



Sen. Michael E. Hastings

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1 AMENDMENT TO SENATE BILL 3561

2 AMENDMENT NO. _____. Amend Senate Bill 3561 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Buy-Now-Pay-Later Loan Consumer Protection Act.

6 Section 2. Definitions. As used in this Act:

7 "Applicant" means a person who has submitted an
8 application for a license under this Act.

9 "Annual percentage rate" means the nominal annual
10 percentage rate of finance charge determined in accordance
11 with the actuarial method of computation with an accuracy at
12 least to the nearest 1/4 of 1% or, at the option of the
13 licensee by application of the federal rule, so that it may be
14 disclosed with an accuracy at least to the nearest 1/4 of 1%.

15 "Buy-now-pay-later loan" or "loan" means closed-end credit
16 provided to a consumer at the time of a transaction in

1 connection with the consumer's particular purchase of goods or
2 services that:

3 (1) is payable in 4 or fewer installments; or

4 (2) has a term of 120 days or less.

5 "Buy-now-pay-later loan" or "loan" includes any other loan
6 identified by the Secretary by rule. "Buy-now-pay-later loan"
7 or "loan" also includes (i) a buy-now-pay-later loan payable
8 in one or more installments without any interest or finance
9 charge and (ii) a buy-now-pay-later loan with either interest
10 or finance charges or both.

11 "Buy-now-pay-later loan" or "loan" does not include credit
12 where the creditor is the seller of the goods or services,
13 unless it is credit pursuant to an agreement where, at a
14 consumer's request, the creditor purchases specific goods or
15 services from a seller and resells the specific goods or
16 services to the consumer on closed-end credit.
17 "Buy-now-pay-later loan" or "loan" also does not include (i) a
18 loan for a motor vehicle or (ii) a residential mortgage loan,
19 as that term is defined in Section 1-4 of the Residential
20 Mortgage License Act of 1987. "Buy-now-pay-later loan" or
21 "loan" also does not include any loan to a seller of goods or
22 services for the purchase of inventory for sale or resale by
23 the seller of goods or services in the normal course of
24 business.

25 "Consumer" means a natural person who, singly or jointly
26 with another consumer, enters into, seeks out, applies for, or

1 requests a buy-now-pay-later loan primarily for personal,
2 family, or household purposes.

3 "Department" means the Department of Financial and
4 Professional Regulation.

5 "Division" means the Division of Financial Institutions of
6 the Department of Financial and Professional Regulation.

7 "Finance charge" means the cost of financing as a dollar
8 amount.

9 "Lender" means a person that offers or makes a
10 buy-now-pay-later loan to a person in this State or is
11 otherwise subject to this Act.

12 "Licensee" means a person licensed under this Act.

13 "Motor vehicle" means a vehicle which is self-propelled
14 and every vehicle which is propelled by electric power
15 obtained from overhead trolley wires, but not operated upon
16 rails, except for vehicles moved solely by human power,
17 motorized wheelchairs, low-speed electric bicycles, and
18 low-speed gas bicycles.

19 "Multistate licensing system" means a third-party,
20 multistate licensing system used by the Secretary for
21 licensing, examinations, or any other regulatory purpose under
22 this Act.

23 "Person" means an individual, a partnership, joint
24 venture, trust, estate, firm, corporation, cooperative society
25 or association, or any other form of business association or
26 legal entity. "Person" includes the employees, owners, agents,

1 managers, members, principals, and directors of a person.

2 "Secretary" means the Secretary of Financial and
3 Professional Regulation or the Secretary's designee, including
4 the Director of the Division of Financial Institutions.

5 Section 3. Administration by the Division of Financial
6 Institutions. This Act shall be administered by the Division
7 on behalf of the Secretary.

8 Section 4. Licensure requirement. No person shall engage
9 in the business regulated by this Act without licensure under
10 this Act. The Secretary may investigate any person the
11 Secretary believes may require licensure under this Act,
12 including, but not limited to, compelling production of
13 testimony, books, records, or any other information necessary
14 for the Secretary to determine whether the person requires
15 licensure. An owner, officer, or employee of a person required
16 to be licensed under this Act is not required to be licensed to
17 engage in activities conducted by the licensee under this Act.

18 Section 5. Applicability.

19 (a) Except as otherwise provided in this Section, this Act
20 applies to any person, including any affiliate or subsidiary
21 of a person, that offers or makes a loan, buys a whole or
22 partial interest in a loan, arranges a loan for a third party,
23 or acts as an agent for a third party in making a loan to a

1 consumer, regardless of whether approval, acceptance, or
2 ratification by the third party is necessary to create a legal
3 obligation for the third party, and includes any other person
4 or entity if the Department determines that the person or
5 entity is engaged in a transaction that is in substance a
6 disguised loan or a subterfuge for the purpose of avoiding
7 this Act. This Act applies to loan transactions conducted by
8 any medium, including, but not limited to, paper, facsimile,
9 Internet, or telephone. This Act also applies to any servicer
10 of a loan offered or made under this Act. This Act does not
11 apply to a merchant or merchant platform that makes a
12 buy-now-pay-later loan available to a consumer through an
13 agreement with a licensed buy-now-pay-later lender or person
14 exempt from this Act, if the merchant or merchant platform
15 does not originate, underwrite, service, or hold an ownership
16 interest in any buy-now-pay-later loan. Notwithstanding the
17 provisions of this subsection, this Act also does not apply to
18 a person who buys, acquires, or holds a partial interest in a
19 loan as a passive investor, but does not otherwise originate,
20 underwrite, or service the loan or control the servicing of
21 the loan.

22 (b) The provisions of this Act apply to any person that
23 seeks to evade its applicability by any device, subterfuge, or
24 pretense or making, offering, assisting, or arranging for a
25 consumer to obtain a loan with a greater rate of interest,
26 consideration, or charge than is permitted by this Act through

1 any method, including mail, telephone, Internet, or any
2 electronic means, regardless of whether the person or entity
3 has a physical location in this State.

4 (c) The provisions of this Act apply to any person that
5 facilitates or aids or abets a violation of this Act or rules
6 adopted under this Act.

7 (d) Banks, savings banks, savings and loan associations,
8 credit unions, and insurance companies organized, chartered,
9 or holding a certificate of authority to do business under the
10 laws of this State, any other state, or the United States are
11 exempt from the provisions of this Act and rules adopted under
12 this Act. The Secretary may exempt from this Act other persons
13 or transactions by rule on a finding that the application of
14 the Act to the persons or transactions is not necessary to
15 achieve the purposes of this Act.

16 (e) A person is a lender subject to this Act, regardless of
17 any claim that the person is acting as an agent, service
18 provider, or in another capacity for a person that is exempt
19 from this Act, if:

20 (1) The person holds, acquires, or maintains, directly
21 or indirectly, the predominant economic interest in the
22 loan.

23 (2) The person markets, brokers, arranges, or
24 facilitates the loan and holds the right, requirement, or
25 first right of refusal to purchase the loan or receivables
26 or interests in the loan.

1 (3) The totality of the circumstances indicates that
2 the person is the lender and that the transaction is
3 structured to evade the requirements of this Act.
4 Circumstances that support a finding that a person is a
5 lender include, without limitation:

6 (A) The person indemnifies, insures, or protects
7 an exempt person or entity for any costs or risks
8 related to the loan.

9 (B) The person predominantly designs, controls, or
10 operates the loan program.

11 (C) The person purports to act as an agent,
12 service provider, or in another capacity for a person
13 exempt from this Act while acting directly as a lender
14 in other states.

15 Section 5.5. Licensee name. No person engaged in the
16 business regulated by this Act shall operate the business
17 under a name other than the real name of the person conducting
18 business. The business may, as authorized by the Secretary,
19 also operate under an assumed corporate name under the
20 Business Corporation Act of 1983, an assumed limited liability
21 company name under the Limited Liability Company Act, or an
22 assumed business name under the Assumed Business Name Act.

23 Section 6. Application process; investigation; fees.

24 (a) The Secretary may issue a license to a person after the

1 person completes the following:

2 (1) the filing of an application for licensure with
3 the Secretary or the multistate licensing system, as
4 approved by the Secretary;

5 (2) the filing with the Secretary or the multistate
6 licensing system, as approved by the Secretary, of a
7 listing of judgments entered against, and bankruptcy
8 petitions by, the applicant for the preceding 10 years;

9 (3) the payment, in certified funds, of investigation
10 and application fees, the total of which shall be in an
11 amount equal to \$5,000, unless modified by the Secretary
12 in accordance with subsection (b) of Section 11; and

13 (4) the filing of an audited balance sheet, including
14 all footnotes prepared by a certified public accountant in
15 accordance with generally accepted accounting principles
16 and generally accepted auditing standards; notwithstanding
17 the requirements of this subsection, an applicant that is
18 a subsidiary may submit audited consolidated financial
19 statements of its parent, intermediary parent, or ultimate
20 parent as long as the consolidated statements are
21 supported by consolidating statements that include the
22 applicant's financial statement; if the consolidating
23 statements are unaudited, the applicant's chief financial
24 officer shall attest to the applicant's financial
25 statements disclosed in the consolidating statements.

26 (b) The Secretary may, for good cause shown, waive or

1 modify the requirements of paragraph (4) of subsection (a).

2 (c) Upon receipt of the license, a licensee shall be
3 authorized to engage in the business regulated by this Act.
4 The license shall remain in full force and effect until it
5 expires, is surrendered by the licensee, or is revoked or
6 suspended as provided in this Act.

7 (d) The Secretary may impose conditions on a license if
8 the Secretary determines that those conditions are necessary
9 or appropriate. The conditions shall be imposed in writing and
10 shall continue in effect for the period prescribed by the
11 Secretary.

12 Section 7. Application form.

13 (a) Application for a license shall be made in accordance
14 with this Act and in accordance with requirements of the
15 multistate licensing system, if required by the Secretary. The
16 application shall be in writing, under oath, and on a form
17 obtained from and prescribed by the Secretary. The Secretary
18 may require part or all of the application to be submitted
19 electronically, with attestation, to the multistate licensing
20 system.

21 (b) The application shall contain the name and complete
22 business and residential address of the applicant. The
23 application shall also include a description of the activities
24 of the applicant in such detail and for such periods as the
25 Secretary may require, including the following:

1 (1) an affirmation that the applicant and its owners,
2 principals, officers, and directors, as may be
3 appropriate, are at least 18 years of age;

4 (2) information as to the name, complete business
5 address, complete residential address, character, fitness,
6 financial and business responsibility, background,
7 experience, and criminal record of any:

8 (i) person, including an ultimate equitable owner,
9 that directly or indirectly owns or controls 10% or
10 more of any class of stock of the applicant;

11 (ii) person, including an ultimate equitable owner
12 that is not a depository institution, as defined in
13 Section 17.50 of the Savings Bank Act, that lends,
14 provides, or infuses, directly or indirectly, in any
15 way, funds to or into an applicant in an amount equal
16 to or more than 10% of the applicant's net worth;

17 (iii) person, including an ultimate equitable
18 owner that controls, directly or indirectly, the
19 election of 25% or more of the members of the board of
20 directors of an applicant;

21 (iv) person, including an ultimate equitable owner
22 that the Secretary finds influences the management of
23 the applicant;

24 (v) directors of an applicant; and

25 (vi) principal officers of an applicant; and

26 (3) any other information as required by the Secretary

1 to assess whether the applicant and its owners, officers,
2 and directors have the financial responsibility, financial
3 condition, business experience, character, and general
4 fitness to justify the confidence of the public and that
5 the applicant and its owners, officers, and directors are
6 fit, willing, and able to carry on the proposed business
7 in a lawful and fair manner.

8 Section 8. License application and issuance.

9 (a) Applicants for a license shall apply in a form
10 prescribed by the Secretary. The form may be changed or
11 updated by the Secretary to carry out the purposes of this Act.

12 (b) In order to fulfill the purposes of this Act, the
13 Secretary may establish relationships or contracts with a
14 multistate licensing system or other persons to collect and
15 maintain records and process fees related to licensees or
16 other persons subject to this Act.

17 (c) In connection with an application for licensing, the
18 applicant, owners, officers, and directors of an applicant may
19 be required, at a minimum, to furnish to the Secretary or the
20 multistate licensing system information concerning the
21 identity of the applicant, owners, officers, and directors,
22 including personal history and experience in a form prescribed
23 by the Secretary or the multistate licensing system including,
24 but not limited to:

25 (1) a complete and accurate copy of an independent

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

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

6 (d) For the purposes of this Section, and to reduce the
7 points of contact that the Secretary may have to maintain, the
8 Secretary may use a multistate licensing system as a
9 channeling agent for requesting and distributing information
10 to and from any source.

11 (e) Each application shall be accompanied by averments as
12 determined by the Secretary to fulfill the purposes of this
13 Act.

14 Section 9. Refusal to issue license. The Secretary may
15 refuse to issue or renew a license if the Secretary determines
16 that:

17 (a) the applicant has not complied with a provision of
18 this Act, rule adopted under this Act, or other laws that
19 apply to the applicant;

20 (b) there is substantial continuity between the
21 applicant and any violator of this Act, rule adopted under
22 this Act, or other laws that apply to the applicant or
23 related violator; and

24 (c) the applicant or its owners, officers, or
25 directors do not have the financial responsibility,

1 financial condition, business experience, character, and
2 general fitness to justify the confidence of the public
3 and that the license applicant and its owners, officers,
4 and directors are not fit, willing, and able to carry on
5 the proposed business in a lawful and fair manner.

6 Section 10. License issuance and renewal.

7 (a) Absent a written extension from the Department and
8 payment of any late fees required by the Department, a license
9 shall expire on the last day of December of each calendar year
10 if a licensee fails to timely submit a properly completed
11 renewal application form and fees.

12 (b) Licensees shall apply to renew their license every
13 calendar year. Licensees may submit properly completed renewal
14 application forms and filing fees 60 days before the license
15 expiration date. To be deemed timely, the completed renewal
16 application forms and filing fees must be received by the
17 Secretary at least 30 days before the license expiration date.

18 (c) It shall be the responsibility of each licensee to
19 accomplish timely renewal of its license.

20 (d) No activity regulated by this Act shall be conducted
21 by a licensee whose license has expired. The Secretary may,
22 within the Secretary's discretion, reinstate an expired
23 license upon payment of the renewal fee, payment of a
24 reactivation fee equal to 5 times the renewal fee, submission
25 of a completed renewal application, and an affidavit of good

1 cause for late renewal.

2 Section 11. Fees.

3 (a) The expenses of administering this Act, including
4 licensing, investigations, and examinations provided for in
5 this Act, shall be borne by and assessed against persons and
6 entities regulated by this Act in the proportions and in the
7 manner as the Secretary deems appropriate. The Secretary may
8 establish by rule the category and amount of any fees that the
9 person and entities pay to the Department.

10 (b) The Secretary may modify any fees established by this
11 Act by rule beginning one year after the effective date of this
12 Act.

13 Section 12. Functions; powers; duties. The functions,
14 powers, and duties of the Secretary shall include, but shall
15 not be limited to:

16 (a) to issue or refuse to issue any license or
17 renewal;

18 (b) to impose fines, revoke, or suspend for cause any
19 license issued under this Act;

20 (c) to impose fines for any unlicensed activity under
21 this Act;

22 (d) to keep records of all licenses issued under this
23 Act;

24 (e) to receive, consider, investigate, and act upon

1 complaints made by any person in connection with any
2 licensee in this State or unlicensed activity under this
3 Act of any person;

4 (f) to prescribe the forms of and receive:

5 (1) applications for licenses and renewals; and

6 (2) all reports and all books and records required
7 to be made by any licensee, including annual audited
8 financial statements if required by the Secretary and
9 annual reports of activity;

10 (g) to adopt rules necessary and proper for the
11 administration of this Act, to protect consumers and to
12 promote fair competition;

13 (h) to subpoena documents and witnesses and compel
14 attendance and production, to administer oaths, and to
15 require the production of any books, papers, or other
16 materials relevant to any inquiry authorized by this Act
17 or rules adopted under this Act;

18 (i) to issue orders against any person if the
19 Secretary has reasonable cause to believe that an unsafe,
20 unsound, or unlawful practice has occurred, is occurring,
21 or is about to occur; if any person is violating, or is
22 about to violate any law, rule, or written agreement with
23 the Secretary; or for the purpose of administering the
24 provisions of this Act and any rule adopted in accordance
25 with this Act;

26 (j) to address any inquiries to any licensee, or the

1 owners, officers, or directors, in relation to its
2 activities and conditions, or any other matter connected
3 with its affairs, and it shall be the duty of any licensee
4 or person so addressed to promptly reply in writing to
5 those inquiries; and to require reports from any licensee
6 at any time the Secretary may deem desirable;

7 (k) to examine the books and records of every licensee
8 or any person requiring a license or who the Secretary
9 reasonably believes may require a license at any time
10 interval reasonably determined appropriate by the
11 Secretary;

12 (l) to enforce provisions of this Act and rules
13 adopted under this Act;

14 (m) to levy fees including, but not limited to,
15 contingent fees, assessments, examination fees, licensing
16 fees, fines, and charges for services performed in
17 administering this Act;

18 (n) to issue refunds to licensees within one year of
19 any overpayment for good cause shown;

20 (o) to appoint examiners, supervisors, experts, and
21 special assistants as needed to effectively and
22 efficiently administer this Act;

23 (p) to conduct hearings for the purpose of carrying
24 out the purposes of this Act;

25 (q) to exercise visitorial power over a licensee;

26 (r) to enter into cooperative agreements with state

1 regulatory authorities of other states to provide for
2 examination of corporate offices or branches in those
3 states, participate in joint examinations with other
4 regulators, and to accept reports of the examinations;

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

11 (t) to impose civil penalties of up to \$1,000 per day
12 against a licensee for failing to respond to a regulatory
13 request or reporting requirement; and

14 (u) to enter into agreements in connection with a
15 multistate licensing system.

16 Section 13. Financial Institutions Fund. All moneys
17 received by the Secretary under this Act shall be paid into the
18 Financial Institutions Fund. The amounts deposited into the
19 Fund shall be used for the ordinary and contingent expenses of
20 the Department. Nothing in this Act shall prevent paying
21 expenses involving salaries, retirement, social security, and
22 State-paid insurance of State employees, or any other expenses
23 incurred under this Act by appropriation from the General
24 Revenue Fund, PIC Fund, or any other fund.

1 Section 14. Examination; prohibited activities.

2 (a) The Secretary shall examine the business affairs of a
3 licensee as often as the Secretary deems necessary and proper.
4 The Secretary may adopt rules with respect to the frequency
5 and manner of examination. The Secretary shall appoint a
6 suitable person to perform the examination. The Secretary and
7 the Secretary's appointees may examine the entire books,
8 records, documents, and operations of each licensee and its
9 subsidiary, affiliate, or agent, and may examine any of the
10 licensee's or its subsidiaries', owners', affiliates', or
11 agents' officers, directors, employees, and agents under oath.

12 (b) Affiliates of a licensee shall be subject to
13 examination by the Secretary only to the extent reasonably
14 necessary to evaluate the licensee's compliance with this Act
15 and only with respect to records directly related to the
16 licensee's regulated activities under this Act.

17 (c) The expenses of any examination of the licensee or its
18 affiliates shall be borne by the licensee and assessed by the
19 Secretary as may be established by rule.

20 (d) All confidential supervisory information, including
21 the examination report and the work papers of the report,
22 shall belong to the Secretary's office and may not be
23 disclosed to anyone other than the licensee, law enforcement
24 officials, or other regulatory agencies that have an
25 appropriate regulatory interest as determined by the
26 Secretary, or to a party presenting a lawful subpoena to the

1 Department. The Secretary may, through the Attorney General,
2 immediately appeal to the court of jurisdiction the disclosure
3 of the confidential supervisory information and seek a stay of
4 the subpoena pending the outcome of the appeal. Reports
5 required of licensees by the Secretary under this Act and
6 results of examinations performed by the Secretary under this
7 Act shall be the property of only the Secretary, but may be
8 shared with the licensee. Any person demanded to produce the
9 Department's confidential supervisory information, whether by
10 subpoena, order, or other judicial or administrative process,
11 shall withhold production of the confidential supervisory
12 information and notify the Secretary of the demand. The
13 Secretary may intervene for the purpose of enforcing the
14 limitations of this Section or seeking the withdrawal or
15 termination of the attempt to compel production of the
16 confidential supervisory information. The Secretary may impose
17 any conditions and limitations on the disclosure of
18 confidential supervisory information that are necessary to
19 protect the confidentiality of that information. The Secretary
20 may condition a decision to disclose confidential supervisory
21 information on entry of a protective order by the court or
22 administrative tribunal presiding in the particular case or on
23 a written agreement of confidentiality. In a case in which a
24 protective order or agreement has already been entered between
25 parties other than the Secretary, the Secretary may
26 nevertheless condition approval for release of confidential

1 supervisory information upon the inclusion of additional or
2 amended provisions in the protective order. The Secretary may
3 authorize a party who obtained the records for use in one case
4 to provide them to a party in another case, subject to any
5 conditions that the Secretary may impose on either or both
6 parties. The requester shall promptly notify other parties to
7 a case of the release of confidential supervisory information
8 obtained and, upon entry of a protective order, shall provide
9 copies of confidential supervisory information to the other
10 parties.

11 Section 15. Subpoena power of the Secretary.

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

19 (b) If a person does not comply with the Secretary's
20 subpoena or subpoena duces tecum, the Secretary may, through
21 the Attorney General, petition the circuit court of the county
22 in which the subpoenaed person resides or has its principal
23 place of business for an order requiring the subpoenaed person
24 to testify and to comply with the subpoena duces tecum.

25 (c) The court may grant injunctive relief restraining the

1 person from engaging in activity regulated by this Act. The
2 court may grant other relief, including, but not limited to,
3 the restraint, by injunction or appointment of a receiver, of
4 any transfer, pledge, assignment, or other disposition of the
5 person's assets, concealment, destruction, or other
6 disposition of books, accounts, records, or other documents
7 and materials as the court deems appropriate, until the person
8 has fully complied with the subpoena or subpoena duces tecum
9 and the Secretary has completed an investigation or
10 examination.

11 (d) If it appears to the Secretary that the compliance
12 with a subpoena or subpoena duces tecum issued or caused to be
13 issued by the Secretary under this Section is essential to an
14 investigation or examination, the Secretary, in addition to
15 the other remedies provided for in this Act, may, through the
16 Attorney General, apply for relief to the circuit court of the
17 county in which the subpoenaed person resides or has its
18 principal place of business. The court shall direct the
19 issuance of an order against the subpoenaed person requiring
20 sufficient bond conditioned on compliance with the subpoena or
21 subpoena duces tecum. The court shall cause to be endorsed on
22 the order a suitable amount of bond or payment under which the
23 person named shall be freed, having a due regard to the nature
24 of the case.

25 (e) In addition, the Secretary may, through the Attorney
26 General, seek a writ of attachment or an equivalent order from

1 the circuit court having jurisdiction over the person who has
2 refused to obey a subpoena, who has refused to give testimony,
3 or who has refused to produce the matters described in the
4 subpoena duces tecum.

5 Section 16. Reports required of licensee. Every licensee
6 shall produce to the Department written reports or answers to
7 questions in the time and manner requested by the Secretary.

8 Section 17. Suspension; revocation of licenses; fines and
9 other discipline.

10 (a) The Secretary may enter an order imposing one or more
11 of the following penalties:

12 (1) revocation of license;

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

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

19 (4) issuance of a reprimand;

20 (5) imposition of a civil penalty or fine not to
21 exceed \$25,000 for each count of separate offense;

22 (6) restitution, refunds, or any other relief
23 necessary to protect consumers; and

24 (7) denial of a license.

1 (b) Grounds for penalties include:

2 (1) that a person has violated or aided another to
3 violate, any provisions of this Act, any rule adopted by
4 the Secretary, or any other law, rule, or regulation of
5 this State, any other state, or the United States;

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

10 (3) that a licensee that is not an individual has
11 acted or failed to act in a way that would be cause for
12 suspending or revoking a license to an individual;

13 (4) that a person engaged in unsafe, unsound, unfair,
14 deceptive, or abusive business practices related to the
15 activity covered by this Act;

16 (5) that a person has been adjudicated guilty of a
17 crime against the law of this State, any other state, or of
18 the United States involving moral turpitude, abusive,
19 deceptive, fraudulent, or dishonest dealing;

20 (6) that a final judgment has been entered against a
21 person in a civil action upon grounds of abusive conduct,
22 conversion, fraud, misrepresentation, or deceit;

23 (7) that a person made a material misstatement in its
24 application for licensure or any other communication to
25 the Secretary;

26 (8) that a person has demonstrated by course of

1 conduct, negligence or incompetence in performing any act
2 for which it is required to hold a license under this Act;

3 (9) that a person has failed to advise the Secretary
4 in writing of any changes to the information submitted on
5 the person's most recent application for license within 30
6 days after the change;

7 (10) that a licensee failed to submit to periodic
8 examination by the Secretary as required by this Act or
9 failed to maintain, preserve, and keep available for
10 examination all books, accounts, or other documents
11 required by the provisions of this Act and rules adopted
12 under this Act for a period of at least 2 years after the
13 loan is paid in full or any time period set forth by rule;

14 (11) that a person failed to account or deliver to any
15 person any property, such as any money, fund, deposit,
16 check, draft, or other document or thing of value, that
17 has come into the person's possession and that is not the
18 person's property or that the person is not in law or
19 equity entitled to retain, under the circumstances and at
20 the time which has been agreed upon or is required by law
21 or, in the absence of a fixed time, upon demand of the
22 person for the accounting and delivery;

23 (12) that a person failed to disburse funds in
24 accordance with agreements or law;

25 (13) that a person had a license, or the equivalent,
26 to practice any profession, occupation, other industry or

1 activity requiring licensure revoked, suspended,
2 disciplined, or otherwise acted against, including the
3 denial of licensure by a licensing authority of this State
4 or another state, territory, or country for fraud,
5 dishonest dealing, misrepresentations, incompetence,
6 conversion, any act of moral turpitude or any other
7 grounds that would constitute grounds for discipline under
8 this Act;

9 (14) that a person licensed under this Act failed to
10 timely notify the Department that the person has been
11 disciplined by a licensing authority of this State or
12 another state;

13 (15) that a person engaged in activities regulated by
14 the Act without a current, active license unless
15 specifically exempted by this Act;

16 (16) that a person failed to timely pay any fee,
17 charge, or fine assessed under this Act; and

18 (17) that a person refused, obstructed, evaded, or
19 unreasonably delayed an investigation, information
20 request, or examination authorized under this Act, or
21 refused, obstructed, evaded, or unreasonably delayed
22 compliance with the Secretary's subpoena or subpoena duces
23 tecum.

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

1 (d) The Secretary may suspend any license for a period not
2 exceeding 90 days pending investigation for good cause shown
3 that an emergency exists.

4 (e) No revocation, suspension, or surrender of any license
5 shall impair or affect the obligation of any preexisting
6 lawful contract between the licensee and any person. The
7 Secretary's approval of a licensee's application to surrender
8 its license shall not affect the licensee's civil or criminal
9 liability for acts committed prior to surrender. Surrender of
10 a license does not entitle the licensee to a return of any part
11 of the fee for initial licensure or any part of the fee for
12 annual license renewal.

13 (f) Every license issued under this Act shall remain in
14 force and effect until the license expires, is surrendered, is
15 revoked, or is suspended in accordance with the provisions of
16 this Act. The Secretary may reinstate a suspended license or
17 issue a new license to a licensee whose license has been
18 revoked or surrendered if no fact or condition then exists
19 which would have warranted the Secretary in refusing
20 originally to issue that license under this Act.

21 (g) If the Secretary imposes discipline authorized by this
22 Section, the Secretary shall execute a written order to that
23 effect. The Secretary shall serve a copy of the order upon the
24 person. The Secretary shall serve the person with notice of
25 the order, including a statement of the reasons for the order,
26 either personally, or by certified mail. Service by certified

1 mail shall be deemed completed when the notice is deposited
2 into the U.S. Mail.

3 (h) An order assessing a fine, an order imposing
4 conditions upon a license, an order revoking or suspending a
5 license, or an order denying renewal of a license shall take
6 effect upon service of the order unless the licensee serves
7 the Department with a written request for a hearing in the
8 manner required by the notice within 20 days after the date of
9 service of the order. If a person requests a hearing, the order
10 shall be stayed from its date of service until the Department
11 enters a final administrative order.

12 (1) If the licensee requests a hearing, the Secretary
13 shall schedule a preliminary hearing within 90 days after
14 the request for a hearing unless otherwise agreed to by
15 the parties.

16 (2) The preliminary hearing shall be held at the time
17 and place designated by the Secretary. The Secretary and
18 any administrative law judge designated by the Secretary
19 shall have the power to administer oaths and affirmations,
20 subpoena witnesses and compel their attendance, take
21 evidence, and require the production of books, papers,
22 correspondence, and other records or information that the
23 Secretary considers relevant or material to the inquiry.

24 (i) The costs of administrative hearings conducted under
25 this Section shall be paid by the licensee or other person
26 subject to the hearing.

1 (j) A licensee and other persons subject to this Act shall
2 be subject to the disciplinary actions specified in this Act
3 for any violations conducted by any officer, director,
4 shareholder, joint venture, partner, owner, including, but not
5 limited to, ultimate equitable owner.

6 Section 18. Investigation of complaints. The Secretary may
7 investigate any complaints and inquiries made concerning this
8 Act and any licensees or persons the Secretary believes may
9 require a license under this Act. Each licensee or person the
10 Secretary believes may require a license under this Act shall
11 open the licensee or person's books, records, documents, and
12 offices wherever situated to the Secretary as needed to
13 facilitate the investigations.

14 Section 19. Additional investigation and examination
15 authority. In addition to any authority allowed under this
16 Act, the Secretary shall have the authority to conduct
17 investigations and examinations as follows:

18 (a) For purposes of initial licensing, license
19 renewal, license suspension, license conditioning, license
20 probation, license revocation or termination, or general
21 or specific inquiry or investigation to determine
22 compliance with this Act, the Secretary shall have the
23 authority to access, receive, and use any books, accounts,
24 records, files, documents, information, or evidence,

1 including, but not limited to, the following:

2 (1) criminal, civil, licensure, and administrative
3 history information, including nonconviction data as
4 specified in the Criminal Identification Act;

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

9 (3) any other documents, information, or evidence
10 the Secretary deems relevant to the inquiry or
11 investigation, regardless of the location, possession,
12 control, or custody of the documents, information, or
13 evidence.

14 (b) For the purposes of investigating violations or
15 complaints arising under this Act or for the purposes of
16 examination, the Secretary may review, investigate, or
17 examine any licensee, individual, or person subject to
18 this Act as often as necessary in order to carry out the
19 purposes of this Act. The Secretary may direct, subpoena,
20 or order the attendance of, and examine under oath all
21 persons; and order any person to produce records, files,
22 and any other documents the Secretary deems relevant to an
23 inquiry.

24 (c) Each person subject to this Act shall make
25 available to the Secretary upon request the books and
26 records relating to the operations of the person subject

1 to this Act. The Secretary shall have access to those
2 books and records and may interview the owners, officers,
3 principals, employees, independent contractors, agents,
4 vendors, and customers of any licensee or person subject
5 to this Act.

6 (d) Each person subject to this Act shall make or
7 compile reports or prepare other information as directed
8 by the Secretary to carry out the purposes of this
9 Section, including, but not limited to:

10 (1) accounting compilations;

11 (2) information lists and data concerning
12 transactions in a format prescribed by the Secretary;
13 or

14 (3) other information deemed necessary to carry
15 out the purposes of this Section.

16 (e) In making any examination or investigation
17 authorized by this Act, the Secretary may control access
18 to any documents and records of the licensee or person
19 under examination or investigation. The Secretary may take
20 possession of the documents and records or otherwise take
21 constructive control of the documents. During the period
22 of control, no person shall remove or alter any of the
23 documents or records, except in accordance with a court
24 order or with the consent of the Secretary. Unless the
25 Secretary has reasonable grounds to believe the documents
26 or records of the licensee have been or are at risk of

1 being altered or destroyed for purposes of concealing a
2 violation of this Act, the licensee or owner of the
3 documents and records shall have access to the documents
4 or records as necessary to conduct its ordinary business
5 affairs.

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

8 (1) retain attorneys, accountants, or other
9 professionals and specialists as examiners, auditors,
10 or investigators to conduct or assist in the conduct
11 of examinations or investigations;

12 (2) enter into agreements or relationships with
13 other government officials or regulatory associations
14 to protect consumers, improve efficiencies, and reduce
15 regulatory burden by sharing resources, standardized
16 or uniform methods or procedures, and documents,
17 records, information, or evidence obtained under this
18 Section;

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

23 (4) accept and rely on examination or
24 investigation reports made by other government
25 officials, within or outside this State; or

26 (5) accept audit reports made by an independent

1 certified public accountant for the person subject to
2 this Act and incorporate the audit report in the
3 report of the examination, report of investigation, or
4 other writing of the Secretary.

5 (g) The authority of this Section shall remain in
6 effect, whether a person subject to this Act acts or
7 claims to act under any licensing or registration law of
8 this State or claims to act without authority.

9 (h) No licensee or person subject to investigation or
10 examination under this Section may knowingly withhold,
11 alter, abstract, remove, mutilate, destroy, hide, or
12 conceal any books, records, computer records, or other
13 information or take actions designed to delay or
14 complicate review of records.

15 Section 20. Confidentiality. To promote more effective
16 regulation, protect consumers, and reduce regulatory burden
17 through inter-regulator sharing of confidential supervisory
18 information:

19 (a) The privacy or confidentiality of any information
20 or material provided to the multistate licensing system,
21 including all privileges arising under federal or State
22 court rules and law, shall continue to apply to the
23 information or material after the information or material
24 has been disclosed to the multistate licensing system.
25 Information and material may be shared with the multistate

1 licensing system, federal and state regulatory officials
2 with relevant oversight authority, and law enforcement
3 without the loss of privilege or the loss of
4 confidentiality protections.

5 (b) The Secretary may enter into agreements or sharing
6 arrangements with other governmental agencies, the
7 Conference of State Bank Supervisors, and other
8 associations representing governmental agencies.

9 (c) Information or material that is privileged or
10 confidential under this Act as determined by the Secretary
11 shall not be subject to the following:

12 (1) disclosure under any State law governing the
13 disclosure to the public of information held by an
14 officer or an agency of this State; or

15 (2) subpoena, discovery, or admission into
16 evidence, in any private civil action or
17 administrative process except as authorized by the
18 Secretary.

19 (d) Any other law relating to the disclosure of
20 confidential supervisory information that is inconsistent
21 with this Act shall be superseded by the requirements of
22 this Section to the extent the other law provides less
23 confidentiality or a weaker privilege for information that
24 is privileged or confidential under this Act.

25 (e) Confidential or privileged information received
26 from the multistate licensing system, another licensing

1 body, federal and state regulatory officials, or law
2 enforcement shall be protected to the same extent as the
3 Secretary's confidential and privileged information is
4 protected under this Act. The Secretary may also protect
5 from disclosure confidential or privileged information
6 that would be exempt from disclosure to the extent it is
7 held directly by the multistate licensing system, another
8 licensing body, federal and state regulatory officials, or
9 law enforcement.

10 Section 21. Rules.

11 (a) In addition to the powers set forth in this Act and
12 other laws, the Secretary may adopt rules consistent with the
13 purposes of this Act, including, but not limited to, rules to:

14 (1) protect consumers in this State in connection with
15 the activities of persons subject to this Act;

16 (2) define improper, deceptive, unfair, abusive, or
17 fraudulent business practices in connection with providing
18 products and services under this Act;

19 (3) define terms used in this Act to interpret and
20 implement this Act;

21 (4) promote competition and price transparency; and

22 (5) enforce the provisions of this Act.

23 (b) The Secretary may make specific rulings, demands, and
24 findings deemed necessary for the proper conduct of the
25 buy-now-pay-later loan industry.

1 Section 22. Appeal and review.

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

7 (1) appointment of a hearing officer;

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

10 (3) provisions for apportioning costs among parties to
11 the appeal.

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

19 Section 23. Licensure fees.

20 (a) The nonrefundable fee for initial licensure shall be
21 \$5,000, unless modified by the Secretary in accordance with
22 subsection (b) of Section 11.

23 (b) The nonrefundable fee for annual license renewal shall
24 be \$5,000, unless modified by the Secretary in accordance with

1 subsection (b) of Section 11.

2 (c) The Department shall impose a contingent fee
3 sufficient to cover its operating expenses in administering
4 this Act not otherwise covered by all other revenue collected
5 under this Act. Each licensee shall pay to the Division its pro
6 rata share, based on number or volume of transactions or
7 revenue or any other metric established by the Department by
8 rule, of the cost for administration of the Act that exceeds
9 other fees listed in this Section, as estimated by the
10 Division, for the current year and any deficit actually
11 incurred in the administration of the Act in prior years.

12 Section 24. Cease and desist order.

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

23 (b) The Secretary shall serve notice of the order, either
24 personally or by certified mail. Service by certified mail
25 shall be deemed completed when the notice is deposited into

1 the U.S. Mail. The Secretary's notice shall include a
2 statement of the reasons for the action.

3 (c) Within 15 days after service of the cease and desist
4 order, the person subject to the order may request a hearing in
5 writing. The Secretary shall schedule a preliminary hearing
6 within 60 days after the request for a hearing unless the
7 parties agree to a later date.

8 (d) If it is determined that the Secretary had the
9 authority to issue the cease and desist order, the Secretary
10 may issue orders as may be reasonably necessary to correct,
11 eliminate, deter, or remedy the conduct described in the order
12 and resulting harms.

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

20 Section 25. Injunction. The Secretary may maintain an
21 action in the name of the people of the State of Illinois
22 through the Attorney General and may apply for an injunction
23 in the circuit court to enjoin a person from violating this Act
24 or rules adopted under this Act.

1 Section 26. Underwriting. A lender shall, before providing
2 or causing to be provided a loan to a consumer, perform, or
3 cause to be performed, reasonable risk-based underwriting
4 which shall include, at a minimum, an assessment of the
5 outstanding loans taken out by the consumer from the lender
6 and an assessment of the consumer's income and indebtedness. A
7 lender shall maintain or cause to be maintained policies and
8 procedures for underwriting loans, and shall disclose factors
9 considered in the underwriting process, in a clear and
10 conspicuous manner to the consumer. Nothing in this Act shall
11 be construed to require a lender to disclose proprietary
12 underwriting models, anti-fraud criteria, or trade secrets to
13 the public. No lender shall collect, evaluate, report, or
14 maintain in the file on a borrower the credit worthiness,
15 credit standing, or credit capacity of members of the
16 borrower's social network for purposes of determining the
17 credit worthiness of the borrower; the average credit
18 worthiness, credit standing, or credit capacity of members of
19 the borrower's social network; or any group score that is not
20 the borrower's own credit worthiness, credit standing, or
21 credit capacity. The Department may adopt rules with respect
22 to underwriting.

23 Section 27. Consumer protections.

24 (a) A lender shall provide the following disclosures to a
25 consumer, in a clear and conspicuous manner, at the time of

1 extending a specific offer of a loan:

2 (1) how to file a complaint with the Department;

3 (2) the terms of buy-now-pay-later loans, including,
4 without limitation, the cost, such as interest and fees,
5 the repayment schedule, the means by which a person may
6 dispute billing practices, whether the transaction will or
7 will not be reported to a credit reporting agency, and
8 other material conditions, in a clear and conspicuous
9 manner and in a manner that complies with applicable
10 federal regulations, including, but not limited to,
11 Regulation Z of Title I of the Consumer Credit Protection
12 Act;

13 (3) factors considered in the underwriting process;

14 and

15 (4) Any other disclosures required by the Secretary by
16 rule.

17 (b) A lender shall maintain policies and procedures for
18 maintaining accurate data that may be reported to credit
19 reporting agencies. A lender may use, sell, or share the data
20 of a consumer, other than in connection with the making,
21 processing, or administering of a particular loan to the
22 consumer, only with the consumer's consent or as authorized by
23 rule. A lender shall disclose or cause to be disclosed to a
24 consumer in a clear and conspicuous manner how the consumer's
25 data may be used, shared, or sold by the lender before
26 obtaining the consumer's consent and also shall disclose or

1 cause to be disclosed to the consumer in a clear and
2 conspicuous manner how the consumer may subsequently withdraw
3 consent to the use, sharing, or sale. A lender shall maintain
4 policies and procedures regarding its use, sale, and sharing
5 of consumers' data. Nothing in this subsection shall prevent a
6 lender from using information in accordance with the Fair
7 Credit Reporting Act or furnishing credit reporting data to a
8 credit reporting agency. The Secretary may adopt rules related
9 to data privacy. No lender shall share consumer data in a
10 manner inconsistent with this Act and rules adopted under this
11 Act.

12 (c) A lender shall resolve disputes in a manner that is
13 fair and transparent to consumers. A lender shall create a
14 readily available and prominently disclosed method for
15 consumers to bring a dispute to the lender. A lender shall
16 maintain policies and procedures for handling consumer
17 disputes. A lender shall apply to loans the dispute rights and
18 unauthorized charges requirements that apply to credit cards
19 under the federal Truth in Lending Act, regardless of whether
20 the law applies to loans or whether the lender offers a credit
21 card within the scope of the law.

22 (d) A lender shall provide refunds or credits for goods or
23 services purchased in connection with a loan, if the consumer
24 requests and is entitled to a refund, in a manner that is fair,
25 transparent, and not unduly burdensome to consumers. A lender
26 shall maintain policies and procedures to provide the refunds

1 or credits. The policies and procedures shall be fair,
2 transparent, and not unduly burdensome to the consumer. A
3 lender shall disclose to consumers, in a clear and conspicuous
4 manner, the process by which they can obtain refunds or
5 credits for goods or services they have purchased in
6 connection with a loan.

7 (e) A lender shall not require consumers to authorize
8 automatic payment from the consumer's accounts. If a consumer
9 voluntarily elects to use automatic payments in relation to
10 the loan, the lender shall not charge the consumer any amount
11 to cancel automatic payments should the consumer request to do
12 so.

13 (f) A lender shall not require payment by a consumer by
14 credit card.

15 (g) A lender shall not attempt to debit a consumer's
16 account if it is notified that there are insufficient funds to
17 pay in the account or if it has reason to believe there are
18 insufficient funds to pay in the account without seeking
19 additional, express approval from the consumer. A lender shall
20 present an ACH debit for payment not more than twice.

21 (h) The lender's license shall be kept conspicuously
22 posted on the mobile application, website, or other consumer
23 interface of the lender, as well as listed in the terms and
24 conditions of any loan offered or entered into by the lender.

25 (i) A consumer shall be permitted to pay off the loan at
26 any time. A lender may not impose, directly or indirectly, any

1 additional fee or finance charge other than interest accrued
2 since the consumer's last payment or the start of the loan if
3 the consumer elects to pay off or refinance the loan before
4 full repayment.

5 (j) A lender may not accept tips, expedited payment fees,
6 or any other fee identified by the Department by rule from
7 consumers. Additionally, the Department may limit any fee,
8 charge, or payment which may be charged to a consumer by a
9 lender.

10 (k) A lender shall maintain policies and procedures for
11 underwriting buy-now-pay-later loans and follow the policies
12 and procedures when underwriting loans under this Act.

13 (l) The Department may, by rule, limit or prohibit the
14 number of loans any consumer may have outstanding.

15 (m) All requirements set forth in this Section or in any
16 rules adopted by the Department relating to servicing of a
17 loan shall apply to a subsequent purchaser or assignee of a
18 loan, an agent of the lender, or any other person servicing a
19 loan.

20 Section 27.5. Compliance with federal law. All disclosures
21 required by this Act shall be made in a manner that complies
22 with the federal Truth in Lending Act, amendments thereto, and
23 any regulations issued or which may be issued thereunder.

24 Section 28. Rate cap. A loan entered into under this Act is

1 subject to the rate cap set forth in Section 15-5-5 of the
2 Predatory Loan Prevention Act.

3 Section 29. Nullification of loans. Any loan made by a
4 person not licensed or otherwise exempt under this Act is null
5 and void and no person or entity shall have any right to
6 collect, attempt to collect, receive, or retain any principal,
7 fee, interest, or charges related to the loan.

8 Section 30. Annual report. The Secretary may require an
9 annual report from all licensees in a form and manner
10 prescribed by the Secretary. The Department may publish
11 reports containing a compilation of aggregate data concerning
12 the buy-now-pay-later loan industry.

13 Section 31. Surety bond.

14 (a) An applicant for a license shall post and a licensee
15 must maintain with the Secretary a bond or bonds issued by
16 corporations qualified to do business as surety companies in
17 this State.

18 (b) The applicant or licensee shall post a bond in a
19 minimum amount of \$50,000. If the Secretary finds at any time
20 that a bond is of insufficient size, is insecure, exhausted,
21 or otherwise doubtful, an additional bond in the amount as
22 determined by the Secretary shall be filed by the licensee
23 within 30 days after written demand by the Secretary.

1 (c) The bond must be in a form satisfactory to the
2 Secretary and shall run to the State of Illinois for the
3 benefit of any claimant against the applicant or licensee with
4 respect to any activity regulated by this Act, including
5 unpaid fees, fines, or penalties owed to the Department. A
6 claimant damaged by a breach of the conditions of a bond shall
7 have a right of action upon the bond for damages suffered and
8 may bring suit directly on the bond, or the Secretary may bring
9 suit on behalf of the claimant.

10 Section 32. Relation to other laws. Nothing in this Act
11 shall be construed to limit the obligation of a licensee to
12 comply with any other applicable laws or rules, including, but
13 not limited to, the Predatory Loan Prevention Act. Any
14 protections, rights, and remedies provided in this Act to a
15 consumer with respect to an agreement with a lender shall be
16 intended to supplement and not be exclusive of any
17 protections, rights, and remedies otherwise available under
18 any other law.

19 Section 33. Limitation on liability. No provision of this
20 Act imposes any liability on a lender as a result of the actual
21 annual percentage rate charged by a lender differing from the
22 estimated annual percentage rate disclosed in conformity with
23 any regulation, order, or written interpretive opinion of the
24 Secretary or any opinion of the Attorney General, whether or

1 not the regulation, order, or written interpretive opinion is
2 later amended, rescinded, or repealed or determined by
3 judicial or other authority to be invalid for any reason.

4 Section 34. Liberal construction and purpose. This Act
5 shall be liberally construed to protect consumers.

6 Section 35. Compliance. No person shall be required to
7 comply with this Act until January 1, 2028, or a later date
8 established by the Department by rule.

9 Section 37. Violations.

10 (a) Nothing in this Act shall be construed to restrict the
11 exercise of powers or the performance of the duties of the
12 Attorney General that the Attorney General is authorized to
13 exercise or perform by law.

14 (b) A violation of this Act constitutes an unlawful
15 practice under the Consumer Fraud and Deceptive Business
16 Practices Act. All remedies, penalties, and authority granted
17 to the Attorney General by the Consumer Fraud and Deceptive
18 Business Practices Act shall be available to the Attorney
19 General for the enforcement of this Act.

20 Section 38. Other licenses. A person holding (i) a license
21 under the Consumer Installment Loan Act, (ii) a license under
22 the Collection Agency Act, (iii) a license under the Sales

1 Finance Agency Act, or (iv) a license identified by the
2 Department by rule is not required to be licensed under this
3 Act, but is otherwise required to comply with this Act,
4 including, but not limited to, the payment of fees relating to
5 the activity subject to this Act. The person shall notify the
6 Department that it is conducting activity subject to this Act
7 at the time of the renewal of the person's license.

8 Section 39. Safe harbor. A person that (i) was providing
9 buy-now-pay-later loans in this State before January 1, 2028
10 and (ii) submits an application for a license on or before
11 January 1, 2028 shall be deemed a provisional licensee
12 authorized to continue operating under this Act until the
13 Department acts on the application. In addition to any other
14 grounds for denying an application under this Act, the
15 Department may deny such an application if it finds that the
16 applicant's reputation does not warrant the belief that the
17 business will be operated honestly and fairly within the
18 purposes of this Act and that the applicant does not meet the
19 positive net worth requirement. The Department may, by rule,
20 extend the compliance date for any provision of this Act.

21 Section 40. Relation to other laws. Any loan made under
22 and in compliance with this Act is not required to comply with
23 the Consumer Installment Loan Act or the Payday Loan Reform
24 Act.

1 Section 900. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by adding Section 2MMMM as follows:

3 (815 ILCS 505/2MMMM new)

4 Sec. 2MMMM. Violations of the Buy-Now-Pay-Later Loan
5 Consumer Protection Act. A person who violates the
6 Buy-Now-Pay-Later Loan Consumer Protection Act commits an
7 unlawful practice within the meaning of this Act.

8 Section 997. Severability. If any provision of this Act or
9 the application of the provision is held invalid, the
10 invalidity shall not affect other provisions or applications
11 of the Act which can be given effect without the invalidated
12 provision or application.

13 Section 999. Effective date. This Act takes effect upon
14 becoming law.".