



Rep. Maria Antonia Berrios

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09800HB1323ham001

LRB098 07738 MGM 44296 a

1 AMENDMENT TO HOUSE BILL 1323

2 AMENDMENT NO. _____. Amend House Bill 1323 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Payday Loan Reform Act is amended by
5 changing Section 4-10 as follows:

6 (815 ILCS 122/4-10)

7 Sec. 4-10. Enforcement and remedies.

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

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

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

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

9 (e) The Secretary may issue a cease and desist order to any
10 licensee or other person doing business without the required
11 license, when in the opinion of the Secretary the licensee or
12 other person is violating or is about to violate any provision
13 of this Act or any rule or requirement imposed in writing by
14 the Department as a condition of granting any authorization
15 permitted by this Act. The cease and desist order permitted by
16 this subsection (e) may be issued prior to a hearing.

17 The Secretary shall serve notice of his or her action,
18 including, but not limited to, a statement of the reasons for
19 the action, either personally or by certified mail, return
20 receipt requested. Service by certified mail shall be deemed
21 completed when the notice is deposited in the U.S. Mail.

22 Within 10 days of service of the cease and desist order,
23 the licensee or other person may request a hearing in writing.
24 The Secretary shall schedule a hearing within 30 days after the
25 request for a hearing unless otherwise agreed to by the
26 parties.

1 If it is determined that the Secretary had the authority to
2 issue the cease and desist order, he or she may issue such
3 orders as may be reasonably necessary to correct, eliminate, or
4 remedy the conduct.

5 The powers vested in the Secretary by this subsection (e)
6 are additional to any and all other powers and remedies vested
7 in the Secretary by law, and nothing in this subsection (e)
8 shall be construed as requiring that the Secretary shall employ
9 the power conferred in this subsection instead of or as a
10 condition precedent to the exercise of any other power or
11 remedy vested in the Secretary.

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

18 (1) the licensee has failed to comply with any
19 provision of this Act or any order, decision, finding,
20 rule, regulation, or direction of the Secretary lawfully
21 made pursuant to the authority of this Act; or

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

26 The Secretary may fine, suspend, or revoke only the

1 particular license with respect to which grounds for the fine,
2 revocation, or suspension occur or exist, but if the Secretary
3 finds that grounds for revocation are of general application to
4 all offices or to more than one office of the licensee, the
5 Secretary shall fine, suspend, or revoke every license to which
6 the grounds apply.

7 The Department shall establish by rule and publish a
8 schedule of fines that are reasonably tailored to ensure
9 compliance with the provisions of this Act and which include
10 remedial measures intended to improve licensee compliance.
11 Such rules shall set forth the standards and procedures to be
12 used in imposing any such fines and remedies.

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

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

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

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

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

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

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

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

26 (Source: P.A. 97-1039, eff. 1-1-13.)

1 Section 10. The Consumer Installment Loan Act is amended by
2 changing Section 9 as follows:

3 (205 ILCS 670/9) (from Ch. 17, par. 5409)

4 Sec. 9. Fines, Suspension or Revocation of license.

5 (a) The Director may, after 10 days notice by registered
6 mail to the licensee at the address set forth in the license,
7 stating the contemplated action and in general the grounds
8 therefor, fine such licensee an amount not exceeding \$10,000
9 per violation, or revoke or suspend any license issued
10 hereunder if he or she finds that:

11 (1) The licensee has failed to comply with any
12 provision of this Act or any order, decision, finding,
13 rule, regulation or direction of the Director lawfully made
14 pursuant to the authority of this Act; or

15 (2) Any fact or condition exists which, if it had
16 existed at the time of the original application for the
17 license, clearly would have warranted the Director in
18 refusing to issue the license.

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

1 license to which such grounds apply.

2 (c) (Blank).

3 (d) No revocation, suspension, or surrender of any license
4 shall impair or affect the obligation of any pre-existing
5 lawful contract between the licensee and any obligor.

6 (e) The Director may issue a new license to a licensee
7 whose license has been revoked when facts or conditions which
8 clearly would have warranted the Director in refusing
9 originally to issue the license no longer exist.

10 (f) (Blank).

11 (g) In every case in which a license is suspended or
12 revoked or an application for a license or renewal of a license
13 is denied, the Director shall serve the licensee with notice of
14 his or her action, including a statement of the reasons for his
15 or her actions, either personally, or by certified mail, return
16 receipt requested. Service by certified mail shall be deemed
17 completed when the notice is deposited in the U.S. Mail.

18 (h) An order assessing a fine, an order revoking or
19 suspending a license or, an order denying renewal of a license
20 shall take effect upon service of the order unless the licensee
21 requests, in writing, within 10 days after the date of service,
22 a hearing. In the event a hearing is requested, the order shall
23 be stayed until a final administrative order is entered.

24 (i) If the licensee requests a hearing, the Director shall
25 schedule a hearing within 30 days after the request for a
26 hearing unless otherwise agreed to by the parties.

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

9 (k) The costs for the administrative hearing shall be set
10 by rule.

11 (l) The Director shall have the authority to prescribe
12 rules for the administration of this Section.

13 (m) The Department shall establish by rule and publish a
14 schedule of fines that are reasonably tailored to ensure
15 compliance with the provisions of this Act and which include
16 remedial measures intended to improve licensee compliance.
17 Such rules shall set forth the standards and procedures to be
18 used in imposing any such fines and remedies.

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