



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3693

Introduced 2/17/2023, 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.

LRB103 28809 BMS 55194 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
9 cooperative, non-profit association, incorporated under this
10 Act, under the laws of the United States of America or under
11 the laws of another state, for the purposes of encouraging
12 thrift among its members, creating a source of credit at a
13 reasonable rate of interest, and providing an opportunity for
14 its members to use and control their own money in order to
15 improve their economic and social conditions. The membership
16 of a credit union shall consist of a group or groups each
17 having a common bond as set 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
23 shall include any relative by blood or marriage or foster

1 and adopted children.

2 (2) Persons who reside in a reasonably compact and
3 well defined neighborhood or community, and members of
4 their immediate families which shall include any relative
5 by 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
20 408(a) of the Internal Revenue Code, as now or hereafter
21 amended, or similar provisions of any tax laws of the United
22 States that 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
10 by 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
17 of 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
5 from occupational groups not otherwise served by another
6 credit 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
13 assets of the credit union.

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

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

26 Charitable Donation Account - The term "charitable

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

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

9 (205 ILCS 305/2) (from Ch. 17, par. 4403)

10 Sec. 2. Organization procedure.

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

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

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

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

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

3 (d) The names, addresses and Social Security numbers
4 of the subscribers to the Articles of Incorporation, and
5 the number and the value of shares subscribed to by each;

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

11 (f) That the existence of the credit union shall be
12 perpetual.

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

16 (4) The subscribers shall forward the articles of
17 incorporation and the bylaws to the Secretary in duplicate,
18 along with the required charter fee. If they conform to the
19 law, and such rules and regulations as the Secretary and the
20 Director may prescribe, if the Secretary determines that a
21 common bond exists, and that it is economically advisable to
22 organize the credit union, he or she shall within 60 days issue
23 a certificate of approval attached to the articles of
24 incorporation and return a copy of the bylaws and the articles
25 of incorporation to the applicants or their representative,
26 which shall be preserved in the permanent files of the credit

1 union. The subscribers shall file the certificate of approval,
2 with the articles of incorporation attached, in the office of
3 the recorder (or, if there is no recorder, in the office of the
4 county clerk) of the county in which the credit union is to
5 locate its principal place of business. The recorder or the
6 county clerk, as the case may be, shall accept and record the
7 documents if they are accompanied by the proper fee. When the
8 documents are so recorded, the credit union is incorporated
9 under this Act.

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

13 (6) At the time of executing the articles of
14 incorporation, the subscribers shall provide an email address
15 of record.

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

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

18 Sec. 8. Secretary's powers and duties. Credit unions are
19 regulated by the Department. The Secretary in executing the
20 powers and discharging the duties vested by law in the
21 Department has the following powers and duties:

22 (1) To exercise the rights, powers, and duties set
23 forth in this Act or any related Act. The Director shall
24 oversee the functions of the Division and report to the
25 Secretary, with respect to the Director's exercise of any

1 of the rights, powers, and duties vested by law in the
2 Secretary under this Act. All references in this Act to
3 the Secretary shall be deemed to include the Director, as
4 a person authorized by the Secretary or this Act to assume
5 responsibility for the oversight of the functions of the
6 Department relating to the regulatory supervision of
7 credit unions under this Act.

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

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

25 (4) To issue cease and desist orders when in the
26 opinion of the Secretary, a credit union is engaged or has

1 engaged, or the Secretary has reasonable cause to believe
2 the credit union is about to engage, in an unsafe or
3 unsound practice, or is violating or has violated or the
4 Secretary has reasonable cause to believe is about to
5 violate a law, rule, l or regulation or any condition
6 imposed in writing by the Department.

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

21 (6) To assess a civil penalty against a credit union
22 provided that:

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

26 (i) committed a violation of this Act, any

1 rule adopted in accordance with this Act, or any
2 order of the Secretary issued pursuant to his or
3 her authority under this Act; or

4 (ii) engaged or participated in any unsafe or
5 unsound practice;

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

14 (i) directly resulted in a substantial and
15 material financial loss or created a reasonable
16 probability that a substantial and material
17 financial loss will directly result; or

18 (ii) constituted willful misconduct or a
19 material breach of fiduciary duty of any director,
20 officer, or committee member of the credit union;

21 Material financial loss, as referenced in this
22 paragraph (B), shall be assessed in light of
23 surrounding circumstances and the relative size and
24 nature of the financial loss or probable financial
25 loss. Certain benchmarks shall be used in determining
26 whether financial loss is material, such as a

1 percentage of total assets or total gross income for
2 the immediately preceding 12-month period. Absent
3 compelling and extraordinary circumstances, no civil
4 penalty shall be assessed, unless the financial loss
5 or probable financial loss is equal to or greater than
6 either 1% of the credit union's total assets for the
7 immediately preceding 12-month period, or 1% of the
8 credit union's total gross income for the immediately
9 preceding 12-month period, whichever is less;

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

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

15 (ii) specific remedial action to be taken
16 within a specific and reasonable time frame to
17 avoid imposition of the penalty;

18 (D) civil ~~Civil~~ penalties assessed under this item
19 (6) shall be remedial, not punitive, and reasonably
20 tailored to ensure future compliance by the credit
21 union with the provisions of this Act and any rules
22 adopted pursuant to this Act;

23 (E) a credit union's failure to take timely
24 remedial action with respect to the specific violation
25 may result in the issuance of an order assessing a
26 civil penalty up to the following maximum amount,

1 based upon the total assets of the credit union:

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

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

6 (iii) Credit unions with assets of at least
7 \$50 million and less than \$100 million \$5,000

8 (iv) Credit unions with assets of at least
9 \$100 million and less than \$500 million .. \$10,000

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

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

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

1 This item (6) shall not apply to violations separately
2 addressed in rules as authorized under item (7) of this
3 Section.

4 (7) Except for the fees established in this Act, to
5 prescribe, by rule and regulation, fees and penalties for
6 preparing, approving, and filing reports and other
7 documents; furnishing transcripts; holding hearings;
8 investigating applications for permission to organize,
9 merge, or convert; failure to maintain accurate books and
10 records to enable the Department to conduct an
11 examination; and taking supervisory actions.

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

16 (9) To make investigations and to conduct research and
17 studies and to publish some of the problems of persons in
18 obtaining credit at reasonable rates of interest and of
19 the methods and benefits of cooperative saving and lending
20 for such persons.

21 (10) To authorize, foster, or establish experimental,
22 developmental, demonstration, or pilot projects by public
23 or private organizations including credit unions which:

24 (a) promote more effective operation of credit
25 unions so as to provide members an opportunity to use
26 and control their own money to improve their economic

1 and social conditions; or

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

4 (11) To cooperate in studies, training, or other
5 administrative activities with, but not limited to, the
6 NCUA, other state credit union regulatory agencies and
7 industry trade associations in order to promote more
8 effective and efficient supervision of Illinois chartered
9 credit unions.

10 (12) Notwithstanding the provisions of this Section,
11 the Secretary shall not:

12 (1) issue an order against a credit union
13 organized under this Act for unsafe or unsound banking
14 practices solely because the entity provides or has
15 provided financial services to a cannabis-related
16 legitimate business;

17 (2) prohibit, penalize, or otherwise discourage a
18 credit union from providing financial services to a
19 cannabis-related legitimate business solely because
20 the entity provides or has provided financial services
21 to a cannabis-related legitimate business;

22 (3) recommend, incentivize, or encourage a credit
23 union not to offer financial services to an account
24 holder or to downgrade or cancel the financial
25 services offered to an account holder solely because:

26 (A) the account holder is a manufacturer or

1 producer, or is the owner, operator, or employee
2 of a cannabis-related legitimate business;

3 (B) the account holder later becomes an owner
4 or operator of a cannabis-related legitimate
5 business; or

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

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

11 (A) a cannabis-related legitimate business
12 solely because the owner or operator owns or
13 operates a cannabis-related legitimate business;
14 or

15 (B) real estate or equipment that is leased to
16 a cannabis-related legitimate business solely
17 because the owner or operator of the real estate
18 or equipment leased the equipment or real estate
19 to a cannabis-related legitimate business.

20 (Source: P.A. 101-27, eff. 6-25-19; 102-858, eff. 5-13-22;
21 revised 8-19-22.)

22 (205 ILCS 305/21) (from Ch. 17, par. 4422)

23 Sec. 21. Record of board and committee members. Within 30
24 days after election or appointment, the names and addresses of
25 the members of the board of directors, committees and all

1 officers of the credit union shall be filed with the
2 Department on forms provided by the Department. The form shall
3 also include the email address of record of the credit union.
4 (Source: P.A. 97-133, eff. 1-1-12.)

5 (205 ILCS 305/61) (from Ch. 17, par. 4462)

6 Sec. 61. Suspension.

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

24 (2) Upon receipt of such suspension notice, the credit
25 union shall cease all operations, except those authorized by

1 the Secretary, or the Secretary may appoint a manager-trustee
2 to operate the credit union during the suspension period. The
3 board of directors shall, within 10 days of the receipt of the
4 suspension notice, file with the Secretary a reply to the
5 suspension notice by submitting a corrective plan of action or
6 a request for formal hearing on said action pursuant to the
7 Department's rules and regulations.

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

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

1 shall be required to serve as a surviving credit union in any
2 involuntary merger. Upon the request of the Secretary, a
3 credit union by a vote of a majority of its board of directors
4 may elect to serve as a surviving credit union in an
5 involuntary merger. If the Secretary determines that the
6 suspended credit union should be liquidated, he may appoint a
7 liquidating agent and require of that person such bond and
8 security as he considers proper.

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

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

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

25 Section 10. The Transmitters of Money Act is amended by

1 changing Sections 5, 25, 40, 80, 90, and 100 as follows:

2 (205 ILCS 657/5)

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

6 "Authorized seller" means a person not an employee of a
7 licensee who engages in the business regulated by this Act on
8 behalf of a licensee under a contract between that person and
9 the licensee.

10 "Bill payment service" means the business of transmitting
11 money on behalf of an Illinois resident for the purpose of
12 paying the resident's bills.

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

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

24 "Director" means the Director of Financial Institutions.

25 "Division of Financial Institutions" means the Division of

1 Financial Institutions of the Department of Financial and
2 Professional Regulation.

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

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

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

11 "Material litigation" means any litigation that, according
12 to generally accepted accounting principles, is deemed
13 significant to a licensee's financial health and would be
14 required to be referenced in a licensee's annual audited
15 financial statements, reports to shareholders, or similar
16 documents.

17 "Money" means a medium of exchange that is authorized or
18 adopted by a domestic or foreign government as a part of its
19 currency and that is customarily used and accepted as a medium
20 of exchange in the country of issuance.

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

24 (1) Sells or issues payment instruments.

25 (2) Engages in the business of receiving money for
26 transmission or transmitting money.

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

4 "Outstanding payment instrument" means, unless otherwise
5 treated by or accounted for under generally accepted
6 accounting principles on the books of the licensee, a payment
7 instrument issued by the licensee that has been sold in the
8 United States directly by the licensee or has been sold in the
9 United States by an authorized seller of the licensee and
10 reported to the licensee as having been sold, but has not been
11 paid by or for the licensee.

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

23 "Person" means an individual, partnership, association,
24 joint stock association, corporation, or any other form of
25 business organization.

26 "Stored value card" means any magnetic stripe card or

1 other electronic payment instrument given in exchange for
2 money and other similar consideration, including but not
3 limited to checks, debit payments, money orders, drafts,
4 credit payments, and traveler's checks, where the card or
5 other electronic payment instrument represents a dollar value
6 that the consumer can either use or give to another
7 individual.

8 "Transmitting money" means the transmission of money by
9 any means, including transmissions to or from locations within
10 the United States or to and from locations outside of the
11 United States by payment instrument, facsimile or electronic
12 transfer, or otherwise, and includes bill payment services.

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

14 (205 ILCS 657/25)

15 Sec. 25. Application for license.

16 (a) An application for a license must be in writing, under
17 oath, and in the form the Director prescribes. At the time of
18 application, each applicant shall provide an email address of
19 record. The application must contain or be accompanied by all
20 of the following:

21 (1) The name of the applicant and the address of the
22 principal place of business of the applicant and the
23 address of all locations and proposed locations of the
24 applicant in this State.

25 (2) The form of business organization of the

1 applicant, including:

2 (A) a copy of its articles of incorporation and
3 amendments thereto and a copy of its bylaws, certified
4 by its secretary, if the applicant is a corporation;

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

7 (C) a copy of the documents that control its
8 organizational structure, certified by a managing
9 official, if the applicant is organized in some other
10 form.

11 (3) The name, business and home address, and a
12 chronological summary of the business experience, material
13 litigation history, and felony convictions over the
14 preceding 10 years of:

15 (A) the proprietor, if the applicant is an
16 individual;

17 (B) every partner, if the applicant is a
18 partnership;

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

21 (D) each person in a position to exercise control
22 over, or direction of, the business of the applicant,
23 regardless of the form of organization of the
24 applicant.

25 (4) Financial statements, not more than one year old,
26 prepared in accordance with generally accepted accounting

1 principles and audited by a licensed public accountant or
2 certified public accountant showing the financial
3 condition of the applicant and an unaudited balance sheet
4 and statement of operation as of the most recent quarterly
5 report before the date of the application, certified by
6 the applicant or an officer or partner thereof. If the
7 applicant is a wholly owned subsidiary or is eligible to
8 file consolidated federal income tax returns with its
9 parent, however, unaudited financial statements for the
10 preceding year along with the unaudited financial
11 statements for the most recent quarter may be submitted if
12 accompanied by the audited financial statements of the
13 parent company for the preceding year along with the
14 unaudited financial statement for the most recent quarter.

15 (5) Filings of the applicant with the Securities and
16 Exchange Commission or similar foreign governmental entity
17 (English translation), if any.

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

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

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

26 (9) A sample form of the proposed payment instruments

1 to be used in this State.

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

5 (11) A surety bond as required by Section 30 of this
6 Act.

7 (12) The applicable fees as required by Section 45 of
8 this Act.

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

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

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

18 (a-5) The proprietor, partner, officer, director, and
19 controlling person of the applicant shall submit their
20 fingerprints to the Illinois State Police in an electronic
21 format that complies with the form and manner for requesting
22 and furnishing criminal history record information as
23 prescribed by the Illinois State Police. These fingerprints
24 shall be retained and checked against the Illinois State
25 Police and Federal Bureau of Investigation criminal history
26 record databases now and hereafter filed, including latent

1 fingerprint searches. The Illinois State Police shall charge
2 applicants a fee for conducting the criminal history records
3 check, which shall be deposited into the State Police Services
4 Fund and shall not exceed the actual cost of the records check.
5 The Illinois State Police shall furnish records of Illinois
6 convictions to the Department pursuant to positive
7 identification and shall forward the national criminal history
8 record information to the Department. The Department may
9 require applicants to pay a separate fingerprinting fee,
10 either to the Department or to a Department-designated or
11 Department-approved vendor. The Department, in its discretion,
12 may allow a proprietor, partner, officer, director, or
13 controlling person of an applicant who does not have
14 reasonable access to a designated vendor to provide his or her
15 fingerprints in an alternative manner. The Department, in its
16 discretion, may also use other procedures in performing or
17 obtaining criminal background checks of applicants. Instead of
18 submitting his or her fingerprints, an individual may submit
19 proof that is satisfactory to the Department that an
20 equivalent security clearance has been conducted. The
21 Department may adopt any rules necessary to implement this
22 subsection.

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

25 (Source: P.A. 102-538, eff. 8-20-21.)

1 (205 ILCS 657/40)

2 Sec. 40. Renewals of license. As a condition for renewal
3 of a license, a licensee must submit to the Director, and the
4 Director must receive, on or before December 1 of each year, an
5 application for renewal made in writing and under oath on a
6 form prescribed by the Director. At the time of renewal, each
7 licensee shall provide an email address of record. A licensee
8 whose application for renewal is not received by the
9 Department on or before December 31 shall not have its license
10 renewed and shall be required to submit to the Director an
11 application for a new license in accordance with Section 25.
12 Upon a showing of good cause, the Director may extend the
13 deadline for the filing of an application for renewal. The
14 application for renewal of a license shall contain or be
15 accompanied by all of the following:

16 (1) The name of the licensee and the address of the
17 principal place of business of the licensee.

18 (2) A list of all locations where the licensee is
19 conducting business under its license and a list of all
20 authorized sellers through whom the licensee is conducting
21 business under its license, including the name and
22 business address of each authorized seller.

23 (3) Audited financial statements covering the past
24 year of operations, prepared in accordance with generally
25 accepted accounting principles, showing the financial
26 condition of the licensee. The licensee shall submit the

1 audited financial statement after the application for
2 renewal has been approved. The audited financial statement
3 must be received by the Department no later than 120 days
4 after the end of the licensee's fiscal year. If the
5 licensee is a wholly owned subsidiary or is eligible to
6 file consolidated federal income tax returns with its
7 parent, the licensee may submit unaudited financial
8 statements if accompanied by the audited financial
9 statements of the parent company for its most recently
10 ended year.

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

15 (5) A statement of the dollar amount of uncompleted
16 money transmissions and payment instruments outstanding or
17 in transit, in this State, as of the most recent quarter
18 available.

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

21 (7) Evidence sufficient to prove to the satisfaction
22 of the Director that the licensee has complied with all
23 requirements under Section 20 relating to its net worth,
24 under Section 30 relating to its surety bond or other
25 security, and under Section 50 relating to permissible
26 investments.

1 (8) A statement of a change in information provided by
2 the licensee in its application for a license or its
3 previous applications for renewal including, but not
4 limited to, new directors, officers, authorized sellers,
5 or clearing banks and material changes in the operation of
6 the licensee's business.

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

8 (205 ILCS 657/80)

9 Sec. 80. Revocation or suspension of licenses.

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

12 (1) The licensee has knowingly made a material
13 misstatement or suppressed or withheld information on an
14 application for a license or a document required to be
15 filed with the Director.

16 (2) A fact or condition exists that, if it had existed
17 or had been known at the time the licensee applied for its
18 license, would have been grounds for denying the
19 application.

20 (3) The licensee is insolvent.

21 (4) The licensee has knowingly violated a material
22 provision of this Act or rules adopted under this Act or an
23 order of the Director.

24 (5) The licensee refuses to permit the Director to
25 make an examination at reasonable times as authorized by

1 this Act.

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

4 (7) The licensee fails to pay a judgment entered in
5 favor of a claimant, plaintiff, or creditor in an action
6 arising out of the licensee's business regulated under
7 this Act within 30 days after the judgment becomes final
8 or within 30 days after expiration or termination of a
9 stay of execution.

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

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

19 (b) In every case in which a license is suspended or
20 revoked or an application for a license or renewal of a license
21 is denied, the Director 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 certified mail
25 shall be deemed completed if the notice is deposited in the
26 United States mail ~~post office, postage paid, addressed to the~~

1 ~~last known address specified in the application for a license.~~
2 Service to the email address of record shall be deemed
3 completed when sent.

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

12 (d) The order of suspension or revocation of a license
13 shall take effect upon service of the order. The holder of any
14 suspended or revoked license may request in writing, within 30
15 days after the date of service, a hearing. In the event a
16 hearing is requested, the order shall remain temporary until a
17 final order is entered pursuant to the hearing.

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

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

7 (g) The decision of the Director to deny any application
8 for a license or renewal of a license or to suspend or revoke a
9 license is subject to judicial review under the Administrative
10 Review Law.

11 (h) The costs for administrative hearing shall be set by
12 rule.

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

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

18 (205 ILCS 657/90)

19 Sec. 90. Enforcement.

20 (a) If it appears to the Director that a person has
21 committed or is about to commit a violation of this Act, a rule
22 promulgated under this Act, or an order of the Director, the
23 Director may apply to the circuit court for an order enjoining
24 the person from violating or continuing to violate this Act,
25 the rule, or order and for injunctive or other relief that the

1 nature of the case may require and may, in addition, request
2 the court to assess a civil penalty up to \$1,000 along with
3 costs and attorney fees.

4 (b) If the Director finds, after an investigation that he
5 considers appropriate, that a licensee or other person is
6 engaged in practices contrary to this Act or to the rules
7 promulgated under this Act, the Director may issue an order
8 directing the licensee or person to cease and desist the
9 violation. The Director may, in addition to or without the
10 issuance of a cease and desist order, assess an administrative
11 penalty up to \$1,000 against a licensee for each violation of
12 this Act or the rules promulgated under this Act. The issuance
13 of an order under this Section shall not be a prerequisite to
14 the taking of any action by the Director under this or any
15 other Section of this Act. The Director shall serve notice of
16 his action, including a statement of the reasons for his
17 actions, either personally, to the email address of record, or
18 by certified mail, return receipt requested. Service by
19 certified mail shall be deemed completed if the notice is
20 deposited in the United States mail ~~post office, postage paid,~~
21 ~~addressed to the last known address for a license.~~ Service to
22 the email address of record shall be deemed completed when
23 sent.

24 (c) In the case of the issuance of a cease and desist order
25 or assessment order, a hearing may be requested in writing
26 within 30 days after the date of service. The hearing shall be

1 held at the time and place designated by the Director in either
2 the City of Springfield or the City of Chicago. The Director
3 and any administrative law judge designated by him shall have
4 the power to administer oaths and affirmations, subpoena
5 witnesses and compel their attendance, take evidence,
6 authorize the taking of depositions, and require the
7 production of books, papers, correspondence, and other records
8 or information that he considers relevant or material to the
9 inquiry.

10 (d) After the Director's final determination under a
11 hearing under this Section, a party to the proceedings whose
12 interests are affected by the Director's final determination
13 shall be entitled to judicial review of that final
14 determination under the Administrative Review Law.

15 (e) The costs for administrative hearings shall be set by
16 rule.

17 (f) Except as otherwise provided in this Act, a violation
18 of this Act shall subject the party violating it to a fine of
19 \$1,000 for each offense.

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

23 (h) A person who engages in conduct requiring a license
24 under this Act and fails to obtain a license from the Director
25 or knowingly makes a false statement, misrepresentation, or
26 false certification in an application, financial statement,

1 account record, report, or other document filed or required to
2 be maintained or filed under this Act or who knowingly makes a
3 false entry or omits a material entry in a document is guilty
4 of a Class 3 felony.

5 (i) The Director is authorized to compromise, settle, and
6 collect civil penalties and administrative penalties, as set
7 by rule, with any person for violations of this Act or of any
8 rule or order issued or promulgated under this Act. Any person
9 who, without the required license, engages in conduct
10 requiring a license under this Act shall be liable to the
11 Department in an amount equal to the greater of (i) \$5,000 or
12 (ii) an amount of money accepted for transmission plus an
13 amount equal to 3 times the amount accepted for transmission.
14 The Department shall cause any funds so recovered to be
15 deposited in the TOMA Consumer Protection Fund.

16 (j) The Director may enter into consent orders at any time
17 with a person to resolve a matter arising under this Act. A
18 consent order must be signed by the person to whom it is issued
19 and must indicate agreement to the terms contained in it. A
20 consent order need not constitute an admission by a person
21 that this Act or a rule or order issued or promulgated under
22 this Act has been violated, nor need it constitute a finding by
23 the Director that the person has violated this Act or a rule or
24 order promulgated under this Act.

25 (k) Notwithstanding the issuance of a consent order, the
26 Director may seek civil or criminal penalties or compromise

1 civil penalties concerning matter encompassed by the consent
2 order unless the consent order by its terms expressly
3 precludes the Director from doing so.

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

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

9 (205 ILCS 657/100)

10 Sec. 100. Consent to service of process.

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

25 (b) Service of process or other notice, accompanied by the

1 fee provided in Section 45, shall be by duplicate copies, one
2 of which shall be filed with the Director and the other
3 forwarded by the Director within 5 business days by certified
4 mail with a return receipt to the licensee against whom the
5 process or other notice is directed at its latest address on
6 file with the Department or to the email address of record.
7 Service by certified mail shall be deemed completed when the
8 notice is deposited in the United States mail. Service to the
9 email address of record shall be deemed completed when sent.

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

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

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

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

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

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

1 contracts or agreements entered into in this State.

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

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

11 "Department" means the Department of Financial and
12 Professional Regulation Institutions.

13 "Director" means the Director of Financial 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 "Motor Vehicle Retail Installment Sales Act" and "Retail
23 Installment Sales Act" refer to the Acts having those titles
24 enacted by the 75th General Assembly.

25 "Retail installment contract" and "retail charge
26 agreement" have the meanings ascribed to them in the Motor

1 Vehicle Retail Installment Sales Act and the Retail
2 Installment Sales Act.

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

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

14 (205 ILCS 660/6) (from Ch. 17, par. 5206)

15 Sec. 6. A license fee of \$300 for the applicant's
16 principal place of business and \$100 for each additional place
17 of business for which a license is sought must be submitted
18 with an application for license made before July 1 of any year.
19 If application for a license is made on July 1 or thereafter, a
20 license fee of \$150 for the principal place of business and of
21 \$50 for each additional place of business must accompany the
22 application. Each license remains in force until surrendered,
23 suspended, or revoked. If the application for license is
24 denied, the original license fee shall be retained by the
25 State in reimbursement of its costs of investigating that

1 application.

2 Before the license is granted, the applicant shall prove
3 in form satisfactory to the Director, that the applicant has a
4 positive net worth of a minimum of \$30,000. At the time of
5 application, each applicant shall provide an email address of
6 record.

7 A licensee must pay to the Department, and the Department
8 must receive, by December 1 of each year, the renewal license
9 application on forms prescribed by the Director and \$300 for
10 the license for his principal place of business and \$100 for
11 each additional license held as a renewal license fee for the
12 succeeding calendar year.

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

14 (205 ILCS 660/10) (from Ch. 17, par. 5223)

15 Sec. 10. Denial, revocation, fine, or suspension of
16 license.

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

19 (b) In every case in which a license is revoked or
20 suspended, a licensee is fined, or an application for a
21 license or renewal of a license is denied, the Director shall
22 serve notice of his or her action, including a statement of the
23 reasons for the action either personally, to the email address
24 of record, or by certified mail, return receipt requested.
25 Service by certified mail shall be deemed completed when the

1 notice is deposited in the United States ~~U.S.~~ mail. Service to
2 the email address of record shall be deemed completed when
3 sent.

4 (c) An order revoking or suspending a license or an order
5 denying renewal of a license shall take effect upon service of
6 the order, unless the licensee requests, in writing, within 10
7 days after the date of service, a hearing. In the event a
8 hearing is requested, the order shall be stayed until a final
9 administrative order is entered.

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

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

21 (f) The costs for the administrative hearing shall be set
22 by rule.

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

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

1 (205 ILCS 660/16.5)

2 Sec. 16.5. Cease and desist orders.

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

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

11 (c) The Director shall serve notice of his or her action,
12 designated as a cease and desist order made pursuant to this
13 Section, including a statement of the reasons for the action,
14 either personally, to the email address of record, or by
15 certified mail, return receipt requested. Service by certified
16 mail shall be deemed completed when the notice is deposited in
17 the United States ~~U.S.~~ mail. Service to the email address of
18 record shall be deemed completed when sent.

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

22 (e) The Director shall schedule a hearing within 30 days
23 after the request for a hearing unless otherwise agreed to by
24 the parties.

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

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

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

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

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

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

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

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

19 "Credit counselor" means an individual, corporation, or
20 other entity that is not a debt management service that
21 provides (1) guidance, educational programs, or advice for the
22 purpose of addressing budgeting, personal finance, financial
23 literacy, saving and spending practices, or the sound use of
24 consumer credit; or (2) assistance or offers to assist

1 individuals and families with financial problems by providing
2 counseling; or (3) a combination of the activities described
3 in items (1) and (2) of this definition.

4 "Debt management service" means the planning and
5 management of the financial affairs of a debtor for a fee and
6 the receiving of money from the debtor for the purpose of
7 distributing it to the debtor's creditors in payment or
8 partial payment of the debtor's obligations or soliciting
9 financial contributions from creditors. The business of debt
10 management is conducted in this State if the debt management
11 business, its employees, or its agents are located in this
12 State or if the debt management business solicits or contracts
13 with debtors located in this State. "Debt management service"
14 does not include "debt settlement service" as defined in the
15 Debt Settlement Consumer Protection Act.

16 This term shall not include the following when engaged in
17 the regular course of their respective businesses and
18 professions:

19 (a) Attorneys at law licensed, or otherwise authorized
20 to practice, in Illinois who are engaged in the practice
21 of law.

22 (b) Banks, operating subsidiaries of banks, affiliates
23 of banks, fiduciaries, credit unions, savings and loan
24 associations, and savings banks as duly authorized and
25 admitted to transact business in the State of Illinois and
26 performing credit and financial adjusting service in the

1 regular course of their principal business.

2 (c) Title insurers, title agents, independent
3 escrowees, and abstract companies, while doing an escrow
4 business.

5 (d) Judicial officers or others acting pursuant to
6 court order.

7 (e) Employers for their employees, except that no
8 employer shall retain the services of an outside debt
9 management service to perform this service unless the debt
10 management service is licensed pursuant to this Act.

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

13 (g) Credit counselors, only when providing services
14 described in the definition of credit counselor in this
15 Section.

16 "Debtor" means the person or persons for whom the debt
17 management service is performed.

18 "Department" means the Department of Financial and
19 Professional Regulation.

20 "Director" means the Director of Financial Institutions.

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

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

1 as maintained by the Division of Financial Institutions'
2 licensure unit.

3 "Person" means an individual, firm, partnership,
4 association, limited liability company, corporation, or
5 not-for-profit corporation.

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

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

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

11 (205 ILCS 665/4) (from Ch. 17, par. 5304)

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

17 Each applicant, at the time of making such application,
18 shall pay to the Secretary the sum of \$30.00 as a fee for
19 investigation of the applicant, and the additional sum of
20 \$100.00 as a license fee.

21 Every applicant shall submit to the Secretary, at the time
22 of the application for a license, a bond to be approved by the
23 Secretary in which the applicant shall be the obligor, in the
24 sum of \$25,000 or such additional amount as required by the
25 Secretary based on the amount of disbursements made by the

1 licensee in the previous year, and in which an insurance
2 company, which is duly authorized by the State of Illinois, to
3 transact the business of fidelity and surety insurance shall
4 be a surety.

5 The bond shall run to the Secretary for the use of the
6 Department or of any person or persons who may have a cause of
7 action against the obligor in said bond arising out of any
8 violation of this Act or rules by a licensee. Such bond shall be
9 conditioned that the obligor will faithfully conform to and
10 abide by the provisions of this Act and of all rules,
11 regulations and directions lawfully made by the Secretary and
12 will pay to the Secretary or to any person or persons any and
13 all money that may become due or owing to the State or to such
14 person or persons, from said obligor under and by virtue of the
15 provisions of this Act.

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

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

18 Sec. 10. Revocation, suspension, or refusal to renew
19 license.

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

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

25 (2) the licensee has violated any provisions of this

1 Act or any rule, lawfully made by the Secretary within the
2 authority of this Act;

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

7 (4) any applicant has made any false statement or
8 representation to the Secretary in applying for a license
9 hereunder.

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

19 (c) In the case of a denial of an application or renewal of
20 a license, the applicant or licensee may request in writing,
21 within 30 days after the date of service, a hearing. In the
22 case of a denial of a renewal of a license, the license shall
23 be deemed to continue in force until 30 days after the service
24 of the notice of denial, or if a hearing is requested during
25 that period, until a final administrative order is entered.

26 (d) An order of revocation or suspension of a license

1 shall take effect upon service of the order unless the
2 licensee requests, in writing, within 10 days after the date
3 of service, a hearing. In the event a hearing is requested, the
4 order shall be stayed until a final administrative order is
5 entered.

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

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

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

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

21 (205 ILCS 665/20) (from Ch. 17, par. 5323)

22 Sec. 20. Cease and desist orders.

23 (a) The Secretary may issue a cease and desist order to any
24 licensee, or other person doing business without the required
25 license, when in the opinion of the Secretary, the licensee,

1 or other person, is violating or is about to violate any
2 provision of the Act or any rule or condition imposed in
3 writing by the Department.

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

6 (c) The Secretary shall serve notice of his action,
7 including a statement of the reasons for his action either
8 personally, to the email address of record, or by certified
9 mail, return receipt requested. Service by mail shall be
10 deemed completed if the notice is deposited in the U.S. Mail.
11 Service to the email address of record shall be deemed
12 completed when sent.

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

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

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

23 (h) The powers vested in the Secretary by this Section are
24 additional to any and all other powers and remedies vested in
25 the Secretary by law, and nothing in this Section shall be
26 construed as requiring that the Secretary shall employ the

1 power conferred in this Section instead of or as a condition
2 precedent to the exercise of any other power or remedy vested
3 in the Secretary.

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

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

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

10 (205 ILCS 670/0.5 new)

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

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

14 "Director" means the Director of the Division of Financial
15 Institutions.

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

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

24 "Secretary" means the Secretary of Financial and

1 Professional Regulation or a person authorized by the
2 Secretary to act in the Secretary's stead.

3 (205 ILCS 670/2) (from Ch. 17, par. 5402)

4 Sec. 2. Application; fees; positive net worth. Application
5 for such license shall be in writing, and in the form
6 prescribed by the Director. Such applicant at the time of
7 making such application shall pay to the Director the sum of
8 \$300 as an application fee and the additional sum of \$450 as an
9 annual license fee, for a period terminating on the last day of
10 the current calendar year; provided that if the application is
11 filed after June 30th in any year, such license fee shall be
12 1/2 of the annual license fee for such year. At the time of
13 application, each applicant shall provide an email address of
14 record.

15 Before the license is granted, every applicant shall prove
16 in form satisfactory to the Director that the applicant has
17 and will maintain a positive net worth of a minimum of \$30,000.
18 Every applicant and licensee shall maintain a surety bond in
19 the principal sum of \$25,000 issued by a bonding company
20 authorized to do business in this State and which shall be
21 approved by the Director. Such bond shall run to the Director
22 and shall be for the benefit of any consumer who incurs damages
23 as a result of any violation of the Act or rules by a licensee.
24 If the Director finds at any time that a bond is of
25 insufficient size, is insecure, exhausted, or otherwise

1 doubtful, an additional bond in such amount as determined by
2 the Director shall be filed by the licensee within 30 days
3 after written demand therefor by the Director. "Net worth"
4 means total assets minus total liabilities.

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

6 (205 ILCS 670/3) (from Ch. 17, par. 5403)

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

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

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

4 (205 ILCS 670/8) (from Ch. 17, par. 5408)

5 Sec. 8. Annual license fee; expenses ~~fee~~ ~~Expenses~~.
6 Before the 1st day of each December, a licensee must pay to the
7 Director, and the Department must receive, the annual license
8 fee required by Section 2 for the next succeeding calendar
9 year. The license shall expire on the first of January unless
10 the license fee has been paid prior thereto. At the time of
11 renewal, each licensee shall provide an email address of
12 record.

13 In addition to such license fee, the reasonable expense of
14 any examination, investigation or custody by the Director
15 under any provisions of this Act shall be borne by the
16 licensee.

17 If a licensee fails to renew his or her license by the 31st
18 day of December, it shall automatically expire and the
19 licensee is not entitled to a hearing; however, the Director,
20 in his or her discretion, may reinstate an expired license
21 upon payment of the annual renewal fee and proof of good cause
22 for failure to renew.

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

24 (205 ILCS 670/9) (from Ch. 17, par. 5409)

1 Sec. 9. Fines; suspension or revocation ~~, Suspension or~~
2 ~~Revocation~~ of license.

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

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

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

18 Service by certified mail shall be deemed completed when
19 the notice is deposited in the United States mail. Service to
20 the email address of record shall be deemed completed when
21 sent.

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

1 licensee, the Director shall fine, suspend, or revoke every
2 license to which such grounds apply.

3 (c) (Blank).

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

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

11 (f) (Blank).

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

22 (h) An order assessing a fine, an order revoking or
23 suspending a license or, an order denying renewal of a license
24 shall take effect upon service of the order unless the
25 licensee requests, in writing, within 10 days after the date
26 of service, a hearing. In the event a hearing is requested, the

1 order shall be stayed until a final administrative order is
2 entered.

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

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

14 (k) The costs for the administrative hearing shall be set
15 by rule.

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

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

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

25 (205 ILCS 670/20.5)

1 Sec. 20.5. Cease and desist.

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

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

11 (c) The Director shall serve notice of his or her action,
12 designated as a cease and desist order made pursuant to this
13 Section, including a statement of the reasons for the action,
14 either personally, to the email address of record, or by
15 certified mail, return receipt requested. Service by certified
16 mail shall be deemed completed when the notice is deposited in
17 the United States ~~U.S.~~ mail. Service to the email address of
18 record shall be deemed completed when sent.

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

22 (e) The Director shall schedule a hearing within 30 days
23 after the request for a hearing unless otherwise agreed to by
24 the parties.

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

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

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

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

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

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

17 (225 ILCS 429/10)

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

19 "Consumer" means any person who purchases or contracts for
20 the purchase of debt settlement services or a student loan
21 borrower.

22 "Consumer settlement account" means any account or other
23 means or device in which payments, deposits, or other
24 transfers from a consumer are arranged, held, or transferred

1 by or to a debt settlement provider for the accumulation of the
2 consumer's funds in anticipation of proffering an adjustment
3 or settlement of a debt or obligation of the consumer to a
4 creditor on behalf of the consumer.

5 "Debt settlement provider" means: (1) any person or entity
6 engaging in, or holding itself out as engaging in, the
7 business of providing debt settlement service in exchange for
8 any fee or compensation; (2) any person who solicits for or
9 acts on behalf of any person or entity engaging in, or holding
10 itself out as engaging in, the business of providing debt
11 settlement service in exchange for any fee or compensation;
12 (3) any person or entity engaging in, or holding itself out as
13 engaging in the business of student loan debt relief services
14 in exchange for any fee or compensation assessed against or
15 charged to a consumer; or (4) any person who solicits for or
16 acts on behalf of such person or entity engaging in or holding
17 itself out as engaging in, the business of student loan debt
18 relief services in exchange for any fee or compensation
19 assessed against or charged to a consumer. "Debt settlement
20 provider" does not include:

21 (1) attorneys licensed, or otherwise authorized, to
22 practice in Illinois who are engaged in the practice of
23 law;

24 (2) escrow agents, accountants, broker dealers in
25 securities, or investment advisors in securities, when
26 acting in the ordinary practice of their professions and

1 through the entity used in the ordinary practice of their
2 profession;

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

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

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

20 (6) an organization that is described in Section
21 501(c)(3) and subject to Section 501(q) of Title 26 of the
22 United States Code and exempt from tax under Section
23 501(a) of Title 26 of the United States Code and governed
24 by the Debt Management Service Act;

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

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

4 (9) persons licensed under the Real Estate License Act
5 of 2000 when acting in the ordinary practice of their
6 profession and not holding themselves out as debt
7 settlement providers; or

8 (10) any institution of higher education as defined in
9 the Higher Education Act of 1965, 20 U.S.C. 1001.

10 "Debt settlement service" means:

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

20 (2) offering to provide services related to or
21 providing services advising, encouraging, assisting, or
22 counseling a consumer to accumulate funds for the primary
23 purpose of proposing or obtaining or seeking to obtain a
24 settlement, adjustment, or satisfaction of the consumer's
25 unsecured debt to a creditor in an amount less than the
26 full amount of the principal amount of the debt or in an

1 amount less than the current outstanding balance of the
2 debt; or

3 (3) student loan debt relief.

4 "Debt settlement service" does not include (A) the
5 services of attorneys licensed, or otherwise authorized, to
6 practice in Illinois who are engaged in the practice of law,
7 (B) debt management service as defined in the Debt Management
8 Service Act, (C) the services of a student loan servicer, as
9 defined in the Student Loan Servicing Rights Act, or (D) the
10 services of any other originator, guarantor, or servicer of
11 federal education loans or private education loans.

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

14 "Director" means the Director of the Division of Financial
15 Institutions.

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

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

24 "Enrollment or set up fee" means any fee, obligation, or
25 compensation paid or to be paid by the consumer to a debt
26 settlement provider in consideration of or in connection with

1 establishing a contract or other agreement with a consumer
2 related to the provision of debt settlement service.

3 "Federal education loan" means any loan made, guaranteed,
4 or insured under Title IV of the federal Higher Education Act
5 of 1965.

6 "Maintenance fee" means any fee, obligation, or
7 compensation paid or to be paid by the consumer on a periodic
8 basis to a debt settlement provider in consideration of
9 maintaining the relationship and services to be provided by a
10 debt settlement provider in accordance with a contract with a
11 consumer related to the provision of debt settlement service.

12 "Principal amount of the debt" means the total amount or
13 outstanding balance owed by a consumer to one or more
14 creditors for a debt that is included in a contract for debt
15 settlement service at the time when the consumer enters into a
16 contract for debt settlement service.

17 "Savings" means the difference between the principal
18 amount of the debt and the amount paid by the debt settlement
19 provider to the creditor or negotiated by the debt settlement
20 provider and paid by the consumer to the creditor pursuant to a
21 settlement negotiated by the debt settlement provider on
22 behalf of the consumer as full and complete satisfaction of
23 the creditor's claim with regard to that debt.

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

1 "Settlement fee" means any fee, obligation, or
2 compensation paid or to be paid by the consumer to a debt
3 settlement provider in consideration of or in connection with
4 a completed agreement or other arrangement on the part of a
5 creditor to accept less than the principal amount of the debt
6 as satisfaction of the creditor's claim against the consumer.

7 "Student loan borrower" means a person who has received or
8 agreed to pay a student loan for his or her own educational
9 expenses; a parent, grandparent, or other family member who
10 has received or agreed to pay a student loan for a family
11 member receiving the education; or any co-signer who has
12 agreed to share responsibility for repaying a student loan
13 with the person receiving the education.

14 "Student loan debt relief" means, in exchange for any fee
15 or compensation assessed against or charged to a student loan
16 borrower, offering to provide advice or service, or acting as
17 an intermediary between or on behalf of a consumer and the
18 United States Department of Education or any other originator
19 or guarantor of federal education loans or one or more of the
20 servicers of a student loan borrower's federal education loan,
21 where the primary purpose of the advice, service, or action is
22 to (1) negotiate, arrange, or obtain a settlement, adjustment,
23 discharge, or satisfaction of the student loan borrower's
24 federal education loan debt in an amount less than the full
25 amount of the principal amount of the debt, a reduction or
26 alteration to the interest rate, a reduction or alteration in

1 the amount of monthly payment or fees owed, or in an amount
2 less than the current outstanding balance of the debt, (2)
3 enroll the student loan borrower in a repayment plan,
4 forbearance, or deferment of his or her federal education loan
5 debt, (3) apply for consolidation or consolidate the student
6 loan borrower's federal education loans, or (4) offer to
7 provide any other services related to altering the terms of a
8 student loan borrower's federal education loan debt,
9 including, but not limited to, a reduction in the amount of
10 interest, the principal balance, or the amount of monthly
11 payment or fees owed.

12 (Source: P.A. 102-298, eff. 8-6-21.)

13 (225 ILCS 429/20)

14 Sec. 20. Application for license. An application for a
15 license to operate as a debt settlement provider in this State
16 shall be made to the Secretary and shall be in writing, under
17 oath, and in the form prescribed by the Secretary. Each
18 applicant shall provide an email address of record.

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

21 Every applicant shall submit to the Secretary, at the time
22 of the application for a license, a bond to be approved by the
23 Secretary in which the applicant shall be the obligor, in the
24 sum of \$100,000 or an additional amount as required by the
25 Secretary, and in which an insurance company, which is duly

1 authorized by the State of Illinois to transact the business
2 of fidelity and surety insurance, shall be a surety.

3 The bond shall run to the Secretary for the use of the
4 Department or of any person or persons who may have a cause of
5 action against the obligor in said bond arising out of any
6 violation of this Act or rules by a debt settlement provider.
7 Such bond shall be conditioned that the obligor must
8 faithfully conform to and abide by the provisions of this Act
9 and of all rules, regulations, and directions lawfully made by
10 the Secretary and pay to the Secretary or to any person or
11 persons any and all money that may become due or owing to the
12 State or to such person or persons, from the obligor under and
13 by virtue of the provisions of this Act.

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

15 (225 ILCS 429/50)

16 Sec. 50. Revocation or suspension of license.

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

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

22 (2) the debt settlement provider has violated any
23 provisions of this Act or any rule lawfully made by the
24 Secretary under the authority of this Act;

25 (3) any fact or condition exists that, if it had

1 existed at the time of the original application for a
2 license, would have warranted the Secretary in refusing
3 its issuance; or

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

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

16 (c) In the case of a denial of an application or renewal of
17 a license, the applicant or debt settlement provider may
18 request, in writing, a hearing within 30 days after the date of
19 service. In the case of a denial of a renewal of a license, the
20 license shall be deemed to continue in force until 30 days
21 after the service of the notice of denial, or if a hearing is
22 requested during that period, until a final administrative
23 order is entered.

24 (d) An order of revocation or suspension of a license
25 shall take effect upon service of the order unless the debt
26 settlement provider requests, in writing, a hearing within 10

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

4 (e) If the debt settlement provider requests a hearing,
5 then the Secretary shall schedule the hearing within 30 days
6 after the request for a hearing unless otherwise agreed to by
7 the parties.

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

16 (g) The costs for the administrative hearing shall be set
17 by rule.

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

19 (225 ILCS 429/80)

20 Sec. 80. Penalties.

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

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

1 (c) The Secretary may, after 10 days notice by certified
2 ~~registered~~ mail to the debt settlement service provider at the
3 address on the license or unlicensed entity engaging in the
4 debt settlement service business, or by email to the email
5 address of record, stating the contemplated action and in
6 general the grounds therefore, fine such debt settlement
7 service provider or unlicensed entity an amount not exceeding
8 \$10,000 per violation, and revoke or suspend any license
9 issued hereunder if he or she finds that:

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

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

19 Service by certified mail shall be deemed completed when
20 the notice is deposited in the United States mail. Service to
21 the email address of record shall be deemed completed when
22 sent.

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

24 (225 ILCS 429/95)

25 Sec. 95. Cease and desist orders.

1 (a) The Secretary may issue a cease and desist order to any
2 debt settlement provider or other person doing business
3 without the required license when, in the opinion of the
4 Secretary, the debt settlement provider or other person is
5 violating or is about to violate any provision of the Act or
6 any rule or condition imposed in writing by the Department.

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

9 (c) The Secretary shall serve notice of his or her action,
10 including a statement of the reasons for his or her action
11 either personally, to the email address of record, or by
12 certified mail, return receipt requested. Service by mail
13 shall be deemed completed if the notice is deposited in the
14 United States mail U.S. Mail. Service to the email address of
15 record shall be deemed completed when sent.

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

19 (e) The Secretary shall schedule a hearing within 30 days
20 after the request for a hearing unless otherwise agreed to by
21 the parties.

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

26 (g) The powers vested in the Secretary by this Section are

1 additional to any and all other powers and remedies vested in
2 the Secretary by law, and nothing in this Section shall be
3 construed as requiring that the Secretary shall employ the
4 power conferred in this Section instead of or as a condition
5 precedent to the exercise of any other power or remedy vested
6 in the Secretary.

7 (h) The cost for the administrative hearing shall be set
8 by rule.

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

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

12 (815 ILCS 122/1-10)

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

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

17 "Commercially reasonable method of verification" or
18 "certified database" means a consumer reporting service
19 database certified by the Department as effective in verifying
20 that a proposed loan agreement is permissible under this Act,
21 or, in the absence of the Department's certification, any
22 reasonably reliable written verification by the consumer
23 concerning (i) whether the consumer has any outstanding payday
24 loans, (ii) the principal amount of those outstanding payday

1 loans, and (iii) whether any payday loans have been paid in
2 full by the consumer in the preceding 7 days.

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

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

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

9 "Director" means the Director of the Division of Financial
10 Institutions.

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

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

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

22 "Gross monthly income" means monthly income as
23 demonstrated by official documentation of the income,
24 including, but not limited to, a pay stub or a receipt
25 reflecting payment of government benefits, for the period 30
26 days prior to the date on which the loan is made.

1 "Lender" and "licensee" mean any person or entity,
2 including any affiliate or subsidiary of a lender or licensee,
3 that offers or makes a payday loan, buys a whole or partial
4 interest in a payday loan, arranges a payday loan for a third
5 party, or acts as an agent for a third party in making a payday
6 loan, regardless of whether approval, acceptance, or
7 ratification by the third party is necessary to create a legal
8 obligation for the third party, and includes any other person
9 or entity if the Department determines that the person or
10 entity is engaged in a transaction that is in substance a
11 disguised payday loan or a subterfuge for the purpose of
12 avoiding this Act.

13 "Loan agreement" means a written agreement between a
14 lender and consumer to make a loan to the consumer, regardless
15 of whether any loan proceeds are actually paid to the consumer
16 on the date on which the loan agreement is made.

17 "Member of the military" means a person serving in the
18 armed forces of the United States, the Illinois National
19 Guard, or any reserve component of the armed forces of the
20 United States. "Member of the military" includes those persons
21 engaged in (i) active duty, (ii) training or education under
22 the supervision of the United States preliminary to induction
23 into military service, or (iii) a period of active duty with
24 the State of Illinois under Title 10 or Title 32 of the United
25 States Code pursuant to order of the President or the Governor
26 of the State of Illinois.

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

4 "Payday loan" or "loan" means a loan with a term that does
5 not exceed 120 days, including any transaction conducted via
6 any medium whatsoever, including, but not limited to, paper,
7 facsimile, Internet, or telephone, in which:

8 (1) A lender accepts one or more checks dated on the
9 date written and agrees to hold them for a period of days
10 before deposit or presentment, or accepts one or more
11 checks dated subsequent to the date written and agrees to
12 hold them for deposit; or

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

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

17 "Principal amount" means the amount received by the
18 consumer from the lender due and owing on a loan, excluding any
19 finance charges, interest, fees, or other loan-related
20 charges.

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

23 (Source: P.A. 101-658, eff. 3-23-21.)

24 (815 ILCS 122/3-5)

25 Sec. 3-5. Licensure.

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

7 (b) An application for a license shall be in writing and in
8 a form prescribed by the Secretary. Each applicant shall
9 provide an email address of record. The Secretary may not
10 issue a payday loan license unless and until the following
11 findings are made:

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

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

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

24 (d) A licensee shall appoint, in writing, the Secretary as
25 attorney-in-fact upon whom all lawful process against the
26 licensee may be served with the same legal force and validity

1 as if served on the licensee. A copy of the written
2 appointment, duly certified, shall be filed in the office of
3 the Secretary, and a copy thereof certified by the Secretary
4 shall be sufficient evidence to subject a licensee to
5 jurisdiction in a court of law. This appointment shall remain
6 in effect while any liability remains outstanding in this
7 State against the licensee. When summons is served upon the
8 Secretary as attorney-in-fact for a licensee, the Secretary
9 shall immediately notify the licensee by certified ~~registered~~
10 mail, return receipt requested, or to the email address of
11 record, enclosing the summons and specifying the hour and day
12 of service. Service by certified mail shall be deemed
13 completed when the notice is deposited in the United States
14 mail. Service to the email address of record shall be deemed
15 completed when sent.

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

23 (1) payment of the annual fee within 30 days of the
24 date of expiration; and

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

26 (f) Not more than one place of business shall be

1 maintained under the same license, but the Secretary may issue
2 more than one license to the same licensee upon compliance
3 with all the provisions of this Act governing issuance of a
4 single license. The location, except those locations already
5 in existence as of June 1, 2005, may not be within one mile of
6 a horse race track subject to the Illinois Horse Racing Act of
7 1975, within one mile of a facility at which gambling is
8 conducted under the Illinois Gambling Act, within one mile of
9 the location at which a riverboat subject to the Illinois
10 Gambling Act docks, or within one mile of any State of Illinois
11 or United States military base or naval installation.

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

24 (g-5) Notwithstanding subsection (g) of this Section, a
25 licensee may obtain a license under the Consumer Installment
26 Loan Act (CILA) for the exclusive purpose and use of making

1 title secured loans, as defined in subsection (a) of Section
2 15 of CILA and governed by Title 38, Section 110.300 of the
3 Illinois Administrative Code. A licensee may continue to
4 service Consumer Installment Loan Act loans that were
5 outstanding as of the effective date of this amendatory Act of
6 the 96th General Assembly.

7 (h) The Secretary shall maintain a list of licensees that
8 shall be available to interested consumers and lenders and the
9 public. The Secretary shall maintain a toll-free number
10 whereby consumers may obtain information about licensees. The
11 Secretary shall also establish a complaint process under which
12 an aggrieved consumer may file a complaint against a licensee
13 or non-licensee who violates any provision of this Act.

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

15 (815 ILCS 122/4-10)

16 Sec. 4-10. Enforcement and remedies.

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

19 (b) Any material violation of this Act, including the
20 commission of an act prohibited under Section 4-5, constitutes
21 a violation of the Consumer Fraud and Deceptive Business
22 Practices Act.

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

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

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

17 The Secretary shall serve notice of his or her action,
18 including, but not limited to, a statement of the reasons for
19 the action, either personally, to the email address of record,
20 or 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 Within 10 days of service of the cease and desist order,
25 the licensee or other person may request a hearing in writing.
26 The Secretary shall schedule a hearing within 30 days after

1 the request for a hearing unless otherwise agreed to by the
2 parties.

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

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

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

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

25 (2) any fact or condition exists which, if it had
26 existed at the time of the original application for the

1 license, clearly would have warranted the Secretary in
2 refusing to issue the license.

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

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

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

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

23 In every case in which a license is suspended or revoked or
24 an application for a license or renewal of a license is denied,
25 the Secretary shall serve the licensee with notice of his or
26 her 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
3 certified mail shall be deemed completed when the notice is
4 deposited in the United States mail ~~U.S. Mail~~. Service to the
5 email address of record shall be deemed completed when sent.

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

12 If the licensee requests a hearing, the Secretary shall
13 schedule a hearing within 30 days after the request for a
14 hearing unless otherwise agreed to by the parties.

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

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

25 (h) Notwithstanding any other provision of this Section,
26 if a lender who does not have a license issued under this Act

1 makes a loan pursuant to this Act to an Illinois consumer, then
2 the loan shall be null and void and the lender who made the
3 loan shall have no right to collect, receive, or retain any
4 principal, interest, or charges related to the loan.

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

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