

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Consumer Installment Loan Act
- 2) Code Citation: 38 Ill. Adm. Code 110
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
110.1	Amendment
110.2	New Section
110.80	Amendment
110.100	Amendment
110.215	Repealed
110.216	Repealed
110.290	Amendment
110.300	Amendment
110.320	Repealed
110.330	Repealed
110.340	Amendment
110.370	Amendment
110.390	Amendment
110.420	Amendment
110.430	Amendment
110.APPENDIX C	New Section
- 4) Statutory Authority: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670]
- 5) Effective Date of Rules: August 1, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 45 Ill. Reg. 6086; May 14, 2021
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No

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- 11) Differences between proposal and final version: Due to the complexity of the issues within the original proposed rulemaking and the impact that the rules have on the lending industry, the Department received several public comments on the rules and held a public hearing during First Notice in order to gather more information and suggestions from those most impacted by the rules. As a result, the Department made several changes to the original proposed rules per the comments and suggestions of those who sent written comments as well as those who presented their comments at the public hearing. In addition to the usual grammatical and stylistic changes, there were several substantive changes made to the original proposed rulemaking.

Section 110.1 was amended to add a definition of “loan” as a loan governed by the Act and that "Loan" does not include a retail installment contract, a motor vehicle retail installment contract, a retail charge agreement, or a revolving line of credit."

Also in Section 110.1, the proposed timeframe of 10 days in the proposed definition of “missed payment” was changed to 90 days.

In Section 110.2, the rulemaking was amended from the proposed rule to remove the font size requirement for certain rate cap disclosures and replace it with a requirement that the disclosure be clear and conspicuous and has also withdrawn the proposed rules requiring disclosures in advertising and at the licensed location.

Amendments to Section 110.240 relating to Hearing Procedures in the proposed version were removed during First Notice and will be revisited in a future rulemaking.

In Section 110.290 (b), for loans other than title-secured loans, the information that licensees are required to enter into the certified database must be entered into the database no later than 90 days after the loan is made. In the proposed version, it was 30 days. In that same Section, additional language was added in case the database became unable to accept information.

In Section 110.300, we removed the maximum principal for a title-secured loan and edited the definition of “title-secured loan” to clarify that the Department interprets “title-secured loan” to apply only to loans where the consumer transfers title to the lender which the consumer has previously held free and clear of lienholders. Also added to the definition of “title-secured loan” in that same Section is the following language, “A licensee may rely on a consumer’s signed representation or certification that the motor vehicle title provided has never been held by the consumer free and clear.”

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In Section 110.340, the proposed language prohibiting a lender from making additional loans to a consumer with an open title-secured loan was removed as was the proposed requirement that title-secured loans be interest-bearing. The Department also replaced the proposed language with new language prohibiting Rule of 78s rebate on precomputed title-secured loans and removed the proposed requirement that a debt management pamphlet to be handed out.

Any changes made to Section 110.360 in the proposed version were removed from the adopted version.

The Department has edited 38 IAC 110.370(a) to remove the \$4,000 maximum principal for a title-secured loan. Section 110.370(b) & (c) in the proposed version, which limited additional loans to title-secured borrowers and limited the refinancing of title-secured loans, has been removed in the adopted version.

In Section 110.390, language was added in the adopted version to require a licensee to give an obligor more notice prior to repossession of a vehicle.

In Section 110.420, language regarding the approved database in the proposed version stated that the approved database had to comply with the following provisions: "Real-time access by the Department and lenders to verify that individual obligors are eligible for a loan pursuant to the requirements of Section 110.370 and in order to provide any other information that the Department deems necessary." and "Provide lenders only with a statement that an obligor is eligible or ineligible for a title-secured loan and a description of the reason for the determination.". Both of those requirements have been deleted in the adopted version. The forms of identification to be entered into the database were also expanded to include "other official identification numbers, as approved by the Patriot Act, issued by a foreign government or government in the United States.". In that same Section, the amount of time that the lender has to enter title-secured loans into the database has been changed from 30 days in the proposed version to 90 days in the adopted version.

In Section 110.430, the adopted version added several more options for gross monthly income verification to include:

"A copy of the prospective obligor's most recent W2 or tax return, along with reasonable evidence that the prospective obligor has access to the same income in the 30 days before the origination date of the loan."

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“Signed and verifiable documentation prepared by the provider of the income, dated no more than 30 days before the origination date of the loan.”

“A commercially reasonable method of income verification not prohibited, in writing, by the Department. A licensee may only use the commercially reasonable method of income verification for purposes of verifying an obligor’s gross monthly income or underwriting the loan requested.”

The adopted version also added language that specifies that a licensee may not use information collected in the process of income verification for any other purpose.

In Appendix C, "Applicant" has been changed to "Borrower" and "Co-Applicant" has been changed to "Co-Borrower".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an Emergency Rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and purpose of rulemaking: The adopted amendments require consumer installment lenders to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. These amendments eliminate small consumer loans and implement rules for reporting all consumer installment loans to the state database. They also include the implementation of a new definition and new rules for title-secured loans, including reporting to the state database. The agency originally proposed these changes in order to implement the requirements of Public Act 101-0658, which was signed into law on March 23, 2021. The rules identifying the information to be reported to the state database allow consumer installment loan act licensees to comply with the general requirements of those Acts and to report information to the state database. There are additional changes that allow for the implementation of the consumer protection goal of the relevant portions of Public Act 101-0658.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor

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Springfield, Illinois 62786

217/785-0810

Fax: 217/557-4451

The full text of the Adopted Amendments begins on the next page:

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TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 110

CONSUMER INSTALLMENT LOAN ACT

SUBPART A: GENERAL PROVISIONS

Section

110.1	Definitions
110.2	Rate Cap Disclosure Notices
110.10	Minimum Requirements for Office Records
110.15	Application for License; Controlling Person
110.20	Loan Register
110.30	Individual Account Records
110.40	File of Original Papers
110.50	Cash Book
110.60	Alphabetical Record of Co-Makers, Obligors or Guarantors
110.65	Permanent File
110.70	Payments
110.80	Simple Interest Loans
110.90	Cancellation and Return of Documents
110.100	Finance Charges – Rebates and Delinquency Charges
110.110	Hypothecation at the Time of the Sale of Obligor's Notes
110.120	Legal Forms
110.130	Judgments
110.140	Sale of Security
110.150	Trouble File
110.160	Lien Charges
110.170	Insurance
110.180	Office and Office Hours
110.190	Advertising
110.200	Other Business
110.210	Examination Remittances
110.215	Document Preparation Fee (Repealed)
110.216	Small Consumer Loans; Charges Permitted (Repealed)
110.220	Credit Practices
110.225	Verification of Amount Owing
110.230	General

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110.235	Relocation
110.236	Name Change
110.240	Hearing Procedures
110.250	Limited Purpose Branch
110.260	Off-Site Records
110.265	Servicing of Accounts by Contract
110.270	Revocation or Suspension of License
110.280	Gross Monthly Income Verification Documentation
110.290	Consumer Reporting Service

SUBPART B: TITLE-SECURED LENDING

Section	
110.300	Definitions
110.310	Applicability of Rule
110.320	Application for License (Repealed)
110.330	Renewal of License (Repealed)
110.340	Loan Terms Simple Interest and Replacement
110.350	Release of Lien
110.360	Availability of Debt Management Services
110.370	Lending Limits and Refinancing
110.380	Second Notice
110.390	Possession of Vehicle
110.400	Loan Proceeds
110.410	Security Interest
110.420	Approved Database
110.430	Gross Monthly Income Verification

SUBPART C: MORTGAGE LENDING

Section	
110.500	Definitions (Repealed)
110.505	Applicability of Rule (Repealed)
110.510	Good Faith Requirements (Repealed)
110.515	Fraudulent or Deceptive Practices (Repealed)
110.520	Prohibited Refinances (Repealed)
110.525	Negative Amortization (Repealed)
110.530	Negative Equity (Repealed)
110.535	Balloon Payments (Repealed)
110.540	Financing of Certain Points and Fees (Repealed)

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- 110.545 Financing of Single Premium Insurance Products (Repealed)
110.550 Lending Without Due Regard to Ability to Repay (Repealed)
110.555 Verification of Ability to Repay (Repealed)
110.560 Payments to Contractors (Repealed)
110.565 Counseling Prior to Perfecting Foreclosure (Repealed)
110.570 Mortgage Awareness Program (Repealed)
110.575 Offer of Mortgage Awareness Program (Repealed)
110.580 Third Party Review (Repealed)
- 110.APPENDIX A Estimated Monthly Income and Expenses Worksheet (Repealed)
110.APPENDIX B Mortgage Ratio Worksheet (Repealed)
[110.APPENDIX C Disclosure of 36% Rate Cap](#)
110.TABLE A Illinois Rule of 78 Fractions for Rebating Charges According to Number of Months Originally Contracted For and Number of Months Prepaid in Full for Contracts of 2 to 120 Months (Repealed)
110.TABLE B Rule of 78 Percentage Rebate Table (Repealed)

AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670].

SOURCE: Filed and effective June 19, 1970; amended at 3 Ill. Reg. 24, p. 16, effective June 15, 1979; emergency amendment at 4 Ill. Reg. 5, p. 372, effective January 16, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 36, p. 138, effective September 22, 1980; amended at 5 Ill. Reg. 1352, effective February 3, 1981; codified at 7 Ill. Reg. 11721; amended at 9 Ill. Reg. 1343, effective January 17, 1985; amended at 11 Ill. Reg. 2749, effective January 28, 1987; emergency amendment at 11 Ill. Reg. 14141, effective August 7, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10456, effective June 7, 1988; amended at 19 Ill. Reg. 44, effective December 22, 1994; amended at 20 Ill. Reg. 5799, effective April 8, 1996; emergency amendment at 22 Ill. Reg. 1485, effective January 2, 1998, for a maximum of 150 days; emergency expired May 31, 1998; amended at 22 Ill. Reg. 13657, effective July 14, 1998; amended at 25 Ill. Reg. 6227, effective May 17, 2001; amended at 25 Ill. Reg. 7456, effective August 1, 2001; expedited correction at 29 Ill. Reg. 5776, effective August 1, 2001; amended at 26 Ill. Reg. 14232, effective October 1, 2002; amended at 30 Ill. Reg. 12558, effective July 7, 2006; amended at 33 Ill. Reg. 4142, effective April 1, 2009; amended at 35 Ill. Reg. 7319, effective April 21, 2011; amended at 41 Ill. Reg. 12380, effective October 6, 2017; amended at 45 Ill. Reg. 4449, effective March 24, 2021; amended at 46 Ill. Reg. 6519, effective August 1, 2022.

SUBPART A: GENERAL PROVISIONS

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Section 110.1 Definitions

"Act" means the Consumer Installment Loan Act [205 ILCS 670].

"Affiliate", for purposes of Section 1 of the Act, means any person or entity that directly or indirectly controls, is controlled by, or shares control with another person or entity. A person or entity has control over another if the person or entity has an ownership interest of 25% or more in the other.

"Annual percentage rate" or "APR" is the cost of the consumer credit expressed as an annual rate, and shall be calculated in accordance with Section 16 of the Act.

"Controlling person" means a person, entity, or ultimate equitable owner that:

owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant;

is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act [205 ILCS 205], that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant in an amount equal to more than 10% of the license applicant's net worth;

controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or

the Director finds influences management of the license applicant.

"Date of the loan" means the date on which the loan agreement is signed or accepted by the lender.

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

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions with the authority delegated by the Secretary.

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

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"Generally accepted accounting procedures" or "GAAP" means those adopted by the American Institute of Certified Public Accountants and Federal Accounting Standards Board.

"Hypothecate" means to pledge a security instrument without transfer of title.

"Insurance Code" means 215 ILCS 5.

"Licensee" means a person, partnership, association, limited liability company, corporation or other legal entity licensed under the Act. Any person or entity who holds himself, herself or itself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings and the Illinois Administrative Procedure Act [5 ILCS 100].

"Loan" means a loan governed by the Act. "Loan" does not include a retail installment contract, a motor vehicle retail installment contract, a retail charge agreement, or a revolving line of credit.

"Missed payment" means any failure to make a payment within 90 days of the due date.

"Obligor" means a consumer who is contractually obligated to make all principal repayments and interest payments on an outstanding loan~~the person to whom the proceeds of a loan are delivered or on whose behalf the proceeds of a loan are expended.~~

"Predatory Loan Prevention Act" means the act codified at 815 ILCS 123.

"Predatory Loan Prevention Act Annual Percentage Rate" or "PLPA APR" is the cost of the consumer credit expressed as an annual rate and shall be calculated in accordance with 32 CFR 232.4(c), the Predatory Loan Prevention Act, and as incorporated in 38 Ill. Adm. Code 215.

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

"Recording fee" is a fee paid to a government agency to record or release a security instrument.

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"Sales Finance Agency Act" means 205 ILCS 660.

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

~~"Small consumer loan" means a loan upon which interest is charged at an annual percentage rate exceeding 36.00% and with an amount financed of \$4,000 or less. Small Consumer Loan does not include a title secured loan as defined by Section 15(a) of the Act or a payday loan as defined by the Payday Loan Reform Act [815 ILCS 122].~~

"Uniform Commercial Code" means 810 ILCS 5.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.2 Rate Cap Disclosure Notices

All loan contracts or agreements must include a separate disclosure signed by the consumer that states: "A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that 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. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR." This disclosure shall be clear and conspicuous and shall be substantially similar to the form in Appendix C. A lender shall provide all disclosures required by this section in English and in the same language as the loan agreement.

(Source: Added at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.80 Simple Interest Loans

- a) No payment shall be accepted on the principal balance unless interest is paid to date or is agreed to by the licensee, except a payment may be credited to principal if the amount of the payment is not sufficient to pay the interest due for one day.
- b) A calendar month is the period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date in

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the following month, to the last day of the following month.

- c) Interest shall be computed on the basis of one month's interest for each calendar month and ~~1/30th~~ ~~1/30~~ of a month's interest for each day in a fraction of a month or, alternatively, ~~1/365th~~ ~~1/365~~ of the agreed annual rate for each day actually elapsed.
- d) When a simple interest loan contract is renewed or refinanced, accrued but uncollected interest may be included in the principal amount of the new loan contract.
- e) Loans must be fully amortizing and repayable in substantially equal and consecutive weekly, biweekly, semimonthly, or monthly installments. Rates may vary according to an index that is independently verifiable and beyond the control of the licensee.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.100 Finance Charges – Rebates and Delinquency Charges

- a) ~~Computation of Finance Charge~~
 - 1) ~~On loans other than Small Consumer Loans on which monthly installment account handling charges are charged, charges may be computed on the original face amount of the loan contract for the full term of the loan contract.~~
 - 2) ~~Monthly installment account handling charges on Small Consumer Loans may be computed on the original amount financed under the loan contract for the full term of the loan contract at the permitted monthly installment account handling charge. Small Consumer Loans upon which monthly installment account handling charges are precomputed in this manner are deemed to be precomputed loans for all purposes unless otherwise specified by the Act.~~
 - 3) ~~The maximum charge so computed (or any lesser amount) may be added to the original principal amount of the loan or may be deducted from the face amount of the contract when the loan is made.~~

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- ab) A standard payment schedule is one under which a loan is repayable in substantially equal and consecutive weekly, biweekly, semimonthly, or monthly installments of principal and charges combined, and the first installment is due one weekly, biweekly, semimonthly, or monthly period from the date of the note, except as provided in subsections (b)(1), (2) and (3).
- 1) The loan contract shall be drawn to reflect a standard payment schedule with payments to be made on a weekly, biweekly, semimonthly, or monthly basis, except that the first installment period may exceed one weekly, biweekly, semimonthly, or monthly period by as much as the following:
 - A) For weekly payments, by 4 days;
 - B) For biweekly and semimonthly payments, by 7 days; or
 - C) For monthly payments, by 15 days.
 - 2) If a charge is made for extra days in the first installment period it may be added to the first installment payment. The interest for such period may be increased by $\frac{1}{30}$ of the agreed monthly rate for each extra day. A charge for extra days in the first installment period does not change the amount of rebate required for prepayment in full on or after the first installment date.
 - 3) If the first installment period is less than one month the loan charge shall be reduced by $\frac{1}{30}$ of the agreed monthly rate for each day that the first installment period is less than one month, and the amount of the first installment shall be reduced by the same amount. This~~Such~~ adjustment in the first installment period does not change the amount of rebate required for prepayment in full on or after the first installment date.
- be) The obligor shall have the right to prepay a loan in full on any installment due date. When prepayment in full occurs on a date other than a scheduled installment due date, the rebate may be computed as of the next following scheduled installment due date.
- cd) When the contract is renewed or refinanced before maturity, or judgment is obtained before maturity, the same rebate is required as for prepayment in full.

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- de) Any required rebate of finance charge for a precomputed loan may be calculated using the actuarial method, defined by the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226) or any other method permitted by the Act. The required rebate is a fraction (or percentage) of the precomputed interest charge. The fraction differs for each number of months that the contract is prepaid in full.~~Rebate of Finance Charge~~
- 1) ~~The Rule of 78 shall be the method of rebating precomputed contracts other than Small Consumer Loans. The rebate shall be that proportion of the original charge for the loan that the sum of the monthly balances scheduled to follow the prepayment in full bears to the sum of all the monthly balances, both sums to be determined according to the originally contracted payment schedule. The required rebate is a fraction (or percentage) of the precomputed interest charge. The fraction differs for each number of months that the contract is prepaid in full.~~
- 2) ~~The unearned interest or unearned portion of the monthly installment account handling charge that is refunded shall be calculated based on a method that is at least as favorable to the consumer as the actuarial method, defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226 (2011); this incorporation by reference includes no subsequent dates or editions). The Department will post on its website a method of rebate calculation that conforms with Appendix J. Licensees may submit to the Department requests for approval of additional methods of rebate calculation that conform to Appendix J. All methods approved by the Department will be posted on the Department's website. The Department shall make its best efforts to respond to all licensee requests for use of a method. The use of any posted method will constitute compliance with the requirements of this subsection (e)(2). The sum of the digits method and Rule of 78 method of calculating prepaid interest refunds are prohibited.~~
- ef) When a precomputed interest loan contract is renewed or refinanced, accrued but uncollected interest may be included in the principal amount of the new loan contract.
- fg) Delinquency or Default Charges

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- 1) All delinquency or default charges (~~Default Charges~~) shall comply with the requirements and provisions of the applicable statute under which the contract was made.
 - 2) Delinquency or default charges may be assessed and collected and added to the balance of the note, but interest shall not be collected on ~~that said~~ charge.
 - 3) Earned, but uncollected, delinquency or default charges shall be recorded on the account record on the date the delinquent payment is received, if the licensee intends to collect the charges at a later date.
- ~~gh~~) If two or more installments are delinquent on any installment date the contract balance may be reduced as of that date by the rebate that would be required for prepayment in full on that date. Thereafter, the agreed contractual rate may be charged on the actual unpaid balances of the loan contract until the contract is fully paid ~~or, in the case of Small Consumer Loans, interest at the rate of 18% per annum may be charged in the unpaid balance until fully paid.~~ Interest ~~so~~ received shall be in lieu of the rebated charges and any delinquency or default charge that would otherwise accrue after the date of which the rebate was made.
- ~~hi~~) When a contract is prepaid in full, a statement or receipt shall be given to the obligor, showing the date of prepayment, the amount of the rebate, if any, and the amount paid to discharge the loan.
- ~~ij~~) Fifteen days after the expiration date of the loan contract, interest may be charged at the contractually agreed rate, not to exceed the rate permitted in Section 15 of the Act ~~or, in the case of precomputed Small Consumer Loans, interest at the rate of 18% per annum,~~ on any balance remaining unpaid. At the time of final payment the licensee shall notify the obligor of the balance unpaid.
- ~~jk~~) Deferment
- 1) The maximum amount that may be charged for a one month's deferment is equal to the difference between the rebate that would be required for prepayment in full as of the scheduled due date of the deferred installment and the rebate that would be required for prepayment in full as of one month prior to the due date.

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- 2) On a precomputed loan the rebate for prepayment in full after deferment interest has been charged shall be larger than the rebate that otherwise would be required.
- 3) If a rebate is required one month or more before the deferred due date of the first deferred installment, the licensee, at its option, may make a separate rebate of deferment interest for each unexpired month of the deferment period and then rebate the standard precomputed finance charge for the number of months to the original final installment date, plus one month for each month that deferment is retained.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.215 Document Preparation Fee (Repealed)

~~Except for Small Consumer Loans, a licensee may assess the obligor a document preparation fee not to exceed \$25. This fee may be assessed for consummated loans only and shall be itemized and disclosed in the loan contract as prescribed under the federal Truth in Lending Act. In the event of prepayment in full, no portion of this fee is required to be refunded.~~

(Source: Repealed at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.216 Small Consumer Loans; Charges Permitted (Repealed)

~~A licensee may charge fees for Small Consumer Loans as permitted by Section 17.2 of the Act and as otherwise permitted in the Act.~~

(Source: Repealed at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.290 Consumer Reporting Service

- a) For the purposes of this Section, "certified database" means the consumer reporting service database established pursuant to the Payday Loan Reform Act [815 ILCS 122].
- b) For any loan other than a title-secured loan the licensee shall enter the following information into the certified database within 90 days after the loan is made:

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- 1) Obligor's Social Security Number, Alien Identification Number, or other official identification number, as approved by the USA Patriot Act rules and regulations (see 31 CFR 103.121(b)(2)(i)(4)(ii)), issued by a foreign government or government in the United States;
 - 2) Principal amount of the loan;
 - 3) Total of payments;
 - 4) Whether the loan is precomputed or interest-bearing;
 - 5) Maturity date of the loan;
 - 6) Date of the loan;
 - 7) Number and amount of scheduled payments;
 - 8) Zip code of obligor and any co-maker;
 - 9) Security taken;
 - 10) APR;
 - 11) PLPA APR;
 - 12) Whether the loan pays off any prior loan; and
 - 13) Any additional information the Director may require. ~~Within 90 days after making a Small Consumer Loan, a licensee shall enter information about the loan into the certified database.~~
- c) The lender shall update the certified database within 90 days if any of the following events occur:
- 1) Missed payment;
 - 2) Late payment fee charged;

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- 3) Licensee accelerates the loan or otherwise deems the loan immediately due in full;
- 4) Paying the loan in full;
- 5) Closing of the loan;
- 6) Writing off the loan;
- 7) Involuntary repossession of any security;
- 8) Voluntary surrender of any security;
- 9) Sale of any security;
- 10) Return of any security to consumer; or
- 11) Any other event as the Director may require. ~~For every Small Consumer Loan made, the licensee shall input the following information into the certified database within 90 days after the loan is made:~~
 - ~~1) the consumer's name and official identification number (for purposes of this Act, "official identification number" includes a Social Security Number, an Individual Taxpayer Identification Number, a Federal Employer Identification Number, an Alien Registration Number, or an identification number imprinted on a passport or consular identification document issued by a foreign government);~~
 - ~~2) the consumer's gross monthly income;~~
 - ~~3) the date of the loan;~~
 - ~~4) the amount financed;~~
 - ~~5) the term of the loan;~~
 - ~~6) the acquisition charge;~~
 - ~~7) the monthly installment account handling charge;~~

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- ~~8) the fee permitted under Section 17.2(c) of the Act;~~
- ~~9)the number and amount of payments; and~~
- ~~10) whether the loan is a first or subsequent refinancing of a prior Small Consumer Loan.~~
- d) ~~Once a small consumer loan is entered into the certified database, the certified database shall provide to the licensee a dated, time-stamped statement acknowledging the certified database's receipt of the information and assigning each loan a unique loan number.~~
- e) ~~The licensee shall update the certified database within 90 days if any of the following events occur with respect to a small consumer loan:~~
 - ~~1) the loan is paid in full by cash. For purposes of this subsection (e)(1), "cash" includes currency, personal checks, money orders, third party checks and any other medium of exchange representing immediately available funds;~~
 - ~~2) the loan is refinanced;~~
 - ~~3) the loan is renewed;~~
 - ~~4) the loan is satisfied in full or in part by collateral being sold after default;~~
 - ~~5) the loan is cancelled or rescinded; or~~
 - ~~6) the consumer's obligation on the loan is otherwise discharged by the licensee.~~
- f) ~~To the extent a licensee sells a product or service to a consumer, in addition to a Small Consumer Loan, and finances any portion of the cost of the product or service, the licensee shall, in addition to and at the same time as the information inputted under subsection (d), enter into the certified database:~~
 - ~~1) a description of the product or service sold;~~

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- 2) ~~the charge for the product or service; and~~
- 3) ~~the portion of the charge for the product or service, if any, that is included in the amount financed by a Small Consumer Loan.~~
- d~~g~~) The certified database provider shall indemnify the licensee against all claims and actions arising from illegal or willful or wanton acts on the part of the certified database provider. The certified database provider may charge a fee not to exceed \$1 for each loan entered into the certified database under subsection (b~~e~~). The database provider shall not charge any additional fees or charges to the licensee.
- e~~h~~) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential and shall be exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act [5 ILCS 140].
- f~~i~~) A licensee who submits information to a certified database provider in accordance with this Section shall not be liable to any person for any subsequent release or disclosure of that information by the certified database provider, the Department, or any other person acquiring possession of the information, regardless of whether the subsequent release or disclosure was lawful, authorized or intentional.
- g~~j~~) To the extent the certified database becomes unavailable to a licensee as a result of some event or events outside the control of the licensee including but not limited to unavailability due to the certified database being unable to accept information from the licensee or the certified database is decertified, the requirements of this Section and Section 17.5 of the Act shall not be enforceable by the Department ~~17.4 of the Act are suspended~~ until such time as the certified database becomes available.
- k~~l~~) ~~Beginning June 1, 2011, licensees must comply with the requirements of subsections (b) through (f) of this Section.~~

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

SUBPART B: TITLE-SECURED LENDING

Section 110.300 Definitions

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~~"Interest bearing loan" shall mean a loan in which interest is charged upon the principal amount borrowed.~~

~~"Refinance" shall mean to renew or extend a loan beyond its original term.~~

"Motor vehicle" shall mean a motor vehicle as defined in the Illinois Vehicle Code [625 ILCS 5/1-146].

"Title-secured lender" shall mean any lender engaged in making any title-secured~~title-secured~~ loans.

"Title-secured loan" shall mean a loan made pursuant to the Act and in which~~upon which interest is charged at an annual percentage rate exceeding 36 percent in which~~, at commencement, an obligor provides to the licensee, as security for the loan, physical possession of the obligor's title to a motor vehicle. "Title-secured loan" means only a loan secured by a motor vehicle title which a consumer has possessed (physically or the electronic equivalent) at any time prior to the making of the loan, free and clear of any lienholder. "Title-secured loan" does not include:

Any loan or credit transaction that is expressly intended to finance the purchase of motor vehicle or other item.

Any loan or credit transaction that is expressly intended to re-finance a transaction which financed the purchase of a motor vehicle or other item.

"Title-secured loan" includes loan or credit transactions that include motor vehicle title as a security and is intended to refinance a prior title-secured loan. A licensee may rely on a consumer's signed representation or certification that the motor vehicle title provided has never been held by the consumer free and clear.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.320 Application for License (Repealed)

~~In addition to the licensing requirements of Section 110.15 of this Part, a title-secured lender making application for license shall provide, as part of the application submitted to the Division, a statement certifying compliance with any and all applicable local ordinances pertaining to the~~

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~~applicant's proposed business.~~

(Source: Repealed at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.330 Renewal of License (Repealed)

~~At the time of renewal of a license, and in addition to paying the fees and complying with the other requirements of the Act, a title secured lender must submit a statement certifying compliance with any and all applicable local ordinances pertaining to the licensed business.~~

(Source: Repealed at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.340 Loan Terms~~Simple Interest and Repayment~~

- a) Beginning August 1, 2023, any required rebate of finance charge for a precomputed title-secured loan may be calculated using the actuarial method, defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 C.F.R. 226). The required rebate shall not be calculated using the Rule of 78s.~~A title secured lender must compute interest on all title-secured loans as simple interest, as defined in Section 110.80(e) of this Part.~~
- b) Title-secured loans must be fully amortized and repayable in substantially equal installments.
- c) Notwithstanding Section 110.400, a lender may issue the proceeds of a title-secured loans in the form of a check drawn on the licensee's bank account, in cash, be electric fund transfer, or be money order.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.370 Lending Limits and Refinancing

- a) ~~No title-secured~~~~A title-secured loan may not exceed \$4,000 in principal amount. However, no~~ loan shall be made in ansuch amount that the scheduled principal and interest payment for any one monthly payment on the loan exceeds 22.5%~~50%~~ of the obligor's gross monthly income, ~~except to the extent that loan prepayment is allowed by Section 16(j) of the Act.~~

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- b) ~~Title Secured Loan Refinancing~~
- 1) ~~A title secured loan may be refinanced, but only when the original principal of the loan has been reduced by at least 20%.~~
- 2) ~~The principal amount of the new title secured loan may not exceed the total outstanding balance of the refinanced loan.~~
- e) ~~No loan, other than the refinancing of an existing title secured loan, may be made to an obligor who has had an outstanding title secured loan within the preceding 15 days. No loan, other than the refinancing of an existing title secured loan, may be made within 15 days after the occurrence of any event listed in Section 110.420(h)(4)(A) through (D) or within 15 days after the maturity date of a title secured loan.~~
- d) ~~The loan agreement must include a separate statement signed by the obligor attesting that the obligor has not had an outstanding title secured loan within the preceding 15 days. This subsection shall not apply if the Director has approved a database pursuant to subsection (g).~~
- be) The loan agreement shall advise the obligor that matters involving improprieties in the making of the loan or in loan collection practices may be referred to the Division and shall prominently disclose the Division's address and telephone number.
- f) ~~Each title secured loan refinancing agreement executed by a licensee shall include a statement, which shall be initialed by the obligor, as follows: "I have received from (name of lender) a toll free number from the Department of Financial and Professional Regulation Division of Financial Institutions that I can call for information regarding debt management service."~~
- g) ~~Before entering into a loan agreement or refinancing agreement with an obligor, the lender shall use a database approved by the Director to verify that the proposed loan agreement or refinancing agreement is permissible under this Section.~~

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.390 Possession of Vehicle

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- a) Unless otherwise provided for in the loan agreement, a lender shall not take or retain possession of the keys (or a copy of the keys) to a motor vehicle used to secure a title-secured loan.
- b) No title-secured lender may take possession of a vehicle without first giving a minimum of 72 hours notice to the obligor, unless expressly prohibited by other law; affording the obligor the opportunity to make the vehicle available to the lender at a place, date and time reasonably convenient to the lender and obligor; and permitting the obligor to remove any personal belongings from the vehicle without charge or additional cost to the obligor. Notice may be provided to an obligor in any form agreed to by an obligor for general loan communications, so long as the licensee reasonably believes the notice will provide the obligor adequate opportunity to act upon their rights under this subsection (b).
- c) Possession measures shall be in accordance with Section 19.1 of the Consumer Installment Loan Act.
- d) No title-secured lender may take possession of a motor vehicle for a loan default or delinquency and lease the vehicle back to the obligor.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.420 Approved Database

- a) ~~The~~By October 1, 2009, the Division shall approve a database as a method of verification of the requirements of Section 110.370 of this Part. Upon approving a database, the Department shall:
 - 1) provide reasonable notice to all lenders identifying the approved database provider; and
 - 2) immediately upon approval, require each lender to use the database as a means of complying with Section 110.370 of this Part.
- b) Except as otherwise provided in this Section, all personally identifiable information regarding any prospective obligor or obligor obtained by way of the approved database and maintained by the Department is strictly confidential and

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shall be exempt from disclosure under Section ~~7(1)(c)~~~~7(1)(b)(i)~~ of the Freedom of Information Act [5 ILCS 140/~~7(1)(b)(i)~~].

- ~~e)~~ ~~Notwithstanding any other provision of law to the contrary, an obligor seeking a title-secured loan may make a direct inquiry to the database to request a more detailed explanation of the basis for the database provider's determination that the obligor is ineligible for a title-secured loan.~~
- ~~c~~d) In approving a database provider, the Department shall ensure that the approved database complies with the following provisions:
- 1) Single, centralized consumer reporting service to track title-secured loan transactions made by lenders on a real time basis through an internet connection or, if real-time access through an internet connection becomes unavailable to lenders due to the database provider's technical problems, through alternative verification mechanisms, including, but not limited to, verification by telephone;
 - ~~2)~~ ~~Real time access by the Department and lenders to verify that individual obligors are eligible for a loan pursuant to the requirements of Section 110.370 and in order to provide any other information that the Department deems necessary;~~
 - ~~2~~3) Customer support to lenders and obligors during regular business hours;
 - ~~3~~4) Develop and provide training to Department staff and lenders prior to implementation and on an ongoing basis;
 - ~~4~~5) Provide a charge-back methodology to lenders not to exceed \$1 for each search to determine eligibility of the prospective obligor for a loan under Section 110.370;
 - ~~5~~6) Require lenders to input whatever information is required by the Department;
 - ~~6~~7) Maintain a real-time copy of the required reporting information that is available to the Department at all times and is the property of the Department; and

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- ~~8)~~ ~~Provide lenders only with a statement that an obligor is eligible or ineligible for a title secured loan and a description of the reason for the determination; and~~
- ~~79)~~ Implement safeguards to ensure that all information contained in the database regarding prospective obligors and obligors is kept strictly confidential.
- ~~d~~e) A lender may rely on the information contained in the approved database as accurate and is not subject to any administrative penalty or liability as a result of relying on inaccurate information contained in the database.
- ~~d~~f) The approved database provider shall indemnify the lender against all claims and actions arising from illegal or willful or wanton acts on the part of the approved database provider.
- ~~f~~g) Database Provider Qualifications
- 1) The database provider shall have at all times a net worth of not less than \$1,000,000 calculated in accordance with generally accepted accounting principles (Wiley GAAP, published by John Wiley and Sons, 605 Third Avenue, New York NY 10158-0012, 2008, no later editions or amendments included).
 - 2) Each application for approval under this Section shall be accompanied by a nonrefundable investigation fee of \$2,500, together with an initial database approval fee of \$1,000.
 - 3) On or before March ~~1st~~ of each year, the approved database provider shall pay to the Department an approval fee in the amount of \$1,000.
 - 4) The database provider shall have a surety bond of at least \$5,000,000. The surety bond shall be in a form satisfactory to the Department and shall run to the State of Illinois for the benefits of any claimants against the database provider to secure the faithful performance of its obligations under the Act and this Part. The aggregate liability of the surety may exceed the principal sum of the bond. Claimants against the database provider may themselves bring suit directly on the surety bond or the

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Department may bring suit on behalf of claimants, either in one action or successive actions.

g~~h~~) Lender Input into Database

1) ~~The lender shall input the following information into the approved database to determine whether the obligor is eligible for a title-secured loan pursuant to Section 110.370:~~

A) ~~Obligor's Social Security Number or Alien Identification Number;~~

B) ~~Obligor's gross monthly income;~~

C) ~~The principal amount of the loan;~~

D) ~~The term of the loan; and~~

E) ~~Any additional information required by the database provider.~~

2) ~~The lender shall input the following information into the approved database to determine whether the obligor is eligible to refinance a title-secured loan pursuant to Section 110.370:~~

A) ~~Obligor's Social Security Number or Alien Identification Number;~~

B) ~~Obligor's gross monthly income;~~

C) ~~The principal amount of the loan;~~

D) ~~The term of the loan; and~~

E) ~~Any additional information required by the database provider.~~

13) Within 90 days after~~On the same day~~ a title-secured loan is made, the lender shall enter into~~update~~ the approved database ~~with~~ the following information:

A) Obligor's Social Security Number, or Alien Identification Number or other official identification number, as approved by the USA

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Patriot Act rules and regulations (see 31 CFR 103.121(b)(2)(i)(4)(ii)), issued by a foreign government or government in the United States;

- B) Principal~~The principal~~ amount of the loan;
 - C) Total of payments~~The total amount of the loan;~~
 - D) Term~~The term~~ of the loan and the maturity date of the loan; ~~and~~
 - E) Date the loan was executed;
 - F) Scheduled number and amount of payments;
 - G) Zip code of obligor and any co-maker;
 - H) Any security taken;
 - I) APR;
 - J) PLPA APR;
 - K) Vehicle identification number of security;
 - L) Whether the loan pays off any prior loan;
 - M) Whether the loan is interest-bearing or precomputed; and
 - ~~N~~E) Any additional information the Director may require~~required by the database provider.~~
- 24) The lender shall update the approved database within 90 days if~~with the information required by the database provider on the same day that~~ any of the following events occur:
- A) Paying the loan in full;
 - B) Return of any security;

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- C) Closing the loan ~~due to the collateral being sold after default;~~
 - D) Writing off the loan; ~~or~~
 - E) Missed payment;
 - F) Late payment fee charged;
 - G) Voluntary surrender of any security;
 - H) Involuntary repossession of any security;
 - I) Sale of any security;
 - J) Licensee accelerates the loan or otherwise deems the loan immediately due in full; or
 - ~~K~~E) Any other transaction the Director may require ~~as required by the database provider.~~
- h) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential and shall be exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.430 Gross Monthly Income Verification

- a) Prior to making a title-secured loan, the lender must obtain from the obligor one or more of the following types of documentation to verify the gross monthly income of the obligor as required by Section 110.370(a).
 - 1a) A copy of the prospective obligor's most recent official pay stub or official payroll receipt;
 - 2) A copy of the prospective obligor's most recent W2 or tax return, along with reasonable evidence that the prospective obligor has access to the same income in the 30 days before the origination date of the loan;

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- 3) Signed and verifiable documentation prepared by the provider of the income, dated no more than 30 days before the origination date of the loan;
- 4) A contract that provides for funds to have been paid to the prospective obligor within the 30 days prior to the origination date of the loan, and documentation reflecting that the funds have actually been paid;
- 5b) A copy of the prospective obligor's most recent official receipt documenting payment of government or pension benefits to the obligor for the benefit of the obligor; or
- 6e) A commercially reasonable method of income verification not prohibited, in writing, by the Department. A licensee may only use the commercially reasonable method of income verification for purposes of verifying an obligor's gross monthly income or underwriting the loan requested~~Other documentation as approved by the Director.~~
- b) A licensee may not use information collected in the process of income verification for any other purpose, including, but not limited to, marketing.

(Source: Amended at 46 Ill. Reg. 6519, effective August 1, 2022)

Section 110.APPENDIX C Disclosure of 36% Rate CapDISCLOSURE OF 36% RATE CAP

A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any loan with a PLPA APR over 36% is null and void, such that 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.

The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR.

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Borrower Signature

Co-Borrower Signature (If Applicable)

(Source: Added at 46 Ill. Reg. 6519, effective August 1, 2022)

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- 1) Heading of the Part: Payday Loan Reform Act
- 2) Code Citation: 38 Ill. Adm. Code 210
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
210.1	Amendment
210.2	New Section
210.16	Amendment
210.70	Amendment
210.72	Amendment
210.75	Repealed
210.250	Amendment
210.260	Amendment
210.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122]
- 5) Effective Date of Rule: August 1, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 45 Ill. Reg. 6117; May 14, 2021
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 210.2, the rulemaking was amended from the proposed rule to remove the font size requirement for certain rate cap disclosures and replace it with a requirement that the disclosure be clear and conspicuous and has also withdrawn the proposed rules requiring disclosures in advertising and at the licensed location. Amendments to Section 210.200 relating to Hearing Procedures in the proposed version were removed during First Notice and will be revisited in a future rulemaking. In Section 210.260, in regard to the certified database, the forms of identification to be entered into the database were also expanded in the adopted version to

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include "other official identification numbers, as approved by the Patriot Act, issued by a foreign government or government in the United States.". Also, in Appendix A, "Applicant" has been changed to "Borrower" and "Co-Applicant" has been changed to "Co-Borrower".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an Emergency Rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and purpose of rulemaking: The adopted amendments require payday lenders to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. These amendments also incorporate the 36% rate cap, eliminate installment payday loans, and amend the rules for the reporting of payday loans to the state database. The agency originally proposed these changes in order to implement the requirements of Public Act 101-0658, which was signed into law on March 23, 2021. The rules identifying the information to be reported to the state database allow payday loan reform act licensees to comply with the general requirements of those Acts and to report information to the state database. The rules also implement the consumer protection goal of the relevant portions of Public Act 101-0658.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, Illinois 62786

217/785-0810
Fax: 217/557-4451

The full text of the Adopted Amendments begins on the next page:

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TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 210

PAYDAY LOAN REFORM ACT

Section

210.1	Definitions
210.2	Rate Cap Disclosure Notices
210.10	Minimum Requirements for Office Records
210.15	Application for Payday Lender License; Controlling Person
210.16	Dual Licensure Limitation
210.20	Loan Register
210.30	Individual Account Records
210.40	File of Original Papers
210.50	Cash Book
210.60	Alphabetical Record of Co-Makers, Consumers or Guarantors
210.65	Permanent File
210.70	Payments and Refunds
210.72	Loan Terms
210.75	Installment Payday Loans (Repealed)
210.80	Cancellation and Return of Documents
210.90	Hypothecation at the Time of the Sale of Consumer's Loan Agreement
210.100	Legal Forms
210.110	Judgments
210.120	Trouble File
210.130	Office and Office Hours
210.140	Advertising
210.150	Other Business
210.160	Examination Remittances
210.170	General
210.180	Relocation
210.190	Name Change
210.200	Hearing Procedures
210.210	Off-Site Records
210.220	Servicing of Accounts by Contract
210.230	Revocation or Suspension of License
210.240	Consumer Written Verification of Compliance with Act
210.250	Gross Monthly Income Verification

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- 210.260 Certified Database/Commercially Reasonable Method of Verification
210.270 Violation of Federal Law – Section 670 of the John Warner National Defense Authorization Act

210.APPENDIX A Disclosure of 36% Rate Cap

AUTHORITY: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122].

SOURCE: Adopted at 29 Ill. Reg. 21008, effective December 16, 2005; amended at 35 Ill. Reg. 7343, effective April 21, 2011; amended at 37 Ill. Reg. 216, effective February 19, 2013; amended at 41 Ill. Reg. 12400, effective October 6, 2017; amended at 45 Ill. Reg. 4467, effective March 24, 2021; amended at 46 Ill. Reg. 6550, effective August 1, 2022.

Section 210.1 Definitions

"Act" means the Payday Loan Reform Act [815 ILCS 122].

"Affiliate" means any person or entity that directly or indirectly controls, is controlled by, or shares control with another person or entity. A person or entity has control over another if the person or entity has an ownership interest of 25% or more in the other.

"Allotment" means a portion of military pay that is regularly deducted or set-aside.

"Annual percentage rate" or "APR" is the cost of the consumer credit expressed as an annual rate which is disclosed to the consumer under applicable law.

"Calendar month" means that period from a given date in one month to the same numbered date the following month, and if there is no same numbered date, to the last day of the following month. When a period of time includes a month and a fraction of a month, the fraction of the month is considered to follow the whole month.

"Controlling Person" means a person, entity, or ultimate equitable owner that:

owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant;

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is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act [205 ILCS 205], that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant, in an amount equal to or more than 10% of the license applicant's net worth;

controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or

the Director finds influences management of the license applicant.

"Covered Dependent" with respect to a covered member, means the covered member's spouse; the covered member's child (as defined in 38 USC 101(4)); or an individual for whom the covered member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered.

"Covered Military Member" or "Covered Member" means a member of the armed forces who is on active duty under a call or order that does not specify a period of 30 days or less or is on active Guard and Reserve Duty.

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

"Director" means the Director of the Division of Financial Institutions with the authority delegated by the Secretary.

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

"Generally Accepted Accounting Principles" or "GAAP" means those adopted by the American Institute of Certified Public Accountants and Federal Accounting Standards Board and incorporated by reference in Section 210.15.

"Gross Monthly Income" means monthly income as demonstrated by official documentation of the income, including, but not limited to, a consumer's pay stub or receipt reflecting payment of government benefits, for the period 30 days prior to the date on which the loan was made.

"Hypothecate" means to pledge a security instrument without transfer of title.

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~~"Installment Payday Loan" means a payday loan with a term agreed to by the parties of not less than 112 days and not exceeding 180 days and that is repayable in substantially equal and consecutive installments pursuant to Section 2-5(e) of the Act.~~

"John Warner Act" or "Warner Act" means 10 USC 987.

"Lender and Licensee" means a lender and licensee as defined in Section 1-10 of the Act.

"Loan Receivables" means the outstanding balances due on the loans of the licensee.

"Other Business Authorization" means the authorization in writing required by Section 3-5(g) of the Act to conduct another business in a location licensed under the Act that would not be contrary to the best interest of consumers.

"Missed payment" means any failure to make a payment within ten days of the due date.

"Payday Lender License" means a license issued pursuant to the Act.

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

"Predatory Loan Prevention Act Annual Percentage Rate" or "PLPA APR" is the cost of the consumer credit expressed as an annual rate and shall be calculated in accordance with 32 CFR 232.4(c), the Predatory Loan Prevention Act [815 ILCS 123], and as incorporated in 38 Ill. Adm. Code 215.

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

(Source: Amended at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.2 Rate Cap Disclosure Notices

All loan contracts or agreements must include a separate disclosure signed by the consumer that states: "A lender shall not contract for or receive charges exceeding a 36% annual percentage

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rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that 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. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR." This disclosure shall be clear and conspicuous and shall be substantially similar to the form in Appendix A. A lender shall provide all disclosures required by this section in English and in the same language as the loan agreement.

(Source: Added at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.16 Dual Licensure Limitation

In accordance with Section 3-5(g) of the Act, a licensee may obtain a license under the Consumer Installment Loan Act (CILA) for the exclusive purpose and use of making title secured loans, as defined in Section 15(a) of CILA and governed by 38 Ill. Adm. Code 110.300. ~~A licensee may continue to service CILA loans that were outstanding as of the effective date of the amendatory Act of 2010 (March 21, 2011) until the loans are repaid in full.~~

(Source: Amended at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.70 Payments and Refunds

- a) All payments shall be credited on the account record as of the date received.
- b) When a payment is made in cash, the licensee shall give a receipt to the consumer. A receipt is not required for payment by check or money order unless requested by the consumer.
- c) When any loan contract is paid in full, the licensee shall refund any unearned finance charge. ~~Refunds of unearned finance charges for installment payday loans shall be paid to the consumer in cash, check or an Automated Clearing House (ACH) debit.~~ The unearned finance charge that is refunded shall be calculated based on a method that is at least as favorable to the consumer as the actuarial method, as defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226 (2011)); this incorporation by reference includes no subsequent dates or editions). The Department will post to its website a method of rebate calculation that conforms with Appendix J. Licensees may submit to the Department requests for approval of additional

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methods of rebate calculation that conform to Appendix J. All methods approved by the Department will be posted on the Department's website. The Department shall make its best efforts to respond to all licensee requests for use of a method. The use of any posted method will constitute compliance with the requirements of this subsection (c). The sum of the digits or rule of 78 method of calculating prepaid interest refunds is prohibited.

(Source: Amended at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.72 Loan Terms

- a) No lender may make a payday loan to a consumer if the total of all payday loan payments coming due within the first calendar month of the loan, when combined with the payment amount of all of the consumer's other outstanding payday loans coming due within the same month, exceeds the lesser of:
- 1) \$1,000; or
 - 2) in the case of one or more payday loans, 25% of the consumer's gross monthly income; ~~or~~
 - 3) ~~in the case of one or more installment payday loans, 22.5% of the consumer's gross monthly income; or~~
 - 4) ~~in the case of a payday loan and an installment payday loan, 22.5% of the consumer's gross monthly income.~~
- b) A lender shall not contract for or receive charges exceeding a 36% PLPA APR on the unpaid balance of the amount financed for a payday loan. Any loan with a PLPA APR over 36% is null and void, such that 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. ~~No lender may charge more than \$15.50 per \$100 loaned on any payday loan, or more than \$15.50 per \$100 on the initial principal balance and on the principal balances scheduled to be outstanding during any installment period on any installment payday loan. Except for installment payday loans and except as provided in Section 2-25 of the Act, this charge is considered fully earned as of the date on which the loan is made.~~

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- c) A lender may not take or attempt to take an interest in any of the consumer's personal property to secure a payday loan.
- d) A consumer has the right to redeem a check or any other item described in the definition of payday loan under Section 1-10 of the Act issued in connection with a payday loan from the lender holding the check or other item at any time before the payday loan becomes payable by paying the full amount of the check or other item, except that, if the item is a check or an ACH debit that could not be cancelled before it was negotiated, the consumer shall be entitled to a full refund of the amount obtained by the check or ACH debit within 5 business days after the date of redemption.

(Source: Amended at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.75 Installment Payday Loans (Repealed)

- a) ~~Notwithstanding anything in the Act to the contrary, a payday loan shall also include any installment loan otherwise meeting the definition of payday loan contained in Section 1-10 of the Act, but that has a term agreed to by the parties of not less than 112 days and not exceeding 180 days (referred to in this Section as an "installment payday loan"). The following provisions shall apply:~~
 - 1) ~~Any installment payday loan must be fully amortizing, with a finance charge calculated on the principal balances scheduled to be outstanding and be repayable in substantially equal and consecutive installments, according to a payment schedule agreed to by the parties, with not less than 13 days and not more than one month between payments; except that, the first installment period may be longer than the remaining installment periods by not more than 15 days, and the first installment payment may be larger than the remaining installment payments by the amount of finance charges applicable to the extra days.~~
 - 2) ~~An installment payday loan may be refinanced by a new installment payday loan one time during the term of the initial loan; provided that the total duration of indebtedness on the initial installment payday loan, combined with the total term of indebtedness of the new loan refinancing that initial loan, shall not exceed 180 days. For purposes of the Act, a refinancing occurs when an existing installment payday loan is paid from the proceeds of a new installment payday loan.~~

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- 3) ~~In the event an installment payday loan is paid in full prior to the date on which the last scheduled installment payment before maturity is due, other than through a refinancing, no licensee may offer or make a payday loan to the consumer for at least 2 calendar days after the date on which the loan is paid in full.~~
- 4) ~~No installment payday loan may be made to a consumer if the loan would result in the consumer being indebted to one or more payday lenders for a period in excess of 180 consecutive days.~~
- b) ~~No loan shall be made to a consumer who has an outstanding balance on 2 payday loans, except that, for a period of 12 months after the effective date of the amendatory Act of 2010 (effective March 21, 2011), consumers with an existing CILA loan may be issued an installment loan issued under the Act from the company from which their CILA loan was issued. For purposes of this Section, "company" means a person or legal entity.~~
- e) ~~No lender may charge more than \$15.50 per \$100 on the initial principal balance and on the principal balances scheduled to be outstanding during any installment period on any installment payday loans.~~
- d) ~~For purposes of determining the finance charge earned on an installment payday loan, the disclosed annual percentage rate shall be applied to the principal balance outstanding from time to time until the loan is paid in full, or until the maturity date, whichever occurs first. No finance charge may be imposed after the final scheduled maturity date.~~
- e) ~~The provisions of Section 2-40 of the Act concerning repayment plans do not apply to installment payday loans, except for Section 2-40(f).~~
- f) ~~In calculating finance charges under Section 2-5(e)(i) of the Act for an installment payday loan, when the first installment period is longer than the remaining installment periods, the amount of the finance charges applicable to the extra days shall not be greater than \$15.50 per \$100 of the original principal balance divided by the number of days in a regularly scheduled installment period and multiplied by the number of extra days determined by subtracting the number of days in a regularly scheduled installment period from the number of days in the first installment period.~~

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- ~~g) No installment payday loan may be made to a consumer if the loan would result in the consumer being indebted to one or more payday lenders for a period in excess of 180 consecutive days. The term "consecutive day" does not include the date on which a consumer makes the final installment payment.~~

(Source: Repealed at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.250 Gross Monthly Income Verification

- a) Prior to making a loan under the Act, the licensee must obtain from the consumer one or more of the following types of documentation to verify the gross monthly income of the consumer as required by Section 2-5(e) of the Act.
- 1) A copy of the consumer's official pay stub or official payroll receipt, for the period 30 days prior to the date on which the loan is made.
 - 2) A copy of the consumer's official receipt documenting payment of government benefits, for the period 30 days prior to the date on which the loan is made.
 - ~~3) A copy, from the current or prior year, of the consumer's State or federal tax returns or the consumer's W-2 or 1099 forms.~~
 - ~~4) Signed and verifiable documentation prepared by the source of the income.~~
 - 35) A contract that provides for funds to have been paid to the consumer within the 30 days prior to the date on which the loan is made, and documentation reflecting that the funds have actually been paid.
 - ~~46~~) Other documentation as approved by the Director.
- b) If two or more persons jointly apply for credit, each must list income on the application, and the aggregate of all borrowers' income may be taken into account when calculating the maximum gross monthly income under Section 2-5(e) of the Act. The licensee must obtain documentation of gross monthly income pursuant to this Section with respect to all applicants.

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(Source: Amended at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.260 Certified Database/Commercially Reasonable Method of Verification

- a) Certified Database. In order to certify a consumer reporting service as a commercially reasonable database pursuant to the Act, the provider must comply with the following provisions:
- 1) Single, centralized consumer reporting service to track payday loan transactions made by licensees under the Act on a real time basis.
 - 2) Real time access by the Division and licensees to verify that individual consumers are eligible for a loan pursuant to the requirements of the Act.
 - 3) All requirements in Section 2-15 of the Act regarding verification.
 - 4) Customer support to licensees and consumers during regular business hours.
 - 5) Develop and provide training to Division staff and licensees under the Act prior to implementation and on an ongoing basis.
 - 6) Provide a charge-back methodology to licensees not to exceed \$1 for each search to determine eligibility of the consumer for a loan under the Act.
 - 7) All requirements of Section 2-17 of the Act regarding qualifications and bonding.
 - 8) All confidentiality and privacy requirements of the Act and required by law.
- b) The certified consumer reporting service may charge a verification fee not to exceed \$1 upon a loan being made or entered into the database. The certified consumer reporting service shall not charge any additional fees or charges.
- c) Additional Database Providers. As technology advances permit, the Division may certify additional database providers in the future. Any additional database provider must guarantee, to the satisfaction of the Director, that the additional database can interface with any other certified database to provide a single point

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of verification for licensees and the Division to determine consumer eligibility for a loan pursuant to the Act and to provide a single source for reporting purposes.

- d) Licensee Input into Database
- 1) The licensee shall input the following information into the certified database to determine whether the consumer is eligible for a loan pursuant to the requirements of the Act:
 - A) Consumer's Social Security Number or Alien Identification Number or other official identification number, as approved by the USA Patriot Act rules and regulations (see 31 CFR 103.12(b)(2)(i)(4)(ii)), issued by a foreign government or government in the United States;
 - B) Consumer's gross monthly income.
 - C) Any additional information required by the Director ~~database provider~~.
 - 2) On the same day the payday loan is made, the licensee shall update the certified database with the following information:
 - A) Consumer's identification number under subsection (d)(1)(A); ~~Social Security Number or Alien Identification Number.~~
 - B) Principal ~~The principal~~ amount of the loan;:-
 - C) Total of payments; ~~The total amount of the loan.~~
 - D) Term ~~The term~~ of the loan;:-
 - E) Security accepted for the loan;:-
 - F) Zip code of consumer;
 - G) Date of the loan;
 - H) APR;

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- I) PLPA APR;
 - J) Whether the loan is a rollover or a prior loan; and
 - KF) Any additional information required by the Director~~database provider~~.
- 3) On the same day any loan transaction is made, the licensee shall input the information into the certified database~~The licensee shall update the certified database with the information required by the database on the same day the loan transaction is made~~, including, but not limited to, the following transactions:
- A) Electing a repayment plan~~;~~
 - B) Paying the loan in full~~;~~~~including the refinancing of an installment payday loan as permitted under Section 2-5(c) of the Act.~~
 - C) Closing of the loan;~~Making a partial payment.~~
 - D) Depositing ~~a~~the check used as security for the loan~~;~~
 - E) Canceling a loan within 48 hours as allowed by the Act~~;~~
 - F) Recording an NSF return on a previously closed transaction~~;~~
 - G) Return of security~~;~~
 - H) Writing of the loan;
 - I) Any missed payment;
 - J) Any default other than a missed payment; and
 - KH) Any other transaction as required by the Director~~database provider~~.
- e) Beginning June 1, 2011, licensees must comply with the requirements of subsection (d) of this Section.

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- f) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential and shall be exempt from disclosure under Section 7(c) of the Freedom of Information Act.

(Source: Amended at 46 Ill. Reg. 6550, effective August 1, 2022)

Section 210.APPENDIX A Disclosure of 36% Rate Cap

DISCLOSURE OF 36% RATE CAP

A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any loan with a PLPA APR over 36% is null and void, such that 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.

The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR.

Borrower Signature

Co-Borrower Signature (If Applicable)

(Source: Added at 46 Ill. Reg. 6550, effective August 1, 2022)

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- 1) Heading of the Part: Predatory Loan Prevention Act
- 2) Code Citation: 38 Ill. Adm. Code 215
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
215.10	New Section
215.20	New Section
- 4) Statutory Authority: Implementing and authorized by the Predatory Loan Prevention Act [815 ILCS 123]
- 5) Effective Date of Rule: August 1, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 45 Ill. Reg. 6137; May 14, 2021
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: Several definitions in Section 215.10 were expanded for clarification purposes in the adopted version.

The definition of "billing cycle" was better clarified in the adopted version to mean, "the interval between the days or dates of regular periodic statements" and that "Intervals are equal and no longer than a quarter of a year and are considered equal if the number of days in the cycle does not vary more than four days from the regular day or date of the periodic statement."

The definition of "consumer" was clarified to mean, "any natural person, including those persons acting jointly".

The definition of "closed-end credit" was clarified to mean, "credit other than open-end credit."

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The definition of "finance charge" was clarified to mean, "the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the lender as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction."

The definition of "lender" was clarified to mean, "any person or entity, including any affiliate or subsidiary of a lender, 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, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party; or 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 the Act."

The definition of "loan" was clarified to mean, "money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, any finance charges, interest, or other conditions." and "includes closed-end and open-end credit, retail installment sales contracts, motor vehicle retail installment sales contracts, and any transaction conducted via any medium (e.g., paper, facsimile, Internet, telephone)". It does not include a commercial loan.

The definition of "open-end credit" was clarified to mean, "consumer credit extended by a lender under a plan in which the lender reasonably contemplates repeated transactions, may impose a finance charge from time to time on an outstanding unpaid balance and the amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the lender) is generally made available to the extent that any outstanding balance is repaid."

The definition of "Regulation Z" was clarified to mean, "12 CFR 1026 and has the same meaning ascribed in 32 CFR 232, as in effect on March 23, 2021."

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an Emergency Rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and purpose of rulemaking: The adopted rules incorporate the APR calculation method required by the PLPA and implement the consumer protection goal of the relevant portions of Public Act 101-0658. The agency originally proposed these changes to implement the requirements of Public Act 101-0658, which was signed into law on March 23, 2021.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, Illinois 62786

217/785-0810
Fax: 217/557-4451

The full text of the Adopted Rules begins on the next page:

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TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 215

PREDATORY LOAN PREVENTION ACT

Section

215.10 Definitions

215.20 Terms of Loans Extended to Consumers

AUTHORITY: Implementing and authorized by the Predatory Loan Prevention Act [815 ILCS 123].

SOURCE: Adopted at 46 Ill. Reg. 6565, effective August 1, 2022.

Section 215.10 Definitions

"Act" means the Predatory Loan Prevention Act [815 ILCS 123].

"Billing cycle" means the interval between the days or dates of regular periodic statements. Intervals are equal and no longer than a quarter of a year and are considered equal if the number of days in the cycle does not vary more than four days from the regular day or date of the periodic statement.

"Bureau" means the federal Consumer Financial Protection Bureau or the Bureau of Consumer Financial Protection.

"Consumer" means any natural person, including those persons acting jointly.
[815 ILCS 123/15-1-10]

"Closed-end credit" means consumer credit other than open-end credit.

"Finance charge" means the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the lender as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction.

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"Lender" means any person or entity, including any affiliate or subsidiary of a lender, 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, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party; or

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 the Act. [815 ILCS 123/15-1-10]

"Loan" means money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, any finance charges, interest, or other conditions. "Loan" includes closed-end and open-end credit, retail installment sales contracts, motor vehicle retail installment sales contracts, and any transaction conducted via any medium (e.g., paper, facsimile, Internet, telephone). "Loan" does not include a commercial loan. [815 ILCS 123/15-1-10]

"Open-end credit" means consumer credit extended by a lender under a plan in which:

"Person" means any natural person.

"Predatory Loan Prevention Act APR" or "PLPA APR" is the cost of the consumer credit expressed as an annual rate, and is calculated in accordance with 32 CFR. 232.4(c), as in effect on the effective date of the Act and as incorporated in 38 Ill. Adm. Code 215.

The lender reasonably contemplates repeated transactions;

The lender may impose a finance charge from time to time on an outstanding unpaid balance; and

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The amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the lender) is generally made available to the extent that any outstanding balance is repaid.

"Regulation Z" means 12 CFR 1026 and has the same meaning ascribed in 32 CFR 232, as in effect on March 23, 2021.

Words that are not defined in this part have the same meanings ascribed in Regulation Z (12 CFR 1026), including any interpretation by the Bureau or an official or employee of the Bureau duly authorized by the Bureau to issue those interpretations.

Words that are not defined in this Part or Regulation Z, or any interpretation of Regulation Z, have the same meanings ascribed in applicable State or federal law.

Section 215.20 Terms of Loans Extended to Consumers

- a) General conditions. A lender who extends a loan to a consumer may not require the consumer to pay a PLPA APR for the loan with respect to the extension of a loan, except as:
 - 1) Agreed to under the terms of the loan agreement or promissory note;
 - 2) Authorized by applicable State or federal law; and
 - 3) Not specifically prohibited by this Part.
- b) Limit on cost of a loan. A lender may not impose a PLPA APR greater than 36% in connection with an extension of a loan that is closed-end credit or in any billing cycle for open-end credit.
- c) Calculation of the PLPA APR
 - 1) Charges included in the PLPA APR. The charges for the PLPA APR shall include, as applicable to the extension of the loan:
 - A) Any credit insurance premium or fee, any charge for single premium credit insurance, any fee for a debt cancellation contract, or any fee for a debt suspension agreement;

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- B) Any fee for a credit-related ancillary product sold in connection with the credit transaction for closed-end credit or an account for open-end credit; and
 - C) Except for a bona fide fee (other than a periodic rate), which may be excluded under subsection (d):
 - i) Finance charges associated with the loan;
 - ii) Any application fee charged to a consumer who applies for a loan; and
 - iii) Any fee imposed for participation in any plan or arrangement for a loan, subject to subsection (c)(2)(B)(ii).
 - D) Certain exclusions of Regulation Z inapplicable. Any charge set forth in subsections (c)(1)(A) through (C) shall be included in the calculation of the PLPA APR even if that charge would be excluded from the finance charge under Regulation Z.
- 2) Computing the PLPA APR
- A) Closed-end credit. For closed-end credit, the PLPA APR shall be calculated following the rules for calculating and disclosing the "Annual Percentage Rate (APR)" for credit transactions under Regulation Z based on the charges set forth in subsection (c)(1).
 - B) Open-end credit
 - i) In General. Except as provided in subsection (c)(2)(B)(ii), for open-end credit, the PLPA APR shall be calculated following the rules for calculating the effective annual percentage rate for a billing cycle as set forth in Section 1026.14(c) and (d) of Regulation Z (as if a lender must comply with that Section) based on the charges set forth in subsection (c)(1). Notwithstanding Section 1026.14(c) and (d) of Regulation Z, the amount of charges related to opening, renewing, or continuing an account must be

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included in the calculation of the PLPA APR to the extent those charges are set forth in subsection (c)(1).

- ii) No balance during a billing cycle. For open-end credit, if the PLPA APR cannot be calculated in a billing cycle because there is no balance in the billing cycle, a lender may not impose any fee or charge during that billing cycle, except that the lender may impose a fee for participation in any plan or arrangement for that open-end credit so long as the participation fee does not exceed \$100 per annum, regardless of the billing cycle in which the participation fee is imposed; provided, however, that the \$100-per annum limitation on the amount of the participation fee does not apply to a bona fide participation fee imposed in accordance with subsection (d).
- d) Bona Fide Fee Charged to a Credit Card Account
- 1) In General. For a loan extended in a credit card account under an open-end (not home-secured) loan plan, a bona fide fee, other than a periodic rate, is not a charge required to be included in the PLPA APR pursuant to subsection (c)(1). The exclusion provided for any bona fide fee under this subsection (d) applies only to the extent that the charge by the lender is a bona fide fee and must be reasonable for that type of fee.
 - 2) Ineligible items. The exclusion for bona fide fees in subsection (d)(1) does not apply to:
 - A) Any credit insurance premium or fee, including any charge for single premium credit insurance, any fee for a debt cancellation contract, or any fee for a debt suspension agreement; or
 - B) Any fee for a credit-related ancillary product sold in connection with the credit transaction for closed-end credit or an account for open-end credit.
 - 3) Standards Relating to Bona Fide Fees

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- A) Like-kind fees. To assess whether a bona fide fee is reasonable under subsection (d)(1), the fee must be compared to fees typically imposed by other lenders for the same or a substantially similar product or service. For example, when assessing a bona fide cash advance fee, that fee must be compared to fees charged by other lenders for transactions in which consumers receive extensions of credit in the form of cash or its equivalent. Conversely, when assessing a foreign transaction fee, that fee may not be compared to a cash advance fee because the foreign transaction fee involves the service of exchanging the consumer's currency (e.g., a reserve currency) for the local currency demanded by a merchant for a good or service, and does not involve the provision of cash to the customer.
- B) Safe harbor. A bona fide fee is reasonable under subsection (d)(1) if the amount of the fee is less than or equal to an average amount of a fee for the same or a substantially similar product or service charged by 5 or more lenders each of whose U.S. credit cards in force is at least \$3 billion in an outstanding balance (or at least \$3 billion in loans on U.S. credit card accounts initially extended by the lender) at any time during the 3-year period preceding the time such average is computed.
- C) Reasonable fee. A bona fide fee that is higher than an average amount, as calculated under subsection (d)(3)(B), also may be reasonable under subsection (d)(1) depending on other factors relating to the credit card account. A bona fide fee charged by a lender is not unreasonable solely because other lenders do not charge a fee for the same or a substantially similar product or service.
- D) Indicia of reasonableness for a participation fee. An amount of a bona fide fee for participation in a credit card account may be reasonable under subsection (d)(1) if that amount reasonably corresponds to the credit limit in effect or credit made available when the fee is imposed, to the services offered under the credit card account, or to other factors relating to the credit card account. For example, even if other lenders typically charge \$100 per annum for participation in credit card accounts, a \$400 fee

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nevertheless may be reasonable if (relative to other accounts carrying participation fees) the credit made available to the consumer is significantly higher or additional services or other benefits are offered under that account.

- 4) Effect of Charging Fees on Bona Fide Fees
 - A) Bona fide fees treated separately from charges for credit insurance products or credit-related ancillary products. If a lender imposes a fee described in subsection (c)(1) and imposes a finance charge to a consumer, the total amount of the fees and finance charges shall be included in the PLPA APR pursuant to subsection (c), and the imposition of any fee or finance charge described in subsection (c)(1) shall not affect whether another type of fee may be excluded as a bona fide fee under this subsection (d).
 - B) Effect of charges for non-bona fide fees. If a lender imposes any fee (other than a periodic rate or a fee that must be included in the PLPA APR pursuant to subsection (c)(1)) that is not a bona fide fee and imposes a finance charge to a consumer, the total amount of those fees, including any bona fide fees, and other finance charges shall be included in the PLPA APR pursuant to subsection (c).

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- 1) Heading of the Part: Retail Installment Sales Act
- 2) Code Citation: 38 Ill. Adm. Code 216
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
216.100	New Section
216.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Retail Installment Sales Act [815 ILCS 405/33.1] and the Predatory Loan Prevention Act [815 ILCS 123]
- 5) Effective Date of Rule: August 1, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 45 Ill. Reg. 6146; May 14, 2021
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 216.100, the rulemaking was amended from the proposed rule to remove the font size requirement for certain rate cap disclosures and replace it with a requirement that the disclosure be clear and conspicuous and has also withdrawn the proposed rules requiring disclosures in advertising and at the licensed location. Also, in that same Section, the term "application" was changed to "retail installment contracts or agreements". In Appendix A, "Applicant" has been changed to "Borrower" and "Co-Applicant" has been changed to "Co-Borrower".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an Emergency Rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 15) Summary and purpose of rulemaking: The adopted rules require retail installment contract makers to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. The agency originally proposed these changes to implement the consumer protection goals and requirements of Public Act 101-0658, which was signed into law on March 23, 2021.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, Illinois 62786

217/785-0810
Fax: 217/557-4451

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 216

RETAIL INSTALLMENT SALES ACT

Section

216.100 Rate Cap Disclosure Notices

216.APPENDIX A Disclosure of 36% Rate Cap

AUTHORITY: Implementing and authorized by the Retail Installment Sales Act [815 ILCS 405/33.1] and the Predatory Loan Prevention Act [815 ILCS 123]

SOURCE: Adopted at 46 Ill. Reg. 6575, effective August 1, 2022.

Section 216.100 Rate Cap Disclosure Notices

All retail installment contracts or agreements must include a separate disclosure signed by the consumer that states: "A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that 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 retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR." This disclosure shall be clear and conspicuous, and shall be substantially similar to the form in Appendix A. A retailer shall provide all disclosures required by this section in English and in the same language as the retail installment contract agreement.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

Section 216.APPENDIX A Disclosure of 36% Rate Cap

DISCLOSURE OF 36% RATE CAP

A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any retail installment contract with a PLPA APR over 36% is null and void, such that 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 retail installment contract.

The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR.

Borrower Signature

Co-Borrower Signature (If Applicable)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Motor Vehicle Retail Installment Sales Act
- 2) Code Citation: 38 Ill. Adm. Code 217
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
217.100	New Section
217.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Motor Vehicle Retail Installment Sales Act [815 ILCS 375/26.1] and the Predatory Loan Prevention Act [815 ILCS 123].
- 5) Effective Date of Rule: August 1, 2022
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 45 Ill. Reg. 6151; May 14, 2021
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 217.100, the rulemaking was amended from the proposed rule to remove the font size requirement for certain rate cap disclosures and replace it with a requirement that the disclosure be clear and conspicuous and has also withdrawn the proposed rules requiring disclosures in advertising and at the licensed location. Also, in that same Section, the term "application" was changed to "retail installment contracts or agreements". In Section 217.Appendix A, "Applicant" has been changed to "Borrower" and "Co-Applicant" has been changed to "Co-Borrower".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted rules require motor vehicle retail installment contract makers to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. The agency originally proposed these changes in order to implement the consumer protection goals and requirements of Public Act 101-0658, which was signed into law on March 23, 2021.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd Floor
Springfield, Illinois 62786

217/785-0810
Fax: 217/557-4451

The full text of the Adopted Rules begins on the next page:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

TITLE 38: FINANCIAL INSTITUTIONS

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 217

MOTOR VEHICLE RETAIL INSTALLMENT SALES ACT

Section

217.100 Rate Cap Disclosure Notices

217.APPENDIX A Disclosure of 36% Rate Cap

AUTHORITY: Implementing and authorized by Section 26.1 of the Motor Vehicle Retail Installment Sales Act [815 ILCS 375] and the Predatory Loan Prevention Act [815 ILCS 123]

SOURCE: Adopted at 46 Ill. Reg. 6579, effective August 1, 2022.

Section 217.100 Rate Cap Disclosure Notices

All retail installment contracts or agreements must include a separate disclosure signed by the consumer that states: "A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that 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 retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR." This disclosure shall be clear and conspicuous, and shall be substantially similar to the form in Appendix A. A retailer shall provide all disclosures required by this section in English and in the same language as the retail installment contract agreement.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

Section 217.APPENDIX A Disclosure of 36% Rate Cap

DISCLOSURE OF 36% RATE CAP

A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any retail installment contract with a PLPA APR over 36% is null and void, such that 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 retail installment contract.

The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR.

Borrower Signature

Co-Borrower Signature (If Applicable)