

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2506 Session of
1978

INTRODUCED BY SCHMITT, KUKOVICH, PYLES AND COHEN, MAY 31, 1978

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MAY 31, 1978

AN ACT

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

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

12 Section 1. Subsection A of section 3, act of April 8, 1937
13 (P.L.262, No.66), known as the "Consumer Discount Company Act,"
14 amended March 3, 1976 (P.L.36, No.17), is amended to read:

15 Section 3. License Required.--A. On and after the effective
16 date of this act, no person shall engage or continue to engage
17 in this Commonwealth, either as principal, employe, agent or
18 broker, in the business of negotiating or making loans or
19 advances of money on credit, in the amount or value of five
20 thousand dollars (\$5,000) or less, and charge, collect, contract
21 for or receive interest, discount, bonus, fees, fines,
22 commissions, charges, or other considerations which aggregate in

1 excess of the interest that the lender would otherwise be
2 permitted by law to charge if not licensed under this act on the
3 amount actually loaned or advanced, or on the unpaid principal
4 balances when the contract is payable by stated installments
5 except a domestic business corporation organized under or
6 existing by virtue of the Business Corporation Law of this
7 Commonwealth, after first obtaining a license from the Secretary
8 of Banking of the Commonwealth of Pennsylvania in accordance
9 with the provisions of this act. However, any person not
10 maintaining an office or place of business within the
11 Commonwealth and not represented within the Commonwealth by any
12 employe or agent shall not be required to be a domestic
13 corporation organized under or existing by virtue of the
14 Business Corporation Law of this Commonwealth and if such person
15 is licensed under a regulatory lending law of another state
16 similar in principle to this act, he shall not be required to
17 obtain a license under this act.

18 * * *

19 Section 2. The act is amended by adding a section to read:

20 Section 17.2. Persons Not Maintaining a Place of Business or
21 Agent in the Commonwealth.--A. Any person who does not maintain
22 an office or place of business within the Commonwealth and is
23 not represented within the Commonwealth by any employe or agent,
24 and is licensed under a regulatory lending law of another state
25 similar in principle to this act, shall have the powers granted
26 to licensees in section 13 and shall be subject to sections 13,
27 14, 15, 16 and 17.1 and the regulations relating thereto
28 promulgated pursuant to section 12. For the purposes of this
29 act, the formation of a contract for the loan or advance of
30 money or credit shall constitute making a contract within the

Commonwealth for the supply of services within the Commonwealth in accordance with 42 Pa.C.S. § 5322(a)(2), (relating to bases of personal jurisdiction over persons outside this Commonwealth), if the offer, solicitation or advertisement of the loan was delivered to the prospective debtor within the Commonwealth by mail or otherwise and the debtor signed the contract or document evidencing the obligation within the Commonwealth.

B. Any person not maintaining an office or place of business within the Commonwealth and not represented within the Commonwealth by any employe or agent shall forfeit the right to all interest, discount, bonus, fees, fines, commissions, charges or other considerations which would otherwise be due on a loan or advance of money or credit, with respect to any loan or advance of money or credit for which:

(1) the principal amount is five thousand dollars (\$5,000) or less and the interest, discount, bonus, fees, fines, commissions, charges or other considerations aggregate in excess of what a lender is permitted to charge under this act and the other laws of the Commonwealth; or

(2) the principal amount is in excess of the amount which a lender is permitted to loan or advance under this act and the other laws of the Commonwealth.

C. Whenever the Attorney General has reason to believe that any person not licensed under this act is using or is about to use any method, act or practice declared to be unlawful by this act, and that proceedings would be in the public interest, he may bring an action in the name of the Commonwealth against such person to restrain by temporary or permanent injunction the use of such method, act or practice. The action may be brought in

the court of common pleas or the Commonwealth Court. The said
courts are authorized to issue temporary or permanent
injunctions to restrain and prevent violations of this act, and
such injunctions shall be issued without bond. Whenever any
court issues a permanent injunction to restrain and prevent
violations of this act as authorized in this section, the court
may in its discretion provide for payment by defendant or
defendants to the Commonwealth of the court costs of the action.
In addition, the court may in its discretion direct that the
defendant or defendants restore to any person in interest any
moneys or property, real or personal, which may have been
acquired by means of any violation of this act, under terms and
conditions to be established by the court.

D. In the enforcement of this act as authorized by this
section, the Attorney General may accept an assurance of
voluntary compliance with respect to any method, act or practice
deemed to be violative of the act from any person who has
engaged or was about to engage in such method, act or practice.
Such assurance may include a stipulation for voluntary payment
by the alleged violator providing for the restitution by the
alleged violator to consumers, of money, property or other
things received from them in connection with a violation of this
act. Any such assurance shall be in writing and be filed with
the appropriate court of common pleas or the Commonwealth Court.
Such assurance of voluntary compliance shall not be considered
an admission of violation for any purpose. Matters thus closed
may at any time be reopened by the Attorney General for further
proceedings in the public interest, pursuant to this section.

Section 3. This act shall take effect in 60 days.