

TITLE 38: FINANCIAL INSTITUTIONS  
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 110  
CONSUMER INSTALLMENT LOAN ACT

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## SUBPART B: TITLE-SECURED LENDING

**Section 110.300 Definitions**

"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 tile-secured loans.

"Title-secured loan" shall mean a loan 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.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.310 Applicability of Rule**

This Subpart B, as well as Subpart A, shall apply to any title-secured lender as defined in Section 110.300 of this Part.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.320 Application for License**

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 applicant's proposed business.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.330 Renewal of License**

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: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.340 Simple Interest and Repayment**

- a) A title-secured lender must compute interest on all title-secured loans as simple interest, as defined in Section 110.80(c) of this Part.
- b) Title-secured loans must be fully amortized and repayable in substantially equal installments.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



**Section 110.350 Release of Lien**

- a) A title-secured lender must immediately take into possession the registered title evidencing the obligor's ownership in the motor vehicle and shall note on the face of the loan agreement the vehicle's make, model, year of manufacture and vehicle identification number.
- b) Within 24 hours after payment in full of the amount due under the agreement, the licensee must release any filed or recorded liens, provide evidence of the release of lien to the obligor, and return the title to the obligor or cause the title to be returned to the obligor. If payment has been made by a personal or business check, the licensee may delay the release of lien or return of title by 5 business days for the purpose of confirming availability of funds.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.360 Availability of Debt Management Services**

- a) Before entering into a title-secured loan agreement, licensee must give to the obligor a pamphlet, approved by the Director, describing the availability of debt management services and the obligor's rights and responsibilities in the transaction.
- b) Each title-secured loan agreement and 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 Financial Institutions that I can call for information regarding debt management services."
- c) At the time a title-secured lender conveys any written notice to an obligor indicating the obligor is in arrears or that the obligor is in default, the lender shall include with the notice a statement indicating a toll free number of the Division that the obligor may contact for the purpose of the obligor receiving information from the Division regarding debt management services. The form and method of providing the information shall be subject to approval of the Division.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.370 Lending Limits and Refinancing**

- a) A title-secured loan may not exceed \$4,000 in principal amount. However, no loan shall be made in such amount that the principal and interest payment for any one monthly payment on the loan exceeds 50% of the obligor's gross monthly income, except to the extent that loan prepayment is allowed by Section 16(j) of the Act.
- 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.
- c) 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).
- e) 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 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.380 Second Notice**

At the time a title-secured lender conveys a second notice to an obligor indicating the obligor is in arrears or any notice that the obligor is in default for a debt issued by the lender under the Act, the licensee shall include with the notice a statement indicating a telephone number of the Division that the obligor may contact for the purpose of the obligor receiving information from the Division regarding debt management services for assisting the obligor. The form and method of the notice provided by lenders shall be subject to approval by the Director.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.390 Possession of Vehicle**

- 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 notice to the obligor; 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.
- c) Possession measures shall be in accordance with Section 19.1 of the Act.
- d) No title-secured lender may take possession of a motor vehicle for a loan default and lease the vehicle back to the obligor.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.400 Loan Proceeds**

A lender must issue the proceeds of a title-secured loan in the form of a check drawn on the licensee's bank account, in cash, or by money order. When the proceeds are issued in the form of a check drawn on the lender's bank account or by money order, the lender may not charge a fee for cashing the check or money order if cashing service is offered at the location. When the proceeds are issued in cash, the lender must provide the obligor with a written verification of the cash transaction and shall maintain a record of the transaction.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.410 Security Interest**

A title-secured lender shall not take a security interest in any of the obligor's property other than the obligor's motor vehicle title, as tendered to the lender at the time of the making of the loan.

(Source: Amended at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



**Section 110.420 Approved Database**

- a) 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 obligor obtained by way of the approved database and maintained by the Department is strictly confidential and shall be exempt from disclosure under Section 7(1)(b)(i) of the Freedom of Information Act [5 ILCS 140/7(1)(b)(i)].
- c) 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.
- 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;
  - 3) Customer support to lenders and obligors during regular business hours;
  - 4) Develop and provide training to Department staff and lenders prior to implementation and on an ongoing basis;

- 5) Provide a charge-back methodology to lenders not to exceed \$1 for each search to determine eligibility of the obligor for a loan under Section 110.370;
  - 6) Require lenders to input whatever information is required by the Department;
  - 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;
  - 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
  - 9) Implement safeguards to ensure that all information contained in the database regarding obligors is kept strictly confidential.
- 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.
- 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.
- 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 1 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 Department may bring suit on behalf of claimants, either in one action or successive actions.

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.
- 3) On the same day a title-secured loan is made, the lender shall update the approved database with the following information:

- A) Obligor's Social Security Number or Alien Identification Number;
  - B) The principal amount of the loan;
  - C) The total amount of the loan;
  - D) The term of the loan and the maturity date of the loan; and
  - E) Any additional information required by the database provider.
- 4) The lender shall update the approved database 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 security;
  - C) Closing the loan due to the collateral being sold after default;
  - D) Writing off the loan; or
  - E) Any other transaction as required by the database provider.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.430 Gross Monthly Income Verification**

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).

- a) A copy of the obligor's most recent official pay stub or official payroll receipt;
- b) A copy of the obligor's most recent official receipt documenting payment of government benefits; or
- c) Other documentation as approved by the Director.

(Source: Added at 33 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)