



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4430

Introduced 2/3/2020, by Rep. Camille Y. Lilly

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Credit Union Act, the Transmitters of Money Act, the Sales Finance Agency Act, the Debt Management Service Act, the Consumer Installment Loan Act, the Debt Settlement Consumer Protection Act, and the Payday Loan Reform Act. Requires applicants for a license or renewal of a license to operate a credit union, operate as a transmitter of money, engage in the business of a sales finance agency, engage in a debt management service, make consumer installment loans, operate as a debt settlement provider, or operate as a lender of payday loans to provide an email address of record to the Department of Financial and Professional Regulation. In provisions concerning service of certain notices and orders, allows service by email to the email address of record. Provides that service to an email address of record is deemed complete when sent. Provides that service by certified mail shall be deemed completed when the notice is deposited in the United States mail. Defines the term "email address of record". Makes other changes.

LRB101 16230 BMS 66929 b

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Credit Union Act is amended by
5 changing Sections 1.1, 2, 8, 21, and 61 as follows:

6 (205 ILCS 305/1.1) (from Ch. 17, par. 4402)

7 Sec. 1.1. Definitions.

8 Credit Union - The term "credit union" means a cooperative,
9 non-profit association, incorporated under this Act, under the
10 laws of the United States of America or under the laws of
11 another state, for the purposes of encouraging thrift among its
12 members, creating a source of credit at a reasonable rate of
13 interest, and providing an opportunity for its members to use
14 and control their own money in order to improve their economic
15 and social conditions. The membership of a credit union shall
16 consist of a group or groups each having a common bond as set
17 forth in this Act.

18 Common Bond - The term "common bond" refers to groups of
19 people who meet one of the following qualifications:

20 (1) Persons belonging to a specific association, group
21 or organization, such as a church, labor union, club or
22 society and members of their immediate families which shall
23 include any relative by blood or marriage or foster and

1 adopted children.

2 (2) Persons who reside in a reasonably compact and well
3 defined neighborhood or community, and members of their
4 immediate families which shall include any relative by
5 blood or marriage or foster and adopted children.

6 (3) Persons who have a common employer or who are
7 members of an organized labor union or an organized
8 occupational or professional group within a defined
9 geographical area, and members of their immediate families
10 which shall include any relative by blood or marriage or
11 foster and adopted children.

12 Shares - The term "shares" or "share accounts" means any
13 form of shares issued by a credit union and established by a
14 member in accordance with standards specified by a credit
15 union, including but not limited to common shares, share draft
16 accounts, classes of shares, share certificates, special
17 purpose share accounts, shares issued in trust, custodial
18 accounts, and individual retirement accounts or other plans
19 established pursuant to Section 401(d) or (f) or Section 408(a)
20 of the Internal Revenue Code, as now or hereafter amended, or
21 similar provisions of any tax laws of the United States that
22 may hereafter exist.

23 Credit Union Organization - The term "credit union
24 organization" means any organization established to serve the
25 needs of credit unions, the business of which relates to the
26 daily operations of credit unions.

1 Department - The term "Department" means the Illinois
2 Department of Financial and Professional Regulation.

3 Email address of record - The term "email address of
4 record" means an accurate and current email address designated
5 by a credit union and recorded by the Division of Financial
6 Institutions in the credit union's file maintained by the
7 Division of Financial Institutions.

8 Secretary - The term "Secretary" means the Secretary of
9 Financial and Professional Regulation or a person authorized by
10 the Secretary or this Act to act in the Secretary's stead.

11 Division of Financial Institutions - The term "Division of
12 Financial Institutions" means the Division of Financial
13 Institutions of the Department of Financial and Professional
14 Regulation.

15 Director - The term "Director of Financial Institutions"
16 means the Director of the Division of Financial Institutions of
17 the Department of Financial and Professional Regulation.

18 Office - The term "office" means the Division of Financial
19 Institutions of the Department of Financial and Professional
20 Regulation.

21 NCUA - The term "NCUA" means the National Credit Union
22 Administration, an agency of the United States Government
23 charged with the supervision of credit unions chartered under
24 the laws of the United States of America.

25 Central Credit Union - The term "central credit union"
26 means a credit union incorporated primarily to receive shares

1 from and make loans to credit unions and directors, officers,
2 committee members and employees of credit unions. A central
3 credit union may also accept as members persons who were
4 members of credit unions which were liquidated and persons from
5 occupational groups not otherwise served by another credit
6 union.

7 Corporate Credit Union - The term "corporate credit union"
8 means a credit union which is a cooperative, non-profit
9 association, the membership of which is limited primarily to
10 other credit unions.

11 Insolvent - "Insolvent" means the condition that results
12 when the total of all liabilities and shares exceeds net assets
13 of the credit union.

14 Danger of insolvency - For purposes of Section 61, a credit
15 union is in "danger of insolvency" if its net worth to asset
16 ratio falls below 2%. In calculating the danger of insolvency
17 ratio, secondary capital shall be excluded. For purposes of
18 Section 61, a credit union is also in "danger of insolvency" if
19 the Department is unable to ascertain, upon examination, the
20 true financial condition of the credit union.

21 Net Worth - "Net worth" means the retained earnings balance
22 of the credit union, as determined under generally accepted
23 accounting principles, and forms of secondary capital approved
24 by the Secretary and the Director pursuant to rulemaking.

25 Charitable Donation Account - The term "charitable
26 donation account" means an account owned by a credit union that

1 is held in a segregated custodial account or special purpose
2 entity and specifically identified as a charitable donation
3 account whereby, no less frequently than every 5 years and upon
4 termination of the account, at least 51% of the total return on
5 assets in the account is distributed to one or more charitable
6 organizations or non-profit entities.

7 (Source: P.A. 97-133, eff. 1-1-12; 98-784, eff. 7-24-14.)

8 (205 ILCS 305/2) (from Ch. 17, par. 4403)

9 Sec. 2. Organization procedure.

10 (1) Any 9 or more persons of legal age, the majority of
11 whom shall be residents of the State of Illinois, who have a
12 common bond referred to in Section 1.1 may organize a credit
13 union or a central credit union by complying with this Section.

14 (2) The subscribers shall execute in duplicate Articles of
15 Incorporation and agree to the terms thereof, which Articles
16 shall state:

17 (a) The name, which shall include the words "credit
18 union" and which shall not be the same as that of any other
19 existing credit union in this state, and the location where
20 the proposed credit union is to have its principal place of
21 business;

22 (b) The common bond of the members of the credit union;

23 (c) The par value of the shares of the credit union,
24 which must be at least \$1;

25 (d) The names, addresses and Social Security numbers of

1 the subscribers to the Articles of Incorporation, and the
2 number and the value of shares subscribed to by each;

3 (e) That the credit union may exercise such incidental
4 powers as are necessary or requisite to enable it to carry
5 on effectively the purposes for which it is incorporated,
6 and those powers which are inherent in the credit union as
7 a legal entity;

8 (f) That the existence of the credit union shall be
9 perpetual.

10 (3) The subscribers shall prepare and adopt bylaws for the
11 general government of the credit union, consistent with this
12 Act, and execute same in duplicate.

13 (4) The subscribers shall forward the articles of
14 incorporation and the bylaws to the Secretary in duplicate,
15 along with the required charter fee. If they conform to the
16 law, and such rules and regulations as the Secretary and the
17 Director may prescribe, if the Secretary determines that a
18 common bond exists, and that it is economically advisable to
19 organize the credit union, he or she shall within 60 days issue
20 a certificate of approval attached to the articles of
21 incorporation and return a copy of the bylaws and the articles
22 of incorporation to the applicants or their representative,
23 which shall be preserved in the permanent files of the credit
24 union. The subscribers shall file the certificate of approval,
25 with the articles of incorporation attached, in the office of
26 the recorder (or, if there is no recorder, in the office of the

1 county clerk) of the county in which the credit union is to
2 locate its principal place of business. The recorder or the
3 county clerk, as the case may be, shall accept and record the
4 documents if they are accompanied by the proper fee. When the
5 documents are so recorded, the credit union is incorporated
6 under this Act.

7 (5) The subscribers for a credit union charter shall not
8 transact any business until the certificate of approval has
9 been received.

10 (6) At the time of executing the articles of incorporation,
11 the subscribers shall provide an email address of record.

12 (Source: P.A. 100-361, eff. 8-25-17.)

13 (205 ILCS 305/8) (from Ch. 17, par. 4409)

14 Sec. 8. Secretary's powers and duties. Credit unions are
15 regulated by the Department. The Secretary in executing the
16 powers and discharging the duties vested by law in the
17 Department has the following powers and duties:

18 (1) To exercise the rights, powers and duties set forth
19 in this Act or any related Act. The Director shall oversee
20 the functions of the Division and report to the Secretary,
21 with respect to the Director's exercise of any of the
22 rights, powers, and duties vested by law in the Secretary
23 under this Act. All references in this Act to the Secretary
24 shall be deemed to include the Director, as a person
25 authorized by the Secretary or this Act to assume

1 responsibility for the oversight of the functions of the
2 Department relating to the regulatory supervision of
3 credit unions under this Act.

4 (2) To prescribe rules and regulations for the
5 administration of this Act. The provisions of the Illinois
6 Administrative Procedure Act are hereby expressly adopted
7 and incorporated herein as though a part of this Act, and
8 shall apply to all administrative rules and procedures of
9 the Department under this Act.

10 (3) To direct and supervise all the administrative and
11 technical activities of the Department including the
12 employment of a Credit Union Supervisor who shall have
13 knowledge in the theory and practice of, or experience in,
14 the operations or supervision of financial institutions,
15 preferably credit unions, and such other persons as are
16 necessary to carry out his functions. The Secretary shall
17 ensure that all examiners appointed or assigned to examine
18 the affairs of State-chartered credit unions possess the
19 necessary training and continuing education to effectively
20 execute their jobs.

21 (4) To issue cease and desist orders when in the
22 opinion of the Secretary, a credit union is engaged or has
23 engaged, or the Secretary has reasonable cause to believe
24 the credit union is about to engage, in an unsafe or
25 unsound practice, or is violating or has violated or the
26 Secretary has reasonable cause to believe is about to

1 violate a law, rule or regulation or any condition imposed
2 in writing by the Department.

3 (5) To suspend from office and to prohibit from further
4 participation in any manner in the conduct of the affairs
5 of his credit union any director, officer or committee
6 member who has committed any violation of a law, rule,
7 regulation or of a cease and desist order or who has
8 engaged or participated in any unsafe or unsound practice
9 in connection with the credit union or who has committed or
10 engaged in any act, omission, or practice which constitutes
11 a breach of his fiduciary duty as such director, officer or
12 committee member, when the Secretary has determined that
13 such action or actions have resulted or will result in
14 substantial financial loss or other damage that seriously
15 prejudices the interests of the members.

16 (6) To assess a civil penalty against a credit union
17 provided that:

18 (A) the Secretary reasonably determines, based on
19 objective facts and an accurate assessment of
20 applicable legal standards, that the credit union has:

21 (i) committed a violation of this Act, any rule
22 adopted in accordance with this Act, or any order
23 of the Secretary issued pursuant to his or her
24 authority under this Act; or

25 (ii) engaged or participated in any unsafe or
26 unsound practice;

1 (B) before a civil penalty is assessed under this
2 item (6), the Secretary must make the further
3 reasonable determination, based on objective facts and
4 an accurate assessment of applicable legal standards,
5 that the credit union's action constituting a
6 violation under subparagraph (i) of paragraph (A) of
7 item (6) or an unsafe and unsound practice under
8 subparagraph (ii) of paragraph (A) of item (6):

9 (i) directly resulted in a substantial and
10 material financial loss or created a reasonable
11 probability that a substantial and material
12 financial loss will directly result; or

13 (ii) constituted willful misconduct or a
14 material breach of fiduciary duty of any director,
15 officer, or committee member of the credit union;

16 Material financial loss, as referenced in this
17 paragraph (B), shall be assessed in light of
18 surrounding circumstances and the relative size and
19 nature of the financial loss or probable financial
20 loss. Certain benchmarks shall be used in determining
21 whether financial loss is material, such as a
22 percentage of total assets or total gross income for
23 the immediately preceding 12-month period. Absent
24 compelling and extraordinary circumstances, no civil
25 penalty shall be assessed, unless the financial loss or
26 probable financial loss is equal to or greater than

1 either 1% of the credit union's total assets for the
 2 immediately preceding 12-month period, or 1% of the
 3 credit union's total gross income for the immediately
 4 preceding 12-month period, whichever is less;

5 (C) before a civil penalty is assessed under this
 6 item (6), the credit union must be expressly advised in
 7 writing of the:

8 (i) specific violation that could subject it
 9 to a penalty under this item (6); and

10 (ii) specific remedial action to be taken
 11 within a specific and reasonable time frame to
 12 avoid imposition of the penalty;

13 (D) Civil penalties assessed under this item (6)
 14 shall be remedial, not punitive, and reasonably
 15 tailored to ensure future compliance by the credit
 16 union with the provisions of this Act and any rules
 17 adopted pursuant to this Act;

18 (E) a credit union's failure to take timely
 19 remedial action with respect to the specific violation
 20 may result in the issuance of an order assessing a
 21 civil penalty up to the following maximum amount, based
 22 upon the total assets of the credit union:

23 (i) Credit unions with assets of less than \$10
 24 million..... \$1,000

25 (ii) Credit unions with assets of at least \$10
 26 million and less than \$50 million \$2,500

1 (iii) Credit unions with assets of at least \$50
2 million and less than \$100 million \$5,000

3 (iv) Credit unions with assets of at least \$100
4 million and less than \$500 million \$10,000

5 (v) Credit unions with assets of at least \$500
6 million and less than \$1 billion \$25,000

7 (vi) Credit unions with assets of \$1 billion
8 and greater..... \$50,000; and

9 (F) an order assessing a civil penalty under this
10 item (6) shall be served by certified mail or email to
11 the email address of record and take effect upon
12 service of the order, unless the credit union makes a
13 written request for a hearing under 38 IL. Adm. Code
14 190.20 of the Department's rules for credit unions
15 within 90 days after issuance of the order; in that
16 event, the order shall be stayed until a final
17 administrative order is entered. Service by certified
18 mail shall be deemed completed when the notice is
19 deposited in the United States mail. Service to the
20 email address of record shall be deemed completed when
21 sent.

22 This item (6) shall not apply to violations separately
23 addressed in rules as authorized under item (7) of this
24 Section.

25 (7) Except for the fees established in this Act, to
26 prescribe, by rule and regulation, fees and penalties for

1 preparing, approving, and filing reports and other
2 documents; furnishing transcripts; holding hearings;
3 investigating applications for permission to organize,
4 merge, or convert; failure to maintain accurate books and
5 records to enable the Department to conduct an examination;
6 and taking supervisory actions.

7 (8) To destroy, in his discretion, any or all books and
8 records of any credit union in his possession or under his
9 control after the expiration of three years from the date
10 of cancellation of the charter of such credit unions.

11 (9) To make investigations and to conduct research and
12 studies and to publish some of the problems of persons in
13 obtaining credit at reasonable rates of interest and of the
14 methods and benefits of cooperative saving and lending for
15 such persons.

16 (10) To authorize, foster or establish experimental,
17 developmental, demonstration or pilot projects by public
18 or private organizations including credit unions which:

19 (a) promote more effective operation of credit
20 unions so as to provide members an opportunity to use
21 and control their own money to improve their economic
22 and social conditions; or

23 (b) are in the best interests of credit unions,
24 their members and the people of the State of Illinois.

25 (11) To cooperate in studies, training or other
26 administrative activities with, but not limited to, the

1 NCUA, other state credit union regulatory agencies and
2 industry trade associations in order to promote more
3 effective and efficient supervision of Illinois chartered
4 credit unions.

5 (12) Notwithstanding the provisions of this Section,
6 the Secretary shall not:

7 (1) issue an order against a credit union organized
8 under this Act for unsafe or unsound banking practices
9 solely because the entity provides or has provided
10 financial services to a cannabis-related legitimate
11 business;

12 (2) prohibit, penalize, or otherwise discourage a
13 credit union from providing financial services to a
14 cannabis-related legitimate business solely because
15 the entity provides or has provided financial services
16 to a cannabis-related legitimate business;

17 (3) recommend, incentivize, or encourage a credit
18 union not to offer financial services to an account
19 holder or to downgrade or cancel the financial services
20 offered to an account holder solely because:

21 (A) the account holder is a manufacturer or
22 producer, or is the owner, operator, or employee of
23 a cannabis-related legitimate business;

24 (B) the account holder later becomes an owner
25 or operator of a cannabis-related legitimate
26 business; or

1 (C) the credit union was not aware that the
2 account holder is the owner or operator of a
3 cannabis-related legitimate business; and

4 (4) take any adverse or corrective supervisory
5 action on a loan made to an owner or operator of:

6 (A) a cannabis-related legitimate business
7 solely because the owner or operator owns or
8 operates a cannabis-related legitimate business;
9 or

10 (B) real estate or equipment that is leased to
11 a cannabis-related legitimate business solely
12 because the owner or operator of the real estate or
13 equipment leased the equipment or real estate to a
14 cannabis-related legitimate business.

15 (Source: P.A. 101-27, eff. 6-25-19.)

16 (205 ILCS 305/21) (from Ch. 17, par. 4422)

17 Sec. 21. Record of board and committee members. Within 30
18 days after election or appointment, the names and addresses of
19 the members of the board of directors, committees and all
20 officers of the credit union shall be filed with the Department
21 on forms provided by the Department. The form shall also
22 include the email address of record of the credit union.

23 (Source: P.A. 97-133, eff. 1-1-12.)

24 (205 ILCS 305/61) (from Ch. 17, par. 4462)

1 Sec. 61. Suspension.

2 (1) If the Secretary determines that any credit union is
3 bankrupt, insolvent, impaired or that it has violated this Act,
4 or is operating in an unsafe or unsound manner, he shall issue
5 an order temporarily suspending the credit union's operations
6 for not more than 60 days. The board of directors shall be
7 given notice by registered or certified mail, or by email to
8 the email address of record, of such suspension, which notice
9 shall include the reasons for such suspension and a list of
10 specific violations of the Act. Service by certified mail shall
11 be deemed completed when the notice is deposited in the United
12 States mail. Service to the email address of record shall be
13 deemed completed when sent. The Secretary shall also notify the
14 members of the credit union board of advisors of any
15 suspension. The Director may assess to the credit union a
16 penalty, not to exceed the regulatory fee as set forth in this
17 Act, to offset costs incurred in determining the condition of
18 the credit union's books and records.

19 (2) Upon receipt of such suspension notice, the credit
20 union shall cease all operations, except those authorized by
21 the Secretary, or the Secretary may appoint a manager-trustee
22 to operate the credit union during the suspension period. The
23 board of directors shall, within 10 days of the receipt of the
24 suspension notice, file with the Secretary a reply to the
25 suspension notice by submitting a corrective plan of action or
26 a request for formal hearing on said action pursuant to the

1 Department's rules and regulations.

2 (3) Upon receipt from the suspended credit union of
3 evidence that the conditions causing the order of suspension
4 have been corrected, and after determining that the proposed
5 corrective plan of action submitted is factual, the Secretary
6 shall revoke the suspension notice, permit the credit union to
7 resume normal operations, and notify the board of credit union
8 advisors of such action.

9 (4) If the Secretary determines that the proposed
10 corrective plan of action will not correct such conditions, he
11 may take possession and control of the credit union. The
12 Secretary may permit the credit union to operate under his
13 direction and control and may appoint a manager-trustee to
14 manage its affairs until such time as the condition requiring
15 such action has been remedied, or in the case of insolvency or
16 danger of insolvency where an emergency requiring expeditious
17 action exists, the Secretary may involuntarily merge the credit
18 union without the vote of the suspended credit union's board of
19 directors or members (hereafter involuntary merger) subject to
20 rules promulgated by the Secretary. No credit union shall be
21 required to serve as a surviving credit union in any
22 involuntary merger. Upon the request of the Secretary, a credit
23 union by a vote of a majority of its board of directors may
24 elect to serve as a surviving credit union in an involuntary
25 merger. If the Secretary determines that the suspended credit
26 union should be liquidated, he may appoint a liquidating agent

1 and require of that person such bond and security as he
2 considers proper.

3 (5) Upon receipt of a request for a formal hearing, the
4 Secretary shall conduct proceedings pursuant to rules and
5 regulations of the Department. The credit union may request the
6 appropriate court to stay execution of such action. Involuntary
7 liquidation or involuntary merger may not be ordered prior to
8 the conclusion of suspension procedures outlined in this
9 Section.

10 (6) If, within the suspension period, the credit union
11 fails to answer the suspension notice or fails to request a
12 formal hearing, or both, the Secretary may then (i)
13 involuntarily merge the credit union if the credit union is
14 insolvent or in danger of insolvency and an emergency requiring
15 expeditious action exists or (ii) revoke the credit union's
16 charter, appoint a liquidating agent and liquidate the credit
17 union.

18 (Source: P.A. 97-133, eff. 1-1-12.)

19 Section 10. The Transmitters of Money Act is amended by
20 changing Sections 5, 25, 40, 80, 90, and 100 as follows:

21 (205 ILCS 657/5)

22 Sec. 5. Definitions. As used in this Act, unless the
23 context otherwise requires, the words and phrases defined in
24 this Section have the meanings set forth in this Section.

1 "Authorized seller" means a person not an employee of a
2 licensee who engages in the business regulated by this Act on
3 behalf of a licensee under a contract between that person and
4 the licensee.

5 "Bill payment service" means the business of transmitting
6 money on behalf of an Illinois resident for the purpose of
7 paying the resident's bills.

8 "Controlling person" means a person owning or holding the
9 power to vote 25% or more of the outstanding voting securities
10 of a licensee or the power to vote the securities of another
11 controlling person of the licensee. For purposes of determining
12 the percentage of a licensee controlled by a controlling
13 person, the person's interest shall be combined with the
14 interest of any other person controlled, directly or
15 indirectly, by that person or by a spouse, parent, or child of
16 that person.

17 "Department" means the Department of Financial and
18 Professional Regulation Institutions.

19 "Director" means the Director of Financial Institutions.

20 "Division of Financial Institutions" means the Division of
21 Financial Institutions of the Department of Financial and
22 Professional Regulation.

23 "Email address of record" means the designated email
24 address recorded by the Division of Financial Institutions in
25 the applicant's applicant file or the licensee's license file,
26 as maintained by the Division of Financial Institutions'

1 licensure unit.

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

3 "Location" means a place of business at which activity
4 regulated by this Act occurs.

5 "Material litigation" means any litigation that, according
6 to generally accepted accounting principles, is deemed
7 significant to a licensee's financial health and would be
8 required to be referenced in a licensee's annual audited
9 financial statements, reports to shareholders, or similar
10 documents.

11 "Money" means a medium of exchange that is authorized or
12 adopted by a domestic or foreign government as a part of its
13 currency and that is customarily used and accepted as a medium
14 of exchange in the country of issuance.

15 "Money transmitter" means a person who is located in or
16 doing business in this State and who directly or through
17 authorized sellers does any of the following in this State:

18 (1) Sells or issues payment instruments.

19 (2) Engages in the business of receiving money for
20 transmission or transmitting money.

21 (3) Engages in the business of exchanging, for
22 compensation, money of the United States Government or a
23 foreign government to or from money of another government.

24 "Outstanding payment instrument" means, unless otherwise
25 treated by or accounted for under generally accepted accounting
26 principles on the books of the licensee, a payment instrument

1 issued by the licensee that has been sold in the United States
2 directly by the licensee or has been sold in the United States
3 by an authorized seller of the licensee and reported to the
4 licensee as having been sold, but has not been paid by or for
5 the licensee.

6 "Payment instrument" means a check, draft, money order,
7 traveler's check, stored value card, or other instrument or
8 memorandum, written order or written receipt for the
9 transmission or payment of money sold or issued to one or more
10 persons whether or not that instrument or order is negotiable.
11 Payment instrument does not include an instrument that is
12 redeemable by the issuer in merchandise or service, a credit
13 card voucher, or a letter of credit. A written order for the
14 transmission or payment of money that results in the issuance
15 of a check, draft, money order, traveler's check, or other
16 instrument or memorandum is not a payment instrument.

17 "Person" means an individual, partnership, association,
18 joint stock association, corporation, or any other form of
19 business organization.

20 "Stored value card" means any magnetic stripe card or other
21 electronic payment instrument given in exchange for money and
22 other similar consideration, including but not limited to
23 checks, debit payments, money orders, drafts, credit payments,
24 and traveler's checks, where the card or other electronic
25 payment instrument represents a dollar value that the consumer
26 can either use or give to another individual.

1 "Transmitting money" means the transmission of money by any
2 means, including transmissions to or from locations within the
3 United States or to and from locations outside of the United
4 States by payment instrument, facsimile or electronic
5 transfer, or otherwise, and includes bill payment services.

6 (Source: P.A. 92-400, eff. 1-1-02; 93-535, eff. 1-1-04.)

7 (205 ILCS 657/25)

8 Sec. 25. Application for license.

9 (a) An application for a license must be in writing, under
10 oath, and in the form the Director prescribes. At the time of
11 application, each applicant shall provide an email address of
12 record. The application must contain or be accompanied by all
13 of the following:

14 (1) The name of the applicant and the address of the
15 principal place of business of the applicant and the
16 address of all locations and proposed locations of the
17 applicant in this State.

18 (2) The form of business organization of the applicant,
19 including:

20 (A) a copy of its articles of incorporation and
21 amendments thereto and a copy of its bylaws, certified
22 by its secretary, if the applicant is a corporation;

23 (B) a copy of its partnership agreement, certified
24 by a partner, if the applicant is a partnership; or

25 (C) a copy of the documents that control its

1 organizational structure, certified by a managing
2 official, if the applicant is organized in some other
3 form.

4 (3) The name, business and home address, and a
5 chronological summary of the business experience, material
6 litigation history, and felony convictions over the
7 preceding 10 years of:

8 (A) the proprietor, if the applicant is an
9 individual;

10 (B) every partner, if the applicant is a
11 partnership;

12 (C) each officer, director, and controlling
13 person, if the applicant is a corporation; and

14 (D) each person in a position to exercise control
15 over, or direction of, the business of the applicant,
16 regardless of the form of organization of the
17 applicant.

18 (4) Financial statements, not more than one year old,
19 prepared in accordance with generally accepted accounting
20 principles and audited by a licensed public accountant or
21 certified public accountant showing the financial
22 condition of the applicant and an unaudited balance sheet
23 and statement of operation as of the most recent quarterly
24 report before the date of the application, certified by the
25 applicant or an officer or partner thereof. If the
26 applicant is a wholly owned subsidiary or is eligible to

1 file consolidated federal income tax returns with its
2 parent, however, unaudited financial statements for the
3 preceding year along with the unaudited financial
4 statements for the most recent quarter may be submitted if
5 accompanied by the audited financial statements of the
6 parent company for the preceding year along with the
7 unaudited financial statement for the most recent quarter.

8 (5) Filings of the applicant with the Securities and
9 Exchange Commission or similar foreign governmental entity
10 (English translation), if any.

11 (6) A list of all other states in which the applicant
12 is licensed as a money transmitter and whether the license
13 of the applicant for those purposes has ever been
14 withdrawn, refused, canceled, or suspended in any other
15 state, with full details.

16 (7) A list of all money transmitter locations and
17 proposed locations in this State.

18 (8) A sample of the contract for authorized sellers.

19 (9) A sample form of the proposed payment instruments
20 to be used in this State.

21 (10) The name and business address of the clearing
22 banks through which the applicant intends to conduct any
23 business regulated under this Act.

24 (11) A surety bond as required by Section 30 of this
25 Act.

26 (12) The applicable fees as required by Section 45 of

1 this Act.

2 (13) A written consent to service of process as
3 provided by Section 100 of this Act.

4 (14) A written statement that the applicant is in full
5 compliance with and agrees to continue to fully comply with
6 all state and federal statutes and regulations relating to
7 money laundering.

8 (15) All additional information the Director considers
9 necessary in order to determine whether or not to issue the
10 applicant a license under this Act.

11 (a-5) The proprietor, partner, officer, director, and
12 controlling person of the applicant shall submit their
13 fingerprints to the Department of State Police in an electronic
14 format that complies with the form and manner for requesting
15 and furnishing criminal history record information as
16 prescribed by the Department of State Police. These
17 fingerprints shall be retained and checked against the
18 Department of State Police and Federal Bureau of Investigation
19 criminal history record databases now and hereafter filed,
20 including latent fingerprint searches. The Department of State
21 Police shall charge applicants a fee for conducting the
22 criminal history records check, which shall be deposited into
23 the State Police Services Fund and shall not exceed the actual
24 cost of the records check. The Department of State Police shall
25 furnish records of Illinois convictions to the Department
26 pursuant to positive identification and shall forward the

1 national criminal history record information to the
2 Department. The Department may require applicants to pay a
3 separate fingerprinting fee, either to the Department or to a
4 Department-designated or Department-approved vendor. The
5 Department, in its discretion, may allow a proprietor, partner,
6 officer, director, or controlling person of an applicant who
7 does not have reasonable access to a designated vendor to
8 provide his or her fingerprints in an alternative manner. The
9 Department, in its discretion, may also use other procedures in
10 performing or obtaining criminal background checks of
11 applicants. Instead of submitting his or her fingerprints, an
12 individual may submit proof that is satisfactory to the
13 Department that an equivalent security clearance has been
14 conducted. The Department may adopt any rules necessary to
15 implement this subsection.

16 (b) The Director may, for good cause shown, waive, in part,
17 any of the requirements of this Section.

18 (Source: P.A. 100-979, eff. 8-19-18.)

19 (205 ILCS 657/40)

20 Sec. 40. Renewals of license. As a condition for renewal of
21 a license, a licensee must submit to the Director, and the
22 Director must receive, on or before December 1 of each year, an
23 application for renewal made in writing and under oath on a
24 form prescribed by the Director. At the time of renewal, each
25 licensee shall provide an email address of record. A licensee

1 whose application for renewal is not received by the Department
2 on or before December 31 shall not have its license renewed and
3 shall be required to submit to the Director an application for
4 a new license in accordance with Section 25. Upon a showing of
5 good cause, the Director may extend the deadline for the filing
6 of an application for renewal. The application for renewal of a
7 license shall contain or be accompanied by all of the
8 following:

9 (1) The name of the licensee and the address of the
10 principal place of business of the licensee.

11 (2) A list of all locations where the licensee is
12 conducting business under its license and a list of all
13 authorized sellers through whom the licensee is conducting
14 business under its license, including the name and business
15 address of each authorized seller.

16 (3) Audited financial statements covering the past
17 year of operations, prepared in accordance with generally
18 accepted accounting principles, showing the financial
19 condition of the licensee. The licensee shall submit the
20 audited financial statement after the application for
21 renewal has been approved. The audited financial statement
22 must be received by the Department no later than 120 days
23 after the end of the licensee's fiscal year. If the
24 licensee is a wholly owned subsidiary or is eligible to
25 file consolidated federal income tax returns with its
26 parent, the licensee may submit unaudited financial

1 statements if accompanied by the audited financial
2 statements of the parent company for its most recently
3 ended year.

4 (4) A statement of the dollar amount and number of
5 money transmissions and payment instruments sold, issued,
6 exchanged, or transmitted in this State by the licensee and
7 its authorized sellers for the past year.

8 (5) A statement of the dollar amount of uncompleted
9 money transmissions and payment instruments outstanding or
10 in transit, in this State, as of the most recent quarter
11 available.

12 (6) The annual license renewal fees and any penalty
13 fees as provided by Section 45 of this Act.

14 (7) Evidence sufficient to prove to the satisfaction of
15 the Director that the licensee has complied with all
16 requirements under Section 20 relating to its net worth,
17 under Section 30 relating to its surety bond or other
18 security, and under Section 50 relating to permissible
19 investments.

20 (8) A statement of a change in information provided by
21 the licensee in its application for a license or its
22 previous applications for renewal including, but not
23 limited to, new directors, officers, authorized sellers,
24 or clearing banks and material changes in the operation of
25 the licensee's business.

26 (Source: P.A. 92-400, eff. 1-1-02.)

1 (205 ILCS 657/80)

2 Sec. 80. Revocation or suspension of licenses.

3 (a) The Director may suspend or revoke a license if the
4 Director finds any of the following:

5 (1) The licensee has knowingly made a material
6 misstatement or suppressed or withheld information on an
7 application for a license or a document required to be
8 filed with the Director.

9 (2) A fact or condition exists that, if it had existed
10 or had been known at the time the licensee applied for its
11 license, would have been grounds for denying the
12 application.

13 (3) The licensee is insolvent.

14 (4) The licensee has knowingly violated a material
15 provision of this Act or rules adopted under this Act or an
16 order of the Director.

17 (5) The licensee refuses to permit the Director to make
18 an examination at reasonable times as authorized by this
19 Act.

20 (6) The licensee knowingly fails to make a report
21 required by this Act.

22 (7) The licensee fails to pay a judgment entered in
23 favor of a claimant, plaintiff, or creditor in an action
24 arising out of the licensee's business regulated under this
25 Act within 30 days after the judgment becomes final or

1 within 30 days after expiration or termination of a stay of
2 execution.

3 (8) The licensee has been convicted under the laws of
4 this State, another state, or the United States of a felony
5 or of a crime involving a breach of trust or dishonesty.

6 (9) The licensee has failed to suspend or terminate its
7 authorized seller's authority to act on its behalf when the
8 licensee knew its authorized seller was violating or had
9 violated a material provision of this Act or rules adopted
10 under this Act or an order of the Director.

11 (b) In every case in which a license is suspended or
12 revoked or an application for a license or renewal of a license
13 is denied, the Director shall serve notice of his action,
14 including a statement of the reasons for his action, either
15 personally, to the email address of record, or by certified
16 mail, return receipt requested. Service by certified mail shall
17 be deemed completed if the notice is deposited in the United
18 States mail post office, postage paid, addressed to the last
19 ~~known address specified in the application for a license.~~
20 Service to the email address of record shall be deemed
21 completed when sent.

22 (c) In the case of denial of an application for a license
23 or renewal of a license, the applicant or licensee may request
24 in writing, within 30 days after the date of service, a
25 hearing. In the case of a denial of an application for renewal
26 of a license, the expiring license shall be deemed to continue

1 in force until 30 days after the service of the notice of
2 denial or, if a hearing is requested during that period, until
3 a final order is entered pursuant to a hearing.

4 (d) The order of suspension or revocation of a license
5 shall take effect upon service of the order. The holder of any
6 suspended or revoked license may request in writing, within 30
7 days after the date of service, a hearing. In the event a
8 hearing is requested, the order shall remain temporary until a
9 final order is entered pursuant to the hearing.

10 (e) The hearing shall be held at the time and place
11 designated by the Director in either the City of Springfield or
12 the City of Chicago. The Director and any administrative law
13 judge designated by him shall have the power to administer
14 oaths and affirmations, subpoena witnesses and compel their
15 attendance, take evidence, authorize the taking of
16 depositions, and require the production of books, papers,
17 correspondence, and other records or information that he
18 considers relevant or material to the inquiry.

19 (f) The Director may issue an order of suspension or
20 revocation of a license that takes effect upon service of the
21 order and remains in effect regardless of a request for a
22 hearing when the Director finds that the public welfare will be
23 endangered if the licensee is permitted to continue to operate
24 the business regulated by this Act.

25 (g) The decision of the Director to deny any application
26 for a license or renewal of a license or to suspend or revoke a

1 license is subject to judicial review under the Administrative
2 Review Law.

3 (h) The costs for administrative hearing shall be set by
4 rule.

5 (i) Appeals from all final orders and judgments entered by
6 the circuit court under this Section in review of a decision of
7 the Director may be taken as in other civil actions by any
8 party to the proceeding.

9 (Source: P.A. 88-643, eff. 1-1-95.)

10 (205 ILCS 657/90)

11 Sec. 90. Enforcement.

12 (a) If it appears to the Director that a person has
13 committed or is about to commit a violation of this Act, a rule
14 promulgated under this Act, or an order of the Director, the
15 Director may apply to the circuit court for an order enjoining
16 the person from violating or continuing to violate this Act,
17 the rule, or order and for injunctive or other relief that the
18 nature of the case may require and may, in addition, request
19 the court to assess a civil penalty up to \$1,000 along with
20 costs and attorney fees.

21 (b) If the Director finds, after an investigation that he
22 considers appropriate, that a licensee or other person is
23 engaged in practices contrary to this Act or to the rules
24 promulgated under this Act, the Director may issue an order
25 directing the licensee or person to cease and desist the

1 violation. The Director may, in addition to or without the
2 issuance of a cease and desist order, assess an administrative
3 penalty up to \$1,000 against a licensee for each violation of
4 this Act or the rules promulgated under this Act. The issuance
5 of an order under this Section shall not be a prerequisite to
6 the taking of any action by the Director under this or any
7 other Section of this Act. The Director shall serve notice of
8 his action, including a statement of the reasons for his
9 actions, either personally, to the email address of record, or
10 by certified mail, return receipt requested. Service by
11 certified mail shall be deemed completed if the notice is
12 deposited in the United States mail ~~post office, postage paid,~~
13 ~~addressed to the last known address for a license.~~ Service to
14 the email address of record shall be deemed completed when
15 sent.

16 (c) In the case of the issuance of a cease and desist order
17 or assessment order, a hearing may be requested in writing
18 within 30 days after the date of service. The hearing shall be
19 held at the time and place designated by the Director in either
20 the City of Springfield or the City of Chicago. The Director
21 and any administrative law judge designated by him shall have
22 the power to administer oaths and affirmations, subpoena
23 witnesses and compel their attendance, take evidence,
24 authorize the taking of depositions, and require the production
25 of books, papers, correspondence, and other records or
26 information that he considers relevant or material to the

1 inquiry.

2 (d) After the Director's final determination under a
3 hearing under this Section, a party to the proceedings whose
4 interests are affected by the Director's final determination
5 shall be entitled to judicial review of that final
6 determination under the Administrative Review Law.

7 (e) The costs for administrative hearings shall be set by
8 rule.

9 (f) Except as otherwise provided in this Act, a violation
10 of this Act shall subject the party violating it to a fine of
11 \$1,000 for each offense.

12 (g) Each transaction in violation of this Act or the rules
13 promulgated under this Act and each day that a violation
14 continues shall be a separate offense.

15 (h) A person who engages in conduct requiring a license
16 under this Act and fails to obtain a license from the Director
17 or knowingly makes a false statement, misrepresentation, or
18 false certification in an application, financial statement,
19 account record, report, or other document filed or required to
20 be maintained or filed under this Act or who knowingly makes a
21 false entry or omits a material entry in a document is guilty
22 of a Class 3 felony.

23 (i) The Director is authorized to compromise, settle, and
24 collect civil penalties and administrative penalties, as set by
25 rule, with any person for violations of this Act or of any rule
26 or order issued or promulgated under this Act. Any person who,

1 without the required license, engages in conduct requiring a
2 license under this Act shall be liable to the Department in an
3 amount equal to the greater of (i) \$5,000 or (ii) an amount of
4 money accepted for transmission plus an amount equal to 3 times
5 the amount accepted for transmission. The Department shall
6 cause any funds so recovered to be deposited in the TOMA
7 Consumer Protection Fund.

8 (j) The Director may enter into consent orders at any time
9 with a person to resolve a matter arising under this Act. A
10 consent order must be signed by the person to whom it is issued
11 and must indicate agreement to the terms contained in it. A
12 consent order need not constitute an admission by a person that
13 this Act or a rule or order issued or promulgated under this
14 Act has been violated, nor need it constitute a finding by the
15 Director that the person has violated this Act or a rule or
16 order promulgated under this Act.

17 (k) Notwithstanding the issuance of a consent order, the
18 Director may seek civil or criminal penalties or compromise
19 civil penalties concerning matter encompassed by the consent
20 order unless the consent order by its terms expressly precludes
21 the Director from doing so.

22 (l) Appeals from all final orders and judgments entered by
23 the circuit court under this Section in review of a decision of
24 the Director may be taken as in other civil actions by any
25 party to the proceeding.

26 (Source: P.A. 100-201, eff. 8-18-17.)

1 (205 ILCS 657/100)

2 Sec. 100. Consent to service of process.

3 (a) A licensee, before doing business in this State, shall
4 appoint the Director its true and lawful attorney-in-fact upon
5 whom all lawful process in any action or legal proceeding
6 against it may be served and shall agree that any lawful
7 process against it that may be served upon its attorney shall
8 be of the same force and validity as if served on itself. The
9 consent to the service of process shall be in the form
10 prescribed by the Director, shall be irrevocable, and shall
11 provide that actions or proceedings arising out of or founded
12 upon the conduct of the licensee's business may be commenced
13 against the licensee in any court of competent jurisdiction and
14 proper venue within this State by the service of process or
15 other notice of the institution of proceedings on the Director.

16 (b) Service of process or other notice, accompanied by the
17 fee provided in Section 45, shall be by duplicate copies, one
18 of which shall be filed with the Director and the other
19 forwarded by the Director within 5 business days by certified
20 mail with a return receipt to the licensee against whom the
21 process or other notice is directed at its latest address on
22 file with the Department or to the email address of record.
23 Service by certified mail shall be deemed completed when the
24 notice is deposited in the United States mail. Service to the
25 email address of record shall be deemed completed when sent.

1 (c) No judgment shall be entered against a licensee
2 pursuant to service upon the Director until at least 30 days
3 have elapsed after process or notice has been served on the
4 Director.

5 (Source: P.A. 88-643, eff. 1-1-95.)

6 Section 15. The Sales Finance Agency Act is amended by
7 changing Sections 2, 6, 10, and 16.5 as follows:

8 (205 ILCS 660/2) (from Ch. 17, par. 5202)

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

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

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

23 "Person" means an individual, corporation, partnership,
24 limited liability company, joint venture, or any other form of

1 business association.

2 "Department" means the Department of Financial and
3 Professional Regulation Institutions.

4 "Director" means the Director of Financial Institutions.

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

8 "Email address of record" means the designated email
9 address recorded by the Division of Financial Institutions in
10 the applicant's applicant file or the licensee's license file,
11 as maintained by the Division of Financial Institutions'
12 licensure unit.

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

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

20 "Special purpose vehicle" means an entity that, in
21 connection with a securitization, private placement, or
22 similar type of investment transaction, is administered by a
23 State or national bank under a management agreement for the
24 purpose of purchasing, making loans against, or in pools of,
25 receivables, general intangibles, and other financial assets
26 including retail installment contracts, retail charge

1 agreements, or the outstanding balances or any portion of the
2 outstanding balances under those contracts or agreements.

3 "Net Worth" means total assets minus total liabilities.
4 (Source: P.A. 89-400, eff. 8-20-95; 90-437, eff. 1-1-98.)

5 (205 ILCS 660/6) (from Ch. 17, par. 5206)

6 Sec. 6. A license fee of \$300 for the applicant's principal
7 place of business and \$100 for each additional place of
8 business for which a license is sought must be submitted with
9 an application for license made before July 1 of any year. If
10 application for a license is made on July 1 or thereafter, a
11 license fee of \$150 for the principal place of business and of
12 \$50 for each additional place of business must accompany the
13 application. Each license remains in force until surrendered,
14 suspended, or revoked. If the application for license is
15 denied, the original license fee shall be retained by the State
16 in reimbursement of its costs of investigating that
17 application.

18 Before the license is granted, the applicant shall prove in
19 form satisfactory to the Director, that the applicant has a
20 positive net worth of a minimum of \$30,000. At the time of
21 application, each applicant shall provide an email address of
22 record.

23 A licensee must pay to the Department, and the Department
24 must receive, by December 1 of each year, the renewal license
25 application on forms prescribed by the Director and \$300 for

1 the license for his principal place of business and \$100 for
2 each additional license held as a renewal license fee for the
3 succeeding calendar year.

4 (Source: P.A. 92-398, eff. 1-1-02.)

5 (205 ILCS 660/10) (from Ch. 17, par. 5223)

6 Sec. 10. Denial, revocation, fine, or suspension of
7 license.

8 (a) The Director may revoke or suspend a license or fine a
9 licensee if the licensee violates any provisions of this Act.

10 (b) In every case in which a license is revoked or
11 suspended, a licensee is fined, or an application for a license
12 or renewal of a license is denied, the Director shall serve
13 notice of his or her action, including a statement of the
14 reasons for the action either personally, to the email address
15 of record, or by certified mail, return receipt requested.
16 Service by certified mail shall be deemed completed when the
17 notice is deposited in the United States ~~U.S.~~ mail. Service to
18 the email address of record shall be deemed completed when
19 sent.

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

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

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

12 (f) The costs for the administrative hearing shall be set
13 by rule.

14 (g) The Director shall have the authority to prescribe
15 rules for the administration of this Section.

16 (Source: P.A. 92-398, eff. 1-1-02.)

17 (205 ILCS 660/16.5)

18 Sec. 16.5. Cease and desist orders.

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

25 (b) The Director may issue a cease and desist order prior

1 to a hearing.

2 (c) The Director shall serve notice of his or her action,
3 designated as a cease and desist order made pursuant to this
4 Section, including a statement of the reasons for the action,
5 either personally, to the email address of record, or by
6 certified mail, return receipt requested. Service by certified
7 mail shall be deemed completed when the notice is deposited in
8 the United States U.S. mail. Service to the email address of
9 record shall be deemed completed when sent.

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

13 (e) The Director shall schedule a hearing within 30 days
14 after the request for a hearing unless otherwise agreed to by
15 the parties.

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

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

22 (h) The powers vested in the Director by this Section are
23 additional to any and all other powers and remedies vested in
24 the Director by law, and nothing in this Section shall be
25 construed as requiring that the Director shall employ the
26 powers conferred in this Section instead of or as a condition

1 precedent to the exercise of any other power or remedy vested
2 in the Director.

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

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

6 Section 20. The Debt Management Service Act is amended by
7 changing Sections 2, 4, 10, and 20 as follows:

8 (205 ILCS 665/2) (from Ch. 17, par. 5302)

9 Sec. 2. Definitions. As used in this Act:

10 "Credit counselor" means an individual, corporation, or
11 other entity that is not a debt management service that
12 provides (1) guidance, educational programs, or advice for the
13 purpose of addressing budgeting, personal finance, financial
14 literacy, saving and spending practices, or the sound use of
15 consumer credit; or (2) assistance or offers to assist
16 individuals and families with financial problems by providing
17 counseling; or (3) a combination of the activities described in
18 items (1) and (2) of this definition.

19 "Debt management service" means the planning and
20 management of the financial affairs of a debtor for a fee and
21 the receiving of money from the debtor for the purpose of
22 distributing it to the debtor's creditors in payment or partial
23 payment of the debtor's obligations or soliciting financial
24 contributions from creditors. The business of debt management

1 is conducted in this State if the debt management business, its
2 employees, or its agents are located in this State or if the
3 debt management business solicits or contracts with debtors
4 located in this State. "Debt management service" does not
5 include "debt settlement service" as defined in the Debt
6 Settlement Consumer Protection Act.

7 This term shall not include the following when engaged in
8 the regular course of their respective businesses and
9 professions:

10 (a) Attorneys at law licensed, or otherwise authorized
11 to practice, in Illinois who are engaged in the practice of
12 law.

13 (b) Banks, operating subsidiaries of banks, affiliates
14 of banks, fiduciaries, credit unions, savings and loan
15 associations, and savings banks as duly authorized and
16 admitted to transact business in the State of Illinois and
17 performing credit and financial adjusting service in the
18 regular course of their principal business.

19 (c) Title insurers, title agents, independent
20 escrowees, and abstract companies, while doing an escrow
21 business.

22 (d) Judicial officers or others acting pursuant to
23 court order.

24 (e) Employers for their employees, except that no
25 employer shall retain the services of an outside debt
26 management service to perform this service unless the debt

1 management service is licensed pursuant to this Act.

2 (f) Bill payment services, as defined in the
3 Transmitters of Money Act.

4 (g) Credit counselors, only when providing services
5 described in the definition of credit counselor in this
6 Section.

7 "Debtor" means the person or persons for whom the debt
8 management service is performed.

9 "Department" means the Department of Financial and
10 Professional Regulation.

11 "Director" means the Director of Financial Institutions.

12 "Division of Financial Institutions" means the Division of
13 Financial Institutions of the Department of Financial and
14 Professional Regulation.

15 "Email address of record" means the designated email
16 address recorded by the Division of Financial Institutions in
17 the applicant's applicant file or the licensee's license file,
18 as maintained by the Division of Financial Institutions'
19 licensure unit.

20 "Person" means an individual, firm, partnership,
21 association, limited liability company, corporation, or
22 not-for-profit corporation.

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

24 "Secretary" means the Secretary of Financial and
25 Professional Regulation or a person authorized by the Secretary
26 to act in the Secretary's stead.

1 (Source: P.A. 100-201, eff. 8-18-17.)

2 (205 ILCS 665/4) (from Ch. 17, par. 5304)

3 Sec. 4. Application for license. Application for a license
4 to engage in the debt management service business in this State
5 shall be made to the Secretary and shall be in writing, under
6 oath, and in the form prescribed by the Secretary. Each
7 applicant shall provide an email address of record.

8 Each applicant, at the time of making such application,
9 shall pay to the Secretary the sum of \$30.00 as a fee for
10 investigation of the applicant, and the additional sum of
11 \$100.00 as a license fee.

12 Every applicant shall submit to the Secretary, at the time
13 of the application for a license, a bond to be approved by the
14 Secretary in which the applicant shall be the obligor, in the
15 sum of \$25,000 or such additional amount as required by the
16 Secretary based on the amount of disbursements made by the
17 licensee in the previous year, and in which an insurance
18 company, which is duly authorized by the State of Illinois, to
19 transact the business of fidelity and surety insurance shall be
20 a surety.

21 The bond shall run to the Secretary for the use of the
22 Department or of any person or persons who may have a cause of
23 action against the obligor in said bond arising out of any
24 violation of this Act or rules by a license. Such bond shall be
25 conditioned that the obligor will faithfully conform to and

1 abide by the provisions of this Act and of all rules,
2 regulations and directions lawfully made by the Secretary and
3 will pay to the Secretary or to any person or persons any and
4 all money that may become due or owing to the State or to such
5 person or persons, from said obligor under and by virtue of the
6 provisions of this Act.

7 (Source: P.A. 96-1420, eff. 8-3-10.)

8 (205 ILCS 665/10) (from Ch. 17, par. 5310)

9 Sec. 10. Revocation, suspension, or refusal to renew
10 license.

11 (a) The Secretary may revoke or suspend or refuse to renew
12 any license if he finds that:

13 (1) any licensee has failed to pay the annual license
14 fee, or to maintain in effect the bond required under the
15 provisions of this Act;

16 (2) the licensee has violated any provisions of this
17 Act or any rule, lawfully made by the Secretary within the
18 authority of this Act;

19 (3) any fact or condition exists which, if it had
20 existed at the time of the original application for a
21 license, would have warranted the Secretary in refusing its
22 issuance; or

23 (4) any applicant has made any false statement or
24 representation to the Secretary in applying for a license
25 hereunder.

1 (b) In every case in which a license is suspended or
2 revoked or an application for a license or renewal of a license
3 is denied, the Secretary shall serve notice of his action,
4 including a statement of the reasons for his actions, either
5 personally, to the email address of record, or by certified
6 mail, return receipt requested. Service by mail shall be deemed
7 completed if the notice is deposited in the United States mail
8 ~~U.S. Mail.~~ Service to the email address of record shall be
9 deemed completed when sent.

10 (c) In the case of a denial of an application or renewal of
11 a license, the applicant or licensee may request in writing,
12 within 30 days after the date of service, a hearing. In the
13 case of a denial of a renewal of a license, the license shall
14 be deemed to continue in force until 30 days after the service
15 of the notice of denial, or if a hearing is requested during
16 that period, until a final administrative order is entered.

17 (d) An order of revocation or suspension of a license shall
18 take effect upon service of the order unless the licensee
19 requests, in writing, within 10 days after the date of service,
20 a hearing. In the event a hearing is requested, the order shall
21 be stayed until a final administrative order is entered.

22 (e) If the licensee requests a hearing, the Secretary shall
23 schedule either a status date or a hearing within 30 days after
24 the request for a hearing unless otherwise agreed to by the
25 parties.

26 (f) The hearing shall be held at the time and place

1 designated by the Secretary. The Secretary and any
2 administrative law judge designated by him have the power to
3 administer oaths and affirmations, subpoena witnesses and
4 compel their attendance, take evidence, and require the
5 production of books, papers, correspondence, and other records
6 or information that he considers relevant or material to the
7 injury.

8 (g) The costs for the administrative hearing shall be set
9 by rule and shall be borne by the respondent.

10 (Source: P.A. 96-1420, eff. 8-3-10.)

11 (205 ILCS 665/20) (from Ch. 17, par. 5323)

12 Sec. 20. Cease and desist orders.

13 (a) The Secretary may issue a cease and desist order to any
14 licensee, or other person doing business without the required
15 license, when in the opinion of the Secretary, the licensee, or
16 other person, is violating or is about to violate any provision
17 of the Act or any rule or condition imposed in writing by the
18 Department.

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

21 (c) The Secretary shall serve notice of his action,
22 including a statement of the reasons for his action either
23 personally, to the email address of record, or by certified
24 mail, return receipt requested. Service by mail shall be deemed
25 completed if the notice is deposited in the U.S. Mail. Service

1 to the email address of record shall be deemed completed when
2 sent.

3 (d) Within 10 days after service of the cease and desist
4 order, the licensee or other person may request, in writing, a
5 hearing.

6 (e) The Secretary shall schedule either a status date or a
7 hearing within 30 days after the request for a hearing unless
8 otherwise agreed to by the parties.

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

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

20 (i) The cost for the administrative hearing shall be set by
21 rule and shall be borne by the respondent.

22 (Source: P.A. 96-1420, eff. 8-3-10.)

23 Section 25. The Consumer Installment Loan Act is amended by
24 changing Sections 2, 3, 8, 9, and 20.5 and by adding Section
25 0.5 as follows:

1 (205 ILCS 670/0.5 new)

2 Sec. 0.5. Definitions. As used in this Act:

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

5 "Director" means the Director of the Division of Financial
6 Institutions.

7 "Division of Financial Institutions" means the Division of
8 Financial Institutions of the Department of Financial and
9 Professional Regulation.

10 "Email address of record" means the designated email
11 address recorded by the Division of Financial Institutions in
12 the applicant's applicant file or the licensee's license file,
13 as maintained by the Division of Financial Institutions'
14 licensure unit.

15 "Secretary" means the Secretary of Financial and
16 Professional Regulation or a person authorized by the Secretary
17 to act in the Secretary's stead.

18 (205 ILCS 670/2) (from Ch. 17, par. 5402)

19 Sec. 2. Application; fees; positive net worth. Application
20 for such license shall be in writing, and in the form
21 prescribed by the Director. Such applicant at the time of
22 making such application shall pay to the Director the sum of
23 \$300 as an application fee and the additional sum of \$450 as an
24 annual license fee, for a period terminating on the last day of

1 the current calendar year; provided that if the application is
2 filed after June 30th in any year, such license fee shall be
3 1/2 of the annual license fee for such year. At the time of
4 application, each applicant shall provide an email address of
5 record.

6 Before the license is granted, every applicant shall prove
7 in form satisfactory to the Director that the applicant has and
8 will maintain a positive net worth of a minimum of \$30,000.
9 Every applicant and licensee shall maintain a surety bond in
10 the principal sum of \$25,000 issued by a bonding company
11 authorized to do business in this State and which shall be
12 approved by the Director. Such bond shall run to the Director
13 and shall be for the benefit of any consumer who incurs damages
14 as a result of any violation of the Act or rules by a licensee.
15 If the Director finds at any time that a bond is of
16 insufficient size, is insecure, exhausted, or otherwise
17 doubtful, an additional bond in such amount as determined by
18 the Director shall be filed by the licensee within 30 days
19 after written demand therefor by the Director. "Net worth"
20 means total assets minus total liabilities.

21 (Source: P.A. 92-398, eff. 1-1-02; 93-32, eff. 7-1-03.)

22 (205 ILCS 670/3) (from Ch. 17, par. 5403)

23 Sec. 3. Appointment of attorney-in-fact for service of
24 process. Every licensee shall appoint, in writing, the Director
25 of Financial Institutions (hereinafter called Director) and

1 his successors in office or any official who shall hereafter be
2 charged with the administration of this Act, as
3 attorney-in-fact upon whom all lawful process against such
4 licensee may be served with the same legal force and validity
5 as if served on such licensee. A copy of such written
6 appointment, duly certified, shall be filed in the office of
7 the Director; and a copy thereof certified by him shall be
8 sufficient evidence. This appointment shall remain in effect
9 while any liability remains outstanding in this State against
10 the licensee. When summons is served upon the Director as
11 attorney-in-fact for such licensee, the Director shall
12 immediately notify the licensee by certified ~~registered~~ mail,
13 return receipt requested, or by email to the email address of
14 record, enclosing the summons and specifying the hour and day
15 of service. Service by certified mail shall be deemed completed
16 when the notice is deposited in the United States mail. Service
17 to the email address of record shall be deemed completed when
18 sent.

19 (Source: Laws 1963, p. 3526.)

20 (205 ILCS 670/8) (from Ch. 17, par. 5408)

21 Sec. 8. Annual license fee; expenses ~~fee~~ ~~Expenses~~. Before
22 the 1st day of each December, a licensee must pay to the
23 Director, and the Department must receive, the annual license
24 fee required by Section 2 for the next succeeding calendar
25 year. The license shall expire on the first of January unless

1 the license fee has been paid prior thereto. At the time of
2 renewal, each licensee shall provide an email address of
3 record.

4 In addition to such license fee, the reasonable expense of
5 any examination, investigation or custody by the Director under
6 any provisions of this Act shall be borne by the licensee.

7 If a licensee fails to renew his or her license by the 31st
8 day of December, it shall automatically expire and the licensee
9 is not entitled to a hearing; however, the Director, in his or
10 her discretion, may reinstate an expired license upon payment
11 of the annual renewal fee and proof of good cause for failure
12 to renew.

13 (Source: P.A. 100-958, eff. 8-19-18.)

14 (205 ILCS 670/9) (from Ch. 17, par. 5409)

15 Sec. 9. Fines; suspension or revocation, ~~Suspension or~~
16 ~~Revocation~~ of license.

17 (a) The Director may, after 10 days notice by certified
18 ~~registered~~ mail to the licensee at the address set forth in the
19 license, or by email to the email address of record, stating
20 the contemplated action and in general the grounds therefor,
21 fine such licensee an amount not exceeding \$10,000 per
22 violation, or revoke or suspend any license issued hereunder if
23 he or she finds that:

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

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

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

7 Service by certified mail shall be deemed completed when
8 the notice is deposited in the United States mail. Service to
9 the email address of record shall be deemed completed when
10 sent.

11 (b) The Director may fine, suspend, or revoke only the
12 particular license with respect to which grounds for the fine,
13 revocation or suspension occur or exist, but if the Director
14 shall find that grounds for revocation are of general
15 application to all offices or to more than one office of the
16 licensee, the Director shall fine, suspend, or revoke every
17 license to which such grounds apply.

18 (c) (Blank).

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

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

26 (f) (Blank).

1 (g) In every case in which a license is suspended or
2 revoked or an application for a license or renewal of a license
3 is denied, the Director shall serve the licensee with notice of
4 his or her action, including a statement of the reasons for his
5 or her actions, either personally, to the email address of
6 record, or by certified mail, return receipt requested. Service
7 by certified mail shall be deemed completed when the notice is
8 deposited in the United States mail ~~U.S. Mail~~. Service to the
9 email address of record shall be deemed completed when sent.

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

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

19 (j) The hearing shall be held at the time and place
20 designated by the Director. The Director and any administrative
21 law judge designated by him or her shall have the power to
22 administer oaths and affirmations, subpoena witnesses and
23 compel their attendance, take evidence, and require the
24 production of books, papers, correspondence, and other records
25 or information that he or she considers relevant or material to
26 the inquiry.

1 (k) The costs for the administrative hearing shall be set
2 by rule.

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

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

11 (Source: P.A. 98-209, eff. 1-1-14.)

12 (205 ILCS 670/20.5)

13 Sec. 20.5. Cease and desist.

14 (a) The Director may issue a cease and desist order to any
15 licensee, or other person doing business without the required
16 license, when in the opinion of the Director, the licensee, or
17 other person, is violating or is about to violate any provision
18 of this Act or any rule or requirement imposed in writing by
19 the Department as a condition of granting any authorization
20 permitted by this Act.

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

23 (c) The Director shall serve notice of his or her action,
24 designated as a cease and desist order made pursuant to this
25 Section, including a statement of the reasons for the action,

1 either personally, to the email address of record, or by
2 certified mail, return receipt requested. Service by certified
3 mail shall be deemed completed when the notice is deposited in
4 the United States ~~U.S.~~ mail. Service to the email address of
5 record shall be deemed completed when sent.

6 (d) Within 15 days of service of the cease and desist
7 order, the licensee or other person may request, in writing, a
8 hearing.

9 (e) The Director shall schedule a hearing within 30 days
10 after the request for a hearing unless otherwise agreed to by
11 the parties.

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

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

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

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

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

2 Section 30. The Debt Settlement Consumer Protection Act is
3 amended by changing Sections 10, 20, 50, 80, and 95 as follows:

4 (225 ILCS 429/10)

5 Sec. 10. Definitions. As used in this Act:

6 "Consumer" means any person who purchases or contracts for
7 the purchase of debt settlement services.

8 "Consumer settlement account" means any account or other
9 means or device in which payments, deposits, or other transfers
10 from a consumer are arranged, held, or transferred by or to a
11 debt settlement provider for the accumulation of the consumer's
12 funds in anticipation of proffering an adjustment or settlement
13 of a debt or obligation of the consumer to a creditor on behalf
14 of the consumer.

15 "Debt settlement provider" means any person or entity
16 engaging in, or holding itself out as engaging in, the business
17 of providing debt settlement service in exchange for any fee or
18 compensation, or any person who solicits for or acts on behalf
19 of any person or entity engaging in, or holding itself out as
20 engaging in, the business of providing debt settlement service
21 in exchange for any fee or compensation. "Debt settlement
22 provider" does not include:

23 (1) attorneys licensed, or otherwise authorized, to
24 practice in Illinois who are engaged in the practice of

1 law;

2 (2) escrow agents, accountants, broker dealers in
3 securities, or investment advisors in securities, when
4 acting in the ordinary practice of their professions and
5 through the entity used in the ordinary practice of their
6 profession;

7 (3) any bank, agent of a bank, operating subsidiary of
8 a bank, affiliate of a bank, trust company, savings and
9 loan association, savings bank, credit union, crop credit
10 association, development credit corporation, industrial
11 development corporation, title insurance company, title
12 insurance agent, independent escrowee or insurance company
13 operating or organized under the laws of a state or the
14 United States, or any other person authorized to make loans
15 under State law while acting in the ordinary practice of
16 that business;

17 (4) any person who performs credit services for his or
18 her employer while receiving a regular salary or wage when
19 the employer is not engaged in the business of offering or
20 providing debt settlement service;

21 (5) a collection agency licensed pursuant to the
22 Collection Agency Act that is collecting a debt on its own
23 behalf or on behalf of a third party;

24 (6) an organization that is described in Section
25 501(c) (3) and subject to Section 501(q) of Title 26 of the
26 United States Code and exempt from tax under Section 501(a)

1 of Title 26 of the United States Code and governed by the
2 Debt Management Service Act;

3 (7) public officers while acting in their official
4 capacities and persons acting under court order;

5 (8) any person while performing services incidental to
6 the dissolution, winding up, or liquidating of a
7 partnership, corporation, or other business enterprise; or

8 (9) persons licensed under the Real Estate License Act
9 of 2000 when acting in the ordinary practice of their
10 profession and not holding themselves out as debt
11 settlement providers.

12 "Debt settlement service" means:

13 (1) offering to provide advice or service, or acting as
14 an intermediary between or on behalf of a consumer and one
15 or more of a consumer's creditors, where the primary
16 purpose of the advice, service, or action is to obtain a
17 settlement, adjustment, or satisfaction of the consumer's
18 unsecured debt to a creditor in an amount less than the
19 full amount of the principal amount of the debt or in an
20 amount less than the current outstanding balance of the
21 debt; or

22 (2) offering to provide services related to or
23 providing services advising, encouraging, assisting, or
24 counseling a consumer to accumulate funds for the primary
25 purpose of proposing or obtaining or seeking to obtain a
26 settlement, adjustment, or satisfaction of the consumer's

1 unsecured debt to a creditor in an amount less than the
2 full amount of the principal amount of the debt or in an
3 amount less than the current outstanding balance of the
4 debt.

5 "Debt settlement service" does not include (A) the services
6 of attorneys licensed, or otherwise authorized, to practice in
7 Illinois who are engaged in the practice of law or (B) debt
8 management service as defined in the Debt Management Service
9 Act.

10 "Department" means the Department of Financial and
11 Professional Regulation.

12 "Director" means the Director of the Division of Financial
13 Institutions.

14 "Division of Financial Institutions" means the Division of
15 Financial Institutions of the Department of Financial and
16 Professional Regulation.

17 "Email address of record" means the designated email
18 address recorded by the Division of Financial Institutions in
19 the applicant's applicant file or the licensee's license file,
20 as maintained by the Division of Financial Institutions'
21 licensure unit.

22 "Enrollment or set up fee" means any fee, obligation, or
23 compensation paid or to be paid by the consumer to a debt
24 settlement provider in consideration of or in connection with
25 establishing a contract or other agreement with a consumer
26 related to the provision of debt settlement service.

1 "Maintenance fee" means any fee, obligation, or
2 compensation paid or to be paid by the consumer on a periodic
3 basis to a debt settlement provider in consideration of
4 maintaining the relationship and services to be provided by a
5 debt settlement provider in accordance with a contract with a
6 consumer related to the provision of debt settlement service.

7 "Principal amount of the debt" means the total amount or
8 outstanding balance owed by a consumer to one or more creditors
9 for a debt that is included in a contract for debt settlement
10 service at the time when the consumer enters into a contract
11 for debt settlement service.

12 "Savings" means the difference between the principal
13 amount of the debt and the amount paid by the debt settlement
14 provider to the creditor or negotiated by the debt settlement
15 provider and paid by the consumer to the creditor pursuant to a
16 settlement negotiated by the debt settlement provider on behalf
17 of the consumer as full and complete satisfaction of the
18 creditor's claim with regard to that debt.

19 "Secretary" means the Secretary of Financial and
20 Professional Regulation or a person authorized by the Secretary
21 to act in the Secretary's stead.

22 "Settlement fee" means any fee, obligation, or
23 compensation paid or to be paid by the consumer to a debt
24 settlement provider in consideration of or in connection with a
25 completed agreement or other arrangement on the part of a
26 creditor to accept less than the principal amount of the debt

1 as satisfaction of the creditor's claim against the consumer.

2 (Source: P.A. 96-1420, eff. 8-3-10.)

3 (225 ILCS 429/20)

4 Sec. 20. Application for license. An application for a
5 license to operate as a debt settlement provider in this State
6 shall be made to the Secretary and shall be in writing, under
7 oath, and in the form prescribed by the Secretary. Each
8 applicant shall provide an email address of record.

9 Each applicant, at the time of making such application,
10 shall pay to the Secretary the required fee as set by rule.

11 Every applicant shall submit to the Secretary, at the time
12 of the application for a license, a bond to be approved by the
13 Secretary in which the applicant shall be the obligor, in the
14 sum of \$100,000 or an additional amount as required by the
15 Secretary, and in which an insurance company, which is duly
16 authorized by the State of Illinois to transact the business of
17 fidelity and surety insurance, shall be a surety.

18 The bond shall run to the Secretary for the use of the
19 Department or of any person or persons who may have a cause of
20 action against the obligor in said bond arising out of any
21 violation of this Act or rules by a debt settlement provider.
22 Such bond shall be conditioned that the obligor must faithfully
23 conform to and abide by the provisions of this Act and of all
24 rules, regulations, and directions lawfully made by the
25 Secretary and pay to the Secretary or to any person or persons

1 any and all money that may become due or owing to the State or
2 to such person or persons, from the obligor under and by virtue
3 of the provisions of this Act.

4 (Source: P.A. 96-1420, eff. 8-3-10.)

5 (225 ILCS 429/50)

6 Sec. 50. Revocation or suspension of license.

7 (a) The Secretary may revoke or suspend any license if he
8 or she finds that:

9 (1) any debt settlement provider has failed to pay the
10 annual license fee or to maintain in effect the bond
11 required under the provisions of this Act;

12 (2) the debt settlement provider has violated any
13 provisions of this Act or any rule lawfully made by the
14 Secretary under the authority of this Act;

15 (3) any fact or condition exists that, if it had
16 existed at the time of the original application for a
17 license, would have warranted the Secretary in refusing its
18 issuance; or

19 (4) any applicant has made any false statement or
20 representation to the Secretary in applying for a license
21 under this Act.

22 (b) In every case in which a license is suspended or
23 revoked or an application for a license or renewal of a license
24 is denied, the Secretary shall serve notice of his or her
25 action, including a statement of the reasons for his or her

1 actions, either personally, to the email address of record, or
2 by certified mail, return receipt requested. Service by mail
3 shall be deemed completed if the notice is deposited in the
4 United States mail U.S. Mail. Service to the email address of
5 record shall be deemed completed when sent.

6 (c) In the case of a denial of an application or renewal of
7 a license, the applicant or debt settlement provider may
8 request, in writing, a hearing within 30 days after the date of
9 service. In the case of a denial of a renewal of a license, the
10 license shall be deemed to continue in force until 30 days
11 after the service of the notice of denial, or if a hearing is
12 requested during that period, until a final administrative
13 order is entered.

14 (d) An order of revocation or suspension of a license shall
15 take effect upon service of the order unless the debt
16 settlement provider requests, in writing, a hearing within 10
17 days after the date of service. In the event a hearing is
18 requested, the order shall be stayed until a final
19 administrative order is entered.

20 (e) If the debt settlement provider requests a hearing,
21 then the Secretary shall schedule the hearing within 30 days
22 after the request for a hearing unless otherwise agreed to by
23 the parties.

24 (f) The hearing shall be held at the time and place
25 designated by the Secretary. The Secretary and any
26 administrative law judge designated by the Secretary have the

1 power to administer oaths and affirmations, subpoena witnesses
2 and compel their attendance, take evidence, and require the
3 production of books, papers, correspondence, and other records
4 or information that the Secretary considers relevant or
5 material to the injury.

6 (g) The costs for the administrative hearing shall be set
7 by rule.

8 (Source: P.A. 96-1420, eff. 8-3-10.)

9 (225 ILCS 429/80)

10 Sec. 80. Penalties.

11 (a) Any person who operates as a debt settlement provider
12 without a license shall be guilty of a Class 4 felony.

13 (b) Any contract of debt settlement service as defined in
14 this Act made by an unlicensed person shall be null and void
15 and of no legal effect.

16 (c) The Secretary may, after 10 days notice by certified
17 ~~registered~~ mail to the debt settlement service provider at the
18 address on the license or unlicensed entity engaging in the
19 debt settlement service business, or by email to the email
20 address of record, stating the contemplated action and in
21 general the grounds therefore, fine such debt settlement
22 service provider or unlicensed entity an amount not exceeding
23 \$10,000 per violation, and revoke or suspend any license issued
24 hereunder if he or she finds that:

25 (1) The debt settlement service provider has failed to

1 comply with any provision of this Act or any order,
2 decision, finding, rule, regulation or direction of the
3 Secretary lawfully made pursuant to the authority of this
4 Act; or

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

9 Service by certified mail shall be deemed completed when
10 the notice is deposited in the United States mail. Service to
11 the email address of record shall be deemed completed when
12 sent.

13 (Source: P.A. 96-1420, eff. 8-3-10.)

14 (225 ILCS 429/95)

15 Sec. 95. Cease and desist orders.

16 (a) The Secretary may issue a cease and desist order to any
17 debt settlement provider or other person doing business without
18 the required license when, in the opinion of the Secretary, the
19 debt settlement provider or other person is violating or is
20 about to violate any provision of the Act or any rule or
21 condition imposed in writing by the Department.

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

24 (c) The Secretary shall serve notice of his or her action,
25 including a statement of the reasons for his or her action

1 either personally, to the email address of record, or by
2 certified mail, return receipt requested. Service by mail shall
3 be deemed completed if the notice is deposited in the United
4 States mail ~~U.S. Mail~~. Service to the email address of record
5 shall be deemed completed when sent.

6 (d) Within 10 days after service of the cease and desist
7 order, the licensee or other person may request, in writing, a
8 hearing.

9 (e) The Secretary shall schedule a hearing within 30 days
10 after the request for a hearing unless otherwise agreed to by
11 the parties.

12 (f) If it is determined that the Secretary had the
13 authority to issue the cease and desist order, then he or she
14 may issue such orders as may be reasonably necessary to
15 correct, eliminate, or remedy that conduct.

16 (g) The powers vested in the Secretary by this Section are
17 additional to any and all other powers and remedies vested in
18 the Secretary by law, and nothing in this Section shall be
19 construed as requiring that the Secretary shall employ the
20 power conferred in this Section instead of or as a condition
21 precedent to the exercise of any other power or remedy vested
22 in the Secretary.

23 (h) The cost for the administrative hearing shall be set by
24 rule.

25 (Source: P.A. 96-1420, eff. 8-3-10.)

1 Section 35. The Payday Loan Reform Act is amended by
2 changing Sections 1-10, 3-5, and 4-10 as follows:

3 (815 ILCS 122/1-10)

4 Sec. 1-10. Definitions. As used in this Act:

5 "Check" means a "negotiable instrument", as defined in
6 Article 3 of the Uniform Commercial Code, that is drawn on a
7 financial institution.

8 "Commercially reasonable method of verification" or
9 "certified database" means a consumer reporting service
10 database certified by the Department as effective in verifying
11 that a proposed loan agreement is permissible under this Act,
12 or, in the absence of the Department's certification, any
13 reasonably reliable written verification by the consumer
14 concerning (i) whether the consumer has any outstanding payday
15 loans, (ii) the principal amount of those outstanding payday
16 loans, and (iii) whether any payday loans have been paid in
17 full by the consumer in the preceding 7 days.

18 "Consumer" means any natural person who, singly or jointly
19 with another consumer, enters into a loan.

20 "Consumer reporting service" means an entity that provides
21 a database certified by the Department.

22 "Department" means the Department of Financial and
23 Professional Regulation.

24 "Director" means the Director of the Division of Financial
25 Institutions.

1 "Division of Financial Institutions" means the Division of
2 Financial Institutions of the Department of Financial and
3 Professional Regulation.

4 "Email address of record" means the designated email
5 address recorded by the Division of Financial Institutions in
6 the applicant's applicant file or the licensee's license file,
7 as maintained by the Division of Financial Institutions'
8 licensure unit.

9 "Secretary" means the Secretary of Financial and
10 Professional Regulation or a person authorized by the Secretary
11 to act in the Secretary's stead.

12 "Gross monthly income" means monthly income as
13 demonstrated by official documentation of the income,
14 including, but not limited to, a pay stub or a receipt
15 reflecting payment of government benefits, for the period 30
16 days prior to the date on which the loan is made.

17 "Lender" and "licensee" mean any person or entity,
18 including any affiliate or subsidiary of a lender or licensee,
19 that offers or makes a payday loan, buys a whole or partial
20 interest in a payday loan, arranges a payday loan for a third
21 party, or acts as an agent for a third party in making a payday
22 loan, regardless of whether approval, acceptance, or
23 ratification by the third party is necessary to create a legal
24 obligation for the third party, and includes any other person
25 or entity if the Department determines that the person or
26 entity is engaged in a transaction that is in substance a

1 disguised payday loan or a subterfuge for the purpose of
2 avoiding this Act.

3 "Loan agreement" means a written agreement between a lender
4 and consumer to make a loan to the consumer, regardless of
5 whether any loan proceeds are actually paid to the consumer on
6 the date on which the loan agreement is made.

7 "Member of the military" means a person serving in the
8 armed forces of the United States, the Illinois National Guard,
9 or any reserve component of the armed forces of the United
10 States. "Member of the military" includes those persons engaged
11 in (i) active duty, (ii) training or education under the
12 supervision of the United States preliminary to induction into
13 military service, or (iii) a period of active duty with the
14 State of Illinois under Title 10 or Title 32 of the United
15 States Code pursuant to order of the President or the Governor
16 of the State of Illinois.

17 "Outstanding balance" means the total amount owed by the
18 consumer on a loan to a lender, including all principal,
19 finance charges, fees, and charges of every kind.

20 "Payday loan" or "loan" means a loan with a finance charge
21 exceeding an annual percentage rate of 36% and with a term that
22 does not exceed 120 days, including any transaction conducted
23 via any medium whatsoever, including, but not limited to,
24 paper, facsimile, Internet, or telephone, in which:

25 (1) A lender accepts one or more checks dated on the
26 date written and agrees to hold them for a period of days

1 before deposit or presentment, or accepts one or more
2 checks dated subsequent to the date written and agrees to
3 hold them for deposit; or

4 (2) A lender accepts one or more authorizations to
5 debit a consumer's bank account; or

6 (3) A lender accepts an interest in a consumer's wages,
7 including, but not limited to, a wage assignment.

8 The term "payday loan" includes "installment payday loan",
9 unless otherwise specified in this Act.

10 "Principal amount" means the amount received by the
11 consumer from the lender due and owing on a loan, excluding any
12 finance charges, interest, fees, or other loan-related
13 charges.

14 "Rollover" means to refinance, renew, amend, or extend a
15 loan beyond its original term.

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

17 (815 ILCS 122/3-5)

18 Sec. 3-5. Licensure.

19 (a) A license to make a payday loan shall state the
20 address, including city and state, at which the business is to
21 be conducted and shall state fully the name of the licensee.
22 The license shall be conspicuously posted in the place of
23 business of the licensee and shall not be transferable or
24 assignable.

25 (b) An application for a license shall be in writing and in

1 a form prescribed by the Secretary. Each applicant shall
2 provide an email address of record. The Secretary may not issue
3 a payday loan license unless and until the following findings
4 are made:

5 (1) that the financial responsibility, experience,
6 character, and general fitness of the applicant are such as
7 to command the confidence of the public and to warrant the
8 belief that the business will be operated lawfully and
9 fairly and within the provisions and purposes of this Act;
10 and

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

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

17 (d) A licensee shall appoint, in writing, the Secretary as
18 attorney-in-fact upon whom all lawful process against the
19 licensee may be served with the same legal force and validity
20 as if served on the licensee. A copy of the written
21 appointment, duly certified, shall be filed in the office of
22 the Secretary, and a copy thereof certified by the Secretary
23 shall be sufficient evidence to subject a licensee to
24 jurisdiction in a court of law. This appointment shall remain
25 in effect while any liability remains outstanding in this State
26 against the licensee. When summons is served upon the Secretary

1 as attorney-in-fact for a licensee, the Secretary shall
2 immediately notify the licensee by certified ~~registered~~ mail,
3 return receipt requested, or to the email address of record,
4 enclosing the summons and specifying the hour and day of
5 service. Service by certified mail shall be deemed completed
6 when the notice is deposited in the United States mail. Service
7 to the email address of record shall be deemed completed when
8 sent.

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

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

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

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

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

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

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

25 (h) The Secretary shall maintain a list of licensees that
26 shall be available to interested consumers and lenders and the

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

6 (Source: P.A. 100-958, eff. 8-19-18; 101-31, eff. 6-28-19.)

7 (815 ILCS 122/4-10)

8 Sec. 4-10. Enforcement and remedies.

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

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

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

18 (d) Subject to the Illinois Administrative Procedure Act,
19 the Secretary may hold hearings, make findings of fact,
20 conclusions of law, issue cease and desist orders, have the
21 power to issue fines of up to \$10,000 per violation, refer the
22 matter to the appropriate law enforcement agency for
23 prosecution under this Act, and suspend or revoke a license
24 granted under this Act. All proceedings shall be open to the
25 public.

1 (e) The Secretary may issue a cease and desist order to any
2 licensee or other person doing business without the required
3 license, when in the opinion of the Secretary the licensee or
4 other person is violating or is about to violate any provision
5 of this Act or any rule or requirement imposed in writing by
6 the Department as a condition of granting any authorization
7 permitted by this Act. The cease and desist order permitted by
8 this subsection (e) may be issued prior to a hearing.

9 The Secretary shall serve notice of his or her action,
10 including, but not limited to, a statement of the reasons for
11 the action, either personally, to the email address of record,
12 or by certified mail, return receipt requested. Service by
13 certified mail shall be deemed completed when the notice is
14 deposited in the United States mail ~~U.S. Mail~~. Service to the
15 email address of record shall be deemed completed when sent.

16 Within 10 days of service of the cease and desist order,
17 the licensee or other person may request a hearing in writing.
18 The Secretary shall schedule a hearing within 30 days after the
19 request for a hearing unless otherwise agreed to by the
20 parties.

21 If it is determined that the Secretary had the authority to
22 issue the cease and desist order, he or she may issue such
23 orders as may be reasonably necessary to correct, eliminate, or
24 remedy the conduct.

25 The powers vested in the Secretary by this subsection (e)
26 are additional to any and all other powers and remedies vested

1 in the Secretary by law, and nothing in this subsection (e)
2 shall be construed as requiring that the Secretary shall employ
3 the power conferred in this subsection instead of or as a
4 condition precedent to the exercise of any other power or
5 remedy vested in the Secretary.

6 (f) The Secretary may, after 10 days notice by certified
7 ~~registered~~ mail to the licensee at the address set forth in the
8 license, or by email to the email address of record, stating
9 the contemplated action and in general the grounds therefore,
10 fine the licensee an amount not exceeding \$10,000 per
11 violation, or revoke or suspend any license issued hereunder if
12 he or she finds that:

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

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

21 The Secretary may fine, suspend, or revoke only the
22 particular license with respect to which grounds for the fine,
23 revocation, or suspension occur or exist, but if the Secretary
24 finds that grounds for revocation are of general application to
25 all offices or to more than one office of the licensee, the
26 Secretary shall fine, suspend, or revoke every license to which

1 the grounds apply.

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

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

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

15 In every case in which a license is suspended or revoked or
16 an application for a license or renewal of a license is denied,
17 the Secretary shall serve the licensee with notice of his or
18 her action, including a statement of the reasons for his or her
19 actions, either personally, to the email address of record, or
20 by certified mail, return receipt requested. Service by
21 certified mail shall be deemed completed when the notice is
22 deposited in the United States mail ~~U.S. Mail~~. Service to the
23 email address of record shall be deemed completed when sent.

24 An order assessing a fine, an order revoking or suspending
25 a license, or an order denying renewal of a license shall take
26 effect upon service of the order unless the licensee requests a

1 hearing, in writing, within 10 days after the date of service.
2 In the event a hearing is requested, the order shall be stayed
3 until a final administrative order is entered.

4 If the licensee requests a hearing, the Secretary shall
5 schedule a hearing within 30 days after the request for a
6 hearing unless otherwise agreed to by the parties.

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

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

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

23 (Source: P.A. 97-1039, eff. 1-1-13; 98-209, eff. 1-1-14.)

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