

AN ACT concerning regulation.

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

Section 5. The Sales Finance Agency Act is amended by changing Sections 2, 4, 6.1, 10.2, 10.6, 12, 13, 15.5, 16.5, 17, and 19 and by adding Sections 3.5, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 10.7, 10.8, 13.5, and 14.5 as follows:

(205 ILCS 660/2) (from Ch. 17, par. 5202)

Sec. 2. Definitions. In this Act, unless the context otherwise requires:

~~"Sales finance agency" means a person, irrespective of his or her state of domicile or place of business, engaged in this State, in whole or in part, in the business of purchasing, or making loans secured by, retail installment contracts, retail charge agreements or the outstanding balances under such contracts or agreements entered into in this State.~~

~~"Holder" of a retail installment contract or a retail charge agreement means the retail seller of the goods or services under the contract or charge agreement, or if the outstanding balances thereunder are purchased by or transferred as security to a sales finance agency or other assignee, the sales finance agency or other assignee.~~

~~"Person" means an individual, corporation, partnership, limited liability company, joint venture, or any other form of business association.~~

"Department" means the Department of Financial and Professional Regulation ~~Institutions~~.

~~"Director" means the Director of Financial Institutions.~~

"Holder" of a retail installment contract or a retail charge agreement means the retail seller of the goods or services under the contract or charge agreement, or if the outstanding balances thereunder are purchased by or transferred as security to a sales finance agency or other assignee, the sales finance agency or other assignee.

"Motor Vehicle Retail Installment Sales Act" and "Retail Installment Sales Act" refer to the Acts having those titles enacted by the 75th General Assembly.

"Person" means an individual, corporation, partnership, limited liability company, joint venture, or any other form of business association.

"Retail installment contract" and "retail charge agreement" have the meanings ascribed to them in the Motor Vehicle Retail Installment Sales Act and the Retail Installment Sales Act.

"Sales finance agency" means a person, irrespective of the person's state of domicile or place of business, engaged in this State, in whole or in part, in the business of purchasing or making loans secured by retail installment contracts,

retail charge agreements, or the outstanding balances under such contracts or agreements entered into in this State.

"Secretary" means the Secretary of Financial and Professional Regulation or the Secretary's designee. The Director of the Division of Financial Institutions of the Department of Financial and Professional Regulation is a designee of the Secretary under this Act.

~~"Special purpose vehicle" means an entity that, in connection with a securitization, private placement, or similar type of investment transaction, is administered by a State or national bank under a management agreement for the purpose of purchasing, making loans against, or in pools of, receivables, general intangibles, and other financial assets including retail installment contracts, retail charge agreements, or the outstanding balances or any portion of the outstanding balances under those contracts or agreements.~~

"Net Worth" means total assets minus total liabilities.

(Source: P.A. 89-400, eff. 8-20-95; 90-437, eff. 1-1-98.)

(205 ILCS 660/3.5 new)

Sec. 3.5. License application; Nationwide Multistate Licensing System and Registry.

(a) Applicants for a license shall apply in a form prescribed by the Secretary. Each form shall contain content as set forth by rule, instruction, or procedure of the Department and may be changed or updated as necessary by the

Department to carry out the purposes of this Act.

(b) To fulfill the purposes of this Act, the Secretary is authorized to establish relationships or contracts with the Nationwide Multistate Licensing System and Registry or other entities designated by the Nationwide Multistate Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing, the applicant may be required, at a minimum, to furnish to the Nationwide Multistate Licensing System and Registry information concerning the applicant's identity, including personal history and experience in a form prescribed by the Nationwide Multistate Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Licensing System and Registry and the Secretary to obtain:

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

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

(d) For the purposes of this Section, and in order to reduce the points of contact that the Secretary may have to maintain for purposes of paragraph (2) of subsection (c), the Secretary may use the Nationwide Multistate Licensing System and Registry as a channeling agent for requesting and

distributing information to and from any source as directed by the Secretary.

(205 ILCS 660/4) (from Ch. 17, par. 5204)

Sec. 4. After December 31, 1967, a person who is required to be licensed under this Act must display at each of his places of business, both physical and digital, a non-transferable and non-assignable license. A licensee who operates more than one place of business may obtain additional licenses upon compliance with this Act as to each place of business. Application for a license must be on a form prescribed and furnished by the Department. A licensee may move his place or places of business from one location to another within a county without obtaining a new license if he gives the Department at least 10 days' prior written notice of the relocation.

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

(205 ILCS 660/4.1 new)

Sec. 4.1. Licensee name. No person, partnership, association, corporation, limited liability company, or other entity engaged in a business regulated by this Act shall operate the business under a name other than the real names of the entity and individuals conducting the business. The business may, in addition, operate under an assumed corporate name pursuant to the Business Corporation Act of 1983, an

assumed limited liability company name pursuant to the Limited Liability Company Act, or an assumed business name pursuant to the Assumed Business Name Act.

(205 ILCS 660/4.2 new)

Sec. 4.2. License application process; investigation.

(a) The Secretary may issue a license upon completion of all of the following:

(1) the filing of an application for a license with the Secretary or the Nationwide Multistate Licensing System and Registry as required by the Secretary;

(2) the filing with the Secretary of a listing of judgments entered against and bankruptcy petitions by the license applicant for the preceding 10 years;

(3) the filing of an audited balance sheet, including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards; notwithstanding the requirements of this subsection, an applicant that is a subsidiary may submit audited consolidated financial statements of its parent, intermediary parent, or ultimate parent if the consolidated statements are supported by consolidating statements that include the applicant's financial statement; if the consolidating statements are unaudited, the applicant's chief financial officer shall attest to the applicant's financial statements disclosed

in the consolidating statements; and

(4) an investigation of the averments required by Section 4.4 which investigation must allow the Secretary to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant; of the members if the license applicant is a partnership or association; of the officers and directors if the license applicant is a corporation; and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this Act; if the Secretary does not so find, the Secretary shall not issue the license and shall notify the license applicant of the denial. The Secretary may impose conditions on a license if the Secretary determines that those conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for a period prescribed by the Secretary.

(b) All licenses shall be issued to the license applicant. Upon receipt of the license, a sales finance agency licensee shall be authorized to engage in the business regulated by this Act. The license shall remain in full force and effect until it expires, it is surrendered by the licensee, or it is

revoked or suspended as provided by this Act.

(c) The Secretary may, for good cause shown, waive, in part, any of the requirements of this Section.

(205 ILCS 660/4.3 new)

Sec. 4.3. License application form.

(a) An application for a sales finance agency license must be made in accordance with Section 4.2 and, if applicable, in accordance with requirements of the Nationwide Multistate Licensing System and Registry. The application shall be in writing, under oath, and on a form obtained from and prescribed by the Secretary, or may be submitted electronically with attestation to the Nationwide Multistate Licensing System and Registry.

(b) The application shall contain the name and complete business and residential address or addresses of the license applicant. If the license applicant is a partnership, association, corporation, or other form of business organization, the application shall contain the names and complete business and residential addresses of each member, director, and principal officer of the business. The application shall also include a description of the activities of the license applicant in such detail and for such periods as the Secretary may require, including all of the following:

(1) an affirmation of financial solvency noting such capitalization requirements as may be required by the

Secretary and access to such credit as may be required by the Secretary;

(2) proof in a form satisfactory to the Secretary that the applicant has and will maintain a positive net worth of a minimum of \$30,000;

(3) an applicant shall submit to the Secretary with the application for a license and every licensee shall maintain a bond to be approved by the Secretary in which the applicant shall be the obligor, in the sum of \$50,000 or such additional amount as required by the Secretary based on the sales finance agency activity of the licensee in the previous year, and in which an insurance company that is duly authorized by this State to transact the business of fidelity and surety insurance shall be a surety. The surety bond shall run to the Secretary and shall be for the benefit of the Department and of any consumer who incurs damages as a result of any violation of this Act or rules adopted pursuant to this Act by a licensee;

(4) an affirmation that the license applicant or its members, directors, or principals, as may be appropriate, are at least 18 years of age;

(5) information as to the character, fitness, financial and business responsibility, background, experience, and criminal record of any:

(A) person, entity, or ultimate equitable owner

that owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant;

(B) person, entity, or ultimate equitable owner that is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act, that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant in an amount equal to or more than 10% of the license applicant's net worth;

(C) person, entity, or ultimate equitable owner that controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; and

(D) person, entity, or ultimate equitable owner that the Secretary finds influences management of the license applicant; the provisions of this subparagraph shall not apply to a public official serving on the board of directors of a State guaranty agency; and

(6) any other information the Secretary reasonably deems necessary to include in the application.

(205 ILCS 660/4.4 new)

Sec. 4.4. Averments of applicant. Each application for license shall be accompanied by the following averments stating that the applicant:

(1) will file with the Secretary or Nationwide

Multistate Licensing System and Registry, as applicable, any report or reports that it is required to file under any of the provisions of this Act when due;

(2) has not committed a crime against the law of this State, any other state, or of the United States involving moral turpitude or fraudulent or dishonest dealing, and that no final judgment has been entered against it in a civil action upon grounds of fraud, misrepresentation, or deceit that has not been previously reported to the Secretary;

(3) has not engaged in any conduct that would be cause for denial of a license;

(4) has not become insolvent;

(5) has not submitted an application for a license under this Act that contains a material misstatement;

(6) has not demonstrated by course of conduct, negligence or incompetence in performing any act for which it is required to hold a license under this Act;

(7) will advise the Secretary in writing or the Nationwide Multistate Licensing System and Registry, as applicable, of any changes to the information submitted on the most recent application for license or averments of record within 30 days after the change; the written notice must be signed in the same form as the application for the license being amended;

(8) will comply with the provisions of this Act and

with any lawful order, rule, or regulation made or issued under the provisions of this Act;

(9) will submit to periodic examination by the Secretary as required by this Act; and

(10) will advise the Secretary in writing of judgments entered against and bankruptcy petitions by the license applicant within 5 days after the occurrence.

A licensee who fails to fulfill the obligations of an averment, fails to comply with averments made, or otherwise violates any of the averments made under this Section shall be subject to the penalties of this Act.

(205 ILCS 660/4.5 new)

Sec. 4.5. Refusal to issue license. The Secretary may refuse to issue or renew a license if:

(1) it is determined that the applicant is not in compliance with any provisions of this Act;

(2) there is substantial continuity between the applicant and any violator of this Act; or

(3) the Secretary cannot make the findings specified in Section 4.4.

(205 ILCS 660/4.6 new)

Sec. 4.6. License renewal; fees.

(a) Licenses shall be renewed every year using the common renewal date of the Nationwide Multistate Licensing System and

Registry, as required by the Secretary. Properly completed renewal application forms and filing fees may be received by the Secretary 60 days before the license expiration date, but to be deemed timely, the completed renewal application forms and filing fees must be received by the Secretary no later than 30 days before the license expiration date.

(b) It shall be the responsibility of each licensee to accomplish renewal of its license. Failure by a licensee to submit a properly completed renewal application form and fees in a timely fashion, absent a written extension from the Secretary, shall result in the license becoming inactive.

(c) No activity regulated by this Act shall be conducted by the licensee when a license becomes inactive. An inactive license may be reactivated by the Secretary, at the Secretary's discretion, upon payment of a renewal fee, payment of a reactivation fee equal to the renewal fee, and proof of good cause for failure to renew. Request for reactivation of a license must be submitted no more than 90 days after expiration of license.

(d) A licensee ceasing an activity or activities regulated by this Act and desiring to no longer be licensed shall inform the Secretary in writing and, at the same time, convey any license issued and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from the regulated business, including a timetable for the disposition of the business, and comply with the surrender guidelines or

rules of the Department. Upon receipt of such written notice, the Secretary shall post the cancellation or issue a certified statement canceling the license.

(e) The expenses of administering this Act, including investigations and examinations provided for in this Act, shall be borne by and assessed against entities regulated by this Act. The fees listed in this Section shall be payable to the Department or to the Nationwide Multistate Licensing System and Registry for transfer to the required recipients by the Secretary. The Secretary shall specify the form of payment to the Department or to the Nationwide Multistate Licensing System and Registry, which may include certified check, money order, credit card, or other forms of payment authorized by the Secretary. The Nationwide Multistate Licensing System and Registry shall be authorized to collect and process transaction fees or other fees related to licensees or other persons subject to this Act.

(f) Applicants and licensees shall be subject to the following fees:

(1) For each application for an initial company license, the applicant shall pay a nonrefundable initial application fee of \$1,000 and a nonrefundable background investigation fee of \$800.

(2) For each application for an annual renewal of a company license, the applicant shall pay a nonrefundable renewal fee of \$300.

(3) For each application for an initial branch license, the applicant shall pay a nonrefundable initial application fee of \$100.

(4) For each application for an annual renewal of a branch license, the applicant shall pay a nonrefundable renewal fee of \$100.

(5) The licensee shall pay a nonrefundable fee of \$1,000 for each notice of change of ownership or control filed.

(6) The licensee shall pay a nonrefundable fee of \$50 for each notice of change of officers or directors or change of name or address filed.

(7) Any licensee or person who delivers a check or other payment to the Department that is returned unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed, a fee of \$50.

(8) Time expended in the conduct of any examination of the affairs of any licensee or its affiliates shall be billed by the Department at a rate of \$1,200 per examiner day. Examination fees shall be billed following completion of the examination and shall be paid within 30 days after receipt of the billing.

(9) If out-of-state travel occurs in the conduct of any examination, the licensee shall make arrangements to reimburse the Department for all charges for services,

including travel expenses such as airfare, hotel, and per diem expenses incurred by the employee. These expenses are to be in accord with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board.

(10) Each licensee shall pay to the Department its pro rata share of the cost for administration of this Act that exceeds other fees listed in this Section, as estimated by the Department, for the current year and any deficit actually incurred in the administration of this Act in the previous 3 years. The calculation method for each licensee's pro rata share shall be established by rule.

(g) The expenses of administering this Act, including licensing, investigations, and examinations provided for in this Act, shall be borne by and assessed against persons and entities regulated by this Act in such proportions and in such manner as the Secretary deems appropriate. The Secretary may establish by rule the category and amount of any fees that such persons and entities must pay to the Department.

(h) Any fees set forth in this Act may be amended by rule.

(205 ILCS 660/6.1)

Sec. 6.1. Financial Institution Fund. All moneys received by the Secretary under this Act in conjunction with the provisions relating to sales finance agencies shall be paid into the Financial Institution Fund, and all expenses incurred

by the Secretary under this Act in conjunction with the provisions relating to sales finance agencies shall be paid from the Financial Institution Fund. All moneys received by the Department of Financial Institutions under this Act shall be deposited in the Financial Institution Fund created under Section 6z-26 of the State Finance Act.

(Source: P.A. 98-463, eff. 8-16-13.)

(205 ILCS 660/6.2 new)

Sec. 6.2. Secretary of Financial and Professional Regulation; functions and powers. The functions and powers of the Secretary shall include the following:

(1) to issue or refuse to issue any license as provided by this Act;

(2) to revoke or suspend for cause any license issued under this Act;

(3) to keep records of all licenses issued under this Act;

(4) to receive, consider, investigate, and act upon complaints made by any person in connection with any licensed sales finance agency in this State or unlicensed sales finance agency activity;

(5) to prescribe the forms of and receive:

(A) applications for licenses; and

(B) all reports and all books and records required to be made by any licensee under this Act, including

annual audited financial statements and annual reports of sales finance agency activity;

(6) to subpoena documents and witnesses and compel their attendance and production of documents, to administer oaths, and to require the production of any books, papers, written reports, or other materials relevant to any inquiry authorized by this Act;

(7) to issue orders against any person:

(A) if the Secretary has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur;

(B) if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary; or

(C) for the purpose of administering the provisions of this Act and any rule adopted in accordance with this Act;

(8) to address any inquiries to any licensee, or the officers of the licensee, in relation to the licensee's activities and conditions or any other matter connected with its affairs, and it shall be the duty of any licensee or person so addressed to promptly reply in writing to those inquiries; the Secretary may also require reports from any licensee at any time the Secretary chooses;

(9) to examine the books and records of every licensee under this Act;

(10) to enforce the provisions of this Act;

(11) to levy fees, fines, and charges for services performed in administering this Act; the aggregate of all fees collected by the Secretary on and after the effective date of this amendatory Act of the 104th General Assembly shall be paid promptly after receipt, accompanied by a detailed statement of fees paid, into the Financial Institutions Fund; the amounts deposited into that Fund shall be used for the ordinary and contingent expenses of the Department; nothing in this Act shall prevent the continuation of the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund or any other fund;

(12) to appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this Act;

(13) to conduct hearings for the purpose of:

(A) appeals of orders of the Secretary;

(B) suspensions or revocations of licenses;

(C) fining of licensees or unlicensed persons or entities;

(D) investigating complaints against licensees or unlicensed persons or entities; or

(E) carrying out the purposes of this Act;

(14) to exercise visitorial power over a licensee;

(15) to enter into cooperative agreements with state regulatory authorities of other states to provide for examination of corporate offices or branches of those states and to accept reports of those examinations;

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

(17) to impose civil penalties of up to \$50 per day against a licensee for failing to respond to a regulatory request or reporting requirement; and

(18) to enter into agreements necessary to implement, administer, or enforce this Act, including in connection with the Nationwide Multistate Licensing System and Registry.

(205 ILCS 660/6.3 new)

Sec. 6.3. Examination; prohibited activities.

(a) The business affairs of a licensee under this Act shall be examined for compliance with this Act as often as the Secretary deems necessary and proper. The Department may adopt rules with respect to the frequency and manner of examination. The Secretary shall appoint a suitable person to perform an examination. The Secretary and the Secretary's appointees may

examine the entire books, records, documents, and operations of each licensee and its subsidiary, affiliate, or agent and may examine any of the licensee's or its subsidiaries', affiliates', or agents' officers, directors, employees, and agents under oath.

(b) The Secretary shall prepare a sufficiently detailed report of each licensee's examination, shall issue a copy of the report to the licensee, and shall take appropriate steps to ensure correction of violations of this Act.

(c) Affiliates of a licensee shall be subject to examination by the Secretary on the same terms as the licensee, but only when reports from or examination of a licensee provides for documented evidence of unlawful activity between a licensee and affiliate benefiting, affecting, or deriving from the activities regulated by this Act.

(d) The expenses of any examination of the licensee and affiliates shall be borne by the licensee and assessed by the Secretary as set forth in this Act or by rule.

(e) All confidential supervisory information, including the examination report and the work papers of the report, shall belong to the Secretary's office and may not be disclosed to anyone other than the licensee, law enforcement officials, or other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary or to a party presenting a lawful subpoena to the Department. The Secretary may, through the Attorney General, immediately

appeal to the court of jurisdiction the disclosure of such confidential supervisory information and seek a stay of the subpoena pending the outcome of the appeal. Reports required of licensees by the Secretary under this Act and results of examinations performed by the Secretary under this Act shall be the property of only the Secretary, but may be shared with the licensee. Access under this Act to the books and records of each licensee shall be limited to the Secretary and the Secretary's agents as provided in this Act and to the licensee and its authorized agents and designees. No other person shall have access to the books and records of a licensee under this Act. Any person upon whom a demand for production of confidential supervisory information is made, whether by subpoena, order, or other judicial or administrative process, must withhold production of the confidential supervisory information and must notify the Secretary of the demand, at which time the Secretary is authorized to intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information. The Secretary may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of that information. Except as authorized by the Secretary, no person obtaining access to confidential supervisory information may make a copy of the confidential supervisory information. The Secretary may

condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Secretary, the Secretary may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Secretary may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Secretary may impose on either or both parties. The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(205 ILCS 660/6.4 new)

Sec. 6.4. Retail Installment Sales Act; Motor Vehicle Retail Installment Sales Act.

(a) A sales finance agency may not aid or seek to aid any person in the violation of the Retail Installment Sales Act or the Motor Vehicle Retail Installment Sales Act.

(b) A sales finance agency may not purchase any retail installment contract, any retail charge agreement, or evidence

of indebtedness thereunder that violates the Retail Installment Sales Act or the Motor Vehicle Retail Installment Sales Act.

(c) A sales finance agency may not purchase any retail installment contract, any retail charge agreement, or evidence of indebtedness thereunder with actual knowledge that the contract, agreement, or indebtedness violates the Retail Installment Sales Act or the Motor Vehicle Retail Installment Sales Act.

(d) A sales finance agency may not purchase a retail installment contract creating or providing for a security interest in a motor vehicle that qualifies as consumer goods under the Uniform Commercial Code, or purchase of the evidence of indebtedness under such a contract, from a person who is not licensed under the Illinois Vehicle Code, not licensed under this Act, and not exempt from licensure under this Act.

(205 ILCS 660/6.5 new)

Sec. 6.5. Investigation of complaints. The Secretary may receive, record, and investigate complaints and inquiries made by any person concerning this Act and any licensees under this Act. Each licensee shall open its books, records, documents, and offices wherever situated to the Secretary or the Secretary's appointees as needed to facilitate such investigations.

(205 ILCS 660/6.6 new)

Sec. 6.6. Additional investigation and examination authority. In addition to any authority allowed under this Act, the Secretary shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial licensing, license renewal, license suspension, license conditioning, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this Act, the Secretary shall have the authority to access, receive, and use any books, accounts, records, files, documents, information, or evidence, including, but not limited to, the following:

(A) criminal, civil, and administrative history information, including nonconviction data as specified in the Criminal Code of 2012;

(B) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act; and

(C) any other documents, information, or evidence the Secretary deems relevant to the inquiry or investigation, regardless of the location, possession, control, or custody of the documents, information, or evidence.

(2) For the purposes of investigating violations or

complaints arising under this Act or for the purposes of examination, the Secretary may review, investigate, or examine any licensee, individual, or person subject to this Act as often as necessary in order to carry out the purposes of this Act. The Secretary may direct, subpoena, or order the attendance of and examine under oath all persons whose testimony may be required about the business or subject matter of any such examination or investigation and may direct, subpoena, or order the person to produce books, accounts, records, files, and any other documents the Secretary deems relevant to the inquiry.

(3) Each licensee, individual, or person subject to this Act shall make available to the Secretary upon request the books and records relating to the operations of the licensee, individual, or person subject to this Act. The Secretary shall have access to those books and records and may interview the officers, principals, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this Act concerning the business of the licensee, individual, or person.

(4) Each licensee, individual, or person subject to this Act shall make or compile reports or prepare other information as directed by the Secretary in order to carry out the purposes of this Section, including, but not limited to:

(A) accounting compilations;

(B) information lists and data concerning sales finance agency activity in a format prescribed by the Secretary; or

(C) other information deemed necessary to carry out the purposes of this Section.

(5) In making any examination or investigation authorized by this Act, the Secretary may control access to any documents and records of the licensee or person under examination or investigation. The Secretary may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where they are usually kept. During the period of control, no person shall remove or attempt to remove any of the documents or records, except pursuant to a court order or with the consent of the Secretary. Unless the Secretary has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this Act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

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

(A) retain attorneys, accountants, or other

professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(B) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this Section;

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

(D) accept and rely on examination or investigation reports made by other government officials within or outside this State; or

(E) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this Act in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the Secretary.

(7) The authority of this Section shall remain in effect if a licensee, individual, or person subject to

this Act acts or claims to act under any licensing or registration law of this State or claims to act without the authority.

(8) No licensee, individual, or person subject to investigation or examination under this Section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

(205 ILCS 660/6.7 new)

Sec. 6.7. Confidential information. In hearings conducted under this Act, information presented into evidence that was acquired by the licensee when serving any individual in connection with sales finance agency activity, including all financial information of the individual, shall be deemed strictly confidential and shall be made available only as part of the record of a hearing under this Act or otherwise: (i) when the record is required, in its entirety, for purposes of judicial review or (ii) upon the express written consent of the individual served, or in the case of the individual's death or disability, the consent of the individual's personal representative.

(205 ILCS 660/6.8 new)

Sec. 6.8. Information sharing. In order to promote more effective regulation and reduce regulatory burden through

supervisory information sharing:

(1) Except as otherwise provided in any federal law or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Multistate Licensing System and Registry, any privilege arising under federal or State law, including the rules of any federal or State court, with respect to such information or material shall continue to apply to information or material after the information or material has been disclosed to the Nationwide Multistate Licensing System and Registry. The information and material may be shared with all State and federal regulatory officials with relevant oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or State law.

(2) The Secretary is authorized to enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the Department. The sharing of confidential supervisory information or any information or material described in paragraph (1) pursuant to an agreement or sharing arrangement shall not result in the loss of privilege or the loss of confidentiality protections provided by federal law or State law.

(3) Information or material that is subject to a privilege or confidentiality under paragraph (1) shall not be subject to the following:

(A) disclosure under any State law governing the disclosure to the public of information held by an officer or an agency of the State; or

(B) subpoena, discovery, or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Multistate Licensing System and Registry with respect to the information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of that person, that privilege.

(4) Any other law relating to the disclosure of confidential supervisory information or any information or material described in paragraph (1) that is inconsistent with paragraph (1) shall be superseded by the requirements of this Section to the extent the other law provides less confidentiality or a weaker privilege.

(205 ILCS 660/10.2) (from Ch. 17, par. 5225)

Sec. 10.2. Closing of business; surrender of license. At least 10 days prior to a licensee ceasing operations, closing business, or filing for bankruptcy, the licensee shall:

(a) Notify the Department of its action in writing.

(b) With the exception of filing for bankruptcy, surrender its license to the Secretary ~~Director~~ for cancellation. The surrender of the license shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the annual license fee.

(c) The licensee shall notify the department of the location where the books, accounts, contracts, and records will be maintained and the procedure to ensure prompt return of contracts, titles, and releases to the customers.

(d) The accounts, books, records, and contracts shall be maintained and serviced by the licensee or another licensee under this Act, or an entity exempt from licensure under this Act.

(e) The Department shall have the authority to conduct examinations of the books, records, and loan documents at any time after surrender of the license, filing of bankruptcy, or the cessation of operations.

(Source: P.A. 90-437, eff. 1-1-98; 90-575, eff. 3-20-98.)

(205 ILCS 660/10.6)

Sec. 10.6. Companion animals.

(a) No sales finance agency shall purchase:

(1) a retail installment contract for the sale of a canine or feline;

(2) a retail charge agreement for the sale of a canine

or feline; or

(3) the outstanding balance under a retail installment contract or a retail charge agreement for the sale of a canine or feline.

(b) No sales finance agency shall make a loan secured by:

(1) a retail installment contract for the sale of a canine or feline;

(2) a retail charge agreement for the sale of a canine or feline; or

(3) the outstanding balance under a retail installment contract or a retail charge agreements for the sale of a canine or feline.

(c) Any sales finance agency that purchases a contract or agreement subject to subsection (a) or makes a loan subject to subsection (b) has no right to collect, receive, or retain any principal, interest, or charges related to the contract, agreement, or loan, and any such loan is null and void.

(d) The changes made to this Section by this amendatory Act of the 103rd General Assembly shall apply prospectively and shall not apply retroactively. This Section shall not impair or affect the obligation of any retail installment transaction or secured loan entered into before the effective date of this amendatory Act of the 103rd General Assembly.

(Source: P.A. 102-128, eff. 1-1-22; 103-339, eff. 1-1-24.)

(205 ILCS 660/10.7 new)

Sec. 10.7. Subpoenas; other remedies.

(a) The Secretary shall have the power to issue and to serve subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of all books, accounts, records, and other documents and materials relevant to an examination or investigation. The Secretary, or the Secretary's duly authorized representative, shall have power to administer oaths and affirmations to any person.

(b) In the event of noncompliance with a subpoena or subpoena duces tecum issued or caused to be issued by the Secretary, the Secretary may, through the Attorney General, petition the circuit court of the county in which the person subpoenaed resides or has its principal place of business for an order requiring the subpoenaed person to appear and testify and to produce such books, accounts, records, and other documents as are specified in the subpoena duces tecum. The court may grant injunctive relief restraining the person from advertising, promoting, soliciting, entering into, offering to enter into, continuing, or completing any sales finance agency transaction. The court may grant other relief, including, but not limited to, the restraint, by injunction or appointment of a receiver, of any transfer, pledge, assignment, or other disposition of the person's assets or any concealment, alteration, destruction, or other disposition of books, accounts, records, or other documents and materials as the court deems appropriate, until the person has fully complied

with the subpoena or subpoena duces tecum and the Secretary has completed an investigation or examination.

(c) The Secretary may, in addition to the other remedies provided for in this Act, through the Attorney General, apply for relief to the circuit court of the county in which the subpoenaed person resides or has its principal place of business. The court shall thereupon direct the issuance of an order against the subpoenaed person requiring sufficient bond conditioned on compliance with the subpoena or subpoena duces tecum. The court shall cause to be endorsed on the order a suitable amount of bond or payment pursuant to which the person named in the order shall be freed, having a due regard to the nature of the case.

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

(205 ILCS 660/10.8 new)

Sec. 10.8. Suspension; revocation of licenses; fines.

(a) If the Secretary finds any person in violation of the grounds set forth in this Section, the Secretary may enter an order imposing one or more of the following penalties:

(1) revocation of license;

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

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

(4) issuance of a reprimand;

(5) imposition of a fine not to exceed \$25,000 per violation; except that a fine may be imposed that shall not exceed \$75,000 per violation in violation of paragraph (2) or (15) of subsection (b);

(6) denial of a license; or

(7) restitution for the benefit of consumers.

(b) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (a) may be taken:

(1) being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction that involves fraud, dishonest dealing, or any other act of moral turpitude;

(2) fraud, misrepresentation, deceit, or negligence in any relation to any sales finance agency activity;

(3) a material or intentional misstatement of fact on an initial or renewal application;

(4) any fact or condition exists that, if it had existed at the time of the original application for the

license, would have warranted the Secretary in refusing to originally issue the license;

(5) insolvency or filing under any provision of the United States Bankruptcy Code as a debtor;

(6) failure to account or deliver to any person any property, such as any money, fund, deposit, check, draft, or other document or thing of value, that has come into the person's hands and that is not the person's property or that the person is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;

(7) failure to disburse funds in accordance with agreements;

(8) having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory, or country for fraud, dishonest dealing, or any other act of moral turpitude;

(9) failure to comply with an order of the Secretary or rule adopted under the provisions of this Act;

(10) engaging in activities regulated by this Act without a current, active license unless specifically exempted by this Act;

(11) failure to pay in a timely manner any fee, charge, or fine under this Act;

(12) failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the provisions of this Act and the rules of the Department;

(13) refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act or refusing, obstructing, evading, or unreasonably delaying compliance with the Secretary's subpoena or subpoena duces tecum;

(14) failure to comply with or a violation of any provision of this Act; and

(15) any unfair, deceptive, or abusive business practice.

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

(d) The Secretary, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation.

(e) The provisions of subsection (d) of Section 4.6 shall not affect a licensee's civil or criminal liability for acts committed before surrender of a license.

(f) No revocation, suspension, or surrender of any license

shall impair or affect the obligation of any preexisting lawful contract between the licensee and any person.

(g) Every license issued under this Act shall remain in force and effect until the license expires without renewal, is surrendered, is revoked, or is suspended in accordance with the provisions of this Act, but the Secretary shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license has been revoked if no fact or condition then exists which would have warranted the Secretary in refusing originally to issue that license under this Act.

(h) Whenever the Secretary revokes or suspends a license issued pursuant to this Act or fines a licensee under this Act, the Secretary shall execute a written order to that effect. The Secretary shall serve a copy of the order upon the licensee. Any such order may be reviewed as provided for in this Act.

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

(j) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting

lawful contract between the licensee and any obligor.

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

(l) In every case in which a license is suspended or revoked or an application for a license or renewal of a license is denied, the Secretary shall serve the licensee with notice of the Secretary's action, including a statement of the reasons for the actions, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail.

(m) An order assessing a fine, an order revoking or suspending a license, or an order denying renewal of a license shall take effect upon service of the order unless the licensee requests a hearing, in writing, within 15 days after the date of service. If a hearing is requested, the order shall be stayed until a final administrative order is entered.

(1) If the licensee requests a hearing, the Secretary shall schedule a preliminary hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(2) The hearing shall be held at the time and place designated by the Secretary. The Secretary and any administrative law judge designated by the Secretary shall have the power to administer oaths and affirmations,

subpoena witnesses and compel their attendance, take evidence, and require the production of books, papers, correspondence, and other records or information that the Secretary considers relevant or material to the inquiry.

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

(o) A licensee shall be subject to the disciplinary actions specified in this Act for violations of subsection (b) by any officer, director, shareholder, joint venture, partner, ultimate equitable owner, or employee of the licensee.

(p) A licensee shall be subject to suspension or revocation for unauthorized employee actions only if there is a pattern of repeated violations by employees, the licensee has knowledge of the violations, or there is substantial harm to a consumer. A licensee may be subject to fines for employee actions, whether authorized or unauthorized, whether there is a pattern of repeated violations or no pattern of repeated violations.

(q) Any licensee may submit an application to surrender a license, but, upon the Secretary approving the surrender, it shall not affect the licensee's civil or criminal liability for acts committed before surrender or entitle the licensee to a return of any part of the license fee.

(205 ILCS 660/12) (from Ch. 17, par. 5230)

Sec. 12. Every licensee shall retain such records as are

required by the Department. Every licensee shall preserve the records of each of its transactions for at least 2 years after making the final entry for that transaction.

With the Secretary's ~~Director's~~ approval, a licensee may maintain these records at a location other than the licensed facility.

With the Secretary's ~~Director's~~ approval, a licensee may contract for servicing of these accounts.

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

(205 ILCS 660/13) (from Ch. 17, par. 5231)

Sec. 13. Rules.

(a) In addition to such powers as may be prescribed by this Act, the Department is hereby authorized and empowered to adopt rules consistent with the purposes of this Act, including, but not limited to:

(1) rules in connection with the activities of licensees or unlicensed sales finance agencies as may be necessary and appropriate for the protection of consumers in this State;

(2) rules as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of licensees in servicing retail installment contracts or retail charge agreements;

(3) rules that define the terms used in this Act and as may be necessary and appropriate to interpret and

implement the provisions of this Act; and

(4) rules as may be necessary for the enforcement and administration of this Act.

(b) The Secretary is authorized and empowered to make specific rulings, demands, and findings that the Secretary deems necessary for the proper conduct of the sales finance agency industry.

~~The Department may make and enforce such reasonable rules, regulations, directions, orders, decisions and findings as the execution and enforcement of this Act require, and as are not inconsistent therewith. In addition, the Department may promulgate rules in connection with the activities of licensees that are necessary and appropriate for the protection of consumers in this State. All rules and regulations shall be sent electronically to all licensees.~~

(Source: P.A. 98-44, eff. 6-28-13.)

(205 ILCS 660/13.5 new)

Sec. 13.5. Appeal and review.

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

(1) appointment of a hearing officer other than a regular employee of the Division of Financial

Institutions;

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

(3) provision for apportioning costs among parties to the appeal.

(b) All final agency determinations of appeals to decisions of the Secretary may be reviewed in accordance with and under the provisions of the Administrative Review Law. Appeals from all final orders and judgments entered by a court in review of any final administrative decision of the Secretary or of any final agency review of a decision of the Secretary may be taken as in other civil cases.

(205 ILCS 660/14.5 new)

Sec. 14.5. Collection of compensation. Unless exempt from licensure under this Act, no person engaged in or offering to engage in any act or service for which a license under this Act is required may bring or maintain any action in any court of this State to collect compensation for the performance of the licensable services without alleging and proving that the person was the holder of a valid sales finance agency license under this Act at all times during the performance of those services.

(205 ILCS 660/15.5)

Sec. 15.5. Civil action. A claim of violation of this Act

may be asserted in a civil action. Additionally, a court may award reasonable attorney's fees and court costs to a person asserting a claim under this Section.

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

(205 ILCS 660/16.5)

Sec. 16.5. Cease and desist orders.

(a) The Secretary ~~Director~~ may issue a cease and desist order to a sales finance agency or other person doing business without the required license when, in the opinion of the Secretary ~~director~~, the licensee or other person is violating or is about to violate any provision of this Act or any law, rule, or requirement imposed in writing by the Department.

(b) The Secretary ~~Director~~ may issue a cease and desist order prior to a hearing.

(c) The Secretary ~~Director~~ shall serve notice of the Secretary's ~~his or her~~ action, designated as a cease and desist order made pursuant to this Section, including a statement of the reasons for the action, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the U.S. mail.

(d) Within 15 days of service of the cease and desist order, the sales finance agency or other person may request, in writing, a hearing.

(e) The Secretary ~~Director~~ shall schedule a hearing within

30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) The Secretary ~~Director~~ shall have the authority to prescribe rules for the administration of this Section.

(g) If it is determined that the Secretary ~~Director~~ had the authority to issue the cease and desist order, the Secretary ~~he or she~~ may issue such orders as may be reasonably necessary to correct, eliminate, or remedy such conduct.

(h) The powers vested in the Secretary ~~Director~~ by this Section are additional to any and all other powers and remedies vested in the Secretary ~~Director~~ by law, and nothing in this Section shall be construed as requiring that the Secretary ~~Director~~ shall employ the powers conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary ~~Director~~.

(i) The cost for the administrative hearing shall be set by rule.

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

(205 ILCS 660/17) (from Ch. 17, par. 5235)

Sec. 17. Application of Act.

(a) This Act does not apply to any credit union, bank, banking association, trust company, savings bank, or savings and loan association authorized to do business under the laws of this State, any other state, or of the United States.

(b) This Act does not apply to a person or entity that, in

connection with a securitization, private placement, or similar type of investment transaction, lends against or purchases from an Illinois licensed sales finance agency retail installment contracts, retail charge agreements, or the outstanding balances or any portion of the outstanding balances under those contracts or agreements, provided that the licensed sales finance agency retains the servicing of the agreements or contracts and maintains the records for those agreements and contracts.

(c) This Act does not apply to a special purpose vehicle. In this subsection, "special purpose vehicle" means an entity that, in connection with a securitization, private placement, or similar type of investment transaction, is administered by a State or national bank under a management agreement for the purpose of purchasing, making loans against, or in pools of, receivables, general intangibles, and other financial assets including retail installment contracts, retail charge agreements, or the outstanding balances or any portion of the outstanding balances under those contracts or agreements.

(Source: P.A. 89-400, eff. 8-20-95.)

(205 ILCS 660/19)

Sec. 19. Injunction; civil penalty; costs. If it appears to the Secretary ~~Director~~ that a person has committed or is about to commit a violation of this Act, a rule promulgated under this Act, or an order of the Secretary ~~Director~~, the

Secretary ~~Director~~ may apply to the circuit court for an order enjoining the person from violating or continuing to violate this Act, the rule, or order and for injunctive or other relief that the nature of the case may require and may, in addition, request the court to assess a civil penalty up to \$10,000 ~~\$1,000~~ along with costs and attorney's fees.

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

(205 ILCS 660/5 rep.)

(205 ILCS 660/6 rep.)

(205 ILCS 660/7 rep.)

(205 ILCS 660/8 rep.)

(205 ILCS 660/8.1 rep.)

(205 ILCS 660/8.2 rep.)

(205 ILCS 660/8.3 rep.)

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(205 ILCS 660/8.11 rep.)

(205 ILCS 660/8.12 rep.)

(205 ILCS 660/8.13 rep.)

(205 ILCS 660/8.14 rep.)

(205 ILCS 660/10 rep.)

(205 ILCS 660/10.1 rep.)

(205 ILCS 660/10.3 rep.)

(205 ILCS 660/10.4 rep.)

(205 ILCS 660/11 rep.)

(205 ILCS 660/14 rep.)

(205 ILCS 660/18 rep.)

Section 10. The Sales Finance Agency Act is amended by repealing Sections 5, 6, 7, 8, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.8, 8.9, 8.10, 8.11, 8.12, 8.13, 8.14, 10, 10.1, 10.3, 10.4, 11, 14, and 18.

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

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