



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB2383

Introduced 2/15/2013, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

205 ILCS 670/1	from Ch. 17, par. 5401
205 ILCS 670/12	from Ch. 17, par. 5412
205 ILCS 670/19.2	
815 ILCS 122/2-5	
815 ILCS 122/3-5	

Amends the Consumer Installment Loan Act. Provides that no licensee shall conduct the business of making loans under the Act within any office, suite, room, or other place of business in which any other business is solicited or engaged unless the other business is licensed by any licensing authority in this State or, in the opinion of the Director of Financial Institutions, the other business would not be contrary to the best interests of consumers. Amends the Payday Loan Reform Act. Provides that no licensee shall conduct the business of making loans under the Act within any office, suite, room, or place of business in which any other business is solicited or engaged in unless the other business is licensed by any licensing authority in this State or, in the opinion of the Secretary of Financial and Professional Regulation, the other business would not be contrary to the best interests of consumers and is authorized by the Secretary of in writing. Changes the maximum time period for payday loans to 182 days (was 180 days). Effective immediately.

LRB098 10436 MGM 40648 b

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 Sections 1, 12, and 19.2 as follows:

6 (205 ILCS 670/1) (from Ch. 17, par. 5401)

7 Sec. 1. License required to engage in business. No person,  
8 partnership, association, limited liability company, or  
9 corporation shall engage in the business of making loans of  
10 money in a principal amount not exceeding \$40,000, and charge,  
11 contract for, or receive on any such loan a greater rate of  
12 interest, discount, or consideration therefor than the lender  
13 would be permitted by law to charge if he were not a licensee  
14 hereunder, except as authorized by this Act after first  
15 obtaining a license from the Director of Financial Institutions  
16 (hereinafter called the Director). ~~No licensee, or employee or~~  
17 ~~affiliate thereof, that is licensed under the Payday Loan~~  
18 ~~Reform Act shall obtain a license under this Act except that a~~  
19 ~~licensee under the Payday Loan Reform Act may obtain a license~~  
20 ~~under this Act for the exclusive purpose and use of making~~  
21 ~~title secured loans, as defined in subsection (a) of Section 15~~  
22 ~~of this Act and governed by Title 38, Section 110.300 of the~~  
23 ~~Illinois Administrative Code. For the purpose of this Section,~~

1 ~~"affiliate" means any person or entity that directly or~~  
2 ~~indirectly controls, is controlled by, or shares control with~~  
3 ~~another person or entity. A person or entity has control over~~  
4 ~~another if the person or entity has an ownership interest of~~  
5 ~~25% or more in the other.~~

6 (Source: P.A. 96-936, eff. 3-21-11; 97-420, eff. 1-1-12.)

7 (205 ILCS 670/12) (from Ch. 17, par. 5412)

8 Sec. 12. Other business.

9 (a) No licensee shall conduct the business of making loans  
10 under this Act within any office, suite, room, or other place  
11 of business in which any other business is solicited or engaged  
12 unless the other business is licensed by any licensing  
13 authority in this State or, in the opinion of the Director, the  
14 other business would not be contrary to the best interests of  
15 consumers and is authorized by the Director in writing. ~~Upon~~  
16 ~~application by the licensee, and approval by the Director, the~~  
17 ~~Director may approve the conduct of other businesses not~~  
18 ~~specifically permitted by this Act in the licensee's place of~~  
19 ~~business, unless the Director finds that such conduct will~~  
20 ~~conceal or facilitate evasion or violation of this Act. Such~~  
21 ~~approval shall be in writing and shall describe the other~~  
22 ~~businesses which may be conducted in the licensed office.~~

23 (b) Notwithstanding subsection (a) of this Section, a A  
24 licensee may, without ~~notice to and~~ approval of the Director,  
25 in addition to the business permitted by this Act, conduct the

1 following business:

2 (1) The business of a sales finance agency as defined  
3 in the Sales Finance Agency Act.

4 (2) The business of soliciting or selling any type of  
5 insurance provided that all such insurance transactions  
6 are conducted in accordance with and are regulated under  
7 the Illinois Insurance Code.

8 (3) The business of financing premiums for insurance.

9 (4) Making loans pursuant to the Financial Services  
10 Development Act.

11 The Director shall make and enforce such reasonable rules and  
12 regulations for the conduct of business under this Act in the  
13 same office with other businesses as may be necessary to  
14 prevent evasions or violations of this Act. The Director may  
15 investigate any business conducted in the licensed office to  
16 determine whether any evasion or violation of this Act has  
17 occurred.

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

19 (205 ILCS 670/19.2)

20 Sec. 19.2. Licensee; prohibition against accepting certain  
21 checks. At the time a loan is made under this Act, or within 20  
22 days after a loan is made, a licensee shall not (i) accept a  
23 check and agree to hold it for a period of days before deposit  
24 or presentment or (ii) accept a check dated subsequent to the  
25 date written.

1 (Source: P.A. 96-936, eff. 3-21-11.)

2 Section 10. The Payday Loan Reform Act is amended by  
3 changing Sections 2-5 and 3-5 as follows:

4 (815 ILCS 122/2-5)

5 Sec. 2-5. Loan terms.

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

9 (b) Except for an installment payday loan as defined in  
10 this Section, no payday loan may be made to a consumer if the  
11 loan would result in the consumer being indebted to one or more  
12 payday lenders for a period in excess of 45 consecutive days.  
13 Except as provided under subsection (c) of this Section and  
14 Section 2-40, if a consumer has or has had loans outstanding  
15 for a period in excess of 45 consecutive days, no payday lender  
16 may offer or make a loan to the consumer for at least 7  
17 calendar days after the date on which the outstanding balance  
18 of all payday loans made during the 45 consecutive day period  
19 is paid in full. For purposes of this subsection, the term  
20 "consecutive days" means a series of continuous calendar days  
21 in which the consumer has an outstanding balance on one or more  
22 payday loans; however, if a payday loan is made to a consumer  
23 within 6 days or less after the outstanding balance of all  
24 loans is paid in full, those days are counted as "consecutive

1 days" for purposes of this subsection.

2 (c) Notwithstanding anything in this Act to the contrary, a  
3 payday loan shall also include any installment loan otherwise  
4 meeting the definition of payday loan contained in Section  
5 1-10, but that has a term agreed by the parties of not less  
6 than 112 days and not exceeding 182 ~~180~~ days; hereinafter an  
7 "installment payday loan". The following provisions shall  
8 apply:

9 (i) Any installment payday loan must be fully  
10 amortizing, with a finance charge calculated on the  
11 principal balances scheduled to be outstanding and be  
12 repayable in substantially equal and consecutive  
13 installments, according to a payment schedule agreed by the  
14 parties with not less than 13 days and not more than one  
15 month between payments; except that the first installment  
16 period may be longer than the remaining installment periods  
17 by not more than 15 days, and the first installment payment  
18 may be larger than the remaining installment payments by  
19 the amount of finance charges applicable to the extra days.  
20 In calculating finance charges under this subsection, when  
21 the first installment period is longer than the remaining  
22 installment periods, the amount of the finance charges  
23 applicable to the extra days shall not be greater than  
24 \$15.50 per \$100 of the original principal balance divided  
25 by the number of days in a regularly scheduled installment  
26 period and multiplied by the number of extra days

1 determined by subtracting the number of days in a regularly  
2 scheduled installment period from the number of days in the  
3 first installment period.

4 (ii) An installment payday loan may be refinanced by a  
5 new installment payday loan one time during the term of the  
6 initial loan; provided that the total duration of  
7 indebtedness on the initial installment payday loan  
8 combined with the total term of indebtedness of the new  
9 loan refinancing that initial loan, shall not exceed 182  
10 ~~180~~ days. For purposes of this Act, a refinancing occurs  
11 when an existing installment payday loan is paid from the  
12 proceeds of a new installment payday loan.

13 (iii) In the event an installment payday loan is paid  
14 in full prior to the date on which the last scheduled  
15 installment payment before maturity is due, other than  
16 through a refinancing, no licensee may offer or make a  
17 payday loan to the consumer for at least 2 calendar days  
18 thereafter.

19 (iv) No installment payday loan may be made to a  
20 consumer if the loan would result in the consumer being  
21 indebted to one or more payday lenders for a period in  
22 excess of 182 ~~180~~ consecutive days. The term "consecutive  
23 days" does not include the date on which a consumer makes  
24 the final installment payment.

25 (d) (Blank).

26 (e) No lender may make a payday loan to a consumer if the

1 total of all payday loan payments coming due within the first  
2 calendar month of the loan, when combined with the payment  
3 amount of all of the consumer's other outstanding payday loans  
4 coming due within the same month, exceeds the lesser of:

5 (1) \$1,000; or

6 (2) in the case of one or more payday loans, 25% of the  
7 consumer's gross monthly income; or

8 (3) in the case of one or more installment payday  
9 loans, 22.5% of the consumer's gross monthly income; or

10 (4) in the case of a payday loan and an installment  
11 payday loan, 22.5% of the consumer's gross monthly income.

12 No loan shall be made to a consumer who has an outstanding  
13 balance on 2 payday loans, except that, for a period of 12  
14 months after the effective date of this amendatory Act of the  
15 96th General Assembly, consumers with an existing CILA loan may  
16 be issued an installment loan issued under this Act from the  
17 company from which their CILA loan was issued.

18 (e-5) Except as provided in subsection (c)(i), no lender  
19 may charge more than \$15.50 per \$100 loaned on any payday loan,  
20 or more than \$15.50 per \$100 on the initial principal balance  
21 and on the principal balances scheduled to be outstanding  
22 during any installment period on any installment payday loan.  
23 Except for installment payday loans and except as provided in  
24 Section 2-25, this charge is considered fully earned as of the  
25 date on which the loan is made. For purposes of determining the  
26 finance charge earned on an installment payday loan, the



1 disclosed annual percentage rate shall be applied to the  
2 principal balances outstanding from time to time until the loan  
3 is paid in full, or until the maturity date, which ever occurs  
4 first. No finance charge may be imposed after the final  
5 scheduled maturity date.

6 When any loan contract is paid in full, the licensee shall  
7 refund any unearned finance charge. The unearned finance charge  
8 that is refunded shall be calculated based on a method that is  
9 at least as favorable to the consumer as the actuarial method,  
10 as defined by the federal Truth in Lending Act. The sum of the  
11 digits or rule of 78ths method of calculating prepaid interest  
12 refunds is prohibited.

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

16 (g) A consumer has the right to redeem a check or any other  
17 item described in the definition of payday loan under Section  
18 1-10 issued in connection with a payday loan from the lender  
19 holding the check or other item at any time before the payday  
20 loan becomes payable by paying the full amount of the check or  
21 other item.

22 (Source: P.A. 96-936, eff. 3-21-11; 97-421, eff. 1-1-12.)

23 (815 ILCS 122/3-5)

24 Sec. 3-5. Licensure.

25 (a) A license to make a payday loan shall state the

1 address, including city and state, at which the business is to  
2 be conducted and shall state fully the name of the licensee.  
3 The license shall be conspicuously posted in the place of  
4 business of the licensee and shall not be transferable or  
5 assignable.

6 (b) An application for a license shall be in writing and in  
7 a form prescribed by the Secretary. The Secretary may not issue  
8 a payday loan license unless and until the following findings  
9 are made:

10 (1) that the financial responsibility, experience,  
11 character, and general fitness of the applicant are such as  
12 to command the confidence of the public and to warrant the  
13 belief that the business will be operated lawfully and  
14 fairly and within the provisions and purposes of this Act;  
15 and

16 (2) that the applicant has submitted such other  
17 information as the Secretary may deem necessary.

18 (c) A license shall be issued for no longer than one year,  
19 and no renewal of a license may be provided if a licensee has  
20 substantially violated this Act and has not cured the violation  
21 to the satisfaction of the Department.

22 (d) A licensee shall appoint, in writing, the Secretary as  
23 attorney-in-fact upon whom all lawful process against the  
24 licensee may be served with the same legal force and validity  
25 as if served on the licensee. A copy of the written  
26 appointment, duly certified, shall be filed in the office of

1 the Secretary, and a copy thereof certified by the Secretary  
2 shall be sufficient evidence to subject a licensee to  
3 jurisdiction in a court of law. This appointment shall remain  
4 in effect while any liability remains outstanding in this State  
5 against the licensee. When summons is served upon the Secretary  
6 as attorney-in-fact for a licensee, the Secretary shall  
7 immediately notify the licensee by registered mail, enclosing  
8 the summons and specifying the hour and day of service.

9 (e) A licensee must pay an annual fee of \$1,000. In  
10 addition to the license fee, the reasonable expense of any  
11 examination or hearing by the Secretary under any provisions of  
12 this Act shall be borne by the licensee. If a licensee fails to  
13 renew its license by December 31, its license shall  
14 automatically expire; however, the Secretary, in his or her  
15 discretion, may reinstate an expired license upon:

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

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

19 (f) Not more than one place of business shall be maintained  
20 under the same license, but the Secretary may issue more than  
21 one license to the same licensee upon compliance with all the  
22 provisions of this Act governing issuance of a single license.  
23 The location, except those locations already in existence as of  
24 June 1, 2005, may not be within one mile of a horse race track  
25 subject to the Illinois Horse Racing Act of 1975, within one  
26 mile of a facility at which gambling is conducted under the

1 Riverboat Gambling Act, within one mile of the location at  
2 which a riverboat subject to the Riverboat Gambling Act docks,  
3 or within one mile of any State of Illinois or United States  
4 military base or naval installation.

5 (g) No licensee shall conduct the business of making loans  
6 under this Act within any office, suite, room, or place of  
7 business in which ~~(1) any loans are offered or made under the~~  
8 ~~Consumer Installment Loan Act other than title secured loans as~~  
9 ~~defined in subsection (a) of Section 15 of the Consumer~~  
10 ~~Installment Loan Act and governed by Title 38, Section 110.330~~  
11 ~~of the Illinois Administrative Code or (2) any other business~~  
12 is solicited or engaged in unless the other business is  
13 licensed by any licensing authority in this State ~~the~~  
14 ~~Department~~ or, in the opinion of the Secretary, the other  
15 business would not be contrary to the best interests of  
16 consumers and is authorized by the Secretary in writing.

17 (g-5) (Blank). ~~Notwithstanding subsection (g) of this~~  
18 ~~Section, a licensee may obtain a license under the Consumer~~  
19 ~~Installment Loan Act (CILA) for the exclusive purpose and use~~  
20 ~~of making title secured loans, as defined in subsection (a) of~~  
21 ~~Section 15 of CILA and governed by Title 38, Section 110.300 of~~  
22 ~~the Illinois Administrative Code. A licensee may continue to~~  
23 ~~service Consumer Installment Loan Act loans that were~~  
24 ~~outstanding as of the effective date of this amendatory Act of~~  
25 ~~the 96th General Assembly.~~

26 (h) The Secretary shall maintain a list of licensees that

1 shall be available to interested consumers and lenders and the  
2 public. The Secretary shall maintain a toll-free number whereby  
3 consumers may obtain information about licensees. The  
4 Secretary shall also establish a complaint process under which  
5 an aggrieved consumer may file a complaint against a licensee  
6 or non-licensee who violates any provision of this Act.

7 (Source: P.A. 96-936, eff. 3-21-11.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law.