
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 975 Session of
2013

INTRODUCED BY BROWNE, WHITE, SCARNATI AND YUDICHAK, MAY 31, 2013

REFERRED TO BANKING AND INSURANCE, MAY 31, 2013

AN ACT

1 Amending Titles 7 (Banks and Banking) and 18 (Crimes and
2 Offenses) of the Pennsylvania Consolidated Statutes,
3 providing for micro loan reform and imposing penalties;
4 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. Part II of Title 7 of the Pennsylvania
9 Consolidated Statutes is amended by adding a chapter to read:

10 CHAPTER 51

11 MICRO LOAN REFORM

12 Subchapter

13 A. Preliminary Provisions

14 B. Consumer Protections

15 C. Nature of Loans

16 D. Administrative and Licensure Provisions

17 E. Miscellaneous Provisions

18 SUBCHAPTER A

19 PRELIMINARY PROVISIONS

20 Sec.

1 5101. Scope of chapter.

2 5102. Definitions.

3 § 5101. Scope of chapter.

4 This chapter relates to micro loan reform.

5 § 5102. Definitions.

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

9 "Agency." The Pennsylvania Housing Finance Agency.

10 "Applicant." A person that applies for a license under this
11 chapter.

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

15 "Consecutive short-term loan." The application by a consumer
16 for and approval by a licensee of a short-term loan no earlier
17 than one business day nor more than two business days after the
18 payment by the consumer of a previous short-term loan, whether
19 from the same or a different licensee.

20 "Consumer." An individual who applies for or is the
21 recipient of a short-term loan.

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

25 "Department." The Department of Banking and Securities of
26 the Commonwealth.

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

29 "Extended short-term loan." A loan made by a licensee which
30 has all of the requirements of a short-term loan except that:

1 (1) its deferment period is not less than 60 days nor
2 more than 120 days; and

3 (2) its repayment schedule is of equal amounts and
4 periods and consistent with the consumer's regular
5 installment of income.

6 "Gross monthly income." Wages or commissions received by a
7 consumer in the 30-day period immediately preceding the date of
8 the consumer's application for a loan or as otherwise determined
9 by the Department of Banking and Securities.

10 "Licensee." A person licensed by the Department of Banking
11 and Securities under this chapter.

12 "Loan agreement." A signed written agreement between a
13 licensee and a consumer.

14 "Person." An individual, association, joint venture or
15 joint-stock company, partnership, limited liability company,
16 limited partnership, limited partnership association, business
17 corporation or any other group of individuals, however
18 organized.

19 "Repayment mechanism." A method agreed to by a consumer
20 which a licensee 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 "Secretary." The Secretary of Banking and Securities.

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

30 "Short-term loan." As follows:

1 (1) A loan or advance of money or credit to a consumer
2 by a short-term lender that, for a fee, finance charge or
3 other consideration, does all of the following:

4 (i) Accepts a check or other repayment mechanism
5 from the consumer.

6 (ii) Agrees to hold the check or repayment mechanism
7 for a deferment period.

8 (iii) Pays to the consumer a cash advance, a locally
9 cashable check, debit card or money order or credits to
10 the consumer's account the amount of the check less
11 finance charges permitted under Subchapter C (relating to
12 nature of loans).

13 (2) The term includes an arrangement in which a person
14 pays a cash advance to a consumer in return for a repayment
15 mechanism and a fee, finance charge or other consideration.

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

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

24 (1) The portion of assets pledged to secure obligations
25 of a person other than that of the applicant.

26 (2) An asset due from officers or stockholders of the
27 applicant or related companies in which the applicant's
28 officers or stockholders have an interest.

29 (3) The portion of the value of a marketable security,
30 listed or unlisted, not shown at lower of either cost or

1 market value.

2 (4) An investment shown on the applicant's balance sheet
3 in the applicant's joint ventures, subsidiaries, affiliates
4 or related companies which is greater than the value of the
5 assets at equity.

6 (5) Goodwill.

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

10 (7) Organization costs of the applicant.

11 (8) Real estate held for investment where development
12 will not start within two years from the date of its initial
13 acquisition.

14 (9) Leasehold improvements not being amortized over the
15 lesser of the expected life of the asset or the remaining
16 term of the lease.

17 SUBCHAPTER B

18 CONSUMER PROTECTIONS

19 Sec.

20 5111. License requirements.

21 5112. Loan agreement requirements.

22 5113. Sole allowable interest charge.

23 5114. Limitation on repayment terms.

24 5115. Prohibition on rollover loans.

25 5116. Maximum number and amount of loans, use of consumer
26 report, right of rescission and prohibition on same-
27 day loans.

28 5117. Licensee duty to offer credit counseling.

29 5118. Commonwealth Consumer Credit Counseling Account.

30 5119 Verification of compliance with regulatory terms and

1 conditions.

2 5120. Verification fee.

3 5121. Establishment and operation of compliance system.

4 5122. Licensee duties with respect to military personnel.

5 5123. Form of loan proceeds.

6 5124. Endorsement of check.

7 5124.1. Redemption of repayment mechanism.

8 5125. Posting of charges.

9 5126. Notice of assignment or sale of loans.

10 5127. Criminal culpability.

11 5128. Unfair or deceptive practices.

12 5128.1. Extended payment plan.

13 5129. Prohibited practices regarding loans.

14 5130. Anti-money laundering requirements.

15 § 5111. License requirements.

16 (a) General rule.--No person may market, service, arrange,
17 make, hold, originate, extend, contract or negotiate, whether
18 electronically or by other means, loans established under this
19 chapter to an individual who resides in this Commonwealth or, if
20 the person has a place of business in this Commonwealth, to an
21 individual regardless of his residence, without first obtaining
22 a license from the department under this chapter and otherwise
23 complying with all of the provisions of this chapter.

24 (b) Exemptions.--

25 (1) Except as provided under paragraph (2), the
26 requirements to verify compliance and collect and remit the
27 verification fee established under sections 5119 (relating to
28 verification of compliance with regulatory terms and
29 conditions) and 5120 (relating to verification fee) shall
30 apply to depository institutions. A depository institution

1 may make short-term loans in accordance with the terms and
2 interest rates, fees and charges permissible under Federal or
3 State law.

4 (2) A licensee that is an agent of a depository
5 institution for the purpose of brokering short-term loans
6 made by a depository institution shall be subject to the
7 provisions of this chapter except for provisions related to
8 finance charges and loan terms. This paragraph shall apply to
9 the brokering of short-term loans that are made and held by a
10 depository institution.

11 § 5112. Loan agreement requirements.

12 (a) General rule.--Each loan, regardless of the term of that
13 loan, shall be documented by a loan agreement which shall
14 contain all of the following:

15 (1) The name and address of the consumer.

16 (2) The transaction date and a prominently labeled
17 transaction number.

18 (3) The amount of the loan or advance.

19 (4) A statement of the total amount of finance charges
20 charged, expressed both as a dollar amount and an annual
21 percentage rate.

22 (5) A specific date for the end of the deferment period
23 or extended payment plan.

24 (6) The name, address and telephone number of the
25 licensee and the name and title of the individual employee
26 who signs the loan agreement on behalf of the licensee.

27 (7) An itemization of the fees to be paid by the
28 consumer.

29 (8) Disclosures required under the Truth in Lending Act
30 (Public Law 90-321, 15 U.S.C. § 1601 et seq.).

1 (9) A clear description of the consumer's payment
2 obligations under the loan, a clear description of the
3 repayment mechanism agreed to by the licensee and the
4 consumer and a clear description of the consumer's right to
5 request an extended payment plan under section 5128.1
6 (relating to extended payment plan).

7 (10) Disclosure in boldface print and in at least ten-
8 point type indicating the loan amount and finance charge.

9 (11) Disclosure in boldface print and in at least ten-
10 point type indicating the restrictions on loans provided for
11 under this chapter.

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

17 This transaction is not meant to meet long-term
18 financial needs and should be used only to meet
19 short-term cash needs. You have the right to rescind
20 this transaction at any time before the lender's
21 close of business on the next business day after the
22 transaction date shown above. In order to rescind,
23 you must return all of the loan proceeds you received
24 to the lender. The lender will refund to you all fees
25 if you rescind this transaction.

26 (14) Any other information as the department may
27 require.

28 (b) Limitations.--A loan agreement, or any other document or
29 instrument signed by the consumer in connection with the loan,
30 may not contain any of the following:

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

6 (2) A hold harmless clause for the benefit of the
7 licensee.

8 (3) A confession of judgment clause.

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

11 § 5113. Sole allowable interest charge.

12 Notwithstanding the term of or another provision applicable
13 to the categories of loans authorized under this chapter, a
14 licensee may charge and receive on each loan interest at a
15 simple annual rate that does not exceed 28% per year. The
16 interest on the short-term loan shall be calculated in
17 compliance with 15 U.S.C. § 1606 (relating to determination of
18 annual percentage rate). The finance charge shall be deemed
19 fully earned as of the date of the short-term loan transaction,
20 unless the consumer rescinds the loan under section 5116
21 (relating to maximum number and amount of loans, use of consumer
22 report, right of rescission and prohibition on same-day loans).

23 § 5114. Limitation on repayment terms.

24 Loans under this chapter shall have, as far as is
25 practicable, repayment terms of substantially equal installment
26 amounts and time periods. A loan to a consumer whose repayment
27 period spans multiple regular occurrences of income shall be
28 entitled to repayment over substantially equal time periods and
29 for substantially equal amounts consistent with those
30 occurrences of income. Loans in excess of 30 days shall not have

1 a single balloon payment.

2 § 5115. Prohibition on rollover loans.

3 Notwithstanding the term or another provision applicable to
4 the categories of loans authorized under this chapter, a
5 licensee may not offer a consumer a loan whose purpose is to
6 fund the repayment of a prior unpaid loan received from that
7 licensee.

8 § 5116. Maximum number and amount of loans, use of consumer
9 report, right of rescission and prohibition on same-
10 day loans.

11 (a) General rule.--A licensee may not make a short-term or
12 extended short-term loan to a consumer in an amount that would
13 result in the consumer having more than one outstanding loan to
14 a single or to multiple licensees at a time. The amount of a
15 short-term or extended short-term loan may not be in excess of
16 the lesser of \$1,000 or 25% of the consumer's gross monthly
17 income at any time. A licensee shall maintain records evidencing
18 the consumer's gross monthly income as required under section
19 5141(a)(1) (relating to licensee and compliance system provider
20 requirements).

21 (b) Consumer report.--

22 (1) A short-term lender may request, at no cost to the
23 consumer, a borrower's consumer report from a consumer
24 reporting agency as part of the short-term lender's
25 underwriting process.

26 (2) A short-term lender may rely on the consumer report:

27 (i) As a permissible method of verifying the
28 borrower's monthly gross income in making the short-term
29 loan.

30 (ii) In underwriting and making subsequent short-

1 term loans to the same customer if the report was
2 obtained within the previous 12 months.

3 (3) As used in this subsection, the following words and
4 phrases shall have the meanings given to them in this
5 paragraph unless the context clearly indicates otherwise:

6 "Consumer report." As defined in 15 U.S.C. §
7 1681a(d) (relating to definitions; rules of
8 construction).

9 "Consumer reporting agency." As defined in 15 U.S.C.
10 § 1681a(f).

11 (c) Right to rescind.--

12 (1) A consumer may rescind a loan before the licensee's
13 close of business on the next business day immediately
14 following the day on which the loan proceeds were received by
15 the consumer.

16 (2) In order to rescind a loan, a consumer shall notify
17 the licensee of the consumer's desire to rescind the loan and
18 return to the licensee, at the time of giving notice, the
19 proceeds of the loan received by the consumer from the
20 licensee under section 5123 (relating to form of loan
21 proceeds).

22 (3) No finance charge or other charge or fee may be
23 charged or collected by the licensee if a loan is rescinded.

24 (4) Upon rescission of a loan, the licensee shall return
25 to the consumer any check given to the licensee in connection
26 with the loan or shall agree in writing that any other
27 repayment mechanism shall not be utilized.

28 (d) Completed transaction.--A loan transaction shall be
29 completed when the licensee receives payment in full of the loan
30 or the consumer redeems the repayment mechanism being held by

1 the licensee by paying the full amount represented by the
2 repayment mechanism to the licensee. The consumer may repay a
3 loan at an office of the original licensee or the assignee of
4 the licensee at the consumer's election.

5 (e) Same-day loan.--Upon repayment of a loan, a licensee may
6 not make or offer a loan to the consumer on the same day that
7 the consumer repays the loan.

8 § 5117. Licensee duty to offer credit counseling.

9 (a) General rule.--Notwithstanding the term of the loan
10 involved, a licensee shall deliver written notice that advises
11 the consumer that the consumer is entitled to credit counseling
12 at no cost to the consumer from an unaffiliated third party
13 credit counselor approved by the agency to provide credit
14 counseling prior to executing a loan agreement with the
15 consumer.

16 (b) Consumer acknowledgment.--The licensee shall have the
17 consumer acknowledge the licensee's delivery of the notice of
18 availability of no-cost credit counseling on a form prescribed
19 by the department, which shall include the following notice:

20 You are entitled to no-cost credit counseling in
21 connection with obtaining this short-term loan. This loan
22 is not meant to meet long-term financial needs and should
23 be used only to meet short-term cash needs. Taking
24 advantage of this no-cost credit counseling could help
25 you avoid the need to seek this kind of loan in the
26 future.

27 § 5118. Commonwealth Consumer Credit Counseling Account.

28 (a) Establishment.--There is established within the agency a
29 restricted account to be known as the Commonwealth Consumer
30 Credit Counseling Account. Funds collected under section

1 5120(b)(i) (relating to verification fee) shall be deposited
2 into the account.

3 (b) Designation and approval by agency.--

4 (1) The agency shall designate and approve credit
5 counseling agencies to be available to assist the agency in
6 implementing the provisions of this chapter related to
7 consumer credit counseling. Credit counseling agencies
8 seeking to provide budget and credit counseling to consumers
9 must meet the requirements prescribed by the agency.

10 (2) The agency shall maintain an up-to-date list of
11 approved credit counseling agencies by county and publish the
12 list on the agency's publicly accessible Internet website.

13 (3) The agency shall allocate quarterly, at its
14 discretion, funds to approved credit counseling agencies from
15 the account.

16 (4) The agency shall pay all costs and expenses for
17 delivery of consumer credit counseling from amounts available
18 in the account.

19 § 5119. Verification of compliance with regulatory terms and
20 conditions.

21 (a) Consumer compliance.--In order to insure compliance with
22 the terms and conditions of this chapter and any subsequent
23 rules and regulations established by the department, a consumer
24 shall verify in writing at the time of entering into a loan
25 transaction:

26 (1) The number of loans the consumer has outstanding
27 from any licensee.

28 (2) The date of repayment of the consumer's last loan,
29 if applicable.

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

1 payment plan under section 5128.1 (relating to extended
2 payment plan).

3 (b) Verification of confirmation.--A licensee shall confirm
4 the accuracy of the verification required under subsection (a)
5 by all of the following:

6 (1) A query of the licensee's own records.

7 (2) A query of the compliance system established under
8 section 5121 (relating to establishment and operation of
9 compliance system).

10 § 5120. Verification fee.

11 (a) Authority.--In addition to the interest authorized under
12 this chapter, a licensee may charge and receive a verification
13 fee in an amount not to exceed \$5 for a loan made under this
14 chapter. The verification fee shall be used in part to defray
15 the costs of submitting a compliance system inquiry as provided
16 under section 5119 (relating to verification of compliance with
17 regulatory terms and conditions), for the Commonwealth Consumer
18 Credit Counseling Account under section 5118 (relating to
19 Commonwealth Consumer Credit Counseling Account), for the
20 regulatory expenses of the department and for the costs accrued
21 by licensees related to compliance verification.

22 (b) Required remittance of fees.--

23 (1) A licensee shall remit all of the following on a
24 monthly basis:

25 (i) Fifty cents per loan transaction to the
26 Commonwealth Consumer Credit Counseling Account for the
27 agency to pay for costs to provide consumer budget and
28 credit counseling.

29 (ii) A fee up to 50¢ per loan transaction, as
30 determined by the department, to a compliance system

1 provider for the purpose of determining outstanding loans
2 and repayment dates provided under section 5119.

3 (iii) One dollar and fifty cents per loan
4 transaction, plus any difference in the fee determined by
5 the department for the services of the compliance system
6 provider provided under section 5121 (relating to
7 establishment and operation of compliance system).

8 § 5121. Establishment and operation of compliance system.

9 (a) Provider.--The department shall engage a third party
10 provider capable of developing, implementing and maintaining a
11 compliance system, at no cost to the department, with real time
12 access for reporting of loan transactions and verifying the
13 information required under subsection (b).

14 (b) Duty.--Licensees shall enter into the compliance system
15 information determined by the department to be necessary to
16 verify the number and amount of loans a consumer has outstanding
17 with any licensee, the date of repayment of a consumer's last
18 loan and if a consumer has met the eight successful short-term
19 loan restrictions established under this chapter.

20 § 5122. Licensee duties with respect to military personnel.

21 (a) Primacy of Federal military lending law.--A licensee may
22 not offer a loan under this chapter to a member of the military
23 on active duty, a reserve or National Guard member called to
24 active duty or their eligible family members that is not in
25 accordance with 10 U.S.C. § 987 (relating to terms of consumer
26 credit extended to members and dependents: limitations) and 32
27 CFR Pt. 232 (relating to limitations on terms of consumer credit
28 extended to service members and dependents) and any Federal law
29 or regulation enacted on or after the effective date of this
30 section relating to the extension of consumer credit to active

1 military service members and dependents.

2 (b) Universal application.--Subsection (a) shall apply to
3 loans offered under this chapter, notwithstanding the active
4 duty service member's or dependent's domicile or permanent home
5 of record.

6 (c) Identification of and disclosure to covered military
7 personnel.--All licensees shall be required to ascertain and
8 document whether a borrower is a member of the military on
9 active duty, a member of the United States Army Reserve or
10 National Guard called to active duty or an eligible family
11 member before proceeding with a loan. If the identification is
12 established and a licensee is willing to offer a loan, the loan
13 must include a disclosure, in writing, to the potential borrower
14 of the effect of the provisions of 10 U.S.C. § 987 and 32 CFR
15 Pt. 232. The disclosure must be made in ten-point type and shall
16 read:

17 If you are a member of the military on active duty, a member
18 of the United States Army Reserve or National Guard, or an
19 eligible family member, the loans offered by this licensee
20 are covered by Federal law. As such, a loan offered to you
21 must meet the requirements of Federal law and regulations
22 applicable to active duty military personnel, including:

23 (1) a rate which, including all fees and charges
24 which in total does not exceed 36% APR;

25 (2) a prohibition on the use of your personal check
26 or other access to your bank accounts, your personal
27 vehicle or your military allotment as security for the
28 loan;

29 (3) a prohibition on the use of prepayment
30 penalties, rollovers, renewals or refinancing unless the

1 refinancing lowers your total cost; and

2 (4) a prohibition on any requirement that you sign
3 away your legal rights to recourse as a condition of
4 receiving the loan.

5 (d) Veteran disclosure.--All licensees shall be required to
6 ascertain and document whether a borrower is a veteran of
7 military service. If a borrower is a veteran, the licensee shall
8 provide the borrower a written disclosure in ten-point type. The
9 disclosure shall be in addition to all other applicable
10 disclosures required under this chapter and shall state:

11 As a veteran of the armed forces you can receive assistance
12 from programs established specifically to help you. You may:

13 (1) obtain financial assistance from Army Emergency
14 Relief, the Navy and Marine Corps Relief Society, the Air
15 Force Aid Society, Coast Guard Mutual Aid or other
16 military aid societies and assistance organizations;

17 (2) request free legal advice regarding an
18 application for credit from a military service legal
19 assistance office or financial counseling from a consumer
20 credit counselor; and

21 (3) apply for financial assistance from the
22 Veterans' Emergency Assistance Program by contacting the
23 Pennsylvania Department of Military and Veterans Affairs
24 at 1-800-547-2838.

25 (e) Collection activity.--A licensee shall defer collection
26 activity against:

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

30 (2) a reserve or National Guard member called to active

1 duty.

2 (f) Military chain of command.--A licensee may not contact
3 the military chain of command of a consumer who is a member of
4 the military in an effort to collect a loan.

5 (g) Repayment agreement.--A licensee shall honor the terms
6 of a repayment agreement that it has entered into with a
7 consumer who is a member of the military, including a repayment
8 agreement negotiated through military counselors or third-party
9 credit counselors.

10 § 5123. Form of loan proceeds.

11 (a) General rule.--A licensee shall disburse the proceeds of
12 a loan to the consumer in the form of an immediately and locally
13 cashable check, money order, cash, debit card or credit to the
14 consumer's account at a depository institution.

15 (b) Prohibition.--A licensee may not impose a fee for
16 cashing the licensee's check or money order or for otherwise
17 effecting the disbursement of loan proceeds.

18 § 5124. Endorsement of check.

19 A licensee may not negotiate or present a check for payment
20 of a loan unless the instrument is endorsed with the actual
21 business name or registered fictitious name of the licensee.

22 § 5124.1. Redemption of repayment mechanism.

23 Prior to the licensee's negotiating or presenting a
24 consumer's check or utilizing any other repayment mechanism, the
25 consumer shall have the right to redeem the check or any other
26 repayment mechanism if the consumer pays the full amount of the
27 check or other repayment mechanism to the licensee.

28 § 5125. Posting of charges.

29 (a) Finance charges.--A licensee shall post, in large type
30 in plain view of the public at a place of business where short-

1 term loans are made, a notice of the finance charges and any
2 related charges, such as the charge for dishonored repayment
3 mechanisms, imposed for loans.

4 (b) Mandatory notice.--A licensee shall provide to each
5 consumer at the time a loan agreement is signed, and
6 conspicuously display in the lending area of each business
7 location of the licensee, the following notice:

8 NOTICE: If you are unable to repay your short term loan,
9 you are entitled to request an extended payment plan
10 agreement with a fully disclosed rate, term and payment
11 plan.

12 § 5126. Notice of assignment or sale of loans.

13 (a) General rule.--A licensee shall inform a consumer in
14 writing immediately of the name, address and telephone number of
15 the person to whom a loan is assigned or sold. A licensee may
16 assign or sell a loan to another licensee or to a depository
17 institution.

18 (b) Notice.--Prior to the assignment or sale of a loan, a
19 licensee shall provide the following notice to the buyer or
20 assignee:

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

27 § 5127. Criminal culpability.

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

29 (1) For entering into a loan agreement.

30 (2) If a consumer's repayment mechanism is dishonored,

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

9 § 5128. Unfair or deceptive practices.

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

15 § 5128.1. Extended payment plan.

16 (a) General rule.--A consumer of a short-term loan shall be
17 entitled to an extended payment plan agreement under subsection
18 (b) at least once per year if at any time on or before the
19 loan's due date the consumer declares an inability to repay.

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

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

29 (2) The licensee may not impose a finance charge for
30 entering into the extended payment plan.

1 (3) The extended payment plan agreement shall allow the
2 consumer to pay the sums due under the extended payment plan
3 over at least four 14-day installments. Each installment
4 shall be in an amount arrived at by dividing the total amount
5 outstanding under paragraph (1) to a licensee by the number
6 of 14-day installments of the extended payment plan.

7 (4) A licensee shall report to the compliance system
8 described in section 5115 (relating to prohibition on
9 rollover loans) that the consumer is enrolled in an extended
10 payment plan.

11 (5) Except when the consumer is required to enter into
12 an extended payment plan under the provisions of this
13 chapter, the consumer shall have the same right to rescind an
14 extended payment plan as is provided in section 5116(c)
15 (relating to maximum number and amount of loans, use of
16 consumer report, right of rescission and prohibition on same-
17 day loans) for the rescission of a loan.

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

20 (1) Have obtained a loan from the same licensee, or its
21 assignee, that will enter into the extended payment plan.

22 (2) Request an extended payment plan prior to or on the
23 due date of the loan.

24 (3) Reasonably inform the licensee, either orally or in
25 writing, that the consumer requests an extended payment plan.

26 (d) Prohibition.--During any period in which all or part of
27 an extended payment plan is outstanding and during the seven-day
28 period following a consumer's payment in full of an extended
29 payment plan, no licensee may make or offer to make a short-term
30 loan to the consumer.

1 § 5129. Prohibited practices regarding loans.

2 (a) Practices.--The following are prohibited regarding
3 loans:

4 (1) Taking or attempting to take a security other than
5 the consumer's check or other repayment mechanism.

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

9 (3) Selling, offering or soliciting an application for
10 credit insurance in connection with a transaction.

11 (4) Tying a transaction to another transaction, offer or
12 obligation of the consumer.

13 (5) Assigning or selling a loan to another person other
14 than in accordance with this chapter.

15 (6) Engaging in a device or subterfuge to evade the
16 requirements of this chapter, including making loans
17 disguised as personal property sales and leaseback
18 transactions or disguising loan proceeds as cash rebates for
19 the pretextual installment sale of goods and services.

20 (7) Failing to collect and provide information regarding
21 the number, total and average transaction amounts and other
22 information the department may request.

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

27 (9) Altering or deleting the date on a loan agreement or
28 repayment mechanism held by the licensee.

29 (10) Rolling over, refinancing, extending or
30 consolidating short-term loans.

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

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

6 (13) Depositing a check or otherwise implementing a
7 repayment mechanism prior to the expiration of the agreed-
8 upon deferment period.

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

12 § 5130. Anti-money laundering requirements.

13 A person licensed by the department under this chapter shall:

14 (1) Comply with all Federal and State statutes and rules
15 relating to the detection and prevention of money laundering,
16 including 31 CFR §§ 103.20 (relating to reports by money
17 services businesses of suspicious transactions), 103.22
18 (relating to reports of transactions in currency), 103.23
19 (relating to reports of transportation of currency or
20 monetary instruments), 103.27 (relating to filing of
21 reports), 103.28 (relating to identification required),
22 103.29 (relating to purchases of bank checks and drafts,
23 cashier's checks, money orders and traveler's checks), 103.33
24 (relating to records to be made and retained by financial
25 institutions), 103.37 (relating to additional records to be
26 made and retained by currency dealers or exchangers) and
27 103.41 (relating to registration of money services
28 businesses).

29 (2) Maintain an anti-money laundering program in
30 accordance with 31 CFR § 103.125 (relating to anti-money

1 laundering programs for money services businesses). The
2 program must be reviewed and updated as necessary to ensure
3 that it continues to be effective in detecting and deterring
4 money laundering activities in the licensee's short-term loan
5 business.

6 (3) Comply with United States Treasury Interpretive
7 Release 2004-1.

8 SUBCHAPTER C

9 NATURE OF LOANS

10 Sec.

11 5131. Short-term loans.

12 5132. Extended short-term loans.

13 5133. Micro loan program.

14 5134. Authorized charges for late payments.

15 5135. Authorized charges for dishonored repayment mechanisms.

16 § 5131. Short-term loans.

17 (a) General rule.--A licensee may approve a short-term loan
18 to a consumer consistent with this chapter, except that no
19 licensee or combination of licensees may approve more than eight
20 consecutive short-term loans to an individual consumer. After
21 eight consecutive short-term loans, a licensee must offer the
22 consumer an extended short-term loan as provided under section
23 5132 (relating to extended short-term loans). If the consumer
24 refuses the offer of the extended short-term loan, the consumer
25 shall not be eligible for additional short-term loans from a
26 licensee for a period equal to the combined length of the
27 previous short-term loans or 90 days, whichever is less.

28 (b) Additional authorized charges.--A licensee may impose
29 the following charges in conjunction with the application for
30 and approval of a short-term loan:

1 (1) An application fee not to exceed 5% of the loan
2 amount may be charged by a licensee for each loan
3 application.

4 (2) A processing fee not to exceed 5% of the loan amount
5 may be charged by a licensee for each short-term loan
6 approved for a consumer.

7 (c) Authorized deferment period.--The deferment period for a
8 short-term loan may not be less than 14 days or in excess of 60
9 days and shall include at least one regular installment of
10 income for the consumer. The deferment period shall be
11 calculated from the date of the loan agreement.

12 § 5132. Extended short-term loans.

13 (a) General rule.--At any time, but no later than the
14 successful satisfaction of eight consecutive short-term loans by
15 a consumer, whether from a single or multiple licensees, a
16 licensee may offer a consumer an extended short-term loan.
17 Extended short-term loans shall meet all of the requirements of
18 this chapter but may not have deferment periods of less than 61
19 business days or in excess of 120 business days and shall
20 contain more than one regular installment of income for the
21 consumer. The deferment period shall be calculated from the date
22 of the loan agreement.

23 (b) Additional authorized charges.--A licensee may impose
24 the following charges in conjunction with the application for
25 and approval of an extended short-term loan:

26 (1) An application fee not to exceed 5% of the loan
27 amount or \$25, whichever is more, may be charged by a
28 licensee for each loan application.

29 (2) A processing fee not to exceed 5% of the loan amount
30 or \$25, whichever is more, may be charged by a licensee for

1 each short-term loan approved for a consumer.

2 § 5133. Micro loan program.

3 (a) General rule.--If a consumer has successfully satisfied
4 an extended short-term loan, a licensee may offer a consumer a
5 micro loan. A micro loan shall meet the requirements of this
6 chapter, except that a micro loan may:

7 (1) have a deferment period of up to 52 weeks; and

8 (2) include a repayment amount which may not exceed 25%
9 of the gross monthly income of a consumer.

10 (b) Annual fee.--In addition to the application and
11 processing fees allowed for extended short-term loans, a
12 licensee may charge an annual fee not to exceed \$95 to a
13 consumer prior to an application for a micro loan whose term is
14 at least 52 weeks in duration.

15 § 5134. Authorized charges for late payments.

16 (a) General rule.--Each contract shall include a specific
17 date on which a payment must be made by the consumer. If the
18 consumer repays a loan three or more days after the contracted
19 repayment date, the licensee shall be entitled to charge a late
20 payment penalty of \$25. The penalty may be levied once for a
21 payment repaid late.

22 (b) Penalty for subsequent repayments.--If a consumer repays
23 a loan three or more days after the contracted repayment date
24 and the late repayment occurs on a separate loan from the same
25 licensee but less than three months after another late payment,
26 the licensee shall be entitled to charge a late payment penalty
27 of \$35 on the late repayment and any subsequent late repayments.

28 § 5135. Authorized charges for dishonored repayment mechanisms.

29 (a) General rule.--If a consumer's repayment mechanism is
30 dishonored due to insufficient funds in the consumer's account,

1 the licensee:

2 (1) Shall have the right to exercise all civil means
3 authorized by law to collect the face value of the repayment
4 mechanism.

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

7 (b) Charge not allowed.--A charge authorized under this
8 section shall not be allowed:

9 (1) if the consumer does not receive the loan proceeds
10 from the licensee for any reason; or

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

13 SUBCHAPTER D

14 ADMINISTRATIVE AND LICENSURE PROVISIONS

15 Sec.

16 5136. Application for license.

17 5137. Annual license fee.

18 5138. Adjustment of fees.

19 5139. Issuance of license.

20 5140. License duration.

21 5141. Licensee and compliance system provider requirements.

22 5142. Licensee limitations.

23 5143. Surrender of license.

24 5144. Authority of department.

25 5145. Suspension, revocation or refusal.

26 5146. Whistleblower protection.

27 5147. Penalties.

28 § 5136. Application for license.

29 (a) Contents.--An application for a license under this
30 chapter shall be on a form prescribed and provided by the

1 department. The application shall include the name of the
2 applicant, the address of the principal place of business of the
3 applicant and the address or addresses where the applicant's
4 short-term loan business is to be conducted, the full name,
5 official title and business address of each director and
6 principal officer of the short-term loan business and any other
7 information that may be required by the department. An applicant
8 shall demonstrate to the department that policies and procedures
9 have been developed to receive and process consumer inquiries
10 and grievances promptly and fairly.

11 (b) Duty to update.--All applicants and licensees shall be
12 required to provide the department with written notice of the
13 change in information contained in an application for a license
14 or for a renewal of a license within ten days of the applicant
15 or licensee becoming aware of the change.

16 (c) Financial structure.--

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

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

20 (ii) will at all times maintain the minimum tangible
21 net worth required under subparagraph (i); and

22 (iii) has an otherwise adequate financial structure.

23 (2) The following shall apply:

24 (i) Prior to and as a condition of the issuance of a
25 license, an applicant for a license shall maintain a bond
26 in the amount of \$100,000 in a form acceptable to the
27 department from a surety company authorized to do
28 business in this Commonwealth.

29 (ii) The bond shall be:

30 (A) a penal bond conditioned on compliance by

1 the licensee with this chapter and subject to
2 forfeiture;

3 (B) for the use of:

4 (I) the Commonwealth; and

5 (II) a consumer against the licensee for
6 failure to carry out the terms of any loan or
7 extended payment plan; and

8 (C) held by the department for the term of the
9 license.

10 (iii) If a consumer is aggrieved, the consumer may:

11 (A) with the written consent of the department,
12 recover the amount by which the consumer is aggrieved
13 from the bond by filing a claim with the surety
14 company or maintaining an action on the bond; or

15 (B) recover the amount by which the consumer is
16 aggrieved by filing a formal complaint against the
17 licensee with the department, which shall adjudicate
18 the matter.

19 (iv) An adjudication under subparagraph (iii) (B)
20 shall be binding upon the surety company and enforceable
21 by the department in Commonwealth Court and by an
22 aggrieved consumer in any court.

23 (v) An aggrieved consumer seeking to recover an
24 amount from a bond that has already been forfeited by the
25 licensee or which the department is in the process of
26 having forfeited may recover payment on the bond if,
27 after filing a petition with the department, the
28 department consents to the requested payment or portion
29 of the payment. The department may pay the aggrieved
30 consumer from the bond proceeds recovered by the

1 department under this subparagraph.

2 (vi) Nothing under this paragraph shall be construed
3 as limiting the ability of a court or magisterial
4 district judge to award to an aggrieved consumer other
5 damages, court costs and attorney fees permitted by
6 applicable law, except that claims that are not directly
7 related to the loan or extended payment plan may not be
8 recovered from the proceeds of the bond.

9 (vii) The department may consent to or order pro
10 rata or other recovery on the bond for any aggrieved
11 consumer if claims against the bond may or do exceed its
12 full monetary amount.

13 (viii) A bond shall not be in compliance with this
14 paragraph unless it contains a provision that it may not
15 be canceled for a cause unless notice of intention to
16 cancel is given to the department at least 30 days before
17 the day upon which cancellation takes effect. If a bond
18 is to be canceled, a licensee shall replace the bond with
19 a bond substantially in the same form as the original
20 bond. Cancellation of a bond shall not invalidate the
21 bond regarding the period of time it was in effect.

22 (d) License renewals.--Licenses shall be issued for terms of
23 not more than 14 months and may be renewed by the department
24 upon application by the licensee and the payment of any and all
25 applicable renewal fees. A licensee shall comply with the same
26 requirements for renewal of its license as it did for the
27 issuance of the original license.

28 § 5137. Annual license fee.

29 (a) General rule.--An applicant for a license shall pay to
30 the department at the time an application is filed, and upon

1 filing of each application for renewal, a license fee for the
2 principal place of business of \$3,000 and an additional license
3 fee for each branch office of \$1,000.

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

11 § 5138. Adjustment of fees.

12 The secretary may adjust upward fees established under this
13 chapter if there is an upward adjustment in the Consumer Price
14 Index for that year. The authorized adjustment shall be for the
15 same percentage that the Consumer Price Index increases.

16 § 5139. Issuance of license.

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

23 (1) issue a license; or

24 (2) refuse to issue a license for:

25 (i) a reason which the department may refuse to
26 issue a license under this section; or

27 (ii) which the department may suspend, revoke or
28 refuse to renew a license under section 5145 (relating to
29 suspension, 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 for the denial and the applicant's right to appeal
3 the denial to the secretary. The department shall require that
4 an appeal from refusal to approve an application for a license
5 be filed by the applicant within 30 days of notice of refusal.

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

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

10 (2) The licensee's reference number.

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

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

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

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

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

1 unless the decision or judgment is set aside, vacated,
2 reversed or otherwise abrogated by lawful judicial
3 process.

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

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

17 (1) has had a license application or license issued by
18 the department or another State business licensing agency
19 denied, not renewed, suspended or revoked;

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

21 (3) has violated or failed to comply with a provision of
22 this chapter or a regulation or order of the department;

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

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

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

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

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

11 (iii) Foreclosures within the past three years.

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

14 § 5140. License duration.

15 A license issued by the department:

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

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

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

30 § 5141. Licensee and compliance system provider requirements.

1 (a) Requirements of a licensee.--A licensee shall do all of
2 the following:

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

25 (2) Be subject to examination by the department. The
26 department may examine a licensee if the department deems the
27 examination to be necessary or desirable. The cost of the
28 examination shall be borne by the licensee. During an
29 examination, the department shall have free access, during
30 regular business hours, to the licensee's place or places of

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

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

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

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

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

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

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

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

1 calendar year.

2 (6) The total number of consumer complaints.

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

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

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

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

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

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

22 (e) Background check.--The department shall require a
23 criminal background check for all compliance system providers.

24 § 5142. Licensee limitations.

25 A licensee may not do any of the following:

26 (1) Transact business under this chapter under another
27 name except for a name designated in its license. A licensee
28 that changes its name or place of business shall immediately
29 notify the department.

30 (2) Conduct a business other than the short-term loan

1 business licensed by the department under this chapter
2 without at least 30 days' prior written notification to and
3 approval by the department.

4 § 5143. Surrender of license.

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

11 (b) Effect.--Surrender under this section shall not affect
12 the licensee's civil or criminal liability for acts the licensee
13 committed.

14 § 5144. Authority of department.

15 (a) General authority.--The department shall have the
16 following powers and duties:

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

26 (2) Conduct an administrative hearing on a matter
27 pertaining to this chapter, issue subpoenas to compel the
28 attendance of witnesses and the production of instruments,
29 documents, accounts, books and records at the hearing.
30 Subpoenaed material may be retained by the department until

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

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

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

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

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

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

1 (8) Impose conditions as the department deems
2 appropriate.

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

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

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

16 (e) Appeals.--A person aggrieved by a decision of the
17 secretary may appeal the decision under 2 Pa.C.S. Ch. 7 Subch. A
18 (relating to judicial review of Commonwealth agency action).
19 § 5145. Suspension, revocation or refusal.

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

27 (1) Made a material misstatement in an application,
28 report or submission required by this chapter, department
29 regulation or order.

30 (2) Failed to comply with or violated this chapter or a

1 regulation or order promulgated or issued under this chapter.

2 (3) Engaged in dishonest, fraudulent or illegal
3 practices or conduct in a business or unfair or unethical
4 practices or conduct in connection with the short-term loan
5 business.

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

8 (5) Permanently or temporarily been enjoined by a court
9 of competent jurisdiction from engaging in or continuing
10 conduct or a practice involving an aspect of the short-term
11 loan business.

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

15 (7) Become the subject of a United States Postal Service
16 fraud order.

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

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

23 (10) Failed to comply with the requirements of this
24 chapter to make and keep records prescribed by regulation or
25 order of the department, to produce records required by the
26 department or to file financial reports or other information
27 that the department, by regulation or order, may require.

28 (11) Become insolvent. For purposes of this paragraph,
29 the term "become insolvent" shall mean that the liabilities
30 of the applicant or licensee exceed the assets of the

1 applicant or licensee or that the applicant or licensee
2 cannot meet the obligations of the applicant or licensee as
3 they mature or is in a financial condition that the applicant
4 or licensee cannot continue in business with safety to the
5 customers of the applicant or licensee.

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

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

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

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

17 (3) The licensee satisfies all other requirements of
18 this chapter.

19 § 5146. Whistleblower protection.

20 (a) Adverse action prohibited.--An employer may not
21 discharge, threaten, discriminate or retaliate against an
22 employee regarding the employee's compensation, terms,
23 conditions, location or privileges of employment because the
24 employee makes a good faith report or is about to report,
25 verbally or in writing, to the employer or appropriate authority
26 an instance of wrongdoing under section 5128 (relating to unfair
27 or deceptive practices) or another violation of this chapter.

28 (b) Remedies.--The remedies, penalties and enforcement
29 procedures for violations of this section shall be as provided
30 in the act of December 12, 1986 (P.L.1559, No.169), known as the

1 Whistleblower Law.

2 (c) Definitions.--As used in this section, the following
3 words and phrases shall have the meanings given to them in this
4 subsection:

5 "Appropriate authority." As follows:

6 (1) Any of the following:

7 (i) a Federal, State or local government body,
8 agency or organization having jurisdiction over criminal
9 law enforcement, regulatory violations, professional
10 conduct or ethics or waste; or

11 (ii) a member, officer, agent, representative or
12 supervisory employee of the body, agency or organization.

13 (2) The term includes the Office of Attorney General,
14 the Department of the Auditor General, the Treasury
15 Department, the General Assembly and committees of the
16 General Assembly having the power and duty to investigate
17 criminal law enforcement, regulatory violations,
18 professional conduct or ethics or waste.

19 "Employee." A person who works for a licensee.

20 "Employer." A licensee.

21 "Good faith report." A report of conduct that alleges
22 wrongdoing or waste which is made by a person without malice or
23 consideration of personal benefit and which the person has
24 reasonable cause to believe is true.

25 "Public body." All of the following:

26 (1) A State officer, agency, department, division,
27 bureau, board, commission, council, authority or other body
28 in the executive branch of State government.

29 (2) A county, city, township, regional governing body,
30 council, school district, special district or municipal

1 corporation, or a board, department, commission, council or
2 agency.

3 (3) Any body other than one listed under paragraphs (1)
4 and (2) which is created by the Commonwealth or a political
5 subdivision authority or which is funded in an amount by or
6 through the Commonwealth or a political subdivision authority
7 or a member or employee of that body.

8 "Whistleblower." A person who witnesses or has evidence of
9 wrongdoing or waste while employed and who makes a good faith
10 report of the wrongdoing or waste, verbally or in writing, to
11 one of the person's superiors, to an agent of the employer or to
12 an appropriate authority.

13 "Wrongdoing." A violation which is not of a merely technical
14 or minimal nature of a Federal or State statute or regulation,
15 of a political subdivision ordinance or regulation or of a code
16 of conduct or ethics designed to protect the interest of the
17 public or the employer.

18 § 5147. Penalties.

19 (a) Licensee.--A licensee and a director, officer, owner,
20 partner, employee or agent of a licensee that violates this
21 chapter or commits an action which would subject the licensee to
22 sanction under section 5145 (relating to suspension, revocation
23 or refusal) may be fined by the department up to \$10,000 for
24 each offense.

25 (b) Nonlicensee.--A person subject to this chapter and not
26 licensed by the department that violates this chapter or commits
27 an action which would subject a licensee to sanction under
28 section 5145 may be fined by the department up to \$10,000 for
29 each offense.

30 SUBCHAPTER E

1 MISCELLANEOUS PROVISIONS

2 Sec.

3 5151. Applicability.

4 5152. Preemption.

5 5153. Prohibited location.

6 5154. Report to General Assembly.

7 § 5151. Applicability.

8 This chapter shall apply to a loan which:

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

10 (2) is negotiated, offered or transacted within this

11 Commonwealth or with a resident of this Commonwealth, in

12 whole or in part, by the ultimate lender or another person.

13 § 5152. Preemption.

14 (a) General rule.--Except as provided under subsection (b),
15 the following shall apply:

16 (1) This chapter shall preempt an ordinance, resolution
17 or regulation imposing reporting requirements, financial or
18 lending activities or other obligations upon a person subject
19 to this chapter.

20 (2) A political subdivision shall be prohibited from
21 enacting and enforcing an ordinance, resolution and
22 regulation expressly pertaining to a person subject to this
23 chapter.

24 (b) Exception.--A political subdivision may, under zoning
25 and subdivision ordinances, require a short-term lender to:

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

28 (2) obtain necessary and appropriate zoning and
29 subdivision permits, pay appropriate fees and undergo
30 required inspections under the zoning and subdivision

1 ordinances.

2 § 5153. Prohibited location.

3 The location of a short-term loan business may not be within
4 1,000 feet of the following:

5 (1) A racetrack or other nonprimary location where
6 thoroughbred or harness horse race meetings are conducted,
7 respectively, with pari-mutuel wagering in accordance with
8 the act of December 17, 1981 (P.L.435, No.135), known as the
9 Race Horse Industry Reform Act.

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

12 (3) A military installation or a facility operated by
13 the United States Department of Veterans Affairs.

14 § 5154. Report to General Assembly.

15 One year from the effective date of this section, and
16 annually thereafter, the department shall report to the
17 Secretary of the Senate and the Chief Clerk of the House of
18 Representatives on the status of the short-term loan industry.
19 The report shall include:

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

23 (2) A summary of the number of loans issued, the average
24 loan amount and any other information as determined by the
25 department.

26 (3) A compilation of aggregate data concerning the
27 short-term lending industry in this Commonwealth as reported
28 to the department under section 5119 (relating to
29 verification of compliance with regulatory terms and
30 conditions).

1 (4) Information on consumer complaints. This paragraph
2 shall include alleged or confirmed reports of unfair or
3 deceptive trade practices and false, misleading or deceptive
4 advertising.

5 (5) The effectiveness of the compliance system in
6 providing real-time reporting of loan transactions,
7 verification of consumers' borrowing and repayment history,
8 enrollment in extended payment plans and use of financial
9 literacy programs.

10 (6) Information on the effectiveness of credit
11 counseling under section 5117 (relating to licensee duty to
12 offer credit counseling), including all of the following:

13 (i) Identification by name and address of third-
14 party credit counselors approved by the agency.

15 (ii) The geographic locations in this Commonwealth
16 where credit counseling is available to consumers.

17 (iii) Information on the number of consumers who
18 participated in credit counseling, including demographic
19 data associated with the consumers.

20 (iv) Information on the instructional format used by
21 third-party credit counselors to provide financial and
22 educational credit counseling.

23 (v) Number of participating third-party certified
24 credit counselors.

25 (vi) Identification by licensee of the consumers who
26 participated in credit counseling.

27 (7) Other information the department deems necessary and
28 appropriate.

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

1 § 4107. Deceptive or fraudulent business practices.

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

4 * * *

5 (9.1) violates 7 Pa.C.S. § 5128 (relating to unfair or
6 deceptive practices);

7 * * *

8 Section 3. Title 18 is amended by adding a section to read:
9 § 7332. Unlicensed short-term lending.

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

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

14 (1) The following provisions of 7 Pa.C.S. shall take
15 effect 30 days after publication by the Department of Banking
16 and Securities of a notice in the Pennsylvania Bulletin that
17 the compliance system described in 7 Pa.C.S. § 5121 is
18 operational and ready to begin receiving the information
19 required to be provided to the compliance system by licensees
20 under 7 Pa.C.S. § 5121(b):

21 (i) Section 5119(b).

22 (ii) Section 5120(b)(1)(ii).

23 (2) This section shall take effect immediately.

24 (3) The remainder of this act shall take effect in 60
25 days.