

AN ACT concerning business.

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

Section 5. The Consumer Legal Funding Act is amended by changing Sections 5, 25, 30, 55, 65, 135, 165, and 170 as follows:

(815 ILCS 121/5)

Sec. 5. Definitions.

"Advertise" means publishing or disseminating any written, electronic, or printed communication, or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed before the public, directly or indirectly, for the purpose of inducing a consumer to enter into a consumer legal funding.

"Charges" means the fees, as set forth in Section 25, to be paid to the consumer legal funding company by or on behalf of the consumer above the funded amount provided by or on behalf of the company to an Illinois consumer pursuant to this Act.

"Consumer" means a natural person who has a pending legal claim and who resides or is domiciled in Illinois.

"Consumer legal funding" or "funding" means a nonrecourse

transaction in which a company purchases and a consumer transfers to the company an unvested, contingent future interest in the potential net proceeds of a settlement or judgment obtained from the consumer's legal claim; and in which, if no proceeds are obtained from the consumer's legal claim, the consumer is not required to repay the company the consumer legal funding amount or charges.

"Consumer legal funding company" or "company" means a person or entity that enters into, purchases, or services a consumer legal funding transaction with an Illinois consumer.

"Consumer legal funding company" does not include:

- (1) an immediate family member of the consumer;
- (2) a bank, lender, financing entity, or other special purpose entity:
 - (A) that provides financing to a consumer legal funding company; or
 - (B) to which a consumer legal funding company grants a security interest or transfers any rights or interest in a consumer legal funding; or
- (3) an attorney or accountant who provides services to a consumer.

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

"Funded amount" means the amount of moneys provided to, or on behalf of, the consumer in the consumer legal funding.

"Funded amount" does not include charges except for charges

that are deducted from the funded amount.

"Funding date" means the date on which the funded amount is transferred to the consumer by the consumer legal funding company either by personal delivery; via wire, ACH, or other electronic means; or mailed by insured, certified, or registered United States mail.

"Immediate family member" means a parent; sibling; child by blood, adoption, or marriage; spouse; grandparent; or grandchild.

"Legal claim" means a bona fide civil claim or cause of action.

"Resolution amount" means the funded amount plus the agreed-upon charges that are delivered to the consumer legal funding company on the resolution date.

"Resolution date" means the date the resolution amount is delivered to the consumer legal funding company.

"Secretary" means the Secretary of Financial and Professional Regulation or the Secretary's designee.

(Source: P.A. 102-987, eff. 5-27-22.)

(815 ILCS 121/25)

Sec. 25. Fees.

(a) The fee charged by a consumer legal funding company to the consumer shall be calculated as not more than 18% of the funded amount, assessed on the outset of every 6 months.

(b) In addition, a consumer legal funding company may

charge a document preparation fee not to exceed \$75, which may be deducted from the funded amount. This fee is to be used to defray the ordinary cost of opening, administering, and terminating a consumer legal funding.

(c) A consumer legal funding company shall not collect any additional fees unless otherwise specified in this Act.

(d) No charges may accrue on a consumer legal funding for more than 42 months after the funding date of the consumer legal funding. No consumer legal funding may be refinanced except as authorized by rule. Notwithstanding the foregoing, a consumer legal funding company may assess charges on any additional amounts provided after the funding date for 42 months after the additional funding date.

(e) Notwithstanding any other law, a consumer legal funding may be refinanced as authorized by rule. The Department shall publish first notice of a rule concerning the refinancing of consumer legal fundings in the Illinois Register in accordance with the Illinois Administrative Procedure Act within 120 days after the effective date of this amendatory Act of the 103rd General Assembly.

(Source: P.A. 102-987, eff. 5-27-22.)

(815 ILCS 121/30)

Sec. 30. Disclosures. All consumer legal funding contracts shall contain the disclosures specified in this Section, which shall constitute material terms of the contract. Unless

otherwise specified, the disclosures shall be typed in at least 12-point bold-type font and be placed clearly and conspicuously within the contract as follows:

(1) On the front page under appropriate headings, language specifying:

(A) the funded amount to be paid to the consumer or on the consumer's behalf by the consumer legal funding company;

(B) an itemization of charges;

(C) the maximum total amount to be paid by the consumer to the company, including the funded amount and all fees; and

(D) a payment schedule to include the resolution amount, listing dates, and the amount due at the end of each 6-month period from the funding date, until the date the maximum amount is due to the company by the consumer to satisfy the amount due pursuant to the contract.

(2) Pursuant to the provisions set forth in paragraph (2) of subsection (a) of Section 10, within the body of the contract: "CONSUMER'S RIGHT TO CANCELLATION: You may cancel this contract without penalty or further obligation within 14 business days after the funding date if you either:

(A) return to the consumer legal funding company the full amount of the funds disbursed to you or on

your behalf by delivering the company's uncashed check to the company's office in person; or

(B) place in the mail, by mail service materially equivalent to United States Postal Service certified mail, addressed to the company at the address specified in the contract, a notice of cancellation and include in such mailing a return of the full amount of funds disbursed to you or on your behalf in the form of the company's uncashed check or a registered or certified check or money order."

(3) Within the body of the contract: "The consumer legal funding company shall have no role in deciding whether, when, and how much the legal claim is settled for, however, the consumer and consumer's attorney must notify the company of the outcome of the legal claim by settlement or adjudication before the resolution date. The company may seek updated information about the status of the legal claim but in no event shall the company interfere with the independent professional judgment of the attorney in the handling of the legal claim or any settlement thereof."

(4) Within the body of the contract, in all capital letters in at least 12-point bold-type font contained within a box: "THE FUNDED AMOUNT AND AGREED-UPON CHARGES SHALL BE PAID ONLY FROM THE PROCEEDS OF YOUR LEGAL CLAIM, AND SHALL BE PAID ONLY TO THE EXTENT THAT THERE ARE

AVAILABLE PROCEEDS FROM YOUR LEGAL CLAIM. YOU WILL NOT OWE [INSERT NAME OF THE CONSUMER LEGAL FUNDING COMPANY] ANYTHING IF THERE ARE NO REMAINING PROCEEDS AVAILABLE FROM YOUR LEGAL CLAIM, UNLESS YOU OR YOUR ATTORNEY HAVE COMMITTED FRAUD AGAINST THE CONSUMER LEGAL FUNDING COMPANY. NOTWITHSTANDING ANYTHING TO THE CONTRARY, YOU MAY REFINANCE THE FUNDED AMOUNT AND AGREED UPON CHARGES AS AUTHORIZED BY RULE."

(5) Located immediately above the place on the contract where the consumer's signature is required, in 12-point font: "Do not sign this contract before you read it completely or if it contains any blank spaces. You are entitled to a completely filled-in copy of the contract. Before you sign this contract, you should obtain the advice of an attorney. Depending on the circumstances, you may want to consult a tax, public or private benefits planning, or financial professional. You acknowledge that your attorney in the legal claim has provided no tax, public or private benefit planning, or financial advice regarding this transaction."

(6) The consumer legal funding company shall provide the consumer with information on accessing a financial coaching program no later than the funding date.

(Source: P.A. 102-987, eff. 5-27-22.)

Sec. 55. Consumer legal funding license scope.

(a) It shall be unlawful for any person or entity to operate as a consumer legal funding company ~~provider~~ in this State except as authorized by this Act and without first having obtained a license in accordance with this Act. No person or entity may engage in any device, subterfuge, or pretense to evade the requirements of this Act. However, any company that has a license in good standing under the Consumer Installment Loan Act on the effective date of this Act shall be entitled to make consumer legal fundings under the terms of this Act upon the effective date of this Act if that company files an application for a consumer legal funding license within 60 days after the Department issues forms for the filing of that application and until the Department approves or denies the application for a funding license. Any consumer legal funding contract made by any person or entity in violation of this subsection shall be null and void and the person or entity who entered into the consumer legal funding transaction shall have no right to collect, attempt to collect, receive, or retain any principal, interest, or charges related to the consumer legal funding transaction.

(b) The provisions of this Act do not apply to a bank, savings bank, savings association, or credit union organized under the laws of this State, any other state, or under the laws of the United States.

(c) Any consumer legal funding made by a person not

licensed under this Act, including a person holding an inactive license, and not exempt under this Act shall be null and void, and no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the funding.

(Source: P.A. 102-987, eff. 5-27-22.)

(815 ILCS 121/65)

Sec. 65. License application process; investigation.

(a) The Secretary may issue a license upon completion of all of the following:

(1) the filing of an application for a license with the Secretary or the Nationwide Multistate Licensing System and Registry as required by the Secretary;

(2) the filing with the Secretary of a listing of judgments entered against and bankruptcy petitions by the license applicant for the preceding 10 years;

(3) the filing of an audited balance sheet, including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards; notwithstanding the requirements of this subsection, an applicant that is a subsidiary may submit audited consolidated financial statements of its parent, intermediary parent, or ultimate parent if the consolidated statements are supported by consolidating statements that include the applicant's

financial statement; if the consolidating statements are unaudited, the applicant's chief financial officer shall attest to the applicant's financial statements disclosed in the consolidating statements; and

(4) an investigation of the averments required by Section 80, which investigation must allow the Secretary to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant; of the members thereof if the license applicant is a partnership or association; of the officers and directors thereof if the license applicant is a corporation; and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this Act; if the Secretary does not so find, he or she shall not issue the license and shall notify the license applicant of the denial. The Secretary may impose conditions on a license if the Secretary determines that those conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for a period prescribed by the Secretary.

(b) All licenses shall be issued to the license applicant. Upon receipt of the license, a consumer legal funding licensee

shall be authorized to engage in the business regulated by this Act. The license shall remain in full force and effect until it expires, it is surrendered by the licensee, or it is revoked or suspended as provided by this Act.

(c) The Secretary may, for good cause shown, waive, in part, any of the requirements of this Section.

(Source: P.A. 102-987, eff. 5-27-22.)

(815 ILCS 121/135)

Sec. 135. Suspension; revocation of licenses; fines.

(a) Upon written notice to a licensee, the Secretary may suspend or revoke any license issued pursuant to this Act if, in the notice, he or she makes a finding of one or more of the following:

(1) that through separate acts or an act or a course of conduct, the licensee has violated any provisions of this Act, any rule adopted by the Department, or any other law, rule, or regulation of this State or the United States;

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

(3) that if a licensee is other than an individual, any ultimate equitable owner, officer, director, or member of the licensed partnership, association, corporation, or other entity has acted or failed to act in a way that would

be cause for suspending or revoking a license to that party as an individual.

(b) No license shall be suspended or revoked, except as provided in this Section, nor shall any licensee be fined without notice of his or her right to a hearing as provided in subsection (n).

(c) The Secretary, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation.

(d) The provisions of subsection (d) of Section 95 shall not affect a licensee's civil or criminal liability for acts committed before surrender of a license.

(e) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any person.

(f) Every license issued under this Act shall remain in force and effect until the license expires without renewal, is surrendered, is revoked, or is suspended in accordance with the provisions of this Act, but the Secretary shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license has been revoked if no fact or condition then exists which would have warranted the Secretary in refusing originally to issue that license under this Act.

(g) Whenever the Secretary revokes or suspends a license issued pursuant to this Act or fines a licensee under this Act,

he or she shall execute a written order to that effect. The Secretary shall serve a copy of the order upon the licensee. Any such order may be reviewed in the manner provided by Section 170.

(h) If the Secretary finds any person in violation of the grounds set forth in subsection (p), he or she may enter an order imposing one or more of the following penalties:

(1) revocation of license;

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

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

(4) issuance of a reprimand;

(5) imposition of a fine not to exceed \$25,000 for each count of separate offense; except that a fine may be imposed that shall not exceed \$75,000 for each separate count of offense in violation of paragraph (2) or (14) of subsection (p) ~~(i)~~;

(6) denial of a license; or

(7) restitution for the benefit of consumers.

(i) (Blank). ~~The Secretary may, after 10 days' notice by certified mail to the licensee at the address set forth in the license stating the contemplated action and in general the grounds therefor, fine the licensee an amount not exceeding~~

~~\$10,000 per violation or revoke or suspend any license issued under this Act if he or she finds that:~~

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

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

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

(k) No revocation, suspension, or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any obligor.

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

(m) In every case in which a license is suspended or

revoked or an application for a license or renewal of a license is denied, the Secretary shall serve the licensee with notice of his or her action, including a statement of the reasons for his or her actions, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited in the U.S. mail.

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

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

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

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

(p) The following acts shall constitute grounds for which

the disciplinary actions specified in subsection (h) may be taken:

(1) being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction that involves fraud, dishonest dealing, or any other act of moral turpitude;

(2) fraud, misrepresentation, deceit, or negligence in any relation to any consumer legal funding;

(3) a material or intentional misstatement of fact on an initial or renewal application;

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

(4) insolvency or filing under any provision of the United States Bankruptcy Code as a debtor;

(5) failure to account or deliver to any person any property, such as any money, fund, deposit, check, draft, or other document or thing of value, that has come into his or her hands and that is not his or her property or that he or she is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law, or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;

(6) failure to disburse funds in accordance with

agreements;

(7) having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory, or country, for fraud, dishonest dealing, or any other act of moral turpitude;

(8) failure to comply with an order of the Secretary or rule adopted under the provisions of this Act;

(9) engaging in activities regulated by this Act without a current, active license unless specifically exempted by this Act;

(10) failure to pay in a timely manner any fee, charge, or fine under this Act;

(11) failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the provisions of this Act and the rules of the Department;

(12) refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act, or refusing, obstructing, evading, or unreasonably delaying compliance with the Secretary's subpoena or subpoena duces tecum;

(13) failure to comply with or a violation of any provision of this Act; and

(14) any unfair, deceptive, or abusive business

practice.

(q) A licensee shall be subject to the disciplinary actions specified in this Act for violations of subsection (i) by any officer, director, shareholder, joint venture, partner, ultimate equitable owner, or employee of the licensee.

(r) A licensee shall be subject to suspension or revocation for unauthorized employee actions only if there is a pattern of repeated violations by employees, the licensee has knowledge of the violations, or there is substantial harm to a consumer. A licensee may be subject to fine for employee actions, whether authorized or unauthorized, whether there is a pattern of repeated violations or no pattern of repeated violations.

(s) Any licensee may submit an application to surrender a license, but, upon the Secretary approving the surrender, it shall not affect the licensee's civil or criminal liability for acts committed before surrender or entitle the licensee to a return of any part of the license fee.

(Source: P.A. 102-987, eff. 5-27-22.)

(815 ILCS 121/165)

Sec. 165. Rules of the Department.

(a) In addition to such powers as may be prescribed by this Act, the Department is hereby authorized and empowered to adopt rules consistent with the purposes of this Act, including, but not limited to:

(1) rules in connection with the activities of licensees or unlicensed consumer legal funding companies as may be necessary and appropriate for the protection of consumers in this State;

(2) rules as may be necessary and appropriate to define improper or fraudulent business practices in connection with the activities of licensees in servicing consumer legal fundings;

(3) rules that define the terms used in this Act and as may be necessary and appropriate to interpret and implement the provisions of this Act; ~~and~~

(4) rules as may be necessary for the enforcement and administration of this Act; and -

(5) rules to permit the refinancing of consumer legal fundings.

(b) The Secretary is hereby authorized and empowered to make specific rulings, demands, and findings that he or she deems necessary for the proper conduct of the consumer legal funding company industry.

(Source: P.A. 102-987, eff. 5-27-22.)

(815 ILCS 121/170)

Sec. 170. Appeal and review.

(a) The Department may, in accordance with the Illinois Administrative Procedure Act, adopt rules to provide for review within the Department of the Secretary's decisions

affecting the rights of persons or entities under this Act.

The review shall provide for, at a minimum:

(1) appointment of a hearing officer other than a regular employee of the Division of Financial Institutions ~~Department~~;

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

(3) provision for apportioning costs among parties to the appeal.

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

(Source: P.A. 102-987, eff. 5-27-22.)