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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2191 Session of  
2012

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INTRODUCED BY ROSS, BEAR, BARBIN, BOYD, BRENNAN, BRIGGS, BUXTON, CALTAGIRONE, CHRISTIANA, CREIGHTON, DALEY, DELOZIER, DeLUCA, ELLIS, FABRIZIO, FARRY, GEORGE, GERGELY, GIBBONS, GINGRICH, GROVE, HARHAI, HARHART, HARKINS, HARRIS, HENNESSEY, HICKERNELL, HORNAMAN, JOSEPHS, KILLION, KOTIK, MARSICO, MILLARD, MILLER, MILNE, MUNDY, MURT, O'NEILL, PASHINSKI, QUINN, RAPP, SAINATO, SAYLOR, SCHRODER, STEPHENS, SWANGER, TAYLOR, TOEPEL, VEREB, VULAKOVICH, WHITE, YOUNGBLOOD, DENLINGER, CARROLL, DONATUCCI, DERMODY, J. EVANS AND MARKOSEK, MARCH 14, 2012

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 14, 2012

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AN ACT

1 Amending Titles 7 (Banks and Banking) and 18 (Crimes and  
2 Offenses) of the Pennsylvania Consolidated Statutes, in Title  
3 7, providing for short-term loan protection; and, in Title  
4 18, further providing for deceptive or fraudulent business  
5 practices and providing for unlicensed short-term lending.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 7 of the Pennsylvania Consolidated Statutes  
9 is amended by adding a chapter to read:

10 CHAPTER 51

11 SHORT-TERM LOAN PROTECTION

12 Subchapter

13 A. Preliminary Provisions

14 B. Nature and Effect of Short-Term Loans

15 C. Administrative and Licensure Provisions

1 D. Miscellaneous Provisions

2 SUBCHAPTER A

3 PRELIMINARY PROVISIONS

4 Sec.

5 5101. Scope of chapter.

6 5102. Definitions.

7 § 5101. Scope of chapter.

8 This chapter relates to consumer short-term loan protection.

9 § 5102. Definitions.

10 The following words and phrases when used in this chapter  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Applicant." A person that applies for a license under this  
14 chapter.

15 "Check." A check as that term is defined in 13 Pa.C.S. §  
16 3104(f) (relating to negotiable instrument) which is drawn on a  
17 depository institution.

18 "Consumer." An individual who is the recipient of a short-  
19 term loan or a renewal loan.

20 "Deferment period." The term of a loan or the number of days  
21 a lender agrees to defer depositing or presenting a repayment  
22 mechanism, as the context may require.

23 "Department." The Department of Banking of the Commonwealth.

24 "Depository institution." A person authorized to accept  
25 deposits in accordance with Federal or State law.

26 "Gross monthly income." Wages or commissions received by a  
27 consumer in the 30-day period immediately preceding the date of  
28 the consumer's application for a loan or as otherwise determined  
29 by the Department of Banking.

30 "Licensee." A person licensed by the Department of Banking

1 under this chapter.

2 "Loan." A short-term loan or a renewal loan, as the context  
3 may require.

4 "Loan agreement." A signed written agreement between a  
5 lender and a consumer that complies with the requirements of  
6 section 5112 (relating to loan agreement requirements)  
7 evidencing a loan.

8 "Person." An individual, association, joint venture or  
9 joint-stock company, partnership, limited liability company,  
10 limited partnership, limited partnership association, business  
11 corporation or any other group of individuals, however  
12 organized.

13 "Renewal loan." A short-term loan that a consumer obtains  
14 from a short-term lender, the proceeds of which are applied to  
15 the balance due on an existing short-term loan previously  
16 obtained by the consumer from the same short-term lender. The  
17 term shall not include a loan taken after an existing loan is  
18 paid in full.

19 "Repayment mechanism." Any method agreed to by a consumer  
20 which a short-term lender may use to effect repayment of a loan,  
21 including a present-dated or postdated check, electronic debit  
22 or assignment of a future deposit.

23 "Short-term lender." A person who, as principal or agent,  
24 markets, negotiates, arranges, places, makes, holds or  
25 originates short-term loans for consumers for a fee, finance  
26 charge or other consideration. The term includes a short-term  
27 lender who acquires a short-term loan from another short-term  
28 lender by purchase or assignment.

29 "Short-term loan." A loan or advance of money or credit to a  
30 consumer by a short-term lender that, for a fee, finance charge

1 or other consideration, does all of the following:

2 (1) Accepts a check or other instrument from the  
3 consumer.

4 (2) Agrees to hold the check or instrument for a  
5 deferment period.

6 (3) Pays to the consumer a cash advance, a locally  
7 cashable check, debit card or money order or credits to the  
8 consumer's account the amount of the check less finance  
9 charges permitted under section 5113 (relating to authorized  
10 finance charges, origination fees and loan verification  
11 costs). The term includes any arrangement in which a person  
12 pays a cash advance to a consumer in return for a repayment  
13 mechanism and a fee, finance charge or other consideration.

14 "Short-term loan business." A person is deemed to be engaged  
15 in the short-term loan business in this Commonwealth if that  
16 person, in the ordinary course of its business, advertises,  
17 causes to be advertised, solicits, negotiates or arranges,  
18 offers to make, makes or holds a short-term loan or renewal loan  
19 in this Commonwealth, whether directly or through any other  
20 person acting for his benefit.

21 "Tangible net worth." Net worth less all of the following:

22 (1) That portion of assets pledged to secure obligations  
23 of any person other than that of the applicant.

24 (2) Any asset due from officers or stockholders of the  
25 applicant or related companies in which the applicant's  
26 officers or stockholders have an interest.

27 (3) That portion of the value of any marketable  
28 security, listed or unlisted, not shown at lower of either  
29 cost or market.

30 (4) Any investment shown on the applicant's balance

1 sheet in the applicant's joint ventures, subsidiaries,  
2 affiliates or related companies which is greater than the  
3 value of the assets at equity.

4 (5) Goodwill.

5 (6) The value placed on insurance renewals, property  
6 management contract renewals or other similar intangibles of  
7 the applicant.

8 (7) Organization costs of the applicant.

9 (8) Any real estate held for investment where  
10 development will not start within two years from the date of  
11 its initial acquisition.

12 (9) Any leasehold improvements not being amortized over  
13 the lesser of the expected life of the asset or the remaining  
14 term of the lease.

15 SUBCHAPTER B

16 NATURE AND EFFECT OF SHORT-TERM LOANS

17 Sec.

18 5111. License requirements.

19 5112. Loan agreement requirements.

20 5113. Authorized finance charges, origination fees and loan  
21 verification costs.

22 5114. Maximum amount of loans, terms of loans and right of  
23 rescission.

24 5115. Prohibitions.

25 5116. Renewal loans.

26 5117. Form of loan proceeds.

27 5118. Endorsement of check.

28 5119. Redemption of repayment mechanism.

29 5120. Authorized charge for dishonored repayment mechanisms.

30 5121. Posting of charges and notice of mandatory extended

1           payment plan.

2   5122. Notice of assignment or sale of loans.

3   5123. No criminal culpability.

4   5124. Unfair or deceptive practices.

5   5125. Extended payment plan.

6   5126. Prohibited practices regarding loans.

7   5127. Commonwealth Financial Literacy Account.

8   5128. Licensee duties with respect to military personnel.

9   § 5111. License requirements.

10   (a) General rule.--No person may market, service, arrange,  
11 make, hold, originate, extend, contract or negotiate, whether  
12 electronically or by other means, a short-term loan or renewal  
13 loan to an individual who resides in this Commonwealth or, if  
14 the person has a place of business in this Commonwealth, to any  
15 individual regardless of his residence, without first obtaining  
16 a license from the department under this chapter and otherwise  
17 complying with all of the provisions of this chapter.

18   (b) Exemptions.--

19       (1) Except as provided under paragraph (2), this chapter  
20 shall not apply to depository institutions.

21       (2) A short-term lender that is an agent of a depository  
22 institution for the purpose of brokering short-term loans  
23 made by a depository institution shall be subject to all  
24 provisions of this chapter except those provisions related to  
25 finance charges. This paragraph shall be limited to the  
26 brokering of short-term loans that are made and held by a  
27 depository institution.

28   § 5112. Loan agreement requirements.

29   (a) General rule.--Each loan shall be documented by a loan  
30 agreement which shall contain all of the following:

- 1           (1) The name and address of the consumer.
- 2           (2) The transaction date and a prominently labeled  
3 transaction number.
- 4           (3) The amount of the loan or advance.
- 5           (4) A statement of the total amount of finance charges  
6 charged, expressed both as a dollar amount and an annual  
7 percentage rate.
- 8           (5) A specific date for the end of the deferment period  
9 or extended payment plan.
- 10           (6) The name, address and telephone number of the short-  
11 term lender and the name and title of the individual employee  
12 who signs the loan agreement on behalf of the short-term  
13 lender.
- 14           (7) An itemization of the fees and interest charges to  
15 be paid by the consumer.
- 16           (8) Disclosures required by the Truth in Lending Act  
17 (Public Law 90-321, 15 U.S.C. § 1601 et seq.), regardless of  
18 whether the Truth in Lending Act applies to the particular  
19 loan.
- 20           (9) A clear description of the consumer's payment  
21 obligations under the loan and a clear description of the  
22 repayment mechanism agreed to by the short-term lender and  
23 the consumer.
- 24           (10) A clear description of the consumer's right to an  
25 extended payment plan under section 5125 (relating to  
26 extended payment plan).
- 27           (11) Disclosure in boldface print and in at least ten-  
28 point type that the consumer may not obtain renewal for the  
29 short-term loan more than one time for an additional  
30 deferment period mutually agreed to by the consumer and the

1 short-term lender.

2 (12) Disclosure in boldface print and in at least ten-  
3 point type indicating the maximum loan amount and finance  
4 charge.

5 (13) Disclosure in boldface print and in at least ten-  
6 point type indicating the restrictions on multiple loans  
7 provided for under this chapter.

8 (14) Disclosure in boldface print and in at least ten-  
9 point type indicating the consumer's right of rescission  
10 under this chapter. The disclosure of the consumer's right of  
11 rescission shall be set forth immediately above the  
12 consumer's signature line and shall state as follows:

13 This transaction is not meant to meet long-term  
14 financial needs and should be used only to meet  
15 short-term cash needs. Renewing a short-term loan  
16 rather than repaying it in full at the end of its  
17 term will result in further finance charges. You have  
18 the right to rescind this transaction at any time  
19 before the lender's close of business on the next  
20 business day after the transaction date shown above.  
21 In order to rescind, you must return all of the loan  
22 proceeds you received to the lender. The lender will  
23 refund to you all fees if you rescind this  
24 transaction.

25 (15) Any other information as the department may  
26 require.

27 (a.1) Deferment period.--A deferment period may not be in  
28 excess of 60 days and shall include at least one regular  
29 installment of income for the consumer. The deferment period  
30 shall be calculated from the date of the loan agreement.

1 (b) Limitations.--A loan agreement, or any other document or  
2 instrument signed by the consumer in connection with the loan,  
3 shall not contain any of the following:

4 (1) A mandatory arbitration clause that does not comply  
5 with the standards set forth in the statement of principles  
6 of the National Consumer Disputes Advisory Committee of the  
7 American Arbitration Association in effect on the effective  
8 date of this section.

9 (2) A hold harmless clause for the benefit of the short-  
10 term lender.

11 (3) A confession of judgment clause.

12 (4) A waiver by the consumer of any contractual right or  
13 any provision of this chapter.

14 § 5113. Authorized finance charges, origination fees and loan  
15 verification costs.

16 (a) Interest.--A short-term lender may charge and receive on  
17 each loan interest at a simple annual rate that does not exceed  
18 28% per year. The interest on the short-term loan shall be  
19 calculated in compliance with 15 U.S.C. § 1606 (relating to  
20 determination of annual percentage rate). A licensee may also  
21 charge an origination fee as provided under subsection (b) and a  
22 verification fee as provided under subsection (c).

23 (b) Loan origination fee.--A licensee may charge and receive  
24 a loan origination fee in an amount not to exceed 10% of the  
25 amount of the loan proceeds advanced to the borrower or \$100,  
26 whichever is less.

27 (c) Verification fee.--A licensee may charge and receive a  
28 verification fee in an amount not to exceed \$15 for a loan or a  
29 renewal made under this chapter. The verification fee shall be  
30 used in part to defray the costs of submitting a compliance

1 system inquiry as provided under section 5115 (relating to  
2 prohibitions) and for the financial literacy program under  
3 section 5127 (relating to Commonwealth Financial Literacy  
4 Account).

5 § 5114. Maximum amount of loans, terms of loans and right of  
6 rescission.

7 (a) General rule.--A short-term lender may not make a loan  
8 to a consumer in an amount that would result in the consumer  
9 having outstanding loans to the short-term lender in excess of  
10 the lesser of \$1,000 or 25% of the consumer's gross monthly  
11 income at any time. The short-term lender shall maintain records  
12 evidencing the consumer's gross monthly income as required under  
13 section 5136(a)(2) (relating to licensee and compliance system  
14 provider requirements).

15 (b) Right to rescind.--

16 (1) A consumer may rescind a loan before the short-term  
17 lender's close of business on the next business day  
18 immediately following the day on which the loan was made.

19 (2) In order to rescind a loan, a consumer shall notify  
20 the short-term lender of the consumer's desire to rescind the  
21 loan and return to the short-term lender, at the time of  
22 giving notice, the proceeds of the loan received by the  
23 consumer from the short-term lender under section 5117  
24 (relating to form of loan proceeds).

25 (3) No finance charge or other charge or fee may be  
26 charged or collected by the short-term lender if a loan is  
27 rescinded.

28 (4) Upon rescission of a loan, the short-term lender  
29 shall return to the consumer any check given to the short-  
30 term lender in connection with the loan or shall agree in

1 writing that any other repayment mechanism shall not be  
2 utilized.

3 (c) Completed transaction.--A loan transaction shall be  
4 completed when the short-term lender receives payment in full of  
5 the loan or the consumer redeems the repayment mechanism being  
6 held by the short-term lender by paying the full amount  
7 represented by the repayment mechanism to the short-term lender.  
8 The consumer may repay a loan at any office of the original  
9 short-term lender or the assignee of the short-term lender at  
10 the consumer's election.

11 § 5115. Prohibitions.

12 (a) General rule.--A short-term lender shall not knowingly  
13 make a loan to a consumer who has an existing loan with the  
14 short-term lender or any other licensee if the aggregate amount  
15 of all loans outstanding to the consumer exceeds the maximum  
16 amount permitted under section 5114(a) (relating to maximum  
17 amount of loans, terms of loans and right of rescission) or who  
18 has entered into an extended payment plan under section 5125  
19 (relating to extended payment plan) which has not yet been paid  
20 in full. A consumer may not have loans outstanding from more  
21 than two short-term lenders at any one time.

22 (b) (Reserved).

23 (c) (Reserved).

24 (d) Verification.--A consumer shall verify in writing at the  
25 time of entering into a loan transaction:

26 (1) That the consumer does not have a loan outstanding  
27 from any short-term lender, the aggregate outstanding balance  
28 of which exceeds the maximum loan amount permitted under  
29 section 5114(a).

30 (2) That the consumer has not entered into an extended

1 payment plan under section 5125 which has not yet been paid  
2 in full.

3 (3) The date of repayment of the consumer's last loan,  
4 if applicable.

5 (e) Confirmation.--A short-term lender shall confirm the  
6 accuracy of the verification required under subsection (d) by  
7 all of the following:

8 (1) A query of the short-term lender's own records.

9 (2) A query of the compliance system under subsection  
10 (f) (1).

11 (f) Procedure to determine outstanding loans and repayment  
12 dates.--

13 (1) The department shall engage a third-party provider  
14 capable of developing, implementing and maintaining a  
15 compliance system with real time access for reporting of loan  
16 transactions and verifying the information required under  
17 subsection (a).

18 (2) Short-term lenders shall report to the compliance  
19 system information determined by the department to be  
20 necessary to verify the number and amount of loans a consumer  
21 has outstanding with any short-term lender and the date of  
22 repayment of a consumer's last loan.

23 (3) The department may charge licensees a fee, not to  
24 exceed \$1 for each compliance system transaction. Seventy-  
25 five cents of the fee shall be used by the department for the  
26 costs of establishing and maintaining the compliance system  
27 and any other information as may be reasonably and lawfully  
28 available to the short-term lender. Twenty-five cents shall  
29 be used to provide funding for the financial literacy  
30 programs established under section 5127 (relating to

1 Commonwealth Financial Literacy Account).

2 (g) Prohibited location.--The location of a short-term loan  
3 business, except a location in existence as of the effective  
4 date of this subsection, may not be within 100 feet of any of  
5 the following:

6 (1) A horse racetrack subject to the act of December 17,  
7 1981 (P.L.435, No.135), known as the Race Horse Industry  
8 Reform Act.

9 (2) A licensed gaming facility at which slot machine  
10 gaming is conducted under 4 Pa.C.S. Pt. II (relating to  
11 gaming).

12 § 5116. Renewal loans.

13 A short-term loan may only be renewed once. A borrower who  
14 seeks the renewal of a short-term loan shall not be subject to  
15 an origination fee. A one-time renewal fee may be charged which  
16 shall not exceed \$20 and the renewal loan shall be subject to  
17 the verification fee and the interest charge established under  
18 section 5113 (relating to authorized finance charges,  
19 origination fees and loan verification costs).

20 § 5117. Form of loan proceeds.

21 (a) General rule.--A short-term lender shall disburse the  
22 proceeds of a loan to the consumer in the form of an immediately  
23 and locally cashable check, money order, cash, debit card or  
24 credit to the consumer's account at a depository institution.

25 (b) Prohibition.--A short-term lender may not impose an  
26 additional finance charge or fee for cashing the short-term  
27 lender's check or money order or for otherwise affecting the  
28 disbursement of loan proceeds.

29 (c) Same day loan.--Upon repayment of a renewal loan, a  
30 short-term lender may not make or offer a loan to the consumer

1 on the same day that the consumer repays the renewal loan.

2 § 5118. Endorsement of check.

3 A short-term lender may not negotiate or present a check for  
4 payment of a loan unless the instrument is endorsed with the  
5 actual business name or registered fictitious name of the short-  
6 term lender.

7 § 5119. Redemption of repayment mechanism.

8 Prior to the short-term lender's negotiating or presenting a  
9 consumer's check or utilizing any other repayment mechanism, the  
10 consumer shall have the right to redeem the check or any other  
11 repayment mechanism if the consumer pays the full amount of the  
12 check or other repayment mechanism to the short-term lender.

13 § 5120. Authorized charge for dishonored repayment mechanisms.

14 (a) General rule.--If a consumer's repayment mechanism is  
15 dishonored due to insufficient funds in the consumer's account,  
16 the short-term lender:

17 (1) Shall have the right to exercise all civil means  
18 authorized by law to collect the face value of the repayment  
19 mechanism.

20 (2) May contract for and collect from the consumer a  
21 charge not to exceed \$25.

22 (3) May not collect any other fees as a result of the  
23 dishonor, including damages available under 42 Pa.C.S. § 8304  
24 (relating to damages in actions on bad checks).

25 (b) When charge not allowed.--A charge authorized by this  
26 section shall not be allowed:

27 (1) if the consumer does not receive the loan proceeds  
28 from the short-term lender for any reason; or

29 (2) if the consumer places a stop-payment order due to  
30 forgery or theft.

1 § 5121. Posting of charges and notice of mandatory extended  
2 payment plan.

3 (a) Posting of charges.--A short-term lender shall post, in  
4 large type in plain view of the public at any place of business  
5 where short-term loans are made, a notice of the finance charges  
6 and any related charges, such as the charge for dishonored  
7 repayment mechanisms, imposed for loans.

8 (b) Mandatory notice.--A short-term lender shall provide to  
9 each consumer at the time a loan agreement is signed, and  
10 conspicuously display in the lending area of each business  
11 location of the short-term lender, the following notice:

12 Notice: If you are unable to repay your loan, you are  
13 entitled to an extended payment plan agreement with a  
14 fully disclosed rate, term and payment plan.

15 § 5122. Notice of assignment or sale of loans.

16 (a) General rule.--A short-term lender shall inform a  
17 consumer in writing immediately of the name, address and  
18 telephone number of the person to whom a loan is assigned or  
19 sold. A short-term lender may only assign or sell a loan to  
20 another short-term lender or to a depository institution.

21 (b) Notice.--Prior to the assignment or sale of a loan, a  
22 short-term lender shall provide the following notice to the  
23 buyer or assignee:

24 The repayment mechanism associated with this loan has  
25 been given by a consumer to secure a short-term loan  
26 transaction under Pennsylvania State law and the assignee  
27 or buyer is deemed to have knowledge of and shall be  
28 bound by the terms and conditions of the loan agreement  
29 between the consumer and the original lender.

30 § 5123. No criminal culpability.

1 A consumer shall not be subject to a criminal penalty:

2 (1) For entering into a loan agreement.

3 (2) In the event that a consumer's repayment mechanism  
4 is dishonored, unless the consumer's account on which the  
5 repayment mechanism is drawn is closed by the consumer before  
6 the end of the agreed-upon deferment period, in which case  
7 the provisions of 18 Pa.C.S. § 4105 (relating to bad checks)  
8 or 4106 (relating to access device fraud), as applicable,  
9 shall apply.

10 § 5124. Unfair or deceptive practices.

11 A person may not engage in unfair or deceptive acts,  
12 practices or advertising in connection with a loan. A violation  
13 of this section shall be deemed a violation of the act of  
14 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade  
15 Practices and Consumer Protection Law.

16 § 5125. Extended payment plan.

17 (a) General rule.--A short-term lender shall offer a  
18 consumer at least once per year an extended payment plan  
19 agreement if at any time prior to the loan's due date the  
20 consumer declares an inability to repay.

21 (b) Extended payment plan agreement.--An extended payment  
22 plan agreement shall be subject to the following terms:

23 (1) The principal balance due under the extended payment  
24 plan shall be the outstanding principal balance and finance  
25 charge due under the existing loan. The short-term lender may  
26 encourage, but shall not require, the consumer to reduce the  
27 balance of the existing loan by paying the short-term lender  
28 cash on the date the consumer enters into the extended  
29 payment plan agreement.

30 (2) The short-term lender may not impose a finance

1 charge for entering into the extended payment plan. The  
2 short-term lender may impose only the fees and charges  
3 authorized in section 5120 (relating to authorized charge for  
4 dishonored repayment mechanisms) in connection with an  
5 extended payment plan.

6 (3) The extended payment plan agreement shall allow the  
7 consumer to pay the sums due under the extended payment plan  
8 over at least four 14-day terms. Each installment shall be in  
9 an amount arrived at by dividing the total amount outstanding  
10 under paragraph (1) to a short-term lender by the number of  
11 14-day terms of the extended payment plan. If the consumer  
12 has loans outstanding to two lenders and is unable to pay  
13 both loans, the consumer shall enter into an extended payment  
14 plan with each short-term lender. A consumer may, at any  
15 time, partially or entirely pay off an extended payment plan.

16 (4) A short-term lender shall report to the compliance  
17 system described in section 5115 (relating to prohibitions)  
18 that the consumer is enrolled in an extended payment plan.

19 (5) Except when the consumer is required to enter into  
20 an extended payment plan under the provisions of this  
21 chapter, the consumer shall have the same right to rescind an  
22 extended payment plan as is provided in section 5114(b)  
23 (relating to maximum amount of loans, terms of loans and  
24 right of rescission) for the rescission of a loan.

25 (c) Eligibility requirements.--In order to enter into an  
26 extended payment plan, a consumer must:

27 (1) Have obtained a loan from the same short-term  
28 lender, or its assignee, that will enter into the extended  
29 payment plan.

30 (2) Request an extended payment plan prior to the due

1 date of the loan.

2 (3) Reasonably inform the short-term lender, either  
3 orally or in writing, that the consumer requests an extended  
4 payment plan.

5 (d) Prohibition.--During any period in which all or part of  
6 an extended payment plan is outstanding and during the seven-day  
7 period following a consumer's payment in full of an extended  
8 payment plan, no short-term lender may make or offer to make a  
9 short-term loan to the consumer.

10 § 5126. Prohibited practices regarding loans.

11 (a) Practices.--The following are prohibited regarding  
12 loans:

13 (1) Taking or attempting to take any security other than  
14 the consumer's check or other repayment mechanism.

15 (2) Taking or attempting to take more than a single  
16 check or other repayment mechanism from the consumer in  
17 connection with a single transaction.

18 (3) Selling, offering or soliciting any application for  
19 credit insurance in connection with a transaction.

20 (4) Tying a transaction to any other transaction, offer  
21 or obligation of the consumer.

22 (5) Assigning or selling a loan to another person other  
23 than in accordance with the provisions of this chapter.

24 (6) Engaging in any device or subterfuge to evade the  
25 requirements of this chapter, including making loans  
26 disguised as personal property sales and leaseback  
27 transactions or disguising loan proceeds as cash rebates for  
28 the pretextual installment sale of goods and services.

29 (7) Failing to collect and provide information regarding  
30 the number, total and average transaction amounts and other

1 information the department may request.

2 (8) Offering, arranging, negotiating, making, holding or  
3 acting as an agent or broker for the making of a loan unless  
4 the short-term lender complies with all applicable provisions  
5 of this chapter.

6 (9) Altering or deleting the date on any loan agreement  
7 or repayment mechanism held by the short-term lender.

8 (10) Rolling over, refinancing, extending or  
9 consolidating short-term loans except as provided in sections  
10 5116 (relating to renewal loans) and 5125 (relating to  
11 extended payment plan).

12 (11) Failing to immediately and accurately report a loan  
13 or an extended payment plan to the compliance system provider  
14 as required by this chapter or by the department.

15 (12) Threatening to use or using the criminal process in  
16 any state to collect the balance due on a loan.

17 (13) Depositing a check or otherwise implementing any  
18 repayment mechanism prior to the expiration of the agreed-  
19 upon deferment period.

20 (b) Penalty.--In addition to any other penalties provided  
21 under law, any transaction in violation of subsection (a) shall  
22 be uncollectible and unenforceable.

23 § 5127. Commonwealth Financial Literacy Account.

24 (a) Establishment of account.--There is established within  
25 the Banking Department Fund a restricted account to be known as  
26 the Commonwealth Financial Literacy Account. Funds collected  
27 under section 5115(f)(3) (relating to prohibitions) shall be  
28 deposited in the account.

29 (b) Designation and approval by department.--

30 (1) The department shall designate and approve nonprofit

1 consumer credit counseling agencies in each county to be  
2 available to assist the department in implementing the  
3 provisions of this chapter, including, but not limited to,  
4 mandated counseling.

5 (2) The department shall maintain an up-to-date list of  
6 approved consumer credit counseling agencies for each county  
7 and publish the list on the department's publicly accessible  
8 Internet website.

9 (c) Funding.--The department shall allocate, at its  
10 discretion, funds to credit counseling agencies from the  
11 Commonwealth Financial Literacy Account for each loan the  
12 department reviews upon request of a consumer.

13 § 5128. Licensee duties with respect to military personnel.

14 (a) Collection activity.--A licensee shall defer collection  
15 activity against:

16 (1) a consumer who is a member of the military that has  
17 been deployed to combat or a combat support posting, for the  
18 duration of the posting; or

19 (2) a reserve or National Guard member called to active  
20 duty.

21 (b) Military personnel.--A licensee shall not contact the  
22 military chain of command of a consumer who is a member of the  
23 military in an effort to collect a loan.

24 (c) Repayment agreement.--A licensee shall honor the terms  
25 of any repayment agreement that it has entered into with a  
26 consumer who is a member of the military, including any  
27 repayment agreement negotiated through military counselors or  
28 third-party credit counselors.

29 (d) Compliance with Federal law.--All lenders must comply  
30 with any Federal statutes and provisions regarding military

1 personnel and their dependents.

2 SUBCHAPTER C

3 ADMINISTRATIVE AND LICENSURE PROVISIONS

4 Sec.

5 5131. Application for license.

6 5132. Annual license fee.

7 5133. (Reserved).

8 5134. Issuance of license.

9 5135. License duration.

10 5136. Licensee and compliance system provider requirements.

11 5137. Licensee limitations.

12 5138. Surrender of license.

13 5139. Authority of department.

14 5140. Suspension, revocation or refusal.

15 5141. Penalties.

16 § 5131. Application for license.

17 (a) Contents.--An application for a license under this  
18 chapter shall be on a form prescribed and provided by the  
19 department. The application shall include the name of the  
20 applicant, the address of the principal place of business of the  
21 applicant and the address or addresses where the applicant's  
22 short-term loan business is to be conducted, the full name,  
23 official title and business address of each director and  
24 principal officer of the short-term loan business and any other  
25 information that may be required by the department. An applicant  
26 shall demonstrate to the department that policies and procedures  
27 have been developed to receive and process consumer inquiries  
28 and grievances promptly and fairly.

29 (b) Duty to update.--All applicants and licensees shall be  
30 required to provide the department with written notice of the

1 change in any information contained in an application for a  
2 license or for any renewal of a license promptly upon an  
3 applicant or licensee becoming aware of such change.

4 (c) Financial structure.--

5 (1) The applicant must establish that the applicant:

6 (i) has, at the time of application, a minimum  
7 tangible net worth of \$250,000;

8 (ii) will at all times maintain the minimum tangible  
9 net worth required by subparagraph (i); and

10 (iii) has an otherwise adequate financial structure.

11 (2) Prior to and as a condition of the issuance of a  
12 license, an applicant for a license shall maintain a bond in  
13 the amount of \$100,000 in a form acceptable to the department  
14 from a surety company authorized to do business in this  
15 Commonwealth. The bond shall be a penal bond conditioned on  
16 compliance by the licensee with this chapter and subject to  
17 forfeiture and shall run to the Commonwealth for its use and  
18 shall be held by the department for the term of the license.  
19 The bond shall also be for the use of any consumer against  
20 the licensee for failure to carry out the terms of any loan  
21 or extended payment plan. If a consumer is aggrieved, he may,  
22 with the written consent of the department, recover the  
23 amount by which the consumer is aggrieved from the bond by  
24 filing a claim with the surety company or maintaining an  
25 action on the bond. In the alternative, an aggrieved consumer  
26 may recover the amount by which the consumer is aggrieved by  
27 filing a formal complaint against the licensee with the  
28 department, which shall adjudicate the matter. Such an  
29 adjudication shall be binding upon the surety company and  
30 enforceable by the department in Commonwealth Court and by an

1 aggrieved consumer in any court. An aggrieved consumer  
2 seeking to recover any amount from a bond that has already  
3 been forfeited by the licensee or which the department is in  
4 the process of having forfeited may recover payment on such  
5 bond if, after filing a petition with the department, the  
6 department consents to the requested payment or portion  
7 thereof. The department may pay the aggrieved consumer from  
8 the bond proceeds recovered by the department in such case.  
9 Nothing in this paragraph shall be construed as limiting the  
10 ability of any court or magisterial district judge to award  
11 to any aggrieved consumer other damages, court costs and  
12 attorney fees permitted by applicable law, but those claims  
13 that are not directly related to the loan or extended payment  
14 plan may not be recovered from the proceeds of the bond. The  
15 department, in its discretion, may consent to or order pro  
16 rata or other recovery on the bond for any aggrieved consumer  
17 if claims against the bond may or do exceed its full monetary  
18 amount. No bond shall comply with the requirements of this  
19 paragraph unless it contains a provision that it shall not be  
20 canceled for any cause unless notice of intention to cancel  
21 is given to the department at least 30 days before the day  
22 upon which cancellation shall take effect. In such event, the  
23 licensee shall be required to replace the bond with a bond  
24 substantially in the same form as the original bond.  
25 Cancellation of the bond shall not invalidate the bond  
26 regarding the period of time it was in effect.

27 (d) License renewals.--Licenses shall be issued for terms of  
28 12 months and may be renewed by the department upon application  
29 by the licensee and the payment of any and all applicable  
30 renewal fees. A licensee shall comply with the same requirements

1 for renewal of its license as it did for the issuance of the  
2 original license.

3 § 5132. Annual license fee.

4 (a) General rule.--An applicant for a license shall pay to  
5 the department at the time an application is filed, and upon  
6 filing of each application for renewal thereof, a license fee  
7 for the principal place of business of \$3,000 and an additional  
8 license fee for each branch office of \$1,000.

9 (b) Recovery of costs.--No abatement of a license fee shall  
10 be made if the license is issued for a period of less than one  
11 year. The department shall be entitled to recover any cost of  
12 investigation in excess of license or renewal fees from the  
13 licensee or from a person who is not licensed under this chapter  
14 but who is believed to be engaged in the short-term loan  
15 business.

16 § 5133. (Reserved).

17 § 5134. Issuance of license.

18 (a) Time limit.--Upon receipt of an application for a  
19 license, the department may conduct such investigation as it  
20 deems necessary to determine that the applicant and its  
21 officers, directors and principals are of good character and  
22 ethical reputation. Within 60 days of receipt of a completed  
23 application, the department shall:

24 (1) issue a license; or

25 (2) refuse to issue a license for any reason which the  
26 department may refuse to issue a license under this section  
27 or for which the department may suspend, revoke or refuse to  
28 renew a license under section 5140 (relating to suspension,  
29 revocation or refusal).

30 (b) Appeal of denial.--If the department refuses to issue a

1 license, it shall notify the applicant in writing of the denial,  
2 the reason therefor and the applicant's right to appeal the  
3 denial to the Secretary of Banking. The department shall require  
4 that an appeal from refusal to approve an application for a  
5 license be filed by the applicant within 30 days of notice of  
6 refusal.

7 (c) Contents of license.--Every license issued by the  
8 department shall specify:

9 (1) The name and address of the licensee and the address  
10 or addresses covered by the license.

11 (2) The licensee's reference number.

12 (3) Any other information the department shall require  
13 to carry out the purposes of this chapter.

14 (d) Denial of license due to conviction.--

15 (1) The department may deny a license if it finds that  
16 the applicant or a director, officer, partner or ultimate  
17 equitable owner of 10% or more of the applicant has been  
18 convicted of a felony or a crime of moral turpitude in any  
19 jurisdiction or convicted of a crime which, if committed in  
20 this Commonwealth, would constitute a felony or a crime of  
21 moral turpitude. For the purposes of this chapter, a person  
22 shall be deemed to have been convicted of a crime if the  
23 person:

24 (i) enters a guilty plea or plea of nolo contendere  
25 to a criminal charge before a Federal magistrate or a  
26 court, unless the guilty plea or plea of nolo contendere  
27 is set aside, vacated, reversed or otherwise abrogated by  
28 lawful judicial process; or

29 (ii) is found guilty by the verdict of a jury or the  
30 decision or judgment of a Federal magistrate or court,

1 irrespective of pronouncement or suspension of sentence,  
2 unless the decision or judgment is set aside, vacated,  
3 reversed or otherwise abrogated by lawful judicial  
4 process.

5 (2) A license under this chapter shall be deemed to be a  
6 "covered license" within the meaning of section 405 of the  
7 act of May 15, 1933 (P.L.565, No.111), known as the  
8 Department of Banking Code. The department shall notify a  
9 licensee if a covered individual who is or will be employed  
10 or contracted by the licensee has a criminal background that  
11 renders the employee unfit for employment in the short-term  
12 loan business.

13 (e) Denial of license for other reason.--The department may  
14 deny a license or otherwise restrict a license if it finds that  
15 the applicant or a director, officer, partner, employee, agent  
16 or ultimate equitable owner of 10% or more of the applicant:

17 (1) has had a license application or license issued by  
18 the department denied, not renewed, suspended or revoked;

19 (2) is the subject of an order of the department;

20 (3) has violated or failed to comply with any provisions  
21 of this chapter or any regulation or order of the department;

22 (4) has an outstanding debt to the Commonwealth or any  
23 Commonwealth agency; or

24 (5) does not possess the financial responsibility,  
25 character, reputation, integrity and general fitness to  
26 command the confidence of the public and to warrant the  
27 belief that the short-term loan business will be operated  
28 lawfully, honestly, fairly and within the legislative intent  
29 of this chapter and in accordance with the general laws of  
30 this Commonwealth. For purposes of this paragraph, an

1 applicant is not financially responsible if the applicant has  
2 shown a disregard in the management of his or her own  
3 financial condition. The factors that the department may  
4 consider in making a determination regarding an applicant's  
5 financial responsibility shall include:

6 (i) Current outstanding judgments, other than  
7 judgments solely as a result of medical expenses.

8 (ii) Current outstanding tax liens or other  
9 government liens and filings.

10 (iii) Foreclosures within the past three years.

11 (iv) A pattern of seriously delinquent accounts  
12 within the past three years.

13 § 5135. License duration.

14 A license issued by the department:

15 (1) Must be renewed on the license's renewal date of  
16 each year upon payment of the annual renewal fee and after  
17 the department determines that the licensee is conducting  
18 business in accordance with this chapter. No refund of any  
19 portion of the license fee shall be made if the license is  
20 voluntarily surrendered to the department or suspended or  
21 revoked by the department prior to its expiration date.

22 (2) Shall be invalid if the licensee's authority to  
23 conduct business is voided under any law of this Commonwealth  
24 or any other state unless the licensee demonstrates that the  
25 applicable court or governmental entity was clearly erroneous  
26 in voiding the licensee's authority to conduct business.

27 (3) Is not assignable or transferable by operation of  
28 law or otherwise.

29 § 5136. Licensee and compliance system provider requirements.

30 (a) Requirements of a licensee.--A licensee shall do all of

1 the following:

2 (1) Conspicuously display its license at each licensed  
3 place of business.

4 (2) Maintain at its principal place of business within  
5 this Commonwealth, or at a place outside this Commonwealth if  
6 agreed to by the department, the original, a copy or  
7 electronic access to books, accounts, records and documents  
8 of the business conducted under the license as prescribed by  
9 the department to enable the department to determine whether  
10 the business of the licensee is being conducted in accordance  
11 with this chapter and the orders, regulations and statements  
12 of policy issued under this chapter. Instruments, documents,  
13 accounts, books and records shall be kept separate and apart  
14 from the records of any other business conducted by the  
15 licensee and shall be preserved and kept available for  
16 investigation or examination by the department for a period  
17 determined by the department. The department shall have free  
18 access to and authorization to examine records maintained  
19 outside this Commonwealth. The costs of the examination,  
20 including travel costs, shall be borne by the licensee. The  
21 department may deny or revoke the authority to maintain  
22 records outside this Commonwealth for good cause in the  
23 interest of protection for Commonwealth consumers, including  
24 for the licensee's failure to provide books, accounts,  
25 records or documents to the department upon request.

26 (3) Be subject to examination by the department. The  
27 department may examine a licensee if the department deems the  
28 examination to be necessary or desirable. The cost of the  
29 examination shall be borne by the licensee. During an  
30 examination, the department shall have free access, during

1 regular business hours, to the licensee's place or places of  
2 business in this Commonwealth and to all instruments,  
3 documents, accounts, books and records which pertain to a  
4 licensee's short-term loan business, whether maintained in or  
5 outside this Commonwealth.

6 (4) Include in all advertisements language indicating  
7 that the licensee is licensed by the department.

8 (b) Requirements of compliance system provider.--Annually,  
9 on a date determined by the department, the compliance system  
10 provider shall file a report with the department setting forth  
11 the information the department requires concerning the short-  
12 term loan business conducted by the licensee during the  
13 preceding calendar year. The report must be in writing and  
14 subject to penalty of perjury on a form provided by the  
15 department. Compliance system providers failing to file the  
16 required report in a timely manner shall be subject to a penalty  
17 of \$500 for each day after December 1 until the report is filed.  
18 The report shall include:

19 (1) The total number of short-term loans made during the  
20 preceding calendar year.

21 (2) The minimum, maximum and average dollar amount of  
22 short-term loans made during the preceding calendar year.

23 (3) The average annual percentage rate and the average  
24 term of short-term loans made during the preceding calendar  
25 year.

26 (4) The total number of returned checks, the total of  
27 checks recovered and the total of checks charged off during  
28 the preceding calendar year.

29 (5) The total number of short-term loans paid in full,  
30 the total number of loans which went into default and the

1 total number of loans charged off during the preceding  
2 calendar year.

3 (6) The total number of consumer complaints.

4 (7) Frequency of repeat use by consumers of postdated or  
5 delayed deposit checks.

6 (8) Verification that the licensee has not used the  
7 criminal process or caused the criminal process to be used in  
8 the collection of any short-term loan during the preceding  
9 calendar year.

10 (9) Information on the number of consumers referred to  
11 financial literacy counseling within the preceding calendar  
12 year.

13 (10) Any other information or data the department may  
14 require.

15 (c) Accounting records.--The licensee's accounting records  
16 shall be constructed and maintained in compliance with generally  
17 accepted accounting principles or as provided by department  
18 regulation.

19 (d) Copies.--If copies of instruments, documents, accounts,  
20 books or records are maintained under subsection (a)(2), they  
21 may be photostatic, microfilm or electronic copies or copies  
22 provided in some other manner approved by the department.

23 § 5137. Licensee limitations.

24 A licensee may not do any of the following:

25 (1) Transact any business under this chapter under any  
26 other name or names except those designated in its license. A  
27 licensee that changes its name or place or places of business  
28 shall immediately notify the department. Upon notification,  
29 the department shall issue a certificate to the licensee, if  
30 appropriate, which shall specify the licensee's new name or

1 address.

2 (2) Conduct a business other than the short-term loan  
3 business licensed by the department under this chapter  
4 without at least 30 days' prior written notification to and  
5 approval by the department.

6 § 5138. Surrender of license.

7 (a) Authorization.--Upon satisfying the department that all  
8 creditors of a licensee have been paid or that other  
9 arrangements satisfactory to the creditors and the department  
10 have been made, a licensee may voluntarily surrender its license  
11 to the department by delivering its license to the department  
12 with written notice that the license is being voluntarily  
13 suspended.

14 (b) Effect.--Surrender under this section shall not affect  
15 the licensee's civil or criminal liability for acts committed.  
16 § 5139. Authority of department.

17 (a) General authority.--The department has the following  
18 powers and duties:

19 (1) Examine any instrument, document, account, book,  
20 record or file of a licensee or any person having a  
21 connection to the licensee or make an investigation necessary  
22 to administer this chapter. The costs of the examination  
23 shall be borne by the licensee or the entity subject to the  
24 examination. Under the authority under this subsection, the  
25 department may remove any instrument, document, account,  
26 book, record or file of a licensee to a location outside of  
27 the licensee's office location.

28 (2) Conduct an administrative hearing on any matter  
29 pertaining to this chapter, issue subpoenas to compel the  
30 attendance of witnesses and the production of instruments,

1 documents, accounts, books and records at the hearing.  
2 Subpoenaed material may be retained by the department until  
3 the completion of all proceedings in connection with the  
4 materials. A department official may administer oaths and  
5 affirmations to an individual whose testimony is required. If  
6 a person fails to comply with a subpoena issued by the  
7 department or to testify on a matter concerning which the  
8 person may be lawfully interrogated, on application by the  
9 department, the Commonwealth Court may issue an order  
10 requiring the attendance of the person, the production of  
11 instruments, documents, accounts, books or records or the  
12 giving of testimony.

13 (3) Request and receive information or records,  
14 including reports of criminal history record information from  
15 any Federal, State, local or foreign government entity  
16 regarding an applicant for a license, a licensee or a person  
17 related to the business of the applicant or licensee, at a  
18 cost to be paid by the applicant or licensee.

19 (4) Require a person to pay the department's costs  
20 incurred while conducting an investigation of the person for  
21 purposes of issuance or renewal of a license or for any  
22 violation of this chapter.

23 (5) Promulgate regulations and statements of policy and  
24 issue orders as necessary for the proper conduct of the  
25 short-term loan business by short-term lenders, the issuance  
26 and renewal of licenses and the enforcement of this chapter.

27 (6) Prohibit or permanently remove an individual  
28 responsible for a violation of this chapter from working in  
29 the individual's present capacity or in any other capacity  
30 related to activities regulated by the department.

1           (7) Order a person to make restitution for actual  
2           damages to consumers caused by any violation of this chapter.

3           (8) Impose conditions as the department deems  
4           appropriate.

5           (b) Hearings.--A person aggrieved by a decision of the  
6           department may appeal the decision of the department to the  
7           Secretary of Banking. The appeal shall be conducted under 2  
8           Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of  
9           Commonwealth agencies).

10          (c) Injunctions.--The department may maintain an action for  
11          an injunction or other process against a person to restrain the  
12          person from engaging in an activity violating this chapter.

13          (d) Final orders.--A decision of the secretary shall be a  
14          final order of the department and shall be enforceable in a  
15          court of competent jurisdiction. The department shall publish  
16          the final adjudication issued under this section, subject to  
17          redaction or modification to preserve confidentiality.

18          (e) Appeals.--A person aggrieved by a decision of the  
19          Secretary of Banking may appeal the decision under 2 Pa.C.S. Ch.  
20          7 Subch. A (relating to judicial review of Commonwealth agency  
21          action).

22          § 5140. Suspension, revocation or refusal.

23          (a) Departmental action.--The department may suspend, revoke  
24          or refuse to renew a license issued under this chapter if any  
25          fact or condition exists or is discovered which, if it had  
26          existed or had been discovered at the time of filing of the  
27          application for the license, would have warranted the department  
28          in refusing to issue the license or if a licensee or director,  
29          officer, partner or owner of a licensee has:

30                (1) Made a material misstatement in any application,

1 report or submission required by this chapter or any  
2 department regulation or order.

3 (2) Failed to comply with or violated this chapter or  
4 any regulation or order promulgated or issued under this  
5 chapter.

6 (3) Engaged in dishonest, fraudulent or illegal  
7 practices or conduct in a business or unfair or unethical  
8 practices or conduct in connection with the short-term loan  
9 business.

10 (4) Been convicted of or pled guilty or nolo contendere  
11 to a crime of moral turpitude or a felony.

12 (5) Permanently or temporarily been enjoined by a court  
13 of competent jurisdiction from engaging in or continuing  
14 conduct or a practice involving an aspect of the short-term  
15 loan business.

16 (6) Become the subject of an order of the department  
17 denying, suspending or revoking a license applied for or  
18 issued under this chapter.

19 (7) Become the subject of a United States Postal Service  
20 fraud order.

21 (8) Become the subject of an order of the department  
22 denying, suspending or revoking a license under any other law  
23 administered by the department.

24 (9) Demonstrated negligence or incompetence in  
25 performing an act for which the licensee is required to hold  
26 a license under this chapter.

27 (10) Failed to comply with the requirements of this  
28 chapter to make and keep records prescribed by regulation or  
29 order of the department, to produce records required by the  
30 department or to file financial reports or other information

1 that the department, by regulation or order, may require.

2 (11) Become insolvent. For purposes of this paragraph,  
3 the term "become insolvent" shall mean that the liabilities  
4 of the applicant or licensee exceed the assets of the  
5 applicant or licensee or that the applicant or licensee  
6 cannot meet the obligations of the applicant or licensee as  
7 they mature or is in a financial condition that the applicant  
8 or licensee cannot continue in business with safety to the  
9 customers of the applicant or licensee.

10 (12) Failed to comply with the terms of any agreement  
11 under which the department authorizes a licensee to maintain  
12 records at a place other than the licensee's principal place  
13 of business.

14 (b) Reinstatement.--The department may reinstate a license  
15 which was previously revoked or denied renewal if all of the  
16 following exist:

17 (1) The condition which warranted the original action  
18 has been corrected to the department's satisfaction.

19 (2) The department has reason to believe that the  
20 condition is not likely to occur again.

21 (3) The licensee satisfies all other requirements of  
22 this chapter.

23 § 5141. Penalties.

24 (a) Licensees.--A licensee and any director, officer, owner,  
25 partner or agent of a licensee that violates this chapter or  
26 commits any action which would subject the licensee to sanction  
27 under section 5140 (relating to suspension, revocation or  
28 refusal) may be fined by the department up to \$10,000 for each  
29 offense.

30 (b) Nonlicensees.--A person subject to this chapter and not

1 licensed by the department that violates this chapter or commits  
2 an action which would subject a licensee to sanction under  
3 section 5140 may be fined by the department up to \$10,000 for  
4 each offense.

5 SUBCHAPTER D

6 MISCELLANEOUS PROVISIONS

7 Sec.

8 5151. Applicability.

9 5152. Preemption.

10 5153. Report to General Assembly.

11 § 5151. Applicability.

12 This chapter shall apply to a loan which:

13 (1) is made or executed within this Commonwealth; or

14 (2) is negotiated, offered or otherwise transacted  
15 within this Commonwealth or with any resident of this  
16 Commonwealth, in whole or in part, whether by the ultimate  
17 lender or any other person.

18 § 5152. Preemption.

19 (a) General rule.--Except as set forth in subsection (b),  
20 all of the following apply:

21 (1) This chapter preempts ordinances, resolutions and  
22 regulations imposing reporting requirements, financial or  
23 lending activities or other obligations upon persons subject  
24 to this chapter.

25 (2) Political subdivisions are prohibited from enacting  
26 and enforcing ordinances, resolutions and regulations  
27 expressly pertaining to the facilities of persons subject to  
28 this chapter.

29 (b) Exceptions.--A political subdivision may, under zoning  
30 ordinance, require a short-term lender to:

1           (1) locate within approved residential, industrial,  
2           commercial or other zones; and

3           (2) obtain a zoning permit, pay a zoning fee and undergo  
4           an inspection related to zoning.

5   § 5153. Report to General Assembly.

6           Three years from the effective date of this chapter and for  
7           three triennial periods after that date, the department shall  
8           report to the Secretary of the Senate and the Chief Clerk of the  
9           House of Representatives on the status of the short-term loan  
10          industry. The report shall include:

11           (1) The number of short-term lenders with active  
12           licenses issued by the department and the number of persons  
13           employed in this Commonwealth.

14           (2) A summary of the number of loans issued, the average  
15           loan amount and any other information as determined by the  
16           department.

17           (3) A compilation of aggregate data concerning the  
18           short-term lending industry in this Commonwealth as reported  
19           to the department under section 5136(b) (relating to licensee  
20           and compliance system provider requirements).

21           (4) Information on consumer complaints. This paragraph  
22           includes alleged or confirmed reports of unfair or deceptive  
23           trade practices and false, misleading or deceptive  
24           advertising.

25           (5) The effectiveness of the compliance system in  
26           providing real-time reporting of loan transactions,  
27           verification of consumers' borrowing and repayment history,  
28           enrollment in extended payment plans and use of financial  
29           literacy programs.

30           (6) Information on the effectiveness of a financial

1 literacy counseling and education program.

2 (7) Other information the department deems necessary and  
3 appropriate.

4 Section 2. Section 4107(a) of Title 18 is amended by adding  
5 a paragraph to read:

6 § 4107. Deceptive or fraudulent business practices.

7 (a) Offense defined.--A person commits an offense if, in the  
8 course of business, the person:

9 \* \* \*

10 (9.1) violates 7 Pa.C.S. § 5124 (relating to unfair or  
11 deceptive practices);

12 \* \* \*

13 Section 3. Title 18 is amended by adding a section to read:  
14 § 7332. Unlicensed short-term lending.

15 A person that operates without a license in violation of 7  
16 Pa.C.S. § 5111 (relating to license requirements) commits a  
17 felony of the third degree.

18 Section 4. This act shall take effect as follows:

19 (1) The following provisions of 7 Pa.C.S. shall take  
20 effect upon the effective date of the regulations promulgated  
21 by the Department of Banking under 7 Pa.C.S. § 5139(a) (5):

22 (i) Section 5115(d) (2) and (e) (2).

23 (ii) Section 5125(b) (3).

24 (iii) Section 5126(a) (11).

25 (2) This section shall take effect immediately.

26 (3) The remainder of this act shall take effect in 60  
27 days.