

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2150 Session of
2003

INTRODUCED BY ROSS, BISHOP, CAPPELLI, CREIGHTON, CRUZ, FREEMAN,
GEIST, GILLESPIE, HARHAI, HARRIS, HERSHEY, LEWIS, R. MILLER,
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WASHINGTON, WILLIAMS AND YOUNGBLOOD, NOVEMBER 10, 2003

REFERRED TO COMMITTEE ON COMMERCE, NOVEMBER 10, 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, for examination and regulation of the
8 short-term loan industry by the Department of Banking and for
9 penalties.

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

12 CHAPTER 1

13 PRELIMINARY PROVISIONS

14 Section 101. Short title.

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

17 Section 102. Definitions.

18 The following words and phrases when used in this act shall
19 have the meanings given to them in this section unless the
20 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 enters into a short-term loan.

6 "Deferment period." The number of days a lender agrees to
7 defer depositing or presenting a check which, for purposes of
8 this act, shall be for a term not in excess of 30 days or less
9 than seven days.

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

11 "Licensee." A person licensed by the Department of Banking
12 to negotiate, arrange, place or originate a short-term loan as
13 defined in this section for consumers for a fee, finance charge
14 or other consideration.

15 "Loan renewal agreement." A written agreement that complies
16 with the requirements of section 202 evidencing a renewal
17 conducted in accordance with section 206(a) and (b).

18 "Person." An individual, association, joint venture or joint
19 stock company, partnership, limited partnership, limited
20 partnership association, business corporation or any other group
21 of individuals, however organized.

22 "Renewal loan." A short-term loan that a consumer obtains
23 from a licensee, the proceeds of which are applied, in whole or
24 in part, to the balance due on an existing short-term loan
25 previously obtained by the consumer from the same licensee.
26 Under this definition, only the new short-term loan is a renewal
27 loan; the existing short-term loan, which is paid in whole or in
28 part with the proceeds from the renewal loan, is not a renewal
29 loan.

30 "Short-term broker." A person who markets, services or

1 arranges for a short-term loan for a third party, or acts as an
2 agent for a third party, regardless of whether the third party
3 is exempt from licensing under this act, for a fee, finance
4 charge or other consideration.

5 "Short-term broker licensee." A person licensed by the
6 Department of Banking to market, service or arrange, for a third
7 party, or who acts as an agent for a third party, regardless of
8 whether the third party is exempt from licensing under this act,
9 a short-term loan for consumers for a fee, finance charge or
10 other consideration.

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

14 "Short-term licensee." A person licensed by the Department
15 of Banking to negotiate, arrange, place or originate a short-
16 term loan for consumers for a fee, finance charge or other
17 consideration.

18 "Short-term loan." A loan to a consumer in principal amount
19 of \$1,000 or less for a minimum of seven days to a maximum of 30
20 days, the deferment period, by a lender that, for a fee, finance
21 charge or other consideration:

22 (1) Accepts a check dated on the date it was written.

23 (2) Agrees to hold the check for a period of days prior
24 to deposit or presentment.

25 (3) Pays to the consumer a cash advance, a locally
26 cashable check or money order or credits to the consumer's
27 account the amount of the check, less finance charges
28 permitted under section 203.

29 The term also includes any arrangement in which the person or
30 entity pays a cash advance in return for authorization from a

1 consumer for a draft or electronic debit rather than a check.

2 "Successive loan." A short-term loan that a consumer obtains
3 from a licensee on the same business day on which the consumer
4 paid in full an existing short-term loan previously obtained by
5 the consumer from the same licensee. Under this definition, on
6 the new short-term loan is a successive loan; the existing
7 short-term loan, which the consumer pays in full, is not a
8 successive loan.

9 CHAPTER 2

10 NATURE AND EFFECT OF SHORT-TERM LOANS

11 Section 201. License requirements and exemptions.

12 (a) General rule.--No person shall act as a short-term
13 lender or short-term broker in this Commonwealth by extending or
14 negotiating electronically or by other means a short-term loan
15 for a person who resides in this Commonwealth without a license
16 under this act.

17 (b) Exemptions.--Notwithstanding that a bank, savings
18 institution or credit union may be exempted by Federal law from
19 the provisions of this act related to interest rate, finance
20 charges and licensure, all other applicable provisions of this
21 act shall apply to these entities. A short-term lender that is
22 not a bank, savings institution or credit union must comply with
23 all of the provisions of this act, whether acting on its own
24 account or as an agent or broker of a third party, to the extent
25 Federal law does not preempt the application of this act to
26 agents or brokers.

27 Section 202. Written agreement requirements.

28 Each short-term loan transaction and renewal shall be
29 documented by a written short-term loan agreement and, if there
30 is a renewal, by an amendment or a separate written agreement,

signed by both the lender and consumer. The agreement shall contain:

- (1) The name and address of the consumer.
- (2) The transaction date and a prominently labeled transaction number.
- (3) The amount of the check.
- (4) A statement of the total amount of finance charges charged, expressed both as a dollar amount and an annual percentage rate.
- (5) A date, not more than 30 days after the loan transaction date, upon which the check may be deposited or negotiated.
- (6) The name, address, telephone number of the licensee and the name and title of the individual employee who signs the agreement on behalf of the licensee.
- (7) An itemization of the fees and interest charges to 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) A clear description in each agreement of a consumer's access to a repayment plan if a consumer does not have the ability to repay a loan at the end of a loan renewal term or after four successive loans.
- (11) Disclosure in boldface print and in at least ten-point type that consumers may not obtain renewal for this loan more than one time for an additional period of not less

1 than seven days nor more than 30 days of time mutually agreed
2 to by the consumer and licensee.

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

6 (13) Disclosure in boldface print and in at least ten-
7 point type indicating the prohibition on multiple loans.

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

14 This transaction is not meant to meet long-term
15 financial needs and should be used only to meet
16 short-term cash needs. You have the right to rescind
17 or cancel this transaction at any time before 5 p.m.
18 on the next business day after the transaction date
19 shown above. To cancel or rescind you must return all
20 of the cash proceeds to the lender. The lender will
21 refund to you all fees if you cancel this
22 transaction.

23 (15) Such other information the department shall
24 require.

25 Section 203. Authorized finance charge.

26 A licensee may charge a finance charge for each short-term
27 loan that may not exceed \$0.175 per \$1 of the amount advanced. A
28 licensee shall prorate any charge, based upon the maximum charge
29 of \$0.175 per \$1 of the amount advanced. The charge shall be
30 deemed fully earned as of the date of the transaction unless the

1 consumer rescinds the loan under section 204(b). The licensee
2 may charge only charges authorized in this act in connection
3 with a short-term loan.

4 Section 204. Maximum loan amount.

5 (a) General rule.--A licensee may not lend an amount greater
6 than \$500 in a single transaction to any consumer. A licensee
7 may not make a loan to a consumer if the aggregate value, as
8 verified through section 205, of outstanding loans exceeds
9 \$1,000.

10 (b) Right to rescind.--

11 (1) A consumer may rescind a short-term loan before the
12 licensee's close of business on the business day immediately
13 following the day on which the short-term loan was made.

14 (2) In order to rescind a short-term loan, a consumer
15 shall notify the licensee of the consumer's desire to rescind
16 the loan and return to the licensee, at the time of giving
17 notice, cash in the amount of the principal of the short-term
18 loan.

19 (3) No finance charge or other charge or fee may be
20 charged or collected by the licensee when a loan is
21 rescinded.

22 (4) The licensee shall return to the consumer any check
23 given to the licensee in connection with the loan.

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

25 (a) General rule.--A licensee shall not knowingly make a
26 short-term loan or renewal of a loan if the consumer has another
27 short-term loan with the licensee, its affiliate or any other
28 licensee and the aggregate amount of all outstanding loans
29 exceeds the maximum loan amount allowed under section 204(a).

30 (b) Verification.--A consumer shall verify in writing at the

1 time of entering into a short-term loan transaction that the
2 consumer does not have short-term loans outstanding which exceed
3 the maximum loan allowed under section 204(a). A licensee shall
4 confirm the accuracy of the verification by:

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

6 (2) A query of the database maintained by a third-party
7 provider as described in subsection (c).

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

9 (1) Within 30 days after the effective date of this act,
10 the department shall issue a "Request for Proposal" for a
11 third-party provider capable of developing, implementing and
12 maintaining a database with real time access for reporting of
13 short-term loan transactions and ensuring compliance with
14 subsection (a).

15 (2) Licensees shall report to the third-party database
16 provider information necessary to verify the number of loans
17 and the amount of loans a consumer has outstanding with any
18 licensee licensed under this act.

19 Section 206. Renewal of short-term loans.

20 (a) General rule.--A short-term loan may not be renewed more
21 than once. The minimum term of renewal shall be seven days and
22 the maximum term of the renewal shall be 30 days. The renewal of
23 a short-term loan shall require the execution of a new written
24 agreement, the deposit of a new check as security and a new set
25 of disclosures as required under the provisions of this act.
26 After renewal, the consumer must either pay the debt in cash or
27 its equivalent or convert the renewal loan into an extended
28 payment plan loan in accordance with section 215. If the
29 consumer fails to pay the debt, the licensee may deposit the
30 consumer's check. It shall be the option of the licensee to

1 determine whether to offer renewals.

2 (b) Additional finance charge limitation.--Upon renewal of a
3 short-term loan, the licensee may assess additional finance
4 charges not to exceed \$0.175 per \$1 of the amount advanced. A
5 licensee shall prorate any charge, based upon the maximum charge
6 of \$0.175 per \$1 of the amount advanced.

7 (c) Completed transaction.--A transaction is completed when
8 the licensee receives payment or the consumer redeems the check
9 by paying the full amount of the check to the holder. When the
10 consumer has completed the short-term loan transaction, the
11 consumer may enter into a new short-term loan agreement with the
12 licensee.

13 Section 207. Form of loan proceeds.

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

17 (b) Prohibition.--A licensee may not charge the consumer an
18 additional finance charge or fee for cashing the licensee's
19 check.

20 Section 208. Endorsement of check.

21 A licensee may not negotiate or present a check for payment
22 unless the instrument is endorsed with the actual business name
23 of the lender.

24 Section 209. Redemption of check.

25 Prior to the licensee's negotiating or presenting the check,
26 the consumer shall have the right to redeem any check held by a
27 licensee as a result of a short-term loan if the consumer pays
28 the full amount of the check to the licensee. No finance charge
29 or other charge or fee may be charged or collected by the
30 licensee with the loan is rescinded.

1 Section 210. Authorized dishonored check charge.

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

6 (1) Shall have the right to exercise all civil means
7 authorized by law to collect the face value of the check.

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

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

14 (b) When charge not allowed.--A returned check charge shall
15 not be allowed:

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

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

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

21 Section 211. Posting of charges.

22 A licensee offering a short-term loan shall post in large
23 type in plain view of the public at any place of business where
24 short-term loans are made a notice of the finance charges and
25 any related charges such as dishonored check charges imposed for
26 short-term loans.

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

28 (a) General rule.--Prior to sale or assignment of checks
29 held by the licensee as a result of a short-term loan, the
30 licensee shall place a notice on the sale or assignment check in

1 at least ten-point type to read:

2 This instrument was given by its maker to secure a short-
3 term loan transaction under Pennsylvania State law and
4 the assignee is deemed to have knowledge of and shall be
5 bound by the terms and conditions of the loan agreement
6 between the consumer and the original lender.

7 (b) Payoff of loan.--The consumer may pay off the short-term
8 loan at the office of the original licensee. The licensee shall
9 inform the consumer in writing immediately of the name, address
10 and telephone number of the licensee to which a short-term loan
11 was assigned. Only a licensee may accept assignment or sale of a
12 short-term loan from another licensee.

13 Section 213. No criminal culpability.

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

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

16 (2) In the event the instrument is dishonored, unless
17 the consumer's account on which the instrument was written
18 was closed by the consumer before the agreed-upon date of
19 negotiation, in which event the provisions of 18 Pa.C.S. §
20 4105 (relating to bad checks) shall apply.

21 Section 214. Unfair or deceptive practices.

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

27 Section 215. Extended payment plan.

28 (a) General rule.--A licensee must offer a consumer an
29 extended payment plan agreement if:

30 (1) the consumer obtains four successive loans from the

1 licensee and elects, in the manner described in subsection
2 (c), to convert the fourth successive loan into an extended
3 payment plan loan; or

4 (2) the consumer obtains a renewal loan from the
5 licensee and elects, in the manner described in subsection
6 (c), to convert the renewal loan into an extended payment
7 plan loan.

8 (b) Extended payment plan.--An extended payment plan
9 agreement offered by a licensee must contain the following
10 terms:

11 (1) The principal balance of the extended payment plan
12 loan is the balance due on the fourth successive loan or the
13 renewal loan, as the case may be. The licensee may encourage,
14 but may not require, the consumer to reduce the balance of
15 the existing loan by paying the licensee cash on the date the
16 consumer enters into the extended payment plan agreement.

17 (2) The licensee may charge a finance charge for the
18 extended payment plan loan that may not exceed \$0.175 per \$1
19 of the amount advanced. The licensee shall prorate any
20 charge, based upon the maximum charge of \$0.175 per \$1 of the
21 amount advanced. The charge shall be deemed fully earned as
22 of the date of the transaction unless the consumer rescinds
23 the loan under section 204(b). The licensee may charge only
24 the charges authorized in this section and in section 210 in
25 connection with an extended payment plan loan.

26 (3) The extended payment plan agreement must allow the
27 consumer to pay the extended payment plan loan over a period
28 of not less than 60 days and in not fewer than three
29 installments.

30 (4) Provided the consumer does not default under the

1 extended payment plan agreement, a licensee must report to
2 the third party database service described in section 205
3 that the consumer is enrolled in an extended payment plan
4 program.

5 (c) Conversion of certain loans.--In order to convert a
6 fourth successive loan or a renewal loan into an extended
7 payment plan loan, a consumer must:

8 (1) have obtained either four successive loans or a
9 renewal loan from the same licensee that will make the
10 extended payment plan loan;

11 (2) appear in person at the same licensee's office at
12 which the consumer obtained the fourth successive loan or the
13 renewal loan;

14 (3) request an extended payment plan on the due date of
15 the fourth successive loan or the renewal loan; and

16 (4) reasonably inform the licensee, either orally or in
17 writing, that the consumer requests an extended payment plan.

18 (d) Prohibition.--During any period in which all or part of
19 an extended payment plan loan is outstanding and during the 14-
20 day period following a consumer's payment in full of an extended
21 payment plan loan, the licensee that made the extended payment
22 plan loan to the consumer may not enter into a new short-term
23 loan agreement with the consumer.

24 Section 216. Prohibited practices regarding short-term loan
25 transactions.

26 The following are prohibited regarding short-term loan
27 transactions:

28 (1) Taking or attempting to take any security other than
29 the consumer's instrument.

30 (2) Taking or attempting to take more than a single

1 check or other instrument from the consumer in connection
2 with a single transaction.

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

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

7 (5) Assigning or selling to another licensee the
8 instrument taken in connection with a short-term loan
9 transaction unless the instrument bears the following
10 endorsement:

11 This instrument was given by its maker to secure a
12 short-term loan transaction under Pennsylvania State
13 law and the assignee is deemed to have knowledge of
14 and shall be bound by the terms and conditions of the
15 loan agreement between the consumer and the original
16 lender.

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

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

25 (8) Offering, arranging, acting as an agent for or
26 assisting the lender in the making of a short-term loan
27 transaction unless the lender complies with the provisions of
28 this act.

29 (9) Altering or deleting the date on any written
30 agreement or check held by the licensee. The short-term loan

1 agreement and the consumer's check shall bear the same date
2 and the number of days of the deferment period shall be
3 calculated from this date.

4 CHAPTER 3

5 ADMINISTRATIVE AND LICENSURE PROVISIONS

6 Section 301. Application for license.

7 (a) Contents.--An application for a license to act as a
8 short-term lender or short-term broker shall be on forms
9 prescribed and provided by the department. Each application
10 shall include the address or addresses where business is to be
11 conducted, the full name, official title and business address of
12 each director and principal officer of the business and any
13 other information that may be required by the department. An
14 applicant shall demonstrate to the department that policies and
15 procedures have been developed to receive and process customer
16 inquiries and grievances promptly and fairly.

17 (b) Financial structure.--

18 (1) The applicant must establish that:

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

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

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

29 (3) The applicant must also establish to the
30 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.

Section 303. Public notification.

(a) General rule.--Each applicant for a new license to act as a short-term licensee or short-term broker shall be required to post a notice for public display at the location where licensing is being requested. The purpose of the notice is to identify to the public that an application to operate a short-term lending office at the location has been filed with the department. A licensee shall:

(1) be required to post a notice commencing on the day the application was filed with the department;

(2) be required to maintain the notice until a decision to approve or disapprove the license has been made by the department;

(3) be responsible for posting the notice in a location

1 that is as close as possible to the main entrance of the
2 location requesting licensure; and

3 (4) be required to use a notice that is in a size and
4 form as determined by the department.

5 (b) Applicability.--This section shall not apply to short-
6 term lenders and short-term brokers with physical locations and
7 operations in this Commonwealth prior to the effective date of
8 this act.

9 Section 304. Issuance of license.

10 (a) Time limit.--Within 60 days after a completed
11 application is received, the department shall either issue a
12 license or, for any reason for which the department may suspend,
13 revoke or refuse to renew a license under section 308, refuse to
14 issue a license. Upon receipt of an application for a license,
15 the department shall conduct such investigation as it deems
16 necessary to determine that the applicant and its officers,
17 directors and principals are of good character and ethical
18 reputation.

19 (b) Appeal of denial.--If the department refuses to issue a
20 license, it shall notify the applicant in writing of the denial,
21 the reason therefor and the applicant's right to appeal the
22 denial to the Commonwealth Court. An appeal from the
23 department's refusal to approve an application for a license
24 shall be filed by the applicant within 30 days of notice of
25 refusal.

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

28 (1) The name and address of the licensee and the address
29 of the licensee's principal place of business within this
30 Commonwealth.

1 (2) The licensee's reference number.

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

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

5 (1) The department may deny a license if it finds that
6 the applicant or a director, officer, partner, agent or
7 ultimate equitable owner of 10% or more of the applicant has
8 been convicted of a felony in any jurisdiction or of a crime
9 which, if convicted in this Commonwealth, would constitute a
10 felony. For the purposes of this act, a person shall be
11 deemed to have been convicted of a crime if the person:

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

14 (ii) is found guilty by the decision or judgment of
15 a court or Federal magistrate or by the verdict of a
16 jury, irrespective of the pronouncement of sentence or
17 the suspension thereof,

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

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

1 local government agency or designee thereof, including
2 criminal history record information from the Pennsylvania
3 State Police or national criminal history record
4 information from the Federal Bureau of Investigation. The
5 department shall send or receive the criminal history
6 record information or national criminal history record
7 information to or from the Pennsylvania State Police, the
8 Federal Bureau of Investigation or any other
9 international, Federal, State or local government agency,
10 or designee thereof, in a manner satisfactory to the
11 department. National criminal history record information
12 received by the department shall be handled or maintained
13 in accordance with Federal Bureau of Investigation
14 policy.

15 (ii) An individual who later occupies a position
16 that would have required the person to submit criminal
17 history record information at the time an application for
18 a short-term lender license or a short-term broker
19 license was submitted to the department shall comply with
20 the requirements of paragraph (1) at the time an
21 application to renew an existing covered license is
22 submitted to the department.

23 (iii) During the initial or renewal license
24 application process, the department may deem the license
25 application incomplete and therefore not commence the
26 review period stated in the respective licensing statutes
27 if the department has not received evidence from the
28 applicant that national criminal history record
29 information and other criminal history record information
30 required under this section have been requested from the

1 Federal Bureau of Investigation, the Pennsylvania State
2 Police or any other international, Federal, State or
3 local government agency or designee thereof for criminal
4 history record information.

5 (iv) Notwithstanding any other law to the contrary,
6 the department may suspend its processing and
7 consideration of an initial or renewal license
8 application submitted to the department under this act
9 until the department receives all national criminal
10 history record information from the Federal Bureau of
11 Investigation or criminal history record information from
12 the Pennsylvania State Police or any other international,
13 Federal, State or local government agency responsible for
14 such recordkeeping. If the department does not receive
15 the criminal history record information, including
16 national criminal history record information, required
17 under this section, the department may deny the initial
18 or renewal license application.

19 (v) Notwithstanding subparagraphs (iii) and (iv),
20 the department's approval or denial of a license
21 application under a licensing statute without receiving
22 criminal history record information or national criminal
23 history record information regarding covered individuals
24 as required under this section shall not prohibit the
25 department from taking any action authorized by law,
26 including suspension or revocation of the license. The
27 department may deny an application or suspend or revoke a
28 license based on the contents of criminal history record
29 information, the untimely receipt or failure to provide
30 criminal history record information or misleading or

1 inaccurate information provided by the applicant or
2 covered individual under this section, any other statute
3 or other applicable law, including 18 Pa.C.S. Ch. 91
4 (relating to criminal history record information).

5 (vi) The cost of any criminal history record
6 information, including national criminal history record
7 information, obtained by the department under this
8 section shall be paid by the initial or renewal license
9 applicant or the individual whose criminal history is
10 being checked. The cost shall be paid in the manner and
11 monetary amount required jointly and severally by the
12 Pennsylvania State Police, the Federal Bureau of
13 Investigation, the department or any other applicable
14 international, Federal, State or local government agency
15 or designee thereof.

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

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

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

24 (3) has violated or failed to comply with any provision
25 of this act or any rule, regulation or order of the
26 department.

27 Section 305. License duration.

28 A license issued by the department shall:

29 (1) Be renewed on February 1 of each year upon payment
30 of the annual renewal fee and after the department determines

1 that the licensee is conducting business in accordance with
2 this act. No refund of any portion of the license fee shall
3 be made if the license is voluntarily surrendered to the
4 department or suspended or revoked by the department prior to
5 its expiration date.

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

8 (3) Not be assignable or transferable by operation of
9 law or otherwise without the written consent of the
10 department.

11 Section 306. Licensee requirements.

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

13 (1) Conspicuously display its license at each licensed
14 place of business.

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

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

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

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

21 (b) Accounting records.--The licensee's accounting records
22 must be constructed and maintained in compliance with generally
23 accepted accounting principles or as provided by department
24 regulation. All instruments, documents, accounts, books and
25 records shall be kept separate and apart from the records of any
26 other business conducted by the licensee and shall be preserved
27 and kept available for investigation or examination by the
28 department for a period determined by the department.

29 (c) Copies.--If copies of instruments, documents, accounts,
30 books or records are maintained under subsection (a)(2), they

1 may be photostatic, microfilm or electronic copies or copies
2 provided in some other manner approved by the department. Access
3 to information required by the department shall be maintained at
4 all times within this Commonwealth.

5 Section 307. Licensee limitations.

6 A licensee shall not:

7 (1) Transact any business under this act under any other
8 name except those designated in its license. A licensee that
9 changes its name or place or places of business shall
10 immediately notify the department, which shall issue a
11 certificate to the licensee, if appropriate, which shall
12 specify the licensee's new name or address.

13 (2) Conduct a business other than a business regulated
14 by the department in a place of business licensed under this
15 act without at least 30 days' prior written notification to
16 the department.

17 Section 308. Authority of department.

18 (a) Regulations.--The department shall have the authority
19 to:

20 (1) Examine any instrument, document, account, book,
21 record or file of a licensee or any person having a
22 connection to the licensee or make such other investigation
23 as may be necessary to administer the provisions of this act.
24 The costs of the examination shall be borne by the licensee
25 or the entity subject to the examination.

26 (2) Conduct administrative hearings on any matter
27 pertaining to this act, issue subpoenas to compel the
28 attendance of witnesses and the production of instruments,
29 documents, accounts, books and records at any such hearing.
30 The instruments, documents, accounts, books and records may

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

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

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

22 (5) Suspend, revoke or refuse to renew a license issued
23 by the department in accordance with the provisions of
24 section 309.

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

29 (7) Order a person to cease and desist any violation of
30 this chapter and to make restitution for actual damages to

1 consumers.

2 (8) Impose such other conditions as the department deems
3 appropriate.

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

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

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

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

23 Section 309. Suspension, revocation or refusal.

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

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

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

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

5 (4) Been convicted of a felony.

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

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

13 (7) Become the subject of a United States Postal Service
14 fraud order.

15 (8) Failed to comply with the requirements of this act
16 to make and keep records prescribed by rule or order of the
17 department, to produce records required by the department or
18 to file financial reports or other information that the
19 department by rule or order may require.

20 (9) Become the subject of an order of the department
21 denying, suspending or revoking a license under the
22 provisions of a law administered by the department.

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

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

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

30 (1) The condition which warranted the original action

1 has been corrected.

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

4 (3) The licensee satisfies the requirements of this act.
5 Section 310. Penalties.

6 (a) Nonlicensees.--A person who is not licensed by the
7 department and is not exempted from the licensing requirements
8 of this act who engages in the business of a short-term loan
9 lender or short-term loan broker commits a felony of the third
10 degree.

11 (b) Nonlicensees subject to the provisions of this act.--A
12 person subject to the provisions of this act and not licensed by
13 the department who violates a provision to which the person is
14 subject may be fined by the department up to \$2,000 for each
15 offense.

16 (c) Violation by licensee.--

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

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

24 (i) Required a consumer to verify in writing that
25 the consumer does not have any outstanding short-term
26 loan with the licensee, its affiliate or any other
27 licensee.

28 (ii) Accessed a private credit reporting service to
29 determine whether the consumer had any outstanding short-
30 term loans.

1 CHAPTER 4

2 MISCELLANEOUS PROVISIONS

3 Section 401. Applicability.

4 The provisions of this act shall apply to a short-term loan
5 which:

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

7 (2) is negotiated, offered or otherwise transacted
8 within this Commonwealth, in whole or in part, whether by the
9 ultimate lender or any other person.

10 Section 402. Report to General Assembly.

11 Three years from the effective date of this act, the
12 department shall report to the General Assembly on the status of
13 the short-term loan industry, including, but not limited to, the
14 number of licensed short-term lenders and short-term brokers
15 operating in this Commonwealth, a summary of the number of loans
16 issued, the average short-term loan amount and any other
17 information as determined by the department.

18 Section 403. Effective date.

19 This act shall take effect in 60 days.