license is denied,  
23 the Secretary shall serve the licensee with notice of his or  
24 her action, including a statement of the reasons for his or her  
25 actions, either personally, or by certified mail, return  
26 receipt requested. Service by certified mail shall be deemed

1 completed when the notice is deposited in the U.S. Mail.

2 An order assessing a fine, an order revoking or suspending  
3 a license, or an order denying renewal of a license shall take  
4 effect upon service of the order unless the licensee requests a  
5 hearing, in writing, within 10 days after the date of service.  
6 In the event a hearing is requested, the order shall be stayed  
7 until a final administrative order is entered.

8 If the licensee requests a hearing, the Secretary shall  
9 schedule a hearing within 30 days after the request for a  
10 hearing unless otherwise agreed to by the parties.

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

19 (g) The costs of administrative hearings conducted  
20 pursuant to this Section shall be paid by the licensee.

21 (h) Notwithstanding any other provision of this Section, if  
22 a lender who does not have a license issued under this Act  
23 makes a loan pursuant to this Act to an Illinois consumer, then  
24 the loan shall be null and void and the lender who made the  
25 loan shall have no right to collect, receive, or retain any  
26 principal, interest, or charges related to the loan.

1 (Source: P.A. 94-13, eff. 12-6-05.)

2 Section 99. Effective date. This Act takes effect January  
3 1, 2013.