

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2191 Session of  
2012

INTRODUCED BY ROSS, BEAR, BARBIN, BOYD, BRENNAN, BRIGGS, BUXTON,  
CHRISTIANA, CREIGHTON, DELOZIER, DeLUCA, ELLIS, FABRIZIO,  
FARRY, GIBBONS, GINGRICH, GROVE, HARHAI, HARHART, HARKINS,  
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SAINATO, SAYLOR, SCHRODER, STEPHENS, SWANGER, TAYLOR, TOEPEL,  
VEREB, VULAKOVICH, DENLINGER, CARROLL, J. EVANS AND MATZIE,  
MARCH 14, 2012

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 9, 2012

## AN ACT

1 Amending Titles 7 (Banks and Banking) and 18 (Crimes and  
2 Offenses) of the Pennsylvania Consolidated Statutes, in Title  
3 7, providing for short-term loan protection; and, in Title  
4 18, further providing for deceptive or fraudulent business  
5 practices and providing for unlicensed short-term lending.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Title 7 of the Pennsylvania Consolidated Statutes  
9 is amended by adding a chapter to read:

10 CHAPTER 51

11 SHORT-TERM LOAN PROTECTION

12 Subchapter

13 A. Preliminary Provisions

14 B. Nature and Effect of Short-Term Loans

15 C. Administrative and Licensure Provisions

16 D. Miscellaneous Provisions



1 under this chapter.

2 ~~"Loan." A short-term loan or a renewal loan, as the context~~ ←  
3 ~~may require.~~

4 ~~"Loan agreement." A signed written agreement between a~~  
5 ~~lender LICENSEE and a consumer that complies with the~~ ←  
6 ~~requirements of section 5112 (relating to loan agreement~~  
7 ~~requirements) evidencing a loan.~~

8 ~~"Person." An individual, association, joint venture or~~  
9 ~~joint-stock company, partnership, limited liability company,~~  
10 ~~limited partnership, limited partnership association, business~~  
11 ~~corporation or any other group of individuals, however~~  
12 ~~organized.~~

13 ~~"Renewal loan." A short term loan that a consumer obtains~~ ←  
14 ~~from a short term lender, the proceeds of which are applied to~~  
15 ~~the balance due on an existing short term loan previously~~  
16 ~~obtained by the consumer from the same short term lender. The~~  
17 ~~term shall not include a loan taken after an existing loan is~~  
18 ~~paid in full.~~

19 ~~"Repayment mechanism." Any method agreed to by a consumer~~  
20 ~~which a short term lender LICENSEE may use to effect repayment~~ ←  
21 ~~of a loan, including a present-dated or postdated check,~~  
22 ~~electronic debit or assignment of a future deposit.~~

23 ~~"Short-term lender." A person who, as principal or agent,~~  
24 ~~markets, negotiates, arranges, places, makes, SERVICES, holds or~~ ←  
25 ~~originates short-term loans for consumers for a fee, finance~~  
26 ~~charge or other consideration. The term includes a short-term~~  
27 ~~lender who acquires a short-term loan from another short-term~~  
28 ~~lender by purchase or assignment.~~

29 ~~"Short-term loan." A loan or advance of money or credit to a~~  
30 ~~consumer by a short-term lender that, for a fee, finance charge~~

1 or other consideration, does all of the following:

2 (1) Accepts a check or other ~~instrument~~ REPAYMENT ←  
3 MECHANISM from the consumer.

4 (2) Agrees to hold the check or ~~instrument~~ REPAYMENT ←  
5 MECHANISM for a deferment period.

6 (3) Pays to the consumer a cash advance, a locally  
7 cashable check, debit card or money order or credits to the  
8 consumer's account the amount of the check less finance  
9 charges permitted under section 5113 (relating to authorized  
10 finance charges, ~~origination fees~~ and loan verification ←  
11 costs). The term includes any arrangement in which a person  
12 pays a cash advance to a consumer in return for a repayment  
13 mechanism and a fee, finance charge or other consideration.

14 "Short-term loan business." A person is deemed to be engaged  
15 in the short-term loan business in this Commonwealth if that  
16 person, in the ordinary course of its business, advertises,  
17 causes to be advertised, solicits, negotiates or arranges,  
18 offers to make, makes, SERVICES or holds a short-term loan ~~or~~ ←  
19 renewal loan in this Commonwealth, whether directly or through  
20 any other person acting for his benefit.

21 "Tangible net worth." Net worth less all of the following:

22 (1) That portion of assets pledged to secure obligations  
23 of any person other than that of the applicant.

24 (2) Any asset due from officers or stockholders of the  
25 applicant or related companies in which the applicant's  
26 officers or stockholders have an interest.

27 (3) That portion of the value of any marketable  
28 security, listed or unlisted, not shown at lower of either  
29 cost or market.

30 (4) Any investment shown on the applicant's balance

1 sheet in the applicant's joint ventures, subsidiaries,  
2 affiliates or related companies which is greater than the  
3 value of the assets at equity.

4 (5) Goodwill.

5 (6) The value placed on insurance renewals, property  
6 management contract renewals or other similar intangibles of  
7 the applicant.

8 (7) Organization costs of the applicant.

9 (8) Any real estate held for investment where  
10 development will not start within two years from the date of  
11 its initial acquisition.

12 (9) Any leasehold improvements not being amortized over  
13 the lesser of the expected life of the asset or the remaining  
14 term of the lease.

15 SUBCHAPTER B

16 NATURE AND EFFECT OF SHORT-TERM LOANS

17 Sec.

18 5111. License requirements.

19 5112. Loan agreement requirements.

20 5113. Authorized finance charges, ~~origination fees~~ and loan ←  
21 verification costs.

22 5114. Maximum amount of loans, terms of loans and right of  
23 rescission.

24 5115. Prohibitions.

25 5116. ~~Renewal loans~~ (RESERVED). ←

26 5117. Form of loan proceeds.

27 5118. Endorsement of check.

28 5119. Redemption of repayment mechanism.

29 5120. Authorized charge for dishonored repayment mechanisms.

30 5121. Posting of charges and notice of mandatory extended

1 payment plan.

2 5122. Notice of assignment or sale of loans.

3 5123. No criminal culpability.

4 5124. Unfair or deceptive practices.

5 5125. Extended payment plan.

6 5126. Prohibited practices regarding loans.

7 5127. Commonwealth Financial Literacy CONSUMER CREDIT

8 COUNSELING Account.

9 5128. Licensee duties with respect to military personnel.

10 5129. LICENSEE DUTY TO OFFER CREDIT COUNSELING.

11 § 5111. License requirements.

12 (a) General rule.--No person may market, service, arrange,

13 make, hold, originate, extend, contract or negotiate, whether

14 electronically or by other means, a short-term loan or renewal

15 loan to an individual who resides in this Commonwealth or, if

16 the person has a place of business in this Commonwealth, to any

17 individual regardless of his residence, without first obtaining

18 a license from the department under this chapter and otherwise

19 complying with all of the provisions of this chapter.

20 (b) Exemptions.--

21 (1) Except as provided under paragraph (2), this chapter

22 shall not apply to depository institutions. TO THE EXTENT

23 PERMISSIBLE UNDER FEDERAL AND STATE LAW, A DEPOSITORY

24 INSTITUTION MAY MAKE SHORT-TERM LOANS IN ACCORDANCE WITH THE

25 TERMS AND INTEREST RATES, FEES AND CHARGES AUTHORIZED BY THIS

26 CHAPTER, BUT SHALL NOT OTHERWISE BE SUBJECT TO THIS CHAPTER.

27 (2) A ~~short-term lender~~ LICENSEE that is an agent of a

28 depository institution for the purpose of brokering short-

29 term loans made by a depository institution shall be subject

30 to all provisions of this chapter except those provisions

1 related to finance charges AND LOAN TERMS. This paragraph ←  
2 shall be limited to the brokering of short-term loans that  
3 are made and held by a depository institution.

4 § 5112. Loan agreement requirements.

5 (a) General rule.--Each loan shall be documented by a loan  
6 agreement which shall contain all of the following:

7 (1) The name and address of the consumer.

8 (2) The transaction date and a prominently labeled  
9 transaction number.

10 (3) The amount of the loan or advance.

11 (4) A statement of the total amount of finance charges  
12 charged, expressed both as a dollar amount and an annual  
13 percentage rate.

14 (5) A specific date for the end of the deferment period  
15 or extended payment plan.

16 (6) The name, address and telephone number of the ~~short-~~ ←  
17 ~~term lender~~ LICENSEE and the name and title of the individual ←  
18 employee who signs the loan agreement on behalf of the ~~short-~~ ←  
19 ~~term lender~~ LICENSEE. ←

20 (7) An itemization of the fees ~~and interest charges~~ to ←  
21 be paid by the consumer.

22 (8) Disclosures required by the Truth in Lending Act  
23 (Public Law 90-321, 15 U.S.C. § 1601 et seq.), regardless of  
24 whether the Truth in Lending Act applies to the particular  
25 loan.

26 (9) A clear description of the consumer's payment  
27 obligations under the loan and a clear description of the  
28 repayment mechanism agreed to by the ~~short-term lender-~~ ←  
29 LICENSEE and the consumer. ←

30 (10) A clear description of the consumer's right to

1 REQUEST an extended payment plan under section 5125 (relating ←  
2 to extended payment plan).

3 ~~(11) Disclosure in boldface print and in at least ten~~ ←  
4 ~~point type that the consumer may not obtain renewal for the~~  
5 ~~short term loan more than one time for an additional~~  
6 ~~deferment period mutually agreed to by the consumer and the~~  
7 ~~short term lender.~~

8 ~~(12)~~ (11) Disclosure in boldface print and in at least ←  
9 ten-point type indicating the maximum loan amount and finance  
10 charge.

11 ~~(13)~~ (12) Disclosure in boldface print and in at least ←  
12 ten-point type indicating the restrictions on multiple loans  
13 provided for under this chapter.

14 ~~(14)~~ (13) Disclosure in boldface print and in at least ←  
15 ten-point type indicating the consumer's right of rescission  
16 under this chapter. The disclosure of the consumer's right of  
17 rescission shall be set forth immediately above the  
18 consumer's signature line and shall state as follows:

19 This transaction is not meant to meet long-term financial  
20 needs and should be used only to meet short-term cash  
21 needs. Renewing a short term loan rather than repaying it ←  
22 in full at the end of its term will result in further  
23 finance charges. You have the right to rescind this  
24 transaction at any time before the lender's close of  
25 business on the next business day after the transaction  
26 date shown above. In order to rescind, you must return  
27 all of the loan proceeds you received to the lender. The  
28 lender will refund to you all fees if you rescind this  
29 transaction.

30 ~~(15)~~ (14) Any other information as the department may ←



1 require.

2 (a.1) Deferment period.--A deferment period may not be LESS ←  
3 THAN 14 DAYS OR in excess of 60 days and shall include at least  
4 one regular installment of income for the consumer. The  
5 deferment period shall be calculated from the date of the loan  
6 agreement.

7 (b) Limitations.--A loan agreement, or any other document or  
8 instrument signed by the consumer in connection with the loan,  
9 shall not contain any of the following:

10 (1) A mandatory arbitration clause that does not comply  
11 with the standards set forth in the statement of principles  
12 of the National Consumer Disputes Advisory Committee of the  
13 American Arbitration Association in effect on the effective  
14 date of this section.

15 (2) A hold harmless clause for the benefit of the ~~short~~ ←  
16 ~~term lender~~ LICENSEE. ←

17 (3) A confession of judgment clause.

18 (4) A waiver by the consumer of any contractual right or  
19 any provision of this chapter.

20 § 5113. Authorized finance charges, ~~origination fees~~ and loan ←  
21 verification costs.

22 ~~(a) Interest. A short term lender may charge and receive on~~ ←  
23 ~~each loan interest at a simple annual rate that does not exceed~~  
24 ~~28% per year. The interest on the short term loan shall be~~  
25 ~~calculated in compliance with 15 U.S.C. § 1606 (relating to~~  
26 ~~determination of annual percentage rate). A licensee may also~~  
27 ~~charge an origination fee as provided under subsection (b) and a~~  
28 ~~verification fee as provided under subsection (c).~~

29 ~~(b) Loan origination fee. A licensee may charge and receive~~  
30 ~~a loan origination fee in an amount not to exceed 10% of the~~

1 ~~amount of the loan proceeds advanced to the borrower or \$100,~~  
2 ~~whichever is less.~~

3 (A) AUTHORIZED FINANCE CHARGES.--A LICENSEE MAY IMPOSE A ←  
4 FINANCE CHARGE FOR EACH LOAN MADE BY THE LICENSEE TO A CONSUMER  
5 WHICH MAY NOT EXCEED .125¢ PER \$1.00 OF THE SHORT-TERM LOAN. THE  
6 FINANCE CHARGE SHALL BE DEEMED FULLY EARNED AS OF THE DATE OF  
7 THE SHORT-TERM LOAN TRANSACTION, UNLESS THE CONSUMER RESCINDS  
8 THE LOAN UNDER SECTION 5114(B) (RELATING TO MAXIMUM AMOUNT OF  
9 LOANS, TERMS OF LOANS AND RIGHT OF RESCISSION). A LICENSEE MAY  
10 IMPOSE ONLY FEES AND CHARGES AUTHORIZED UNDER THIS CHAPTER IN  
11 CONNECTION WITH A SHORT-TERM LOAN.

12 ~~(e)~~ (B) Verification fee.--A licensee may charge and receive ←  
13 a verification fee in an amount not to exceed \$15 \$5 for a loan ←  
14 or a renewal made under this chapter. The verification fee shall  
15 be used in part to defray the costs of submitting a compliance  
16 system inquiry as provided under section 5115 (relating to  
17 prohibitions) and for the ~~financial literacy program~~ ←  
18 COMMONWEALTH CONSUMER CREDIT COUNSELING ACCOUNT under section ←  
19 5127 (relating to Commonwealth ~~Financial Literacy~~ CONSUMER ←  
20 CREDIT COUNSELING Account).

21 (C) REQUIRED REMITTANCE OF FEES.-- ←

22 (1) A LICENSEE SHALL REMIT ALL OF THE FOLLOWING MONTHLY:

23 (I) FIFTY CENTS PER LOAN TRANSACTION TO THE  
24 COMMONWEALTH CONSUMER CREDIT COUNSELING ACCOUNT FOR THE  
25 AGENCY TO PAY FOR COSTS TO PROVIDE CONSUMER BUDGET AND  
26 CREDIT COUNSELING.

27 (II) A FEE UP TO FIFTY CENTS PER LOAN TRANSACTION,  
28 AS DETERMINED BY THE DEPARTMENT, TO A COMPLIANCE SYSTEM  
29 PROVIDER FOR THE PURPOSE OF DETERMINING OUTSTANDING LOANS  
30 AND REPAYMENT DATES PROVIDED UNDER SECTION 5115.

1           (III) ONE DOLLAR AND FIFTY CENTS PER LOAN  
2           TRANSACTION, PLUS ANY DIFFERENCE IN THE FEE DETERMINED BY  
3           THE DEPARTMENT FOR THE SERVICES OF THE COMPLIANCE SYSTEM  
4           PROVIDER PROVIDED UNDER SECTION 5115(F) (1) (RELATING TO  
5           PROHIBITIONS) AND THE AMOUNT ESTABLISHED UNDER  
6           SUBPARAGRAPH (II) TO THE DEPARTMENT.

7           (2) A LICENSEE MAY NOT CHARGE A CONSUMER AND SHALL NOT  
8           BE REQUIRED TO REMIT TO A COMPLIANCE SYSTEM PROVIDER ANY  
9           AMOUNTS RELATED TO THE COMPLIANCE SYSTEM UNTIL THE DEPARTMENT  
10           HAS SELECTED THE COMPLIANCE SYSTEM PROVIDER AS REQUIRED UNDER  
11           SECTION 5115(F) (1). THE FEES REQUIRED TO BE REMITTED UNDER  
12           THIS SUBSECTION MAY BE DELIVERED TO AND DISBURSED BY THE  
13           COMPLIANCE SYSTEM PROVIDER, AS DETERMINED BY THE DEPARTMENT.

14 § 5114. Maximum amount of loans, terms of loans and right of  
15           rescission.

16           (a) General rule.--A ~~short term lender~~ LICENSEE may not make ←  
17           a loan to a consumer in an amount that would result in the  
18           consumer having outstanding loans to ~~the short term lender~~ ONE ←  
19           OR MORE LICENSEE in excess of the lesser of \$1,000 or 25% of the  
20           consumer's gross monthly income at any time. The ~~short term~~ ←  
21           ~~lender~~ LICENSEE shall maintain records evidencing the consumer's ←  
22           gross monthly income as required under section 5136(a) (2)  
23           (relating to licensee and compliance system provider  
24           requirements).

25           (A.1) CONSUMER REPORT.-- ←

26           (1) A SHORT-TERM LENDER MAY REQUEST, AT NO COST TO THE  
27           CONSUMER, A BORROWER'S CONSUMER REPORT FROM A CONSUMER  
28           REPORTING AGENCY AS PART OF THE SHORT-TERM LENDER'S  
29           UNDERWRITING PROCESS.

30           (2) A SHORT-TERM LENDER MAY RELY ON THE CONSUMER REPORT:

1           (I) AS A PERMISSIBLE METHOD OF VERIFYING THE  
2           BORROWER'S MONTHLY GROSS INCOME IN MAKING THE SHORT-TERM  
3           LOAN.

4           (II) IN UNDERWRITING AND MAKING SUBSEQUENT SHORT-  
5           TERM LOANS TO THE SAME CUSTOMER IF THE REPORT WAS  
6           OBTAINED WITHIN THE PREVIOUS 12 MONTHS.

7           (3) AS USED IN THIS SUBSECTION, THE FOLLOWING WORDS AND  
8           PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
9           PARAGRAPH UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

10           "CONSUMER REPORT." AS DEFINED IN 15 U.S.C. § 1681A(D)  
11           (RELATING TO DEFINITIONS; RULES OF CONSTRUCTION).

12           "CONSUMER REPORTING AGENCY." AS DEFINED IN 15 U.S.C. §  
13           1681A(F).

14           (b) Right to rescind.--

15           (1) A consumer may rescind a loan before the ~~short term~~ ←  
16           ~~lender's~~ LICENSEE'S close of business on the next business ←  
17           day immediately following the day on which the loan was made ←  
18           PROCEEDS WERE RECEIVED BY THE CONSUMER. ←

19           (2) In order to rescind a loan, a consumer shall notify  
20           the ~~short term lender~~ LICENSEE of the consumer's desire to ←  
21           rescind the loan and return to the ~~short term lender~~ ←  
22           LICENSEE, at the time of giving notice, the proceeds of the ←  
23           loan received by the consumer from the ~~short term lender~~ ←  
24           LICENSEE under section 5117 (relating to form of loan ←  
25           proceeds).

26           (3) No finance charge or other charge or fee may be  
27           charged or collected by the ~~short term lender~~ LICENSEE if a ←  
28           loan is rescinded.

29           (4) Upon rescission of a loan, the ~~short term lender~~ ←  
30           LICENSEE shall return to the consumer any check given to the ←

1 short term lender LICENSEE in connection with the loan or ←  
2 shall agree in writing that any other repayment mechanism  
3 shall not be utilized.

4 (c) Completed transaction.--A loan transaction shall be  
5 completed when the short term lender LICENSEE receives payment ←  
6 in full of the loan or the consumer redeems the repayment  
7 mechanism being held by the short term lender LICENSEE by paying ←  
8 the full amount represented by the repayment mechanism to the  
9 short term lender LICENSEE. The consumer may repay a loan at any ←  
10 office of the original short term lender LICENSEE or the ←  
11 assignee of the short term lender LICENSEE at the consumer's ←  
12 election.

13 § 5115. Prohibitions.

14 (a) General rule.--A short term lender LICENSEE shall not ←  
15 knowingly make a loan to a consumer who has an existing loan  
16 with the short term lender LICENSEE or any other licensee if the ←  
17 aggregate amount of all loans outstanding to the consumer  
18 exceeds the maximum amount permitted under section 5114(a)  
19 (relating to maximum amount of loans, terms of loans and right  
20 of rescission) or who has entered into an extended payment plan  
21 under section 5125 (relating to extended payment plan) which has  
22 not yet been paid in full. A consumer may not have loans  
23 outstanding from more than two short term lenders LICENSEES at ←  
24 any one time.

25 (b) (Reserved).

26 (c) (Reserved).

27 (d) Verification.--A consumer shall verify in writing at the  
28 time of entering into a loan transaction:

29 (1) That the consumer does not have a loan outstanding  
30 from any short term lender LICENSEE, the aggregate ←

1 ~~outstanding balance of~~ AMOUNT OF ALL LOANS which exceeds the  
2 ~~maximum loan amount permitted under section 5114(a).~~ ←

3 ~~(2) That the consumer has not entered into an extended~~  
4 ~~payment plan under section 5125 which has not yet been paid~~  
5 ~~in full.~~

6 ~~(3) The date of repayment of the consumer's last loan,~~  
7 ~~if applicable.~~

8 ~~(e) Confirmation.--A short term lender LICENSEE shall~~ ←  
9 ~~confirm the accuracy of the verification required under~~  
10 ~~subsection (d) by all of the following:~~

11 ~~(1) A query of the short term lender's LICENSEE'S own~~ ←  
12 ~~records.~~

13 ~~(2) A query of the compliance system under subsection~~  
14 ~~(f) (1).~~

15 ~~(f) Procedure to determine outstanding loans and repayment~~  
16 ~~dates.--~~

17 ~~(1) The department shall engage a third-party provider~~  
18 ~~capable of developing, implementing and maintaining a~~  
19 ~~compliance system, AT NO COST TO THE DEPARTMENT, with real~~ ←  
20 ~~time access for reporting of loan transactions and verifying~~  
21 ~~the information required under subsection (a).~~

22 ~~(2) Short term lenders LICENSEES shall report to the~~ ←  
23 ~~compliance system information determined by the department to~~  
24 ~~be necessary to verify the number and amount of loans a~~  
25 ~~consumer has outstanding with any short term lender and~~ ←  
26 ~~LICENSEE, the date of repayment of a consumer's last loan AND~~ ←  
27 ~~IF A CONSUMER HAS ENTERED INTO AN EXTENDED PAYMENT PLAN.~~

28 ~~(3) The department may charge licensees a fee, not to~~ ←  
29 ~~exceed \$1 for each compliance system transaction. Seventy~~  
30 ~~five cents of the fee shall be used by the department for the~~

~~costs of establishing and maintaining the compliance system and any other information as may be reasonably and lawfully available to the short term lender. Twenty five cents shall be used to provide funding for the financial literacy programs established under section 5127 (relating to Commonwealth Financial Literacy Account).~~

(g) Prohibited location.--The location of a short-term loan business, except a location in existence as of the effective date of this subsection, may not be within 100 feet of any of the following:

(1) A horse racetrack subject to RACETRACK OR OTHER NONPRIMARY LOCATION WHERE THOROUGHBRED OR HARNESS HORSE RACE MEETINGS ARE CONDUCTED, RESPECTIVELY, WITH PARI-MUTUEL WAGERING IN ACCORDANCE WITH the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act.

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

(3) A MILITARY INSTALLATION OR A FACILITY OPERATED BY THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS.

§ 5116. Renewal loans.

~~A short term loan may only be renewed once. A borrower who seeks the renewal of a short term loan shall not be subject to an origination fee. A one time renewal fee may be charged which shall not exceed \$20 and the renewal loan shall be subject to the verification fee and the interest charge established under section 5113 (relating to authorized finance charges, origination fees and loan verification costs) (RESERVED).~~

§ 5117. Form of loan proceeds.

1 (a) General rule.--A ~~short term lender~~ LICENSEE shall ←  
2 disburse the proceeds of a loan to the consumer in the form of  
3 an immediately and locally cashable check, money order, cash,  
4 debit card or credit to the consumer's account at a depository  
5 institution.

6 (b) Prohibition.--A ~~short term lender~~ LICENSEE may not ←  
7 impose an additional finance charge or A fee for cashing the ←  
8 ~~short term lender's~~ LICENSEE'S check or money order or for ←  
9 otherwise affecting EFFECTING the disbursement of loan proceeds. ←

10 (c) Same day loan.--Upon repayment of a ~~renewal~~ loan, a ←  
11 ~~short term lender~~ LICENSEE may not make or offer a loan to the ←  
12 consumer on the same day that the consumer repays the ~~renewal~~ ←  
13 loan.

14 § 5118. Endorsement of check.

15 A ~~short term lender~~ LICENSEE may not negotiate or present a ←  
16 check for payment of a loan unless the instrument is endorsed  
17 with the actual business name or registered fictitious name of  
18 the ~~short term lender~~ LICENSEE. ←

19 § 5119. Redemption of repayment mechanism.

20 Prior to the ~~short term lender's~~ LICENSEE'S negotiating or ←  
21 presenting a consumer's check or utilizing any other repayment  
22 mechanism, the consumer shall have the right to redeem the check  
23 or any other repayment mechanism if the consumer pays the full  
24 amount of the check or other repayment mechanism to the ~~short~~ ←  
25 ~~term lender~~ LICENSEE. ←

26 § 5120. Authorized charge for dishonored repayment mechanisms.

27 (a) General rule.--If a consumer's repayment mechanism is  
28 dishonored due to insufficient funds in the consumer's account,  
29 the ~~short term lender~~ LICENSEE: ←

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



1 authorized by law to collect the face value of the repayment  
2 mechanism.

3 (2) May contract for and collect from the consumer a  
4 charge not to exceed \$25.

5 (3) May not collect any other fees as a result of the  
6 dishonor, including damages available under 42 Pa.C.S. § 8304  
7 (relating to damages in actions on bad checks).

8 (b) When charge not allowed.--A charge authorized by this  
9 section shall not be allowed:

10 (1) if the consumer does not receive the loan proceeds  
11 from the ~~short term lender~~ LICENSEE for any reason; or ←

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

14 § 5121. Posting of charges and notice of mandatory extended  
15 payment plan.

16 (a) Posting of charges.--A ~~short term lender~~ LICENSEE shall ←  
17 post, in large type in plain view of the public at any place of  
18 business where short-term loans are made, a notice of the  
19 finance charges and any related charges, such as the charge for  
20 dishonored repayment mechanisms, imposed for loans.

21 (b) Mandatory notice.--A ~~short term lender~~ LICENSEE shall ←  
22 provide to each consumer at the time a loan agreement is signed,  
23 and conspicuously display in the lending area of each business  
24 location of the ~~short term lender~~ LICENSEE, the following ←  
25 notice:

26 Notice: If you are unable to repay your loan, you are  
27 entitled to REQUEST an extended payment plan agreement ←  
28 with a fully disclosed rate, term and payment plan.

29 § 5122. Notice of assignment or sale of loans.

30 (a) General rule.--A ~~short term lender~~ LICENSEE shall inform ←

1 a consumer in writing immediately of the name, address and  
2 telephone number of the person to whom a loan is assigned or  
3 sold. A ~~short term lender~~ LICENSEE may only assign or sell a ←  
4 loan to another ~~short term lender~~ LICENSEE or to a depository ←  
5 institution.

6 (b) Notice.--Prior to the assignment or sale of a loan, a  
7 ~~short term lender~~ LICENSEE shall provide the following notice to ←  
8 the buyer or assignee:

9 The repayment mechanism associated with this loan has  
10 been given by a consumer to secure a short-term loan  
11 transaction under Pennsylvania State law and the assignee  
12 or buyer is deemed to have knowledge of and shall be  
13 bound by the terms and conditions of the loan agreement  
14 between the consumer and the original lender.

15 § 5123. No criminal culpability.

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

17 (1) For entering into a loan agreement.

18 (2) In the event that a consumer's repayment mechanism  
19 is dishonored, unless the consumer's account on which the  
20 repayment mechanism is drawn is closed by the consumer before  
21 the end of the agreed-upon deferment period, in which case  
22 the provisions of 18 Pa.C.S. § 4105 (relating to bad checks)  
23 or 4106 (relating to access device fraud), as applicable,  
24 shall apply.

25 § 5124. Unfair or deceptive practices.

26 A person may not engage in unfair or deceptive acts,  
27 practices or advertising in connection with a loan. A violation  
28 of this section shall be deemed a violation of the act of  
29 December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade  
30 Practices and Consumer Protection Law.

1 § 5125. Extended payment plan.

2 (a) General rule.--A ~~short term lender shall offer a~~ ←  
3 ~~consumer at least once per year~~ CONSUMER SHALL BE ENTITLED TO an ←  
4 extended payment plan agreement UNDER SUBSECTION (B) AT LEAST ←  
5 ONCE PER YEAR if at any time ~~prior to~~ ON OR BEFORE the loan's ←  
6 due date the consumer declares an inability to repay.

7 (b) Extended payment plan agreement.--An extended payment  
8 plan agreement shall be subject to the following terms:

9 (1) The principal balance due under the extended payment  
10 plan shall be the outstanding principal balance and finance  
11 charge due under the existing loan. The ~~short term lender~~ ←  
12 LICENSEE may encourage, but shall not require, the consumer ←  
13 to reduce the balance of the existing loan by paying the  
14 ~~short term lender~~ LICENSEE cash on the date the consumer ←  
15 enters into the extended payment plan agreement.

16 (2) The ~~short term lender~~ LICENSEE may not impose a ←  
17 finance charge for entering into the extended payment plan.  
18 The ~~short term lender~~ LICENSEE may impose only the fees and ←  
19 charges authorized in section 5120 (relating to authorized  
20 charge for dishonored repayment mechanisms) in connection  
21 with an extended payment plan.

22 (3) The extended payment plan agreement shall allow the  
23 consumer to pay the sums due under the extended payment plan  
24 over at least four 14-day ~~terms~~ INSTALLMENTS. Each ←  
25 installment shall be in an amount arrived at by dividing the  
26 total amount outstanding under paragraph (1) to a ~~short term~~ ←  
27 ~~lender~~ LICENSEE by the number of 14-day ~~terms~~ INSTALLMENTS of ←  
28 the extended payment plan. If the consumer has loans  
29 outstanding to two ~~lenders~~ LICENSEES and is unable to pay ←  
30 both loans, the consumer shall enter into an extended payment

1 plan with each ~~short-term lender~~ LICENSEE. A consumer may, at ←  
2 any time, partially or entirely pay off an extended payment  
3 plan.

4 (4) A ~~short-term lender~~ LICENSEE shall report to the ←  
5 compliance system described in section 5115 (relating to  
6 prohibitions) that the consumer is enrolled in an extended  
7 payment plan.

8 (5) Except when the consumer is required to enter into  
9 an extended payment plan under the provisions of this  
10 chapter, the consumer shall have the same right to rescind an  
11 extended payment plan as is provided in section 5114(b)  
12 (relating to maximum amount of loans, terms of loans and  
13 right of rescission) for the rescission of a loan.

14 (c) Eligibility requirements.--In order to enter into an  
15 extended payment plan, a consumer must:

16 (1) Have obtained a loan from the same ~~short-term lender~~ ←  
17 LICENSEE, or its assignee, that will enter into the extended ←  
18 payment plan.

19 (2) Request an extended payment plan prior to OR ON the ←  
20 due date of the loan.

21 (3) Reasonably inform the ~~short-term lender~~ LICENSEE, ←  
22 either orally or in writing, that the consumer requests an  
23 extended payment plan.

24 (d) Prohibition.--During any period in which all or part of  
25 an extended payment plan is outstanding and during the seven-day  
26 period following a consumer's payment in full of an extended  
27 payment plan, no ~~short-term lender~~ LICENSEE may make or offer to ←  
28 make a short-term loan to the consumer.

29 § 5126. Prohibited practices regarding loans.

30 (a) Practices.--The following are prohibited regarding

1 loans:

2 (1) Taking or attempting to take any security other than  
3 the consumer's check or other repayment mechanism.

4 (2) Taking or attempting to take more than a single  
5 check or other repayment mechanism from the consumer in  
6 connection with a single transaction.

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

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

11 (5) Assigning or selling a loan to another person other  
12 than in accordance with the provisions of this chapter.

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

18 (7) Failing to collect and provide information regarding  
19 the number, total and average transaction amounts and other  
20 information the department may request.

21 (8) Offering, arranging, negotiating, making, holding or  
22 acting as an agent or broker for the making of a loan unless  
23 the short-term lender complies with all applicable provisions  
24 of this chapter.

25 (9) Altering or deleting the date on any loan agreement  
26 or repayment mechanism held by the ~~short term lender~~  
27 LICENSEE.

28 (10) Rolling over, refinancing, extending or  
29 consolidating short-term loans except as provided in sections  
30 ~~5116 (relating to renewal loans) and SECTION 5125 (relating~~

←  
←  
←  
←

1 to extended payment plan).

2 (11) Failing to immediately and accurately report a loan  
3 or an extended payment plan to the compliance system provider  
4 as required by this chapter or by the department.

5 (12) Threatening to use or using the criminal process in  
6 any state to collect the balance due on a loan.

7 (13) Depositing a check or otherwise implementing any  
8 repayment mechanism prior to the expiration of the agreed-  
9 upon deferment period.

10 (b) Penalty.--In addition to any other penalties provided  
11 under law, any transaction in violation of subsection (a) shall  
12 be uncollectible and unenforceable.

13 ~~§ 5127. Commonwealth Financial Literacy Account.~~ ←

14 ~~(a) Establishment of account. There is established within~~  
15 ~~the Banking Department Fund a restricted account to be known as~~  
16 ~~the Commonwealth Financial Literacy Account. Funds collected~~  
17 ~~under section 5115(f)(3) (relating to prohibitions) shall be~~  
18 ~~deposited in the account.~~

19 ~~(b) Designation and approval by department.--~~

20 ~~(1) The department shall designate and approve nonprofit~~  
21 ~~consumer credit counseling agencies in each county to be~~  
22 ~~available to assist the department in implementing the~~  
23 ~~provisions of this chapter, including, but not limited to,~~  
24 ~~mandated counseling.~~

25 ~~(2) The department shall maintain an up to date list of~~  
26 ~~approved consumer credit counseling agencies for each county~~  
27 ~~and publish the list on the department's publicly accessible~~  
28 ~~Internet website.~~

29 ~~(c) Funding. The department shall allocate, at its~~  
30 ~~discretion, funds to credit counseling agencies from the~~

1 ~~Commonwealth Financial Literacy Account for each loan the~~  
2 ~~department reviews upon request of a consumer.~~

3 § 5127. COMMONWEALTH CONSUMER CREDIT COUNSELING ACCOUNT.

4 (A) ESTABLISHMENT.--THERE IS ESTABLISHED WITHIN THE AGENCY A  
5 RESTRICTED ACCOUNT TO BE KNOWN AS THE COMMONWEALTH CONSUMER  
6 CREDIT COUNSELING ACCOUNT. FUNDS COLLECTED UNDER SECTION 5113(C)  
7 (RELATING TO AUTHORIZED FINANCE CHARGES, ORIGINATION FEES AND  
8 LOAN VERIFICATION COSTS) SHALL BE DEPOSITED INTO THE ACCOUNT.

9 (B) DESIGNATION AND APPROVAL BY THE AGENCY.--

10 (1) THE AGENCY SHALL DESIGNATE AND APPROVE NONPROFIT  
11 CREDIT COUNSELING AGENCIES TO BE AVAILABLE TO ASSIST THE  
12 AGENCY IN IMPLEMENTING THE PROVISIONS OF THIS CHAPTER RELATED  
13 TO CONSUMER CREDIT COUNSELING. NONPROFIT CREDIT COUNSELING  
14 AGENCIES SEEKING TO PROVIDE BUDGET AND CREDIT COUNSELING TO  
15 CONSUMERS MUST MEET ALL REQUIREMENTS PRESCRIBED BY THE  
16 AGENCY.

17 (2) THE AGENCY SHALL MAINTAIN AN UP-TO-DATE LIST OF  
18 APPROVED NONPROFIT CREDIT COUNSELING AGENCIES BY COUNTY AND  
19 PUBLISH THE LIST ON THE AGENCY'S PUBLICLY ACCESSIBLE INTERNET  
20 WEBSITE.

21 (3) THE AGENCY SHALL ALLOCATE QUARTERLY, AT ITS  
22 DISCRETION, FUNDS TO APPROVED NONPROFIT CREDIT COUNSELING  
23 AGENCIES FROM THE ACCOUNT.

24 (4) THE AGENCY SHALL PAY ALL COSTS AND EXPENSES FOR  
25 DELIVERY OF CONSUMER CREDIT COUNSELING FROM AMOUNTS AVAILABLE  
26 IN THE ACCOUNT.

27 § 5128. Licensee duties with respect to military personnel.

28 (a) Collection activity.--A licensee shall defer collection  
29 activity against:

30 (1) a consumer who is a member of the military that has

1 been deployed to combat or a combat support posting, for the  
2 duration of the posting; or

3 (2) a reserve or National Guard member called to active  
4 duty.

5 (b) Military personnel.--A licensee shall not contact the  
6 military chain of command of a consumer who is a member of the  
7 military in an effort to collect a loan.

8 (c) Repayment agreement.--A licensee shall honor the terms  
9 of any repayment agreement that it has entered into with a  
10 consumer who is a member of the military, including any  
11 repayment agreement negotiated through military counselors or  
12 third-party credit counselors.

13 (d) Compliance with Federal law.--All ~~lenders~~ LICENSEES must ←  
14 comply with any Federal statutes and provisions regarding  
15 military personnel and their dependents.

16 § 5129. LICENSEE DUTY TO OFFER CREDIT COUNSELING. ←

17 (A) GENERAL RULE.--A LICENSEE SHALL OFFER CREDIT COUNSELING  
18 AT NO COST TO A BORROWER FROM AN UNAFFILIATED NOT-FOR-PROFIT  
19 THIRD PARTY CREDIT COUNSELOR APPROVED BY THE AGENCY TO PROVIDE  
20 CREDIT COUNSELING PRIOR TO EXECUTING A LOAN AGREEMENT WITH A  
21 BORROWER.

22 (B) BORROWER ACKNOWLEDGMENT.--THE LICENSEE SHALL HAVE THE  
23 BORROWER ACKNOWLEDGE THE LICENSEE'S OFFER OF NO-COST CREDIT  
24 COUNSELING ON A FORM PRESCRIBED BY THE DEPARTMENT, WHICH SHALL  
25 INCLUDE THE FOLLOWING NOTICE:

26 YOU ARE ENTITLED TO NO-COST CREDIT COUNSELING IN CONNECTION  
27 WITH OBTAINING THIS SHORT-TERM LOAN. THIS LOAN IS NOT MEANT  
28 TO MEET LONG-TERM FINANCIAL NEEDS AND SHOULD BE USED ONLY TO  
29 MEET SHORT-TERM CASH NEEDS. TAKING ADVANTAGE OF THIS NO-COST  
30 CREDIT COUNSELING COULD HELP YOU AVOID THE NEED TO SEEK THIS



1 KIND OF LOAN IN THE FUTURE.

2 SUBCHAPTER C

3 ADMINISTRATIVE AND LICENSURE PROVISIONS

4 Sec.

5 5131. Application for license.

6 5132. Annual license fee.

7 5133. (Reserved).

8 5134. Issuance of license.

9 5135. License duration.

10 5136. Licensee and compliance system provider requirements.

11 5137. Licensee limitations.

12 5138. Surrender of license.

13 5139. Authority of department.

14 5140. Suspension, revocation or refusal.

15 5141. Penalties.

16 § 5131. Application for license.

17 (a) Contents.--An application for a license under this  
18 chapter shall be on a form prescribed and provided by the  
19 department. The application shall include the name of the  
20 applicant, the address of the principal place of business of the  
21 applicant and the address or addresses where the applicant's  
22 short-term loan business is to be conducted, the full name,  
23 official title and business address of each director and  
24 principal officer of the short-term loan business and any other  
25 information that may be required by the department. An applicant  
26 shall demonstrate to the department that policies and procedures  
27 have been developed to receive and process consumer inquiries  
28 and grievances promptly and fairly.

29 (b) Duty to update.--All applicants and licensees shall be  
30 required to provide the department with written notice of the



1 change in any information contained in an application for a  
2 license or for any renewal of a license ~~promptly upon an~~ WITHIN  
3 TEN DAYS OF THE applicant or licensee becoming aware of such  
4 change.

5 (c) Financial structure.--

6 (1) The applicant must establish that the applicant:

7 (i) has, at the time of application, a minimum  
8 tangible net worth of \$250,000;

9 (ii) will at all times maintain the minimum tangible  
10 net worth required by subparagraph (i); and

11 (iii) has an otherwise adequate financial structure.

12 (2) Prior to and as a condition of the issuance of a  
13 license, an applicant for a license shall maintain a bond in  
14 the amount of \$100,000 in a form acceptable to the department  
15 from a surety company authorized to do business in this  
16 Commonwealth. The bond shall be a penal bond conditioned on  
17 compliance by the licensee with this chapter and subject to  
18 forfeiture and shall run to the Commonwealth for its use and  
19 shall be held by the department for the term of the license.  
20 The bond shall also be for the use of any consumer against  
21 the licensee for failure to carry out the terms of any loan  
22 or extended payment plan. If a consumer is aggrieved, he may,  
23 with the written consent of the department, recover the  
24 amount by which the consumer is aggrieved from the bond by  
25 filing a claim with the surety company or maintaining an  
26 action on the bond. In the alternative, an aggrieved consumer  
27 may recover the amount by which the consumer is aggrieved by  
28 filing a formal complaint against the licensee with the  
29 department, which shall adjudicate the matter. Such an  
30 adjudication shall be binding upon the surety company and

1 enforceable by the department in Commonwealth Court and by an  
2 aggrieved consumer in any court. An aggrieved consumer  
3 seeking to recover any amount from a bond that has already  
4 been forfeited by the licensee or which the department is in  
5 the process of having forfeited may recover payment on such  
6 bond if, after filing a petition with the department, the  
7 department consents to the requested payment or portion  
8 thereof. The department may pay the aggrieved consumer from  
9 the bond proceeds recovered by the department in such case.  
10 Nothing in this paragraph shall be construed as limiting the  
11 ability of any court or magisterial district judge to award  
12 to any aggrieved consumer other damages, court costs and  
13 attorney fees permitted by applicable law, but those claims  
14 that are not directly related to the loan or extended payment  
15 plan may not be recovered from the proceeds of the bond. The  
16 department, in its discretion, may consent to or order pro  
17 rata or other recovery on the bond for any aggrieved consumer  
18 if claims against the bond may or do exceed its full monetary  
19 amount. No bond shall comply with the requirements of this  
20 paragraph unless it contains a provision that it shall not be  
21 canceled for any cause unless notice of intention to cancel  
22 is given to the department at least 30 days before the day  
23 upon which cancellation shall take effect. In such event, the  
24 licensee shall be required to replace the bond with a bond  
25 substantially in the same form as the original bond.  
26 Cancellation of the bond shall not invalidate the bond  
27 regarding the period of time it was in effect.

28 (d) License renewals.--Licenses shall be issued for terms of  
29 ~~12~~ NOT MORE THAN 14 months and may be renewed by the department  
30 upon application by the licensee and the payment of any and all



1 applicable renewal fees. A licensee shall comply with the same  
2 requirements for renewal of its license as it did for the  
3 issuance of the original license.

4 § 5132. Annual license fee.

5 (a) General rule.--An applicant for a license shall pay to  
6 the department at the time an application is filed, and upon  
7 filing of each application for renewal thereof, a license fee  
8 for the principal place of business of \$3,000 and an additional  
9 license fee for each branch office of \$1,000.

10 (b) Recovery of costs.--No abatement of a license fee shall  
11 be made if the license is issued for a period of less than one  
12 year. The department shall be entitled to recover any cost of  
13 investigation in excess of license or renewal fees from the  
14 licensee or from a person who is not licensed under this chapter  
15 but who is believed to be engaged in the short-term loan  
16 business.

17 § 5133. (Reserved).

18 § 5134. Issuance of license.

19 (a) Time limit.--Upon receipt of an application for a  
20 license, the department may conduct such investigation as it  
21 deems necessary to determine that the applicant and its  
22 officers, directors and principals are of good character and  
23 ethical reputation. Within 60 days of receipt of a completed  
24 application, the department shall:

25 (1) issue a license; or

26 (2) refuse to issue a license for any reason which the  
27 department may refuse to issue a license under this section  
28 or for which the department may suspend, revoke or refuse to  
29 renew a license under section 5140 (relating to suspension,  
30 revocation or refusal).

1 (b) Appeal of denial.--If the department refuses to issue a  
2 license, it shall notify the applicant in writing of the denial,  
3 the reason therefor and the applicant's right to appeal the  
4 denial to the Secretary of Banking. The department shall require  
5 that an appeal from refusal to approve an application for a  
6 license be filed by the applicant within 30 days of notice of  
7 refusal.

8 (c) Contents of license.--Every license issued by the  
9 department shall specify:

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

12 (2) The licensee's reference number.

13 (3) Any other information the department shall require  
14 to carry out the purposes of this chapter.

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

16 (1) The department may deny a license if it finds that  
17 the applicant or a director, officer, partner, EMPLOYEE or ←  
18 ultimate equitable owner of 10% or more of the applicant has  
19 been convicted of a felony or a crime of moral turpitude in  
20 any jurisdiction or convicted of a crime which, if committed  
21 in this Commonwealth, would constitute a felony or a crime of  
22 moral turpitude. For the purposes of this chapter, a person  
23 shall be deemed to have been convicted of a crime if the  
24 person:

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

30 (ii) is found guilty by the verdict of a jury or the

1 decision or judgment of a Federal magistrate or court,  
2 irrespective of pronouncement or suspension of sentence,  
3 unless the decision or judgment is set aside, vacated,  
4 reversed or otherwise abrogated by lawful judicial  
5 process.

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

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

18 (1) has had a license application or license issued by  
19 the department OR ANOTHER STATE BUSINESS LICENSING AGENCY ←  
20 denied, not renewed, suspended or revoked;

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

22 (3) has violated or failed to comply with any provisions  
23 of this chapter or any regulation or order of the department;

24 (4) has an outstanding debt to the Commonwealth or any  
25 Commonwealth agency; or

26 (5) does not possess the financial responsibility,  
27 character, reputation, integrity and general fitness to  
28 command the confidence of the public and to warrant the  
29 belief that the short-term loan business will be operated  
30 lawfully, honestly, fairly and within the legislative intent

1 of this chapter and in accordance with the general laws of  
2 this Commonwealth. For purposes of this paragraph, an  
3 applicant is not financially responsible if the applicant has  
4 shown a disregard in the management of his or her own  
5 financial condition. The factors that the department may  
6 consider in making a determination regarding an applicant's  
7 financial responsibility shall include:

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

10 (ii) Current outstanding tax liens or other  
11 government liens and filings.

12 (iii) Foreclosures within the past three years.

13 (iv) A pattern of seriously delinquent accounts  
14 within the past three years.

15 § 5135. License duration.

16 A license issued by the department:

17 (1) Must be renewed on the license's renewal date of  
18 each year upon payment of the annual renewal fee and after  
19 the department determines that the licensee is conducting  
20 business in accordance with this chapter. No refund of any  
21 portion of the license fee shall be made if the license is  
22 voluntarily surrendered to the department or suspended or  
23 revoked by the department prior to its expiration date.

24 (2) Shall be invalid if the licensee's authority to  
25 conduct business is voided under any law of this Commonwealth  
26 or any other state unless the licensee demonstrates that the  
27 applicable court or governmental entity was clearly erroneous  
28 in voiding the licensee's authority to conduct business.

29 (3) Is not assignable or transferable by operation of  
30 law or otherwise.

1 § 5136. Licensee and compliance system provider requirements.

2 (a) Requirements of a licensee.--A licensee shall do all of  
3 the following:

4 ~~(1) Conspicuously display its license at each licensed~~ ←  
5 ~~place of business.~~

6 ~~(2)~~ Maintain at its principal place of business within  
7 this Commonwealth, or at a place outside this Commonwealth if  
8 agreed to by the department, the original, a copy or  
9 electronic access to books, accounts, records and documents  
10 of the business conducted under the license as prescribed by  
11 the department to enable the department to determine whether  
12 the business of the licensee is being conducted in accordance  
13 with this chapter and the orders, regulations and statements  
14 of policy issued under this chapter. Instruments, documents,  
15 accounts, books and records shall be kept separate and apart  
16 from the records of any other business conducted by the  
17 licensee and shall be preserved and kept available for  
18 investigation or examination by the department for a period  
19 determined by the department. The department shall have free  
20 access to and authorization to examine records maintained  
21 outside this Commonwealth. The costs of the examination,  
22 including travel costs, shall be borne by the licensee. The  
23 department may deny or revoke the authority to maintain  
24 records outside this Commonwealth for good cause in the  
25 interest of protection for Commonwealth consumers, including  
26 for the licensee's failure to provide books, accounts,  
27 records or documents to the department upon request.

28 ~~(3)~~ (2) Be subject to examination by the department. The ←  
29 department may examine a licensee if the department deems the  
30 examination to be necessary or desirable. The cost of the



1 examination shall be borne by the licensee. During an  
2 examination, the department shall have free access, during  
3 regular business hours, to the licensee's place or places of  
4 business in this Commonwealth and to all instruments,  
5 documents, accounts, books and records which pertain to a  
6 licensee's short-term loan business, whether maintained in or  
7 outside this Commonwealth.

8 ~~(4)~~ (3) Include in all advertisements language ←  
9 indicating that the licensee is licensed by the department.

10 (b) Requirements of compliance system provider.--Annually,  
11 on a date determined by the department, the compliance system  
12 provider shall file a report with the department setting forth  
13 the information the department requires concerning the short-  
14 term loan business conducted by the EACH licensee during the ←  
15 preceding calendar year. The report must be in writing and  
16 subject to penalty of perjury on a form provided by the  
17 department. ~~Compliance system providers failing~~ IF THE ←  
18 COMPLIANCE SYSTEM PROVIDER FAILS to file the required report in  
19 a timely manner, IT shall be subject to a penalty of \$500 for ←  
20 each day after ~~December 1~~ THE REPORT IS DUE until the report is ←  
21 filed. The report shall include:

22 (1) The total number of short-term loans made during the  
23 preceding calendar year.

24 (2) The minimum, maximum and average dollar amount of  
25 short-term loans made during the preceding calendar year.

26 (3) The average annual percentage rate and the average  
27 term of short-term loans made during the preceding calendar  
28 year.

29 (4) The total number of returned checks, the total of  
30 checks recovered and the total of checks charged off during

1 the preceding calendar year.

2 (5) The total number of short-term loans paid in full,  
3 the total number of loans which went into default and the  
4 total number of loans charged off during the preceding  
5 calendar year.

6 (6) The total number of consumer complaints.

7 (7) Frequency of repeat use by consumers of postdated or  
8 delayed deposit checks.

9 (8) Verification that the licensee has not used the  
10 criminal process or caused the criminal process to be used in  
11 the collection of any short-term loan during the preceding  
12 calendar year.

13 (9) Information on the number of consumers referred to  
14 financial literacy counseling within the preceding calendar  
15 year.

16 (10) Any other information or data the department may  
17 require.

18 (c) Accounting records.--The licensee's accounting records  
19 shall be constructed and maintained in compliance with generally  
20 accepted accounting principles or as provided by department  
21 regulation.

22 (d) Copies.--If copies of instruments, documents, accounts,  
23 books or records are maintained under subsection (a)(2), they  
24 may be photostatic, microfilm or electronic copies or copies  
25 provided in some other manner approved by the department.

26 § 5137. Licensee limitations.

27 A licensee may not do any of the following:

28 (1) Transact any business under this chapter under any  
29 other name or names except those designated in its license. A  
30 licensee that changes its name or place or places of business

1 shall immediately notify the department. Upon notification, ←  
2 the department shall issue a certificate to the licensee, if  
3 appropriate, which shall specify the licensee's new name or  
4 address.

5 (2) Conduct a business other than the short-term loan  
6 business licensed by the department under this chapter  
7 without at least 30 days' prior written notification to and  
8 approval by the department.

9 § 5138. Surrender of license.

10 (a) Authorization.--Upon satisfying the department that all  
11 creditors of a licensee have been paid or that other  
12 arrangements satisfactory to the creditors and the department  
13 have been made, a licensee may voluntarily surrender its license  
14 to the department by delivering its license to the department ←  
15 with PROVIDING written notice that the license is being ←  
16 voluntarily ~~suspended~~ SURRENDERED. ←

17 (b) Effect.--Surrender under this section shall not affect  
18 the licensee's civil or criminal liability for acts committed.

19 § 5139. Authority of department.

20 (a) General authority.--The department has the following  
21 powers and duties:

22 (1) Examine any instrument, document, account, book,  
23 record or file of a licensee or any person having a  
24 connection to the licensee or make an investigation necessary  
25 to administer this chapter. The costs of the examination  
26 shall be borne by the licensee or the entity subject to the  
27 examination. Under the authority under this subsection, the  
28 department may remove any instrument, document, account,  
29 book, record or file of a licensee to a location outside of  
30 the licensee's office location.

1           (2) Conduct an administrative hearing on any matter  
2 pertaining to this chapter, issue subpoenas to compel the  
3 attendance of witnesses and the production of instruments,  
4 documents, accounts, books and records at the hearing.  
5 Subpoenaed material may be retained by the department until  
6 the completion of all proceedings in connection with the  
7 materials. A department official may administer oaths and  
8 affirmations to an individual whose testimony is required. If  
9 a person fails to comply with a subpoena issued by the  
10 department or to testify on a matter concerning which the  
11 person may be lawfully interrogated, on application by the  
12 department, the Commonwealth Court may issue an order  
13 requiring the attendance of the person, the production of  
14 instruments, documents, accounts, books or records or the  
15 giving of testimony.

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

22           (4) Require a person to pay the department's costs  
23 incurred while conducting an investigation of the person for  
24 purposes of issuance or renewal of a license or for any  
25 violation of this chapter.

26           (5) Promulgate regulations and statements of policy and  
27 issue orders as necessary for the proper conduct of the  
28 short-term loan business by ~~short term lenders~~ LICENSEES, the ←  
29 issuance and renewal of licenses and the enforcement of this  
30 chapter.

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

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

7           (8) Impose conditions as the department deems  
8 appropriate.

9           (b) Hearings.--A person aggrieved by a decision of the  
10 department may appeal the decision of the department to the  
11 Secretary of Banking. The appeal shall be conducted under 2  
12 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of  
13 Commonwealth agencies).

14           (c) Injunctions.--The department may maintain an action for  
15 an injunction or other process against a person to restrain the  
16 person from engaging in an activity violating this chapter.

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

22           (e) Appeals.--A person aggrieved by a decision of the  
23 Secretary of Banking may appeal the decision under 2 Pa.C.S. Ch.  
24 7 Subch. A (relating to judicial review of Commonwealth agency  
25 action).

26 § 5140. Suspension, revocation or refusal.

27           (a) Departmental action.--The department may suspend, revoke  
28 or refuse to renew a license issued under this chapter if any  
29 fact or condition exists or is discovered which, if it had  
30 existed or had been discovered at the time of filing of the

1 application for the license, would have warranted the department  
2 in refusing to issue the license or if a licensee or director,  
3 officer, partner, EMPLOYEE or owner of a licensee has:



4 (1) Made a material misstatement in any application,  
5 report or submission required by this chapter or any  
6 department regulation or order.

7 (2) Failed to comply with or violated this chapter or  
8 any regulation or order promulgated or issued under this  
9 chapter.

10 (3) Engaged in dishonest, fraudulent or illegal  
11 practices or conduct in a business or unfair or unethical  
12 practices or conduct in connection with the short-term loan  
13 business.

14 (4) Been convicted of or pled guilty or nolo contendere  
15 to a crime of moral turpitude or a felony.

16 (5) Permanently or temporarily been enjoined by a court  
17 of competent jurisdiction from engaging in or continuing  
18 conduct or a practice involving an aspect of the short-term  
19 loan business.

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

23 (7) Become the subject of a United States Postal Service  
24 fraud order.

25 (8) Become the subject of an order of the department  
26 denying, suspending or revoking a license under any other law  
27 administered by the department.

28 (9) Demonstrated negligence or incompetence in  
29 performing an act for which the licensee is required to hold  
30 a license under this chapter.

1       (10) Failed to comply with the requirements of this  
2 chapter to make and keep records prescribed by regulation or  
3 order of the department, to produce records required by the  
4 department or to file financial reports or other information  
5 that the department, by regulation or order, may require.

6       (11) Become insolvent. For purposes of this paragraph,  
7 the term "become insolvent" shall mean that the liabilities  
8 of the applicant or licensee exceed the assets of the  
9 applicant or licensee or that the applicant or licensee  
10 cannot meet the obligations of the applicant or licensee as  
11 they mature or is in a financial condition that the applicant  
12 or licensee cannot continue in business with safety to the  
13 customers of the applicant or licensee.

14       (12) Failed to comply with the terms of any agreement  
15 under which the department authorizes a licensee to maintain  
16 records at a place other than the licensee's principal place  
17 of business.

18       (b) Reinstatement.--The department may reinstate a license  
19 which was previously revoked or denied renewal if all of the  
20 following exist:

21       (1) The condition which warranted the original action  
22 has been corrected to the department's satisfaction.

23       (2) The department has reason to believe that the  
24 condition is not likely to occur again.

25       (3) The licensee satisfies all other requirements of  
26 this chapter.

27 § 5141. Penalties.

28       (a) Licensees.--A licensee and any director, officer, owner,  
29 partner, EMPLOYEE or agent of a licensee that violates this  
30 chapter or commits any action which would subject the licensee



1 to sanction under section 5140 (relating to suspension,  
2 revocation or refusal) may be fined by the department up to  
3 \$10,000 for each offense.

4 (b) Nonlicensees.--A person subject to this chapter and not  
5 licensed by the department that violates this chapter or commits  
6 an action which would subject a licensee to sanction under  
7 section 5140 may be fined by the department up to \$10,000 for  
8 each offense.

9 SUBCHAPTER D

10 MISCELLANEOUS PROVISIONS

11 Sec.

12 5151. Applicability.

13 5152. Preemption.

14 5153. Report to General Assembly.

15 § 5151. Applicability.

16 This chapter shall apply to a loan which:

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

18 (2) is negotiated, offered or otherwise transacted

19 within this Commonwealth or with any resident of this

20 Commonwealth, in whole or in part, whether by the ultimate

21 lender or any other person.

22 § 5152. Preemption.

23 (a) General rule.--Except as set forth in subsection (b),

24 all of the following apply:

25 (1) This chapter preempts ordinances, resolutions and  
26 regulations imposing reporting requirements, financial or  
27 lending activities or other obligations upon persons subject  
28 to this chapter.

29 (2) Political subdivisions are prohibited from enacting  
30 and enforcing ordinances, resolutions and regulations



1 expressly pertaining to the facilities of persons subject to  
2 this chapter.

3 (b) Exceptions.--A political subdivision may, under zoning  
4 ordinance, require a short-term lender to:

5 (1) locate within approved residential, industrial,  
6 commercial or other zones; and

7 (2) obtain a zoning permit, pay a zoning fee and undergo  
8 an inspection related to zoning.

9 § 5153. Report to General Assembly.

10 Three years from the effective date of this chapter and for ←  
11 three triennial periods after that date, the department shall  
12 report to the Secretary of the Senate and the Chief Clerk of the  
13 House of Representatives on the status of the short-term loan  
14 industry. The report shall include:

15 (1) The number of short-term lenders with active  
16 licenses issued by the department and the number of persons  
17 employed in this Commonwealth.

18 (2) A summary of the number of loans issued, the average  
19 loan amount and any other information as determined by the  
20 department.

21 (3) A compilation of aggregate data concerning the  
22 short-term lending industry in this Commonwealth as reported  
23 to the department under section 5136(b) (relating to licensee  
24 and compliance system provider requirements).

25 (4) Information on consumer complaints. This paragraph  
26 includes alleged or confirmed reports of unfair or deceptive  
27 trade practices and false, misleading or deceptive  
28 advertising.

29 (5) The effectiveness of the compliance system in  
30 providing real-time reporting of loan transactions,

1 verification of consumers' borrowing and repayment history,  
2 enrollment in extended payment plans and use of financial  
3 literacy programs.

4 ~~(6) Information on the effectiveness of a financial~~ ←  
5 ~~literacy counseling and education program.~~

6 ~~(7) Other information the department deems necessary and~~  
7 ~~appropriate.~~

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

10 § 4107. Deceptive or fraudulent business practices.

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

13 \* \* \*

14 (9.1) violates 7 Pa.C.S. § 5124 (relating to unfair or  
15 deceptive practices);

16 \* \* \*

17 Section 3. Title 18 is amended by adding a section to read:  
18 § 7332. Unlicensed short-term lending.

19 A person that operates without a license in violation of 7  
20 Pa.C.S. § 5111 (relating to license requirements) commits a  
21 felony of the third degree.

22 Section 4. This act shall take effect as follows:

23 (1) The following provisions of 7 Pa.C.S. shall take  
24 effect ~~upon the effective date of the regulations promulgated~~ ←  
25 ~~by the Department of Banking under 7 Pa.C.S. § 5139(a)(5)~~ 30 ←

26 DAYS AFTER PUBLICATION BY THE DEPARTMENT OF BANKING OF A  
27 NOTICE IN THE PENNSYLVANIA BULLETIN THAT THE COMPLIANCE  
28 SYSTEM DESCRIBED IN 7 PA.C.S. § 5115(F)(1) IS OPERATIONAL AND  
29 READY TO BEGIN RECEIVING THE INFORMATION REQUIRED TO BE  
30 PROVIDED TO THE COMPLIANCE SYSTEM BY LICENSEES UNDER 7

1 PA.C.S. § 5115(F) (2) :

2 (i) Section ~~5115(d)(2) and (e)(2)~~ 5115(E) (2) AND ←  
3 (F) (2) .

4 (ii) Section ~~5125(b)(3)~~ 5125(B) (4) . ←

5 (iii) Section 5126(a) (11) .

6 (2) This section shall take effect immediately.

7 (3) The remainder of this act shall take effect in 60  
8 days.