

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1808 Session of
2003

INTRODUCED BY ROSS, BELFANTI, CAPPELLI, CREIGHTON, FRANKEL,
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YOUNGBLOOD, JULY 2, 2003

REFERRED TO COMMITTEE ON COMMERCE, JULY 2, 2003

AN ACT

1 Reducing or eliminating the most serious problems associated
2 with short-term loans; creating an avenue for emergency
3 short-term loans by incorporating significant consumer
4 protections; preventing the use or threat to use the criminal
5 courts to collect short-term loans; and providing for
6 licensure of short-term lenders and short-term brokers by the
7 Department of Banking and for examination and regulation of
8 the short-term loan industry by the Department of Banking.

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

11 CHAPTER 1

12 PRELIMINARY PROVISIONS

13 Section 101. Short title.

14 This act shall be known and may be cited as the Short-Term
15 Loan Act.

16 Section 102. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

1 "Check." A check as that term is defined in 13 Pa.C.S. §
2 3104(f) (relating to negotiable instrument) which is drawn on a
3 financial institution and is to be payable on demand at maturity
4 of the short-term loan.

5 "Consumer." An individual who, singly or jointly with
6 another individual, enters into a short-term loan.

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

8 "Short-term broker." A person who markets, services or
9 arranges, for a third party, a short-term loan for consumers for
10 a fee, finance charge or other consideration.

11 "Short-term broker licensee." A person licensed by the
12 Department of Banking to market, service or arrange, for a third
13 party, a short-term loan for consumers for a fee, finance charge
14 or other consideration.

15 "Short-term lender." A person who negotiates, arranges,
16 places or originates a short-term loan for consumers for a fee,
17 finance charge or other consideration.

18 "Short-term lender licensee." A person licensed by the
19 Department of Banking to negotiate, arrange, place or originate
20 a short-term loan for consumers for a fee, finance charge or
21 other consideration.

22 "Short-term loan." A loan to a consumer in principal amount
23 of \$1,000 or less for a minimum of seven days to a maximum of 30
24 days by a lender that, for a fee, finance charge or other
25 consideration:

26 (1) Accepts a dated check from the consumer.

27 (2) Agrees to hold the check for a period of time prior
28 to negotiation or deposit of the check.

29 (3) Pays to the consumer or credits to the consumer's
30 account the amount of the check, less finance charges

1 permitted under section 203.

2 CHAPTER 2

3 NATURE AND EFFECT OF SHORT-TERM LOANS

4 Section 201. License requirements and exemptions.

5 No person shall act as a short-term lender or short-term
6 broker in this Commonwealth by extending or negotiating
7 electronically or by other means a short-term loan for a person
8 who resides in this Commonwealth without a license under this
9 act.

10 Section 202. Written agreement requirements.

11 Each short-term loan transaction and renewal shall be
12 documented by a written short-term loan agreement and, if there
13 is a renewal, by an amendment or a separate written agreement,
14 signed by both the lender and consumer. The agreement shall
15 contain:

16 (1) The name of the consumer.

17 (2) The transaction date.

18 (3) The amount of the check.

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 date, not more than 30 days after the loan
23 transaction date, upon which the check may be deposited or
24 negotiated.

25 (6) The name, address, telephone number of the short-
26 term loan lender licensee and the name and title of the
27 individual employee who signs the agreement on behalf of the
28 licensee.

29 (7) An itemization of the fees and interest charges to
30 be paid by the consumer.

(8) Disclosures required by the Truth in Lending Act (Public Law 90-321, 15 U.S.C. § 77aaa et seq.), regardless of whether the Truth in Lending Act applies to the particular short-term loan transaction.

(9) A clear description of the consumer's payment obligations under the loan.

(10) Disclosure that consumers may not obtain renewal for this loan more than one time for an additional period of not less than seven days nor more than 30 days of time mutually agreed to by the consumer and lender or broker.

(11) Disclosure in boldface print indicating the maximum loan amount and finance charge.

(12) Disclosure in boldface print indicating the prohibition on multiple loans.

(13) Disclosure in boldface print indicating the customer's right of rescission.

(14) Such other information the department shall require.

Section 203. Authorized finance charge.

A lender may charge a finance charge for each short-term loan that may not exceed \$0.175 per \$1 of the amount advanced. A lender shall prorate any charge, based upon the maximum charge of \$0.175 per \$1 of the amount advanced. The charge shall be deemed fully earned as of the date of the transaction unless the consumer rescinds the loan under section 204(b). The lender may charge only charges authorized in this act in connection with a short-term loan.

Section 204. Maximum loan amount.

(a) General rule.--A lender may not lend an amount greater than \$500 in a single transaction to any consumer. A licensee

1 may not make a loan to a consumer if the aggregate value, as
2 verified through section 205, of outstanding loans exceeds
3 \$1,000.

4 (b) Right to rescind.--

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

8 (2) In order to rescind a short-term loan, a consumer
9 shall notify the lender of the consumer's desire to rescind
10 the loan and return to the lender, at the time of giving
11 notice, cash in the amount of the principal of the short-term
12 loan.

13 (3) No finance charge or other charge or fee may be
14 charged or collected by the lender when a loan is rescinded.

15 (4) The lender shall return to the consumer any check
16 given to the lender in connection with the loan.

17 Section 205. Prohibition on multiple loans exceeding \$1,000.

18 (a) General rule.--A lender shall not knowingly make a
19 short-term loan or renewal of a loan if the consumer has another
20 short-term loan with the licensee, its affiliate or any other
21 licensee and the aggregate amount of all outstanding loans
22 exceeds the maximum loan amount allowed under section 204(a).

23 (b) Verification.--A consumer shall verify in writing at the
24 time of entering into a short-term loan transaction that the
25 consumer does not have short-term loans outstanding which exceed
26 the maximum loan allowed under section 204(a). A licensee shall
27 confirm the accuracy of the verification by:

28 (1) A query of the licensee's own records; and

29 (2) A query of a subprime credit reporting service.

30 (c) Procedure to determine outstanding loans.--

1 (1) Within 90 days after the effective date of this act,
2 licensees shall subscribe to a subprime credit reporting
3 service certified by the department which has the capability
4 of verifying the number of loans and the amount of loans a
5 consumer has outstanding with any licensee licensed under
6 this act. Within 30 days after the effective date of this
7 act, the department shall issue a "Request for Proposal" from
8 subprime credit reporting services capable of verifying the
9 information required to enforce section 205. Within 45 days
10 after the effective date of this act, the department shall
11 designate a service which is capable of providing
12 verification to licensees.

13 (2) Licensees shall report to the subprime credit
14 reporting service information necessary for the subprime
15 credit reporting service to verify the number of loans and
16 the amount of loans a consumer has outstanding with any
17 licensee licensed under this act.

18 Section 206. Renewal of short-term loans.

19 (a) General rule.--A short-term loan may not be renewed more
20 than once. The minimum term of renewal shall be seven days and
21 the maximum term of the renewal shall be 30 days. After renewal,
22 the consumer must pay the debt in cash or its equivalent. If the
23 consumer fails to pay the debt, the lender may deposit the
24 consumer's check.

25 (b) Additional finance charge limitation.--Upon renewal of a
26 short-term loan, the lender may assess additional finance
27 charges not to exceed \$0.175 per \$1 of the amount advanced. A
28 lender shall prorate any charge, based upon the maximum charge
29 of \$0.175 per \$1 of the amount advanced.

30 (c) Completed transaction.--A transaction is completed when

1 the lender receives payment or the consumer redeems the check by
2 paying the full amount of the check to the holder. When the
3 consumer has completed the short-term loan transaction, the
4 consumer may enter into a new short-term loan agreement with the
5 short-term lender licensee.

6 Section 207. Form of loan proceeds.

7 (a) General rule.--A lender licensee may pay the proceeds
8 from a short-term loan to the consumer in the form of an
9 immediately and locally cashable check, money order or cash.

10 (b) Prohibition.--A lender licensee may not charge the
11 consumer an additional finance charge or fee for cashing the
12 lender licensee's check.

13 Section 208. Endorsement of check.

14 A lender licensee may not negotiate or present a check for
15 payment unless the instrument is endorsed with the actual
16 business name of the lender.

17 Section 209. Redemption of check.

18 Prior to the lender licensee's negotiating or presenting the
19 check, the consumer shall have the right to redeem any check
20 held by a lender as a result of a short-term loan if the
21 consumer pays the full amount of the check to the lender
22 licensee. The redemption may be in connection with a rescission
23 under section 204, minus the finance charge.

24 Section 210. Authorized dishonored check charge.

25 (a) General rule.--If a consumer's check held by a lender
26 licensee as a result of a short-term loan is returned to the
27 lender licensee from a payor financial institution due to
28 insufficient funds, a closed account or a stop-payment order,
29 the lender licensee:

30 (1) Shall have the right to exercise all civil means

1 authorized by law to collect the face value of the check.

2 (2) May contract for and collect from the consumer a
3 returned check charge not to exceed \$25 plus court costs
4 consistent with 42 Pa.C.S. § 8304 (relating to damages in
5 actions on bad checks).

6 (3) May not collect any other fees as a result of the
7 default.

8 (b) When charge not allowed.--A returned check charge shall
9 not be allowed:

10 (1) if the loan proceeds check from the lender licensee
11 is dishonored by the financial institution;

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

14 (3) if the cash loan proceeds are counterfeit.

15 Section 211. Posting of charges.

16 A lender licensee offering a short-term loan shall post in
17 large type in plain view of the public at any place of business
18 where short-term loans are made a notice of the finance charges
19 and any related charges such as dishonored check charges imposed
20 for short-term loans.

21 Section 212. Notice on assignment or sale of checks.

22 (a) General rule.--Prior to sale or assignment of checks
23 held by the lender licensee as a result of a short-term loan,
24 the lender licensee shall place a notice on the sale or
25 assignment check in at least ten-point type to read: This is a
26 short-term loan instrument.

27 (b) Payoff of loan.--The consumer may pay off the short-term
28 loan at the office of the original lender licensee. The lender
29 licensee shall inform the consumer in writing immediately of the
30 name, address and telephone number of the lender licensee to

1 which a short-term loan was assigned. Only a lender licensee may
2 accept assignment or sale of a short-term loan from another
3 lender licensee.

4 Section 213. No criminal culpability.

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

6 (1) For entering into a short-term loan agreement.

7 (2) In the event the instrument is dishonored, unless
8 the consumer's account on which the instrument was written
9 was closed by the consumer before the agreed-upon date of
10 negotiation, in which event the provisions of 18 Pa.C.S. §
11 4105 (relating to bad checks) shall apply.

12 Section 214. Unfair or deceptive practices.

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

18 CHAPTER 3

19 ADMINISTRATIVE AND LICENSURE PROVISIONS

20 Section 301. Application for license.

21 (a) Contents.--An application for a license to act as a
22 short-term lender or short-term broker shall be on forms
23 prescribed and provided by the department. Each application
24 shall include the address or addresses where business is to be
25 conducted, the full name, official title and business address of
26 each director and principal officer of the business and any
27 other information that may be required by the department. An
28 applicant shall demonstrate to the department that policies and
29 procedures have been developed to receive and process customer
30 inquiries and grievances promptly and fairly.

(b) Financial structure.--

(1) The applicant must establish that:

(i) at the time of application, the applicant has a minimum tangible net worth of \$25,000 for the applicant's principal place of business and an additional \$25,000 for each branch office, to a maximum of \$250,000; and

(ii) the applicant will, at all times thereafter, maintain the minimum tangible net worth.

(2) An applicant for a short-term lender license or a short-term broker license must maintain a bond in the amount of \$100,000 for the applicant's principal place of business prior to the issuance of the license.

(3) The applicant must also establish to the satisfaction of the department that the applicant has an otherwise adequate financial structure.

Section 302. Annual license fee.

(a) General rule.--An applicant for a license shall pay to the department at the time an application is filed an initial license fee for the principal place of business of \$1,000 and an additional license fee for each branch office of \$1,000. On or before February 1 of each year, a licensee shall pay a license renewal fee for the principal place of business and for each branch office.

(b) Recovery of costs.--No abatement of a licensee fee shall be made if the license is issued for a period of less than one year. The department shall be entitled to recover any cost of investigation in excess of license or renewal fees from the licensee or from a person who is not licensed under this act but who is presumed to be engaged in business contemplated by this act.

1 Section 303. Issuance of license.

2 (a) Time limit.--Within 60 days after a completed
3 application is received, the department shall either issue a
4 license or, for any reason for which the department may suspend,
5 revoke or refuse to renew a license under section 308, refuse to
6 issue a license. Upon receipt of an application for a license,
7 the department shall conduct such investigation as it deems
8 necessary to determine that the applicant and its officers,
9 directors and principals are of good character and ethical
10 reputation.

11 (b) Appeal of denial.--If the department refuses to issue a
12 license, it shall notify the applicant in writing of the denial,
13 the reason therefor and the applicant's right to appeal the
14 denial to the Commonwealth Court. An appeal from the
15 department's refusal to approve an application for a license
16 shall be filed by the applicant within 30 days of notice of
17 refusal.

18 (c) Contents of license.--Each license issued by the
19 department shall specify:

20 (1) The name and address of the licensee and the address
21 of the licensee's principal place of business within this
22 Commonwealth.

23 (2) The licensee's reference number.

24 (3) Any other information the department shall require
25 to carry out the purposes of this act.

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

27 (1) The department may deny a license if it finds that
28 the applicant or a director, officer, partner, agent or
29 ultimate equitable owner of 10% or more of the applicant has
30 been convicted of a felony in any jurisdiction or of a crime

1 which, if convicted in this Commonwealth, would constitute a
2 felony. For the purposes of this act, a person shall be
3 deemed to have been convicted of a crime if the person:

4 (i) pleads guilty or nolo contendere to a criminal
5 charge before a court or Federal magistrate;

6 (ii) is found guilty by the decision or judgment of
7 a court or Federal magistrate or by the verdict of a
8 jury, irrespective of the pronouncement of sentence or
9 the suspension thereof,

10 unless the plea of guilty or nolo contendere or the decision,
11 judgment or verdict is set aside, vacated, reversed or
12 otherwise abrogated by lawful judicial process.

13 (2) (i) In connection with any initial application
14 submitted to the department for a short-term lender
15 license or a short-term broker license, an applicant
16 shall submit the applicant's fingerprints to the
17 department or to such other international, Federal, State
18 or local government agency or designee thereof selected
19 by the department, including the Pennsylvania State
20 Police and the Federal Bureau of Investigation, in order
21 for the department to receive criminal history record
22 information from any international, Federal, State or
23 local government agency or designee thereof, including
24 criminal history record information from the Pennsylvania
25 State Police or national criminal history record
26 information from the Federal Bureau of Investigation. The
27 department shall send or receive the criminal history
28 record information or national criminal history record
29 information to or from the Pennsylvania State Police, the
30 Federal Bureau of Investigation or any other

1 international, Federal, State or local government agency,
2 or designee thereof, in a manner satisfactory to the
3 department. National criminal history record information
4 received by the department shall be handled or maintained
5 in accordance with Federal Bureau of Investigation
6 policy.

7 (ii) An individual who later occupies a position
8 that would have required the person to submit criminal
9 history record information at the time an application for
10 a short-term lender license or a short-term broker
11 license was submitted to the department shall comply with
12 the requirements of paragraph (1) at the time an
13 application to renew an existing covered license is
14 submitted to the department.

15 (iii) During the initial or renewal license
16 application process, the department may deem the license
17 application incomplete and therefore not commence the
18 review period stated in the respective licensing statutes
19 if the department has not received evidence from the
20 applicant that national criminal history record
21 information and other criminal history record information
22 required under this section have been requested from the
23 Federal Bureau of Investigation, the Pennsylvania State
24 Police or any other international, Federal, State or
25 local government agency or designee thereof for criminal
26 history record information.

27 (iv) Notwithstanding any other law to the contrary,
28 the department may suspend its processing and
29 consideration of an initial or renewal license
30 application submitted to the department under this act

1 until the department receives all national criminal
2 history record information from the Federal Bureau of
3 Investigation or criminal history record information from
4 the Pennsylvania State Police or any other international,
5 Federal, State or local government agency responsible for
6 such recordkeeping. If the department does not receive
7 the criminal history record information, including
8 national criminal history record information, required
9 under this section, the department may deny the initial
10 or renewal license application.

11 (v) Notwithstanding subparagraphs (iii) and (iv),
12 the department's approval or denial of a license
13 application under a licensing statute without receiving
14 criminal history record information or national criminal
15 history record information regarding covered individuals
16 as required under this section shall not prohibit the
17 department from taking any action authorized by law,
18 including suspension or revocation of the license. The
19 department may deny an application or suspend or revoke a
20 license based on the contents of criminal history record
21 information, the untimely receipt or failure to provide
22 criminal history record information or misleading or
23 inaccurate information provided by the applicant or
24 covered individual under this section, any other statute
25 or other applicable law, including 18 Pa.C.S. Ch. 91
26 (relating to criminal history record information).

27 (vi) The cost of any criminal history record
28 information, including national criminal history record
29 information, obtained by the department under this
30 section shall be paid by the initial or renewal license

1 applicant or the individual whose criminal history is
2 being checked. The cost shall be paid in the manner and
3 monetary amount required jointly and severally by the
4 Pennsylvania State Police, the Federal Bureau of
5 Investigation, the department or any other applicable
6 international, Federal, State or local government agency
7 or designee thereof.

8 (e) Denial of license for other reason.--The department may
9 deny a license or otherwise restrict a license if it finds that
10 the applicant or a director, officer, partner, agency or
11 ultimate equitable owner of 10% or more of the applicant:

12 (1) has had a license application or license issued by
13 the department denied, suspended or revoked;

14 (2) is the subject of an order of the department
15 denying, suspending or revoking a license as a lender; or

16 (3) has violated or failed to comply with any provision
17 of this act or any rule, regulation or order of the
18 department.

19 Section 304. License duration.

20 A license issued by the department shall:

21 (1) Be renewed on February 1 of each year upon payment
22 of the annual renewal fee and after the department determines
23 that the licensee is conducting business in accordance with
24 this act. No refund of any portion of the license fee shall
25 be made if the license is voluntarily surrendered to the
26 department or suspended or revoked by the department prior to
27 its expiration date.

28 (2) Be invalid if the lender's charter is voided under
29 any law of this Commonwealth or any other state.

30 (3) Not be assignable or transferable by operation of

1 law or otherwise without the written consent of the
2 department.

3 Section 305. Licensee requirements.

4 (a) Requirements of licensee.--A licensee shall:

5 (1) Conspicuously display its license at each licensed
6 place of business.

7 (2) Maintain at its principal place of business within
8 this Commonwealth, or at such place within or outside this
9 Commonwealth if agreed to by the department, the original or
10 a copy of any books, accounts, records and documents, or
11 electronic or similar access thereto, of the business
12 conducted under the license as prescribed by the department
13 to enable the department to determine whether the business of
14 the licensee is being conducted in accordance with the
15 provisions of this act and the orders, rules and regulations
16 issued under this act. The department shall have free access
17 to and authorization to examine records maintained outside
18 this Commonwealth. The costs of the examination, including
19 travel costs, shall be borne by the licensee. The department
20 may deny or revoke the authority to maintain records outside
21 this Commonwealth for good cause in the interest of consumer
22 protection for Commonwealth borrowers.

23 (3) Annually, before July 1, file a report with the
24 department which shall set forth such information as the
25 department shall require concerning the business conducted as
26 a licensee during the preceding calendar year. The report
27 shall be on a form in writing and under oath, provided by the
28 department. Licensees which fail to file the required report
29 by July 1 shall be subject to a penalty of \$100 for each day
30 after July 1.

1 (4) Be subject to examination by the department at its
2 discretion, at which time the department shall have free
3 access, during regular business hours, to the licensee's
4 place or places of business in this Commonwealth and to all
5 instruments, documents, accounts, books and records which
6 pertain to a licensee's loan business, whether maintained in
7 or outside this Commonwealth. The department may examine a
8 licensee at any time if the department deems the examination
9 to be necessary or desirable. The cost of any such
10 examination shall be borne by the licensee.

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

13 (b) Accounting records.--The licensee's accounting records
14 must be constructed and maintained in compliance with generally
15 accepted accounting principles or as provided by department
16 regulation. All instruments, documents, accounts, books and
17 records shall be kept separate and apart from the records of any
18 other business conducted by the licensee and shall be preserved
19 and kept available for investigation or examination by the
20 department for a period determined by the department.

21 (c) Copies.--If copies of instruments, documents, accounts,
22 books or records are maintained under subsection (a)(2), they
23 may be photostatic, microfilm or electronic copies or copies
24 provided in some other manner approved by the department. Access
25 to information required by the department shall be maintained at
26 all times within this Commonwealth.

27 Section 306. Licensee limitations.

28 A licensee shall not:

29 (1) Transact any business under this act under any other
30 name except those designated in its license. A licensee that

1 changes its name or place or places of business shall
2 immediately notify the department, which shall issue a
3 certificate to the licensee, if appropriate, which shall
4 specify the licensee's new name or address.

5 (2) Conduct a business other than a business regulated
6 by the department in a place of business licensed under this
7 act without at least 30 days' prior written notification to
8 the department.

9 Section 307. Authority of department.

10 (a) Regulations.--The department shall have the authority
11 to:

12 (1) Examine any instrument, document, account, book,
13 record or file of a licensee or any person having a
14 connection to the licensee or make such other investigation
15 as may be necessary to administer the provisions of this act.
16 The costs of the examination shall be borne by the licensee
17 or the entity subject to the examination.

18 (2) Conduct administrative hearings on any matter
19 pertaining to this act, issue subpoenas to compel the
20 attendance of witnesses and the production of instruments,
21 documents, accounts, books and records at any such hearing.
22 The instruments, documents, accounts, books and records may
23 be retained by the department until the completion of all
24 proceedings in connection with which the materials were
25 produced. A department official may administer oaths and
26 affirmations to a person whose testimony is required. In the
27 event a person fails to comply with a subpoena issued by the
28 department or to testify on a matter concerning which he may
29 be lawfully interrogated, on application by the department,
30 the Commonwealth Court may issue an order requiring the

1 attendance of the person, the production of instruments,
2 documents, accounts, books and records and the giving of
3 testimony.

4 (3) Request and receive information or records of any
5 kind, including reports of criminal history record
6 information from any Federal, State, local or foreign
7 government entity regarding an applicant for a license,
8 licensee or person related in any way to the business of the
9 applicant or licensee, at a cost to be paid by the applicant
10 or licensee.

11 (4) Impose a civil penalty of up to \$2,000 for each
12 offense under section 309. The department may require the
13 offender to pay investigative costs, if any.

14 (5) Suspend, revoke or refuse to renew a license issued
15 by the department in accordance with the provisions of
16 section 509.

17 (6) Prohibit or permanently remove an individual
18 responsible for a violation of this chapter from working in
19 his or her present capacity or in any other capacity related
20 to activities regulated by the department.

21 (7) Order a person to cease and desist any violation of
22 this chapter and to make restitution for actual damages to
23 consumers.

24 (8) Impose such other conditions as the department deems
25 appropriate.

26 (b) Hearings.--A person aggrieved by a decision of the
27 department that has a direct interest in the decision may appeal
28 the decision of the department to the Secretary of Banking. The
29 appeal shall be conducted under 2 Pa.C.S. Ch. 5 Subch. A
30 (relating to practice and procedure of Commonwealth agencies).

1 (c) Injunctions.--The department may maintain an action for
2 an injunction or other process against a person to restrain and
3 prevent the person from engaging in an activity violating this
4 act.

5 (d) Final orders.--A decision of the Secretary of Banking
6 shall be a final order of the department and shall be
7 enforceable in a court of competent jurisdiction. The department
8 shall publish the final adjudication issued under this section,
9 subject to redaction or modification to preserve
10 confidentiality.

11 (e) Appeals.--A person that has a direct interest in a
12 decision of the Secretary of Banking may appeal the decision
13 under 2 Pa.C.S. Ch. 7 Subch A. (relating to judicial review of
14 Commonwealth agency action).

15 Section 308. Suspension, revocation or refusal.

16 (a) Departmental action.--The department may suspend, revoke
17 or refuse to renew a license issued under this act if a licensee
18 has:

19 (1) Made a material misstatement in an application.

20 (2) Failed to comply with or violated a provision of
21 this act or a rule, regulation or order promulgated by the
22 department under this act.

23 (3) Engaged in dishonest, fraudulent or illegal
24 practices or conduct in a business or unfair or unethical
25 practices or conduct in connection with the short-term loan
26 business.

27 (4) Been convicted of a misdemeanor or a felony.

28 (5) Permanently or temporarily been enjoined by a court
29 of competent jurisdiction from engaging in or continuing
30 conduct or a practice involving an aspect of the short-term

1 loan business.

2 (6) Become the subject of an order of the department
3 denying, suspending or revoking a license as a short-term
4 lender or short-term broker.

5 (7) Become the subject of a United States Postal Service
6 fraud order.

7 (8) Failed to comply with the requirements of this act
8 to make and keep records prescribed by rule or order of the
9 department, to produce records required by the department or
10 to file financial reports or other information that the
11 department by rule or order may require.

12 (9) Become the subject of an order of the department
13 denying, suspending or revoking a license under the
14 provisions of a law administered by the department.

15 (10) Failed to comply with a cease and desist order
16 issued by the department.

17 (11) Demonstrated negligence or incompetence in
18 performing an act for which the licensee is required to hold
19 a license under this act.

20 (b) Reinstatement.--The department may reinstate a license
21 which was previously refused for renewal if:

22 (1) The condition which warranted the original action
23 has been corrected.

24 (2) The department has reason to believe that the
25 condition is not likely to reoccur.

26 (3) The licensee satisfies the requirements of this act.

27 Section 309. Penalties.

28 (a) Nonlicensees.--A person who is not licensed by the
29 department and is not exempted from the licensing requirements
30 of this act who engages in the business of a short-term loan

1 lender or short-term loan broker commits a felony of the third
2 degree.

3 (b) Nonlicensees subject to the provisions of this act.--A
4 person subject to the provisions of this act and not licensed by
5 the department who violates a provision to which the person is
6 subject may be fined by the department up to \$2,000 for each
7 offense.

8 (c) Violation by licensee.--

9 (1) A person licensed under this act or director,
10 officer or agent of a licensee who violates a provision of
11 this act shall be subject to a fine levied by the department
12 of up to \$2,000 for each offense.

13 (2) It shall be an affirmative defense for a licensee
14 that, prior to an alleged violation of section 205, the
15 licensee complied with the following:

16 (i) Required a consumer to verify in writing that
17 the consumer does not have any outstanding short-term
18 loan with the licensee, its affiliate or any other
19 licensee.

20 (ii) Accessed a private credit reporting service to
21 determine whether the consumer had any outstanding short-
22 term loans.

23 CHAPTER 4

24 MISCELLANEOUS PROVISIONS

25 Section 401. Applicability.

26 The provisions of this act shall apply to a short-term loan
27 which:

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

29 (2) is negotiated, offered or otherwise transacted

30 within this Commonwealth, in whole or in part, whether by the

1 ultimate lender or any other person.

2 Section 402. Report to General Assembly.

3 Three years from the effective date of this act, the
4 department shall report to the General Assembly on the status of
5 the short-term loan industry, including, but not limited to, the
6 number of licensed short-term lenders and short-term brokers
7 operating in this Commonwealth, a summary of the number of loans
8 issued, the average short-term loan amount and any other
9 information as determined by the department.

10 Section 403. Effective date.

11 This act shall take effect in 60 days.