

AN ACT concerning business.

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

Section 1. Short title. This Act may be cited as the Buy-Now-Pay-Later Loan Consumer Protection Act.

Section 2. Definitions. As used in this Act:

"Applicant" means a person who has submitted an application for a license under this Act.

"Annual percentage rate" means the nominal annual percentage rate of finance charge determined in accordance with the actuarial method of computation with an accuracy at least to the nearest 1/4 of 1% or, at the option of the licensee by application of the federal rule, so that it may be disclosed with an accuracy at least to the nearest 1/4 of 1%.

"Buy-now-pay-later loan" or "loan" means closed-end credit provided to a consumer at the time of a transaction in connection with the consumer's particular purchase of goods or services that:

- (1) is payable in 4 or fewer installments; or
- (2) has a term of 120 days or less.

"Buy-now-pay-later loan" or "loan" includes any other loan identified by the Secretary by rule. "Buy-now-pay-later loan" or "loan" also includes (i) a buy-now-pay-later loan payable

in one or more installments without any interest or finance charge and (ii) a buy-now-pay-later loan with either interest or finance charges or both.

"Buy-now-pay-later loan" or "loan" does not include credit where the creditor is the seller of the goods or services, unless it is credit pursuant to an agreement where, at a consumer's request, the creditor purchases specific goods or services from a seller and resells the specific goods or services to the consumer on closed-end credit.

"Buy-now-pay-later loan" or "loan" also does not include (i) a loan for a motor vehicle or (ii) a residential mortgage loan, as that term is defined in Section 1-4 of the Residential Mortgage License Act of 1987. "Buy-now-pay-later loan" or "loan" also does not include any loan to a seller of goods or services for the purchase of inventory for sale or resale by the seller of goods or services in the normal course of business.

"Consumer" means a natural person who, singly or jointly with another consumer, enters into, seeks out, applies for, or requests a buy-now-pay-later loan primarily for personal, family, or household purposes.

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

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

"Finance charge" means the cost of financing as a dollar

amount.

"Lender" means a person that offers or makes a buy-now-pay-later loan to a person in this State or is otherwise subject to this Act.

"Licensee" means a person licensed under this Act.

"Motor vehicle" means a vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power, motorized wheelchairs, low-speed electric bicycles, and low-speed gas bicycles.

"Multistate licensing system" means a third-party, multistate licensing system used by the Secretary for licensing, examinations, or any other regulatory purpose under this Act.

"Person" means an individual, a partnership, joint venture, trust, estate, firm, corporation, cooperative society or association, or any other form of business association or legal entity. "Person" includes the employees, owners, agents, managers, members, principals, and directors of a person.

"Secretary" means the Secretary of Financial and Professional Regulation or the Secretary's designee, including the Director of the Division of Financial Institutions.

Section 3. Administration by the Division of Financial Institutions. This Act shall be administered by the Division

on behalf of the Secretary.

Section 4. Licensure requirement. No person shall engage in the business regulated by this Act without licensure under this Act. The Secretary may investigate any person the Secretary believes may require licensure under this Act, including, but not limited to, compelling production of testimony, books, records, or any other information necessary for the Secretary to determine whether the person requires licensure. An owner, officer, or employee of a person required to be licensed under this Act is not required to be licensed to engage in activities conducted by the licensee under this Act.

Section 5. Applicability.

(a) Except as otherwise provided in this Section, this Act applies to any person, including any affiliate or subsidiary of a person, that offers or makes a loan, buys a whole or partial interest in a loan, arranges a loan for a third party, or acts as an agent for a third party in making a loan to a consumer, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, and includes any other person or entity if the Department determines that the person or entity is engaged in a transaction that is in substance a disguised loan or a subterfuge for the purpose of avoiding this Act. This Act applies to loan transactions conducted by

any medium, including, but not limited to, paper, facsimile, Internet, or telephone. This Act also applies to any servicer of a loan offered or made under this Act. This Act does not apply to a merchant or merchant platform that makes a buy-now-pay-later loan available to a consumer through an agreement with a licensed buy-now-pay-later lender or person exempt from this Act, if the merchant or merchant platform does not originate, underwrite, service, or hold an ownership interest in any buy-now-pay-later loan. Notwithstanding the provisions of this subsection, this Act also does not apply to a person who buys, acquires, or holds a partial interest in a loan as a passive investor, but does not otherwise originate, underwrite, or service the loan or control the servicing of the loan.

(b) The provisions of this Act apply to any person that seeks to evade its applicability by any device, subterfuge, or pretense or making, offering, assisting, or arranging for a consumer to obtain a loan with a greater rate of interest, consideration, or charge than is permitted by this Act through any method, including mail, telephone, Internet, or any electronic means, regardless of whether the person or entity has a physical location in this State.

(c) The provisions of this Act apply to any person that facilitates or aids or abets a violation of this Act or rules adopted under this Act.

(d) Banks, savings banks, savings and loan associations,

credit unions, and insurance companies organized, chartered, or holding a certificate of authority to do business under the laws of this State, any other state, or the United States are exempt from the provisions of this Act and rules adopted under this Act. The Secretary may exempt from this Act other persons or transactions by rule on a finding that the application of the Act to the persons or transactions is not necessary to achieve the purposes of this Act.

(e) A person is a lender subject to this Act, regardless of any claim that the person is acting as an agent, service provider, or in another capacity for a person that is exempt from this Act, if:

(1) The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest in the loan.

(2) The person markets, brokers, arranges, or facilitates the loan and holds the right, requirement, or first right of refusal to purchase the loan or receivables or interests in the loan.

(3) The totality of the circumstances indicates that the person is the lender and that the transaction is structured to evade the requirements of this Act. Circumstances that support a finding that a person is a lender include, without limitation:

(A) The person indemnifies, insures, or protects an exempt person or entity for any costs or risks

related to the loan.

(B) The person predominantly designs, controls, or operates the loan program.

(C) The person purports to act as an agent, service provider, or in another capacity for a person exempt from this Act while acting directly as a lender in other states.

Section 5.5. Licensee name. No person engaged in the business regulated by this Act shall operate the business under a name other than the real name of the person conducting business. The business may, as authorized by the Secretary, also operate under an assumed corporate name under the Business Corporation Act of 1983, an assumed limited liability company name under the Limited Liability Company Act, or an assumed business name under the Assumed Business Name Act.

Section 6. Application process; investigation; fees.

(a) The Secretary may issue a license to a person after the person completes the following:

(1) the filing of an application for licensure with the Secretary or the multistate licensing system, as approved by the Secretary;

(2) the filing with the Secretary or the multistate licensing system, as approved by the Secretary, of a listing of judgments entered against, and bankruptcy

petitions by, the applicant for the preceding 10 years;

(3) the payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to \$5,000, unless modified by the Secretary in accordance with subsection (b) of Section 11; and

(4) 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 as long as 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.

(b) The Secretary may, for good cause shown, waive or modify the requirements of paragraph (4) of subsection (a).

(c) Upon receipt of the license, a 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, is surrendered by the licensee, or is revoked or suspended as provided in this Act.

(d) The Secretary may impose conditions on a license if

the Secretary determines that those conditions are necessary or appropriate. The conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Secretary.

Section 7. Application form.

(a) Application for a license shall be made in accordance with this Act and in accordance with requirements of the multistate licensing system, if required by the Secretary. The application shall be in writing, under oath, and on a form obtained from and prescribed by the Secretary. The Secretary may require part or all of the application to be submitted electronically, with attestation, to the multistate licensing system.

(b) The application shall contain the name and complete business and residential address of the applicant. The application shall also include a description of the activities of the applicant in such detail and for such periods as the Secretary may require, including the following:

(1) an affirmation that the applicant and its owners, principals, officers, and directors, as may be appropriate, are at least 18 years of age;

(2) information as to the name, complete business address, complete residential address, character, fitness, financial and business responsibility, background, experience, and criminal record of any:

(i) person, including an ultimate equitable owner, that directly or indirectly owns or controls 10% or more of any class of stock of the applicant;

(ii) person, including an ultimate equitable owner that is not a depository institution, as defined in Section 17.50 of the Savings Bank Act, that lends, provides, or infuses, directly or indirectly, in any way, funds to or into an applicant in an amount equal to or more than 10% of the applicant's net worth;

(iii) person, including an ultimate equitable owner that controls, directly or indirectly, the election of 25% or more of the members of the board of directors of an applicant;

(iv) person, including an ultimate equitable owner that the Secretary finds influences the management of the applicant;

(v) directors of an applicant; and

(vi) principal officers of an applicant; and

(3) any other information as required by the Secretary to assess whether the applicant and its owners, officers, and directors have the financial responsibility, financial condition, business experience, character, and general fitness to justify the confidence of the public and that the applicant and its owners, officers, and directors are fit, willing, and able to carry on the proposed business in a lawful and fair manner.

Section 8. License application and issuance.

(a) Applicants for a license shall apply in a form prescribed by the Secretary. The form may be changed or updated by the Secretary to carry out the purposes of this Act.

(b) In order to fulfill the purposes of this Act, the Secretary may establish relationships or contracts with a multistate licensing system or other persons to collect and maintain records and process fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing, the applicant, owners, officers, and directors of an applicant may be required, at a minimum, to furnish to the Secretary or the multistate licensing system information concerning the identity of the applicant, owners, officers, and directors, including personal history and experience in a form prescribed by the Secretary or the multistate licensing system including, but not limited to:

(1) a complete and accurate copy of an independent credit report obtained from a consumer reporting agency as described in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

(2) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(d) For the purposes of this Section, and to reduce the points of contact that the Secretary may have to maintain, the

Secretary may use a multistate licensing system as a channeling agent for requesting and distributing information to and from any source.

(e) Each application shall be accompanied by averments as determined by the Secretary to fulfill the purposes of this Act.

Section 9. Refusal to issue license. The Secretary may refuse to issue or renew a license if the Secretary determines that:

(a) the applicant has not complied with a provision of this Act, rule adopted under this Act, or other laws that apply to the applicant;

(b) there is substantial continuity between the applicant and any violator of this Act, rule adopted under this Act, or other laws that apply to the applicant or related violator; and

(c) the applicant or its owners, officers, or directors do not have the financial responsibility, financial condition, business experience, character, and general fitness to justify the confidence of the public and that the license applicant and its owners, officers, and directors are not fit, willing, and able to carry on the proposed business in a lawful and fair manner.

Section 10. License issuance and renewal.

(a) Absent a written extension from the Department and payment of any late fees required by the Department, a license shall expire on the last day of December of each calendar year if a licensee fails to timely submit a properly completed renewal application form and fees.

(b) Licensees shall apply to renew their license every calendar year. Licensees may submit properly completed renewal application forms and filing fees 60 days before the license expiration date. To be deemed timely, the completed renewal application forms and filing fees must be received by the Secretary at least 30 days before the license expiration date.

(c) It shall be the responsibility of each licensee to accomplish timely renewal of its license.

(d) No activity regulated by this Act shall be conducted by a licensee whose license has expired. The Secretary may, within the Secretary's discretion, reinstate an expired license upon payment of the renewal fee, payment of a reactivation fee equal to 5 times the renewal fee, submission of a completed renewal application, and an affidavit of good cause for late renewal.

Section 11. Fees.

(a) The expenses of administering this Act, including licensing, investigations, and examinations provided for in this Act, shall be borne by and assessed against persons and entities regulated by this Act in the proportions and in the

manner as the Secretary deems appropriate. The Secretary may establish by rule the category and amount of any fees that the person and entities pay to the Department.

(b) The Secretary may modify any fees established by this Act by rule beginning one year after the effective date of this Act.

Section 12. Functions; powers; duties. The functions, powers, and duties of the Secretary shall include, but shall not be limited to:

(a) to issue or refuse to issue any license or renewal;

(b) to impose fines, revoke, or suspend for cause any license issued under this Act;

(c) to impose fines for any unlicensed activity under this Act;

(d) to keep records of all licenses issued under this Act;

(e) to receive, consider, investigate, and act upon complaints made by any person in connection with any licensee in this State or unlicensed activity under this Act of any person;

(f) to prescribe the forms of and receive:

(1) applications for licenses and renewals; and

(2) all reports and all books and records required to be made by any licensee, including annual audited

financial statements if required by the Secretary and annual reports of activity;

(g) to adopt rules necessary and proper for the administration of this Act, to protect consumers and to promote fair competition;

(h) to subpoena documents and witnesses and compel attendance and production, to administer oaths, and to require the production of any books, papers, or other materials relevant to any inquiry authorized by this Act or rules adopted under this Act;

(i) to issue orders against any person if the Secretary has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur; if any person is violating, or is about to violate any law, rule, or written agreement with the Secretary; or for the purpose of administering the provisions of this Act and any rule adopted in accordance with this Act;

(j) to address any inquiries to any licensee, or the owners, officers, or directors, in relation to its activities and conditions, or any other matter connected with its affairs, and it shall be the duty of any licensee or person so addressed to promptly reply in writing to those inquiries; and to require reports from any licensee at any time the Secretary may deem desirable;

(k) to examine the books and records of every licensee

or any person requiring a license or who the Secretary reasonably believes may require a license at any time interval reasonably determined appropriate by the Secretary;

(l) to enforce provisions of this Act and rules adopted under this Act;

(m) to levy fees including, but not limited to, contingent fees, assessments, examination fees, licensing fees, fines, and charges for services performed in administering this Act;

(n) to issue refunds to licensees within one year of any overpayment for good cause shown;

(o) to appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this Act;

(p) to conduct hearings for the purpose of carrying out the purposes of this Act;

(q) to exercise visitorial power over a licensee;

(r) to enter into cooperative agreements with state regulatory authorities of other states to provide for examination of corporate offices or branches in those states, participate in joint examinations with other regulators, and to accept reports of the examinations;

(s) to assign an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Secretary determines appropriate and to charge the

licensee for reasonable and necessary expenses of the Secretary if in the opinion of the Secretary an emergency exists or appears likely to occur;

(t) to impose civil penalties of up to \$1,000 per day against a licensee for failing to respond to a regulatory request or reporting requirement; and

(u) to enter into agreements in connection with a multistate licensing system.

Section 13. Financial Institutions Fund. All moneys received by the Secretary under this Act shall be paid into the Financial Institutions Fund. The amounts deposited into the Fund shall be used for the ordinary and contingent expenses of the Department. Nothing in this Act shall prevent paying expenses involving salaries, retirement, social security, and State-paid insurance of State employees, or any other expenses incurred under this Act by appropriation from the General Revenue Fund, PIC Fund, or any other fund.

Section 14. Examination; prohibited activities.

(a) The Secretary shall examine the business affairs of a licensee as often as the Secretary deems necessary and proper. The Secretary may adopt rules with respect to the frequency and manner of examination. The Secretary shall appoint a suitable person to perform the examination. The Secretary and the Secretary's appointees may examine the entire books,

records, documents, and operations of each licensee and its subsidiary, affiliate, or agent, and may examine any of the licensee's or its subsidiaries', owners', affiliates', or agents' officers, directors, employees, and agents under oath.

(b) Affiliates of a licensee shall be subject to examination by the Secretary only to the extent reasonably necessary to evaluate the licensee's compliance with this Act and only with respect to records directly related to the licensee's regulated activities under this Act.

(c) The expenses of any examination of the licensee or its affiliates shall be borne by the licensee and assessed by the Secretary as may be established by rule.

(d) All confidential supervisory information, including the examination report and the work papers of the report, shall belong to the Secretary's office and may not be disclosed to anyone other than the licensee, law enforcement officials, or other regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or to a party presenting a lawful subpoena to the Department. The Secretary may, through the Attorney General, immediately appeal to the court of jurisdiction the disclosure of the confidential supervisory information and seek a stay of the subpoena pending the outcome of the appeal. Reports required of licensees by the Secretary under this Act and results of examinations performed by the Secretary under this Act shall be the property of only the Secretary, but may be

shared with the licensee. Any person demanded to produce the Department's confidential supervisory information, whether by subpoena, order, or other judicial or administrative process, shall withhold production of the confidential supervisory information and notify the Secretary of the demand. The Secretary may intervene for the purpose of enforcing the limitations of this Section or seeking the withdrawal or termination of the attempt to compel production of the confidential supervisory information. The Secretary may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of that information. The Secretary may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Secretary, the Secretary may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Secretary may authorize a party who obtained the records for use in one case to provide them to a party in another case, subject to any conditions that the Secretary may impose on either or both parties. The requester shall promptly notify other parties to a case of the release of confidential supervisory information

obtained and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

Section 15. Subpoena power of the Secretary.

(a) The Secretary shall have the power to issue and to serve subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of all books, accounts, records, and other documents and materials relevant to an examination or investigation. The Secretary or the Secretary's duly appointed representative shall have the power to administer oaths and affirmations to any person.

(b) If a person does not comply with the Secretary's subpoena or subpoena duces tecum, the Secretary may, through the Attorney General, petition the circuit court of the county in which the subpoenaed person resides or has its principal place of business for an order requiring the subpoenaed person to testify and to comply with the subpoena duces tecum.

(c) The court may grant injunctive relief restraining the person from engaging in activity regulated by this Act. The court may grant other relief, including, but not limited to, the restraint, by injunction or appointment of a receiver, of any transfer, pledge, assignment, or other disposition of the person's assets, concealment, destruction, or other disposition of books, accounts, records, or other documents and materials as the court deems appropriate, until the person

has fully complied with the subpoena or subpoena duces tecum and the Secretary has completed an investigation or examination.

(d) If it appears to the Secretary that the compliance with a subpoena or subpoena duces tecum issued or caused to be issued by the Secretary under this Section is essential to an investigation or examination, the Secretary, in addition to the other remedies provided for in this Act, may, through the Attorney General, apply for relief to the circuit court of the county in which the subpoenaed person resides or has its principal place of business. The court shall direct the issuance of an order against the subpoenaed person requiring sufficient bond conditioned on compliance with the subpoena or subpoena duces tecum. The court shall cause to be endorsed on the order a suitable amount of bond or payment under which the person named shall be freed, having a due regard to the nature of the case.

(e) In addition, the Secretary may, through the Attorney General, seek a writ of attachment or an equivalent order from the circuit court having jurisdiction over the person who has refused to obey a subpoena, who has refused to give testimony, or who has refused to produce the matters described in the subpoena duces tecum.

Section 16. Reports required of licensee. Every licensee shall produce to the Department written reports or answers to

questions in the time and manner requested by the Secretary.

Section 17. Suspension; revocation of licenses; fines and other discipline.

(a) The Secretary 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 civil penalty or fine not to exceed \$25,000 for each count of separate offense;

(6) restitution, refunds, or any other relief necessary to protect consumers; and

(7) denial of a license.

(b) Grounds for penalties include:

(1) that a person has violated or aided another to violate, any provisions of this Act, any rule adopted by the Secretary, or any other law, rule, or regulation of this State, any other 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 to issue the original license;

(3) that a licensee that is not an individual has acted or failed to act in a way that would be cause for suspending or revoking a license to an individual;

(4) that a person engaged in unsafe, unsound, unfair, deceptive, or abusive business practices related to the activity covered by this Act;

(5) that a person has been adjudicated guilty of a crime against the law of this State, any other state, or of the United States involving moral turpitude, abusive, deceptive, fraudulent, or dishonest dealing;

(6) that a final judgment has been entered against a person in a civil action upon grounds of abusive conduct, conversion, fraud, misrepresentation, or deceit;

(7) that a person made a material misstatement in its application for licensure or any other communication to the Secretary;

(8) that a person has demonstrated by course of conduct, negligence or incompetence in performing any act for which it is required to hold a license under this Act;

(9) that a person has failed to advise the Secretary in writing of any changes to the information submitted on the person's most recent application for license within 30 days after the change;

(10) that a licensee failed to submit to periodic

examination by the Secretary as required by this Act or failed to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the provisions of this Act and rules adopted under this Act for a period of at least 2 years after the loan is paid in full or any time period set forth by rule;

(11) that a person failed 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 the person's possession and that is not the person's property or that the person 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 for the accounting and delivery;

(12) that a person failed to disburse funds in accordance with agreements or law;

(13) that a person had a license, or the equivalent, to practice any profession, occupation, other industry or activity requiring licensure revoked, suspended, disciplined, 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, misrepresentations, incompetence, conversion, any act of moral turpitude or any other grounds that would constitute grounds for discipline under

this Act;

(14) that a person licensed under this Act failed to timely notify the Department that the person has been disciplined by a licensing authority of this State or another state;

(15) that a person engaged in activities regulated by the Act without a current, active license unless specifically exempted by this Act;

(16) that a person failed to timely pay any fee, charge, or fine assessed under this Act; and

(17) that a person refused, obstructed, evaded, or unreasonably delayed an investigation, information request, or examination authorized under this Act, or refused, obstructed, evaded, or unreasonably delayed compliance with the Secretary's subpoena or subpoena duces tecum.

(c) No license shall be suspended or revoked, except as provided in this Section nor shall any licensee be fined, without notice of the licensee's right to a hearing.

(d) The Secretary may suspend any license for a period not exceeding 90 days pending investigation for good cause shown that an emergency exists.

(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. The Secretary's approval of a licensee's application to surrender

its license shall not affect the licensee's civil or criminal liability for acts committed prior to surrender. Surrender of a license does not entitle the licensee to a return of any part of the fee for initial licensure or any part of the fee for annual license renewal.

(f) Every license issued under this Act shall remain in force and effect until the license expires, is surrendered, is revoked, or is suspended in accordance with the provisions of this Act. The Secretary may reinstate a suspended license or issue a new license to a licensee whose license has been revoked or surrendered if no fact or condition then exists which would have warranted the Secretary in refusing originally to issue that license under this Act.

(g) If the Secretary imposes discipline authorized by this Section, the Secretary shall execute a written order to that effect. The Secretary shall serve a copy of the order upon the person. The Secretary shall serve the person with notice of the order, including a statement of the reasons for the order, either personally, or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into the U.S. Mail.

(h) An order assessing a fine, an order imposing conditions upon a license, 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 serves the Department with a written request for a hearing in the

manner required by the notice within 20 days after the date of service of the order. If a person requests a hearing, the order shall be stayed from its date of service until the Department enters a final administrative order.

(1) If the licensee requests a hearing, the Secretary shall schedule a preliminary hearing within 90 days after the request for a hearing unless otherwise agreed to by the parties.

(2) The preliminary hearing shall be held at the time and place designated by the Secretary. The Secretary and any administrative law judge designated by the Secretary 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 the Secretary considers relevant or material to the inquiry.

(i) The costs of administrative hearings conducted under this Section shall be paid by the licensee or other person subject to the hearing.

(j) A licensee and other persons subject to this Act shall be subject to the disciplinary actions specified in this Act for any violations conducted by any officer, director, shareholder, joint venture, partner, owner, including, but not limited to, ultimate equitable owner.

Section 18. Investigation of complaints. The Secretary may

investigate any complaints and inquiries made concerning this Act and any licensees or persons the Secretary believes may require a license under this Act. Each licensee or person the Secretary believes may require a license under this Act shall open the licensee or person's books, records, documents, and offices wherever situated to the Secretary as needed to facilitate the investigations.

Section 19. Additional investigation and examination authority. In addition to any authority allowed under this Act, the Secretary shall have the authority to conduct investigations and examinations as follows:

(a) For purposes of initial licensing, license renewal, license suspension, license conditioning, license probation, license revocation or termination, or general or specific inquiry or investigation to determine compliance with this Act, the Secretary shall have the authority to access, receive, and use any books, accounts, records, files, documents, information, or evidence, including, but not limited to, the following:

(1) criminal, civil, licensure, and administrative history information, including nonconviction data as specified in the Criminal Identification Act;

(2) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p)

of the federal Fair Credit Reporting Act; and

(3) any other documents, information, or evidence the Secretary deems relevant to the inquiry or investigation, regardless of the location, possession, control, or custody of the documents, information, or evidence.

(b) For the purposes of investigating violations or complaints arising under this Act or for the purposes of examination, the Secretary may review, investigate, or examine any licensee, individual, or person subject to this Act as often as necessary in order to carry out the purposes of this Act. The Secretary may direct, subpoena, or order the attendance of, and examine under oath all persons; and order any person to produce records, files, and any other documents the Secretary deems relevant to an inquiry.

(c) Each person subject to this Act shall make available to the Secretary upon request the books and records relating to the operations of the person subject to this Act. The Secretary shall have access to those books and records and may interview the owners, officers, principals, employees, independent contractors, agents, vendors, and customers of any licensee or person subject to this Act.

(d) Each person subject to this Act shall make or compile reports or prepare other information as directed

by the Secretary to carry out the purposes of this Section, including, but not limited to:

(1) accounting compilations;

(2) information lists and data concerning transactions in a format prescribed by the Secretary;
or

(3) other information deemed necessary to carry out the purposes of this Section.

(e) In making any examination or investigation authorized by this Act, the Secretary may control access to any documents and records of the licensee or person under examination or investigation. The Secretary may take possession of the documents and records or otherwise take constructive control of the documents. During the period of control, no person shall remove or alter any of the documents or records, except in accordance with a court order or with the consent of the Secretary. Unless the Secretary has reasonable grounds to believe the documents or records of the licensee have been or are at risk of being altered or destroyed for purposes of concealing a violation of this Act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(f) In order to carry out the purposes of this Section, the Secretary may:

(1) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(2) enter into agreements or relationships with other government officials or regulatory associations to protect consumers, improve efficiencies, and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information, or evidence obtained under this Section;

(3) use, hire, contract, or employ publicly or privately available analytical systems, methods, or software to examine or investigate the licensee, individual, or person subject to this Act;

(4) accept and rely on examination or investigation reports made by other government officials, within or outside this State; or

(5) accept audit reports made by an independent certified public accountant for the person subject to this Act and incorporate the audit report in the report of the examination, report of investigation, or other writing of the Secretary.

(g) The authority of this Section shall remain in effect, whether a person subject to this Act acts or claims to act under any licensing or registration law of

this State or claims to act without authority.

(h) No licensee or person subject to investigation or examination under this Section may knowingly withhold, alter, abstract, remove, mutilate, destroy, hide, or conceal any books, records, computer records, or other information or take actions designed to delay or complicate review of records.

Section 20. Confidentiality. To promote more effective regulation, protect consumers, and reduce regulatory burden through inter-regulator sharing of confidential supervisory information:

(a) The privacy or confidentiality of any information or material provided to the multistate licensing system, including all privileges arising under federal or State court rules and law, shall continue to apply to the information or material after the information or material has been disclosed to the multistate licensing system. Information and material may be shared with the multistate licensing system, federal and state regulatory officials with relevant oversight authority, and law enforcement without the loss of privilege or the loss of confidentiality protections.

(b) The Secretary may enter into agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, and other

associations representing governmental agencies.

(c) Information or material that is privileged or confidential under this Act as determined by the Secretary shall not be subject to the following:

(1) disclosure under any State law governing the disclosure to the public of information held by an officer or an agency of this State; or

(2) subpoena, discovery, or admission into evidence, in any private civil action or administrative process except as authorized by the Secretary.

(d) Any other law relating to the disclosure of confidential supervisory information that is inconsistent with this Act shall be superseded by the requirements of this Section to the extent the other law provides less confidentiality or a weaker privilege for information that is privileged or confidential under this Act.

(e) Confidential or privileged information received from the multistate licensing system, another licensing body, federal and state regulatory officials, or law enforcement shall be protected to the same extent as the Secretary's confidential and privileged information is protected under this Act. The Secretary may also protect from disclosure confidential or privileged information that would be exempt from disclosure to the extent it is held directly by the multistate licensing system, another

licensing body, federal and state regulatory officials, or law enforcement.

Section 21. Rules.

(a) In addition to the powers set forth in this Act and other laws, the Secretary may adopt rules consistent with the purposes of this Act, including, but not limited to, rules to:

(1) protect consumers in this State in connection with the activities of persons subject to this Act;

(2) define improper, deceptive, unfair, abusive, or fraudulent business practices in connection with providing products and services under this Act;

(3) define terms used in this Act to interpret and implement this Act;

(4) promote competition and price transparency; and

(5) enforce the provisions of this Act.

(b) The Secretary may make specific rulings, demands, and findings deemed necessary for the proper conduct of the buy-now-pay-later loan industry.

Section 22. Appeal and review.

(a) The Secretary 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 under this Act. The review shall provide for, at a minimum:

- (1) appointment of a hearing officer;
- (2) appropriate procedural rules, specific deadlines for filings, and standards of evidence and of proof; and
- (3) provisions 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.

Section 23. Licensure fees.

(a) The nonrefundable fee for initial licensure shall be \$5,000, unless modified by the Secretary in accordance with subsection (b) of Section 11.

(b) The nonrefundable fee for annual license renewal shall be \$5,000, unless modified by the Secretary in accordance with subsection (b) of Section 11.

(c) The Department shall impose a contingent fee sufficient to cover its operating expenses in administering this Act not otherwise covered by all other revenue collected under this Act. Each licensee shall pay to the Division its pro rata share, based on number or volume of transactions or revenue or any other metric established by the Department by

rule, of the cost for administration of the Act that exceeds other fees listed in this Section, as estimated by the Division, for the current year and any deficit actually incurred in the administration of the Act in prior years.

Section 24. Cease and desist order.

(a) The Secretary may issue a cease and desist order to any licensee or person doing business without the required license, when in the opinion of the Secretary the licensee or other person has violated, is violating, or is about to violate any provision of this Act or any rule adopted by the Department under this Act or any requirement imposed in writing by the Department as a condition of granting any authorization permitted by this Act. The cease and desist order authorized by this Section may be issued prior to a hearing.

(b) The Secretary shall serve notice of the order, either personally or by certified mail. Service by certified mail shall be deemed completed when the notice is deposited into the U.S. Mail. The Secretary's notice shall include a statement of the reasons for the action.

(c) Within 15 days after service of the cease and desist order, the person subject to the order may request a hearing in writing. The Secretary shall schedule a preliminary hearing within 60 days after the request for a hearing unless the parties agree to a later date.

(d) If it is determined that the Secretary had the authority to issue the cease and desist order, the Secretary may issue orders as may be reasonably necessary to correct, eliminate, deter, or remedy the conduct described in the order and resulting harms.

(e) The powers vested in the Secretary by this Section are additional to all other powers and remedies vested in the Secretary by any law. Nothing in this Section shall be construed as requiring that the Secretary must employ the power conferred in this subsection instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

Section 25. Injunction. The Secretary may maintain an action in the name of the people of the State of Illinois through the Attorney General and may apply for an injunction in the circuit court to enjoin a person from violating this Act or rules adopted under this Act.

Section 26. Underwriting. A lender shall, before providing or causing to be provided a loan to a consumer, perform, or cause to be performed, reasonable risk-based underwriting which shall include, at a minimum, an assessment of the outstanding loans taken out by the consumer from the lender. A lender shall also, before providing or causing to be provided a loan to a consumer, take into consideration the financial

ability of the borrower to repay the loan in the time and manner provided in the loan contract. A lender shall maintain or cause to be maintained policies and procedures for underwriting loans, and shall disclose factors considered in the underwriting process, in a clear and conspicuous manner to the consumer. Nothing in this Act shall be construed to require a lender to disclose proprietary underwriting models, anti-fraud criteria, or trade secrets to the public. No lender shall collect, evaluate, report, or maintain in the file on a borrower the credit worthiness, credit standing, or credit capacity of members of the borrower's social network for purposes of determining the credit worthiness of the borrower; the average credit worthiness, credit standing, or credit capacity of members of the borrower's social network; or any group score that is not the borrower's own credit worthiness, credit standing, or credit capacity. The Department may adopt rules with respect to underwriting.

Section 27. Consumer protections.

(a) A lender shall provide the following disclosures to a consumer, in a clear and conspicuous manner, at the time of extending a specific offer of a loan:

- (1) how to file a complaint with the Department;
- (2) the terms of buy-now-pay-later loans, including, without limitation, the cost, such as interest and fees, the repayment schedule, the means by which a person may

dispute billing practices, whether the transaction will or will not be reported to a credit reporting agency, and other material conditions, in a clear and conspicuous manner and in a manner that complies with applicable federal regulations, including, but not limited to, Regulation Z of Title I of the Consumer Credit Protection Act;

(3) factors considered in the underwriting process; and

(4) Any other disclosures required by the Secretary by rule.

(b) A lender shall comply with the Gramm-Leach-Bliley Act Privacy Rule, Section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681s-3), and their implementing regulations.

(c) A lender shall resolve disputes in a manner that is fair and transparent to consumers. A lender shall create a readily available and prominently disclosed method for consumers to bring a dispute to the lender. A lender shall maintain policies and procedures for handling consumer disputes. A lender shall apply to loans the dispute rights and unauthorized charges requirements that apply to credit cards under the federal Truth in Lending Act, regardless of whether the law applies to loans or whether the lender offers a credit card within the scope of the law.

(d) A lender shall provide refunds or credits for goods or services purchased in connection with a loan, if the consumer

requests and is entitled to a refund, in a manner that is fair, transparent, and not unduly burdensome to consumers. A lender shall maintain policies and procedures to provide the refunds or credits. The policies and procedures shall be fair, transparent, and not unduly burdensome to the consumer. A lender shall disclose to consumers, in a clear and conspicuous manner, the process by which they can obtain refunds or credits for goods or services they have purchased in connection with a loan.

(e) A lender shall not require consumers to authorize automatic payment from the consumer's accounts. If a consumer voluntarily elects to use automatic payments in relation to the loan, the lender shall not charge the consumer any amount to cancel automatic payments should the consumer request to do so.

(f) A lender shall not require payment by a consumer by credit card.

(g) A lender shall not attempt to debit a consumer's account if it is notified that there are insufficient funds to pay in the account or if it has reason to believe there are insufficient funds to pay in the account without seeking additional, express approval from the consumer. A lender shall present an ACH debit for payment not more than twice.

(h) The lender's license shall be kept conspicuously posted on the mobile application, website, or other consumer interface of the lender, as well as listed in the terms and

conditions of any loan offered or entered into by the lender.

(i) A consumer shall be permitted to pay off the loan at any time. A lender may not impose, directly or indirectly, any additional fee or finance charge other than interest accrued since the consumer's last payment or the start of the loan if the consumer elects to pay off or refinance the loan before full repayment.

(j) A lender may not accept tips, expedited payment fees, or any other fee identified by the Department by rule from consumers. Additionally, the Department may limit any fee, charge, or payment which may be charged to a consumer by a lender.

(k) A lender shall maintain policies and procedures for underwriting buy-now-pay-later loans and follow the policies and procedures when underwriting loans under this Act.

(l) All requirements set forth in this Section or in any rules adopted by the Department relating to servicing of a loan shall apply to a subsequent purchaser or assignee of a loan, an agent of the lender, or any other person servicing a loan.

Section 27.5. Compliance with federal law. All disclosures required by this Act shall be made in a manner that complies with the federal Truth in Lending Act, amendments thereto, and any regulations issued or which may be issued thereunder.

Section 28. Rate cap. A loan entered into under this Act is subject to the rate cap set forth in Section 15-5-5 of the Predatory Loan Prevention Act.

Section 29. Nullification of loans. Any loan made by a person not licensed or otherwise exempt under this Act is 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 loan.

Section 30. Annual report. The Secretary may require an annual report from all licensees in a form and manner prescribed by the Secretary. The Department may publish reports containing a compilation of aggregate data concerning the buy-now-pay-later loan industry.

Section 31. Surety bond.

(a) An applicant for a license shall post and a licensee must maintain with the Secretary a bond or bonds issued by corporations qualified to do business as surety companies in this State.

(b) The applicant or licensee shall post a bond in a minimum amount of \$50,000. If the Secretary finds at any time that a bond is of insufficient size, is insecure, exhausted, or otherwise doubtful, an additional bond in the amount as determined by the Secretary shall be filed by the licensee

within 30 days after written demand by the Secretary.

(c) The bond must be in a form satisfactory to the Secretary and shall run to the State of Illinois for the benefit of any claimant against the applicant or licensee with respect to any activity regulated by this Act, including unpaid fees, fines, or penalties owed to the Department. A claimant damaged by a breach of the conditions of a bond shall have a right of action upon the bond for damages suffered and may bring suit directly on the bond, or the Secretary may bring suit on behalf of the claimant.

Section 32. Relation to other laws. Nothing in this Act shall be construed to limit the obligation of a licensee to comply with any other applicable laws or rules, including, but not limited to, the Predatory Loan Prevention Act. Any protections, rights, and remedies provided in this Act to a consumer with respect to an agreement with a lender shall be intended to supplement and not be exclusive of any protections, rights, and remedies otherwise available under any other law.

Section 33. Limitation on liability. No provision of this Act imposes any liability on a lender as a result of the actual annual percentage rate charged by a lender differing from the estimated annual percentage rate disclosed in conformity with any regulation, order, or written interpretive opinion of the

Secretary or any opinion of the Attorney General, whether or not the regulation, order, or written interpretive opinion is later amended, rescinded, or repealed or determined by judicial or other authority to be invalid for any reason.

Section 34. Liberal construction and purpose. This Act shall be liberally construed to protect consumers.

Section 35. Compliance. No person shall be required to comply with this Act until January 1, 2028, or a later date established by the Department by rule.

Section 37. Violations.

(a) Nothing in this Act shall be construed to restrict the exercise of powers or the performance of the duties of the Attorney General that the Attorney General is authorized to exercise or perform by law.

(b) A violation of this Act constitutes an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. All remedies, penalties, and authority granted to the Attorney General by the Consumer Fraud and Deceptive Business Practices Act shall be available to the Attorney General for the enforcement of this Act.

Section 38. Other licenses. A person holding (i) a license under the Consumer Installment Loan Act, (ii) a license under

the Collection Agency Act, (iii) a license under the Sales Finance Agency Act, or (iv) a license identified by the Department by rule is not required to be licensed under this Act, but is otherwise required to comply with this Act, including, but not limited to, the payment of fees relating to the activity subject to this Act. The person shall notify the Department that it is conducting activity subject to this Act at the time of the renewal of the person's license.

Section 39. Safe harbor. A person that (i) was providing buy-now-pay-later loans in this State before January 1, 2028 and (ii) submits an application for a license on or before January 1, 2028 shall be deemed a provisional licensee authorized to continue operating under this Act until the Department acts on the application. In addition to any other grounds for denying an application under this Act, the Department may deny such an application if it finds that the applicant's reputation does not warrant the belief that the business will be operated honestly and fairly within the purposes of this Act and that the applicant does not meet the positive net worth requirement. The Department may, by rule, extend the compliance date for any provision of this Act.

Section 40. Relation to other laws. Any loan made under and in compliance with this Act is not required to comply with the Consumer Installment Loan Act or the Payday Loan Reform

Act.

Section 900. The Consumer Fraud and Deceptive Business Practices Act is amended by adding Section 2MMMM as follows:

(815 ILCS 505/2MMMM new)

Sec. 2MMMM. Violations of the Buy-Now-Pay-Later Loan Consumer Protection Act. A person who violates the Buy-Now-Pay-Later Loan Consumer Protection Act commits an unlawful practice within the meaning of this Act.

Section 997. Severability. If any provision of this Act or the application of the provision is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalidated provision or application.

Section 999. Effective date. This Act takes effect upon becoming law.