

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2619 Session of
1996

INTRODUCED BY HASAY, LESCOVITZ, PRESTON, OLASZ, CORNELL, GEIST,
KENNEY, GODSHALL, MARKOSEK, ROONEY, CORRIGAN, COLAFELLA AND
HABAY, MAY 13, 1996

REFERRED TO COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT,
MAY 13, 1996

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 use of licensee name, for dishonored checks,
9 for larger loan limit, for annual fee and for delinquent
10 payments.

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

13 Section 1. Section 3A and B of the act of April 8, 1937
14 (P.L.262, No.66), known as the Consumer Discount Company Act,
15 amended December 18, 1984 (P.L.1083, No.216), are amended to
16 read:

17 Section 3. License Required.--A. On and after the effective
18 date of this act, no person shall engage or continue to engage
19 in this Commonwealth, either as principal, employee, agent or
20 broker, in the business of negotiating or making loans or
21 advances of money on credit, in the amount or value of [fifteen

1 thousand dollars (\$15,000)] twenty-five thousand dollars
2 (\$25,000) or less, and charge, collect, contract for or receive
3 interest, discount, bonus, fees, fines, commissions, charges, or
4 other considerations which aggregate in excess of the interest
5 that the lender would otherwise be permitted by law to charge if
6 not licensed under this act on the amount actually loaned or
7 advanced, or on the unpaid principal balances when the contract
8 is payable by stated installments except a domestic business
9 corporation organized under or existing by virtue of the
10 Business Corporation Law of this Commonwealth, after first
11 obtaining a license from the Secretary of Banking of the
12 Commonwealth of Pennsylvania in accordance with the provisions
13 of this act.

14 B. Any person who shall hold himself out as willing or able
15 to arrange for or negotiate such loans of [fifteen thousand
16 dollars (\$15,000)] twenty-five thousand dollars (\$25,000), or
17 less where the interest, discount, bonus, fees, fines,
18 commissions or other considerations in the aggregate exceeds the
19 interest that the lender would otherwise be permitted by law to
20 charge or who solicits prospective borrowers of such loans of
21 [fifteen thousand dollars (\$15,000)] twenty-five thousand
22 dollars (\$25,000), or less shall be deemed to be engaged in the
23 business contemplated by this act, unless otherwise permitted by
24 law to engage in such activities. The referring borrowers to a
25 licensee shall not be deemed to be engaged in the business
26 contemplated by this act if no charge, no matter how
27 denominated, for such reference is imposed on the prospective
28 borrower by the person making the reference. No licensee shall
29 knowingly include in any loan under this act any amount which is
30 to be paid by the borrower to another as a fee or charge, no

1 matter how denominated, for referring said borrower to the
2 licensee.

3 * * *

4 Section 2. Section 4 of the act is amended to read:

5 Section 4. Application for License.--The application for
6 such license shall be in writing, under oath and in the form
7 prescribed by the Secretary of Banking. The application shall
8 contain the corporate title of the applicant[, which shall
9 include the words "Consumer Discount Company"] and any
10 registered or otherwise qualified name to be used as a
11 fictitious business name; the street and number, if any, [office
12 building and room number, if any,] city, borough, township or
13 municipality, and county where the business is to be conducted;
14 date of incorporation; name and residence address of all
15 directors; and such other information as the Secretary of
16 Banking may require.

17 A separate application on the prescribed form shall be filed
18 for each place of business conducted by a licensee.

19 Section 3. Section 13E of the act, amended December 18, 1984
20 (P.L.1083, No.216), is amended and the section is amended by
21 adding a subsection to read:

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

26 * * *

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

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

1 specified in section 9 of the act of December 12, 1980
2 (P.L.1179, No.219), known as the "Secondary Mortgage Loan Act."

3 * * *

4 R. To collect a fee for a subsequent dishonored check or
5 instrument taken in payment, not to exceed the service charge
6 permitted to be imposed under 18 Pa.C.S. § 4105(e)(3) (relating
7 to bad checks).

8 Section 4. Section 14A of the act, amended December 18, 1984
9 (P.L.1083, No.216), is amended to read:

10 Section 14. Licensee Requirements and Limitations.--A. A
11 licensee shall not permit any person to become obligated to such
12 licensee as a consumer on one or more loan contracts for an
13 aggregate amount in excess of [fifteen thousand dollars
14 (\$15,000)] twenty-five thousand dollars (\$25,000), exclusive of
15 charges authorized by this act. This limitation shall not apply
16 to the purchase of contracts which arise from the bona fide sale
17 of goods or services by a seller regularly engaged in the sale
18 of such goods or services. This limitation shall not impair the
19 authority of a licensee to lend money, credit, goods or things
20 in action, or to purchase contracts in amounts in excess of
21 [fifteen thousand dollars (\$15,000)] twenty-five thousand
22 dollars (\$25,000) and charge, contract for, receive or collect
23 interest or discount at the legal rate established by the
24 General Usury Statute of the Commonwealth.

25 * * *

26 Section 5. Section 17.1 of the act is amended by adding
27 subsections to read:

28 Section 17.1. Revolving Loan Accounts.--* * *

29 C. A licensee may charge and collect a delinquency charge of
30 twenty dollars (\$20) or ten per cent (10%) of each payment,

1 whichever is higher, for a payment which is in default for more
2 than fifteen (15) days.

3 D. A licensee may charge, contract for, receive or collect
4 on any revolving loan account an annual fee not to exceed fifty
5 dollars (\$50) per year.

6 Section 6. Section 18 of the act, amended December 12, 1994
7 (P.L.1060, No.144), is amended to read:

8 Section 18. Penalties.--Any person who has not obtained a
9 license from the Secretary of Banking of the Commonwealth of
10 Pennsylvania in accordance with the provisions of this act, and
11 who shall engage in the business of negotiating or making loans
12 or advances of money or credit, in the amount or value of
13 [fifteen thousand dollars (\$15,000)] twenty-five thousand
14 dollars (\$25,000) or less, and charge, collect, contract for or
15 receive interest, discount, bonus, fees, fines, commissions,
16 charges or other considerations which aggregate in excess of the
17 interest that the lender would otherwise be permitted by law to
18 charge if not licensed under this act on the amount actually
19 loaned or advanced, or on the unpaid principal balances when the
20 contract is payable by stated installments, shall be guilty of a
21 misdemeanor, upon conviction thereof shall be sentenced to pay a
22 fine of not less than five hundred dollars (\$500) or more than
23 five thousand dollars (\$5,000), and/or suffer imprisonment not
24 less than six (6) months nor more than three (3) years, in the
25 discretion of the court.

26 Except as the result of an accidental bona fide error, a
27 corporation licensed under the provisions of this act or any
28 director, officer, employe or agent who shall violate any
29 provision of this act or shall direct or consent to such
30 violations, shall be guilty of a misdemeanor, and, upon

1 conviction thereof, shall be sentenced to pay a fine of not more
2 than two thousand dollars (\$2,000) for the first offense, and
3 for each subsequent offense a like fine, and/or suffer
4 imprisonment not to exceed one year, in the discretion of the
5 court.

6 The payment of [fifteen thousand dollars (\$15,000)] twenty-
7 five thousand dollars (\$25,000) or less, in money, credit, goods
8 or things in action as consideration for any sale or assignment
9 of, or order for, the payment of wages, salary, commissions or
10 other compensation for services, whether earned or to be earned,
11 shall, for the purposes of regulation under this act, be deemed
12 a loan secured by such assignment, and the amount by which such
13 assigned compensation exceeds the amount of such consideration
14 actually paid shall for the purpose of regulation under this
15 act, be deemed interest or charges upon such loan from the date
16 of such payment to the date such compensation is payable. Such
17 transactions shall be governed by and subject to the provisions
18 of this act.

19 The payment of [fifteen thousand dollars (\$15,000)] twenty-
20 five thousand dollars (\$25,000) or less, in money, credit, goods
21 or things in action as consideration for any sale of real or
22 personal property which is made on condition or agreement,
23 expressed or implied, that such property be sold back at a
24 greater price shall, for the purpose of this act, be deemed to
25 be a loan secured by such property, and the amount by which the
26 repurchase price exceeds such original purchase price actually
27 paid shall be deemed interest or charges upon such loan from the
28 date such original payment is made until the date such
29 repurchase price is paid. Such transaction shall be governed by
30 and subject to the provisions of this act.

1 When real or personal property is pledged as security on a
2 loan of [fifteen thousand dollars (\$15,000)] twenty-five
3 thousand dollars (\$25,000) or less, and the lender requires the
4 borrower to pay for insurance thereon, such charge for insurance
5 shall be construed as interest under this act when the lender
6 has failed to have such insurance written by an insurance
7 company legally authorized to conduct business in Pennsylvania.
8 When the amount charged for such insurance is in excess of the
9 standard cost of similar insurance in other insurance companies
10 legally authorized to conduct business in Pennsylvania, the
11 excess shall be construed as interest under this act.

12 If a contract is made in good faith in conformity with an
13 interpretation of this act by the appellate courts of the
14 Commonwealth or in compliance with a rule or regulation
15 promulgated by the Secretary of Banking, no provision of this
16 section imposing any penalty shall apply, notwithstanding that
17 after such contract is made, such interpretation, rule or
18 regulation is amended, rescinded or determined by judicial or
19 other authority to be invalid for any reason.

20 Section 7. This act shall take effect immediately.