

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 5. The Consumer Installment Loan Act is amended
5 by adding Sections 1.5, 15f, 17.1, 17.2, 17.3, 17.4, 17.5,
6 17.6, 17.7, 17.8, 17.9, 17.10, 17.11, 17.12, 17.13, 17.14,
7 17.15, 17.16, 17.17, 17.18, 17.19, 17.20, 17.21, 17.22 and
8 17.23 as follows:

9 (205 ILCS 670/1.5 new)

10 Sec. 1.5. Definitions.

11 "Check" means a personal check, draft, or other
12 negotiable instrument signed by the borrower and made payable
13 to a licensee.

14 "Short-term loan" means a transaction pursuant to a
15 written agreement between a licensee and the borrower whereby
16 the licensee:

17 (1) accepts a check from the borrower dated on the
18 date it was written;

19 (2) agrees to hold the check for a period of time
20 prior to negotiation or presentment of the check; and

21 (3) pays to the borrower the amount of the check,
22 less the finance charge permitted by Section 17.11 of
23 this Act.

24 "Title-secured loan" means a loan wherein, at
25 consummation, a borrower provides to the licensee, as
26 security for the loan, physical possession of the borrower's
27 title to a motor vehicle.

28 (205 ILCS 670/15f new)

29 Sec. 15f. Simple interest. A licensee must compute
30 interest on all short-term loans as simple interest as

1 defined in 38 Ill. Adm. Code 110.80.

2 (205 ILCS 670/17.1 new)

3 Sec. 17.1. Release of lien.

4 (a) A licensee that secures a short-term loan by a title
5 to a motor vehicle must immediately take into possession
6 evidence of the borrower's ownership in the motor vehicle
7 that has been registered with the Illinois Secretary of State
8 or the appropriate state agency of any other state of the
9 United States and shall note on the face of the loan
10 agreement the vehicle's make, model, year of manufacture, and
11 vehicle identification number.

12 (b) Within 24 hours after payment in full of the amount
13 due under the agreement, the licensee must release any filed
14 or recorded liens, provide evidence of the release of lien to
15 the borrower and return the title to the borrower or cause
16 the title to be returned to the borrower. If payment has been
17 made by a personal or business check, the licensee may delay
18 the release of lien or return of title by 5 business days for
19 the purpose of confirming availability of funds.

20 (205 ILCS 370/17.2 new)

21 Sec. 17.2. Availability of debt management services.

22 (a) Before entering into a short-term loan agreement, a
23 licensee must give to the borrower a pamphlet, approved by
24 the Director, describing the availability of debt management
25 services and the borrower's rights and responsibilities in
26 the transaction.

27 (b) Each short-term loan agreement and refinancing
28 agreement executed by a licensee shall include a statement,
29 which shall be initialed by the borrower, as follows: "I
30 have received from (name of licensee) a toll free number for
31 the Department of Financial Institutions that I can call for
32 information regarding debt management services."

1 (c) At the time a licensee conveys any written notice
 2 with respect to a short-term loan to a borrower indicating
 3 that the borrower is in arrears or that the borrower is in
 4 default, the licensee must include with the notice a listing
 5 of telephone numbers for debt management service providers
 6 licensed by the Department of Financial Institutions to
 7 provide consumer debt counseling.

8 (205 ILCS 670/17.3 new)

9 Sec. 17.3. Collection practices notification. The loan
 10 agreement shall advise the borrower that matters involving
 11 improprieties in the making of the loan or in loan collection
 12 practices may be referred to the Department and shall
 13 prominently disclose the Department's address and telephone
 14 number.

15 (205 ILCS 670/17.4 new)

16 Sec. 17.4. Defaults; second notice. At the time a
 17 licensee conveys a second notice with respect to a short-term
 18 loan to a borrower indicating that the borrower is in arrears
 19 or that the borrower is in default, the licensee must include
 20 with the notice a listing of telephone numbers for debt
 21 management service providers licensed by the Department of
 22 Financial Institutions to provide consumer debt counseling.

23 (205 ILCS 670/17.5 new)

24 Sec. 17.5. Possession of vehicle.

25 (a) Unless otherwise provided for in the loan agreement,
 26 a licensee shall not take or retain possession of the keys
 27 (or a copy thereof) to a motor vehicle used to secure a
 28 title-secured loan.

29 (b) A licensee may not take possession of a vehicle
 30 under a short-term loan transaction without first:

31 (1) giving notice to the borrower;

1 (2) affording the borrower the opportunity to make
 2 the vehicle available to the licensee at a place, date,
 3 and time reasonably convenient to the licensee and
 4 borrower; and

5 (3) permitting the borrower to remove any personal
 6 belongings from the vehicle without charge or additional
 7 cost to the borrower.

8 (c) A licensee may not dispose of a vehicle repossessed
 9 under a short-term loan transaction without first giving at
 10 least 10 days written notice to the borrower prior to the
 11 sale and giving to the borrower the opportunity to cure the
 12 default. The notice shall disclose the date, time, and place
 13 of the sale and provide the borrower with a written
 14 accounting of the amount owed on the loan.

15 (d) A licensee may not take possession of a motor
 16 vehicle because of a loan default under a short-term loan
 17 transaction and lease the vehicle back to the borrower.

18 (205 ILCS 670/17.6 new)

19 Sec. 17.6. Dispersal of loan proceeds. A licensee must
 20 issue the proceeds of a short-term loan in the form of a
 21 check drawn on the licensee's bank account, in cash, or by
 22 money order. When the proceeds are issued in the form of a
 23 check drawn on the licensee's bank account or by money order,
 24 the licensee may not charge a fee for cashing the check or
 25 money order if cashing service is offered at the location.
 26 When the proceeds are issued in cash, the licensee must
 27 provide the borrower with a written verification of the cash
 28 transaction and shall maintain a record of the transaction.

29 (205 ILCS 670/17.7 new)

30 Sec. 17.7. Security interest. A licensee may not take a
 31 security interest with respect to a short-term loan in any of
 32 the borrower's property other than the borrower's check or

1 motor vehicle title tendered to the licensee at the time of
2 the making of the loan.

3 (205 ILCS 670/17.8 new)

4 Sec. 17.8. Written agreement. A short-term loan
5 transaction must be documented by a written agreement signed
6 by both the borrower and the licensee accepting the check.
7 The written agreement must contain the name of the licensee,
8 the transaction date, the amount of the check, and a
9 statement of the total amount of fees charged, expressed both
10 as a dollar amount and as an annual percentage rate (APR).
11 The written agreement must authorize the licensee to defer
12 presentment or negotiation of the check until a specific
13 date, which date may not be later than 31 calendar days
14 following the date of the transaction.

15 (205 ILCS 670/17.9 new)

16 Sec. 17.9. Notice to borrower. A licensee providing a
17 short-term loan shall provide a notice in a prominent place
18 on each short-term loan agreement in at least 10-point type
19 in substantially the following form:

20 "(1) A SHORT-TERM LOAN IS NOT INTENDED TO MEET
21 LONG-TERM FINANCIAL NEEDS.

22 (2) YOU SHOULD USE A SHORT-TERM LOAN ONLY TO MEET
23 SHORT-TERM CASH NEEDS.

24 (3) YOU WILL BE REQUIRED TO PAY ADDITIONAL FEES IF
25 YOU RENEW THE SHORT-TERM LOAN RATHER THAN PAY THE DEBT IN
26 FULL WHEN DUE."

27 (205 ILCS 670/17.10 new)

28 Sec. 17.10. Borrower's right to rescind. A borrower may
29 rescind a short-term loan agreement, at no cost if the
30 borrower returns the full amount of the loan by the close of
31 business on the day following the transaction.

1 (205 ILCS 670/17.11 new)

2 Sec. 17.11. Authorized finance charge. A licensee may
3 charge a finance charge for each short-term loan transaction.
4 No other fees or charges may be charged or collected for the
5 short-term loan transaction.

6 (205 ILCS 670/17.12 new)

7 Sec. 17.12. Maximum transaction amount. The maximum
8 amount a licensee may pay to a borrower under a short-term
9 loan transaction is \$2,000. No check held by a licensee in
10 connection with a short-term loan may exceed the sum of
11 \$2,000 plus the finance charge authorized by Section 17.11 of
12 this Act.

13 (205 ILCS 670/17.13 new)

14 Sec. 17.13. Multiple outstanding transactions.

15 (a) A licensee may not have more than 2 outstanding
16 short-term loans with any one borrower at the same time. The
17 aggregate face value of all outstanding checks in connection
18 with a short-term loan held by a licensee from any one
19 borrower may not exceed \$2,000, exclusive of the finance
20 charge authorized by Section 17.11 of this Act.

21 (b) A licensee providing a short-term loan must provide
22 a notice in a prominent place on each short-term loan
23 agreement in at least 10-point type in substantially the
24 following form:

25 "STATE LAW PROHIBITS YOU FROM HAVING OUTSTANDING, AT ANY
26 ONE TIME, SHORT-TERM LOANS TOTALING MORE THAN \$2,000
27 (EXCLUDING APPLICABLE FINANCE CHARGES). FAILURE TO OBEY THIS
28 LAW COULD CREATE FINANCIAL HARDSHIPS FOR YOU AND YOUR
29 FAMILY."

30 (205 ILCS 670/17.14 new)

31 Sec. 17.14. Renewals. A short-term loan may be renewed

1 no more than 3 consecutive times, after which time either the
2 borrower must pay off the short-term loan in cash or its
3 equivalent or the licensee must deposit the borrower's check.
4 Once the borrower has completed a short-term loan with a
5 licensee, the borrower may enter into a new agreement for a
6 short-term loan with that licensee. A transaction is
7 completed when a check is presented for payment, deposited,
8 or redeemed by the borrower by paying the full amount of the
9 check to the licensee holding the check, less the unearned
10 portion of the finance charge calculated pursuant to the
11 simple interest method.

12 (205 ILCS 670/17.15 new)

13 Sec. 17.15. Form of transaction proceeds. A licensee may
14 pay the proceeds from a short-term loan to the borrower in
15 the form of the licensee's business check, money order, or
16 cash. A licensee may not charge a fee for cashing the
17 licensee's business check.

18 (205 ILCS 670/17.16 new)

19 Sec. 17.16. Endorsement of check. Before a licensee may
20 negotiate or present for payment a check relating to a
21 short-term loan transaction, the check must be endorsed with
22 the actual name under which the licensee is doing business.

23 (205 ILCS 670/17.17 new)

24 Sec. 17.17. Redemption of check. A borrower has the
25 right to redeem a check issued in connection with a
26 short-term loan transaction from the licensee holding the
27 check at any time before the negotiation or presentment of
28 the check by paying the full amount of the check, less the
29 unearned portion of the finance charge calculated pursuant to
30 the simple interest method, in the form of cash or its
31 equivalent.

1 (205 ILCS 670/17.18 new)

2 Sec. 17.18. Electronic funds transfer. A licensee may
3 offer electronic funds transfer services to borrowers. Loan
4 proceeds may be electronically credited and debited to the
5 borrower's account. No electronic transfers may occur
6 without the prior written approval of the borrower.

7 (205 ILCS 670/17.19 new)

8 Sec. 17.19. Authorized fee for dishonored check. If a
9 check written in connection with a short-term loan is
10 returned to a person from a payor financial institution due
11 to insufficient funds, a closed account, or a stop payment
12 order, the licensee has the right to exercise all civil means
13 available and allowable by law to collect the face value of
14 the check. Additionally, the licensee may contract for and
15 collect a returned check charge not to exceed \$25 plus any
16 court costs, including reasonable attorney fees, incurred as
17 a result of the returned check. No other fees may be
18 collected as a result of a returned check or the default by
19 the maker under a short-term loan agreement.

20 (205 ILCS 670/17.20 new)

21 Sec. 17.20. Posting of charges. A licensee offering
22 short-term loans must post at the point-of-sale a notice of
23 the charges imposed for a short-term loan transaction.

24 (205 ILCS 670/17.21 new)

25 Sec. 17.21. No criminal culpability. A borrower who
26 enters into a short-term loan agreement may not be subject to
27 any criminal penalty for entering into that agreement and may
28 not be subject to any criminal penalty in the event the
29 borrower's check is dishonored, unless the account on which
30 the check was written was closed on the date of the
31 transaction or before the agreed upon negotiation date.

1 (205 ILCS 670/17.22 new)

2 Sec. 17.22. Other types of businesses. A licensee may
3 conduct other types of business at a location where it
4 engages in short-term loan transactions, unless the licensee
5 carries on those other types of business for the purpose of
6 evading or violating this Act.

7 (205 ILCS 670/17.23 new)

8 Sec. 17.23. Unfair or deceptive practices. A licensee
9 may not engage in unfair or deceptive acts, practices, or
10 advertising in connection with a short-term loan transaction.

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