

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1439 Session of
2010

INTRODUCED BY STACK, WASHINGTON, O'PAKE AND FARNESE,
JULY 7, 2010

REFERRED TO BANKING AND INSURANCE, JULY 7, 2010

AN ACT

1 Amending Titles 12 (Commerce and Trade), 18 (Crimes and
2 Offenses) and 63 (Professions and Occupations (State
3 Licensed)) of the Pennsylvania Consolidated Statutes,
4 codifying the provisions of the Motor Vehicle Sales Finance
5 Act; further providing for aggravated assault; providing for
6 repossession vandalism, for unauthorized recovery and for the
7 regulation of professional repossessioners and collateral
8 recovery; and making a related repeal.

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

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

13 CHAPTER 9

14 MOTOR VEHICLE SALES FINANCE

15 Sec.

16 901. Scope of chapter.

17 902. Findings and declarations of policy.

18 903. Definitions.

19 904. License required.

20 905. Application for license.

21 906. Bond.

1 907. License fees.
2 908. License certificate.
3 909. Rejection of application.
4 910. Revocation or suspension of license.
5 911. Authority of department.
6 912. Records required.
7 913. Requirements as to contracts and separate disclosure.
8 914. Contents of contract and disclosure requirements.
9 915. Prohibited provisions of contract.
10 916. Transfer of installment sale contract.
11 917. Insurance.
12 918. Other costs included in amount financed.
13 919. Finance charges.
14 920. Refinancing installment sale contract.
15 921. Default charges.
16 922. Refund for prepayment of contract.
17 923. Repossession.
18 924. Reinstatement of contract after repossession.
19 925. Redemption and termination of contract after repossession.
20 926. Sale of motor vehicle after repossession.
21 927. Deficiency judgment.
22 928. Statement of account to buyer.
23 929. Payment receipts.
24 930. Executed contracts and release of liens.
25 931. Prohibited charges.
26 932. Buyer's waiver of statutory protection.
27 933. Application of chapter to existing contracts.
28 934. Effect of expiration, surrender or revocation of license
29 of existing contracts.
30 935. Contracts unenforcible in this Commonwealth.

1 936. Exemptions.

2 937. Penalties.

3 937.1. Regulations and orders.

4 § 901. Scope of chapter.

5 This chapter relates to motor vehicle sales finance.

6 § 902. Findings and declarations of policy.

7 The General Assembly finds and declares:

8 (1) That an exhaustive study by the Joint State
9 Government Commission discloses nefarious, unscrupulous and
10 improper practices in the financing of the sale of motor
11 vehicles in this Commonwealth which are unjustifiably
12 detrimental to the consumer and inimical to the public
13 welfare. The practices prevail not only among some sellers,
14 but also among some sales finance companies and some banks,
15 which acquire contracts arising out of installment sales of
16 motor vehicles and which frequently influence the credit
17 policies of sellers.

18 (2) That the agreement for the installment sale of motor
19 vehicles in this Commonwealth has been generally cast in the
20 form of the so-called "Pennsylvania Bailment Lease" contract,
21 in which the seller is technically the lessor and the buyer
22 is technically the lessee. By the use of this fictional
23 instrument in the installment sale of motor vehicles, the
24 extension of credit to the purchaser has been so inextricably
25 entwined with the alleged bailment of the motor vehicle as to
26 deprive the consumer of the benefit of existing laws.

27 (3) The consumers, because of these legal technicalities
28 and because of their unequal bargaining position, are at the
29 mercy of unscrupulous persons and are being intolerably
30 exploited in the installment purchase of motor vehicles. The

1 exploitation is evident in the unfair provisions of the
2 installment sale contract, exorbitant charges for credit,
3 extortionate default, extension, collection, repossession and
4 other charges, unconscionable practices respecting execution
5 of contracts, refinancing of contracts, prepayment, refunds,
6 insurance, repossession and redemption.

7 (4) That practices enumerated under paragraph (3), and
8 others equally pernicious, have existed to an extent that
9 regulation of the installment selling of motor vehicles is
10 necessary to the adequate protection of the public interest.
11 Adequate regulation of installment selling must include
12 control of the functions of selling and financing of motor
13 vehicles, whether exercised by the same or by different
14 persons.

15 (5) It is the policy of the Commonwealth to:

16 (i) Promote the welfare of its inhabitants and to
17 protect its citizens from abuses presently existing in
18 the installment sale of motor vehicles and, to that end,
19 exercise the police power of the Commonwealth to bring
20 under the supervision of the Commonwealth all persons
21 engaged in the business of extending consumer credit in
22 conjunction with the installment sale of motor vehicles.

23 (ii) Establish a system of regulation for the
24 purpose of insuring honest and efficient consumer credit
25 service for installment purchasers of motor vehicles.

26 (iii) Provide the administrative machinery necessary
27 for effective enforcement.

28 § 903. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Banking institution." A bank, bank and trust company, trust
3 company, savings bank, private bank or any national banking
4 association, organized and doing business under the laws of any
5 of the following:

6 (1) This Commonwealth.

7 (2) Any other state.

8 (3) The United States of America.

9 "Cash price." The price in dollars of a motor vehicle
10 subject to an installment sale contract at which, if the sale
11 were a sale for cash instead of an installment sale, the seller
12 would in good faith sell to the buyer or to any other buyer
13 under similar circumstances and the buyer would in good faith
14 buy from the seller.

15 "Charges." The price in dollars of goods and services which
16 are subject to an installment sale contract at which, if the
17 sale were a sale for cash instead of an installment sale, the
18 seller would in good faith sell to the buyer or to any other
19 buyer under similar circumstances and the buyer would in good
20 faith buy from the seller.

21 "Charges for insurance." Premiums, commissions and other
22 payments authorized by insurance statutes or regulations of this
23 Commonwealth.

24 "Collateral security." Any security, other than a security
25 interest in a motor vehicle, which is the subject of an
26 installment sale contract and which is given to secure the
27 performance of an obligation of the buyer or of a surety or
28 guarantor for him under an installment sale contract, extension,
29 deferment, renewal or other revision. The term shall include the
30 undertaking of a surety or guarantor for the buyer and any

interest in encumbrance on or pledge of real or personal property other than the motor vehicle which is the subject of the installment sale contract.

"Commercial purpose." A purpose related to the production, exhibition, marketing, transportation, processing or manufacture of goods or services by a person.

"Debt cancellation agreement." A loan term or contractual arrangement modifying loan terms linked to a holder's extension of credit under which the holder agrees to cancel all or part of a buyer's obligation to repay an extension of credit from that holder upon the occurrence of a specified event.

"Debt suspension agreement." A loan term or contractual arrangement modifying loan terms linked to a holder's extension of credit under which the holder agrees to suspend all or part of a buyer's obligation to repay an extension of credit from that holder upon the occurrence of a specified event.

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

"Down payment." All partial payments, made in cash or otherwise, received by or for the benefit of the seller prior to or substantially contemporaneous with either the execution of the installment sale contract or the delivery of the goods sold under the contract, whichever occurs later.

"Finance charge." Any of the following:

(1) The amount of the consideration in excess of the cash price which the buyer is required to pay to the seller for any of the following:

(i) The privilege of purchasing a motor vehicle under an installment sale contract.

(ii) The credit extended by the seller to the buyer in conjunction with the sale of a motor vehicle under an

installment sale contract.

(2) The differential between the cash sale price of the motor vehicle and the installment sale price, except for charges for insurance and other charges necessary or incidental to an installment sale and any default charges, which are specifically authorized under this chapter to be included in an installment sale contract.

"Heavy commercial motor vehicle." A new or used motor vehicle which is one of the following:

(1) A truck or truck tractor having a manufacturer's gross vehicular weight of at least 15,000 pounds.

(2) A semitrailer or trailer designed for use in combination with a truck or truck tractor.

"Holder." A person, including a seller, who is currently entitled to the rights of a seller under an installment sale contract.

"Installment buyer" or "buyer." The person who buys, hires or leases a motor vehicle under any installment sale contract or any legal successor in interest to the person. The term applies even if the person enters into one or more extensions, deferments, renewals or other revisions of the original contract. The term includes any person who as surety, endorser, guarantor or otherwise is liable on the obligation created by the buyer under an installment sale contract.

"Installment sale contract" or "contract." A contract for the retail sale of a motor vehicle or which has a similar purpose or effect, under which part or all of the price is payable in two or more scheduled payments subsequent to the making of the contract, or as to which the obligor undertakes to make two or more scheduled payments or deposits that can be used

1 to pay part or all of the purchase price, whether or not the
2 seller has retained a security interest in the motor vehicle or
3 has taken collateral security for the buyer's obligation. The
4 following shall apply:

5 (1) The term shall include any of the following:

6 (i) A loan, mortgage, conditional sale contract,
7 purchase-money chattel mortgage, hire-purchase agreement
8 or contract for the bailment or leasing of a motor
9 vehicle under which the hire-purchaser, the bailee or
10 lessee contracts to pay as compensation a sum
11 substantially equivalent to or in excess of the value of
12 the motor vehicle and any other form of contract which
13 has a similar purpose or effect.

14 (ii) An extension, deferment, renewal or other
15 revision of the installment sale contract.

16 (2) The term shall not include any of the following:

17 (i) A sale or contract for sale upon an open book
18 account under which the following apply:

19 (A) The seller has not retained or taken any
20 security interest in the motor vehicle sold or any
21 collateral security for the buyer's obligation.

22 (B) The buyer is not required to pay any sum
23 other than the cash price of the motor vehicle sold
24 in connection with the sale or extension of credit.

25 (C) The buyer is obligated to pay for the motor
26 vehicle in full within 90 days from the time the sale
27 or contract for sale was made.

28 (ii) A right to acquire possession of goods pursuant
29 to a lease unless the lease constitutes a security
30 interest as defined in 13 Pa.C.S. § 1201 (relating to

general definitions) and is subject to 13 Pa.C.S. Div. 9
(relating to secured transactions).

"Installment seller" or "seller." A person engaged in the
business of selling, hiring or leasing motor vehicles under
installment sale contracts or any legal successor in interest to
the person.

"Licensee." A person licensed under this chapter as an
installment seller or a sales finance company. The term shall
not include a person whose license has expired or has been
surrendered or revoked.

"Mobile home." A mobile home as defined in 75 Pa.C.S. § 102
(relating to definitions).

"Motor vehicle." A self-propelled device in which, upon
which or by which any person or property is or may be
transported or drawn upon a public highway. The following shall
apply:

(1) The term shall include trailers and semitrailers.

(2) The term shall not include:

(i) Tractors, power shovels, road machinery,
agricultural machinery and other machinery not designed
primarily for highway transportation, but which may
incidentally transport persons or property on a public
highway.

(ii) Devices which move upon or are guided by a
track or travel through the air.

"Person." An individual, partnership, association, business
corporation, banking institution, nonprofit corporation, common
law trust, joint stock company or any other group of individuals
organized in any manner.

"Principal amount financed." The unpaid cash price balance

1 excluding the down payment and including all of the following:

2 (1) The charges for insurance required or obtained as
3 security for or by reason of the sale of a motor vehicle
4 under an installment sale contract.

5 (2) Costs or charges necessary or incidental to the sale
6 of the motor vehicle under an installment sale contract and
7 amounts representing payment of a prior credit or lease
8 balance to discharge a security interest, lien or lease
9 interest on a motor vehicle or other property traded or
10 returned.

11 "Retail sale." The sale of a motor vehicle for use by a
12 buyer or for the benefit or satisfaction which a buyer may
13 derive from the use of the motor vehicle by another.

14 "Sales finance company." A person engaged as principal,
15 agent or broker in the business of financing or soliciting the
16 financing of installment sale contracts made between other
17 parties, including the business of acquiring, investing in or
18 lending money or credit on the security of the contracts or any
19 interest in the contracts whether by discount, purchase or
20 assignment, or otherwise. The following shall apply:

21 (1) The term shall include any seller, whether or not
22 licensed under this chapter, as a seller who finances
23 installment sale contracts for other sellers or sales finance
24 companies.

25 (2) The term shall not include any person to the extent
26 that the person makes bona fide commercial loans to sellers
27 or sales finance companies and takes assignments of or an
28 interest in an aggregation of installment sale contracts only
29 as security for the commercial loans under which, in the
30 absence of default or other bona fide breach of the loan

1 contract, ownership of the contracts remains vested in the
2 assignor and collection of payments on the contracts is made
3 by the assignor.

4 "Secretary." The Secretary of Banking of the Commonwealth.

5 "Security interest." A security interest as provided under
6 13 Pa.C.S. Div. 9 (relating to secured transactions).

7 "Time balance." The sum of the principal amount financed and
8 the finance charge.

9 § 904. License required.

10 On and after the effective date of this chapter, no person
11 shall engage or continue to engage in this Commonwealth as a
12 principal, employee, agent or broker:

13 (1) in the business of an installment seller of motor
14 vehicles under installment sale contracts, except as
15 authorized in this chapter, under license issued by the
16 department; or

17 (2) in the business of a sales finance company, except
18 as authorized in this chapter, under license issued by the
19 department.

20 § 905. Application for license.

21 (a) General rule.--An application for licenses under this
22 chapter shall be in writing, under oath and in the form
23 prescribed by the department.

24 (b) Contents.--The application shall contain the name under
25 which the business is conducted; the address of the place of
26 business; the date of registration of the fictitious or trade
27 name, if any, with the Secretary of the Commonwealth; the date
28 and place of incorporation, if the applicant is a corporation;
29 the name and residence address of the owner, if the applicant is
30 an individual owner; the name and residence address of all

owners, partners or members, if the applicant is a partnership or association; the name and address of all officers and directors, if the applicant is a corporation; and other information as the department may require.

(c) Associations and corporations.--An application filed by an association or a corporation shall be accompanied by a power of attorney showing the name and address of the authorized agent in the Commonwealth upon whom all judicial and other process or legal notice may be served, and in the case of the death, removal from the Commonwealth or any legal disability or disqualification of the agent, service of the process or notice upon the department shall be authorized.

(d) Separate applications required.--A separate application, on the prescribed form, shall be filed for each place of business conducted by or to be established by a licensee in this Commonwealth.

(e) Renewal.--An application for license renewal shall be filed annually, at least 15 days prior to the first day of October.

§ 906. Bond.

(a) General rule.--A bond in the form prescribed by the department in the penal sum of \$5,000 shall accompany an application for a license as a sales finance company. The bond shall be executed by a surety company authorized by the laws of this Commonwealth to transact business in this Commonwealth, except that a bond accompanying an application for license as a sales finance company filed by a banking institution located in this Commonwealth may be executed by the banking institution on its own behalf in lieu of a bond executed by a surety company. The bond shall be executed to the Commonwealth and for the use

of the Commonwealth and any person or persons. The condition of the bond shall be that the licensee will comply with and abide by all provisions of this chapter and rules and regulations of the department lawfully issued and that the licensee will pay to the Commonwealth, the department or any person such money as may become due from the said licensee to the Commonwealth, the department or any person under this chapter. If any person is aggrieved by misconduct of a licensee and recovers judgment against the licensee, the person may, on an execution issued under the judgment, maintain an action upon the bond in a court having jurisdiction of the amount claimed, provided that the department assents to maintaining the action.

(b) Separate bonds required.--A bond in the form prescribed shall be filed for each place of business conducted in this Commonwealth by a finance company.

(c) Renewal of license.--A new bond shall accompany an application for license renewal and shall be filed annually at least 15 days prior to the first day of October.

§ 907. License fees.

(a) General rule.--An application for license shall be accompanied by the license required under section 603-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(b) Separate fee.--A separate fee under subsection (a) shall be paid for each place of business conducted by a licensee in this Commonwealth.

(c) No abatement.--No abatement in the amount of a fee shall be made for a license issued for less than a full year or for a license surrendered, canceled or revoked prior to expiration of the license year for which the license was issued.

1 (d) Expiration and renewal.--A license under this chapter
2 shall expire annually on the first day of October. A renewal
3 license fee shall be paid annually on or before the first day of
4 October for each type of license and each place of business.

5 (e) Disposition.--All fees and fines received by the
6 department under this chapter shall be deposited in the State
7 Treasury to the credit of a special fund for use by the
8 department in administering laws of this Commonwealth which have
9 been placed under its administration.

10 § 908. License certificate.

11 (a) Issuance.--Upon approval of an application for a
12 license, the department shall issue to the applicant a
13 certificate showing the name of the person authorized to do
14 business under the license and the address of the licensee. A
15 certificate issued to an installment seller or sales finance
16 company shall be posted in a conspicuous place in the licensee's
17 place of business, so that it will be in full view of the public
18 at all times.

19 (b) No transfer or assignment.--A license shall not be
20 transferred or assigned.

21 (c) Change of location.--A licensee may change his place of
22 business to another location in the municipality for which the
23 certificate was issued by giving prior written notice to the
24 department and returning the license certificate to the
25 department for amendment. The department shall amend the license
26 certificate to show the date and the new address, which shall be
27 the authorized address of the licensee. A licensee shall not be
28 required to pay a charge for amendment of a license certificate
29 effecting a change of address.

30 (d) Multiple places of business.--Except as provided in this

subsection, only one place of business may be operated under a
license. A sales finance company may operate multiple places of
business by filing an application on the prescribed form for
each place of business, furnishing a bond for each place of
business and paying the license fee for each place of business.
Multiple licenses shall not be required for an installment
seller if all of the seller's places of business are conducted
under the same name and the business records are kept in one
place.

§ 909. Rejection of application.

(a) General rule.--The department may reject an application
for a license or for renewal of a license:

(1) if the applicant has made a material misstatement in
the application;

(2) on any of the grounds set forth in section 910(a)
(relating to revocation or suspension of license); or

(3) if the department is not satisfied that the
financial responsibility, character, reputation, integrity
and general fitness of the applicant, owners, partners,
members, officers or directors are such as to command public
confidence and warrant a belief that the business for which
application for license is filed will be operated lawfully,
honestly, fairly, within the legislative intent of this
chapter and in accordance with the laws of this Commonwealth.

(b) Additional grounds.--No license may be issued if the
applicant or an affiliate, owner, partner, member, officer,
director, employee, agent or spouse of the applicant has pleaded
guilty, entered a plea of nolo contendere or been found guilty
by a judge or jury of engaging in a business for which a license
is required under this chapter without having obtained a license

1 under this chapter, or if the applicant or an affiliate, owner,
2 partner, member, officer, director, employee, agent or spouse of
3 the applicant has pleaded guilty, entered a plea of nolo
4 contendere or been found guilty by a judge or jury of a second
5 offense violation of this chapter under the penalty provisions
6 of this chapter applicable to licensees and had its license
7 revoked.

8 (c) Procedure.--If the department rejects an application, it
9 shall return the license fee which accompanied the application,
10 except that a portion or all of the license fee may be retained
11 by the department if rejection is based wholly or partially upon
12 false information furnished in the application.

13 § 910. Revocation or suspension of license.

14 (a) General rule.--Upon written notice of at least 30 days
15 by registered mail to the business address of the licensee, the
16 department may revoke or suspend a license if the department
17 finds any of the following:

18 (1) The licensee has made a material misstatement in the
19 license application.

20 (2) The licensee has violated a provision of this
21 chapter.

22 (3) The licensee has violated a lawful rule or
23 regulation of the department.

24 (4) The licensee has failed to comply with a lawful
25 demand, rule or regulation of the department.

26 (5) The licensee refuses or has refused to permit the
27 department to make an examination authorized by this chapter.

28 (6) A finance company licensee has failed to maintain in
29 effect the bond required under this chapter.

30 (7) The licensee has failed to maintain satisfactory

1 records required by this chapter or prescribed by the
2 department.

3 (8) The licensee has falsified any records required by
4 this chapter to be maintained concerning the business
5 contemplated by this chapter.

6 (9) The licensee has failed to file a required report
7 with the department within the time stipulated by this
8 chapter.

9 (10) The licensee has failed to pay a fine imposed under
10 this chapter for failure to file a required report with the
11 department within the time stipulated by this chapter.

12 (11) The licensee has defrauded a retail buyer to the
13 buyer's damage or willfully failed to perform a written
14 agreement with a retail buyer.

15 (12) A fact or condition exists or is discovered which,
16 if it had existed or had been discovered at the time of
17 filing of the license application, would have warranted
18 refusal to issue a license.

19 (13) The licensee failed to collect a tax or fee due to
20 the Commonwealth upon sale of a vehicle, collected a tax or
21 fee but failed to issue a copy of the tax report to the
22 purchaser as required by law, issued a false or fraudulent
23 tax report or copy or failed to pay a tax or fee to the
24 Commonwealth at the time and in the manner required by law.

25 (14) The licensee engaged in unfair, deceptive,
26 fraudulent or illegal practices or conduct in connection with
27 a business regulated under this chapter, including making
28 excessive mark-ups to charges for items described in section
29 914(b) (1), (5) or (10.1) (relating to contents of contract and
30 disclosure requirements) or 918(e) (relating to other costs

1 included in amount financed) or mark-ups of costs in
2 violation of section 918(d). The department shall adopt a
3 statement of policy that contains guidelines determining
4 mark-ups that the department finds, after reasonably
5 considering relevant market data, not to be excessive and
6 shall update and revise the statement of policy to reflect
7 changing business conditions. Mark-ups consistent with the
8 guidelines shall not be deemed excessive. Mark-ups in excess
9 of the guidelines and, until the time as the department
10 adopts its guidelines, mark-ups for service contracts,
11 warranties, debt cancellation agreements and debt suspension
12 agreements in excess of 100% of the cost to the dealer shall
13 be deemed excessive.

14 (b) Limitation.--The department may revoke or suspend only
15 the particular license with respect to which grounds for
16 revocation may occur or exist, but, if the department finds that
17 grounds for revocation are of general application to all places
18 of business or to more than one place of business operated by a
19 licensee, it may revoke all licenses issued to the licensee or
20 those licenses to which grounds for revocation apply, as the
21 case may be.

22 (c) Procedure following revocation.--When a license has been
23 revoked, the department shall not issue another license to the
24 licensee under this chapter until at least one year from the
25 effective date of the revocation and not at all if the licensee
26 or an owner, partner, member, officer, director, employee, agent
27 or spouse of the licensee shall have pleaded guilty, entered a
28 plea of nolo contendere or been found guilty by a judge or jury
29 of a second offense violation of this chapter.

30 (d) Appeals.--An appeal may be taken from an action of the

department suspending or revoking a license or imposing a civil penalty under section 937(d) (relating to penalties) in accord with the provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).
§ 911. Authority of department.

(a) Investigatory powers.--The department may at any time investigate the business and affairs and examine the books, accounts, papers, records, documents and files of every licensee and of every person engaged in a business contemplated by this chapter, regardless of whether the person acts or claims to act as principal, agent or broker or under authority of this chapter, and the department shall have free access to their offices and places of business, books, accounts, papers, records, documents and files. A person not licensed under this chapter shall be presumed to be engaged in business contemplated by this chapter if, as principal, agent or broker, the person advertises or solicits business for which a license is required by this chapter, and the department may freely examine books, accounts, papers, records, documents, files, safes and vaults of such persons for the purpose of discovering violations of this chapter.

(b) Attendance, testimony and production of documents.--The department is empowered to require the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents and files relating to the business which the department has authority under this chapter to investigate, and for this purpose the secretary or a duly authorized representative may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. Upon

1 disobedience of a subpoena or contumacy of a witness appearing
2 before the department, the secretary may invoke the aid of the
3 courts, and the court shall issue an order requiring a person
4 subpoenaed to obey the subpoena, give evidence or to produce
5 books, accounts, papers, records, documents and files relative
6 to the matter in question. Failure to obey a court order issued
7 under this subsection shall constitute contempt of court.

8 (c) Expenses.--Expenses incurred by the department in
9 connection with an examination or investigation, including a
10 proportionate part of the salary of an examiner, department
11 employee or legal counsel assigned by the department to the
12 examination or investigation, may be assessed by the department
13 upon the person examined or investigated.

14 § 912. Records required.

15 (a) General rule.--A licensee shall maintain, at the place
16 of business designated in the license certificate, the books,
17 accounts and records of the business conducted under the license
18 issued for the place of business in order for the department to
19 determine whether the business of the licensee contemplated by
20 this chapter is being operated in accordance with the provisions
21 of this chapter.

22 (b) Multiple places of business.--A licensee that operates
23 two or more licensed places of business in this Commonwealth may
24 maintain the general control records of all the offices at any
25 one of the offices or at any other office maintained by the
26 licensee upon the filing of a written request with the
27 department designating the office at which the control records
28 are maintained and upon approval of the request by the
29 department.

30 (c) English language required.--All books, accounts and

records of licensees shall be maintained in the English language.

(d) Time period to preserve.--All books, accounts and records of licensees, including any cards used in a card system, shall be preserved and available for examination by the department for at least two years after making the final entry.

(e) Minimum information.--The department may prescribe the minimum information to be shown in the books, accounts and records of licensees so that the books, accounts and records will enable the department to determine compliance with the provisions of this chapter.

§ 913. Requirements as to contracts and separate disclosure.

(a) General rule.--An installment sale contract shall be in writing and shall contain all of the agreements between the buyer and the seller relating to the installment sale of the motor vehicle sold and shall be signed by both the buyer and the seller.

(b) Completion prior to signing.--An installment sale contract shall be completed as to all essential provisions prior to the signing of the contract by the buyer.

(c) Copy to buyer.--An exact copy of the installment sale contract shall be furnished by the seller to the buyer at the time the buyer signs the contract. The buyer's copy of the contract shall contain the signature of the seller identical with the signature on the original contract. The copy shall be furnished to the buyer without charge.

(d) Notice required.--An installment sale contract shall contain the following notice, printed prominently and in the form indicated in at least 12-point type directly above the space provided in the contract form for the signature of the

1 buyer:

2 Notice to Buyer.

3 Do not sign this contract in blank.

4 You are entitled to an exact copy of the contract you
5 sign.

6 Keep it to protect your legal rights.

7 In lieu of the word "buyer," either of the words "lessee" or
8 "mortgagor" may be substituted, and in lieu of the word
9 "contract," either of the words "lease" or "mortgage" may be
10 substituted.

11 (e) Acknowledgment of delivery.--The seller shall obtain
12 from the buyer a written acknowledgment of the delivery of the
13 copy of the contract to the buyer. The acknowledgment shall be
14 printed in at least 12-point type and, if attached to the
15 contract, shall be printed below the buyer's signature to the
16 contract and shall be independently signed.

17 (f) Payment.--

18 (1) Except as otherwise provided in this subsection, an
19 installment sale contract shall provide for payment of the
20 time balance in substantially equal periods and in
21 substantially equal amounts.

22 (2) When the buyer expects the buyer's income to vary
23 because of seasonal employment, seasonal sales, use of
24 accelerated depreciation for tax purposes or other known
25 cause, the contract may provide for payment of the time
26 balance in amounts which vary with the expected varying
27 income.

28 (3) An installment sale contract for the sale of a heavy
29 commercial motor vehicle shall be exempt from the requirement
30 that payments be for substantially equal periods and in

1 substantially equal amounts.

2 (4) An installment sale of a new motor vehicle to a bona
3 fide salesman or of motor vehicles to be used by a bona fide
4 salesman principally as a demonstrator shall be exempt from
5 the equal payment schedule requirement of this subsection.

6 (5) The following shall apply:

7 (i) An installment sale contract that provides for
8 fixed residual value financing shall be exempt from the
9 equal payment schedule requirement of this subsection.

10 (ii) As used in this paragraph, "fixed residual
11 value financing" shall mean the manner of purchase in
12 which a buyer who is listed as the owner on the title of
13 a vehicle agrees to select and perform, at the conclusion
14 of a predetermined schedule of installment payments made
15 in substantially equal periods and in substantially equal
16 amounts, one of the following options:

17 (A) satisfy the balance of the contractual
18 amount owing;

19 (B) refinance any balance owing on the terms
20 previously agreed upon at the time of executing the
21 installment sale contract; or

22 (C) surrender the motor vehicle at the time and
23 manner agreed upon at the time of executing the
24 installment sale contract.

25 (g) Seller disclosures.--

26 (1) Prior to the execution of an installment sale
27 contract by any party, the seller shall provide to the
28 applicant buyer both an oral disclosure and a written
29 disclosure in plain language separate from the installment
30 sale contract to be signed by the applicant buyer. The

1 executed, written disclosure shall be copied exactly and
2 furnished by the seller to the applicant buyer at no cost
3 when the buyer receives a copy of the installment sale
4 contract.

5 (2) The separate disclosure required under this
6 subsection shall:

7 (i) Advise the applicant that the buyer's purchase
8 of specific items related to acquiring the motor vehicle,
9 including incidental items such as service contracts,
10 warranties, debt cancellation agreements, debt suspension
11 agreements and insurance products not required by section
12 917 (relating to insurance), but excluding options and
13 accessories physically attached to the vehicle, is
14 voluntary and is not required as a condition of the
15 applicant buyer's receiving the installment sale contract
16 loan.

17 (ii) Be complete without any blank spaces.

18 § 914. Contents of contract and disclosure requirements.

19 (a) General rule.--An installment sale contract shall state
20 the full names and addresses of all the parties to the contract
21 and the date when signed by the buyer and shall contain a
22 description of the motor vehicle sold which shall be sufficient
23 for accurate identification.

24 (b) Other terms.--An installment sale contract shall state
25 clearly and conspicuously in writing the following terms, as
26 applicable:

27 (1) Cash price of the motor vehicle. This amount may
28 include any taxes, charges for delivery, charges for
29 servicing, repairing or improving the motor vehicle, charges
30 for service contracts and warranties which alternatively

1 shall be disclosed pursuant to paragraph (5), charges for
2 accessories and installation or other charges normally
3 included in the delivered cash price of the motor vehicle.
4 The cash price of the motor vehicle otherwise may not include
5 charges required to be disclosed under paragraph (5). If the
6 cash price contains charges for service contracts or
7 warranties, then, adjacent to the "cash price" listed on the
8 contract in type print size not smaller than the type size
9 used for all item categories, shall be included the boldface
10 and underlined words or substantially similar words
11 "including optional service contracts and/or warranties in
12 the amount of"; and then the separately itemized charges for
13 the service contract and warranty shall be specifically
14 stated in the contract and warranty items.

15 (2) Down payment made by the buyer at the time of or
16 prior to execution of the contract, indicating whether made
17 in cash, or represented by the agreed value of a "trade-in"
18 motor vehicle or other goods, or both. The amount of cash or
19 the value of any "trade-in" shall be shown separately. A
20 description of the "trade-in," if any, sufficient for
21 identification shall be shown.

22 (3) Unpaid cash balance, which shall be the difference
23 between the cash price under paragraph (1) and the down
24 payment under paragraph (2).

25 (4) Charges for insurance the payment of which the
26 seller agrees to extend credit to the buyer. The term of the
27 insurance, a concise description of the coverage and the
28 amount of the premium shall be stated. If the precise charges
29 for insurance are not available at the time the contract is
30 signed, an estimated amount, ascertained from a chart

1 prepared by the licensee and approved by the department, may
2 be stated in the contract. When the charges for insurance are
3 so estimated, the contract shall state that fact. The
4 contract shall contain notice to the buyer that the
5 difference between the estimated charges and the actual
6 charges for the insurance, including finance charges on the
7 amount, shall be adjusted at the time of the final payment on
8 the contract, and a statement of the amount of the adjustment
9 shall be furnished to the buyer simultaneously with the
10 delivery of the insurance policy or certificate.

11 (5) Other charges necessary or incidental to the sale or
12 financing of a motor vehicle which the seller contracts to
13 retain, receive or pay on behalf of the buyer and any other
14 charges necessary or incidental to the sale or financing of
15 the motor vehicle under the contract for which the seller
16 agrees to extend credit to the buyer as authorized by this
17 chapter, including charges for debt cancellation agreements
18 and debt suspension agreements.

19 (6) Principal amount financed which shall be the total
20 of the unpaid cash price balance identified under paragraph
21 (3) plus charges for insurance under paragraph (4) plus other
22 charges under paragraph (5) for which the seller agrees to
23 extend credit to the buyer.

24 (7) Finance charge which is the consideration in excess
25 of the cash price under paragraph (1), excluding charges for
26 insurance under paragraph (4), and other charges under
27 paragraph (5), which the buyer agrees to pay to the seller
28 for the privilege of purchasing the motor vehicle under the
29 installment sale contract.

30 (8) Time balance which shall be the total of the

1 principal amount under paragraph (6) plus the finance charge
2 under paragraph (7) and which shall represent the total
3 obligation which the buyer agrees to pay in two or more
4 scheduled payments.

5 (9) Payment schedule which shall state the number of
6 payments, the amount of the payments and the time of the
7 payments required to liquidate the time balance.

8 (10) Notwithstanding any provisions of this chapter or
9 any other law to the contrary, the finance charge percentage
10 rate included in an installment sale contract for the sale of
11 a heavy commercial motor vehicle may vary during the term of
12 the contract pursuant to a formula or index stated in the
13 contract that is made readily available to and verifiable by
14 the buyer and is beyond the control of the holder of the
15 contract. For the purpose of disclosing the amount of finance
16 charge under paragraph (7) and time balance under paragraph
17 (8) and stating a payment schedule under paragraph (9), the
18 amounts may be calculated using the finance charge percentage
19 rate applicable to the transaction as of the date of
20 execution of the contract, notwithstanding the fact that the
21 finance charge percentage rate may increase or decrease over
22 the term of the contract according to a formula or index set
23 forth in the contract.

24 (11) Charges for warranties, charges for service
25 contracts, charges for insurance for each policy of insurance
26 required to be disclosed pursuant to paragraph (4), charges
27 required to be disclosed pursuant to paragraph (5) and costs
28 and charges authorized in section 918 (relating to other
29 costs included in amount financed) shall be separately
30 itemized in the contract as to nature and amounts of the cost

1 or charge to the buyer. If the seller retains a portion of
2 the charge of a good or service which is provided by others,
3 the seller shall disclose that the seller may retain a
4 portion of the charges.

5 (c) Description of collateral security.--An installment sale
6 contract shall provide a description that reasonably identifies
7 any collateral security in which a security interest is provided
8 to secure the buyer's obligation pursuant to 13 Pa.C.S. § 9108
9 (relating to sufficiency of description), including the motor
10 vehicle and any other collateral.

11 (d) Summary of buyer's legal rights.--An installment sale
12 contract shall contain a summary notice of the buyer's principal
13 legal rights respecting prepayment of the contract, rebate of
14 the finance charge and reinstatement of the contract in the
15 event of repossession.

16 (e) Buyer's right to accelerate maturity and default
17 provisions.--An installment sale contract shall contain specific
18 provisions relating to the holder's right to accelerate the
19 maturity of the contract on default or other breach of contract
20 and relating to the buyer's liability respecting nonpayment, the
21 dollar or percentage amount of any default charges which may be
22 imposed due to a late payment, other than a deferral or
23 extension charge, repossession and sale of the motor vehicle, in
24 case of default or other breach of contract, and respecting the
25 collateral security, if any.

26 (f) Mobile homes and house trailers.--An installment sale
27 contract for the sale of a mobile home or house trailer may
28 contain a provision requiring the buyer to pay any and all real
29 estate taxes levied upon the vehicle and requiring the buyer to
30 furnish the seller or holder with proof of payment in the manner

1 and at the times as the contract may prescribe. The contract may
2 further provide for acceleration of payments or give the seller
3 or holder the right to repossess the vehicle upon the buyer's
4 failure to pay the taxes or furnish proof as required, or both.
5 If the mobile home or house trailer is sold by any tax-levying
6 unit of government for nonpayment of real estate taxes by the
7 buyer, any lien or encumbrance contained on the title of the
8 vehicle pursuant to 75 Pa.C.S. (relating to vehicles) or any
9 encumbrance filed of record against the vehicle under the
10 provisions of 13 Pa.C.S. (relating to commercial code) shall not
11 be affected or divested.

12 (g) Itemization of charges.--Charges enumerated in this
13 section and costs and charges authorized by section 918 shall be
14 separately itemized in the contract.

15 § 915. Prohibited provisions of contract.

16 (a) Blank spaces.--No installment sale contract may be
17 signed by any party to it when the contract contains blank
18 spaces to be filled in after the contract has been signed. This
19 provision shall not apply to serial numbers or other identifying
20 marks which are not available for description of the motor
21 vehicle at the time of execution of the contract.

22 (b) Acceleration clauses.--No installment sale contract may
23 contain any acceleration clause under which any part or all of
24 the time balance represented by payments not yet matured may be
25 declared immediately payable because the seller or holder deems
26 himself to be insecure. This provision shall not affect an
27 acceleration clause authorizing the seller or holder to declare
28 the entire time balance due and payable:

29 (1) in case of default in the payment of one or more
30 installment payments;

1 (2) in the event of the buyer's failure to pay taxes
2 levied against the vehicle or in the event of the buyer's
3 failure to furnish proof of payment of taxes levied against
4 the vehicle; or

5 (3) use of the motor vehicle for illegal purposes.

6 (c) Repossession.--No installment sale contract may contain
7 a provision authorizing a person acting on behalf of the seller
8 or holder to enter upon premises of the buyer unlawfully or to
9 commit any breach of the peace in the repossession of the motor
10 vehicle or collateral security.

11 (d) Waiver of right of action.--No installment sale contract
12 may contain any provision in which the buyer waives any right of
13 action against the seller, holder or other person acting on
14 behalf of the holder for any illegal act committed in the
15 collection of payments under the contract.

16 (e) Powers of attorney.--No installment sale contract may
17 contain any provision under which the buyer executes a power of
18 attorney appointing the seller or the holder as the buyer's
19 agent in collection of the payments under the contract or in
20 repossession of the motor vehicle sold or collateral security.
21 This provision shall not apply to a power of attorney issued by
22 the buyer to an agent to be used only in the collection of the
23 obligation by legal process.

24 (f) Waiver of liability.--No installment sale contract may
25 contain any provision relieving the holder, or other assignee,
26 from liability for any legal remedies which the buyer may have
27 had against the seller under the contract or under any separate
28 instrument executed in connection with the contract.

29 (g) Notes.--No installment sale contract may require or
30 entail the execution of any note or series of notes by the

buyer, which when separately negotiated will cut off as to third parties any right of action or defense which the buyer may have against the original seller.

§ 916. Transfer of installment sale contract.

(a) Transfer to sales finance company.--The seller of a motor vehicle under an installment sale contract executed in this Commonwealth shall not sell, transfer or assign the obligation represented by the contract to a person in this Commonwealth, or elsewhere, who is not licensed as a sales finance company under this chapter.

(b) Transfer by sales finance company.--A sales finance company, licensed under this chapter, shall not sell, transfer or assign the obligation represented by a motor vehicle installment sale contract executed in this Commonwealth which it has lawfully acquired to any other person in this Commonwealth, or elsewhere, who is not licensed as a sales finance company under this chapter.

(c) Notice of transfer.--Whenever an installment sale contract is lawfully sold, transferred or assigned to a person who is licensed as a sales finance company, under this chapter, until the new holder furnishes to the buyer in the contract a written notice of the sale, transfer or assignment that sets forth the name and address of the new holder authorized to receive future payments on the contract, a payment or tender of payment made to and a service of notice on the last known holder by the buyer shall be binding upon any subsequent holder.

(d) Transfer of aggregation of installment sale contracts.--The provisions of this section shall not apply to an assignment of an aggregation of installment sale contracts if:

(1) the assignment is executed by a seller or sales

1 finance company only as a security interest securing payment
2 or performance of a bona fide commercial loan, obtained at
3 lawful rates of interest from a person regularly engaged in
4 the business of lending money on the security of the assigned
5 collateral or amounts due pursuant to a security or debt
6 instrument;

7 (2) under the assignment, in the absence of default or
8 other bona fide breach of the loan contract, ownership of the
9 assigned contracts remains vested in the assignor and
10 collection of payments on the assigned contracts is made by
11 the assignor; and

12 (3) the assignment and loan contracts are not for the
13 purpose of evading or circumventing the provisions of this
14 chapter.

15 (e) Default.--Whenever an installment sale contract, which
16 has been lawfully acquired by a sales finance company, is in
17 default, the holder may resell, retransfer or reassign the
18 contract to the installment seller from whom the contract was
19 originally acquired. Until the new holder furnishes to the buyer
20 in the contract a written notice of the resale, retransfer or
21 reassignment which sets forth the name and address of the new
22 holder authorized to receive future payments on the contract and
23 the unpaid time balance and the accrued default charges due
24 under the contract, if any, a payment or tender of payment made
25 to and a service of notice on the last known holder by the buyer
26 shall be binding upon any subsequent holder.

27 § 917. Insurance.

28 (a) General rule.--The buyer of a motor vehicle under an
29 installment sale contract may be required to provide insurance
30 on the motor vehicle at the buyer's expense for the protection

of the seller or subsequent holder. The insurance shall be
limited to insurance against substantial risk of damage,
destruction or theft of the motor vehicle. This subsection shall
not interfere with the liberty of contract of the buyer and
seller to contract for other or additional insurance as security
for or by reason of the obligation of the buyer and inclusion of
charges for the insurance in the principal amount advanced under
the installment sale contract. The insurance shall be written
for the dual protection of the buyer and of the seller, or
subsequent holder, to the extent of his interest in the motor
vehicle. The insurance shall be for an amount, and period of
time, and upon terms and conditions which are reasonable and
appropriate considering the type and condition of the motor
vehicle, the amount of the time balance and the schedule of
payments in the installment sale contract.

(b) Selection of insurer.--The buyer of a motor vehicle
under an installment sale contract shall have the privilege of
purchasing the insurance from an agent or broker of his own
selection and selecting an insurance company acceptable to the
seller. The inclusion of charges for insurance in the
installment sale contract, when the buyer selects the company
agent or broker, shall be optional with the seller.

(c) Purchase of insurance by seller.--Whenever the seller
contracts to purchase, at the buyer's expense, the insurance on
a motor vehicle sold under an installment sale contract, the
insurance shall be purchased through an agent or broker
authorized to conduct business in this Commonwealth, and the
insurance shall be written by an insurance company qualified to
do business in this Commonwealth. The status of the buyer and
seller or holder, as set forth in the insurance contract, shall

conform to the status of these parties in the installment sale contract. The charges for insurance to the buyer shall not be in excess of the charges for insurance which others are required to pay to the insurance company for similar coverage, and in no event in excess of any limitations on premiums, commissions and other charges established by authority of the Commonwealth.

(d) Certificate of insurance.--Whenever the seller contracts to purchase, at the buyer's expense, the insurance on a motor vehicle sold under an installment sale contract, a copy of the policy or a certificate of insurance shall be delivered to the buyer within 30 days of the date of the buyer's signing of the installment sale contract.

(e) Information regarding policy.--The insurance policy which is furnished to the buyer when the insurance is placed by the seller, or subsequent holder, at the buyer's expense shall set forth complete information as to the effective dates, amounts of premiums and coverage and shall contain all the terms of the insurance contract. When a certificate of insurance issued under a master policy is furnished to the buyer in lieu of an individual policy, the certificate shall set forth all information as to effective dates, amounts of premiums and coverage, shall contain all the terms of the insurance contract embodied in the master policy to the same extent as would appear if an individual policy were issued and shall state that it is not an insurance policy.

(f) Prepayment.--When the seller or subsequent holder has placed, at the expense of the buyer, insurance on a motor vehicle sold under an installment sale contract and the buyer prepays the time balance under the contract prior to the expiration date of the insurance, the insurance shall remain in

1 force unless the buyer requests cancellation. The seller or
2 holder shall not cancel the insurance under those circumstances
3 without the buyer's consent, nor shall the seller or holder
4 coerce the buyer to cancel the insurance. Unexpired insurance
5 premiums received by the seller or holder, resulting from
6 cancellation of insurance which was originally placed at the
7 buyer's expense, shall be paid to the buyer or credited to any
8 matured unpaid installments under the contract.

9 (g) Cancellation of insurance.--When the seller contracts to
10 purchase insurance at the buyer's expense and the insurance is
11 canceled by the insurance company prior to expiration, the
12 seller or subsequent holder shall place comparable insurance
13 with another insurance company and furnish the buyer with a copy
14 of the insurance policy, subject to the same requirements of
15 this chapter applicable to the original policy. If the holder is
16 unable to obtain the insurance in another insurance company, the
17 holder shall immediately notify the buyer, who may then obtain
18 the insurance from an insurance company, agent or broker of the
19 buyer's own selection, and the holder shall be liable for any
20 additional charges for insurance incurred by the buyer in
21 rewriting the insurance for the unexpired period for which the
22 original insurance was written. The holder shall be liable to
23 the buyer for any loss suffered by the buyer through negligence
24 on the part of the holder in promptly advising the buyer of the
25 inability to obtain replacement insurance.

26 § 918. Other costs included in amount financed.

27 (a) Fees.--In addition to charges for insurance authorized
28 under section 917 (relating to insurance), the seller of a motor
29 vehicle under an installment sale contract may require the buyer
30 to pay certain other costs incurred in the sale of a motor

vehicle under the contract as follows:

(1) Fees payable to the Commonwealth for filing a lien or encumbrance on the certificate of title to a motor vehicle sold under an installment sale contract or collateral security.

(2) Fees payable to a public official for filing or recording and satisfying or releasing the installment sale contract or instruments securing the buyer's obligation.

(3) Fees for notarization required in connection with the filing and recording or satisfying and releasing a mortgage, judgment lien or encumbrance.

(b) Other costs.--The seller of a motor vehicle under an installment sale contract may also contract with the buyer to pay on behalf of the buyer other costs incidental to the sale of a motor vehicle and contracted for voluntarily by the buyer as follows:

(1) Fees payable to the Commonwealth for registration of the motor vehicle and issuance or transfer of registration plates.

(2) Fees payable to the Commonwealth for a driver's license for the buyer.

(3) Costs of messenger service and other costs associated with the submission of documents to the Commonwealth or other governmental entity that are contracted for voluntarily by the buyer.

(c) Collection of costs.--The costs described in subsections (a) and (b) may be contracted for, collected or received by the seller from the buyer independently of the installment sale contract, or the seller may extend credit to the buyer for the amount of the costs and include the amount in the principal

1 amount financed under the installment sale contract.

2 (d) Excess costs.--Unless otherwise permitted by law, the
3 costs described in subsections (a) and (b) that are paid or
4 payable by the buyer shall not exceed the amount which the
5 seller expends or intends to expend. The costs that the seller
6 has collected from the buyer, or which have been included in the
7 buyer's obligation under the installment sale contract which are
8 not disbursed by the seller, as contemplated, shall be
9 immediately refunded or credited to the buyer.

10 (e) Charges for incidental goods or services.--The seller of
11 a motor vehicle under an installment sale contract may also
12 contract with the buyer to pay on behalf of the buyer charges
13 for any goods or services necessary or incidental to the sale of
14 a motor vehicle and contracted for by the buyer which are not in
15 violation of section 910(a)(14) (relating to revocation or
16 suspension of license) and which are not otherwise restricted
17 under this chapter or other law. This subsection does not
18 authorize the mark-up of costs described in subsection (a) or
19 (b).

20 § 919. Finance charges.

21 (a) Authorization.--A seller licensed under this chapter
22 shall have the power and authority to charge, contract for,
23 receive or collect a finance charge on an installment sale
24 contract regarding the retail sale of a motor vehicle in this
25 Commonwealth.

26 (b) Prohibition.--Finance charges authorized in subsection
27 (a) shall not exceed the rates indicated for the following
28 classifications of motor vehicles:

29 (1) Class I, new motor vehicles, 18% simple interest per
30 year on the unpaid balance except:

1 (i) Motor vehicles having a cash price of \$10,000 or
2 more that are used primarily for commercial purposes.

3 (ii) Mobile homes.

4 (iii) New trucks or truck tractors having a
5 manufacturer's gross vehicular weight of 15,000 pounds or
6 more.

7 (iv) New semitrailers or trailers designed for use
8 in combination with truck tractors.

9 (2) Class II, used motor vehicles of a model designated
10 by the manufacturer by a year not more than two years prior
11 to the year when the sale is made, 18% simple interest per
12 year on the unpaid balance.

13 (3) Class III, older used motor vehicles of a model
14 designated by the manufacturer by a year not more than two
15 years prior to the year in which the sale is made, 21% simple
16 interest per year on the unpaid balance.

17 (4) Class IV, new motor vehicles having a cash price of
18 \$10,000 or more and used primarily for commercial purposes,
19 and except new trucks or truck tractors having a
20 manufacturer's gross vehicular weight of 15,000 pounds or
21 more and new semitrailers or trailers designed for use in
22 combination with truck tractors, 7.5% per year.

23 (5) Class V, new mobile homes, the percent established
24 as a maximum finance charge for mobile homes by regulation of
25 the Federal Housing Administration, under the National
26 Housing Act (48 Stat. 1246, 12 U.S.C. § 1701 et seq.),
27 whether or not the mobile home is subject to a sale on credit
28 or loan insured or guaranteed in whole or in part by the
29 administration.

30 (6) Class VI, new trucks and truck tractors having a

manufacturer's gross vehicular weight of 15,000 pounds or more and new semitrailers and trailers designed for use in combination with truck tractors, 10% per year.

(c) Principal amount.--The finance charge shall be computed on the principal amount financed as determined under section 914(b) (6) (relating to contents of contract and disclosure requirements).

(d) Annual rate.--The finance charge shall be computed at the annual rate indicated on contracts which are payable by installment payments extending for a period of one year. On contracts providing for installment payments, extending for a period which is less than or greater than one year, the finance charge shall be computed proportionately.

(e) Fractional month period and default.--The finance charge may be computed on the basis of a full month for any fractional month period in excess of ten days and interest may continue to be charged during any period of time for which a default charge is also imposed.

(f) Minimum.--A minimum finance charge of \$10 may be charged on any installment sale contract in which the finance charge, when computed at the rates indicated, results in a total charge of less than this amount.

(g) Maximum.--The maximum finance charge prescribed by this chapter shall not apply to any sale on credit or loan insured or guaranteed in whole or in part by the Federal Housing Administration, the Department of Veterans Affairs or another department or agency of the United States Government. The sale on credit or loan is subject to a maximum rate of interest established by law or by the department or agency.

§ 920. Refinancing installment sale contract.

1 (a) Extension, deferral or renewal.--The holder of an
2 installment sale contract may extend the scheduled due date or
3 defer the scheduled payment of all or part of an unpaid
4 installment payment or renew the unpaid time balance of the
5 contract.

6 (b) Refinance charge.--The holder may contract for, receive
7 and collect a refinance charge for the extension, deferment or
8 renewal. The refinance charge shall not exceed the amount
9 ascertained under either of the following methods of computation
10 at the respective rates indicated by:

11 (1) Option 1, computing the refinance charge on the
12 amount of the installment payment or partial payment, which
13 is refinanced for the period of time, for which each payment
14 or partial payment is extended or deferred at the following
15 rates on contracts originally in the respective
16 classification of motor vehicles set forth in the preceding
17 section of this chapter:

18 (i) Class I, 1% per month.

19 (ii) Class II, 1.5% per month.

20 (iii) Class III, 2% per month.

21 The refinance charges may be computed on the basis of a full
22 month for any fractional month period in excess of ten days.

23 (2) Option 2, computing the refinance charge on the
24 amount obtained by adding to the unpaid time balance of the
25 contract, charges for insurance and other charges incidental
26 to refinancing, by adding unpaid default charges, which may
27 be accrued, and by deducting any rebate which may be due to
28 the buyer for prepayment incidental to refinancing, at the
29 rate of the finance charge in the original contract, for the
30 term of the renewal contract and subject to the provisions of

this chapter governing computation of the original finance charge. The provisions of this chapter governing minimum finance charges and minimum prepayment rebate shall not apply in calculating refinance charges on the contract renewed under this method of computation.

(c) Prohibitions.--The holder of an installment sale contract shall not include in a contract for refinancing the contract a cash loan to the buyer nor credit extended to the buyer incidental to the purchase of goods or services.

(d) Charge.--The holder of the contract may embody in the refinance contract the charge for accessories, equipment and parts for the motor vehicle sold under the contract and the charge for repairs and services to the motor vehicle including finance charges on the repair and service charge.

(e) Definition.--As used in this section, the term "loan" shall not include, nor shall this chapter prohibit, a rearrangement of payments under the installment sale contract by a refinance transaction involving a restoration of certain installment payments made under the contract but the refinance charge on the amount restored may not be more than 6% per year, simple interest.

§ 921. Default charges.

(a) Collection authorized.--A default charge may be collected on an installment payment which is not paid on or before the due date of the payments. A default charge may be collected on a contract subject to this chapter regardless of the class of vehicle as defined in section 919 (relating to finance charges) or the method by which the finance charge is computed.

(b) Rates.--The default charge shall not exceed the rate of

2% per month on the amount of the payment in arrears where the contract is for the sale of a motor vehicle which is other than a heavy commercial motor vehicle.

(c) Computation.--The default charge may be computed on the basis of a full calendar month for any fractional month period in excess of ten days.

(d) Prohibition.--On a contract for the sale of a heavy commercial motor vehicle, the default charge shall not exceed, for any payment not made within ten days of its scheduled due date, 4% of the amount of the payment or payments in arrears.

(e) Requirement.--The default charge may be collected only once on each payment in arrears.

(f) Options for collection.--The default charges may be collected, when earned, during the term of the contract, or may be accumulated and collected at final maturity, or at the time of final payment under the contract.

(g) Acceleration provision.--The default charge shall not be collected on a payment in default because of an acceleration provision in the contract.

§ 922. Refund for prepayment of contract.

(a) Prepayment privilege.--Notwithstanding the provisions of an installment sale contract, the buyer shall have the privilege of prepaying all or a part of the unpaid time balance under an installment sale contract.

(b) Rebate.--Whenever the time balance expires prior to maturity by prepayment, refinancing or termination by surrender or repossession and resale of the motor vehicle, the holder of the installment sale contract shall immediately rebate to the buyer the unearned portion of the finance charge. The rebate may be made in cash or credited to the amount due on the obligation

1 of the buyer.

2 (c) Amount of rebate.--The unearned finance charge to be
3 rebated to the buyer shall be no less than the proportion of the
4 total finance charge as the sum of the periodical time balances
5 after the date of prepayment bears to the sum of the periodical
6 time balances under the schedule of payments in the original
7 agreement. The holder shall not be required to rebate:

8 (1) a portion of the unearned finance charge which
9 results in a net minimum finance charge on the contract less
10 than \$10; or

11 (2) an unearned finance charge when the amount due is
12 less than \$1 as computed according to this subsection.

13 § 923. Repossession.

14 (a) Authorization.--When the buyer shall be in default in
15 the payment of an amount due under a motor vehicle installment
16 sale contract or when the buyer has committed another breach of
17 contract which is a ground for retaking the motor vehicle
18 according to the contract, the seller or a holder who has
19 lawfully acquired the contract may retake possession of the
20 motor vehicle. Unless the motor vehicle can be retaken without
21 breach of the peace, it shall be retaken by legal process, but
22 nothing in this section shall be construed to authorize a
23 violation of the criminal law.

24 (b) Persons permitted to repossess.--Repossession of a motor
25 vehicle when effected by legal process shall be made only by a
26 duly constituted public official or a registered recovery agent.
27 When repossession is not effected by legal process, it shall be
28 made only by a registered recovery agent.

29 (c) Legal proceedings.--When replevin and sale of the motor
30 vehicle sold under an installment sale contract or of the

collateral security thereto is effected by legal process, the proceedings may be commenced by the holder immediately upon a default or breach of contract by the buyer. In a proceeding under these conditions, the buyer shall receive the notices, have the rights and be liable for the costs of suit and reasonable attorney fees as provided by the law governing such legal proceedings.

(d) Notice of repossession.--When repossession of a motor vehicle that is the subject of an installment sale contract is not effected by legal process, the holder shall immediately furnish the buyer with a written "notice of repossession" delivered in person or sent by registered or certified mail directed to the last known address of the buyer. If the holder extends the privileges of reinstatement and redemption of the motor vehicle, the notice shall:

(1) set forth the buyer's right as to reinstatement of the contract;

(2) contain an itemized statement of the total amount required to redeem the motor vehicle by reinstatement or payment of the contract in full;

(3) give notice to the buyer of the holder's intent to resell the motor vehicle at the expiration of 15 days from the date of mailing the notice;

(4) disclose the place at which the motor vehicle is stored; and

(5) designate the name and address of the person to whom the buyer shall make payment or upon whom he may serve notice.

(e) Personal property.--The holder's notice shall also state that personal property left in the repossessed vehicle will be

1 held and may be reclaimed or may be disposed of in accordance
2 with the provisions of 63 Pa.C.S. Ch. 71 (relating to
3 professional reposseors).

4 (f) Costs.--When repossession of a motor vehicle which is
5 the subject of an installment sale contract is not effected by
6 legal process, the buyer shall be liable for costs incurred by
7 the holder in retaking, storing and repairing the motor vehicle
8 only when the following conditions occur:

9 (1) Default exceeds 15 days at the time of repossession.

10 (2) The costs represent necessary and reasonable
11 expenses incurred by the holder in retaking, storing and
12 repairing the motor vehicle, excluding costs incurred in
13 retaking which are charges for services of persons who are
14 regular full-time employees of the holder.

15 (3) The costs are supported by receipts or other
16 satisfactory evidence of payment and records of the holder
17 show detailed information about:

18 (i) The nature of each item of expense.

19 (ii) The amount.

20 (iii) The date of payment.

21 (iv) To whom the payment was made.

22 (g) Reduction or prohibition of expense.--The department
23 with the written approval of the State Repossession and Recovery
24 Board may reduce the amount of or prohibit entirely an item of
25 expense of retaking, storing or repairing of a motor vehicle
26 which appears to be fictitious, unnecessary, unreasonable or
27 exorbitant, or would otherwise not have been incurred by a
28 prudent person under similar circumstances.

29 (h) Mobile homes.--

30 (1) Before a holder may accelerate the maturity of an

1 installment sale contract for a mobile home, commence a legal
2 action to recover under the obligation or take possession of
3 the security of the installment buyer for the contract, the
4 person shall give the installment buyer notice of the
5 intention no fewer than 30 days in advance. Notice of
6 intention to take action as specified in this subsection
7 shall be in writing and sent to the installment buyer by
8 registered or certified mail at the address where the mobile
9 home is located. The written notice shall clearly and
10 conspicuously state:

11 (i) The particular obligation or security interest.

12 (ii) The nature of the default claimed.

13 (iii) The right of the installment buyer to cure the
14 default as provided in this subsection and exactly what
15 performance including what sum of money, if any, must be
16 tendered to cure the default.

17 (iv) That the installment buyer may cure the default
18 at any time before title to the mobile home is lawfully
19 transferred from the installment buyer which shall be at
20 least 45 days after receipt of the notice.

21 (v) The method or methods by which the installment
22 buyer's ownership or possession of the mobile home may be
23 terminated.

24 (2) The notice of intention to accelerate, commence
25 legal action or repossess provided in this subsection shall
26 not be required where the installment buyer has abandoned or
27 voluntarily surrendered the property which is the subject of
28 the mobile home installment sale.

29 (3) Notwithstanding any other provision of law, after a
30 notice of intention to accelerate, commence legal action or

1 repossess has been given under paragraph (1), before title to
2 the mobile home is lawfully transferred from the installment
3 buyer for default upon a mobile home installment sales
4 contract, the installment buyer or someone on his behalf, not
5 more than three times in a calendar year, may cure his
6 default and prevent sale or other disposition of the mobile
7 home and avoid acceleration, if any, by tendering the amount
8 or performance specified in this paragraph. To cure a default
9 under this subsection, an installment buyer shall:

10 (i) Pay or tender in the form of cash, cashier's
11 check or certified check, sums which would have been due
12 at the time of payment or tender in the absence of
13 default and the exercise of an acceleration clause, if
14 any.

15 (ii) Perform any other obligation which he would
16 have been bound to perform in the absence of default or
17 the exercise of an acceleration clause, if any.

18 (iii) Pay or tender any reasonable fees allowed
19 under paragraph (6) and the reasonable costs of
20 proceeding to commence legal action as specified in
21 writing by the holder actually incurred to the date of
22 payment.

23 (iv) Pay any reasonable late penalty, if provided
24 for in the security document.

25 (v) Pay the costs which are reasonable and actually
26 incurred by the holder for detaching and transporting the
27 mobile home to the site of the sale.

28 (4) Cure of a default in the payment of a mobile home
29 contract under this subsection restores the installment buyer
30 to the same position as if the default had not occurred.

1 (5) Mobile home installment contracts contracted for on
2 or after July 1, 1978, may be prepaid without any penalty or
3 other charge for the prepayment at any time before the end of
4 the period of the loan.

5 (6) With regard to mobile home installment contracts, no
6 holder shall contract for or receive attorney fees from an
7 installment buyer except as follows:

8 (i) Upon commencement of legal action with respect
9 to a mobile home installment contract, attorney fees
10 which are reasonable and actually incurred by the holder
11 may be charged to the installment buyer.

12 (ii) Prior to commencement of legal action, attorney
13 fees which are reasonable and actually incurred not in
14 excess of \$50, provided that no attorney fees may be
15 charged for legal expenses incurred prior to the 30-day
16 notice provided in paragraph (1).

17 (7) Notwithstanding any other provision of law, the
18 provisions of this subsection may not be waived by an oral or
19 written agreement executed by a person.

20 (i) Notice to local municipal police department.--The
21 notification of a completed repossession shall be provided to
22 the local municipal police department in accordance with the
23 provisions of 63 Pa.C.S. Ch. 71.

24 § 924. Reinstatement of contract after repossession.

25 (a) General rule.--Whenever a motor vehicle sold under an
26 installment sale contract has been replevined by legal process,
27 or repossessed otherwise than by legal process, because of
28 default or other breach of contract, the holder may reinstate
29 the contract and return the motor vehicle to the buyer, provided
30 that the buyer pays all past due installments, or agrees with

holder on mutually satisfactory arrangements, accrued default charges, costs of suit under the contract and authorized by this chapter in replevin by legal process, and if default at the time of repossession exceeds 15 days, expenses of retaking, repairing and storage authorized by this chapter.

(b) Reinstatement.--When a contract is reinstated after repossession, the holder may enter into a contract with the buyer for refinancing the obligation as provided in this chapter.

§ 925. Redemption and termination of contract after repossession.

(a) Notice.--Unless the right of redemption is waived in a nonconsumer transaction under 13 Pa.C.S. § 9624(c) (relating to waiver), if repossession of a motor vehicle that is the subject of an installment sale contract is effected within or outside this Commonwealth otherwise than by legal process, the holder shall retain the repossessed motor vehicle for a period of 15 days after mailing of notice of repossession to the buyer.

(b) Redemption and termination.--During the 15-day period, the buyer may redeem the motor vehicle and terminate the contract by payment or tender of payment to the holder of the following amounts, subject to the following conditions:

(1) When default at the time of repossession was less than 15 days, the amount of the unpaid time balance, plus the amount of any accrued default charges authorized by this chapter, plus any other amount lawfully due under the contract, excluding costs of retaking, repairing and storage, less rebate of unearned finance charge.

(2) When default at the time of repossession exceeded 15 days, the amount of the unpaid time balance, plus the amount

1 of any accrued default charges authorized by this chapter,
2 plus costs of retaking, repairing, repossessing and storing
3 authorized by this chapter, plus any other amount lawfully
4 due under the contract, less rebate of unearned finance
5 charge.

6 (c) Returning procedure.--If the buyer redeems the motor
7 vehicle and terminates the contract by payment or tender as
8 provided in subsection (b), the holder shall return the motor
9 vehicle and any other collateral in any manner consistent with
10 13 Pa.C.S. § 9623 (relating to right to redeem collateral).
11 Property will be deemed to be returned in a manner in compliance
12 with this chapter and 13 Pa.C.S. § 9623 by delivery to one of
13 the following sites designated by the buyer:

14 (1) The county in this Commonwealth or within a
15 comparable governmental unit outside this Commonwealth where
16 repossession occurred.

17 (2) A county in this Commonwealth where the buyer
18 resides.

19 (3) The county in this Commonwealth in which the vehicle
20 was purchased under the contract.

21 (d) Timing of return of vehicle.--Upon receipt of the funds
22 necessary to redeem the motor vehicle as provided in subsection
23 (b), the holder shall return the repossessed motor vehicle as
24 soon as is reasonably possible, but not later than ten business
25 days from the receipt of the funds.

26 § 926. Sale of motor vehicle after repossession.

27 (a) Forfeiture of vehicle.--When the repossessed motor
28 vehicle under an installment sale contract is not redeemed by
29 the buyer either by termination or reinstatement of the contract
30 within the 15-day notice of redemption period, the buyer shall

1 forfeit all claim to the motor vehicle and collateral security.

2 (b) Deficiencies.--If the buyer does not redeem the
3 repossessed motor vehicle within the 15-day notice of redemption
4 period, then the seller or holder shall not have the right to
5 bring an action or proceeding against the buyer for a
6 deficiency, as provided in section 927 (relating to deficiency
7 judgment), unless there shall have been a public or private sale
8 of the repossessed motor vehicle and collateral security.

9 § 927. Deficiency judgment.

10 If the proceeds of the resale mentioned in section 926
11 (relating to sale of motor vehicle after repossession) are not
12 sufficient to defray the expenses of resale, the expenses of
13 retaking and storing the motor vehicle to which the seller or
14 holder may be entitled and the net balance due upon the
15 contract, plus the amount of any accrued default charges
16 authorized by this chapter, the seller or holder may recover the
17 deficiency from the buyer or from any one who has succeeded to
18 the obligations of the buyer. The buyer may have the reasonable
19 value of the motor vehicle at the time of resale, determined in
20 any action or proceeding brought by the seller or holder to
21 recover the deficiency, the resale price being prima facie, but
22 not conclusive evidence, of reasonable value and the said
23 reasonable value, as determined, or the resale price, whichever
24 shall be higher, shall be credited to the buyer on account of
25 his indebtedness. In every action or proceeding for a
26 deficiency, the buyer may have the reasonableness of the expense
27 of retaking and storing the motor vehicle determined.

28 § 928. Statement of account to buyer.

29 (a) General rule.--At any time after execution of an
30 installment sale contract and within one year after termination

1 of the contract, the holder of the contract shall furnish the
2 buyer, upon request, with a complete and detailed statement of
3 account showing:

4 (1) All amounts paid by the buyer on account of the
5 obligation, dates of payment and the allocation of payments
6 to reduction of the time balance, refinance charges, default
7 charges, court costs, attorney fees and expenses of retaking,
8 repairing, storing or otherwise.

9 (2) All amounts credited to the buyer as rebates for
10 prepayment and unexpired premiums on insurance canceled.

11 (3) The amount of the installment payments, accrued
12 charges and expenses incurred, if any, which are due and
13 payable.

14 (4) The number and amount of installment payments to
15 become due and payable, if any, and the due dates.

16 (b) Cost.--The buyer shall be furnished with one statement
17 of account without charge during the term of the contract or
18 within one year after termination, and the holder may require
19 payment of a fee of 50¢ for any additional statements.

20 (c) Duplicate copies of contract.--The holder shall furnish
21 the buyer, upon request and upon payment of a fee of 50¢, with a
22 duplicate copy of the installment sale contract to replace the
23 buyer's copy of the contract which is required to be furnished
24 to the buyer without charge at the time of execution of the
25 contract.

26 § 929. Payment receipts.

27 (a) Written receipts.--Whenever payment is made on account
28 of an installment sale contract, the person receiving the
29 payment shall, at the time of receiving the payment, furnish to
30 the buyer or to the person making the payment on behalf of the

1 buyer, a complete written receipt, if requested, or if payment
2 is made in cash.

3 (b) Information required.--The receipt shall show the date
4 of payment, the amount of the payment and the nature of the
5 payment, shall identify the obligation to which the payment is
6 applicable and shall be signed or initialed by the person
7 receiving the payment on behalf of the holder.

8 (c) Payment application information.--When issued for
9 payments made at the designated licensed office of the holder or
10 mailed to the office, which payments are applied to reduction of
11 the time balance, the receipt shall, if requested by the buyer,
12 also set forth the unpaid time balance remaining due after
13 crediting the payment. If the payment includes default charges
14 authorized by this chapter, the amount of the default charges
15 shall be set forth on the receipt independently of the payment
16 applied to reduction of the time balance.

17 (d) Mailed payment receipts.--When the buyer elects to make
18 payments by mail, the holder may require the buyer to supply a
19 self-addressed stamped envelope as a condition for mailing the
20 receipt to him, if he has been previously notified of the
21 condition.

22 § 930. Executed contracts and release of liens.

23 (a) Payment in full.--Upon payment in full of the time
24 balance and other amounts lawfully due under an installment sale
25 contract, the holder shall do all the following:

26 (1) Return to the buyer all instruments evidencing
27 indebtedness or constituting security under an installment
28 sale contract which were signed by the buyer or his sureties
29 or guarantors in conjunction with the contract excepting the
30 instruments as are filed or recorded with a public official

1 and retained in the files of the official.

2 (2) Release all security interest in the motor vehicle
3 or in collateral security to the obligation of the buyer
4 under the contract.

5 (3) Deliver to the buyer good and sufficient assignments
6 and documents of title as may be necessary to vest the buyer
7 with complete evidence of title.

8 (b) At time of final payment.--When the final payment on an
9 installment sale contract is made in cash, money order or
10 equivalent tender by the buyer, or his authorized
11 representative, at the designated licensed office of the holder,
12 the certificate of title showing satisfaction of this
13 encumbrance shall be delivered at the time of tender of payment,
14 if demanded by the buyer, otherwise delivery may be made at a
15 later date in person or by mail as may be arranged between buyer
16 and holder, all other instruments shall be delivered or mailed
17 to the buyer within 15 days of the date of final payment.

18 \$ 931. Prohibited charges.

19 (a) General rule.--A licensee under this chapter shall not
20 charge, contract for, collect or receive from the buyer,
21 directly or indirectly, any further or other amount for costs,
22 charges, examination, appraisal, service, brokerage, commission,
23 expense, interest, discount, fees, fines, penalties or other
24 thing of value in connection with the retail sale of a motor
25 vehicle under an installment sale contract in excess of charges
26 for insurance, other charges necessary or incidental to the sale
27 of the motor vehicle, the finance charges, refinance charges,
28 default charges, recording and satisfaction fees, court costs,
29 attorney fees and expenses of retaking, repairing and storing a
30 repossessed motor vehicle which are disclosed as required by

section 914(b) (relating to contents of contract and disclosure requirements).

(b) Contemplated sales.--A licensee under this chapter shall not collect any charge whatsoever in connection with a contemplated sale of a motor vehicle under an installment sale contract if the contract is not consummated. Nothing contained in this subsection shall affect the legal status of a deposit paid by a prospective buyer to a seller as a binder on the contemplated purchase of a motor vehicle.

(c) Installment contracts.--An installment sale contract under which the seller or any subsequent holder has charged, contracted for, collected or received from the buyer any prohibited charges whatsoever shall be unenforcible as to the prohibited charges.

§ 932. Buyer's waiver of statutory protection.

No act, agreement or statement of a buyer in an installment sale contract shall constitute a valid waiver of any provision of this chapter intended by the General Assembly for the benefit or protection of retail installment buyers of motor vehicles.

§ 933. Application of chapter to existing contracts.

The provisions of this chapter shall not apply to or affect the validity of any contract otherwise within the purview of this chapter which is made prior to the effective date of the respective provisions of this chapter governing the contracts.

§ 934. Effect of expiration, surrender or revocation of license of existing contracts.

(a) General rule.--The expiration, surrender or revocation of a license, issued under this chapter, to a seller or sales finance company shall not impair or affect the obligation of any motor vehicle installment sale contract entered into lawfully or

1 lawfully acquired by the licensee prior to the effective date of
2 the expiration, surrender or revocation of license. The holder
3 of the contracts shall forfeit the right to charge, contract
4 for, receive or collect refinance charges authorized by this
5 chapter for renewal of a contract, if the license of the holder
6 expired, was surrendered or was revoked prior to the date of the
7 renewal.

8 (b) Sales, transfers and assignments of contracts.--A
9 licensee whose license has expired, was surrendered or was
10 revoked may sell, transfer or assign to any licensed sales
11 finance company contracts which were entered into or acquired
12 prior to expiration, surrender or revocation, and the sales
13 finance company acquiring the contracts may renew the contracts
14 in accordance with the provisions of this chapter.

15 (c) Prohibition.--A licensee whose license has expired, was
16 surrendered or was revoked shall not enter into new contracts
17 for the retail sale of motor vehicles under installment sale
18 contracts and shall not discount, purchase or otherwise acquire
19 the contracts.

20 § 935. Contracts unenforcible in this Commonwealth.

21 (a) General rule.--No obligation of the buyer of a motor
22 vehicle under an installment sale contract which was consummated
23 within this Commonwealth shall be enforcible in this
24 Commonwealth where the seller was not licensed, as required
25 under the provisions of this chapter, at the time the seller
26 entered into the installment sale contract or where the holder
27 was not licensed under this chapter at the time the holder
28 acquired the contract. The buyer under the contract shall be
29 entitled to cancellation of the contract, release of all liens
30 against the motor vehicle sold under the contract and against

1 any collateral security owned by the buyer or his sureties and
2 guarantors, upon payment or tender of payment to the holder of
3 the principal amount financed as set forth in the contract, less
4 all payments on account of the obligation exclusive of down
5 payment which had been made prior to the payment or tender of
6 payment.

7 (b) Limitations.--Nothing in this section shall be construed
8 to prevent the enforcement in this Commonwealth of an obligation
9 arising from the sale of a motor vehicle made outside this
10 Commonwealth under an installment sale contract and entered into
11 or executed by the buyer outside this Commonwealth, whether or
12 not the buyer was a resident of this Commonwealth at the time
13 the buyer entered into the contract.

14 § 936. Exemptions.

15 (a) Consumer discount companies.--This chapter shall not
16 affect or impair business conducted lawfully under license
17 issued pursuant to the act of April 8, 1937 (P.L.262, No.66),
18 known as the Consumer Discount Company Act.

19 (b) Banking.--This chapter shall not apply to an extension
20 of credit for the purchase of a motor vehicle, including the
21 financing of costs or charges necessary or incidental to the
22 sale or financing of a motor vehicle, made under the act of
23 November 30, 1965 (P.L.847, No.356), known as the Banking Code
24 of 1965.

25 § 937. Penalties.

26 (a) Unauthorized practice.--

27 (1) A person may not engage in business as installment
28 seller or sales finance company in this Commonwealth without
29 a license.

30 (2) A person that violates this subsection commits a

1 misdemeanor of the first degree and shall, upon conviction,
2 be sentenced to pay a fine of not less than \$2,000 nor more
3 than \$10,000 or to imprisonment for not more than three
4 years, or both.

5 (b) Violations.--

6 (1) This subsection applies to:

7 (i) a licensee conducting business under this
8 chapter as an installment seller or sales finance
9 company; and

10 (ii) any owner, partner, member, officer, director,
11 trustee, employee, agent, broker or representative of a
12 licensee under subparagraph (i).

13 (2) Except as set forth in paragraph (3), a person under
14 paragraph (1) that violates this chapter commits a
15 misdemeanor of the third degree and shall, upon conviction,
16 be sentenced to pay a fine of not more than \$2,000.

17 (3) A person under paragraph (1) that, after being
18 sentenced under paragraph (2), violates this chapter commits
19 a misdemeanor of the third degree and shall, upon conviction,
20 be sentenced to pay a fine of not more than \$2,000 or to
21 imprisonment for not more than one year, or both.

22 (c) Hiring, authorizing or permitting violation.--A licensed
23 seller or sales finance company as holder of a motor vehicle
24 installment sale contract that hires, authorizes or permits an
25 unlicensed recovery agent to collect payments on the contract or
26 to repossess a motor vehicle sold under the contract within this
27 Commonwealth violates this chapter.

28 (d) Civil penalty.--

29 (1) The department may levy a civil penalty of not more
30 than \$2,000 on a person required to be licensed under this

chapter that:

(i) violates this chapter;

(ii) directs a violation of this chapter; or

(iii) engages in activity for which a license could
be suspended or revoked under section 910 (relating to
revocation or suspension of license).

(2) Each action under paragraph (1) subjects a person to
a separate penalty.

(e) Immunity.--A sales finance company licensed under this
chapter that is engaged in the purchase, sale, assignment,
securitization or servicing of an installment sale contract
shall not be held liable under this chapter for excessive mark-
up by an installment seller to a charge described in section
918(e) (relating to other costs included in amount financed) or
for failure to make disclosure under section 913(g) (relating to
requirements as to contracts and separate disclosure).

§ 937.1. Regulations and orders.

The department is authorized to promulgate regulations and to
issue orders, statements of policy and written interpretations
necessary or appropriate for the interpretation or enforcement
of this chapter.

Section 2. Section 2702(c) of Title 18 is amended by adding
a paragraph to read:

§ 2702. Aggravated assault.

* * *

(c) Officers, employees, etc., enumerated.--The officers,
agents, employees and other persons referred to in subsection
(a) shall be as follows:

* * *

(37) A registered recovery agent as defined under 63

1 Pa.C.S. Ch. 71 (relating to professional repossessors).

2 * * *

3 Section 3. Title 18 is amended by adding sections to read:

4 § 3310.1. Repossession vandalism.

5 (a) Offense defined.--A person commits the offense of
6 repossession vandalism if the person intentionally causes damage
7 to collateral:

8 (1) immediately before or during an attempt by a
9 registered recovery agent to take possession of the
10 collateral; or

11 (2) after a registered recovery agent has successfully
12 taken possession of the collateral,
13 for the purpose of conducting a repossession in accordance with
14 63 Pa.C.S. Ch. 71 (relating to professional repossessors).

15 (b) Grading.--Repossession vandalism constitutes a:

16 (1) Felony of the third degree if the person
17 intentionally causes damages in excess of \$7,500.

18 (2) A misdemeanor of the first degree if the person
19 intentionally causes damages in excess of \$2,500.

20 (3) A misdemeanor of the second degree if the person
21 intentionally causes damage in excess of \$1,000.

22 (4) A misdemeanor of the third degree if the person
23 intentionally causes damage of \$1,000 or less.

24 (c) Definitions.--For the purposes of this section,
25 "collateral" and "registered recovery agent" have the meanings
26 given to them in 63 Pa.C.S § 7102 (relating to definitions).

27 § 4115.1. Unauthorized recovery.

28 (a) Offense defined.--A person commits an offense if the
29 person, who does not possess a registration card:

30 (1) recovers collateral; or

1 (2) pretends or holds himself out to any other person as
2 a registered recovery agent for the purpose of recovering
3 collateral.

4 (b) Violations.--A violation of subsection (a)(1) is a
5 misdemeanor of the second degree. A violation of subsection (a)
6 (2) is a misdemeanor of the third degree.

7 (c) Applicability.--Subsection (a)(1) does not apply to
8 recovery of collateral conducted by a full-time employee of a
9 lender that has a security agreement with a debtor.

10 (d) Definitions.--For the purposes of this section,
11 "collateral," "debtor," "lender," "registration card,"
12 "registered recovery agent" and "security agreement" have the
13 meanings given to them in 63 Pa.C.S. § 7102 (relating to
14 definitions).

15 Section 4. Title 63 is amended by adding a part to read:

16 PART III

17 PARTICULAR PROFESSIONS AND OCCUPATIONS

18 CHAPTER 71

19 PROFESSIONAL REPOSSESSORS

20 Subchapter

21 A. Preliminary provisions

22 B. Board

23 C. Licensing

24 D. Repossession practice and procedure

25 E. Administration and enforcement

26 F. Lenders and clients

27 G. Miscellaneous provisions

28 SUBCHAPTER A

29 PRELIMINARY PROVISIONS

30 Sec.

1 7101. Declaration of policy.

2 7102. Definitions.

3 7101. Declaration of policy.

4 The General Assembly finds that collateral recovery practices
5 affect public health, safety and welfare and declares that the
6 purpose of this chapter is to regulate and establish procedural
7 policies for all individuals assigning and entities engaged in
8 the business of collateral recovery for the protection of the
9 public and the recovery agents.

10 § 7102. Definitions.

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

14 "Active repossession assignment." A repossession assignment
15 that was authorized by a hold harmless agreement from the lender
16 to the licensed recovery agency and is currently being pursued
17 by that agency to effect the recovery of the collateral.

18 "Additional address check." A professional service offered
19 to the lender to verify or check additional locations that the
20 lender supplies to the recovery agency as possible locations
21 where the collateral might be situated.

22 "Assignment" or "repossession assignment."

23 (1) A written or electronically forwarded hold harmless
24 authorization by a legal owner, lienholder, lessor or lessee
25 to locate or repossess any collateral, including, but not
26 limited to, collateral registered with the Department of
27 Transportation, subject to a security agreement that contains
28 a repossession clause.

29 (2) A written hold harmless authorization by an employer
30 to recover any collateral entrusted to an employee or former

1 employee if the possessor is wrongfully in the possession of
2 the collateral. A photocopy, facsimile copy or electronic
3 copy of an assignment shall have the same force and effect as
4 an original written assignment.

5 "Board." The State Repossession and Recovery Board.

6 "Branch office." Each additional office and secured storage
7 facility of a recovery agency conducting business within this
8 Commonwealth.

9 "Canceled assignment." An active repossession assignment
10 that changes in status to permanently discontinued due to
11 direction from a lender for the recovery agency to discontinue
12 repossession attempts on the collateral.

13 "Closed assignment." A hold assignment that changes in
14 status to permanently closed due to the expiration of the
15 maximum period for an active assignment to remain as a hold
16 assignment.

17 "Collateral." Any vehicle, boat, recreational vehicle, motor
18 home, motorcycle, appliance or other property that is subject to
19 a security agreement.

20 "Commissioner." The Commissioner of Professional and
21 Occupational Affairs of the Department of State.

22 "Contraband." Any controlled substance as defined in the act
23 of April 14, 1972 (P.L.233, No.64), known as The Controlled
24 Substance, Drug, Device and Cosmetic Act, any offensive weapon
25 as defined in 18 Pa.C.S. § 908 (relating to prohibited offensive
26 weapons) or any illegal item as provided by law. This term
27 includes any substance suspected to be a controlled substance as
28 defined in The Controlled Substance, Drug, Device and Cosmetic
29 Act.

30 "Debtor." Any person or entity obligated under a security

1 agreement.

2 "Department." The Department of State of the Commonwealth.

3 "Financial institution." A lender.

4 "Firearm." Any firearm as defined in 18 Pa.C.S. § 908
5 (relating to prohibited offensive weapons).

6 "Hold assignment." An active repossession assignment that
7 changes in status following a request from a lender for the
8 recovery agency to temporarily discontinue repossession attempts
9 on the collateral.

10 "Hold harmless." A written repossession assignment from the
11 lender that has a security agreement or contract with a debtor
12 to the recovery agency which states that the lender has an
13 immediate and legal right to take possession of the collateral
14 and that the lender holds the recovery agency harmless in cases
15 where the lender does not have the right to take immediate
16 possession of the collateral. The term includes contracts
17 between recovery agencies and lenders in which there is a
18 blanket hold harmless clause. The repossession assignment itself
19 may be referred to as a hold harmless authorization.

20 "Inventory." A professional service performed where the
21 recovery agency:

22 (1) Itemizes all of the debtor's personal property that
23 is accessible to the registered recovery agent who
24 repossessed the collateral and who must conduct such an
25 inventory.

26 (2) Bags or boxes personal property.

27 (3) Removes license plates.

28 (4) Handles, removes or disposes of perishable items.

29 (5) Handles, removes or disposes of obvious unsanitary
30 items. A recovery agency is not responsible for the handling,

1 removal or disposal of hazardous or flammable materials from
2 recovered collateral.

3 (6) Handles, removes or disposes of contraband and
4 weaponry.

5 (7) Arranges appointments with a debtor to reclaim the
6 debtor's property and delegates personnel to spend the time
7 necessary with debtors to complete the process.

8 "Legal owner." A person holding any of the following:

9 (1) A security interest in any collateral that is
10 subject to a security agreement.

11 (2) A lien against any collateral.

12 (3) Any property contained within or on repossessed
13 collateral that is not the property of the legal owner.

14 "Lender." A bank, savings bank, savings and loan
15 association, credit union, finance company, buy here/pay here
16 vehicle dealer, leasing company or any other type of licensed
17 dealer or manufacturer that sells or leases its product,
18 organized and operating under the laws of this Commonwealth or
19 any other state of the United States and any subsidiary or
20 affiliate thereof. The term includes similar entities from other
21 countries or territories.

22 "Locksmithing." The professional service of making and
23 programming keys for repossessed vehicles that is a separate
24 service which may be offered by the recovery agency and is not
25 included in the repossession.

26 "National Certification Program." A nationally recognized
27 program, either the Certified Collateral Recovery Specialist
28 National Certification Program or the Certified Asset Recovery
29 Specialist National Certification Program, that provides
30 professional training curriculum for the training of recovery

1 agency employees and includes education on the reduction of the
2 inherent risk involved in the collateral recovery industry.

3 "Obtaining keys." A professional service performed in lieu
4 of locksmithing during an involuntary repossession assignment
5 and that is not part of the repossession.

6 "Outside towing or transporting firm." The use of an outside
7 towing or transporting firm to move repossessed collateral which
8 has been repossessed by the recovery agency when, for instance,
9 the recovery agency does not have the specialized equipment to
10 transport certain collateral, such as tractors and trailers,
11 industrial equipment and large boats.

12 "Pennsylvania Professional Repossessors Association" or
13 "PPRA." Recovery agents throughout this Commonwealth joined
14 together to form an association to promote professionalism,
15 safety and education within the recovery and finance industry.

16 "PPRA client protection fund." A special mandatory mutual
17 recovery agency fund for all PPRA members, which is designed to
18 protect lenders, up to the fund's limits, from recovery agencies
19 not remitting lenders their proceeds on the sale of collateral.

20 "Professional services." All related repossession services
21 performed on behalf of the lender for reasonable compensation.

22 "Recovery agency."

23 (1) Any entity conducting business within this
24 Commonwealth that for any type of consideration engages in
25 the business of, or accepts employment to furnish, or agrees
26 to provide professional services, skip tracing services,
27 property locating services, property recovery, recovered
28 property transportation, recovered property locksmithing,
29 recovered property storage or all services which are relevant
30 to any of the following:

1 (i) The location, disposition or recovery of
2 property as authorized by the self-help provisions of 13
3 Pa.C.S. (relating to commercial code).

4 (ii) The location, disposition or recovery of lost
5 or stolen property.

6 (iii) The recovery and safekeeping of evidence
7 concerning repossession and recovery to be used before
8 any court, office or investigating committee.

9 (iv) The storage and inventory of property contained
10 in or on the collateral or recovered property.

11 (v) The possession of collateral.

12 (vi) The prevention of the misappropriation of
13 documents or papers.

14 (2) The term does not include any of the following:

15 (i) An attorney at law who is performing duties as
16 an attorney at law.

17 (ii) The legal owner of collateral that is subject
18 to a security agreement.

19 (iii) An officer or employee of the United States of
20 America or of this Commonwealth or a political
21 subdivision of this Commonwealth while the officer or
22 employee is engaged in the performance of the officer's
23 or employee's official duties.

24 "Recovery agency employee." Any person hired by the recovery
25 agency that is covered under the recovery agency license,
26 repossession insurance and workers' compensation policy.

27 "Recovery vehicle." A motor vehicle designed and used for
28 towing motor vehicles that is used by a registered recovery
29 agent only for conducting repossessions. This term shall not
30 include a wrecker used for commercially towing motor vehicles as

1 provided in 67 Pa. Code Ch. 195 (relating to tow truck
2 identification signs).

3 "Redemption of personal property." The redemption by the
4 debtor of the debtor's personal property from the recovery
5 agency's storage facility.

6 "Registered recovery agent" or "agent." A recovery agent
7 employee who possesses a registration card issued by the board.

8 "Registration card." The wallet-sized photo identification
9 card issued by the board to those individuals actually involved
10 in the recovery of collateral. The term includes the following
11 types of registration cards:

12 (1) A temporary registration card valid for 180 days
13 from the date it was issued.

14 (2) A permanent registration card valid for the calendar
15 year.

16 "Repossession." A legal repossession that occurs at the time
17 when a peaceful physical possession of a vehicle is made by the
18 repossessor physically entering a nonoccupied vehicle or the
19 hooking of a vehicle to a tow truck. Removal of a vehicle is not
20 required for legal repossession to have occurred.

21 "Repossession fee." The recovery agency's professional
22 service fee charged to its client to take possession of
23 collateral. The term does not include any other professional
24 services performed on the lender's behalf.

25 "Resolution." The professional services performed by the
26 recovery agent or agency whereby the agent's or agency's efforts
27 and personal contact with the debtor have brought the
28 repossession assignment to a successful and a satisfactory
29 conclusion on the lender's behalf, but actual possession of the
30 collateral has not been made.

1 "Secretary." The Secretary of State of the Commonwealth.

2 "Secured storage facility." A building or an area located on
3 or near the same premises as a recovery agency office or branch
4 office that is designated for the storage of collateral and has
5 a perimeter that is secured with fencing sufficient to make the
6 area inaccessible to the public.

7 "Security agreement." An obligation, pledge, mortgage,
8 chattel mortgage, lease agreement, deposit or lien given by a
9 debtor as security for payment or performance of debt by
10 furnishing the creditor with a recourse to be used in case of
11 failure in the principal obligation. The term includes a
12 bailment where an employer-employee relationship exists or
13 existed between the bailor and the bailee.

14 "Skip recovery." A recovery of collateral that occurs at an
15 address that was not provided by the lender.

16 "Skip tracing or investigation." A professional service
17 performed while attempting to locate a debtor or the collateral
18 at an address other than that supplied by the lender and not
19 included in the repossession.

20 "Storage." Professional services performed to ensure
21 safekeeping of a lender's collateral and the debtor's personal
22 property and not included in the repossession.

23 "Subcontractor." A recovery agency, a towing company, an
24 individual or any entity that engages in collateral recovery for
25 any compensation from another recovery agency which was
26 originally assigned a repossession account and transferred that
27 assignment to recover the collateral on its behalf. A
28 subcontractor:

29 (1) Is not an employee and is not covered under the
30 recovery agency's license, repossession insurance, bond or

1 workers' compensation policy.

2 (2) Uses its own equipment and performs work for anyone.

3 The recovery agency has no control over its time.

4 "Transportation or delivery." A professional service offered
5 to a lender for moving the collateral to an auction facility or
6 to a dealer designated by the lender. The term is not included,
7 in total or in part, in the service of a repossession.

8 SUBCHAPTER B

9 BOARD

10 Sec.

11 7111. Board established.

12 7112. Powers and duties of board.

13 § 7111. Board established.

14 (a) Establishment.--The State Repossession and Recovery
15 Board is established in the department.

16 (b) Composition.--The board shall consist of the following:

17 (1) The commissioner.

18 (2) Two public members.

19 (3) Four professional members. Professional members
20 shall have been actively engaged in repossession and recovery
21 operations in this Commonwealth for at least five years
22 immediately preceding appointment. Except as set forth in
23 subsection (f), professional members shall be licensed under
24 this chapter as recovery agents.

25 (c) Meeting.--The board shall meet within 30 days after the
26 appointment of the initial members and shall:

27 (1) Establish procedures for the board's operation and
28 administration of this chapter.

29 (2) Develop application forms for licensure.

30 (3) Circulate application forms.

1 (4) Educate the public regarding the requirements of
2 being licensed to conduct repossession and recovery work and
3 to hold oneself out as a recovery agent in this Commonwealth.

4 (d) Term of membership.--Professional and public members
5 shall be appointed by the Governor with the advice and consent
6 of the Senate. Professional and public members shall be citizens
7 of the United States and residents of this Commonwealth. Except
8 as provided in subsection (e), professional and public members
9 shall serve a term of four years or until a successor has been
10 appointed and qualified but in no event longer than six months
11 beyond the four-year period. In the event that a member dies or
12 resigns or otherwise is disqualified during the term of office,
13 a successor shall be appointed in the same way and with the same
14 qualifications and shall hold office for an unexpired term. A
15 professional or public member shall not be eligible to hold more
16 than two consecutive terms.

17 (e) Initial appointments.--For professional and public
18 members first appointed to the board under this chapter, the
19 term of office shall be as follows:

20 (1) Three members shall serve for a term of four years.

21 (2) Two members shall serve for a term of three years.

22 (3) One member shall serve for a term of two years.

23 (f) Professional members and initial appointments.--A
24 professional member initially appointed to the board under this
25 chapter need not be licensed at the time of appointment but at
26 the time of appointment must have satisfied eligibility
27 requirements for licensure.

28 (g) Quorum.--A majority of the members of the board shall
29 constitute a quorum.

30 (h) Chairperson.--The board shall select annually a

1 chairperson from among its members.

2 (i) Expenses.--A member shall receive the amount of
3 reasonable travel, hotel and other necessary expenses incurred
4 in the performance of the member's duties in accordance with
5 Commonwealth regulations.

6 (j) Forfeiture.--A professional or public member who fails
7 to attend three consecutive meetings shall forfeit the member's
8 seat unless the commissioner, upon written request from the
9 member finds that the member should be excused from a meeting
10 because of illness or the death of a family member.

11 (k) Training seminars.--A public member who fails to attend
12 two consecutive statutorily mandated training seminars in
13 accordance with section 813(e) of the act of April 9, 1929
14 (P.L.177, No.175), known as The Administrative Code of 1929,
15 shall forfeit the member's seat unless the commissioner, upon
16 written request from the public member, finds that the public
17 member should be excused from a meeting because of illness or
18 the death of a family member.

19 (l) Frequency of meetings.--The board shall meet at least
20 four times a year in the City of Harrisburg and at such
21 additional times as may be necessary to conduct the business of
22 the board.

23 § 7112. Powers and duties of board.

24 The board shall have the following powers and duties:

25 (1) To provide for and regulate the licensing of persons
26 engaged in repossession and recovery operations.

27 (2) To issue licenses, renew licenses, reinstate
28 licenses, refuse to renew, suspend and revoke licenses as
29 provided under this chapter.

30 (3) To conduct onsite inspections of the office and the

1 secured storage facility for a license applicant.

2 (4) To conduct onsite inspections of the secured storage
3 facilities of a license holder.

4 (5) To administer and enforce the provisions of this
5 chapter.

6 (6) To investigate applications for licensure and to
7 determine the eligibility of a person applying for licensure.

8 (7) To promulgate and enforce regulations, not
9 inconsistent with this chapter, as necessary only to carry
10 into effect the provisions of this chapter. This paragraph
11 includes the setting of fees and the adoption of standards
12 for licensure. Regulations shall be adopted in conformity
13 with the provisions of the act of July 31, 1968 (P.L.769,
14 No.240), referred to as the Commonwealth Documents Law, and
15 the act of June 25, 1982 (P.L.633, No.181), known as the
16 Regulatory Review Act.

17 (8) To keep minutes and records of all its transactions
18 and proceedings.

19 (9) To submit annually to the department an estimate of
20 financial requirements of the board for its administrative,
21 legal and other expenses.

22 (10) To submit annually a report to the Consumer
23 Protection and Professional Licensure Committee of the Senate
24 and the Professional Licensure Committee of the House of
25 Representatives. The report shall include a description of
26 the types of complaints received, status of cases, the action
27 which has been taken and the length of time from initial
28 complaint to final resolution.

29 (11) To submit annually to the Appropriations Committee
30 of the Senate and the Appropriations Committee of the House

1 of Representatives, 15 days after the Governor has submitted
2 a budget to the General Assembly, a copy of the budget
3 request for the upcoming fiscal year which the board
4 previously submitted to the department.

5 SUBCHAPTER C

6 LICENSING

7 Sec.

8 7121. Application for recovery agency license and branch office
9 license.

10 7122. Branch offices.

11 7123. Qualifications and procedures to license recovery
12 agencies.

13 7124. Recovery agency employee requirements.

14 7125. Recovery agent photo identification registration card.

15 7126. Fees.

16 7127. Criminal fingerprint history record check.

17 7128. Licensing extension in cases of death or disassociation.

18 7129. Recovery agency license and registration card renewal.

19 7130. Lapsed license and registration card due to military
20 service.

21 7131. Grounds for disciplinary action.

22 7132. Insurance and client protection required.

23 7133. Display of recovery agency license required.

24 § 7121. Application for recovery agency license and branch
25 office license.

26 (a) Applications.--Application for original licensing as a
27 recovery agency shall be made to the board in writing on forms
28 prescribed by the board and shall be accompanied by the
29 appropriate documentation and the required fee for a recovery
30 agency license. The fee is nonrefundable.

1 (b) Contents.--An application shall state in addition to any
2 other requirements:

3 (1) The name of the applicant.

4 (2) The name under which the applicant will do business.

5 (3) The proposed location and storage location of the
6 agency by number and street and city, business phone number,
7 fax number and e-mail address.

8 (4) The residential address, telephone number, driver's
9 license number and Social Security number of each applicant
10 which shall be confidential and may not be released to the
11 public.

12 (c) Prohibition.--No license may be issued:

13 (1) In any fictitious name that may be confused with or
14 is similar to any Federal, State, county or municipal
15 government function or agency.

16 (2) In any name that may tend to describe any business
17 function or enterprise not actually engaged in by the
18 applicant.

19 (3) In any name that is the same as or similar to any
20 existing licensed company as would tend to deceive the
21 public.

22 (4) In any name that would tend to be deceptive or be
23 misleading.

24 (d) Application of individual.--If the applicant for
25 recovery agency license is an individual, the application shall
26 include the full residential address of the applicant and
27 declare whether that individual has ever used an alias.

28 (e) Application of partnership.--If the applicant for a
29 recovery agency license is a partnership, the application shall
30 include a statement of the names and full residential addresses

of all partners in the control of the business and state whether
any of the partners has ever used an alias.

(f) Application of corporation.--If the applicant for
recovery agency license is a corporation, the application shall
include the names and full residential addresses of all
officers. The application shall also state whether any of the
officers has ever used an alias.

(g) Application of limited liability company.-- If the
applicant for recovery agency license is a limited liability
company, the application shall include the names and full
residential addresses of all company owners. The application
shall also state whether any of the owners has ever used an
alias.

(h) Photo identification.--Each individual, partner of a
partnership, officer of a corporation or owner of a limited
liability company shall submit with the application one form of
personal identification upon which shall appear a photograph
taken within four years immediately preceding the date of the
filing of the application.

(i) Location photos.--The applicant shall submit four
photographs of the office location and four photographs of the
storage location along with the application.

(j) Additional information.--The board may require any
additional information that, in the judgment of the board, shall
enable the board to pass on the qualifications of the applicant
for licensing.

(k) Time frame.--Applicants have one year from the date of
application to complete the application process. If the
application has not been completed within one year, the
application shall be denied, the fee shall be forfeited and the

1 applicant must reapply and meet the requirements in effect at
2 the time of reapplication.

3 (1) Construction.--Nothing in this section shall preclude a
4 domestic or foreign liability company to be licensed as a
5 recovery agency.

6 § 7122. Branch offices.

7 (a) Criminal history record check.--Applicants for recovery
8 agency branch office licenses shall not be required to perform a
9 criminal history record check.

10 (b) Form of branch office application.--Applications for a
11 branch office license shall be in writing, on forms supplied by
12 the board, and shall contain the following information:

13 (1) The name and license number of the agency applying
14 for a branch office. The name must be the same as the
15 original recovery agency name.

16 (2) The address of the branch office.

17 (3) The business telephone number, fax number and e-mail
18 address of the branch office.

19 (4) The address of the secured storage location.

20 (5) The principal's name, which must be the same as the
21 principal of the recovery agency's main office.

22 (c) Fee.--The required fee for each branch office location
23 shall accompany the application.

24 (d) Records.--Branch office activities and records may be
25 kept at the recovery agency main office location if that
26 location is within this Commonwealth.

27 § 7123. Qualifications and procedures to license recovery
28 agencies.

29 (a) Qualifications.--An applicant is qualified for licensing
30 as a recovery agency if the individual who signed the

1 application meets all of the following requirements:

2 (1) Is 21 years of age or older.

3 (2) Has not been convicted in any jurisdiction of any
4 felony or at least ten years has passed from the time of
5 discharge from any sentence imposed for a felony.

6 (3) Has completed no less than 5,000 hours of actual
7 compensated collateral recovery work as a registered recovery
8 agent, a financial institution or a vehicle dealer within the
9 three years immediately preceding the filing of an
10 application, acceptable proof of which must be submitted to
11 the board.

12 (4) Has submitted to the board two recent photographs of
13 the applicant.

14 (5) Has successfully completed a national certification
15 program, or an equivalent program approved by the board,
16 proof of which must be submitted with the application. The
17 fees for these tests are the sole responsibility of the
18 applicant, and the cost of these tests is solely determined
19 by the testing authority. All tests to be administered under
20 the national certification program shall be available for
21 review by the PPRA in accordance with regulations established
22 by the board.

23 (6) Has paid the required application fee.

24 (7) Has submitted with the application four photographs
25 of the applicant's proposed office and four photographs of
26 the applicant's proposed secured storage area. The recovery
27 agency must maintain a secured storage facility.

28 (b) Board action.--The board, upon approving the applicant's
29 application, shall notify the applicant with a letter of
30 acceptance within 15 days. The letter shall include the recovery

1 agency license number.

2 (c) Letter as verification.--

3 (1) The notification letter shall serve as verification
4 to an insurance carrier of approval as a recovery agency for
5 the purpose of purchasing required repossession liability
6 insurance coverage. The secretary must be listed as a
7 certificate holder on the policy, only to be notified in
8 cases of modifications or cancellation.

9 (2) The notification letter may also serve as
10 verification of approval as a recovery agency for the purpose
11 of obtaining a surety bond. Bonds from national recovery
12 trade associations or franchises are unacceptable. In lieu of
13 obtaining a bond, a recovery agency may participate in PPRA's
14 client protection program.

15 (d) Issuance of license.--Once the applicant has proof of
16 insurance and a surety bond or has a letter of acceptance in
17 PPRA, the applicant must submit documentation of the same to the
18 board. The board shall then issue the applicant a recovery
19 agency license. Upon the issuance of a recovery agency license,
20 the board shall automatically issue the applicant of the
21 recovery agency a permanent registration card with no additional
22 fee.

23 (e) Workers' compensation policy.--If the applicant is an
24 agency having employees, the agency must obtain a workers'
25 compensation policy. No registration card shall be issued to any
26 recovery agency employee unless the board has been notified that
27 the agency employees are protected under the recovery agency's
28 workers' compensation policy.

29 (f) Current licensees.--Upon the effective date of this
30 chapter, a collector-repossessor licensed by the Department of

Banking shall comply with the procedures under this chapter within 120 days. Upon notification of an agent's collector-repossessor license and training certificates, the board shall recognize any proficiency courses in repossession laws taken by an agent. For application fee purposes only, the board shall consider a collector-repossessor that is licensed on the effective date of this chapter as a recovery agency applying for a renewal of a license. The board shall prorate fees for licensure renewal as necessary. No collector-repossessor licensee shall be charged a registration card fee for conversion to a recovery agency licensee.

§ 7124. Recovery agency employee requirements.

Employees of a licensed recovery agency whose duties include the actual repossession of collateral must apply for a registration card. These employees must be hired by the recovery agency in accordance with the following:

(1) The applicant must be at least 21 years of age.

(2) The applicant is subject to a criminal history record check, the results of which must comply with the provisions of this chapter.

(3) An unregistered applicant must first be hired in a temporary capacity. Temporary registration cards are valid for 180 days from the date of issue.

(4) A recovery agency employee must successfully complete a national certification program within the term of any temporary employment or, in the alternative, within a time period to be established by the board, proof of which must be submitted to the board before a permanent registration card is issued. All tests to be administered under the national certification program shall be available

1 for review by the PPRA in accordance with regulations
2 established by the board.

3 (5) In order to expedite the applicant's employment, the
4 recovery agency may obtain a criminal history report from the
5 Pennsylvania Access to Criminal History program available
6 online through the Pennsylvania State Police. The agency may
7 submit the report in lieu of the requirements of section 7127
8 (relating to criminal fingerprint history record check) along
9 with the applicant's application, and the board shall issue a
10 temporary registration card if the applicant qualifies for a
11 temporary registration card. If the board subsequently
12 receives information from the Federal Bureau of Investigation
13 or the Pennsylvania State Police that precludes the applicant
14 from registration under this chapter, the board shall
15 automatically suspend or revoke the agent's registration card
16 and notify the agency by registered mail and electronic
17 communication of the board's action.

18 (6) The applicant shall submit in writing, on forms
19 supplied by the board, an application for a recovery agency
20 registration card, along with the required supporting
21 documentation. The application shall contain the following
22 information:

23 (i) The full name of the applicant, home address,
24 home and cell phone numbers, Social Security number, date
25 of birth and driver's license number.

26 (ii) Whether the applicant has ever used an alias or
27 has ever been arrested, the reason for the arrest and any
28 convictions.

29 (iii) Employment history for the previous five
30 years.

1 (iv) A photocopy of the applicant's driver's
2 license.

3 (v) Two photographs of the applicant which predate
4 the application by no more than four years.

5 (vi) A criminal history record check submitted by
6 the agency in accordance with paragraph (5) or section
7 7127.

8 (7) The agency shall include payment of the fee required
9 for an original permanent registration card.

10 (8) Once the employee has completed a certification
11 program, the agency may at any time within the period of
12 temporary registration request that the board issue the agent
13 a permanent registration card. The board shall issue the
14 permanent registration card at no additional cost upon
15 receipt of proof of the agent's certification.

16 (9) The agency shall maintain a record for each
17 registered recovery agent during the agent's term of
18 employment and for at least two years following termination
19 of employment, which shall include a copy of the application
20 and all supporting material and any other pertinent
21 employment information.

22 (10) The agency shall photograph the applicant for
23 agency records within ten days of the applicant's employment.
24 The photograph shall be updated every four years. Employee
25 records shall be made available to the board upon request.

26 (11) If an applicant who has been issued a permanent
27 registration card begins employment with another agency, the
28 applicant must obtain permanent registration card renewal by
29 submitting an application along with the fee required for
30 registration renewal.

1 (12) No person shall be issued a permanent registration
2 card who meets the following criteria:

3 (i) If the board determines that the person has had
4 a registration card revoked or a license or registration
5 card denied under this chapter.

6 (ii) If the person has been convicted of a felony in
7 this Commonwealth or any other state within the previous
8 five years.

9 (iii) If the person has failed to complete a
10 nationally recognized certification program.

11 (13) The holder of a permanent employee registration
12 card shall carry the card at all times while actually engaged
13 in the performance of the duties of employment. Expiration
14 and requirements for renewal of permanent employee
15 registration cards shall be established by regulation of the
16 board and shall be for one calendar year.

17 (14) No agency may employ any person to perform any
18 activity under this chapter unless the person possesses a
19 valid employee registration card and the agency exercises due
20 diligence to ensure that the person is qualified under this
21 chapter to be issued a permanent employee registration card.

22 (15) Recovery agencies shall notify the board within 96
23 hours after a registered employee recovery agent has been
24 terminated.

25 (16) Recovery agencies shall collect and destroy
26 employees' expired registration cards and the registration
27 cards of terminated employees.

28 (17) Notwithstanding any other provision of this
29 chapter, a collector-repossessor licensed on the effective
30 date of this section who has a satisfactory employment record

1 for the immediately preceding two years, but is not eligible
2 for registration under paragraph (12)(ii) qualifies for
3 registration if the agency submits a letter of recommendation
4 along with the application.

5 (18) The board shall develop procedures for expedited
6 review and approval of qualified agents.

7 § 7125. Recovery agent photo identification registration card.

8 (a) Registration cards.--Registration cards shall boldly
9 display the words "Pennsylvania Professional Recovery Agency
10 Registered Recovery Agent" and shall include a photograph of the
11 agent taken within the previous four years, the professional
12 recovery agency name and license number, the bearer's name and
13 the date of expiration. The board shall supply a list of all
14 recovery agencies and their registered recovery agents to all
15 county 911 communications centers within this Commonwealth and
16 to the Pennsylvania State Police headquarters. The list shall be
17 updated monthly and shall include the last four digits of the
18 agent's Social Security number.

19 (b) List to be supplied.--The board shall furnish to PPRA
20 and to recovery agencies the name, telephone number, fax number
21 and e-mail address of the Pennsylvania State Police headquarters
22 and all county police radio (911) facilities within this
23 Commonwealth. A recovery agency shall provide this information
24 to its registered recovery agents to facilitate police
25 notification of repossessions.

26 § 7126. Fees.

27 (a) Fee schedule.--Fees are as follows:

28 (1) Recovery agency license, \$1,500.

29 (2) Renewal of recovery agency license, \$500.

30 (3) Each branch office location, \$500.

1 (4) Renewal of a branch office location, \$350.

2 (5) Employee registration card, \$75.

3 (6) Renewal of permanent registration card, \$50.

4 (7) Replacement or revision of registration card, \$30.

5 (b) Time due and refunds.--The fees set forth in this
6 section must be paid at the time of application. If an
7 application is revoked or denied or if an application is
8 withdrawn, the application fee shall not be refunded.

9 § 7127. Criminal fingerprint history record check.

10 (a) Recovery agency license requirements.--The board shall
11 require that each individual, partner, corporate officer and
12 company principal, as part of the application process, appear in
13 person at a Pennsylvania State Police station where the
14 applicant shall submit to fingerprinting upon proof of age and
15 identity and pay for fingerprint processing. Fingerprints shall
16 be checked against Pennsylvania State Police repository and
17 Federal Bureau of Investigation records. Upon completion of
18 fingerprint checks, the Pennsylvania State Police shall forward
19 to the applicant an official letter with the determination of
20 the applicant's eligibility for licensing under this chapter.
21 The applicant shall then forward the completed application along
22 with a copy of the letter of eligibility to the board for
23 processing.

24 (b) Registration card requirements.--The board shall require
25 that each individual employee for each recovery agency that
26 recovers collateral within this Commonwealth shall appear in
27 person at a Pennsylvania State Police station, where the
28 applicant shall submit to fingerprinting upon proof of age and
29 identity and pay for fingerprint processing. Fingerprints shall
30 be checked against Pennsylvania State Police repository and

Federal Bureau of Investigation records. Upon completion of
fingerprint checks, the Pennsylvania State Police shall forward
to the applicant an official letter with the determination of
the applicant's eligibility for registration under this chapter.
The applicant may submit the letter of eligibility to any
licensee under this chapter and apply for a permanent
registration card. The licensee shall maintain a copy of the
letter of eligibility in the registered recovery agent's record.
§ 7128. Licensing extension in cases of death or
disassociation.

(a) Individual license.--In the case of the death of a
person who is licensed individually as a recovery agency, a
member of the deceased's immediate family shall be entitled to
continue operating the agency under the same license for up to
120 days following the date of death, provided that written
notice is given to the board within 30 days following the date
of death. At the end of the 120-day period, the license shall be
revoked unless subsection (b) applies.

(b) Family member exception.--In the case of the death of a
person who is licensed individually as a recovery agency, if a
family member is an integral part of the business, the family
member may continue to operate as a licensed recovery agency,
provided the appropriate changes are made to the principal
business structure.

(c) Sole proprietorship.--In the case of the death of a
person who is licensed as a recovery agency as a sole
proprietorship, a member of the deceased's immediate family
shall be entitled to continue operating the agency under the
same license for up to 120 days following the date of death. At
the end of the 120-day period, the license shall be revoked and

any member of the deceased's immediate family may apply for a recovery agency license and applicable branch office licenses.

(d) Partnership.--In the case of the death or disassociation of a partner of a partnership licensed as a recovery agency, the partnership shall notify the board in writing within 30 days from the death or disassociation of the partner. If no notice is given, the license shall be revoked at the end of 30 days. If proper notice is given, the license shall remain in force for 90 days following the date of death or disassociation of the partner. At the end of the 90-day period, the license shall be revoked unless subsection (e) applies.

(e) Partner exception.--In the case of the death of a person who is partner in a partnership licensed as a recovery agency, if a surviving partner is an integral part of the business, the surviving partner may continue to operate as a licensed recovery agency, provided the appropriate changes are made to the partnership.

(f) Applicability of chapter.-- A license extended under this section is subject to all other provisions of this chapter.
§ 7129. Recovery agency license and registration card renewal.

(a) Procedure.--At least 90 days prior to the expiration of a license or registration card, the board shall mail to the licensee or registrant a renewal form in the form and manner prescribed by the board. A licensee or registrant seeking renewal of a license or registration must complete and mail the renewal form to the board along with payment of any fines assessed and the renewal fee.

(b) Expired license or registration.--Any person that has permitted a license or registration card to expire may have that license or registration card restored by making an application

1 to the board within one year after the expiration of the license
2 or within 30 days after the expiration of the registration upon
3 filing proof acceptable to the board of fitness to have the
4 license or registration card restored and paying the required
5 restoration fee.

6 (c) Suspension.--A suspended license or registration is
7 subject to expiration as set forth in this section. However,
8 renewal of a license or registration does not entitle the
9 licensee or registrant during a period of suspension to engage
10 in the licensed or registered activity.

11 (d) Revocation.--A revoked license or registration is
12 subject to expiration as set forth in this section and may not
13 be renewed. If a revoked license or registration is reinstated
14 after its expiration, the licensee or registrant as a condition
15 of reinstatement shall pay a reinstatement fee in an amount
16 equal to the renewal fee in effect on the last regular renewal
17 date prior to the date on which the license or registration is
18 reinstated and any additional delinquency fee required by the
19 board.

20 (e) Inactive status.--Any licensee or registrant that
21 notifies the board in writing on a form prescribed by the board
22 may place a license or registration on inactive status and shall
23 be excused from the payment of renewal fees until the licensee
24 or registrant notifies the board in writing of the intention to
25 resume active practice. Any licensee or registrant requesting
26 that a license or registration be changed from inactive to
27 active status shall be required to pay a renewal fee.

28 (f) Prohibitions.--Any recovery agency or permanent employee
29 registration cardholder whose license or registration is not
30 renewed or is on inactive status shall not engage in the

practice of recovery in this Commonwealth or use the title or
advertise that the agency or employee performs the services of a
licensed recovery agency or registered recovery agency employee.

(g) Violation.--A person who violates subsection (f) shall
be considered to be operating a recovery agency without a
license or acting as a recovery agency employee without a
permanent employee registration card and is subject to the
disciplinary provisions of this chapter.

(h) Lapse of renewal.--A recovery agency license or
permanent employee registration card that is not renewed within
three years after its expiration may not be renewed, restored,
reinstated or reissued thereafter. The holder of the license or
registration card may obtain a new license or registration card
only upon compliance with the provisions of this chapter
concerning the issuance of an original license or registration
card.

§ 7130. Lapsed license and registration card due to military
service.

Any person whose license or registration card expires while
in Federal service on active duty with the armed forces of the
United States or called into service or training with the State
militia or in training or education under the supervision of the
United States preliminary to induction into military service may
have the person's license or registration card renewed or
restored without paying any lapsed renewal fees, if within two
years after honorable termination of the service, training or
education, except under condition other than honorable, the
person furnishes the board with satisfactory evidence to the
effect that the person has been so engaged and that the service,
training or education has been terminated.

1 § 7131. Grounds for disciplinary action.

2 (a) Grounds.--The board may refuse, at its discretion, to
3 issue, renew or revoke any license or registration card or may
4 suspend, place on probation, fine or take any disciplinary
5 action as the board may deem proper, including fines not to
6 exceed \$2,500 for each violation, with regard to any license
7 holder, registration cardholder, lender, entity or individual
8 involved in the process of collateral recovery for any one or
9 combination of the following causes:

10 (1) Fraud or willful misrepresentation in applying for
11 or obtaining a recovery agency license or registration card.

12 (2) Use of any fictitious or assumed name by an agency
13 unless the agency has the approval of the board. Acronyms are
14 acceptable.

15 (3) Being found guilty of or entering a plea of guilty
16 or nolo contendere to, regardless of adjudication, or being
17 convicted of a crime that directly relates to the business of
18 collateral recovery. A plea of nolo contendere shall create a
19 rebuttable presumption of guilt to the underlying criminal
20 charges, and the board shall allow the individual being
21 disciplined or denied a recovery agency license or
22 registration card to present any mitigating circumstances
23 surrounding the plea.

24 (4) A false statement by the licensed recovery agency
25 that any individual either is or has been in its employ.

26 (5) A finding that the licensed recovery agency or any
27 employee is guilty of willful betrayal of a professional
28 secret or any unauthorized release of information acquired as
29 a result of activities regulated under this chapter.

30 (6) Proof that the applicant or licensee or registered

1 cardholder is guilty of fraud or deceit or of negligence,
2 incompetency or misconduct in the practice of the activities
3 regulated under this chapter.

4 (7) Conducting activities regulated under this chapter
5 without a recovery agency license or registration card or
6 with a revoked or suspended recovery agency license or
7 registration card.

8 (8) Failure of the licensed recovery agency to maintain
9 in full force and effect the commercial general liability
10 insurance or bond coverage or alternative bond coverage
11 required by this chapter.

12 (9) Impersonating or permitting or aiding and abetting
13 an employee to impersonate a law enforcement officer or an
14 employee of the United States, the Commonwealth or any
15 political subdivision thereof by identifying himself or
16 herself as a Federal, State or local law enforcement officer
17 or official representative by wearing a uniform or presenting
18 or displaying a badge or credentials that would cause a
19 reasonable person to believe that the impersonator is a law
20 enforcement officer or that the impersonator has official
21 authority by displaying any flashing or warning vehicular
22 lights other than amber colored or by committing any act that
23 is intended to falsely convey official status.

24 (10) Commission of an act of violence or the use of
25 force on any person except in the lawful protection of one's
26 self or another from physical harm.

27 (11) Knowingly violating, advising, encouraging or
28 assisting the violation of any statute, court order, warrant,
29 injunction or cease and desist order in the course of
30 business regulated under this chapter.

1 (12) Soliciting business for an attorney in return for
2 compensation.

3 (13) Transferring or attempting to transfer a license or
4 registration card pursuant to this chapter.

5 (14) Employing any unlicensed or improperly licensed or
6 unregistered person or agency to conduct activities regulated
7 under this chapter or performing any act that assists, aids
8 or abets a person or business entity in engaging in
9 unlicensed or unregistered activity, when the licensure or
10 registration status was known or could have been ascertained
11 by reasonable inquiry.

12 (15) Failure or refusal to cooperate with or refusal of
13 access to an authorized representative of the board engaged
14 in an official investigation pursuant to this chapter.

15 (16) Failure of any licensee, partner, principal
16 corporate officer or registration cardholder to have the
17 person's identification card in possession while in the
18 performance of official duties.

19 (17) Failure to report to the board any person whom the
20 licensee knows to be in violation of this chapter.

21 (18) Violating any provision of this chapter.

22 (b) Prohibitions.--In addition to the grounds for
23 disciplinary action prescribed in this chapter, recovery
24 agencies and their registered recovery agents are prohibited
25 from committing the following acts:

26 (1) Recovering a motor vehicle, mobile home, motorboat,
27 aircraft, personal watercraft, all-terrain vehicle, farm
28 equipment or industrial equipment that has been sold, leased
29 or pledged under a conditional sales agreement or under the
30 terms of a chattel mortgage before an assignment has been

1 received from the legal owner or mortgagee.

2 (2) Charging for expenses not actually incurred in
3 connection with the recovery, transportation, storage or
4 disposal of repossessed property or personal property
5 obtained in repossession.

6 (3) Using any repossession, repossessed property or
7 personal property obtained in a repossession for the personal
8 benefit of a licensee or an officer, director, partner or
9 employee of a licensed recovery agency.

10 (4) Selling collateral recovered under the provisions of
11 this chapter, except with written authorization from the
12 legal owner or the mortgagee thereof.

13 (5) Failing to notify the law enforcement agency of the
14 jurisdiction in which the repossessed property is recovered
15 as soon as possible, but no longer than 24 hours after the
16 repossession has occurred.

17 (6) Falsifying, altering or failing to maintain any
18 required inventory or records regarding disposal of personal
19 property contained in or on repossessed property.

20 (7) Failure to deliver, store and release collateral
21 from the recovery agency's secured storage facility.

22 (b.1) Acceptance of bribes.--Following determination by the
23 board based upon clear and convincing evidence that a registered
24 recovery agent accepted any form of a bribe while in the
25 performance of his official duties, the board shall immediately
26 revoke the agent's registration card and the agent shall be
27 barred for life from being licensed as a recovery agency or
28 approved as a registered recovery agent in this Commonwealth.

29 (c) Action.--When the board finds a violation of subsection
30 (a) or (b), the board may do one or more of the following:

1 (1) Deny an application for the issuance or renewal of a
2 recovery agency license or registration card.

3 (2) Issue a reprimand.

4 (3) Impose an administrative fine not to exceed \$2,500
5 for each count or separate offense.

6 (4) Place the recovery agency or registration cardholder
7 on probation for a period of time and subject to such
8 conditions as the board may specify.

9 (5) Suspend, revoke or terminate a license.

10 (d) Denial on basis of character.--The board may deny an
11 application for a recovery agency license or registration card
12 citing lack of good moral character only if the finding by the
13 board of lack of good moral character is supported by clear and
14 convincing evidence. In such cases, the board shall furnish the
15 applicant a statement containing the findings of the board, and
16 a complete record of the evidence upon which the determination
17 was based, and a notice of the rights of the applicant to an
18 administrative hearing and subsequent appeal.

19 (e) Criminal background.--Notwithstanding the provisions of
20 subsections (a) (3) and (b):

21 (1) If the applicant for a recovery agency license has
22 been convicted of a felony, the board shall deny the
23 application or revoke the license unless the applicant either
24 received a pardon from the Commonwealth or from another state
25 that is acceptable to the Commonwealth or has completed
26 parole under supervision by the Commonwealth or another state
27 that is acceptable to the Commonwealth, and a period of ten
28 years has passed since final release from supervision.

29 (2) If the applicant or licensee has been found guilty
30 of, entered a plea of guilty to or entered a plea of nolo

1 contendere to a felony and adjudication of guilt is withheld,
2 the board shall deny the application or revoke the license
3 until a period of three years has expired since final release
4 from supervision.

5 (3) A plea of nolo contendere shall create a rebuttable
6 presumption of guilt to the underlying criminal charges, and
7 the board shall allow the person being disciplined or denied
8 an application for a license to present any mitigating
9 circumstances surrounding the plea.

10 (4) The grounds for discipline or denial cited in this
11 subsection shall be applied to any disqualifying criminal
12 history regardless of the date of commission of the
13 underlying criminal charge. Such provisions shall be applied
14 retroactively and prospectively.

15 (f) Return of license or registration card.--Upon revocation
16 or suspension of a recovery agency license or registration card,
17 the licensee or registration cardholder shall forthwith return
18 the license or registration card which was suspended, revoked or
19 terminated.

20 (g) Fines.--The agency license and the approval or
21 registration card of each officer, partner or owner of the
22 agency shall be automatically suspended upon entry of a final
23 order imposing an administrative fine against the agency until
24 the fine is paid, if 30 calendar days have elapsed since the
25 entry of the final order. All owners and corporate or agency
26 officers or partners are jointly and severally liable for agency
27 finances. Neither the agency license or the approval or
28 registration of any officer, partner or owner of the agency may
29 be renewed, nor may an application be approved if the licensee
30 or applicant is liable for an outstanding administrative fine

imposed under this chapter. An individual's approval or registration becomes automatically suspended if a fine imposed against the individual or the individual's agency is not paid within 30 days after the date of the final order and remains suspended until the fine is paid. Notwithstanding the provisions of this subsection, an individual's approval or registration may not be suspended nor may an application be denied when the licensee or the applicant has an appeal from a final order pending in any appellate court.

(h) Reapplication ineligibility.--An applicant or licensee shall be ineligible to reapply for a recovery agency license or registration card following the final action of the board resulting in the denial or revocation of a license applied for or issued under this chapter. This restriction shall not apply to administrative denials in which the basis for denial was:

(1) An inadvertent error or omission on the application.

(2) The experience documented by the board was insufficient at the time of application.

(3) The board was unable to obtain the criminal background investigation due to insufficient information from the Pennsylvania State Police or the Federal Bureau of Investigation.

(4) Failure to submit required fees.

(i) Lenders.--Lenders shall be subject to disciplinary action for the following violations:

(1) Proof of assigning repossession accounts to an unlicensed entity or individual, unless that individual is a full-time employee of the lender as defined in section 7154(e) (relating to repossessions, assignments, related procedures and establishment of unlawful repossession

1 policies).

2 (2) Proof of assigning repossession accounts to a
3 registered recovery agent where the lender knowingly bypassed
4 assigning those same accounts to that agent's employing
5 licensed recovery agency.

6 (3) Proof of engaging in collection procedures as
7 defined in section 7182 (relating to irresponsible collection
8 procedures and penalties) which endanger the recovery agent
9 as well as the debtor.

10 § 7132. Insurance and client protection required.

11 (a) Insurance required.--No recovery agency license shall be
12 issued unless the applicant first files with the board a
13 certification of insurance evidencing coverage in the amount
14 required under this section. The policy shall name the board as
15 a certificate holder for the purpose of receiving all notices of
16 modifications or cancellations of such insurance. Coverage shall
17 be written by an insurance company that is lawfully engaged to
18 provide insurance coverage in this Commonwealth. Coverage shall
19 provide for a combined single limit policy in the amount of at
20 least \$1,000,000 per occurrence, which policy shall include
21 commercial general liability for wrongful repossession, primary
22 garage keepers, on-hook and drive-away coverage. In addition to
23 insurance coverage, each agency shall provide a surety bond in
24 the amount of \$1,000,000, excluding those bonds issued from
25 national repossession trade associations or franchises.

26 (b) PPRA client protection fund.--A recovery agency may
27 supply evidence of membership in PPRA and be a participant in
28 PPRA's client protection program as an alternative to the surety
29 bond required in subsection (a). PPRA shall protect lenders
30 against the possibility of any recovery agency within their

1 membership of not remitting lenders their proceeds on the sale
2 of collateral, up to the fund's limits, and provide this
3 protection in a client protection fund program, as a mandatory
4 provision of being a member of PPRA. Money paid into the fund by
5 a recovery agency belongs to each individual recovery agency.
6 The agency's appropriate contributions shall be returned to the
7 agency with any interest, less a mutual percentage of any
8 previous losses, or any necessary reinsurance costs within 120
9 days of the agency's resignation, termination or lapse of PPRA
10 membership. However, should a valid claim against an agency
11 occur, agency moneys in the fund shall be frozen, and that claim
12 processed in accordance with the PPRA's policies.

13 (c) Coverage and cancellation.--Insurance coverage shall
14 insure for the liability of all employees licensed or registered
15 by the board while acting in the course of their employment. The
16 agency shall notify the board immediately upon cancellation of
17 its insurance policy or bond or loss of membership in PPRA,
18 regardless of whether the loss was initiated by the insurance
19 company, the bonding company, PPRA or the agency. PPRA shall
20 notify the board any time an agency is removed from the
21 membership of PPRA. The agency's license shall automatically be
22 suspended on the date of cancellation, unless evidence of
23 insurance, bonding or membership in PPRA is provided to the
24 board prior to the effective date of cancellation.

25 § 7133. Display of recovery agency license required.

26 At all times, a recovery agency's license shall be
27 conspicuously displayed at the agency location on record with
28 the board.

29 SUBCHAPTER D

30 REPOSSESSION PRACTICE AND PROCEDURE

Sec.

7151. Local government.

7152. Notification of law enforcement.

7153. Repossession generally.

7154. Repossessions, assignments, related procedures and
establishment of unlawful repossession policies.

7155. Repossession process.

7156. Payments.

§ 7151. Local government.

(a) Ordinances.--No municipality, by ordinance and within
the exercise of the police power of the municipality, shall
make, attempt to make or enforce any laws, rules, ordinances or
procedures more restrictive than those set forth by this
chapter.

(b) Registration.--No municipality, by ordinance and within
the exercise of the police power of the municipality, shall
require a recovery agency or registration cardholders to
register their names or file a copy of their licenses or
registration cards with the municipality.

(c) Local regulation superseded.--No municipality may
regulate individuals and entities engaged in the business of
collateral recovery in a manner inconsistent with the regulation
by the Commonwealth of individuals and entities engaged in the
business of collateral recovery under this chapter. To the
extent that any regulation by any municipality is inconsistent
with any regulation under this chapter, it is superseded by this
chapter.

§ 7152. Notification of law enforcement.

(a) Prior notice.--Prior notice to a local law enforcement
agency of a repossession or intent to repossess is not

1 mandatory.

2 (b) Subsequent notice.--Upon completion of the repossession,
3 the recovery agency or recovery agency employee must notify the
4 appropriate law enforcement agency or the appropriate county
5 police radio (911) facility that the repossession has occurred
6 within its jurisdiction.

7 (c) Notification.--Notification of a repossession shall be
8 provided by the recovery agency, the registered recovery agent
9 or a recovery agency employee to the appropriate law enforcement
10 agency or the appropriate county police radio (911) facility by
11 telephone in the county where the repossession has taken place
12 within 24 hours of completion of repossession. The police may
13 request a fax or e-mail of the assignment for written
14 verification. If requested, the fax or e-mail notification shall
15 occur within 24 hours of the repossession. The county personnel
16 who receive the report of repossession shall issue an incident
17 number and must provide the name and badge, dispatcher or
18 operator number for the report and must furnish the report
19 number to the recovery agency employee making the report. The
20 incident number shall be recorded by the agent and becomes the
21 agent's verification that the report was completed and shall be
22 considered validation for any police agency within this
23 Commonwealth if the vehicle is later reported as stolen.

24 (d) In-person report.--An agent may appear in person at the
25 local police station to report a repossession, and the agent
26 shall obtain a police report number to serve as verification of
27 the agent making the report. The repossessed vehicle need not be
28 brought to the police station for police identification
29 purposes.

30 (e) Listing.--The board shall supply all county police radio

1 (911) facilities and Pennsylvania State Police headquarters a
2 list of all recovery agencies and their registered recovery
3 agents. This list shall be updated once a month. It shall
4 include the last four digits of the agents' Social Security
5 numbers as a security measure to assist the police in verifying
6 agents' identities.

7 (f) Local ordinances superseded.--No municipality shall
8 impose any ordinance, policy, rule, procedure or directive in
9 contravention to this section; and any ordinance, policy, rule,
10 procedure or directive in place before passage of this chapter
11 is hereby superseded by this chapter.

12 § 7153. Repossession generally.

13 Repossession occurs pursuant to a contract the reposessor is
14 enforcing which states that the debtor agrees that, in the event
15 of default, the contract holder or its authorized agent may take
16 immediate possession of the property and may enter upon the
17 premises where the property may be and remove the same.

18 Repossessions may be made from a public thoroughfare, the
19 debtor's property or any area which is accessible via a
20 pedestrian walkway and open to the public, provided the
21 reposessor does not violate any Federal, State or local laws,
22 including trespass violations. A repossession takes place upon
23 the reposessor entering an unoccupied vehicle or hooking it to
24 a tow truck.

25 § 7154. Repossessions, assignments, related procedures and
26 establishment of unlawful repossession policies.

27 (a) Lender responsibility.--Lenders shall at the time of
28 placing a repossession assignment notify the agency in writing
29 of all previous repossession activity. The following apply:

30 (1) The process of repossession begins with the

1 repossession assignment. Lenders shall insure that
2 repossession assignment information be as complete and
3 accurate as possible. Lenders shall provide recovery agencies
4 with a single valid address where the lender believes the
5 collateral is located. Lenders will be responsible for the
6 recovery agencies' expenses and fees for checking all other
7 locations supplied by the lender that were actually checked
8 by the agency on the lender's behalf. All additional address
9 checks performed by the recovery agency must be documents by
10 that agency.

11 (2) Lenders shall notify agents as to whether and how
12 often the assignment has been previously placed for recovery,
13 the dates it was assigned and the collection notes to assist
14 the agent evaluate the assignment. Lenders must review
15 previous repossession activity notes with the agent to assist
16 in their evaluation and identify debtors who have made
17 threats of violence to other agents or collectors.

18 (3) Any assignment that has been previously assigned to
19 another recovery agency at least once, where the recovery
20 agency failed to recover the collateral and the debtor has
21 failed to make any payment since the attempted recovery,
22 shall be considered a skip account to a recovery agency
23 accepting the assignment. In such case, the lender shall be
24 deemed to authorize the recovery agency to skip trace the
25 assignment on the lender's behalf.

26 (b) Assignment information.--Assignment information shall
27 include the following information from the lender:

28 (1) The lender's name, address, telephone and fax
29 numbers and e-mail address.

30 (2) The name of the individual assigning the account and

1 the individual's direct telephone or extension number.

2 (3) Debtor information, including the maker and
3 comaker's name, account number with the lender, home address
4 and the expected recovery location, verified home, cell and
5 business telephone numbers and if available, the name and
6 address of the debtor's employer, Social Security number,
7 date of birth, the number of days past due, date of last
8 payment and any other information about the debtor that is
9 relevant to the assignment.

10 (4) Vehicle information, including the vehicle year,
11 make, model, color and key codes, if available.

12 (5) The complete VIN number of the collateral and the
13 correct license plate number, including correct expiration
14 date. The lender shall perform a Bureau of Motor Vehicles
15 check within 30 days prior to the repossession assignment or
16 temporarily provide to the recovery agency the license plate
17 number listed on either the Pennsylvania MV1 or MV4 form. If
18 the lender fails to furnish this information, the recovery
19 agency shall exercise due diligence to insure the safety of
20 its agents by performing a Bureau of Motor Vehicles check on
21 the lender's behalf no later than one business day following
22 acceptance of the repossession assignment. A recovery agency
23 shall perform a Bureau of Motor Vehicles check on any active
24 repossession assignment which has been open for five business
25 days on vehicles titled in this Commonwealth where the
26 license plate number supplied by the lender was obtained by
27 any means other than a Bureau of Motor Vehicles check or
28 where the lender failed to furnish the correct registration
29 expiration date. Bureau of Motor Vehicles information is
30 essential on repossession assignments for recovery agencies

1 and lenders as they supply current pertinent information to
2 verify that:

3 (i) The license plate information is correct.

4 (ii) Whether the vehicle has current registration.

5 (iii) Whether the vehicle registration has been
6 suspended.

7 (iv) Whether the vehicle is reported as stolen.

8 (v) Whether and to whom the vehicle is titled.

9 (vi) Whether the current registration address of the
10 vehicle matches the address supplied by the lender.

11 (c) Reimbursement.--Checks on motor vehicles performed by
12 the Bureau of Motor Vehicles of the Department of Transportation
13 that were requested by recovery agencies on the lenders' behalf
14 are reimbursable expenses for which the lenders are responsible.
15 Bureau of Motor Vehicles checks are a separate service from
16 repossession and may not be included as a repossession fee or in
17 any repossession contract between the recovery agency and the
18 lender.

19 (d) Stolen vehicle.--No lender shall require a recovery
20 agency to work on an assignment once it has been determined that
21 the vehicle has been reported stolen.

22 (e) Repossession and repossession assignments.--

23 (1) (i) The three types of repossessions are voluntary
24 repossessions, involuntary repossessions and skip
25 recoveries. The two types of repossession assignments are
26 voluntary assignments and involuntary assignments.

27 (ii) Voluntary repossessions occur when the debtor
28 or debtor's representative voluntarily surrenders a
29 vehicle by delivering it directly to the recovery agency,
30 dealer or the office or branch office of the lender where

1 the recovery agency can effect recovery.

2 (iii) All other repossessions are considered
3 involuntary and classified as either repossess on sight
4 or repossess with special instructions. All vehicles
5 recovered from impound or repair facilities or dealers
6 where the recovery agency has to make payment on behalf
7 of the lender are considered involuntary repossessions.

8 (2) A repossession assignment shall remain as a hold
9 assignment for not more than 30 days. If the repossession
10 assignment remains as a hold assignment for more than 30
11 days, the hold assignment and the underlying repossession
12 assignment shall change to a closed assignment.

13 (3) Skip recovery occurs when the unit is recovered at
14 an address other than that provided by the lender.

15 (f) Violation.--Only licensed recovery agencies and their
16 registered recovery agents are allowed to recover collateral
17 within this Commonwealth. This subsection shall not apply to
18 individuals who qualify under and comply with subsection (h).
19 Any entity or individual found to be recovering collateral
20 within this Commonwealth in violation of this subsection is
21 subject to a \$2,500 fine per occurrence. In the event a person
22 who does not possess a recovery agency registration card or
23 documentation from a recovery agency that has reported a
24 repossession is found in possession of a nonowned vehicle and
25 claims it is repossessed:

26 (1) The collateral shall be impounded.

27 (2) The legal owner of the vehicle shall be notified by
28 registered mail.

29 (3) The person is subject to a \$2,500 fine per
30 occurrence for assigning accounts to a nonlicensed entity or

1 individual. The fine must be paid before any impounded
2 vehicle is released.

3 (g) Towing or transportation firm.--An outside towing or
4 transportation firm may be in the possession of a repossessed
5 vehicle, but only if the vehicle was reported repossessed by a
6 recovery agency or a registered recovery agent and the towing or
7 transporting firm has written authorization to transport or has
8 the assignment authorization of the recovery agency which
9 reported the repossession. An outside towing or transportation
10 firm is not considered a subcontractor and its costs are a
11 reimbursable expense.

12 (h) Employees of lender.--Individuals who are full-time
13 employees of a lender that have identification to verify
14 employment and a letter of representation from the lender may
15 recover collateral on the lender's behalf, but only if the
16 debtor surrenders the collateral and signs a general release to
17 the lender. These individuals shall appear in person at the
18 appropriate police station and report the repossession and
19 present verification of employment, a letter of representation
20 and the signed general release by the debtor, verified by the
21 police.

22 (i) Employee limitations.--

23 (1) Within this Commonwealth only registered recovery
24 agents are permitted to recover collateral assigned to that
25 agency unless there is mutual, daily and continuous shared
26 management between agencies as well as an immediate family
27 ownership between the agencies, agencies' repossession
28 records must be kept at the same office location.

29 (2) Agents may be registered with only one recovery
30 agency at a time. Subcontractors may not recover vehicles for

1 any recovery agency. Recovery agencies licensed in this
2 Commonwealth may not assign accounts to other recovery
3 agencies licensed in this Commonwealth.

4 (3) Practices prohibited under this subsection may
5 violate lenders' contracts and assignment authorizations.

6 (4) A person who violates this subsection is subject to
7 a fine of up to \$2,500 per occurrence for both assigner and
8 assignee and suspension of the offenders' recovery agency
9 licenses for up to one year.

10 (j) Legal repossession.--

11 (1) With regard to collateral subject to a security
12 agreement, a legal repossession occurs when:

13 (i) The registered recovery agent gains entry into
14 an unoccupied vehicle.

15 (ii) The collateral becomes connected to a tow
16 vehicle.

17 (2) If the debtor contacts the lender before the
18 collateral is transported and makes arrangements with the
19 lender and the lender requests that the agent return the
20 collateral, the assignment is nonetheless considered an
21 involuntary repossession. Recovery agents have the right to
22 render collateral temporarily inoperable. If an act of
23 violence occurs when repossession is attempted or injury
24 requiring a police report occurs relating to the
25 repossession, the agency shall submit to the board and to the
26 lender, within seven business days, a typed statement signed
27 by the agent, if possible, detailing the circumstances.

28 (k) Methods.--Recovery agents may recover and transport
29 repossessions by whatever means they deem to be safe and
30 effective, including, but not limited to, driving, towing by

1 means of a single car tow truck or multicar carrier, a roll back
2 or tilt bed or trailer or dolly. The following apply:

3 (1) The method of recovery shall be at the sole
4 discretion of the recovery agent.

5 (2) No contract for recovery of collateral within this
6 Commonwealth shall set forth restrictions for the physical
7 recovery of collateral such that the contract dictates the
8 method of recovery and removes any option for recovery
9 normally at the agent's disposal.

10 (3) Recovery agents may drive a repossessed vehicle
11 using the registered owner's license plate from the recovery
12 location to a storage location.

13 (4) Recovery agents may drive a repossessed vehicle to a
14 storage location without a license plate as long as the
15 agent's insurance covers nonowned vehicles and the agent is
16 in possession of a valid recovery order and insurance card
17 stating that nonowned vehicles are covered.

18 (5) Recovery agents are exempt from State inspection
19 requirements as to repossessions being driven to a storage
20 location immediately subsequent to recovery or to a service
21 facility for repairs or to a location designated by the
22 lender for sale or disposal of the collateral.

23 (1) Safety and lighting requirement.--Notwithstanding any
24 other provision of law to the contrary, recovery agents may tow
25 a recovered vehicle for one mile or to a safe location,
26 whichever is greater, with one tow strap and without tow lights,
27 for the purposes of safely removing collateral from the scene of
28 the repossession.

29 (m) Recovery vehicle identification.--Recovery vehicles must
30 be identified during repossession or transport by the license

number of the agency only, local ordinances to the contrary notwithstanding. The recovery agency license number shall serve to identify the recovery vehicle. The number must be displayed on both sides of the vehicle and appear in lettering no less than four inches in height and in a color contrasting from that of the background.

(n) Storage and locksmithing.--Upon repossession, the agent shall deliver the vehicle to the designated secured storage facility, if it is the facility of the recovery agency. If the agent did not obtain the debtor's keys at the time of repossession, the vehicle must be locksmithed as soon as possible to both avoid potential fire hazards and to obtain access to the vehicle to complete an accurate inventory of the debtor's personal property. The process of obtaining keys and key information is the sole responsibility of the lender. Locksmithing is a professional service which is not a required service of the recovery agency.

(o) Storage policies.--All repossessed collateral recovered by recovery agencies shall be stored at the recovery agency's secured storage facility for a minimum of the 15-day redemption period, unless either redeemed by the debtor prior to the expiration of the 15-day redemption period, or as provided in paragraph (3). Lenders shall be subject to the same storage policies provided by a standard commercial impound or salvage facility operating within this Commonwealth. Lenders shall be responsible for the payment of all storage charges incurred to the recovery agency for the storage of the repossessed collateral for every day the collateral remains in storage. The following apply:

(1) Recovery agencies are not required to manage

1 lenders' repossessed vehicle inventory.

2 (2) Lenders may not abandon vehicles at recovery
3 agencies' storage facilities for any reason, including the
4 neglect of a third party's failure to transport. All vehicles
5 remaining in storage for more than 45 days are subject to 13
6 Pa.C.S. Ch. 72 (relating to warehouse receipts: special
7 provisions).

8 (3) Repossessed vehicles that are subject to a
9 repurchase agreement may be delivered, prior to the
10 expiration of the 15-day redemption period, to the selling
11 dealer upon removal and storage of the debtor's personal
12 property from the repossessed vehicle, however, such delivery
13 shall not constitute a voluntary repossession as provided in
14 section 7154(e)(1)(ii) (relating to repossessions,
15 assignments, related procedures and establishment of unlawful
16 repossession policies).

17 (p) Personal property.--If personal effects or other
18 property not covered by a security agreement are contained in or
19 on a recovered vehicle at the time it is recovered:

20 (1) The personal effects and other property not covered
21 by a security agreement must be completely and accurately
22 inventoried. The date and time the inventory is made shall be
23 indicated, and the inventory shall be signed by the agent who
24 obtained the personal property.

25 (2) A record of the inventory shall be maintained on
26 file with the recovery agency for a period of two years
27 following the date of repossession.

28 (3) The licensed recovery agency shall hold all personal
29 effects and other property not covered by a security
30 agreement until the recovery agency returns the personal

1 effects and other property, such as trailers, to the debtor
2 or disposes of the personal effects and other property in
3 accordance with this section.

4 (g) Disposal of property.--To dispose of the debtor's
5 property the licensed recovery agency shall surrender the
6 personal property to the debtor or his legal representative with
7 proper photo identification upon payment of any reasonably
8 incurred expenses for processing, inventory and storage. The
9 debtor shall sign a receipt for the property. The receipt must
10 remain in the agency's files for two years.

11 (r) Unclaimed property.--If personal property is not claimed
12 within 30 days of the date of repossession, as described in the
13 registered notice of repossession by the lender to the debtor,
14 the recovery agency may dispose of the personal property at the
15 agency's discretion after the 30-day period has expired, except
16 that firearms or contraband shall be surrendered to a law
17 enforcement agency within 96 hours of their discovery, and the
18 recovery agency shall retain a receipt or other proof of
19 surrender as part of the inventory and disposal records that the
20 recovery agency maintains. The inventory of the personal
21 property and the records regarding any redemption of personal
22 property shall be maintained for a period of two years in the
23 permanent records of the licensed recovery agency and shall be
24 made available upon request to the board.

25 (s) License plates.--License plates are part of the debtor's
26 personal property. If they are not redeemed by the debtor or
27 representative within the 30-day time frame as directed by this
28 section, they may also be disposed of upon being rendered
29 unusable.

30 (t) Vehicle redemption.--Redemptions for vehicles are by

1 appointment only. The redemption of a vehicle by a debtor shall
2 occur upon the debtor completing the instructions provided in a
3 release letter from the lender to the recovery agency. The
4 debtor must furnish photo identification to the recovery agency
5 before reclaiming the vehicle.

6 (u) Lapse of redemption period.--After the mandatory
7 redemption period has elapsed, the lender may request the
8 recovery agency to sell the vehicle, release it to a transporter
9 or transport it to an auction or dealer within the service area.
10 Arranging transportation and directing transporters is the sole
11 responsibility of the lender. Transporting to auction is a
12 professional service offered to the lender for transporting the
13 collateral to an auction facility designated by the lender and
14 is not included in the repossession.

15 (v) Fail-safe policies.--Recovery agencies and lenders shall
16 require fail-safe policies. Each shall have verbal and
17 reciprocal confirmation and documentation on any assignment
18 either placing it in a hold or canceled status or acknowledging
19 it as such, which procedure must occur during the agency's
20 normal business hours. No recovery agency shall be required to
21 keep any assignment on hold status for longer than 30 days.

22 (w) Exemption from Private Detectives Act.--Recovery
23 agencies and their employees are exempt from the act of August
24 21, 1953 (P.L.1273, No.361), known as The Private Detective Act
25 of 1953, while conducting investigations on collateral or
26 debtors on behalf of lenders.

27 (x) Other policy or regulation.--No policy or contract of
28 any lender, or its authorized representative, shall be in
29 contradiction or shall supersede the provisions contained in
30 this chapter. No rule, regulation or procedure of any

1 municipality shall be more restrictive than those defined within
2 this chapter.

3 § 7155. Repossession process.

4 (a) Authorizations.--Recovery agencies shall receive their
5 repossession assignments via mail, fax or electronically. An
6 electronic representation or display of the repossession order
7 is a valid authorization, and law enforcement agencies must
8 accept the electronic representation or display as confirmation
9 of a written repossession authorization which contains a hold
10 harmless clause.

11 (b) Skip tracing.--It shall be unlawful for any skip tracer,
12 while in the performance of the skip tracer's official duties,
13 to misrepresent the recovery agency or agent or use third-party
14 disclosure. For purposes of this subsection, skip tracing or
15 investigation as it pertains to collateral recovery is the
16 attempt to locate the lender's collateral or the debtor.

17 (c) Report.--Upon repossession, the collateral shall be
18 stored in a secure storage facility. The recovery agent must
19 complete an accurate condition report and itemize the debtor's
20 personal property, which shall occur as soon as possible or
21 practical. The lender is responsible for personal property not
22 inventoried as a result of the property being inaccessible. The
23 report shall be used for information as to the known condition
24 of the vehicle, as well as its visible contents at the time of
25 repossession.

26 (d) Storage.--

27 (1) All repossessed vehicles shall remain in the
28 recovery agency's storage facility for a minimum of 15 days,
29 unless redeemed by the debtor prior to the expiration of the
30 15 days or as provided in section 7154(o)(3) (relating to

1 repossessions, assignments, related procedures and
2 establishment of unlawful repossession policies).

3 (2) Upon the expiration of the 15-day redemption period
4 without redemption by the debtor, or as provided in section
5 7154(o)(3), the repossessed vehicle may be removed from the
6 secure storage facility:

7 (i) by the lender having the vehicle transported by
8 a third party; or

9 (ii) by the lender having the vehicle transported by
10 the recovery agency.

11 (e) Redemption.--The debtor, upon redeeming personal
12 property, must sign a receipt for the property and pay the
13 recovery agency reasonable expenses for each day the property
14 was in storage plus any processing or inventory expenses.
15 Redemption is by appointment only, and the debtor does not need
16 a release letter from the lender to redeem the debtor's personal
17 property, except in cases where there are questionable
18 circumstances.

19 (f) Disposal of property.--After 30 days from the date of
20 repossession, as specified in the lender's notice of
21 repossession to the debtor, the agency may dispose of the
22 debtor's property at the recovery agency's discretion, along
23 with the license plates to the vehicle, once they have been
24 rendered unusable.

25 (g) Law enforcement stop of collateral; contraband or
26 firearms in collateral.--

27 (1) If repossessed collateral is stopped en route to its
28 delivery location by a law enforcement officer, the
29 registered recovery agent shall provide to the law
30 enforcement officer the registered recovery agent's driver's

1 license and registration card, repossession authorization
2 and, when advance notification of the repossession was
3 provided, the name and telephone number of the law
4 enforcement agency or county police radio (911) facility
5 contacted. If a law enforcement officer discovers contraband
6 or a firearm within the repossessed collateral during a stop
7 and any subsequent inspection of the repossessed collateral
8 and if the registered recovery agent provides valid
9 documentation as required in subsection (a), the law
10 enforcement officer shall not arrest or detain the registered
11 recovery agent and shall not impound the repossessed
12 collateral based solely upon the presence of the contraband
13 or the firearm in the repossessed collateral. The law
14 enforcement officer shall retain any contraband or the
15 firearm and provide the registered recovery agent with a
16 written receipt for the receipt of the contraband or the
17 firearm.

18 (2) If contraband or a firearm is discovered by a
19 recovery agency employee in repossessed collateral at the
20 delivery location or secure storage facility of the recovery
21 agency, the recovery agency shall secure and inventory the
22 contraband or the firearm and contact the local law
23 enforcement agency. The local law enforcement agency shall
24 obtain possession of the contraband or the firearm and
25 provide the recovery agency with a written receipt for the
26 receipt of the contraband or the firearm.

27 (3) If contraband or suspected contraband is discovered
28 in the repossessed collateral under paragraph (1) or (2), the
29 registered recovery agent or recovery agency shall not be
30 liable for the presence of the contraband or suspected

contraband in the repossessed collateral.

(h) Disorderly conduct by agent.--A registered recovery agent recovering collateral is subject to the limitations contained in the offense of disorderly conduct as defined in 18 Pa.C.S. § 5503 (relating to disorderly conduct). A recovery of collateral by a registered recovery agent constitutes a violation of 18 Pa.C.S. § 5503 only when the criteria in 18 Pa.C.S. § 5503 are met.
§ 7156. Payments.

(a) Returned checks.--Any person or entity who delivers a check or other payment to the board that is returned to the board unpaid by the financial institution upon which it is drawn shall pay to the board in addition to the amount already owed to the board a fine of \$50.

(b) Fines in addition to other sanction.--The fines imposed by this section are in addition to any other sanction provided under this chapter.

(c) Notification.--The board shall notify the person or entity that payment of fees and fines shall be paid to the board by certified check or money order within 30 calendar days after notification.

(d) Nonpayment.--If, after the expiration of 30 days from the date of notification, the person or entity has failed to submit the necessary remittance, the board shall automatically terminate the recovery agency license or registration card or deny the application without hearing.

(e) Application for restoration or issuance.--If, after termination or denial, the person seeks a recovery agency license or registration card, the person or entity shall apply to the board for restoration or issuance of the recovery agency

license or registration card and pay all fees and fines due to the board.

(f) Fees.--The board may establish a fee for the processing of an application for restoration of a recovery agency license or registration card. An applicant shall pay all expenses of processing the application.

(g) Waiver.--The board may waive the fines due under this section in individual cases where the board finds that the fines would be unreasonable or unnecessarily burdensome.

SUBCHAPTER E

ADMINISTRATION AND ENFORCEMENT

Sec.

7161. Filings and formal complaints.

7162. Roster.

7163. Violations, injunctions and cease and desist order.

7164. Investigation and notice and hearing.

7165. Record of proceeding.

7166. Subpoenas, oaths and attendance of witnesses.

7167. Decisions for disciplinary action.

7168. Rehearing.

7169. Restoration.

7170. Surrender of agency license and registration card.

7171. Appeals.

§ 7161. Filings and formal complaints.

All repossession activity correspondence relating to complaints and alleged violations of this chapter shall be submitted to the board in writing on forms in a manner prescribed by the board.

§ 7162. Roster.

(a) Roster.--The board shall maintain an alphabetical roster

1 of names and business addresses of all persons who hold valid
2 recovery agency licenses, an alphabetical listing within each
3 agency of registration cardholders and all persons whose license
4 or registration cards have been suspended or revoked, including
5 the date of their suspension or revocation.

6 (b) Availability of roster.--The roster shall be available
7 upon request and payment of any required fee.

8 § 7163. Violations, injunctions and cease and desist order.

9 (a) Injunction.--If any person or entity violates this
10 chapter, the board may request the Attorney General to petition
11 for an order enjoining the violation or for an order enforcing
12 compliance with this chapter. Upon the filing of a verified
13 petition in court, the court may issue a temporary restraining
14 order, without notice or bond, and may preliminarily and
15 permanently enjoin the violation.

16 (b) Other remedies and penalties.--Proceedings under this
17 section are in addition to and not in lieu of all other remedies
18 and penalties provided by this chapter.

19 (c) Petition for relief.--If any person or entity practices
20 as a recovery agency or holds himself or itself out as such
21 without having a valid license or registration card, then any
22 license holder or registration cardholder, any person injured
23 thereby or any resident of or legal entity within this
24 Commonwealth may petition for relief as provided in this
25 section.

26 (d) Cease and desist order.--Whenever, in the opinion of the
27 board, any person or entity violates this chapter, the board may
28 issue a rule to show why an order to cease and desist should be
29 entered against that person or entity. The rule shall clearly
30 set forth the grounds relied upon by the board and shall provide

1 a period of seven days from the date of the rule to file an
2 answer to the satisfaction of the board. Failure to answer to
3 the satisfaction of the board shall cause an order to cease and
4 desist to be issued immediately.

5 § 7164. Investigation and notice and hearing.

6 (a) Investigation and action.--The board may investigate the
7 actions or qualifications of any person or entity holding or
8 claiming to hold a recovery agency license or registration card.
9 The board may deem proper suspending, revoking, placing on
10 probationary status or taking any other disciplinary action
11 necessary with regard to any recovery agency license or
12 registration cardholder.

13 (b) Notification.--At least 30 days before the date set for
14 the hearing, the board shall notify the accused in writing of
15 any charges made and the time and place for a hearing on the
16 charges before the board and direct the accused to file a
17 written answer to the charges with the board under oath within
18 20 days after the service on the person or entity of the notice
19 and inform the accused that failure to file an answer shall
20 result in a default judgment against the person or entity and
21 the person's or entity's recovery agency license or registration
22 card may be suspended, revoked, placed on probationary status or
23 other disciplinary action taken with regard to the recovery
24 agency license or registration cardholder as the board may deem
25 proper.

26 (c) Failure to file answer.--In case the person or entity,
27 after receiving notice, fails to file an answer, the person's or
28 entity's recovery agency license or registration card may, in
29 the discretion of the board, be suspended, revoked or placed on
30 probationary status or the board may take whatever disciplinary

action deemed proper, including the imposition of a fine,
without a hearing, if the act or acts charged constitute
sufficient grounds for such action under this chapter.

(d) Delivery of notice.--The written notice and any notice
in the subsequent proceedings may be served by personal delivery
to the accused or by registered or certified mail to the address
last specified by the accused in the last notification to the
board.

(e) Written answer.--The written answer shall be served by
personal delivery, certified delivery or certified or registered
mail to the board.

(f) Hearing.--At the time and place fixed in the notice, the
board shall proceed to hear the charges and the parties or their
counsel shall be accorded ample opportunity to present such
statements, testimony, evidence and argument as may be pertinent
to the charges or to the defense thereto. The board may continue
such hearing from time to time.

(g) Revocation.--At the discretion of the board, the accused
person's or entity's recovery agency license or registration
card may be suspended or revoked, if the evidence constitutes
sufficient grounds for such action under this chapter. All
procedures provided for in this subsection regarding
investigation, hearing and rehearing of matter subject to
subsection (a) shall comply with the provisions of 2 Pa.C.S. Ch.
5 Subch. A (relating to the practice and procedure of
Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial
review of Commonwealth agency action).

§ 7165. Record of proceeding.

The board at its expense shall preserve a record of all
proceedings at the formal hearing of any case. The notice of

1 hearing, complaint and all other documents in the nature of
2 pleadings and written motions filed in the proceedings, the
3 transcript of testimony and orders of the board shall be in the
4 record of the proceedings.

5 § 7166. Subpoenas, oaths and attendance of witnesses.

6 (a) Subpoenas.--The board has the power to subpoena and to
7 bring before it any person and to take testimony either orally
8 or by deposition, or both. The board, or the designated hearing
9 officer, has power to administer oaths to witnesses at any
10 hearing that the board is authorized to conduct.

11 (b) Witnesses.--The appropriate court may, upon application
12 of the board or its designee, or of the applicant, the recovery
13 agency license holder or registration cardholder against whom
14 proceedings under this chapter are pending, enter an order
15 requiring the attendance of witnesses and their testimony and
16 the production of documents, papers, files, books and records in
17 connection with any hearing or investigation.

18 § 7167. Decisions for disciplinary action.

19 Within 30 days after the conclusion of the hearing, the board
20 shall determine if the person or entity violated the provisions
21 of this chapter or failed to comply with the conditions required
22 in this chapter. The board shall specify the nature of the
23 violation or failure to comply and shall make its decision
24 whether to refuse or grant the issuance of a recovery agency
25 license or registration card or take any other disciplinary
26 action. The findings of the board are not admissible in evidence
27 against the person in a criminal prosecution for a violation of
28 this chapter, but the hearing and finding is not a bar to a
29 criminal prosecution for a violation of this chapter.

30 § 7168. Rehearing.

1 In any hearing involving disciplinary action against a
2 recovery agency license holder or registration cardholder, a
3 copy of the board's report shall be served upon the respondent
4 by the board, either personally or as provided in this chapter
5 for the service of the notice of hearing. The following apply:

6 (1) Within 20 calendar days after service, the
7 respondent may present to the board a motion in writing for a
8 rehearing that shall specify the particular grounds for
9 rehearing.

10 (2) If no motion for rehearing is filed, upon the
11 expiration of the time specified for filing a motion, or if a
12 motion for rehearing is denied, then upon denial, the board
13 may enter an order, except as provided in this chapter.

14 (3) If the respondent orders from the reporting service
15 and pays for a transcript of the record within the time for
16 filing a motion for rehearing, the calendar-day period within
17 which a motion may be filed shall commence upon the delivery
18 of transcript to the respondent.

19 § 7169. Restoration.

20 At any time after the suspension or revocation of any
21 recovery agency license or registration card, the board may
22 restore the recovery agency license or registration card to the
23 accused person, unless restoration is not in the public
24 interest.

25 § 7170. Surrender of agency license and registration card.

26 Upon the revocation or suspension of any recovery agency
27 license or registration card the recovery agency license holder
28 and registration cardholder shall immediately surrender the
29 recovery agency license and registration card to the board. If
30 the recovery agency license holder or registration cardholder

1 fails to do so, the board has the right to cancel or seize the
2 license or registration card.

3 § 7171. Appeals.

4 An appeal may be taken from the following final actions of
5 the board in accordance with the provisions of 2 Pa.C.S. Chs. 5
6 Subch. A (relating to practice and procedure of Commonwealth
7 agencies) and 7 Subch. A (relating to judicial review of
8 Commonwealth agency action:

9 (1) Suspension or revocation of a license or
10 registration card issued under this chapter.

11 (2) Placement of a licensee or a holder of a
12 registration card issued under this chapter on probationary
13 status or the imposition of other disciplinary action under
14 this chapter.

15 (3) Imposition of a civil penalty under this chapter.

16 (4) Denial of an application for a letter of approval to
17 assign repossession accounts under section 7181(b) (relating
18 to client classifications and approvals).

19 SUBCHAPTER F

20 LENDERS AND CLIENTS

21 Sec.

22 7181. Client classifications and approvals.

23 7182. Irresponsible collection procedures and penalties.

24 7183. Change of ownership.

25 7184. Change of address.

26 § 7181. Client classifications and approvals.

27 (a) Lenders.--A lender that has a security agreement or
28 contract with a debtor has the option of having its full-time
29 employees recover the lender's encumbered collateral within this
30 Commonwealth as provided in this chapter. In addition, lenders

1 may employ the professional services of a licensed recovery
2 agency to recover collateral.

3 (b) Prohibition.--Entities or individuals that do not have a
4 security agreement or contract with a debtor, regardless of
5 whether the entity was authorized by the lender to act on the
6 lender's behalf may not recover collateral within this
7 Commonwealth. In addition, these entities or individuals may not
8 assign repossession accounts to a licensed recovery agency
9 within this Commonwealth unless approved by the board.

10 (c) Approval.--

11 (1) A recovery agency within this Commonwealth shall not
12 accept any repossession assignment from any entity or
13 individual that does not have a security agreement or
14 contract with a debtor, regardless of whether the entity or
15 individual was authorized by the lender to act on behalf of
16 the lender, unless that entity can produce a letter of
17 approval to assign repossessions within this Commonwealth
18 from the board.

19 (2) In evaluating a request by such an entity or
20 individual for board approval to assign repossession
21 accounts, the board shall require the entity or individual to
22 complete an assessment review from the PPRA and to submit the
23 completed assessment review to the board with the application
24 for a letter of approval. The board shall consider the
25 assessment review in determining whether the entity or
26 individual satisfies regulatory criteria for issuance of the
27 letter of approval. If the board determines that the entity
28 or individual satisfies the regulatory criteria, the board
29 shall issue a letter of approval for the assignment of
30 repossession accounts. A letter of approval issued under this

1 section shall remain valid for one year from the date of
2 issuance.

3 (3) The board shall adopt by regulation criteria for the
4 issuance of a letter of approval for assignment of
5 repossession accounts and shall adopt procedures to implement
6 this section. The criteria shall require that the entity or
7 individual that applies for a letter of approval to assign
8 repossession accounts has policies that comply with the
9 provisions of this chapter.

10 (d) Disciplinary action and fine.--A recovery agency
11 handling repossession assignments from an unapproved or
12 suspended assigner shall after warning be subject to
13 disciplinary action by the board and shall be subject to a fine
14 of up to \$2,500 per offense.

15 (e) Notification of violation.--A recovery agency must
16 notify the board of any known violation of this chapter.
17 § 7182. Irresponsible collection procedures and penalties.

18 (a) Prohibited acts.--No lender or authorized representative
19 of a lender shall engage in any business policy or collection
20 practice or have in place a practice, policy or procedure which,
21 when executed, may endanger a recovery agent by placing the
22 agent in a situation which creates a substantial risk to the
23 agent's or debtor's safety. A violation of this subsection may
24 subject a lender to a fine of up to \$2,500 for each offense. A
25 notarized affidavit of fact from a recovery agency is sufficient
26 for the board to review the complaint for further action. In
27 addition:

28 (1) Unless otherwise permitted by law, no lender or its
29 authorized representative shall threaten or notify a debtor
30 of possible repossession attempts before assigning the

1 account for recovery.

2 (2) No lender or its authorized representative shall
3 threaten or notify a debtor of possible repossession once the
4 account is assigned for recovery.

5 (3) No lender or its authorized representative shall
6 attempt contact with a debtor for at least 15 calendar days
7 after the assignment has been placed for recovery.

8 (4) No lender or its authorized representative shall
9 make any arrangements with a debtor once the account is
10 assigned for recovery. A lender must first contact the
11 recovery agency to check the status of the assignment.

12 (5) No lender or its authorized representative shall
13 assign an account to more than one recovery agency at the
14 same time with overlapping service areas, which may include
15 an area within an adjoining state.

16 (6) No lender or its authorized representative shall
17 immediately reassign accounts to another recovery agent
18 servicing an area upon closing that assignment with another
19 agent servicing that same area. A 15-day calendar time frame
20 must elapse before reassignment. The lender's collection
21 notes, as well as the names and telephone numbers of the
22 previous agencies must be submitted with the assignment,
23 unless the debtor or vehicle has been positively identified
24 in another service area which is not covered by the current
25 agent.

26 (7) No lender or its authorized representative shall
27 assign any repossession assignment that is alleged to be a
28 voluntary repossession.

29 (8) No lender or its authorized representative shall
30 assign any repossession account to any recovery agency that

1 has been previously assigned at any other time for recovery
2 without notifying that agency of those previous assignments.
3 A lender must supply all the collection notes on that
4 assignment and have the collector discuss those notes with
5 the current recovery agency.

6 (9) No lender shall assign any repossession accounts to
7 any recovery agency within this Commonwealth as a contingent
8 assignment.

9 (10) No lender or its authorized representative shall
10 fail to notify any recovery agency of any threat by any
11 debtor to the collector or recovery agent.

12 § 7183. Change of ownership.

13 (a) Change of ownership.--In the event that a currently
14 licensed recovery agency changes ownership or control by means
15 other than death of a principal or partner, the present owner
16 shall notify the board 30 days prior to the change in ownership,
17 and the new owner shall apply for a license. If the requirements
18 of this chapter are met, a new license shall be granted,
19 otherwise the license shall be revoked.

20 (b) Construction.--As used in this section, a change of
21 ownership or control includes any of the following:

22 (1) A change in beneficial ownership of 50% or more of
23 the recovery agency's outstanding shares of stock or 50% or
24 more of the combined voting power of the recovery agency.

25 (2) The individuals who constitute the voting power of
26 the board of directors or other governing board of the
27 recovery agency, as of the later of the date the recovery
28 agency was originally licensed or the date of the recovery
29 agency's last approved change of control, cease to comprise
30 more than 50% of the voting power of such board of directors,

1 board of managers or other board.

2 (3) A change in the general partner of the recovery
3 agency or a change of control with respect to such general
4 partner.

5 (4) Any merger or consolidation if a change of control
6 has occurred.

7 (c) Control.--Solely for purposes of determining whether a
8 recovery agency controls, is controlled by or is under common
9 control with another person, the term "control" means:

10 (1) the power or authority, whether exercised directly
11 or indirectly, to direct or cause the direction of management
12 or policies of a legal entity by contract or otherwise or to
13 directly or indirectly own of record or beneficially hold
14 with the power to vote or hold proxies with discretionary
15 authority to vote 50% or more of the outstanding voting
16 securities issued by a recovery agency, when such control is
17 used with respect to a specified person or legal entity; and

18 (2) for all other purposes, the power or authority,
19 whether exercised directly or indirectly, to direct or cause
20 the direction of management or policies of a recovery agency
21 by contract or otherwise.

22 § 7184. Change of address.

23 (a) Change of address.--In the event of a change of address
24 of the principal or branch office location of a currently
25 licensed recovery agency to another address within this
26 Commonwealth, the agency must notify the board within 30 days of
27 the change of address and pay a fee of no more than \$100 for a
28 system update. A recovery agency is not required to submit a new
29 application if the business structure and owners remain the same
30 and in compliance with section 7123 (relating to qualifications

1 and procedures to license recovery agencies) as long as the new
2 location meets the standards set forth in section 7123.

3 (b) Photos.--The recovery agency shall submit four
4 photographs of the new office location and four photographs of
5 the storage location to the board.

6 SUBCHAPTER G

7 MISCELLANEOUS PROVISIONS

8 Sec.

9 7191. Regulations.

10 § 7191. Regulations.

11 The board may adopt any regulations and procedures necessary
12 to administer the provisions of this chapter and shall work in
13 conjunction with any State agency as necessary in adopting any
14 rules and procedures necessary to enforce the provisions of this
15 chapter, including onsite inspection of recovery agency offices,
16 branch offices and storage locations. The board may call upon
17 and utilize the professional expertise of PPRA in any matters
18 that the board deems appropriate and which apply to this
19 chapter.

20 Section 5. Repeals are as follows:

21 (1) The General Assembly declares that the repeal under
22 paragraph (2) is necessary to effectuate the addition of 12
23 Pa.C.S. Ch. 9.

24 (2) The act of June 28, 1947 (P.L.1110, No.476), known
25 as the Motor Vehicle Sales Finance Act, is repealed.

26 (3) All acts and parts of acts are repealed insofar as
27 they are inconsistent with this chapter.

28 Section 6. The addition of 12 Pa.C.S. Ch. 9 is a
29 continuation of the act of June 28, 1947 (P.L.1110, No.476),
30 known as the Motor Vehicle Sales Finance Act. The following

1 apply:

2 (1) Except as otherwise provided in 12 Pa.C.S. Ch. 9,
3 all activities initiated under the Motor Vehicle Sales
4 Finance Act shall continue and remain in full force and
5 effect and may be completed under 12 Pa.C.S. Ch. 9. Orders,
6 regulations, rules and decisions which were made under the
7 Motor Vehicle Sales Finance Act and which are in effect on
8 the effective date of this section shall remain in full force
9 and effect until revoked, vacated or modified under 12
10 Pa.C.S. Ch. 9. Contracts, obligations and collective
11 bargaining agreements entered into under the Motor Vehicle
12 Sales Finance Act are not affected nor impaired by the repeal
13 of the Motor Vehicle Sales Finance Act.

14 (2) Except as set forth in paragraph 3, any difference
15 in language between 12 Pa.C.S. Ch. 9 and the Motor Vehicle
16 Sales Finance Act is intended only to conform to the style of
17 the Pennsylvania Consolidated Statutes and is not intended to
18 change or affect the legislative intent, judicial
19 construction or administration and implementation of the
20 Motor Vehicle Sales Finance Act.

21 (3) Paragraph (2) does not apply to the addition of the
22 following provisions:

23 (i) 12 Pa.C.S. § 903.

24 (ii) 12 Pa.C.S. § 906(a) and (b).

25 (iii) 12 Pa.C.S. § 908(a) and (d).

26 (iv) 12 Pa.C.S. § 910(6).

27 (v) 12 Pa.C.S. § 915(d) and (e).

28 (vi) 12 Pa.C.S. § 923(b).

29 (vii) 12 Pa.C.S. § 937(a)(1), (b)(1)(i) and (c).

30 Section 7. This act shall take effect in 60 days.