

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2374 Session of
1984

INTRODUCED BY PRESTON, F. E. TAYLOR, L. E. SMITH, PISTELLA,
LASHINGER, TRELLO, PETRONE AND DeLUCA, JUNE 28, 1984

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, JUNE 28, 1984

AN ACT

1 Amending the act of April 8, 1937 (P.L.262, No.66), entitled, as
2 amended, "An act relating to consumer credit; requiring
3 licenses from the Secretary of Banking; restricting licenses
4 to domestic business corporations; fixing minimum capital
5 requirements; conferring certain powers on the Secretary of
6 Banking; limiting interest and other charges; providing
7 certain exemptions; and imposing penalties," further
8 providing for the maximum loan amount; and deleting an
9 obsolete limitation.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. The definition of "revolving loan account" in
13 section 2 of the act of April 8, 1937 (P.L.262, No.66), known as
14 the Consumer Discount Company Act, amended March 3, 1976
15 (P.L.36, No.17), is amended to read:

16 Section 2. Definitions.--The following terms shall be
17 construed in the act to have the following meanings, except in
18 those instances where the context clearly indicates otherwise:

19 * * *

20 "Revolving loan account" means an agreement pursuant to which
21 (i) the licensee may permit the borrower to obtain one or a

1 series of loans or advances from time to time: Provided,
2 however, That the aggregate of the unpaid principal balances due
3 a licensee from a consumer under this act on any date shall not
4 exceed the sum of [five thousand dollars (\$5,000)] fifteen
5 thousand dollars (\$15,000), (ii) the unpaid principal balances
6 and the appropriate charges are debited to an account, (iii) the
7 charges for the loan are computed on the outstanding unpaid
8 principal balances of the account from time to time, and (iv)
9 the borrower has the privilege of paying the balances in
10 installments.

11 Section 2. Section 3 of the act, amended March 3, 1976
12 (P.L.36, No.17). is amended to read:

13 Section 3. License Required.--A. On and after the effective
14 date of this act, no person shall engage or continue to engage
15 in this Commonwealth, either as principal, employee, agent or
16 broker, in the business of negotiating or making loans or
17 advances of money on credit, in the amount or value of [five
18 thousand dollars (\$5,000)] fifteen thousand dollars (\$15,000) or
19 less, and charge, collect, contract for or receive interest,
20 discount, bonus, fees, fines, commissions, charges, or other
21 considerations which aggregate in excess of the interest that
22 the lender would otherwise be permitted by law to charge if not
23 licensed under this act on the amount actually loaned or
24 advanced, or on the unpaid principal balances when the contract
25 is payable by stated installments except a domestic business
26 corporation organized under or existing by virtue of the
27 Business Corporation Law of this Commonwealth, after first
28 obtaining a license from the Secretary of Banking of the
29 Commonwealth of Pennsylvania in accordance with the provisions
30 of this act.

1 B. Any person who shall hold himself out as willing or able
2 to arrange for or negotiate such loans of [five thousand dollars
3 (\$5,000)] fifteen thousand dollars (\$15,000), or less where the
4 interest, discount, bonus, fees, fines, commissions or other
5 considerations in the aggregate exceeds the interest that the
6 lender would otherwise be permitted by law to charge or who
7 solicits prospective borrowers of such loans of [five thousand
8 dollars (\$5,000)] fifteen thousand dollars (\$15,000), or less
9 shall be deemed to be engaged in the business contemplated by
10 this act, unless otherwise permitted by law to engage in such
11 activities. The referring borrowers to a licensee shall not be
12 deemed to be engaged in the business contemplated by this act if
13 no charge, no matter how denominated, for such reference is
14 imposed on the prospective borrower by the person making the
15 reference. No licensee shall knowingly include in any loan under
16 this act any amount which is to be paid by the borrower to
17 another as a fee or charge, no matter how denominated, for
18 referring said borrower to the licensee.

19 Section 3. Section 13 E. of the act, amended December 9,
20 1982 (P.L.1072, No.249), is amended to read:

21 Section 13. Powers Conferred on Licensees.--In addition to
22 the general powers conferred upon a corporation by the Business
23 Corporation Law of this Commonwealth, a corporation licensed
24 under this act shall have power and authority:

25 * * *

26 E. To charge, contract for, receive or collect interest or
27 discount at a rate not to exceed nine dollars and fifty cents
28 (\$9.50) per one hundred dollars (\$100) per year when the
29 contract is repayable within forty-eight (48) months from the
30 date of making. When the contract is repayable more than forty-

1 eight (48) months from the date of making, the rate of interest
2 or discount which may be charged, contracted for, received or
3 collected, shall not exceed nine dollars and fifty cents (\$9.50)
4 per one hundred dollars (\$100) per year for the first forty-
5 eight (48) months of the term of the contract plus six dollars
6 (\$6) per one hundred dollars (\$100) per year for any remainder
7 of the term of the contract. Such interest or discount shall be
8 computed at the time the loan is made on the face amount of the
9 contract for the full term of the contract from the date of the
10 contract to the date of the scheduled maturity notwithstanding
11 any requirement for installment payments. On contracts for
12 periods which are less or greater than one year, or which are
13 not a multiple of one year, the interest or discount shall be
14 computed proportionately on even calendar months: Provided,
15 however, That for a period of less than one month the
16 computation may be based on a full calendar month. The face
17 amount of any note or contract made pursuant to this act may,
18 notwithstanding any other provision, exceed [five thousand
19 dollars (\$5,000)] fifteen thousand dollars (\$15,000) by the
20 amount of interest or discount and service or other charge
21 authorized by this act collected or deducted in advance or added
22 to the principal at the time of making the loan. As an
23 alternative to the rates provided for in this clause, a licensee
24 may charge, contract for, and collect interest at the rate and
25 in the manner provided for in section 17.1A: Provided, however,
26 That on loans secured by a security interest, mortgage or other
27 lien on real property, and in which the principal amount exceeds
28 five thousand dollars (\$5,000), a licensee may not charge,
29 contract for, receive, or collect interest in excess of the rate
30 specified in section 9 of the act of December 12, 1980

1 (P.L.1179, No.219), known as the "Secondary Mortgage Loan Act."

2 * * *

3 Section 4. Section 14A of the act, amended March 3, 1976
4 (P.L.36, No.17) and repealed in part October 4, 1978 (P.L.909,
5 No.173), is amended to read:

6 Section 14. Licensee Requirements and Limitations.--A. A
7 licensee shall not permit any person to become obligated to such
8 licensee as a consumer on one or more loan contracts for an
9 aggregate amount in excess of [five thousand dollars (\$5,000)]
10 fifteen thousand dollars (\$15,000), exclusive of charges
11 authorized by this act. This limitation shall not apply to the
12 purchase of contracts which arise from the bona fide sale of
13 goods or services by a seller regularly engaged in the sale of
14 such goods or services. This limitation shall not impair the
15 authority of a licensee to lend money, credit, goods or things
16 in action, or to purchase contracts in amounts in excess of
17 [five thousand dollars (\$5,000)] fifteen thousand dollars
18 (\$15,000) and charge, contract for, receive or collect interest
19 or discount at the legal rate established by the General Usury
20 Statute of the Commonwealth.

21 * * *

22 Section 5. Section 18 of the act, amended March 3, 1976
23 (P.L.36, No.17), is amended to read:

24 Section 18. Penalties.--Any person who has not obtained a
25 license from the Secretary of Banking of the Commonwealth of
26 Pennsylvania in accordance with the provisions of this act, and
27 who shall engage in the business of negotiating or making loans
28 or advances of money or credit, in the amount or value of [five
29 thousand dollars (\$5,000)] fifteen thousand dollars (\$15,000)
30 or less, and charge, collect, contract for or receive interest,

1 discount, bonus, fees, fines, commissions, charges or other
2 considerations which aggregate in excess of the interest that
3 the lender would otherwise be permitted by law to charge if not
4 licensed under this act on the amount actually loaned or
5 advanced, or on the unpaid principal balances when the contract
6 is payable by stated installments, shall be guilty of a
7 misdemeanor, upon conviction thereof shall be sentenced to pay a
8 fine of not less than five hundred dollars (\$500) or more than
9 five thousand dollars (\$5,000), and/or suffer imprisonment not
10 less than six (6) months nor more than three (3) years, in the
11 discretion of the court.

12 Except as the result of an accidental bona fide error, a
13 corporation licensed under the provisions of this act or any
14 director, officer, employe or agent who shall violate any
15 provision of this act or shall direct or consent to such
16 violations, shall be guilty of a misdemeanor, and, upon
17 conviction thereof, shall be sentenced to pay a fine of not more
18 than two thousand dollars (\$2,000) for the first offense, and
19 for each subsequent offense a like fine, and/or suffer
20 imprisonment not to exceed one year, in the discretion of the
21 court.

22 The payment of [five thousand dollars (\$5,000)] fifteen
23 thousand dollars (\$15,000) or less, in money, credit, goods or
24 things in action as consideration for any sale or assignment of,
25 or order for, the payment of wages, salary, commissions or other
26 compensation for services, whether earned or to be earned,
27 shall, for the purposes of regulation under this act, be deemed
28 a loan secured by such assignment, and the amount by which such
29 assigned compensation exceeds the amount of such consideration
30 actually paid shall for the purpose of regulation under this

1 act, be deemed interest or charges upon such loan from the date
2 of such payment to the date such compensation is payable. Such
3 transactions shall be governed by and subject to the provisions
4 of this act.

5 The payment of [five thousand dollars (\$5,000)] fifteen
6 thousand dollars (\$15,000) or less, in money, credit, goods or
7 things in action as consideration for any sale of real or
8 personal property which is made on condition or agreement,
9 expressed or implied, that such property be sold back at a
10 greater price shall, for the purpose of this act, be deemed to
11 be a loan secured by such property, and the amount by which the
12 repurchase price exceeds such original purchase price actually
13 paid shall be deemed interest or charges upon such loan from the
14 date such original payment is made until the date such
15 repurchase price is paid. Such transaction shall be governed by
16 and subject to the provisions of this act.

17 When real or personal property is pledged as security on a
18 loan of [five thousand dollars (\$5,000)] fifteen thousand
19 dollars (\$15,000) or less, and the lender requires the borrower
20 to pay for insurance thereon, such charge for insurance shall be
21 construed as interest under this act when the lender has failed
22 to have such insurance written by an insurance company legally
23 authorized to conduct business in Pennsylvania. When the amount
24 charged for such insurance is in excess of the standard cost of
25 similar insurance in other insurance companies legally
26 authorized to conduct business in Pennsylvania, the excess shall
27 be construed as interest under this act.

28 Section 6. This act shall take effect immediately.