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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1379 Session of  
2015

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INTRODUCED BY YUDICHAK, WHITE, BROWNE AND SCARNATI,  
OCTOBER 13, 2016

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REFERRED TO BANKING AND INSURANCE, OCTOBER 13, 2016

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AN ACT

1 Amending Titles 12 (Commerce and Trade) and 18 (Crimes and  
2 Offenses) of the Pennsylvania Consolidated Statutes,  
3 providing for financial services credit ladder and imposing  
4 penalties; in forgery and fraudulent practices, further  
5 providing for deceptive or fraudulent business practices;  
6 and, in trade and commerce, providing for unlicensed  
7 installment lender.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Title 12 of the Pennsylvania Consolidated  
11 Statutes is amended by adding a chapter to read:

12 CHAPTER 64

13 FINANCIAL SERVICES CREDIT LADDER

14 Subchapter

15 A. Preliminary Provisions

16 B. Licenses

17 C. Nature of Loans and Consumer Protections

18 D. Administrative Practices and Procedures

19 E. Costs and Charges

20 F. Penalties



1           (2) A controlling interest shall be presumed if an  
2           individual, directly or indirectly, owns, controls, holds  
3           with the power to vote or holds proxies representing 10% or  
4           more of the votes that all shareholders would be entitled to  
5           cast in the election of directors. The presumption may be  
6           rebutted by a showing that control does not exist in fact.  
7           "Department." The Department of Banking and Securities of  
8           the Commonwealth.

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

11           "Installment loan." A loan or advance of money or credit to  
12           a consumer:

13           (1) for an amount of not less than \$1,000 nor more than  
14           \$5,000, exclusive of fees or charges for the loan or advance  
15           that the consumer may finance along with the original amount  
16           to be borrowed;

17           (2) with a loan period of at least 12 months;

18           (3) with a simple interest rate that does not exceed  
19           36%;

20           (4) that may involve a fee, finance charge or other  
21           consideration in conjunction with the loan or advance;

22           (5) where at any time the consumer may pay all or part  
23           of the unpaid balance of the loan or advance before the end  
24           of the loan period without a prepayment penalty or other  
25           charge for prepayment;

26           (6) where the consumer may grant access to the  
27           consumer's deposit account or paycheck as a repayment  
28           mechanism; and

29           (7) that does not involve a security interest in the  
30           consumer's motor vehicle in connection with the loan or

1 advance.

2 "Licensee."

3 (1) A person that:

4 (i) Is licensed under this chapter by the Department  
5 of Banking and Securities of the Commonwealth.

6 (ii) Advertises, causes to be advertised, markets,  
7 solicits, negotiates, arranges, originates, offers to  
8 make, makes, services, places, extends or holds an  
9 installment loan in this Commonwealth for a consumer:

10 (A) In the ordinary course of business.

11 (B) Whether directly or through another person  
12 acting for the person's benefit.

13 (C) Whether electronically or by other means.

14 (iii) Engages in any practice under subparagraph  
15 (ii) for a fee, finance charge or other  
16 consideration.

17 (2) The term includes a person that acquires, by  
18 purchase or assignment, an installment loan from another  
19 licensee, whether or not the person is a depository  
20 institution.

21 (3) The term excludes:

22 (i) A person regulated as a depository institution  
23 by Federal or State law.

24 (ii) A pawnbroker as defined under section 2 of the  
25 act of April 6, 1937 (P.L.200, No.51), known as the  
26 Pawnbrokers License Act.

27 "Loan agreement." A signed written installment loan  
28 agreement between a licensee and a consumer.

29 "Loan period." The length of the contractual obligation for  
30 an installment loan, measured from the date of the loan

1 agreement.

2 "Person convicted of a crime." Either of the following:

3 (1) A person who, in the case of a felony or crime of  
4 moral turpitude:

5 (i) is found guilty by the verdict of a jury or the  
6 decision or judgment of a Federal magistrate or court in  
7 any jurisdiction, notwithstanding pronouncement or  
8 suspension of sentence, unless the decision or judgment  
9 is set aside, vacated, reversed or otherwise abrogated by  
10 lawful judicial process; or

11 (ii) enters a guilty plea or plea of nolo contendere  
12 to a criminal charge before a Federal magistrate or court  
13 in any jurisdiction, unless the guilty plea or plea of  
14 nolo contendere is set aside, vacated, reversed or  
15 otherwise abrogated by lawful judicial process.

16 (2) A person who, in the case of a crime committed in  
17 another jurisdiction that would constitute a felony or crime  
18 of moral turpitude if committed in this Commonwealth:

19 (i) is found guilty by the verdict of a jury or the  
20 decision or judgment of a Federal magistrate or court,  
21 notwithstanding pronouncement or suspension of sentence,  
22 unless the decision or judgment is set aside, vacated,  
23 reversed or otherwise abrogated by lawful judicial  
24 process; or

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

30 "Records." Books, accounts, documents, files, instruments

1 and other information regarding installment loans made or  
2 licenses issued under this chapter.

3 "Repayment mechanism."

4 (1) A method agreed to by a consumer that a licensee may  
5 use to effect repayment of the consumer's installment loan.

6 (2) The term may include, but is not limited to, a  
7 present-dated or postdated check, electronic debit or  
8 assignment of a future deposit.

9 "Secretary." The Secretary of Banking and Securities of the  
10 Commonwealth.

11 § 6403. Applicability.

12 This chapter shall apply to an installment loan that is:

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

14 (2) negotiated, offered or transacted within this  
15 Commonwealth or with a resident of this Commonwealth, in  
16 whole or in part, by a licensee.

17 § 6404. Certain loans prohibited.

18 A person may not provide a loan or advance of money or credit  
19 to a consumer if the loan or advance involves:

20 (1) a loan period of less than 12 months;

21 (2) a simple interest rate in excess of 36%;

22 (3) access to the consumer's deposit account or paycheck  
23 as a repayment mechanism and as a condition to secure the  
24 loan or advance; or

25 (4) an offer of a lower rate or better terms and  
26 conditions in exchange for access to the consumer's deposit  
27 account or paycheck as a repayment mechanism.

28 § 6405. Preemption.

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

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

5       (2) A political subdivision shall be prohibited from  
6 enacting and enforcing an ordinance, resolution and  
7 regulation expressly pertaining to a person subject to this  
8 chapter.

9       (b) Exception.--A political subdivision may adopt and  
10 enforce ordinances under the act of July 31, 1968 (P.L.805,  
11 No.247), known as the Pennsylvania Municipalities Planning Code,  
12 to require a licensee to:

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

15       (2) obtain necessary and appropriate zoning and  
16 subdivision permits, pay appropriate fees and undergo  
17 required inspections under the zoning and subdivision  
18 ordinances.

19 § 6406. Prohibited location.

20       The location of a licensee's business may not be within 1,000  
21 feet of the following:

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

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

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





1 (b) Contents.--The application shall include:

2 (1) The name of the applicant or licensee.

3 (2) The address of the principal place of business of  
4 the applicant or licensee.

5 (3) The address or addresses where the business of the  
6 applicant or licensee is to be conducted.

7 (4) The full name, official title and business address  
8 of each director and principal officer of the loan business.

9 (5) The name and address of each agent in this  
10 Commonwealth authorized by appointment or by law to receive  
11 service of process on behalf of the licensee.

12 (6) Any other information that the department may  
13 require.

14 (c) Policies and procedures for inquiries and grievances.--  
15 An applicant or licensee shall demonstrate to the satisfaction  
16 of the department that policies and procedures have been  
17 developed to receive and process consumer inquiries and  
18 grievances promptly and fairly.

19 (d) Duty to update.--Each applicant and licensee shall  
20 provide the department with written notice of the change in  
21 information contained in an application for a license or license  
22 renewal within 10 days of the applicant or licensee becoming  
23 aware of the change.

24 (e) Financial structure and bond.--

25 (1) An applicant or licensee must establish that the  
26 applicant or licensee:

27 (i) has, at the time of application, a minimum  
28 tangible net worth of \$250,000 or 5% of the total value  
29 of the installment loans issued, or anticipated to be  
30 issued in the case of an applicant, whichever is greater;

1           (ii) will at all times maintain the minimum tangible  
2 net worth required under subparagraph (i); and  
3           (iii) has an otherwise adequate financial structure.

4 (2) The following shall apply:

5           (i) Prior to and as a condition of the issuance of a  
6 license, an applicant for a license shall maintain a bond  
7 in the amount of \$100,000 in a form acceptable to the  
8 department from a surety company authorized to do  
9 business in this Commonwealth.

10           (ii) The bond shall be:

11                   (A) a penal bond conditioned on compliance by  
12 the licensee with this chapter and subject to  
13 forfeiture;

14                   (B) for the use of:

15                           (I) the Commonwealth; and

16                           (II) a consumer against the licensee for  
17 failure to carry out the terms of any loan or  
18 extended payment plan; and

19                   (C) held by the department for the term of the  
20 license.

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

22                   (A) with the written consent of the department,  
23 recover the amount by which the consumer is aggrieved  
24 from the bond by filing a claim with the surety  
25 company or maintaining an action on the bond; or

26                   (B) recover the amount by which the consumer is  
27 aggrieved by filing a formal complaint against the  
28 licensee with the department, which shall adjudicate  
29 the matter.

30           (iv) An adjudication under subparagraph (iii)(B)

1 shall be binding upon the surety company and enforceable  
2 by the department in Commonwealth Court and by an  
3 aggrieved consumer in any court.

4 (v) An aggrieved consumer seeking to recover an  
5 amount from a bond that has already been forfeited by the  
6 licensee or which the department is in the process of  
7 having forfeited may recover payment on the bond if,  
8 after filing a petition with the department, the  
9 department consents to the requested payment or portion  
10 of the payment. The department may pay the aggrieved  
11 consumer from the bond proceeds recovered by the  
12 department under this subparagraph.

13 (vi) Nothing under this paragraph shall be construed  
14 as limiting the ability of a court or magisterial  
15 district judge to award to an aggrieved consumer other  
16 damages, court costs and attorney fees permitted by  
17 applicable law, except that claims that are not directly  
18 related to the loan or extended payment plan may not be  
19 recovered from the proceeds of the bond.

20 (vii) The department may consent to or order pro  
21 rata or other recovery on the bond for any aggrieved  
22 consumer if claims against the bond may or do exceed its  
23 full monetary amount.

24 (viii) A bond is not in compliance with this  
25 paragraph unless it contains a provision that it may not  
26 be canceled for a cause unless notice of intention to  
27 cancel is given to the department at least 30 days before  
28 the day upon which cancellation takes effect. If a bond  
29 is to be canceled, a licensee shall replace the bond with  
30 a bond substantially in the same form as the original

1 bond as approved by the department. Cancellation of a  
2 bond does not invalidate the bond regarding the period of  
3 time that it was in effect.

4 (f) Issuance of license or license renewal.--

5 (1) A license:

6 (i) Shall be issued for an initial term of not more  
7 than 14 months.

8 (ii) May be renewed by the department for a term of  
9 not more than 12 months upon application by the licensee  
10 and the payment of applicable renewal fees.

11 (2) A licensee shall comply with the same requirements  
12 for renewal of its license as it did for the issuance of the  
13 original license.

14 § 6413. Annual license fee.

15 (a) General rule.--When an application for a license or  
16 license renewal is filed, an applicant or licensee shall pay to  
17 the department a license fee for the principal place of business  
18 of \$3,000 and an additional license fee for each branch office  
19 of \$1,000.

20 (b) Recovery of costs.--

21 (1) No abatement of a license fee may be made if the  
22 license is issued for a period of less than one year.

23 (2) The department may recover the cost of investigation  
24 in excess of the license fee or license renewal fee from the  
25 licensee or another person not licensed under this chapter  
26 but is believed to be engaged in the loan business.

27 § 6414. Adjustment of fees.

28 (a) Amount.--The secretary may adjust upward fees  
29 established under this subchapter if there is an upward  
30 adjustment in the Consumer Price Index for that year. The

1 authorized adjustment shall be for the same percentage that the  
2 Consumer Price Index increases.

3 (b) Notice.--The department shall publish each adjusted fee  
4 schedule in the Pennsylvania Bulletin and on the department's  
5 publicly accessible Internet website at least 60 days prior to  
6 the effective date of the upward adjustment of fees.

7 § 6415. Issuance or denial of license.

8 (a) Investigation.--Upon receipt of an application for a  
9 license or license renewal, the department may conduct an  
10 investigation to determine that the applicant or licensee and  
11 its officers, directors and principals are of good character and  
12 ethical reputation.

13 (b) Determination.--Within 60 days of receipt of a completed  
14 application, the department shall:

15 (1) issue a license; or

16 (2) refuse to issue a license for a reason under:

17 (i) subsection (e) or (f); or

18 (ii) section 6417 (relating to suspension,  
19 revocation or refusal to renew).

20 (c) Appeal of denial.--

21 (1) If the department refuses to issue a license or  
22 license renewal, it shall notify the applicant or licensee in  
23 writing of:

24 (i) The denial.

25 (ii) The reason for the denial.

26 (iii) The right of the applicant or licensee to  
27 appeal the denial to the secretary.

28 (2) An applicant or licensee must file an appeal under  
29 this subsection within 30 days of notice of refusal.

30 (d) Contents of license.--Each license issued by the

1 department shall specify:

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

4 (2) The licensee's reference number.

5 (3) Any other information that the department may  
6 require to implement this chapter.

7 (e) Denial of license due to conviction.--

8 (1) The department may deny a license if it finds that  
9 the applicant or a director, officer, partner, employee or  
10 individual with a controlling interest of the applicant is a  
11 person convicted of a crime.

12 (2) A license under this chapter shall be deemed to be a  
13 covered license within the meaning of section 405 of the act  
14 of May 15, 1933 (P.L.565, No.111), known as the Department of  
15 Banking and Securities Code. The department shall notify a  
16 licensee if a covered individual, within the meaning of  
17 section 405 of the Department of Banking and Securities Code,  
18 who is or will be employed or contracted by the licensee has  
19 a criminal background that renders the employee unfit for  
20 employment in the short-term loan business.

21 (f) Denial of license for other than conviction.--The  
22 department may deny a license or restrict a license if it finds  
23 that the applicant or a director, officer, partner, employee,  
24 agent or individual with a controlling interest of the  
25 applicant:

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

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

30 (3) has violated or failed to comply with a provision of

1 this chapter or a regulation or order of the department;

2 (4) has an outstanding debt to the Commonwealth or any  
3 Commonwealth agency; or

4 (5) does not possess the financial responsibility,  
5 character, reputation, integrity and general fitness to  
6 command the confidence of the public and to warrant the  
7 belief that the loan business will be operated lawfully,  
8 honestly, fairly and within the legislative intent of this  
9 chapter and in accordance with the general laws of this  
10 Commonwealth. For purposes of this paragraph, an applicant is  
11 not financially responsible if the applicant has shown a  
12 disregard in the management of his or her own financial  
13 condition. The factors that the department may consider in  
14 making a determination regarding an applicant's financial  
15 responsibility shall include:

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

18 (ii) Current outstanding tax liens or other  
19 government liens and filings.

20 (iii) Foreclosures within the past three years.

21 (iv) A pattern of seriously delinquent accounts  
22 within the past three years.

23 § 6416. License duration.

24 A license issued by the department:

25 (1) Must be renewed on the license's renewal date upon  
26 payment of the renewal fee and after the department  
27 determines that the licensee is conducting business in  
28 accordance with this chapter. No refund of a portion of the  
29 license fee shall be made if the license is voluntarily  
30 surrendered to the department or suspended or revoked by the

1 department prior to its expiration date.

2 (2) Shall be invalid if the licensee's authority to  
3 conduct business is voided under a law of this Commonwealth  
4 or another state unless the licensee demonstrates that the  
5 applicable court or governmental entity was clearly erroneous  
6 in voiding the licensee's authority to conduct business.

7 (3) Is not assignable or transferable by operation of  
8 law or otherwise.

9 § 6417. Suspension, revocation or refusal to renew.

10 The department may suspend, revoke or refuse to renew a  
11 license issued under this chapter if either of the following  
12 applies:

13 (1) A fact or condition exists or is discovered that, if  
14 it had existed or had been discovered at the time of the  
15 filing of the application for the license or license renewal,  
16 would have warranted the department to refuse to issue or  
17 renew the license.

18 (2) A licensee or director, officer, partner, employee  
19 or individual with a controlling interest of the licensee is  
20 a person convicted of a crime or has done any of the  
21 following:

22 (i) Made a material misstatement in an application,  
23 report or submission required by this chapter, department  
24 regulation or order.

25 (ii) Failed to comply with or violated this chapter  
26 or a regulation or order promulgated or issued under this  
27 chapter.

28 (iii) Engaged in dishonest, fraudulent or illegal  
29 practices or conduct in a business, or unfair or  
30 unethical practices or conduct in connection with the



1           loan business.

2           (iv) Permanently or temporarily been enjoined by a  
3           court of competent jurisdiction from engaging in or  
4           continuing conduct or a practice involving an aspect of  
5           the loan business.

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

9           (vi) Become the subject of a United States Postal  
10          Service fraud order.

11          (vii) Become the subject of an order of the  
12          department denying, suspending or revoking a license  
13          under any other law administered by the department.

14          (viii) Demonstrated negligence or incompetence in  
15          performing an act for which the licensee is required to  
16          hold a license under this chapter.

17          (ix) Failed to comply with the requirements of this  
18          chapter to make and keep records prescribed by regulation  
19          or order of the department, to produce records required  
20          by the department or to file financial reports or other  
21          information that the department, by regulation or order,  
22          may require.

23          (x) Become insolvent. For purposes of this  
24          subparagraph, the term "become insolvent" shall mean  
25          that:

26                (A) the liabilities of the licensee exceed the  
27                assets of the licensee;

28                (B) the licensee cannot meet the obligations of  
29                the licensee as they mature; or

30                (C) the licensee's financial condition

1 demonstrates that the licensee cannot continue in  
2 business with safety to the customers of the  
3 licensee.

4 (xi) Failed to comply with the terms of an agreement  
5 under which the department authorizes the licensee to  
6 maintain records at a place other than the licensee's  
7 principal place of business.

8 § 6418. Reinstatement of license.

9 The department may reinstate a license that was previously  
10 revoked or denied renewal if all of the following apply:

11 (1) The condition that warranted the revocation or  
12 denial has been corrected to the department's satisfaction.

13 (2) The department has reason to believe that the  
14 condition leading to the revocation or denial is not likely  
15 to occur again.

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

18 § 6419. Surrender of license.

19 (a) Authorization.--A licensee may voluntarily surrender its  
20 license to the department after:

21 (1) Providing written notice of the surrender to the  
22 department.

23 (2) Either:

24 (i) satisfying the department that all creditors of  
25 the licensee have been paid; or

26 (ii) other arrangements satisfactory to the  
27 creditors and the department have been made.

28 (b) Effect.--Surrender of a license under this section does  
29 not affect a licensee's civil or criminal liability for an act  
30 or omission by the licensee.



1 repayment schedule, including principal, finance charges,  
2 fees and other charges, assuming that all payments to the  
3 licensee will be made on time without incurring any late  
4 fees. The separate page shall include a disclaimer that the  
5 total amount and repayment schedule may change if a late fee  
6 or penalty is assessed.

7 (8) The specific dates on which the consumer must make  
8 payments regarding the installment loan.

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

11 (10) Disclosure in boldface print and in at least 10-  
12 point type indicating the loan amount and applicable charges,  
13 other restrictions provided for under this chapter and the  
14 consumer's right of rescission under this chapter. For  
15 purpose of proper rescission, the disclosure of the  
16 consumer's right of rescission shall be set forth immediately  
17 above the consumer's signature line and shall state as  
18 follows:

19 "You have the right to rescind this transaction at any  
20 time before the lender's close of business on the second  
21 business day after the transaction date shown above. In  
22 order to rescind, you must return all of the loan  
23 proceeds you received to the lender within two business  
24 days of the notice of rescission. The lender will refund  
25 to you all fees, except the application fee if you  
26 rescind this transaction."

27 (11) Proof that the consumer was notified of the  
28 availability of credit counseling under section 6436  
29 (relating to credit counseling).

30 (12) Any other information as the department may

1 require.

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

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

10 (2) A hold harmless clause for the benefit of the  
11 licensee.

12 (3) A confession of judgment clause.

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

15 § 6422. Nature of payments.

16 (a) Equal amounts and time periods.--To the extent possible,  
17 a loan agreement shall provide for repayment terms in  
18 substantially equal installment amounts and time periods  
19 consistent with regular occurrences of income.

20 (b) Balloon payment prohibited.--A loan agreement may not  
21 require a consumer to make a balloon payment.

22 § 6423. Notification before accessing deposit account.

23 (a) Notification before transaction required.--If a consumer  
24 consents to allowing the licensee to have direct access to a  
25 deposit account under the consumer's control as the repayment  
26 mechanism for the loan, the consumer shall be given advance  
27 notice of three business days before the transaction is  
28 submitted for repayment to the consumer's bank, credit union or  
29 other financial institution or prepaid account. The advance  
30 notice may be satisfied by electronic means.

1 (b) Cancellation of access to deposit account.--A consumer  
2 may revoke the licensee's consent for direct access to a deposit  
3 account by providing written notice to the licensee at least  
4 three business days before a transaction is scheduled.

5 § 6424. Underwriting of installment loan.

6 (a) Full examination required.--A licensee shall make an  
7 installment loan to a consumer only if the consumer is subject  
8 to a full underwriting examination and the licensee makes a  
9 reasonable good faith determination that the consumer has the  
10 ability to repay the loan. In determining a consumer's ability  
11 to repay the loan, a licensee shall consider:

12 (1) The consumer's current or reasonably expected income  
13 or assets.

14 (2) If the licensee relies on income from the consumer's  
15 employment in determining repayment ability, the consumer's  
16 current employment status.

17 (3) The consumer's monthly payment on the proposed  
18 installment loan.

19 (4) The consumer's monthly payment on any simultaneous  
20 loan that the creditor knows or has reason to know will be  
21 made.

22 (5) The consumer's monthly payment for mortgage-related  
23 or rent-related obligations.

24 (6) The consumer's current debt obligations, alimony and  
25 child support.

26 (7) The consumer's monthly debt-to-income ratio or  
27 residual income.

28 (8) The consumer's credit history.

29 (b) Consumer report.--

30 (1) As a part of the underwriting process and at no cost

1 to the consumer, a licensee shall request a consumer report  
2 of the consumer from a consumer reporting agency.

3 (2) In making an installment loan for a consumer, a  
4 licensee may rely on a consumer report of the consumer as a  
5 permissible method of verifying the consumer's employment  
6 status, debt obligations and credit history.

7 (c) Definitions.--As used in this section, the following  
8 words and phrases shall have the meanings given to them in this  
9 subsection unless the context clearly indicates otherwise:

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

12 "Consumer reporting agency." As defined in 15 U.S.C. §  
13 1681a(f).

14 § 6425. Rescission by consumer.

15 (a) Right to rescind.--A consumer may rescind an installment  
16 loan before the licensee's close of business on the second  
17 business day after the day on which the consumer received the  
18 installment loan proceeds.

19 (b) Notification and return of proceeds by consumer.--To  
20 rescind an installment loan, within the next two business days  
21 of receiving the installment loan proceeds, a consumer must  
22 notify the licensee of the consumer's desire to rescind the  
23 installment loan and return the installment loan proceeds to the  
24 licensee within two business days of the notice of rescission.  
25 If the installment loan proceeds are returned to the licensee  
26 within two business days of the notice of rescission, it shall  
27 be presumed that the consumer provided proper notice to the  
28 licensee.

29 (c) Finance charge inapplicable.--A licensee may not charge  
30 or collect a finance charge or other charge or fee if the

1 installment loan is rescinded under this section.

2 (d) Return of payment.--Upon rescission of an installment  
3 loan, the licensee shall:

4 (1) return to the consumer any check given to the  
5 licensee in connection with the installment loan; or

6 (2) agree in writing that another repayment mechanism  
7 will not be used.

8 § 6426. Posting of finance charges.

9 A licensee shall post, in large type in plain view of the  
10 public at a place of business where it makes installment loans,  
11 a notice of the types and amounts of finance charges and any  
12 related fees or charges, such as a charge for a dishonored  
13 repayment mechanism, imposed for an installment loan.

14 § 6427. Assignment or sale of installment loan.

15 (a) Authority.--A licensee may assign or sell an installment  
16 loan to another licensee or to a depository institution.

17 (b) Notice.--A licensee shall inform a consumer in writing  
18 immediately of the name, address and telephone number of the  
19 person to whom the consumer's installment loan is assigned or  
20 sold.

21 § 6428. Form of installment loan proceeds.

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

27 (b) Prohibition.--A licensee may not impose a fee for  
28 cashing the licensee's check or money order or for otherwise  
29 affecting the disbursement of loan proceeds.

30 § 6429. Extension of installment loan.



1 (a) Time period.--An installment loan:

2 (1) shall be extended for three months beyond the  
3 original loan period because of the documented financial  
4 hardship of the consumer as a result of the loss of  
5 employment by the consumer; or

6 (2) may be extended for three months beyond the original  
7 loan period because of the documented financial hardship of  
8 the consumer as a result of extraordinary circumstances that  
9 do not involve the loss of employment by the consumer.

10 (b) Terms and conditions of extension.--The terms and  
11 conditions under the loan agreement for the installment loan  
12 shall apply to the extension except that the licensee may not  
13 charge a late fee, interest or additional charge in connection  
14 with the extension. An additional consumer report under section  
15 6424 (relating to underwriting of installment loan) is not  
16 required for the extension. The provisions of this chapter shall  
17 also apply to the extension.

18 SUBCHAPTER D

19 ADMINISTRATIVE PRACTICES AND PROCEDURES

20 Sec.

21 6431. Records.

22 6432. Advertisement.

23 6433. Prohibited acts or practices.

24 6434. Authority of department.

25 6435. Whistleblower protection.

26 6436. Credit counseling.

27 6437. Commonwealth Consumer Credit Counseling Account.

28 6438. Verification of compliance.

29 6439. Compliance fee.

30 6440. Reports to the department.

1 6441. Accounting records.  
2 6442. Anti-money laundering requirements.  
3 6443. Report to General Assembly.  
4 6444. Report to consumer reporting agency.

5 § 6431. Records.

6 (a) Maintenance of records.--

7 (1) A licensee shall maintain original records, a copy  
8 of original records or electronic access to original records  
9 to enable the department to determine whether the licensee is  
10 complying with this chapter and the orders, regulations and  
11 statements of policy issued under this chapter. Records may  
12 be maintained through photostatic, microfilm or electronic  
13 copies or copies provided in some other manner approved by  
14 the department.

15 (2) A licensee shall maintain records under this  
16 section:

17 (i) at the licensee's principal place of business  
18 within this Commonwealth; or

19 (ii) at a place outside this Commonwealth if the  
20 department agrees.

21 (3) Records under this section shall be:

22 (i) Kept separate and apart from the records of any  
23 other business conducted by the licensee.

24 (ii) Preserved and available for investigation or  
25 examination by the department for a period determined by  
26 the department.

27 (4) The department may deny or revoke the authority to  
28 maintain records outside this Commonwealth:

29 (i) for good cause;

30 (ii) to protect the interest of consumers in this

1 Commonwealth; or

2 (iii) because of the licensee's failure to provide  
3 records to the department upon request.

4 (b) Examination of records.--

5 (1) The department may examine the records of a licensee  
6 or person having a connection to the licensee if the  
7 department deems the examination to be necessary or desirable  
8 to administer this chapter.

9 (2) During an examination, the department shall have  
10 free access, during regular business hours, to the necessary  
11 records at the location where the records are maintained,  
12 whether the records are maintained in or outside this  
13 Commonwealth.

14 (3) The department may remove records from the location  
15 that the licensee or person maintained the records.

16 (c) Costs of examination.--A licensee or person subject to  
17 the examination under this subsection shall bear the costs  
18 regarding the examination of records under this section,  
19 including necessary travel costs of an employee or agent of the  
20 department.

21 § 6432. Advertisement.

22 Each advertisement made by or on behalf of a licensee  
23 regarding installment loans shall include language indicating  
24 that the licensee is licensed by the department.

25 § 6433. Prohibited acts or practices.

26 A licensee may not do any of the following:

27 (1) Transact business under this chapter under another  
28 name, or in another location except as designated in its  
29 license, without at least 30 days prior written notification  
30 to and approval by the department.

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

5       (3) Tie the approval or disapproval of an installment  
6 loan or securing an installment loan to a security interest  
7 in the consumer's vehicle.

8       (4) Take a security interest in the consumer's vehicle  
9 in connection with an installment loan.

10       (5) Tie the approval or disapproval of an installment  
11 loan to a grant of access to the consumer's deposit account  
12 or paycheck as a repayment mechanism.

13       (6) Offer a consumer a lower rate or better terms and  
14 conditions in exchange for access to the consumer's deposit  
15 account or paycheck as a repayment mechanism.

16       (7) Tie the approval or disapproval of an installment  
17 loan to preauthorized electronic fund transfers in violation  
18 of 12 CFR § 1005.10(e) (relating to preauthorized transfers).

19       (8) Sell, offer or solicit an application for credit  
20 insurance in connection with an installment loan.

21       (9) Tie a transaction to another transaction, offer or  
22 obligation of the consumer.

23       (10) Assign or sell an installment loan to another  
24 person other than in accordance with this chapter.

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

30       (12) Fail to collect and provide information regarding

1 the number, total and average transaction amounts and other  
2 information that the department may request.

3 (13) Engage in an act regarding an installment loan that  
4 does not comply with all applicable provisions of this  
5 chapter.

6 (14) Alter or delete the date on a loan agreement held  
7 by the licensee.

8 (15) Use or threaten to use the criminal process to  
9 collect the balance due on an installment loan.

10 (16) Enter into an installment loan with a consumer that  
11 has one or more outstanding installment loans at the time the  
12 consumer applies for the installment loan, but nothing in  
13 this paragraph shall prohibit a licensee and consumer from  
14 refinancing or renegotiating the terms of an existing  
15 installment loan.

16 § 6434. Authority of department.

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

19 (1) Examine records under section 6431 (relating to  
20 records) or otherwise investigate a licensee or person having  
21 a connection to the licensee as necessary to administer this  
22 chapter.

23 (2) Conduct an administrative hearing on a matter  
24 pertaining to this chapter and issue a subpoena to compel the  
25 attendance of witnesses or the production of records in  
26 connection with the hearing. The department may:

27 (i) Retain subpoenaed records until the completion  
28 of all proceedings involving the records.

29 (ii) Empower a department official to administer an  
30 oath or affirmation to an individual whose testimony is

1 required at an administrative hearing.

2 (iii) Apply to Commonwealth Court to require the  
3 person to attend an administrative hearing, provide  
4 testimony or produce records, if a person fails to comply  
5 with a subpoena issued by the department or testify on a  
6 matter to which the person may be lawfully interrogated.  
7 Following consideration of the department's application,  
8 the Commonwealth Court may issue an appropriate order.

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

15 (4) Require a person to pay the department's costs  
16 incurred while the department conducts an investigation of  
17 the person regarding the issuance or renewal of a license or  
18 an alleged violation of this chapter.

19 (5) Promulgate regulations and statements of policy and  
20 issue orders as necessary to administer this chapter.

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

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

27 (8) Maintain an action for an injunction or other  
28 process against a person to restrain the person from engaging  
29 in an activity that violates this chapter.

30 (9) Engage the services of or otherwise contract with

1 outside consultants, examiners, legal counsel or other  
2 professionals to conduct investigations or otherwise  
3 administer the enforcement provisions of this chapter, as the  
4 department deems necessary and appropriate. The applicant or  
5 licensee that necessitated the use of the outside  
6 professionals shall bear the costs associated with the  
7 outside professionals.

8 (10) Impose conditions as the department deems  
9 appropriate.

10 (b) Appeals and orders.--

11 (1) A person aggrieved by a decision of the department  
12 may appeal the decision to the secretary. The appeal shall be  
13 conducted under 2 Pa.C.S. Ch. 5 Subch. A (relating to  
14 practice and procedure of Commonwealth agencies).

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

20 (3) A person aggrieved by a decision of the secretary  
21 may appeal the decision under 2 Pa.C.S. Ch. 7 Subch. A  
22 (relating to judicial review of Commonwealth agency action).

23 § 6435. Whistleblower protection.

24 (a) Adverse action prohibited.--An employer may not  
25 discharge, threaten, discriminate or retaliate against an  
26 employee regarding the employee's compensation, terms,  
27 conditions, location or privileges of employment because the  
28 employee makes a good faith report or is about to report,  
29 verbally or in writing, to the employer or appropriate authority  
30 an instance of wrongdoing or another violation of this chapter.

1 (b) Remedies.--The remedies, penalties and enforcement  
2 procedures for violations of this section shall be as provided  
3 in the act of December 12, 1986 (P.L.1559, No.169), known as the  
4 Whistleblower Law.

5 (c) Definitions.--As used in this section, the following  
6 words and phrases shall have the meanings given to them in this  
7 subsection unless the context clearly indicates otherwise:

8 "Appropriate authority." As follows:

9 (1) Any of the following:

10 (i) A Federal, State or local government body,  
11 agency or organization having jurisdiction over criminal  
12 law enforcement, regulatory violations, professional  
13 conduct or ethics or waste.

14 (ii) A member, officer, agent, representative or  
15 supervisory employee of the body, agency or organization.

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

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

23 "Employer." A licensee.

24 "Good faith report." A report of conduct that:

25 (1) alleges wrongdoing or waste;

26 (2) is made by a person without malice or consideration  
27 of personal benefit; and

28 (3) the person has reasonable cause to believe is true.

29 "Whistleblower." A person who:

30 (1) witnesses or has evidence of wrongdoing or waste



1 while employed; and

2 (2) makes a good faith report of the wrongdoing or  
3 waste, verbally or in writing, to:

4 (i) one of the person's superiors;

5 (ii) an agent of the employer; or

6 (iii) an appropriate authority.

7 "Wrongdoing." A violation that is not of a merely technical  
8 or minimal nature of:

9 (1) a Federal or State statute or regulation.

10 (2) a political subdivision ordinance or regulation; or

11 (3) a code of conduct or ethics designed to protect the  
12 interest of the public or the employer.

13 § 6436. Credit counseling.

14 (a) General rule.--Prior to the execution of a loan  
15 agreement under this chapter, a licensee shall deliver written  
16 notice that advises the consumer that the consumer is entitled  
17 to credit counseling at no cost to the consumer from an  
18 unaffiliated third-party credit counselor approved by the  
19 department.

20 (b) Consumer acknowledgment.--The licensee shall have the  
21 consumer acknowledge the licensee's delivery of the notice under  
22 subsection (a) on a form prescribed by the department.

23 (c) Contents of notice.--Notice under this section shall  
24 include the following:

25 "You are entitled to no-cost credit counseling in  
26 connection with obtaining this installment loan. This  
27 loan is not meant to meet long-term financial needs and  
28 should be used only to meet short-term cash needs. This  
29 no-cost credit counseling could help you avoid the need  
30 to seek this kind of loan in the future."

1 (d) Grace period.--The following shall apply:

2 (1) Notwithstanding section 6453 (relating to late  
3 fees), if a payment is no more than five days late and the  
4 consumer notifies the licensee that the consumer cannot pay  
5 the amount due by the next installment loan payment date, the  
6 licensee shall provide a one-time grace period to the  
7 consumer during which time the licensee may not consider the  
8 consumer in default or accelerate the amounts due under the  
9 loan agreement for 30 days.

10 (2) The grace period under paragraph (1) applies only if  
11 the consumer participates in approved credit counseling of  
12 which the consumer received written notice under subsection  
13 (a) and completes the credit counseling within 15 days after  
14 notifying the licensee under paragraph (1).

15 (3) The consumer may agree to comply with a repayment  
16 plan approved by the credit counseling agency used by the  
17 consumer under this subsection, in which case the licensee  
18 shall be bound by that repayment plan.

19 (4) A licensee may not take further action against the  
20 consumer regarding the installment loan during the 30-day  
21 grace period under this subsection unless the consumer fails  
22 to:

23 (i) comply with the repayment plan; or

24 (ii) notify the licensee of compliance with the  
25 repayment plan.

26 (5) A consumer is entitled to only one 30-day grace  
27 period with a licensee.

28 (6) Before entering into an installment loan agreement,  
29 the licensee shall advise the consumer, both verbally and in  
30 writing, of the availability of the grace period under this

1 subsection. The licensee shall advise the consumer that the  
2 grace period is contingent upon completing the approved  
3 credit counseling.

4 § 6437. Commonwealth Consumer Credit Counseling Account.

5 (a) Establishment.--There is established within the  
6 department a restricted account to be known as the Commonwealth  
7 Consumer Credit Counseling Account. Funds collected under  
8 section 6439(c) (relating to compliance fee) shall be deposited  
9 into the account.

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

11 (1) The department shall designate and approve credit  
12 counseling agencies to be available to assist in implementing  
13 the provisions of this chapter related to consumer credit  
14 counseling. Credit counseling agencies seeking to provide  
15 budget and credit counseling to consumers must meet the  
16 requirements prescribed by the department.

17 (2) The department shall maintain an up-to-date list of  
18 approved credit counseling agencies by county and publish the  
19 list on the department's publicly accessible Internet  
20 website.

21 (3) At its discretion, the department shall allocate on  
22 a quarterly basis funds to approved credit counseling  
23 agencies from the account.

24 (4) The department shall pay all costs and expenses for  
25 delivery of consumer credit counseling from amounts available  
26 in the account.

27 § 6438. Verification of compliance.

28 (a) Consumer verification.--To ensure compliance with the  
29 terms and conditions of this chapter and any subsequent rules  
30 and regulations established by the department, a consumer shall

1 verify in writing at the time of entering into an installment  
2 loan agreement:

3 (1) The number of installment loans that the consumer  
4 has outstanding from any licensee.

5 (2) The date of repayment of the consumer's last  
6 installment loan, if applicable.

7 (b) Confirmation.--A licensee shall confirm the accuracy of  
8 the verification required under subsection (a) by a query of the  
9 licensee's own records.

10 § 6439. Compliance fee.

11 (a) Authority.--In addition to the interest authorized under  
12 this chapter, a licensee shall charge and receive a compliance  
13 fee for each installment loan made under this chapter. The  
14 department shall set the compliance fee at an amount necessary  
15 to meet the purposes provided for under subsection (b), but in  
16 no case may the compliance fee exceed \$5 per installment loan.

17 (b) Purpose.--The compliance fee shall be used in part:

18 (1) For the Commonwealth Consumer Credit Counseling  
19 Account under section 6437 (relating to Commonwealth Consumer  
20 Credit Counseling Account).

21 (2) For administrative, enforcement and regulatory  
22 expenses of the department related to this chapter.

23 (c) Required remittance of fees.--A licensee shall remit all  
24 of the following on a monthly basis:

25 (1) Sixty percent of all compliance fees collected in  
26 relation to a loan transaction to the Commonwealth Consumer  
27 Credit Counseling Account for the agency to pay for the costs  
28 to provide consumer budget and credit counseling.

29 (2) Forty percent of all compliance fees collected in  
30 relation to loan transaction to the department to cover

1 administrative, enforcement and regulatory expenses related  
2 to this chapter.

3 § 6440. Reports to the department.

4 (a) General rule.--Each year, on a date to be determined by  
5 the department, each licensee shall file a report with the  
6 department setting forth the information required by the  
7 department regarding the licensee and its installment loans  
8 during the preceding calendar year.

9 (b) Form of report.--A report under this section shall be in  
10 writing and subject to penalty of perjury on a form provided by  
11 the department.

12 (c) Contents of report.--A report under this section shall  
13 include:

14 (1) The total number of installment loans made during  
15 the preceding calendar year.

16 (2) The minimum, maximum and average dollar amount of  
17 installment loans made during the preceding calendar year.

18 (3) The average simple interest rate and the average  
19 term of installment loans made during the preceding calendar  
20 year.

21 (4) The total number of returned checks, the total  
22 checks recovered and the total of checks charged off during  
23 the preceding calendar year.

24 (5) The total number of installment loans paid in full,  
25 the total number of installment loans that went into default,  
26 the total number of installment loan extensions under section  
27 6429 (relating to extension of installment loan), the total  
28 number of installment loans that were refinanced and the  
29 total number of installment loans charged off during the  
30 preceding calendar year.

1       (6) The total number of consumer complaints received in  
2 the preceding calendar year.

3       (7) Verification that the licensee has not used the  
4 criminal process or caused the criminal process to be used in  
5 the collection of an installment loan during the preceding  
6 calendar year.

7       (8) Information on the number of consumers referred to  
8 consumer credit counseling within the preceding calendar  
9 year.

10       (9) Any other information or data that the department  
11 may require.

12 § 6441. Accounting records.

13       A licensee's accounting records shall be constructed and  
14 maintained in compliance with generally accepted accounting  
15 principles or as provided by department regulation.

16 § 6442. Anti-money laundering requirements.

17       A licensee shall:

18       (1) Comply with all Federal and State statutes and rules  
19 relating to the detection and prevention of money laundering,  
20 including 31 CFR §§ 1010.306 (relating to filing of reports),  
21 1010.311 (relating to filing obligations for reports of  
22 transactions in currency), 1010.312 (relating to  
23 identification required), 1010.313 (relating to aggregation),  
24 1010.340 (relating to reports of transportation of currency  
25 or monetary instruments), 1010.410 (relating to records to be  
26 made and retained by financial institutions), 1010.415  
27 (relating to purchases of bank checks and drafts, cashier's  
28 checks, money orders and traveler's checks), 1020.315  
29 (relating to transactions of exempt persons), 1022.320  
30 (relating to reports by money services businesses of

1 suspicious transactions), 1022.380 (relating to registration  
2 of money services businesses) and 1022.410 (relating to  
3 additional records to be made and retained by dealers in  
4 foreign exchange).

5 (2) Maintain an anti-money laundering program in  
6 accordance with 31 CFR § 1022.210 (relating to anti-money  
7 laundering programs for money services businesses). The  
8 program must be reviewed and updated as necessary to ensure  
9 that it continues to be effective in detecting and deterring  
10 money laundering activities in the licensee's installment  
11 loan business.

12 (3) Comply with United States Treasury Interpretive  
13 Release 2004-1.

14 § 6443. Report to General Assembly.

15 One year from the effective date of this section, and  
16 annually thereafter, the department shall report on the status  
17 of the licensees and installment loans to the chairman and  
18 minority chairman of the Banking and Insurance Committee of the  
19 Senate and the chairman and minority chairman of the Commerce  
20 Committee of the House of Representatives. The report shall  
21 include:

22 (1) The number of licensees with active licenses issued  
23 by the department and the number of persons employed in this  
24 Commonwealth.

25 (2) A summary of the number of installment loans issued,  
26 the average installment loan amount, the average simple  
27 interest rate, the average all-in finance charges, the total  
28 number of defaults on installment loans, the total number of  
29 extensions granted for installment loans and any other  
30 information as determined by the department.

1       (3) A compilation of aggregate data concerning licensees  
2 and installment loans in this Commonwealth as reported to the  
3 department under section 6440 (relating to reports to the  
4 department).

5       (4) Information on consumer complaints. This paragraph  
6 shall include alleged or confirmed reports of unfair or  
7 deceptive trade practices and false, misleading or deceptive  
8 advertising.

9       (5) The assessment of the effectiveness of the reporting  
10 requirements under section 6440 in providing accurate  
11 information regarding consumer borrowing and repayment  
12 history, enrollment in extended payment plans and use of  
13 consumer credit counseling.

14       (6) Information on the effectiveness of credit  
15 counseling under section 6436 (relating to credit  
16 counseling), including all of the following:

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

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

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

24           (iv) The number of participating third-party  
25 certified credit counselors.

26           (v) Identification by licensee of the total number  
27 of consumers who participated in credit counseling.

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

30 § 6444. Report to consumer reporting agency.



1 On a monthly basis, a licensee shall report the following to  
2 the consumer reporting agency that provided the consumer report  
3 of the consumer under section 6424 (relating to underwriting of  
4 installment loan):

5 (1) The status of the consumer's installment loan.

6 (2) The progress made by the consumer in repaying the  
7 installment loan or making installment payments.

8 SUBCHAPTER E

9 COSTS AND CHARGES

10 Sec.

11 6451. Interest on installment loan.

12 6452. Installment loan fees and charges.

13 6453. Late fees.

14 § 6451. Interest on installment loan.

15 Interest on an installment loan may not exceed the equivalent  
16 of 36% simple interest per year or 3% simple interest per month.  
17 The interest shall be calculated in compliance with 15 U.S.C. §  
18 1606 (relating to determination of annual percentage rate).

19 § 6452. Installment loan fees and charges.

20 (a) Allowable fees and charges.--An installment loan may  
21 include fees and charges involved in offering the loan.

22 (b) Characterization of fees and charges.--Fees and charges  
23 under this section may not be considered in calculating  
24 allowable interest under this chapter.

25 (c) Procedure for approval of fees.--

26 (1) A licensee may not charge or collect a fee or charge  
27 under this section unless the department has approved the fee  
28 or charge as part of a fee schedule under paragraph (2).

29 (2) The department shall develop a uniform fee schedule  
30 applicable to all licensees that takes into account

1 reasonable and actual expenses. No less than every three  
2 years the department shall update the fee schedule approved  
3 under this paragraph.

4 (3) The department shall publish any fee schedule or  
5 modifications to a fee schedule approved under this section  
6 in the Pennsylvania Bulletin and on the department's publicly  
7 accessible Internet website.

8 § 6453. Late fees.

9 (a) Authorization.--Subject to section 6436(d) (relating to  
10 credit counseling), if a consumer repays an installment loan or  
11 makes an installment payment to a licensee after the due date  
12 for the payment, the licensee may charge a late payment as  
13 follows:

14 (1) If the payment is less than three days late, the  
15 licensee may not charge a late fee.

16 (2) If the payment is three or more but less than seven  
17 days late, the licensee may charge a late payment fee of not  
18 more than \$25.

19 (3) If the payment is seven or more days late, the  
20 licensee may charge a late payment fee of not more than \$35.

21 (b) Limitation.--A late payment fee may be levied only once  
22 for each late payment.

23 SUBCHAPTER F

24 PENALTIES

25 Sec.

26 6461. Violation of chapter.

27 6462. Failure to report.

28 6463. Commission of prohibited acts or practices.

29 § 6461. Violation of chapter.

30 (a) Licensee.--A licensee or a director, officer, owner,

1 partner, employee or agent of a licensee that violates this  
2 chapter or commits an action that would subject the licensee to  
3 sanction under section 6417 (relating to suspension, revocation  
4 or refusal to renew) may be fined by the department up to  
5 \$10,000 for each offense.

6 (b) Nonlicensee.--A person subject to this chapter but not  
7 licensed by the department that violates this chapter or commits  
8 an action that would subject a licensee to sanction under  
9 section 6417 may be fined by the department up to \$10,000 for  
10 each offense.

11 (c) Unfair or deceptive practices.--A violation of this  
12 chapter shall also be a violation of the act of December 17,  
13 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and  
14 Consumer Protection Law.  
15 § 6462. Failure to report.

16 If the department engages a third-party compliance system  
17 provider and the provider fails to file the required report  
18 under section 6440 (relating to reports to the department) in a  
19 timely manner, the provider shall be subject to a penalty of  
20 \$500 for each day after the report is due until the report is  
21 filed.

22 § 6463. Commission of prohibited acts or practices.

23 In addition to other penalties provided under law, a  
24 transaction in violation of section 6433 (relating to prohibited  
25 acts or practices) shall be uncollectible and unenforceable.

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

28 § 4107. Deceptive or fraudulent business practices.

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

1 \* \* \*

2 (9.1) violates 12 Pa.C.S. Ch. 64 (relating to financial  
3 services credit ladder);

4 \* \* \*

5 Section 3. Title 18 is amended by adding a section to read:  
6 § 7332. Unlicensed installment lender.

7 A person that operates without a license in violation of 12  
8 Pa.C.S. § 6411 (relating to license required) commits a felony  
9 of the third degree.

10 Section 4. This act shall take effect in 90 days.