

1 AN ACT concerning certain lending practices.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois Affordable Loan Act.

6 Section 5. Purpose; construction. This Act shall be
7 liberally construed to effectuate its purpose. The purpose of
8 the Act is to protect consumers who enter into short-term,
9 high rate loans from abuses that occur in the credit
10 marketplace when such lenders are unregulated. This Act is to
11 be construed as a consumer protection statute for all
12 purposes.

13 Section 10. Definitions. As used in this Act:

14 "Check" means a negotiable instrument as defined in
15 Article 3 of the Uniform Commercial Code which is drawn on a
16 financial institution and is to be payable on demand at
17 maturity of the short-term or title-secured loan.

18 "Consumer" means any natural person who, singly or
19 jointly with another consumer, enters into a short-term loan
20 or title-secured loan.

21 "Department" means the Department of Financial
22 Institutions.

23 "Director" means the Director of the Department of
24 Financial Institutions.

25 "Local government authorization form" means a form
26 prescribed by the Director and signed by the clerk or chief
27 executive officer of the county or municipality in which the
28 licensee is to be located certifying that the licensed
29 location complies with the zoning and all other applicable
30 county or municipal ordinances and regulations.

1 "Person" includes any natural person, firm, partnership,
2 association or corporation, or other entity that makes a
3 short-term loan or title-secured loan in this State or any
4 facilitator as described in subsection (b) of Section 15.

5 "Short-term loan" means a loan payable in less than one
6 year and includes any transaction via any medium including,
7 but not limited to, mail, telephone, internet, or at a
8 location licensed under this Act in which:

9 (1) a person accepts a check dated on the date it
10 was written and agrees to hold it for a period of days
11 prior to deposit or presentment, or accepts a check dated
12 subsequent to the date it was written, and agrees to hold
13 the check for deposit until the date written on the
14 check; or

15 (2) a person accepts authorization to debit a
16 consumer's bank account by up to the amount of each
17 pledged check, executed on the date of the contract; or

18 (3) a person accepts future wages by the wage
19 assignment executed on the contract

20 "Title-secured loan" means a loan payable in less than
21 one year wherein, at commencement, a consumer provides to the
22 licensee at that time, as security for the loan, physical
23 possession of the obligor's title to a motor vehicle.

24 Section 15. Applicability.

25 (a) Except as otherwise provided in this Section, this
26 Act applies to any person, partnership, association, limited
27 liability company, or corporation doing business who, for a
28 fee, service charge, or other consideration (1) accepts a
29 check dated on the date it was written and agrees to hold it
30 for a period of days prior to deposit or presentment, (2)
31 accepts a check dated subsequent to the date it was written
32 and agrees to hold it for deposit until the date written on
33 the check, (3) accepts authorization to debit a consumer's

1 bank account by up to the amount of each pledged check,
2 executed on the date of the contract, (4) accepts future
3 wages by the wage assignment executed on the contract, or (5)
4 accepts physical possession of the consumer's title to a
5 motor vehicle.

6 (b) This Act applies to any person who facilitates,
7 enables, or acts as a conduit for another person, who is or
8 may be exempt from licensing, who makes short-term loans or
9 title-secured loans.

10 (c) The provisions of this Act apply to any person who
11 seeks to evade its applicability by any device, subterfuge,
12 or pretense whatsoever.

13 Section 20. Exceptions.

14 (a) Retail sellers who cash checks incidental to or
15 independent of a sale and who charge no more than \$2 per
16 check for the service are exempt from the provisions of this
17 Act.

18 (b) To the extent that banks, savings and loan
19 associations, credit unions, or other state or federally
20 regulated financial institutions are exempt by virtue of
21 other state or federal laws from the provisions of this Act
22 regarding limitations on interest rates, all other Sections
23 of this Act apply except Section 25.

24 Section 25. Licensing.

25 (a) A license shall state the address, including city
26 and state, at which the business is to be conducted and shall
27 state fully the name of the licensee. The license shall be
28 conspicuously posted in the place of business of the licensee
29 and shall not be transferable or assignable.

30 (b) An application for license shall be in writing and
31 in a form prescribed by the Director. No person shall engage
32 in or offer to engage in the business regulated by this Act

1 unless and until a license has been issued by the Director.
2 The Director shall not issue or renew any such license unless
3 and until the following findings are made:

4 (1) that authorizing the applicant to engage in
5 such business will promote the convenience and advantage
6 of the community in which the applicant proposes to
7 engage in business;

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

14 (3) that neither the applicant or any principals of
15 the applicant including managers of a limited liability
16 company, partners, owners, officers, or directors have
17 been convicted of any crimes;

18 (4) that the applicant has unencumbered assets of
19 at least \$25,000, per location;

20 (5) that the applicant has provided a sworn
21 statement that the applicant has not used in the past nor
22 will in the future, directly or indirectly, use the
23 criminal process to collect the payment of short-term
24 loans;

25 (6) that the location has conformed to local zoning
26 laws with respect to location, structural, aesthetic, or
27 other requirements;

28 (7) that the licensee has submitted a completed
29 local government authorization form; and

30 (8) such other information as the Director may deem
31 necessary.

32 (c) No license shall be issued for longer than one year,
33 and no renewal of a license may be provided if a licensee has
34 violated this Act.

1 (d) A licensee shall appoint, in writing, the Director
2 as attorney-in-fact upon whom all lawful process against the
3 licensee may be served with the same legal force and validity
4 as if served on the licensee. A copy of the written
5 appointment, duly certified, shall be filed in the office of
6 the Director; and a copy thereof certified by the Director
7 shall be sufficient evidence. This appointment shall remain
8 in effect while any liability remains outstanding in this
9 State against the licensee. When summons is served upon the
10 Director as attorney-in-fact for a licensee, the Director
11 shall immediately notify the licensee by registered mail,
12 enclosing the summons and specifying the hour and day of
13 service.

14 (e) A public hearing shall be held for each original
15 application and for renewals if one is requested in writing
16 by 5 or more members of the public or the Director.

17 (f) A licensee must post a bond in the amount of \$50,000
18 per location which must continue in effect for 5 years after
19 the licensee ceases operation in this State. The bond must be
20 available to pay damages and penalties to consumers harmed by
21 any violation of this Act.

22 (g) A licensee must pay an application fee of \$300 and
23 an annual fee of \$300. In addition to the license fee, the
24 reasonable expense of any examination, investigation, or
25 custody by the Director under any provisions of this Act
26 shall be borne by the licensee. If a licensee fails to renew
27 his or her license by December 31, it shall automatically
28 expire and the licensee shall not be entitled to a hearing;
29 however, the Director, in his or her discretion, may
30 reinstate an expired license upon payment of the annual
31 renewal fee and proof of good cause for failure to renew.

32 (h) Not more than one place of business shall be
33 maintained under the same license, but the Director may issue
34 more than one license to the same licensee upon compliance

1 with all the provisions of this Act governing issuance of a
2 single license. The location cannot be within one mile of a
3 facility operated by an inter-track wagering location
4 licensee or an organization license subject to the Illinois
5 Horse Racing Act of 1975, within one mile of a facility at
6 which gambling is conducted under the Riverboat Gambling Act,
7 within one mile of the location at which a riverboat subject
8 to the Riverboat Gambling Act docks, or within one mile of
9 the main or branch campus of a public or private college or
10 university that provides student housing or student
11 residences.

12 (i) No licensee shall conduct the business of making
13 loans under this Act with any office, suite, room, or place
14 of business in which any other business is solicited or
15 engaged in unless in the opinion of the Director, the other
16 business would not be contrary to the best interests of
17 consumers and is authorized by the Director in writing.

18 (j) If the Director finds, after due notice and hearing,
19 or opportunity for hearing, that a licensee, or an officer,
20 agent, employee, or representative thereof, has violated any
21 of the provisions of this Act, has failed to comply with the
22 rules, instructions, or orders promulgated by the Director,
23 has failed or refused to make its reports to the Director, or
24 has furnished false information to the Director, the Director
25 may issue an order revoking or suspending the right of the
26 licensee and the officer, agent, employee, or representative
27 to do business in this State as a licensee. No revocation,
28 suspension, or surrender of any license shall relieve the
29 licensee from civil or criminal liability for acts committed
30 prior to the revocation, suspension, or surrender.

31 (k) The Director shall maintain a list of licensees that
32 shall be available to interested persons and the public. The
33 Director shall create a toll-free number whereby consumers
34 may obtain information about licensees. The Director shall

1 also establish a complaint process whereby an aggrieved
2 consumer or any member of the public may file a complaint
3 against a licensee or non-licensee who violates any provision
4 of this Act. The Director shall hold hearings upon the
5 request of a party to the complaint, make findings of fact,
6 conclusions of law, issue cease and desist orders, refer the
7 matter to the appropriate law enforcement agency for
8 prosecution under this Act, and suspend or revoke a license
9 granted under this Act. All proceedings shall be open to the
10 public.

11 (1) The Department may make and enforce such reasonable
12 rules, regulations, directions, orders, decisions, and
13 findings as the execution and enforcement of the provisions
14 of this Act require, and as are not inconsistent therewith.
15 In addition, the Department may promulgate rules in
16 connection with the activities of licensees that are
17 necessary and appropriate for the protection of consumers in
18 this State. All rules and directions of a general character
19 shall be printed and copies thereof mailed to all licensees.

20 Section 30. Information and reporting.

21 (a) A licensee shall keep and use books, accounts, and
22 records that will enable the Director to determine if the
23 licensee is complying with the provisions of this Act and
24 maintain any other records as required by the Director. The
25 Director, or designee, is authorized to examine those records
26 at any reasonable time. The Director shall make an
27 examination of the affairs, business, office, and records of
28 each licensee at least once a year. All records must be kept
29 for 4 years following the last entry on a loan and according
30 to generally accepted accounting procedures, which means that
31 an examiner must be able to review the record keeping and
32 reconcile each consumer loan with documentation maintained in
33 the consumer's loan file records. The Director may at any

1 time investigate the loans and business and examine the
2 books, accounts, records, and files used therein, of every
3 licensee and of every person, partnership, association,
4 limited liability company, and corporation engaged in the
5 business described in this Act, whether the person,
6 partnership, association, limited liability company, or
7 corporation shall act or claim to act as principal or agent
8 or within or without the authority of this Act. For such
9 purpose the Director shall have free access to the offices
10 and places of business, books, accounts, papers, records,
11 files, safes, and vaults of such persons, partnerships,
12 associations, limited liability companies, and corporations.
13 The Director may require the attendance of and examine under
14 oath all persons whose testimony he or she may require
15 relative to such loans or such business, and in such cases
16 the Director shall have power to administer oaths to all
17 persons called as witnesses; and the Director may conduct
18 such examinations.

19 (b) A licensee shall collect information annually that
20 shall disclose in detail and under appropriate headings:

21 (1) the resources, assets, and liabilities of the
22 licensee at the beginning and the end of the period;

23 (2) the income, expense, gain, loss, and a
24 reconciliation of surplus or net worth with the balance
25 sheets, and the ratios of the profits to the assets
26 reported;

27 (3) the total number of short-term loans made in
28 the calendar year ending as of December 31 of the
29 previous year;

30 (4) the total number of such loans outstanding as
31 of December 31 of the previous year;

32 (5) the minimum, maximum, and average dollar amount
33 of checks whose deposits were deferred in the calendar
34 year ending as of December 31 of the previous year;

1 (6) the average annual percentage rate and the
2 average number of days a deposit of a check is deferred
3 during the calendar year ending as of December 31 of the
4 previous year;

5 (7) the total of returned checks, the total of
6 checks recovered, and the total of checks charged off
7 during the calendar year ending as of December 31 of the
8 previous year;

9 (8) the total number of loans made that were
10 secured by the title to a motor vehicle;

11 (9) the total number of vehicle repossessions as a
12 result of default on a loan secured by a title to a motor
13 vehicle; and

14 (10) verification that the licensee has not used
15 the criminal process or caused the criminal process to be
16 used in the collection of any short-term or title-secured
17 loans during the calendar year ending as of December 31
18 of the previous year.

19 The reports shall be verified by the oath or affirmation
20 of the owner, manager, or president of the licensee. The
21 reports must be filed with the Director no later than January
22 31. The Director may fine each licensee \$25 for each day
23 beyond January 31 the report is filed.

24 (c) If a licensee conducts another business or is
25 affiliated with other licensees under this Act, or if any
26 other situation exists under which allocations of expense are
27 necessary, the licensee shall make the allocation according
28 to appropriate and reasonable accounting principles as
29 approved by the Director. Information about other business
30 conducted on the same premises as that of short-term loans or
31 title-secured loans shall be provided as required by the
32 Director.

33 (d) A licensee shall file a copy of the contract
34 described in subsection (b) of Section 40 and the fee

1 schedule described in subsection (c) of Section 40 with the
2 Director prior to the date of commencement of business at
3 each location, at the time any changes are made to the
4 documents or schedule, and annually thereafter upon renewal
5 of license. These documents shall be available to interested
6 parties and to the general public.

7 Section 35. Required act.

8 (a) A short-term loan must have a minimum term of no
9 less than 2 weeks for each \$100 owed on the loan with a
10 maximum of 8 weeks.

11 (b) A consumer shall be permitted to make partial
12 payments (in amounts equal to no less than \$5 increments) on
13 the loan at any time, without charge.

14 (c) A consumer may rescind a short-term loan or
15 title-secured loan agreement without cost no later than the
16 end of the business day immediately following the day on
17 which the loan was made. To rescind the short-term or
18 title-secured loan, the consumer must inform the lender that
19 the consumer wants to rescind the loan and return cash in an
20 amount equal to the amount loaned pursuant to the written
21 agreement.

22 (d) The maximum amount of the loan may not exceed \$400
23 for a short-term loan and \$2000 for a title-secured loan. The
24 minimum amount of a short-term loan or title-secured loan is
25 \$50.

26 (e) After each payment made in full or in part, on any
27 loan, the licensee shall give to the person making such
28 payment a signed, dated receipt showing the amount paid and
29 the balance due on the loan.

30 (f) The check written by the consumer in a short-term
31 loan must be made payable to the licensee.

32 (g) Upon receipt of the check from the consumer for a
33 short-term or title-secured loan, the licensee must

1 immediately stamp the back of the check with an endorsement
2 that states: "This check is being negotiated as part of a
3 short-term loan pursuant to the Illinois Affordable Loan Act,
4 and any holder of this check takes it subject to all claims
5 and defenses of the maker."

6 (h) A facilitator is subject to enforcement under
7 Section 25 and the civil remedies provision of Section 65 if
8 the person making the short-term loan fails to comply with
9 the requirements of this Act.

10 (i) The licensee must provide the consumer, or each
11 consumer if there is more than one, with a copy of the loan
12 documents described in Section 40 prior to the consummation
13 of the loan.

14 (j) The holder or assignee of any check written by a
15 consumer in connection with a short-term loan takes the
16 instrument subject to all claims and defenses of the
17 consumer.

18 Section 40. Required disclosures.

19 (a) Before entering into a short-term loan or
20 title-secured loan, a licensee shall deliver to the consumer
21 a pamphlet prepared by the Director which explains, in simple
22 English and Spanish, all of the consumer's rights and
23 responsibilities in a short-term or title-secured loan
24 transaction, includes a toll-free number to the Director's
25 office to handle concerns or complaints by consumers, and
26 informs consumers that the Director's office can provide
27 information about whether a lender is licensed, whether
28 complaints have been filed with the Director, and the
29 resolution of those complaints.

30 (b) Licensees shall provide consumers with a written
31 agreement on a form specified or approved by the Director
32 that can be kept by the consumer, and must include the
33 following information in English and in the language in which

1 the loan was negotiated:

2 (1) the name, address, telephone number of the
3 licensee making the short-term loan or title-secured
4 loan, and the name and title of the individual employee
5 who signs the agreement on behalf of the licensee;

6 (2) an itemization of the fees and interest charges
7 to be paid by the consumer;

8 (3) disclosures required by the federal Truth in
9 Lending Act;

10 (4) disclosures required under any other State law;

11 (5) a clear description of the consumer's payment
12 obligations under the loan;

13 (6) a notice that the licensee may take possession
14 of a vehicle used to secure a loan if the borrower fails
15 to repay the loan and that the borrower shall be entitled
16 to any proceeds from the sale of the vehicle in excess of
17 the amount owed on the loan; and

18 (7) the statement, in at least 14-point bold type
19 face, that "You cannot be prosecuted in criminal court to
20 collect this loan."

21 The information required to be disclosed under this
22 subsection must be disclosed in a manner that is more
23 conspicuous than the other information provided in the loan
24 document and shall be located immediately preceding the
25 signature of the consumer.

26 (d) The following notices in English and Spanish, as
27 well as other languages in which a significant amount of
28 short-term loan or title-secured loan business is conducted,
29 must be conspicuously posted by a licensee in each location
30 of a business providing short-term loans or title-secured
31 loans:

32 (1) A notice that informs consumers that the
33 licensee cannot use the criminal process against a
34 consumer to collect any short-term loan or title-secured

1 loan.

2 (2) The schedule of all interest and fees to be
3 charged on loans with an example of the amounts that
4 would be charged on a \$100 loan payable in 14 days, and
5 \$200 loan payable in 30 days, giving the corresponding
6 annual percentage rate.

7 (e) Financial institutions making short-term loans or
8 title-secured loans, which, because of the application of
9 other state or federal law, are exempt from the fee
10 limitations of Section 45 of this Act, and which charge fees,
11 interest, and charges greater than that authorized in Section
12 45 of this Act, must post, in a conspicuous place in the
13 branch in which the short-term loans or title-secured loans
14 are entered into, the notice set forth in this subsection. A
15 single instance of charging a consumer more than the fees,
16 interest, and other charges permitted in Section 45 requires
17 the financial institution to post this notice.

18 "WARNING: The fees and interest charged on short-term loans
19 or title-secured loans made at this institution are higher
20 than those charged at other financial institutions."

21 Section 45. Advertising.

22 (a) Advertising for loans transacted under this Act may
23 not be false, misleading, or deceptive. That advertising, if
24 it states a rate or amount of charge for a loan, must state
25 the rate as an annual percentage rate. No licensee may
26 advertise in any manner so as to indicate or imply that its
27 interest rates or charges for loans are in any way
28 "recommended", "approved", "set" or "established" by the
29 State government or by this Act.

30 (b) If any advertisement to which this Section applies
31 states the amount of any installment payment, the dollar
32 amount of any finance charge, or the number of installments
33 or the period of repayment, then the advertisement shall

1 state all of the following items:

2 (1) The amount of the loan.

3 (2) The number, amount, and due dates or period of
4 payments scheduled to repay the indebtedness if the
5 credit is extended.

6 (3) The rate of the finance charge expressed as an
7 annual percentage rate.

8 Section 50. Incentives. A licensee may not pay money or
9 any other thing of value to any person as an incentive or
10 inducement to apply for a loan, to borrow money, or to refer
11 potential borrowers to the licensee.

12 Section 55. Permitted charges.

13 (a) No licensee shall charge or receive, directly or
14 indirectly, any interest, fees, or charges except those
15 specifically authorized by this Section.

16 (b) A licensee may charge a one time administrative fee
17 of no more than \$5 for each short-term loan entered into with
18 a consumer. The administrative fee may not be imposed upon
19 refinancing of an existing short-term loan.

20 (c) In addition to the administrative fee, the licensee
21 may charge interest on the amount of cash delivered to the
22 consumer in a short-term loan in an amount no greater than
23 36% per year (defined as a 365-day year). The rate charged on
24 the outstanding balance after maturity may not be greater
25 than the rate charged during the loan term. Charges on loans
26 shall be computed and paid only as a percentage of the unpaid
27 principle balance. Principal balance means the balance due
28 and owed exclusive of any interest, service charges, or other
29 loan-related charges.

30 (d) If there are insufficient funds to pay a check on
31 the date of presentment, a licensee may charge a fee, not to
32 exceed the lesser of \$15 or the fee imposed upon the licensee

1 by the financial institution. Only one such fee may be
2 collected with respect to a particular check even if it has
3 been redeposited and returned more than once. A licensee may
4 only present the check for payment twice. A fee charged
5 pursuant to this subsection is a licensee's exclusive charge
6 for late payment.

7 (e) When a loan is repaid before its due date, unearned
8 interest charges must be rebated to the consumer based on a
9 method at least as favorable to the consumer as the actuarial
10 method.

11 Section 60. Prohibited acts. No licensee making
12 short-term loans or title-secured loans shall commit, or have
13 committed on behalf of the licensee, any of the following
14 prohibitions:

15 (1) Engaging in the business of short-term lending
16 or title-secured lending, unless the Director has first
17 issued a valid license.

18 (2) Threatening to use or using the criminal
19 process in this or any other state to collect on the
20 loan.

21 (3) Altering the date or any other information on a
22 check.

23 (4) Using any device or agreement that would have
24 the effect of charging or collecting more fees, charges,
25 or interest than allowed by this Act including, but not
26 limited to, entering into a different type of transaction
27 with the consumer.

28 (5) Engaging in unfair, deceptive, or fraudulent
29 practices in the making or collecting of a short-term or
30 title-secured loan.

31 (6) Entering into a short-term or title-secured
32 loan where the loan amount exceeds 25% of the consumer's
33 gross income for the term of the loan.

1 (7) Charging to cash a check representing the
2 proceeds of the short-term or title-secured loan.

3 (8) Using or attempting to use the check provided
4 by the consumer in a short-term loan as security for
5 purposes of any State or federal law.

6 (9) Accepting payment in whole or in part of the
7 short-term loan through the proceeds of another
8 short-term loan provided by any licensee

9 (10) A short-term or title-secured loan may be
10 refinanced a maximum number of two times, but only when
11 the principal outstanding balance has been reduced by at
12 least 20%.

13 (11) Upon termination of a deferred deposit loan
14 through the payment of the consumer's check by the drawee
15 bank, the return of a check to a consumer who redeems it
16 for consideration, or any other method of termination, no
17 loan, other than the refinancing of an existing
18 short-term or title-secured loan, may be made to an
19 obligor who has had an outstanding short-term or
20 title-secured loan with the preceding 15 days. The
21 licensee shall verify the statement by using a database
22 created by or approved by the Director for that purpose,
23 or if no such database exists, by using available
24 information bases.

25 (12) Accepting any collateral for a short-term
26 loan.

27 (13) Charging any interest, fees, or charges other
28 than those specifically authorized by this Act,
29 including, but not limited to:

30 (A) charges for insurance; or

31 (B) attorneys fees or other collection costs.

32 (14) Threatening to take any action against a
33 consumer that is prohibited by this Act, or making any
34 misleading or deceptive statements regarding the

1 short-term or title-secured loan or any consequences
2 thereof.

3 (15) Making a misrepresentation of a material fact
4 by an applicant in obtaining or attempting to obtain a
5 license.

6 (16) Including any of the following provisions in
7 loan documents required by subsection (b) of Section 40:

8 (A) a hold harmless clause;

9 (B) a confession of judgment clause;

10 (C) a waiver of the right to a jury trial, if
11 applicable, in any action brought by or against a
12 consumer;

13 (D) a mandatory arbitration clause;

14 (E) any assignment of or order for payment of
15 wages or other compensation for services;

16 (F) a provision in which the consumer agrees
17 not to assert any claim or defense arising out of
18 the contract; or

19 (G) a waiver of any provision of this Act.

20 (17) Selling any insurance of any kind whether or
21 not sold in connection with the making or collecting of a
22 short-term or title-secured loan.

23 (18) The provisions of Section 17-1a of the
24 Criminal Code of 1961 do not apply to any negotiable
25 instrument used under this Act.

26 (19) No licensee may take any power of attorney.

27 (20) No licensee may take any security interest in
28 real estate.

29 (21) No licensee may collect a delinquency or
30 collection charge on any installment regardless of the
31 period in during which it remains in default.

32 (22) No licensee or other person shall pledge,
33 hypothecate, or sell a note entered into under the
34 provisions of this Act by an obligor except to another

1 licensee under this Act, a licensee under the Sales
2 Finance Agency Act, a bank, savings bank, savings and
3 loan association, or credit union created under the laws
4 of this State or the United States, or to other persons
5 or entities authorized by the Director in writing. Sales
6 of such notes by licensees under this Act or other
7 persons shall be made by agreement in writing and shall
8 authorize the Director to examine the loan documents so
9 hypothecated, pledged, or sold.

10 (23) When a licensee repossesses a motor vehicle
11 that was used as collateral and which is used primarily
12 for the obligor's personal, family, or household
13 purposes, the licensee shall be subject to the
14 requirements of and shall transfer the certificate of
15 title pursuant to Section 3-114 of the Illinois Vehicle
16 Code.

17 (24) No licensee may take possession of a vehicle
18 without first giving written notice by regular and
19 certified mail to the borrower; affording the borrower
20 the opportunity to make the vehicle available to the
21 lender at a place, date, and time reasonably convenient
22 to the lender and borrower; and permitting the borrower
23 to remove from the vehicle any personal belongings
24 without charge or additional cost to the borrower.

25 (25) No licensee may dispose of the vehicle without
26 first giving at least 10 days written notice to the
27 borrower prior to the sale and the opportunity to cure.
28 The notice shall state the date, time, and place of the
29 sale and provide the borrower with a written accounting
30 of the amount owed on the loan. A loan contract shall
31 advise the borrower that matters involving improprieties
32 in the making of the loan or in loan collecting practices
33 may be referred to the Department and shall prominently
34 disclose the Department's address and telephone number.

1 (26) No licensee may take possession of a vehicle
2 for a loan default and lease the vehicle back to the
3 borrower.

4 (27) No licensee may use any appraisal to secure a
5 loan other than the vehicle's Kelly Blue Book Used Car
6 Guide value.

7 Section 65. Enforcement.

8 (a) The remedies provided herein are cumulative and
9 apply to licensees and unlicensed persons to whom this Act
10 applies and who failed to obtain a license:

11 (1) Any violation of any State law prohibiting
12 unfair or deceptive trade practices constitutes a
13 violation of this Act.

14 (2) Any violation of this Act constitutes a
15 violation of any State law prohibiting unfair or
16 deceptive trade practices.

17 (3) The violation of any provision of this Act, or
18 any order, decision, finding, rule, or direction of the
19 Director lawfully made pursuant to the authority of this
20 Act, except as the result of accidental or bona fide
21 error of computation, renders the loan void, and the
22 person shall have no right to collect, receive, or retain
23 any principal, interest, or other charges whatsoever with
24 respect to the loan.

25 (4) Any person found to have violated this Act
26 shall be liable to the consumer for actual,
27 consequential, and punitive damages, plus statutory
28 damages of \$1000 for each violation (to be increased by
29 the Director to reflect inflation), plus costs, and
30 attorneys fees. The Directory may, after 10 days notice
31 by registered mail to the licensee at the address set
32 forth in the license, stating the contemplated action and
33 in general the grounds therefor, revoke or suspend any

1 license issued under this Act. The Director may fine,
2 suspend, or revoke only the particular license with
3 respect to which grounds for the fine, revocation, or
4 suspension occur or exist, but if the Director shall find
5 that grounds for revocation are of general application to
6 all offices or to more than one office of the licensee,
7 the Director shall fine, suspend, or revoke every license
8 to which such grounds apply.

9 (5) A consumer may sue for injunctive and other
10 appropriate equitable relief to stop any person from
11 violating any provisions of this Act.

12 (6) The remedies provided in this Section are not
13 intended to be the exclusive remedies available to a
14 consumer nor must the consumer exhaust any administrative
15 remedies provided under this Act or any other applicable
16 law.

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

24 (8) If the licensee requests a hearing, the
25 Director shall schedule a hearing within 30 days after
26 the request for a hearing unless otherwise agreed to by
27 the parties. The hearing shall be held at the time and
28 place designated by the Director. The Director and any
29 administrative law judge designated by him or her shall
30 have the power to administer oaths and affirmations,
31 subpoena witnesses and compel their attendance, take
32 evidence, and require the production of books, papers,
33 correspondence, and other records or information that he
34 or she considers relevant or material to the inquiry. The

1 costs for the administrative hearing shall be set by
2 rule. The Director shall have the authority to prescribe
3 rules for the administration of this Section.

4 (b) Any person, including members, officers, and
5 directors of the person who knowingly violates this Act is
6 guilty of a misdemeanor and, on conviction, is subject to a
7 fine not exceeding \$1,000 or is subject to imprisonment not
8 exceeding 6 months, or both.

9 Section 70. Closing of business; surrender of license.
10 At least 10 days before a licensee ceases operations, closes
11 the business, or files for bankruptcy, the licensee shall:

12 (1) Notify the Department of its action in writing.

13 (2) With the exception of filing for bankruptcy,
14 surrender its license to the Director for cancellation.
15 The surrender of the license shall not affect the
16 licensee's civil or criminal liability for acts committed
17 prior to surrender or entitle the licensee to a return of
18 any part of the annual license fee.

19 (3) The licensee shall notify the Department of the
20 location where the books, accounts, contracts, and
21 records will be maintained and the procedure to ensure
22 prompt return of contracts, titles, and releases to the
23 customers.

24 (4) The accounts, books, records, and contracts
25 shall be maintained and serviced by the licensee, another
26 licensee under this Act, or an entity exempt from
27 licensing under this Act.

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

32 Section 75. Recording or releasing a lien.

1 (a) Upon making a loan secured by a title to a motor
2 vehicle, the licensee must immediately take into possession
3 evidence of the debtor's ownership in the motor vehicle that
4 has been registered with the Office of the Illinois Secretary
5 of State and shall note on the face of the loan contract the
6 vehicle's make, model, year of manufacture, and vehicle
7 identification number.

8 (b) Within 24 hours after payment in full, the licensee
9 must release any filed liens, provide evidence of the release
10 to the debtor, and return the title to the debtor or cause
11 the title to be returned to the debtor.

12 (c) The licensee shall not charge, directly or
13 indirectly, fees associated with the repossession of a motor
14 vehicle.

15 Section 80. Judicial review. All final administrative
16 decisions of the Department under this Act are subject to
17 judicial review pursuant to the provisions of the
18 Administrative Review Law, and all amendments and
19 modifications thereof, and any rules adopted pursuant
20 thereto.

21 Section 85. Injunction; civil penalty; costs. If it
22 appears to the Director that a person or any entity has
23 committed or is about to commit a violation of this Act, a
24 rule promulgated under this Act, or an order of the Director,
25 the Director may apply to the circuit court for an order
26 enjoining the person or entity from violating or continuing
27 to violate this Act, the rule, or order and for injunctive or
28 other relief that the nature of the case may require and may,
29 in addition, request the court to assess a civil penalty up
30 to \$1,000 along with costs and attorney's fees.

31 Section 97. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.