

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2191 Session of 2012

INTRODUCED BY ROSS, BEAR, BARBIN, BOYD, CHRISTIANA, CREIGHTON, DELOZIER, ELLIS, FARRY, GIBBONS, GINGRICH, GROVE, HARHAI, HARHART, HARRIS, HENNESSEY, HICKERNELL, KILLION, KOTIK, MARSICO, MILLARD, MILLER, MILNE, O'NEILL, SAINATO, SAYLOR, SCHRODER, STEPHENS, TAYLOR, TOEPEL, VEREB, VULAKOVICH, DENLINGER, CARROLL AND J. EVANS, MARCH 14, 2012

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 4, 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

17 SUBCHAPTER A

1                                   PRELIMINARY PROVISIONS

2 Sec.

3 5101. Scope of chapter.

4 5102. Definitions.

5 § 5101. Scope of chapter.

6     This chapter relates to consumer short-term loan protection.

7 § 5102. Definitions.

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

11     "Agency." The Pennsylvania Housing Finance Agency.

12     "Applicant." A person that applies for a license under this  
13 chapter.

14     "Check." A check as that term is defined in 13 Pa.C.S. §  
15 3104(f) (relating to negotiable instrument) which is drawn on a  
16 depository institution.

17     "Consumer." An individual who applies for or is the  
18 recipient of a short-term loan.

19     "Deferment period." The term of a loan or the number of days  
20 a licensee agrees to defer depositing or presenting a repayment  
21 mechanism, as the context may require.

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

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

25     "Gross monthly income." Wages or commissions received by a  
26 consumer in the 30-day period immediately preceding the date of  
27 the consumer's application for a loan or as otherwise determined  
28 by the Department of Banking.

29     "Licensee." A person licensed by the Department of Banking  
30 under this chapter.

1     "Loan." A short-term loan.

2     "Loan agreement." A signed written agreement between a  
3 licensee and a consumer.

4     "Person." An individual, association, joint venture or  
5 joint-stock company, partnership, limited liability company,  
6 limited partnership, limited partnership association, business  
7 corporation or any other group of individuals, however  
8 organized.

9     "Repayment mechanism." Any method agreed to by a consumer  
10 which a licensee may use to effect repayment of a loan,  
11 including a present-dated or postdated check, electronic debit  
12 or assignment of a future deposit.

13     "Short-term lender." A person who, as principal or agent,  
14 markets, negotiates, arranges, places, makes, services, holds or  
15 originates short-term loans for consumers for a fee, finance  
16 charge or other consideration. The term includes a short-term  
17 lender who acquires a short-term loan from another short-term  
18 lender by purchase or assignment.

19     "Short-term loan." A loan or advance of money or credit to a  
20 consumer by a short-term lender that, for a fee, finance charge  
21 or other consideration, does all of the following:

22         (1) Accepts a check or other repayment mechanism from  
23 the consumer.

24         (2) Agrees to hold the check or repayment mechanism for  
25 a deferment period.

26         (3) Pays to the consumer a cash advance, a locally  
27 cashable check, debit card or money order or credits to the  
28 consumer's account the amount of the check less finance  
29 charges permitted under section 5113 (relating to authorized  
30 finance charges and loan verification costs). The term

1 includes any arrangement in which a person pays a cash  
2 advance to a consumer in return for a repayment mechanism and  
3 a fee, finance charge or other consideration.

4 "Short-term loan business." A person is deemed to be engaged  
5 in the short-term loan business in this Commonwealth if that  
6 person, in the ordinary course of its business, advertises,  
7 causes to be advertised, solicits, negotiates or arranges,  
8 offers to make, makes, services or holds a short-term loan in  
9 this Commonwealth, whether directly or through any other person  
10 acting for his benefit.

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

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

14 (2) Any asset due from officers or stockholders of the  
15 applicant or related companies in which the applicant's  
16 officers or stockholders have an interest.

17 (3) That portion of the value of any marketable  
18 security, listed or unlisted, not shown at lower of either  
19 cost or market.

20 (4) Any investment shown on the applicant's balance  
21 sheet in the applicant's joint ventures, subsidiaries,  
22 affiliates or related companies which is greater than the  
23 value of the assets at equity.

24 (5) Goodwill.

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

28 (7) Organization costs of the applicant.

29 (8) Any real estate held for investment where  
30 development will not start within two years from the date of

1 its initial acquisition.

2 (9) Any leasehold improvements not being amortized over  
3 the lesser of the expected life of the asset or the remaining  
4 term of the lease.

5 SUBCHAPTER B

6 NATURE AND EFFECT OF SHORT-TERM LOANS

7 Sec.

8 5111. License requirements.

9 5112. Loan agreement requirements.

10 5113. Authorized finance charges and loan verification costs.

11 5114. Maximum amount of loans, terms of loans and right of  
12 rescission.

13 5115. Prohibitions.

14 5116. (Reserved).

15 5117. Form of loan proceeds.

16 5118. Endorsement of check.

17 5119. Redemption of repayment mechanism.

18 5120. Authorized charge for dishonored repayment mechanisms.

19 5121. Posting of charges and notice of mandatory extended  
20 payment plan.

21 5122. Notice of assignment or sale of loans.

22 5123. No criminal culpability.

23 5124. Unfair or deceptive practices.

24 5125. Extended payment plan.

25 5126. Prohibited practices regarding loans.

26 5127. Commonwealth Consumer Credit Counseling Account.

27 5128. Licensee duties with respect to military personnel.

28 5129. Licensee duty to offer credit counseling.

29 5129.1. ANTI-MONEY LAUNDERING REQUIREMENTS.

30 § 5111. License requirements.



1 (a) General rule.--No person may market, service, arrange,  
2 make, hold, originate, extend, contract or negotiate, whether  
3 electronically or by other means, a short-term loan to an  
4 individual who resides in this Commonwealth or, if the person  
5 has a place of business in this Commonwealth, to any individual  
6 regardless of his residence, without first obtaining a license  
7 from the department under this chapter and otherwise complying  
8 with all of the provisions of this chapter.

9 (b) Exemptions.--

10 (1) Except as provided under paragraph (2), this chapter  
11 shall not apply to depository institutions. To the extent  
12 permissible under Federal and State law, a depository  
13 institution may make short-term loans in accordance with the  
14 terms and interest rates, fees and charges authorized by this  
15 chapter, but shall not otherwise be subject to this chapter.

16 (2) A licensee that is an agent of a depository  
17 institution for the purpose of brokering short-term loans  
18 made by a depository institution shall be subject to all  
19 provisions of this chapter except those provisions related to  
20 finance charges and loan terms. This paragraph shall be  
21 limited to the brokering of short-term loans that are made  
22 and held by a depository institution.

23 § 5112. Loan agreement requirements.

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

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

27 (2) The transaction date and a prominently labeled  
28 transaction number.

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

30 (4) A statement of the total amount of finance charges

1 charged, expressed both as a dollar amount and an annual  
2 percentage rate.

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

5 (6) The name, address and telephone number of the  
6 licensee and the name and title of the individual employee  
7 who signs the loan agreement on behalf of the licensee.

8 (7) An itemization of the fees to be paid by the  
9 consumer.

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

14 (9) A clear description of the consumer's payment  
15 obligations under the loan and a clear description of the  
16 repayment mechanism agreed to by the licensee and the  
17 consumer.

18 (10) A clear description of the consumer's right to  
19 request an extended payment plan under section 5125 (relating  
20 to extended payment plan).

21 (11) Disclosure in boldface print and in at least ten-  
22 point type indicating the maximum loan amount and finance  
23 charge.

24 (12) Disclosure in boldface print and in at least ten-  
25 point type indicating the restrictions on multiple loans  
26 provided for under this chapter.

27 (13) Disclosure in boldface print and in at least ten-  
28 point type indicating the consumer's right of rescission  
29 under this chapter. The disclosure of the consumer's right of  
30 rescission shall be set forth immediately above the

1 consumer's signature line and shall state as follows:

2 This transaction is not meant to meet long-term financial  
3 needs and should be used only to meet short-term cash  
4 needs. You have the right to rescind this transaction at  
5 any time before the lender's close of business on the  
6 next business day after the transaction date shown above.  
7 In order to rescind, you must return all of the loan  
8 proceeds you received to the lender. The lender will  
9 refund to you all fees if you rescind this transaction.

10 (14) Any other information as the department may  
11 require.

12 (a.1) Deferment period.--A deferment period may not be less  
13 than 14 days or in excess of 60 days and shall include at least  
14 one regular installment of income for the consumer. The  
15 deferment period shall be calculated from the date of the loan  
16 agreement.

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

20 (1) A mandatory arbitration clause that does not comply  
21 with the standards set forth in the statement of principles  
22 of the National Consumer Disputes Advisory Committee of the  
23 American Arbitration Association in effect on the effective  
24 date of this section.

25 (2) A hold harmless clause for the benefit of the  
26 licensee.

27 (3) A confession of judgment clause.

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

30 § 5113. Authorized finance charges and loan verification costs.



1 (a) Authorized finance charges.--A licensee may impose a  
2 finance charge for each loan made by the licensee to a consumer  
3 which may not exceed .125¢ per \$1.00 of the short-term loan. The  
4 finance charge shall be deemed fully earned as of the date of  
5 the short-term loan transaction, unless the consumer rescinds  
6 the loan under section 5114(b) (relating to maximum amount of  
7 loans, terms of loans and right of rescission). A licensee may  
8 impose only fees and charges authorized under this chapter in  
9 connection with a short-term loan.

10 (b) Verification fee.--A licensee may charge and receive a  
11 verification fee in an amount not to exceed \$5 for a loan or a  
12 renewal made under this chapter. The verification fee shall be  
13 used in part to defray the costs of submitting a compliance  
14 system inquiry as provided under section 5115 (relating to  
15 prohibitions) and for the Commonwealth Consumer Credit  
16 Counseling Account under section 5127 (relating to Commonwealth  
17 Consumer Credit Counseling Account).

18 (c) Required remittance of fees.--

19 (1) A licensee shall remit all of the following monthly:

20 (i) Fifty cents per loan transaction to the  
21 Commonwealth Consumer Credit Counseling Account for the  
22 agency to pay for costs to provide consumer budget and  
23 credit counseling.

24 (ii) A fee up to fifty cents per loan transaction,  
25 as determined by the department, to a compliance system  
26 provider for the purpose of determining outstanding loans  
27 and repayment dates provided under section 5115.

28 (iii) One dollar and fifty cents per loan  
29 transaction, plus any difference in the fee determined by  
30 the department for the services of the compliance system

1 provider provided under section 5115(f)(1) (relating to  
2 prohibitions) and the amount established under  
3 subparagraph (ii) to the department.

4 (2) A licensee may not charge a consumer and shall not  
5 be required to remit to a compliance system provider any  
6 amounts related to the compliance system until the department  
7 has selected the compliance system provider as required under  
8 section 5115(f)(1). The fees required to be remitted under  
9 this subsection may be delivered to and disbursed by the  
10 compliance system provider, as determined by the department.

11 § 5114. Maximum amount of loans, terms of loans and right of  
12 rescission.

13 (a) General rule.--A licensee may not make a loan to a  
14 consumer in an amount that would result in the consumer having  
15 outstanding loans to one or more licensee in excess of the  
16 lesser of \$1,000 or 25% of the consumer's gross monthly income  
17 at any time. The licensee shall maintain records evidencing the  
18 consumer's gross monthly income as required under section  
19 5136(a)(2) (relating to licensee and compliance system provider  
20 requirements).

21 (a.1) Consumer report.--

22 (1) A short-term lender may request, at no cost to the  
23 consumer, a borrower's consumer report from a consumer  
24 reporting agency as part of the short-term lender's  
25 underwriting process.

26 (2) A short-term lender may rely on the consumer report:

27 (i) As a permissible method of verifying the  
28 borrower's monthly gross income in making the short-term  
29 loan.

30 (ii) In underwriting and making subsequent short-

1 term loans to the same customer if the report was  
2 obtained within the previous 12 months.

3 (3) As used in this subsection, the following words and  
4 phrases shall have the meanings given to them in this  
5 paragraph unless the context clearly indicates otherwise:

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

8 "Consumer reporting agency." As defined in 15 U.S.C. §  
9 1681a(f).

10 (b) Right to rescind.--

11 (1) A consumer may rescind a loan before the licensee's  
12 close of business on the next business day immediately  
13 following the day on which the loan proceeds were received by  
14 the consumer.

15 (2) In order to rescind a loan, a consumer shall notify  
16 the licensee of the consumer's desire to rescind the loan and  
17 return to the licensee, at the time of giving notice, the  
18 proceeds of the loan received by the consumer from the  
19 licensee under section 5117 (relating to form of loan  
20 proceeds).

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

23 (4) Upon rescission of a loan, the licensee shall return  
24 to the consumer any check given to the licensee in connection  
25 with the loan or shall agree in writing that any other  
26 repayment mechanism shall not be utilized.

27 (c) Completed transaction.--A loan transaction shall be  
28 completed when the licensee receives payment in full of the loan  
29 or the consumer redeems the repayment mechanism being held by  
30 the licensee by paying the full amount represented by the

1 repayment mechanism to the licensee. The consumer may repay a  
2 loan at any office of the original licensee or the assignee of  
3 the licensee at the consumer's election.

4 § 5115. Prohibitions.

5 (a) General rule.--A licensee shall not knowingly make a  
6 loan to a consumer who has an existing loan with the licensee  
7 or any other licensee if the aggregate amount of all loans  
8 outstanding to the consumer exceeds the maximum amount permitted  
9 under section 5114(a) (relating to maximum amount of loans,  
10 terms of loans and right of rescission) or who has entered into  
11 an extended payment plan under section 5125 (relating to  
12 extended payment plan) which has not yet been paid in full. A  
13 consumer may not have loans outstanding from more than two  
14 licensees at any one time.

15 (b) (Reserved).

16 (c) (Reserved).

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

19 (1) That the consumer does not have a loan outstanding  
20 from any licensee, the aggregate amount of all loans which  
21 exceeds the maximum loan amount permitted under section  
22 5114(a).

23 (2) That the consumer has not entered into an extended  
24 payment plan under section 5125 which has not yet been paid  
25 in full.

26 (3) The date of repayment of the consumer's last loan,  
27 if applicable.

28 (e) Confirmation.--A licensee shall confirm the accuracy of  
29 the verification required under subsection (d) by all of the  
30 following:

1           (1) A query of the licensee's own records.

2           (2) A query of the compliance system under subsection  
3           (f) (1).

4           (f) Procedure to determine outstanding loans and repayment  
5           dates.--

6           (1) The department shall engage a third-party provider  
7           capable of developing, implementing and maintaining a  
8           compliance system, at no cost to the department, with real  
9           time access for reporting of loan transactions and verifying  
10           the information required under subsection (a).

11           (2) Licensees shall report to the compliance system  
12           information determined by the department to be necessary to  
13           verify the number and amount of loans a consumer has  
14           outstanding with any licensee, the date of repayment of a  
15           consumer's last loan and if a consumer has entered into an  
16           extended payment plan.

17           (g) Prohibited location.--The location of a short-term loan  
18           business may not be within ~~100~~ 1,000 feet of any of the  
19           following:



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

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

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

29           § 5116. (Reserved).

30           § 5117. Form of loan proceeds.

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

5 (b) Prohibition.--A licensee may not impose a fee for  
6 cashing the licensee's check or money order or for otherwise  
7 effecting the disbursement of loan proceeds.

8 (c) Same day loan.--Upon repayment of a loan, a licensee may  
9 not make or offer a loan to the consumer on the same day that  
10 the consumer repays the loan.

11 § 5118. Endorsement of check.

12 A licensee may not negotiate or present a check for payment  
13 of a loan unless the instrument is endorsed with the actual  
14 business name or registered fictitious name of the licensee.

15 § 5119. Redemption of repayment mechanism.

16 Prior to the licensee's negotiating or presenting a  
17 consumer's check or utilizing any other repayment mechanism, the  
18 consumer shall have the right to redeem the check or any other  
19 repayment mechanism if the consumer pays the full amount of the  
20 check or other repayment mechanism to the licensee.

21 § 5120. Authorized charge for dishonored repayment mechanisms.

22 (a) General rule.--If a consumer's repayment mechanism is  
23 dishonored due to insufficient funds in the consumer's account,  
24 the licensee:

25 (1) Shall have the right to exercise all civil means  
26 authorized by law to collect the face value of the repayment  
27 mechanism.

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

30 (3) May not collect any other fees as a result of the

1 dishonor, including damages available under 42 Pa.C.S. § 8304  
2 (relating to damages in actions on bad checks).

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

5 (1) if the consumer does not receive the loan proceeds  
6 from the licensee for any reason; or

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

9 § 5121. Posting of charges and notice of mandatory extended  
10 payment plan.

11 (a) Posting of charges.--A licensee shall post, in large  
12 type in plain view of the public at any place of business where  
13 short-term loans are made, a notice of the finance charges and  
14 any related charges, such as the charge for dishonored repayment  
15 mechanisms, imposed for loans.

16 (b) Mandatory notice.--A licensee shall provide to each  
17 consumer at the time a loan agreement is signed, and  
18 conspicuously display in the lending area of each business  
19 location of the licensee, the following notice:

20 Notice: If you are unable to repay your loan, you are  
21 entitled to request an extended payment plan agreement  
22 with a fully disclosed rate, term and payment plan.

23 § 5122. Notice of assignment or sale of loans.

24 (a) General rule.--A licensee shall inform a consumer in  
25 writing immediately of the name, address and telephone number of  
26 the person to whom a loan is assigned or sold. A licensee may  
27 only assign or sell a loan to another licensee or to a  
28 depository institution.

29 (b) Notice.--Prior to the assignment or sale of a loan, a  
30 licensee shall provide the following notice to the buyer or

1 assignee:

2 The repayment mechanism associated with this loan has  
3 been given by a consumer to secure a short-term loan  
4 transaction under Pennsylvania State law and the assignee  
5 or buyer is deemed to have knowledge of and shall be  
6 bound by the terms and conditions of the loan agreement  
7 between the consumer and the original lender.

8 § 5123. No criminal culpability.

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

10 (1) For entering into a loan agreement.

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

18 § 5124. Unfair or deceptive practices.

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

24 § 5125. Extended payment plan.

25 (a) General rule.--A consumer shall be entitled to an  
26 extended payment plan agreement under subsection (b) at least  
27 once per year if at any time on or before the loan's due date  
28 the consumer declares an inability to repay.

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



1       (1) The principal balance due under the extended payment  
2 plan shall be the outstanding principal balance and finance  
3 charge due under the existing loan. The licensee may  
4 encourage, but shall not require, the consumer to reduce the  
5 balance of the existing loan by paying the licensee cash on  
6 the date the consumer enters into the extended payment plan  
7 agreement.

8       (2) The licensee may not impose a finance charge for  
9 entering into the extended payment plan. The licensee may  
10 impose only the fees and charges authorized in section 5120  
11 (relating to authorized charge for dishonored repayment  
12 mechanisms) in connection with an extended payment plan.

13       (3) The extended payment plan agreement shall allow the  
14 consumer to pay the sums due under the extended payment plan  
15 over at least four 14-day installments. Each installment  
16 shall be in an amount arrived at by dividing the total amount  
17 outstanding under paragraph (1) to a licensee by the number  
18 of 14-day installments of the extended payment plan. If the  
19 consumer has loans outstanding to two licensees and is unable  
20 to pay both loans, the consumer shall enter into an extended  
21 payment plan with each licensee. A consumer may, at any time,  
22 partially or entirely pay off an extended payment plan.

23       (4) A licensee shall report to the compliance system  
24 described in section 5115 (relating to prohibitions) that the  
25 consumer is enrolled in an extended payment plan.

26       (5) Except when the consumer is required to enter into  
27 an extended payment plan under the provisions of this  
28 chapter, the consumer shall have the same right to rescind an  
29 extended payment plan as is provided in section 5114(b)  
30 (relating to maximum amount of loans, terms of loans and

1 right of rescission) for the rescission of a loan.

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

4 (1) Have obtained a loan from the same licensee, or its  
5 assignee, that will enter into the extended payment plan.

6 (2) Request an extended payment plan prior to or on the  
7 due date of the loan.

8 (3) Reasonably inform the licensee, either orally or in  
9 writing, that the consumer requests an extended payment plan.

10 (d) Prohibition.--During any period in which all or part of  
11 an extended payment plan is outstanding and during the seven-day  
12 period following a consumer's payment in full of an extended  
13 payment plan, no licensee may make or offer to make a short-term  
14 loan to the consumer.

15 § 5126. Prohibited practices regarding loans.

16 (a) Practices.--The following are prohibited regarding  
17 loans:

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

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

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

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

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

29 (6) Engaging in any device or subterfuge to evade the  
30 requirements of this chapter, including making loans

1 disguised as personal property sales and leaseback  
2 transactions or disguising loan proceeds as cash rebates for  
3 the pretextual installment sale of goods and services.

4 (7) Failing to collect and provide information regarding  
5 the number, total and average transaction amounts and other  
6 information the department may request.

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

11 (9) Altering or deleting the date on any loan agreement  
12 or repayment mechanism held by the licensee.

13 (10) Rolling over, refinancing, extending or  
14 consolidating short-term loans except as provided in section  
15 5125 (relating to extended payment plan).

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

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

21 (13) Depositing a check or otherwise implementing any  
22 repayment mechanism prior to the expiration of the agreed-  
23 upon deferment period.

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

27 § 5127. Commonwealth Consumer Credit Counseling Account.

28 (a) Establishment.--There is established within the agency a  
29 restricted account to be known as the Commonwealth Consumer  
30 Credit Counseling Account. Funds collected under section 5113(c)

1 (relating to authorized finance charges, origination fees and  
2 loan verification costs) shall be deposited into the account.

3 (b) Designation and approval by the agency.--

4 (1) The agency shall designate and approve nonprofit  
5 credit counseling agencies to be available to assist the  
6 agency in implementing the provisions of this chapter related  
7 to consumer credit counseling. Nonprofit credit counseling  
8 agencies seeking to provide budget and credit counseling to  
9 consumers must meet all requirements prescribed by the  
10 agency.

11 (2) The agency shall maintain an up-to-date list of  
12 approved nonprofit credit counseling agencies by county and  
13 publish the list on the agency's publicly accessible Internet  
14 website.

15 (3) The agency shall allocate quarterly, at its  
16 discretion, funds to approved nonprofit credit counseling  
17 agencies from the account.

18 (4) The agency shall pay all costs and expenses for  
19 delivery of consumer credit counseling from amounts available  
20 in the account.

21 § 5128. Licensee duties with respect to military personnel.

22 (a) Collection activity.--A licensee shall defer collection  
23 activity against:

24 (1) a consumer who is a member of the military that has  
25 been deployed to combat or a combat support posting, for the  
26 duration of the posting; or

27 (2) a reserve or National Guard member called to active  
28 duty.

29 (b) Military personnel.--A licensee shall not contact the  
30 military chain of command of a consumer who is a member of the

1 military in an effort to collect a loan.

2 (c) Repayment agreement.--A licensee shall honor the terms  
3 of any repayment agreement that it has entered into with a  
4 consumer who is a member of the military, including any  
5 repayment agreement negotiated through military counselors or  
6 third-party credit counselors.

7 (d) Compliance with Federal law.--All licensees must comply  
8 with any Federal statutes and provisions regarding military  
9 personnel and their dependents.

10 § 5129. Licensee duty to offer credit counseling.

11 (a) General rule.--A licensee shall offer credit counseling  
12 at no cost to a borrower from an unaffiliated not-for-profit  
13 third party credit counselor approved by the agency to provide  
14 credit counseling prior to executing a loan agreement with a  
15 borrower.

16 (b) Borrower acknowledgment.--The licensee shall have the  
17 borrower acknowledge the licensee's offer of no-cost credit  
18 counseling on a form prescribed by the department, which shall  
19 include the following notice:

20 You are entitled to no-cost credit counseling in connection  
21 with obtaining this short-term loan. This loan is not meant  
22 to meet long-term financial needs and should be used only to  
23 meet short-term cash needs. Taking advantage of this no-cost  
24 credit counseling could help you avoid the need to seek this  
25 kind of loan in the future.

26 § 5129.1. ANTI-MONEY LAUNDERING REQUIREMENTS.

27 A PERSON LICENSED BY THE DEPARTMENT UNDER THIS ACT SHALL:

28 (1) COMPLY WITH ALL FEDERAL AND STATE STATUTES AND RULES  
29 RELATING TO THE DETECTION AND PREVENTION OF MONEY LAUNDERING,  
30 INCLUDING 31 CFR §§ 103.20 (RELATING TO REPORTS BY MONEY



1 SERVICES BUSINESSES OF SUSPICIOUS TRANSACTIONS), 103.22  
2 (RELATING TO REPORTS OF TRANSACTIONS IN CURRENCY), 103.23  
3 (RELATING TO REPORTS OF TRANSPORTATION OF CURRENCY OR  
4 MONETARY INSTRUMENTS), 103.27 (RELATING TO FILING OF  
5 REPORTS), 103.28 (RELATING TO IDENTIFICATION REQUIRED),  
6 103.29 (RELATING TO PURCHASES OF BANK CHECKS AND DRAFTS,  
7 CASHIER'S CHECKS, MONEY ORDERS AND TRAVELER'S CHECKS), 103.33  
8 (RELATING TO RECORDS TO BE MADE AND RETAINED BY FINANCIAL  
9 INSTITUTIONS), 103.37 (RELATING TO ADDITIONAL RECORDS TO BE  
10 MADE AND RETAINED BY CURRENCY DEALERS OR EXCHANGERS) AND  
11 103.41 (RELATING TO REGISTRATION OF MONEY SERVICES  
12 BUSINESSES).

13 (2) MAINTAIN AN ANTI-MONEY LAUNDERING PROGRAM IN  
14 ACCORDANCE WITH 31 CFR § 103.125 (RELATING TO ANTI-MONEY  
15 LAUNDERING PROGRAMS FOR MONEY SERVICES BUSINESSES). THE  
16 PROGRAM MUST BE REVIEWED AND UPDATED AS NECESSARY TO ENSURE  
17 THAT IT CONTINUES TO BE EFFECTIVE IN DETECTING AND DETERRING  
18 MONEY LAUNDERING ACTIVITIES IN THE LICENSEE'S SHORT-TERM LOAN  
19 BUSINESS.

20 (3) COMPLY WITH UNITED STATES TREASURY INTERPRETIVE  
21 RELEASE 2004-1.

## SUBCHAPTER C

### ADMINISTRATIVE AND LICENSURE PROVISIONS

24 Sec.

25 5131. Application for license.

26 5132. Annual license fee.

27 5133. (Reserved).

28 5134. Issuance of license.

29 5135. License duration.

30 5136. Licensee and compliance system provider requirements.

1 5137. Licensee limitations.

2 5138. Surrender of license.

3 5139. Authority of department.

4 5140. Suspension, revocation or refusal.

5 ~~5141. Penalties.~~

6 5141. WHISTLEBLOWER PROTECTION.

7 5142. PENALTIES.

8 § 5131. Application for license.

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

21 (b) Duty to update.--All applicants and licensees shall be  
22 required to provide the department with written notice of the  
23 change in any information contained in an application for a  
24 license or for any renewal of a license within ten days of the  
25 applicant or licensee becoming aware of such change.

26 (c) Financial structure.--

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

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

30 (ii) will at all times maintain the minimum tangible

1 net worth required by subparagraph (i); and

2 (iii) has an otherwise adequate financial structure.

3 (2) Prior to and as a condition of the issuance of a  
4 license, an applicant for a license shall maintain a bond in  
5 the amount of \$100,000 in a form acceptable to the department  
6 from a surety company authorized to do business in this  
7 Commonwealth. The bond shall be a penal bond conditioned on  
8 compliance by the licensee with this chapter and subject to  
9 forfeiture and shall run to the Commonwealth for its use and  
10 shall be held by the department for the term of the license.  
11 The bond shall also be for the use of any consumer against  
12 the licensee for failure to carry out the terms of any loan  
13 or extended payment plan. If a consumer is aggrieved, he may,  
14 with the written consent of the department, recover the  
15 amount by which the consumer is aggrieved from the bond by  
16 filing a claim with the surety company or maintaining an  
17 action on the bond. In the alternative, an aggrieved consumer  
18 may recover the amount by which the consumer is aggrieved by  
19 filing a formal complaint against the licensee with the  
20 department, which shall adjudicate the matter. Such an  
21 adjudication shall be binding upon the surety company and  
22 enforceable by the department in Commonwealth Court and by an  
23 aggrieved consumer in any court. An aggrieved consumer  
24 seeking to recover any amount from a bond that has already  
25 been forfeited by the licensee or which the department is in  
26 the process of having forfeited may recover payment on such  
27 bond if, after filing a petition with the department, the  
28 department consents to the requested payment or portion  
29 thereof. The department may pay the aggrieved consumer from  
30 the bond proceeds recovered by the department in such case.



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

19 (d) License renewals.--Licenses shall be issued for terms of  
20 not more than 14 months and may be renewed by the department  
21 upon application by the licensee and the payment of any and all  
22 applicable renewal fees. A licensee shall comply with the same  
23 requirements for renewal of its license as it did for the  
24 issuance of the original license.

25 § 5132. Annual license fee.

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

1 (b) Recovery of costs.--No abatement of a license fee shall  
2 be made if the license is issued for a period of less than one  
3 year. The department shall be entitled to recover any cost of  
4 investigation in excess of license or renewal fees from the  
5 licensee or from a person who is not licensed under this chapter  
6 but who is believed to be engaged in the short-term loan  
7 business.

8 § 5133. (Reserved).

9 § 5134. Issuance of license.

10 (a) Time limit.--Upon receipt of an application for a  
11 license, the department may conduct such investigation as it  
12 deems necessary to determine that the applicant and its  
13 officers, directors and principals are of good character and  
14 ethical reputation. Within 60 days of receipt of a completed  
15 application, the department shall:

16 (1) issue a license; or

17 (2) refuse to issue a license for any reason which the  
18 department may refuse to issue a license under this section  
19 or for which the department may suspend, revoke or refuse to  
20 renew a license under section 5140 (relating to suspension,  
21 revocation or refusal).

22 (b) Appeal of denial.--If the department refuses to issue a  
23 license, it shall notify the applicant in writing of the denial,  
24 the reason therefor and the applicant's right to appeal the  
25 denial to the Secretary of Banking. The department shall require  
26 that an appeal from refusal to approve an application for a  
27 license be filed by the applicant within 30 days of notice of  
28 refusal.

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

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

3           (2) The licensee's reference number.

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

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

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

16           (i) enters a guilty plea or plea of nolo contendere  
17 to a criminal charge before a Federal magistrate or a  
18 court, unless the guilty plea or plea of nolo contendere  
19 is set aside, vacated, reversed or otherwise abrogated by  
20 lawful judicial process; or

21           (ii) is found guilty by the verdict of a jury or the  
22 decision or judgment of a Federal magistrate or court,  
23 irrespective of pronouncement or suspension of sentence,  
24 unless the decision or judgment is set aside, vacated,  
25 reversed or otherwise abrogated by lawful judicial  
26 process.

27           (2) A license under this chapter shall be deemed to be a  
28 "covered license" within the meaning of section 405 of the  
29 act of May 15, 1933 (P.L.565, No.111), known as the  
30 Department of Banking Code. The department shall notify a

1 licensee if a covered individual who is or will be employed  
2 or contracted by the licensee has a criminal background that  
3 renders the employee unfit for employment in the short-term  
4 loan business.

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

9 (1) has had a license application or license issued by  
10 the department or another state business licensing agency  
11 denied, not renewed, suspended or revoked;

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

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

15 (4) has an outstanding debt to the Commonwealth or any  
16 Commonwealth agency; or

17 (5) does not possess the financial responsibility,  
18 character, reputation, integrity and general fitness to  
19 command the confidence of the public and to warrant the  
20 belief that the short-term loan business will be operated  
21 lawfully, honestly, fairly and within the legislative intent  
22 of this chapter and in accordance with the general laws of  
23 this Commonwealth. For purposes of this paragraph, an  
24 applicant is not financially responsible if the applicant has  
25 shown a disregard in the management of his or her own  
26 financial condition. The factors that the department may  
27 consider in making a determination regarding an applicant's  
28 financial responsibility shall include:

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

1           (ii) Current outstanding tax liens or other  
2           government liens and filings.

3           (iii) Foreclosures within the past three years.

4           (iv) A pattern of seriously delinquent accounts  
5           within the past three years.

6 § 5135. License duration.

7           A license issued by the department:

8           (1) Must be renewed on the license's renewal date of  
9           each year upon payment of the annual renewal fee and after  
10           the department determines that the licensee is conducting  
11           business in accordance with this chapter. No refund of any  
12           portion of the license fee shall be made if the license is  
13           voluntarily surrendered to the department or suspended or  
14           revoked by the department prior to its expiration date.

15           (2) Shall be invalid if the licensee's authority to  
16           conduct business is voided under any law of this Commonwealth  
17           or any other state unless the licensee demonstrates that the  
18           applicable court or governmental entity was clearly erroneous  
19           in voiding the licensee's authority to conduct business.

20           (3) Is not assignable or transferable by operation of  
21           law or otherwise.

22 § 5136. Licensee and compliance system provider requirements.

23           (a) Requirements of a licensee.--A licensee shall do all of  
24           the following:

25           (1) Maintain at its principal place of business within  
26           this Commonwealth, or at a place outside this Commonwealth if  
27           agreed to by the department, the original, a copy or  
28           electronic access to books, accounts, records and documents  
29           of the business conducted under the license as prescribed by  
30           the department to enable the department to determine whether

1 the business of the licensee is being conducted in accordance  
2 with this chapter and the orders, regulations and statements  
3 of policy issued under this chapter. Instruments, documents,  
4 accounts, books and records shall be kept separate and apart  
5 from the records of any other business conducted by the  
6 licensee and shall be preserved and kept available for  
7 investigation or examination by the department for a period  
8 determined by the department. The department shall have free  
9 access to and authorization to examine records maintained  
10 outside this Commonwealth. The costs of the examination,  
11 including travel costs, shall be borne by the licensee. The  
12 department may deny or revoke the authority to maintain  
13 records outside this Commonwealth for good cause in the  
14 interest of protection for Commonwealth consumers, including  
15 for the licensee's failure to provide books, accounts,  
16 records or documents to the department upon request.

17 (2) Be subject to examination by the department. The  
18 department may examine a licensee if the department deems the  
19 examination to be necessary or desirable. The cost of the  
20 examination shall be borne by the licensee. During an  
21 examination, the department shall have free access, during  
22 regular business hours, to the licensee's place or places of  
23 business in this Commonwealth and to all instruments,  
24 documents, accounts, books and records which pertain to a  
25 licensee's short-term loan business, whether maintained in or  
26 outside this Commonwealth.

27 (3) Include in all advertisements language indicating  
28 that the licensee is licensed by the department.

29 (b) Requirements of compliance system provider.--Annually,  
30 on a date determined by the department, the compliance system

1 provider shall file a report with the department setting forth  
2 the information the department requires concerning the short-  
3 term loan business conducted by each licensee during the  
4 preceding calendar year. The report must be in writing and  
5 subject to penalty of perjury on a form provided by the  
6 department. If the compliance system provider fails to file the  
7 required report in a timely manner, it shall be subject to a  
8 penalty of \$500 for each day after the report is due until the  
9 report is filed. The report shall include:

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

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

14 (3) The average annual percentage rate and the average  
15 term of short-term loans made during the preceding calendar  
16 year.

17 (4) The total number of returned checks, the total of  
18 checks recovered and the total of checks charged off during  
19 the preceding calendar year.

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

24 (6) The total number of consumer complaints.

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

27 (8) Verification that the licensee has not used the  
28 criminal process or caused the criminal process to be used in  
29 the collection of any short-term loan during the preceding  
30 calendar year.

1           (9) Information on the number of consumers referred to  
2 financial literacy counseling within the preceding calendar  
3 year.

4           (10) Any other information or data the department may  
5 require.

6           (c) Accounting records.--The licensee's accounting records  
7 shall be constructed and maintained in compliance with generally  
8 accepted accounting principles or as provided by department  
9 regulation.

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

14          (E) BACKGROUND CHECKS.--THE DEPARTMENT SHALL REQUIRE A  
15 CRIMINAL BACKGROUND CHECK FOR ALL COMPLIANCE SYSTEM PROVIDERS.  
16 § 5137. Licensee limitations.

17          A licensee may not do any of the following:

18           (1) Transact any business under this chapter under any  
19 other name or names except those designated in its license. A  
20 licensee that changes its name or place or places of business  
21 shall immediately notify the department.

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

26 § 5138. Surrender of license.

27          (a) Authorization.--Upon satisfying the department that all  
28 creditors of a licensee have been paid or that other  
29 arrangements satisfactory to the creditors and the department  
30 have been made, a licensee may voluntarily surrender its license



1 to the department by providing written notice that the license  
2 is being voluntarily surrendered.

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

5 § 5139. Authority of department.

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

8 (1) Examine any instrument, document, account, book,  
9 record or file of a licensee or any person having a  
10 connection to the licensee or make an investigation necessary  
11 to administer this chapter. The costs of the examination  
12 shall be borne by the licensee or the entity subject to the  
13 examination. Under the authority under this subsection, the  
14 department may remove any instrument, document, account,  
15 book, record or file of a licensee to a location outside of  
16 the licensee's office location.

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

1 giving of testimony.

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

8 (4) Require a person to pay the department's costs  
9 incurred while conducting an investigation of the person for  
10 purposes of issuance or renewal of a license or for any  
11 violation of this chapter.

12 (5) Promulgate regulations and statements of policy and  
13 issue orders as necessary for the proper conduct of the  
14 short-term loan business by licensees, the issuance and  
15 renewal of licenses and the enforcement of this chapter.

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

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

22 (8) Impose conditions as the department deems  
23 appropriate.

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

29 (c) Injunctions.--The department may maintain an action for  
30 an injunction or other process against a person to restrain the

1 person from engaging in an activity violating this chapter.

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

7 (e) Appeals.--A person aggrieved by a decision of the  
8 Secretary of Banking may appeal the decision under 2 Pa.C.S. Ch.  
9 7 Subch. A (relating to judicial review of Commonwealth agency  
10 action).

11 § 5140. Suspension, revocation or refusal.

12 (a) Departmental action.--The department may suspend, revoke  
13 or refuse to renew a license issued under this chapter if any  
14 fact or condition exists or is discovered which, if it had  
15 existed or had been discovered at the time of filing of the  
16 application for the license, would have warranted the department  
17 in refusing to issue the license or if a licensee or director,  
18 officer, partner, employee or owner of a licensee has:

19 (1) Made a material misstatement in any application,  
20 report or submission required by this chapter or any  
21 department regulation or order.

22 (2) Failed to comply with or violated this chapter or  
23 any regulation or order promulgated or issued under this  
24 chapter.

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

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

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

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

8       (7) Become the subject of a United States Postal Service  
9 fraud order.

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

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

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

21       (11) Become insolvent. For purposes of this paragraph,  
22 the term "become insolvent" shall mean that the liabilities  
23 of the applicant or licensee exceed the assets of the  
24 applicant or licensee or that the applicant or licensee  
25 cannot meet the obligations of the applicant or licensee as  
26 they mature or is in a financial condition that the applicant  
27 or licensee cannot continue in business with safety to the  
28 customers of the applicant or licensee.

29       (12) Failed to comply with the terms of any agreement  
30 under which the department authorizes a licensee to maintain

1 records at a place other than the licensee's principal place  
2 of business.

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

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

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

10 (3) The licensee satisfies all other requirements of  
11 this chapter.

12 § 5141. WHISTLEBLOWER PROTECTION.

13 (A) ADVERSE ACTION PROHIBITED.--NO EMPLOYER MAY DISCHARGE,  
14 THREATEN OR OTHERWISE DISCRIMINATE OR RETALIATE AGAINST AN  
15 EMPLOYEE REGARDING THE EMPLOYEE'S COMPENSATION, TERMS,  
16 CONDITIONS, LOCATION OR PRIVILEGES OF EMPLOYMENT BECAUSE THE  
17 EMPLOYEE MAKES A GOOD FAITH REPORT OR IS ABOUT TO REPORT,  
18 VERBALLY OR IN WRITING, TO THE EMPLOYER OR APPROPRIATE AUTHORITY  
19 AN INSTANCE OF WRONGDOING UNDER SECTION 5128 (RELATING TO  
20 LICENSEE DUTIES WITH RESPECT TO MILITARY PERSONNEL) OR ANY OTHER  
21 VIOLATION OF THIS CHAPTER.

22 (B) REMEDIES.--THE REMEDIES, PENALTIES AND ENFORCEMENT  
23 PROCEDURES FOR VIOLATIONS OF THIS SECTION SHALL BE AS PROVIDED  
24 IN THE ACT OF DECEMBER 12, 1986 (P.L.1559, NO.169), KNOWN AS THE  
25 WHISTLEBLOWER LAW.

26 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
27 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
28 SUBSECTION:

29 "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL  
30 GOVERNMENT BODY, AGENCY OR ORGANIZATION HAVING JURISDICTION OVER

1 CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS, PROFESSIONAL  
2 CONDUCT OR ETHICS, OR WASTE; OR A MEMBER, OFFICER, AGENT,  
3 REPRESENTATIVE OR SUPERVISORY EMPLOYEE OF THE BODY, AGENCY OR  
4 ORGANIZATION. THE TERM INCLUDES, BUT IS NOT LIMITED TO, THE  
5 OFFICE OF ATTORNEY GENERAL, THE DEPARTMENT OF THE AUDITOR  
6 GENERAL, THE TREASURY DEPARTMENT, THE GENERAL ASSEMBLY AND  
7 COMMITTEES OF THE GENERAL ASSEMBLY HAVING THE POWER AND DUTY TO  
8 INVESTIGATE CRIMINAL LAW ENFORCEMENT, REGULATORY VIOLATIONS,  
9 PROFESSIONAL CONDUCT OR ETHICS OR WASTE.

10 "EMPLOYEE." A PERSON WHO WORKS FOR A LICENSEE.

11 "EMPLOYER." A LICENSEE.

12 "GOOD FAITH REPORT." A REPORT OF CONDUCT THAT ALLEGES  
13 WRONGDOING OR WASTE WHICH IS MADE BY A PERSON WITHOUT MALICE OR  
14 CONSIDERATION OF PERSONAL BENEFIT AND WHICH THE PERSON HAS  
15 REASONABLE CAUSE TO BELIEVE IS TRUE.

16 "PUBLIC BODY." ALL OF THE FOLLOWING:

17 (1) A STATE OFFICER, AGENCY, DEPARTMENT, DIVISION,  
18 BUREAU, BOARD, COMMISSION, COUNCIL, AUTHORITY OR OTHER BODY  
19 IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT.

20 (2) A COUNTY, CITY, TOWNSHIP, REGIONAL GOVERNING BODY,  
21 COUNCIL, SCHOOL DISTRICT, SPECIAL DISTRICT OR MUNICIPAL  
22 CORPORATION, OR A BOARD, DEPARTMENT, COMMISSION, COUNCIL OR  
23 AGENCY.

24 (3) ANY OTHER BODY WHICH IS CREATED BY THE COMMONWEALTH  
25 OR A POLITICAL SUBDIVISION AUTHORITY OR WHICH IS FUNDED IN  
26 ANY AMOUNT BY OR THROUGH COMMONWEALTH OR POLITICAL  
27 SUBDIVISION AUTHORITY OR A MEMBER OR EMPLOYEE OF THAT BODY.

28 "WHISTLEBLOWER." A PERSON WHO WITNESSES OR HAS EVIDENCE OF  
29 WRONGDOING OR WASTE WHILE EMPLOYED AND WHO MAKES A GOOD FAITH  
30 REPORT OF THE WRONGDOING OR WASTE, VERBALLY OR IN WRITING, TO

1 ONE OF THE PERSON'S SUPERIORS, TO AN AGENT OF THE EMPLOYER OR TO  
2 AN APPROPRIATE AUTHORITY.

3 "WRONGDOING." A VIOLATION WHICH IS NOT OF A MERELY TECHNICAL  
4 OR MINIMAL NATURE OF A FEDERAL OR STATE STATUTE OR REGULATION,  
5 OF A POLITICAL SUBDIVISION ORDINANCE OR REGULATION OR OF A CODE  
6 OF CONDUCT OR ETHICS DESIGNED TO PROTECT THE INTEREST OF THE  
7 PUBLIC OR THE EMPLOYER.

8 § ~~5141~~ 5142. Penalties.



9 (a) Licensees.--A licensee and any director, officer, owner,  
10 partner, employee or agent of a licensee that violates this  
11 chapter or commits any action which would subject the licensee  
12 to sanction under section 5140 (relating to suspension,  
13 revocation or refusal) may be fined by the department up to  
14 \$10,000 for each offense.

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

20 SUBCHAPTER D

21 MISCELLANEOUS PROVISIONS

22 Sec.

23 5151. Applicability.

24 5152. Preemption.

25 5153. Report to General Assembly.

26 § 5151. Applicability.

27 This chapter shall apply to a loan which:

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

29 (2) is negotiated, offered or otherwise transacted

30 within this Commonwealth or with any resident of this

1 Commonwealth, in whole or in part, whether by the ultimate  
2 lender or any other person.

3 § 5152. Preemption.

4 (a) General rule.--Except as set forth in subsection (b),  
5 all of the following apply:

6 (1) This chapter preempts ordinances, resolutions and  
7 regulations imposing reporting requirements, financial or  
8 lending activities or other obligations upon persons subject  
9 to this chapter.

10 (2) Political subdivisions are prohibited from enacting  
11 and enforcing ordinances, resolutions and regulations  
12 expressly pertaining to the facilities of persons subject to  
13 this chapter.

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

16 (1) locate within approved residential, industrial,  
17 commercial or other zones; and

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

20 § 5153. Report to General Assembly.

21 ~~Three years~~ ONE YEAR from the effective date of this chapter, ←  
22 AND ANNUALLY THEREAFTER, the department shall report to the  
23 Secretary of the Senate and the Chief Clerk of the House of  
24 Representatives on the status of the short-term loan industry.

25 The report shall include:

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

29 (2) A summary of the number of loans issued, the average  
30 loan amount and any other information as determined by the



1 department.

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

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

10 (5) The effectiveness of the compliance system in  
11 providing real-time reporting of loan transactions,  
12 verification of consumers' borrowing and repayment history,  
13 enrollment in extended payment plans and use of financial  
14 literacy programs.

15 (6) INFORMATION ON THE EFFECTIVENESS OF CREDIT  
16 COUNSELING PURSUANT TO SECTION 5129 (RELATING TO LICENSEE  
17 DUTY TO OFFER CREDIT COUNSELING), INCLUDING ALL OF THE  
18 FOLLOWING:

19 (I) IDENTIFICATION BY NAME AND ADDRESS OF THIRD-  
20 PARTY CREDIT COUNSELORS APPROVED BY THE AGENCY.

21 (II) THE GEOGRAPHIC LOCATIONS IN THIS COMMONWEALTH  
22 WHERE CREDIT COUNSELING IS AVAILABLE TO CONSUMERS.

23 (III) INFORMATION ON THE NUMBER OF CONSUMERS WHO  
24 PARTICIPATED IN CREDIT COUNSELING, INCLUDING DEMOGRAPHIC  
25 DATA ASSOCIATED WITH SUCH CONSUMERS.

26 (IV) INFORMATION ON THE INSTRUCTIONAL FORMAT USED BY  
27 THIRD-PARTY CREDIT COUNSELORS TO PROVIDE FINANCIAL AND  
28 EDUCATIONAL CREDIT COUNSELING.

29 (V) NUMBER OF PARTICIPATING THIRD-PARTY CERTIFIED  
30 CREDIT COUNSELORS.



1           (VI) IDENTIFICATION BY LICENSEE OF THE CONSUMERS WHO  
2           PARTICIPATED IN CREDIT COUNSELING.

3           (7) Other information the department deems necessary and ←  
4           appropriate.

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

7 § 4107. Deceptive or fraudulent business practices.

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

10           \* \* \*

11           (9.1) violates 7 Pa.C.S. § 5124 (relating to unfair or  
12           deceptive practices);

13           \* \* \*

14           Section 3. Title 18 is amended by adding a section to read:  
15 § 7332. Unlicensed short-term lending.

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

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

20           (1) The following provisions of 7 Pa.C.S. shall take  
21 effect 30 days after publication by the Department of Banking  
22 of a notice in the Pennsylvania Bulletin that the Compliance  
23 System described in 7 Pa.C.S. § 5115(f) (1) is operational and  
24 ready to begin receiving the information required to be  
25 provided to the Compliance System by licensees under 7  
26 Pa.C.S. § 5115(f) (2):

27           (i) Section 5115(e) (2) and (f) (2).

28           (ii) Section 5125(b) (4).

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

30           (2) This section shall take effect immediately.

1           (3) The remainder of this act shall take effect in 60  
2    days.