

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

1 under this chapter.

2 "Loan." A short-term loan.

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

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

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

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

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

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

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

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

1 finance charges and loan verification costs). The term
2 includes any arrangement in which a person pays a cash
3 advance to a consumer in return for a repayment mechanism and
4 a fee, finance charge or other consideration.

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

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

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

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

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

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

25 (5) Goodwill.

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

29 (7) Organization costs of the applicant.

30 (8) Any real estate held for investment where

1 development will not start within two years from the date of
2 its initial acquisition.

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

6 SUBCHAPTER B

7 NATURE AND EFFECT OF SHORT-TERM LOANS

8 Sec.

9 5111. License requirements.

10 5112. Loan agreement requirements.

11 5113. Authorized finance charges and loan verification costs.

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

14 5115. Prohibitions.

15 5116. (Reserved).

16 5117. Form of loan proceeds.

17 5118. Endorsement of check.

18 5119. Redemption of repayment mechanism.

19 5120. Authorized charge for dishonored repayment mechanisms.

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

22 5122. Notice of assignment or sale of loans.

23 5123. No criminal culpability.

24 5124. Unfair or deceptive practices.

25 5125. Extended payment plan.

26 5126. Prohibited practices regarding loans.

27 5127. Commonwealth Consumer Credit Counseling Account.

28 5128. Licensee duties with respect to military personnel.

29 5129. Licensee duty to offer credit counseling.

30 5129.1. ANTI-MONEY LAUNDERING REQUIREMENTS.



1 § 5111. License requirements.

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

10 (b) Exemptions.--

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

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

24 § 5112. Loan agreement requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 rescission shall be set forth immediately above the
2 consumer's signature line and shall state as follows:

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

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

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

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

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

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

28 (3) A confession of judgment clause.

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

1 § 5113. Authorized finance charges and loan verification costs.

2 (a) Authorized finance charges.--A licensee may impose a
3 finance charge for each loan made by the licensee to a consumer
4 which may not exceed \$0.125 per \$1.00 of the short-term loan.
5 The finance charge shall be deemed fully earned as of the date
6 of the short-term loan transaction, unless the consumer rescinds
7 the loan under section 5114(b) (relating to maximum amount of
8 loans, terms of loans and right of rescission). A licensee may
9 impose only fees and charges authorized under this chapter in
10 connection with a short-term loan.

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

19 (c) Required remittance of fees.--

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

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

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

29 (iii) One dollar and fifty cents per loan
30 transaction, plus any difference in the fee determined by

1 the department for the services of the compliance system
2 provider provided under section 5115(f)(1) (relating to
3 prohibitions) and the amount established under
4 subparagraph (ii) to the department.

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

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

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

22 (a.1) Consumer report.--

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

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

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

1 (ii) In underwriting and making subsequent short-
2 term loans to the same customer if the report was
3 obtained within the previous 12 months.

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

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

9 "Consumer reporting agency." As defined in 15 U.S.C. §
10 1681a(f).

11 (b) Right to rescind.--

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

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

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

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

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

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

5 § 5115. Prohibitions.

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

16 (b) (Reserved).

17 (c) (Reserved).

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

20 (1) That the consumer does not have a loan outstanding
21 from any licensee, the aggregate amount of all loans which
22 exceeds the maximum loan amount permitted under section
23 5114(a).

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

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

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

1 following:

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

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

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

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

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

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



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

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

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

30 § 5116. (Reserved).

1 § 5117. Form of loan proceeds.

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

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

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

12 § 5118. Endorsement of check.

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

16 § 5119. Redemption of repayment mechanism.

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

22 § 5120. Authorized charge for dishonored repayment mechanisms.

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

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

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

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

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

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

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

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

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

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

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

24 § 5122. Notice of assignment or sale of loans.

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

30 (b) Notice.--Prior to the assignment or sale of a loan, a

1 licensee shall provide the following notice to the buyer or
2 assignee:

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

9 § 5123. No criminal culpability.

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

11 (1) For entering into a loan agreement.

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

19 § 5124. Unfair or deceptive practices.

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

25 § 5125. Extended payment plan.

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

30 (b) Extended payment plan agreement.--An extended payment

1 plan agreement shall be subject to the following terms:

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

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

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

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

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

1 (relating to maximum amount of loans, terms of loans and
2 right of rescission) for the rescission of a loan.

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

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

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

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

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

16 § 5126. Prohibited practices regarding loans.

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

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

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

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

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

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

30 (6) Engaging in any device or subterfuge to evade the

1 requirements of this chapter, including making loans
2 disguised as personal property sales and leaseback
3 transactions or disguising loan proceeds as cash rebates for
4 the pretextual installment sale of goods and services.

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

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

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

14 (10) Rolling over, refinancing, extending or
15 consolidating short-term loans except as provided in section
16 5125 (relating to extended payment plan).

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

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

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

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

28 § 5127. Commonwealth Consumer Credit Counseling Account.

29 (a) Establishment.--There is established within the agency a
30 restricted account to be known as the Commonwealth Consumer

1 Credit Counseling Account. Funds collected under section 5113(c)
2 (relating to authorized finance charges, origination fees and
3 loan verification costs) shall be deposited into the account.

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

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

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

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

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

22 § 5128. Licensee duties with respect to military personnel.

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

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

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

30 (b) Military personnel.--A licensee shall not contact the

1 military chain of command of a consumer who is a member of the
2 military in an effort to collect a loan.

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

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

11 § 5129. Licensee duty to offer credit counseling.

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

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

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

27 § 5129.1. ANTI-MONEY LAUNDERING REQUIREMENTS.

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

29 (1) COMPLY WITH ALL FEDERAL AND STATE STATUTES AND RULES
30 RELATING TO THE DETECTION AND PREVENTION OF MONEY LAUNDERING,



1 INCLUDING 31 CFR §§ 103.20 (RELATING TO REPORTS BY MONEY
2 SERVICES BUSINESSES OF SUSPICIOUS TRANSACTIONS), 103.22
3 (RELATING TO REPORTS OF TRANSACTIONS IN CURRENCY), 103.23
4 (RELATING TO REPORTS OF TRANSPORTATION OF CURRENCY OR
5 MONETARY INSTRUMENTS), 103.27 (RELATING TO FILING OF
6 REPORTS), 103.28 (RELATING TO IDENTIFICATION REQUIRED),
7 103.29 (RELATING TO PURCHASES OF BANK CHECKS AND DRAFTS,
8 CASHIER'S CHECKS, MONEY ORDERS AND TRAVELER'S CHECKS), 103.33
9 (RELATING TO RECORDS TO BE MADE AND RETAINED BY FINANCIAL
10 INSTITUTIONS), 103.37 (RELATING TO ADDITIONAL RECORDS TO BE
11 MADE AND RETAINED BY CURRENCY DEALERS OR EXCHANGERS) AND
12 103.41 (RELATING TO REGISTRATION OF MONEY SERVICES
13 BUSINESSES).

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

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

SUBCHAPTER C

ADMINISTRATIVE AND LICENSURE PROVISIONS

25 Sec.

26 5131. Application for license.

27 5132. Annual license fee.

28 5133. (Reserved).

29 5134. Issuance of license.

30 5135. License duration.

1 5136. Licensee and compliance system provider requirements.

2 5137. Licensee limitations.

3 5138. Surrender of license.

4 5139. Authority of department.

5 5140. Suspension, revocation or refusal.

6 ~~5141. Penalties.~~

7 5141. WHISTLEBLOWER PROTECTION.

8 5142. PENALTIES.

9 § 5131. Application for license.

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

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

27 (c) Financial structure.--

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

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

1 (ii) will at all times maintain the minimum tangible
2 net worth required by subparagraph (i); and
3 (iii) has an otherwise adequate financial structure.

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

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

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

26 § 5132. Annual license fee.

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

1 license fee for each branch office of \$1,000.

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

9 § 5133. (Reserved).

10 § 5134. Issuance of license.

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

17 (1) issue a license; or

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

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

30 (c) Contents of license.--Every license issued by the

1 department shall specify:

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

4 (2) The licensee's reference number.

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

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

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

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

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

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

1 Department of Banking Code. The department shall notify a
2 licensee if a covered individual who is or will be employed
3 or contracted by the licensee has a criminal background that
4 renders the employee unfit for employment in the short-term
5 loan business.

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

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

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

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

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

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

30 (i) Current outstanding judgments, other than

1 judgments solely as a result of medical expenses.

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

4 (iii) Foreclosures within the past three years.

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

7 § 5135. License duration.

8 A license issued by the department:

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

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

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

23 § 5136. Licensee and compliance system provider requirements.

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

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

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

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

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

30 (b) Requirements of compliance system provider.--Annually,

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

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

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

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

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

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

25 (6) The total number of consumer complaints.

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

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

1 calendar year.

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

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

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

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

15 (E) BACKGROUND CHECKS.--THE DEPARTMENT SHALL REQUIRE A
16 CRIMINAL BACKGROUND CHECK FOR ALL COMPLIANCE SYSTEM PROVIDERS.
17 § 5137. Licensee limitations.



18 A licensee may not do any of the following:

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

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

27 § 5138. Surrender of license.

28 (a) Authorization.--Upon satisfying the department that all
29 creditors of a licensee have been paid or that other
30 arrangements satisfactory to the creditors and the department

1 have been made, a licensee may voluntarily surrender its license
2 to the department by providing written notice that the license
3 is being voluntarily surrendered.

4 (b) Effect.--Surrender under this section shall not affect
5 the licensee's civil or criminal liability for acts committed.
6 § 5139. Authority of department.

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

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

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

1 instruments, documents, accounts, books or records or the
2 giving of testimony.

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

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

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

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

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

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

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

30 (c) Injunctions.--The department may maintain an action for

1 an injunction or other process against a person to restrain the
2 person from engaging in an activity violating this chapter.

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

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

12 § 5140. Suspension, revocation or refusal.

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

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

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

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

30 (4) Been convicted of or pled guilty or nolo contendere

1 to a crime of moral turpitude or a felony.

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

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

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

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

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

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

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

30 (12) Failed to comply with the terms of any agreement

1 under which the department authorizes a licensee to maintain
2 records at a place other than the licensee's principal place
3 of business.

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

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

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

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

13 § 5141. WHISTLEBLOWER PROTECTION.

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

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

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

30 "APPROPRIATE AUTHORITY." A FEDERAL, STATE OR LOCAL

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

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

12 "EMPLOYER." A LICENSEE.

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

17 "PUBLIC BODY." ALL OF THE FOLLOWING:

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

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

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

29 "WHISTLEBLOWER." A PERSON WHO WITNESSES OR HAS EVIDENCE OF
30 WRONGDOING OR WASTE WHILE EMPLOYED AND WHO MAKES A GOOD FAITH

1 REPORT OF THE WRONGDOING OR WASTE, VERBALLY OR IN WRITING, TO
2 ONE OF THE PERSON'S SUPERIORS, TO AN AGENT OF THE EMPLOYER OR TO
3 AN APPROPRIATE AUTHORITY.

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

9 § ~~5141~~ 5142. Penalties.



10 (a) Licensees.--A licensee and any director, officer, owner,
11 partner, employee or agent of a licensee that violates this
12 chapter or commits any action which would subject the licensee
13 to sanction under section 5140 (relating to suspension,
14 revocation or refusal) may be fined by the department up to
15 \$10,000 for each offense.

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

21 SUBCHAPTER D

22 MISCELLANEOUS PROVISIONS

23 Sec.

24 5151. Applicability.

25 5152. Preemption.

26 5153. Report to General Assembly.

27 § 5151. Applicability.

28 This chapter shall apply to a loan which:

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

30 (2) is negotiated, offered or otherwise transacted

1 within this Commonwealth or with any resident of this
2 Commonwealth, in whole or in part, whether by the ultimate
3 lender or any other person.

4 § 5152. Preemption.

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

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

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

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

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

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

21 § 5153. Report to General Assembly.

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

26 The report shall include:

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

30 (2) A summary of the number of loans issued, the average

1 loan amount and any other information as determined by the
2 department.

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

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

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

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

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

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

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

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

30 (V) NUMBER OF PARTICIPATING THIRD-PARTY CERTIFIED



1 CREDIT COUNSELORS.

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

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

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

8 § 4107. Deceptive or fraudulent business practices.

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

11 * * *

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

14 * * *

15 Section 3. Title 18 is amended by adding a section to read:
16 § 7332. Unlicensed short-term lending.

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

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

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

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

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

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

1 (2) This section shall take effect immediately.

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

3 days.