



## Illinois Department of Financial and Professional Regulation

JB PRITZKER  
Governor

DEBORAH HAGAN  
Secretary

### **NOTICE REGARDING THE CONSUMER REPORTING DATABASE AND THE PREDATORY LOAN PREVENTION ACT**

Under prior law, all payday loans, small consumer loans,<sup>1</sup> and title-secured loans<sup>2</sup> had to be reported to the consumer reporting database (“Veritec”). On March 23, 2021, Governor JB Pritzker signed Senate Bill 1792, the Predatory Loan Prevention Act (“PLPA”), into law.

The PLPA amends the reporting requirements for loans governed by the Consumer Installment Loan Act. The Department of Financial and Professional Regulation’s (“Department”) current Consumer Installment Loan Act rules for title-secured loans and for reporting information to the Veritec expressly do not apply to loans with an annual percentage rate of less than 36%. The PLPA’s amendments to Section 17.5(b) of the Consumer Installment Loan Act currently requires each loan to be reported to the Veritec and require licensees to follow related Department rules. The PLPA’s amendments to Section 17.5(c) of the Consumer Installment Loan Act require licensees to enter the information required by 38 Ill. Adm. Code 110.420 for title-secured loans. Under the amendments, title-secured loans are defined as any consumer installment loan in which, at commencement, a consumer provides to the licensee, as security for the loan, physical possession of the consumer’s title to a motor vehicle.

While the PLPA does not amend the reporting requirements pursuant to the Payday Loan Reform Act, installment payday loans are no longer permitted.

The Department intends to promulgate rules to address these new reporting requirements. In addition, the Veritec consumer reporting database will be updated to conform to new reporting requirements. The Department recognizes the new rules and Veritec updates will likely require many licensees to modify their IT systems and business processes.

**For these reasons, the Department does not intend to take adverse supervisory or enforcement action for violations of reporting requirements under Sections 17.5(b) or Section 17.5(c), or violations of 38 Ill. Adm. Code 110.300 - 38 Ill. Adm. Code 110.430 related to loans made after the effective date of the PLPA until further notice is issued by the Department. This notice shall not impact the Department’s supervision or enforcement of the PLPA’s 36% rate cap.**

<sup>1</sup> Under prior law, a small consumer loan was a consumer installment loan with an annual percentage rate exceeding 36 % and amount financed of \$4,000 or less

<sup>2</sup> Under prior law, a title-secured loan was a consumer installment loan with an annual percentage exceeding 36 % and in which, at commencement, a consumer provides to the licensee, as security for the loan, physical possession of the consumer’s title to a motor vehicle.

This is not a written interpretation pursuant to 205 ILCS 670/20(c) or any other law. This document does not amend or modify any requirement of state or federal law and does not constitute legal advice and may not be relied on as such. It describes certain situations where, for a limited period of time, the Department does not intend to take adverse supervisory or enforcement action against a licensee. Licensees and potential licensees should consult with legal counsel for any interpretation of statute or rule. This notice may be withdrawn at any time.

DATED THIS 26 DAY OF MARCH 2021

**ILLINOIS DEPARTMENT OF FINANCIAL &  
PROFESSIONAL REGULATION**

By:   
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**Francisco Menchaca**  
**Director – Division of Financial Institutions**



# Illinois Department of Financial and Professional Regulation

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## **Predatory Loan Prevention Act (PLPA)**

### **Frequently Asked Questions**

**as of March 26, 2021**

This Frequently Asked Questions document (FAQ) is for informational purposes only and does not constitute legal advice and may not be relied on as such. The FAQ does not amend or alter any requirement of state or federal law. All persons and entities subject to the Predatory Loan Prevention Act, including licensees and potential licensees of any division of the Department of Financial and Professional Regulation, should consult with legal counsel for any interpretation of statute, rule, or regulation. This is not a written interpretation pursuant to 205 ILCS 670/20(c) or any other law.

#### **Effective Date**

1. When did the Predatory Loan Prevention Act become effective?
  - a. The Predatory Loan Prevention Act became effective on the day it was signed by the Governor – March 23, 2021.

#### **Rate Cap and APR Calculations**

2. What is the rate cap imposed by the PLPA?
  - a. 36% Predatory Loan Prevention Act APR
3. Does the law impact existing contracts?
  - a. The law does not impact existing contracts. Any lawful contract entered before March 23, 2021 remains effective and the lender may continue to service it
4. How does the PLPA define loans?
  - a. "Loan" is 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
  - b. "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 whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone
  - c. "Loan" does not include a commercial loan
5. To whom does the rate cap apply?
  - a. Any person or entity, including any affiliate or subsidiary of the 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, and includes any other person or entity if the Department determines that

the person or entity is engaged in a transaction that is in substance a disguised loan or a subterfuge for the purpose of avoiding the Predatory Loan Prevention Act

6. Who is exempt from the PLPA?
  - a. Banks, savings banks, savings and loan associations, credit unions, and insurance companies that are organized, chartered, or holding a certificate of authority to do business under the laws of this State or any other state or under the laws of the United States are exempt from the provisions of the PLPA
7. How is APR calculated under the PLPA?
  - a. APR must be calculated pursuant to the rules for the Military Lending Act Annual Percentage Rate in 32 CFR 232.4 ([Federal Rules Link](#)). Under the PLPA, certain fees must be included in the finance charge which were not previously included in the finance charge. Common examples of fees that must be included in the finance charge under the PLPA are credit insurance premiums, participation fees, and application fees.
8. What can lenders do if they have an existing contract and the consumer wants to rollover?
  - a. Lenders can offer the consumer a new loan with a maximum PLPA APR of 36%
9. Does the PLPA require disclosure of the PLPA APR to consumers?
  - a. The PLPA does not address disclosure of the PLPA APR to consumers

#### **Fees**

10. Does the PLPA make any changes to document fees?
  - a. PLPA eliminates the \$25 document fee which CILA licensees were previously permitted to charge consumers

#### **Payday and Title-Secured Loans after the PLPA**

11. What is considered a payday loan under the amended Payday Loan Reform Act?
  - a. A loan with a term that does not exceed 120 days in which:
    - i. A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit;  
or
    - ii. A lender accepts one or more authorizations to debit a consumer's bank account;  
or
    - iii. A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment
12. What is a title-secured loan once the PLPA is in effect?
  - a. Any loan governed by CILA in which, at commencement, a consumer provides to the licensee, as security for the loan, physical possession of the consumer's title to a motor vehicle. The Department will promulgate rules for title-secured loans to align with the PLPA

#### **State Database Reporting**

13. Which loans must be reported to the state database after the PLPA takes effect?
  - a. Each payday loan
  - b. Each loan made pursuant to CILA

- i. The Department will promulgate rules identifying loan information that must be reported to the state database
  - c. Please see the Notice Regarding the Consumer Reporting Database and the Predatory Loan Prevention Act issued by the Department
- 14. What am I required to report to the state database if I surrender my license?
  - a. Licensees or any purchaser of loans from a licensee must continue to report all required information for any open loan to the state database until all loans are closed
  - b. See “Surrender of License” section below for more information

### **PLRA and CILA Licensure**

- 15. If I hold a PLRA license and a CILA license for title-secured loans today, and I surrender the PLRA license, is my CILA license still limited to title-secured loans?
  - a. No – once you surrender your PLRA license, you may offer any kind of loan permitted under CILA
- 16. If I now hold a PLRA license, can I immediately apply for a CILA license?
  - a. Yes – you may apply for CILA license at any time. However, until you surrender your PLRA license, you may not use the CILA license for anything other than title-secured loans
- 17. What does the Department require if I want to sell my portfolio?
  - a. PLRA – 38 Ill. Admin. Code 210.90
    - i. The licensee must notify the Division in writing within 10 days after the transaction indicating the name of the purchaser, location where the related loan agreements can be examined, and that the licensee shall be responsible for all examination costs
    - ii. The licensee will provide the Division with an executed agreement entered into by the licensee and the purchaser authorizing the Director to conduct an examination of these loan agreements
  - b. CILA – 38 Ill. Admin. Code 110.110
    - i. If a licensee sells their CILA portfolio to another CILA licensee, Sales Finance Agency Act licensee, a bank, savings bank, savings and loan association or credit union created under the laws of this State or the United States:
      - 1. The licensee must notify the Division in writing within 10 days after the transaction indicating the name of the purchaser, location where the related loan agreements can be examined, and that the licensee shall be responsible for all examination costs
      - 2. The licensee will provide the Division with an executed agreement between the licensee and the purchaser authorizing the Director to conduct an examination of these loan agreements
    - ii. For a sale to any other type of entity, the licensee must seek the prior approval of the Department

### **Surrender of License**

- 18. How do I surrender my license?
  - a. Request surrender of license(s) on NMLS (if applicable)

- b. Submit a letter to [fpr.consumercrredit@illinois.gov](mailto:fpr.consumercrredit@illinois.gov) identifying:
    - i. The reason that company is surrendering its license,
    - ii. The date on which surrender is effective,
    - iii. Location where all documents and records will be stored, and
    - iv. A contact person with phone number and email address for any future questions or concerns; and
  - c. If you hold a PLRA license, your surety bond must remain effective for 3 years after surrender
19. Are license renewal fees for licenses which I surrender refundable?
- a. No
20. Can license renewal fees for licenses which I surrender be refunded on a pro-rated basis?
- a. No
21. If I obtained a PLRA license for 2021, but now I want to get a CILA license instead, can my PLRA license payment be applied toward a CILA license?
- a. No
22. How long must records be kept after surrender?
- a. Loan records must be kept for two years after the final entry on a loan
  - b. Loan records may be kept in any location as long as access is readily available if the Department requires it
23. Can I continue servicing existing loans after I surrender my license?
- a. Yes

### **Examination**

24. How will existing loans be examined?
- a. Loans will be examined for compliance with any statutes or regulations in effect at the time of their making
25. How will unresolved exam issues be dealt with for surrendered licenses?
- a. The Department will determine its approach to unresolved exam issues on a case by case basis
26. Will there be a closing exam at the time of surrender?
- a. The Department will determine whether a closing exam is necessary on a case by case basis