

**HOUSE . . . . . No. 983**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act establishing uniform enforcement provisions and making other changes applicable to certain licensees under the jurisdiction of the division of banks..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 24F of chapter 93 of the General Laws, as appearing in the 2006  
2 Official Edition, is hereby amended by striking out section 24F and inserting in place thereof the  
3 following section:-

4           Section 24F. The commissioner, or such other of his assistants as he may designate, may  
5 summon a licensee, or any of his agents or employees, and other witnesses as he considers  
6 necessary, and examine them relative to their transactions, may require the production of books  
7 and papers and, for those purposes may administer oaths. Whoever, without justifiable cause,  
8 fails or refuses to appear and testify or to produce books and papers when so required, or  
9 obstructs the commissioner or his representatives in the performance of their duties, shall be  
10 punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or  
11 both. Each day a violation occurs or continues shall be considered a separate offense. The  
12 penalty provision of this section shall be in addition to, and not in lieu of, any other provision of

13 law applicable to a licensee or other person for violating section 24A or any rule or regulation  
14 made thereunder.

15 SECTION 2. Chapter 93 of the General Laws, as so appearing, is hereby amended by  
16 adding after section 24K the following two sections:-

17 Section 24L. (a) Whenever the commissioner finds that any licensee or exempt  
18 person under section 24A of this chapter has violated any provision of this chapter or any rule or  
19 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
20 of the business of a debt collector or a third party loan servicer, the commissioner may, by order,  
21 in addition to any other action authorized under this chapter or any rule or regulation made  
22 thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for  
23 each violation, up to a maximum of one hundred thousand dollars for such violation plus the  
24 costs of investigation. The commissioner may impose a penalty which shall not exceed five  
25 thousand dollars for each violation of this chapter, or any rule or regulation adopted thereunder,  
26 by a person other than a licensee or exempt person under section 24A of this chapter, plus the  
27 costs of investigation.

28 Nothing in this section shall limit the right of any individual or entity who has been  
29 injured as a result of any violation of this chapter by a licensee, or any person other than a  
30 licensee or exempt person under section 24A of this chapter, to bring an action to recover  
31 damages or restitution in a court of competent jurisdiction.

32 Any findings or order issued by the commissioner pursuant to this section shall be subject  
33 to review as provided in chapter thirty A.

34           Section 24M. (a) Whenever the commissioner determines that any person has, directly or  
35 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
36 applicable to the conduct of the business of a debt collector or a third party loan servicer; or any  
37 order issued by the commissioner under this chapter or any written agreement entered between  
38 such licensee and the commissioner; the commissioner may serve upon such person a written  
39 notice of intention:

40           (1) to prohibit such person from performing in the capacity of a principal employee on  
41 behalf of any licensee for such period of time that the commissioner deems necessary;

42           (2) to prohibit the person from applying for or obtaining a license from the commissioner  
43 for a period up to thirty-six months following the effective date of an order issued under  
44 subsection (b) or (c); or

45           (3) to prohibit such person from any further participation, in any manner, in the conduct  
46 of the affairs of a debt collector or a third party loan servicer in Massachusetts or to prohibit such  
47 person from being employed by, an agent of, or operating on behalf of a licensee under this  
48 chapter or any other business which requires a license from the commissioner.

49           (b) A written notice issued under subsection (a) shall contain a written statement of the  
50 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
51 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
52 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
53 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to  
54 appear in person or by a duly authorized representative, such party shall be deemed to have  
55 consented to the issuance of an order of such prohibition in accordance with the notice.

56 (c) In the event of such consent under subsection (b), or if after a hearing the  
57 commissioner finds that any of the grounds specified in such notice have been established, the  
58 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
59 commissioner finds appropriate.

60 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
61 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
62 person is an employee or on whose behalf the person is performing. The order shall remain in  
63 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
64 commissioner or a court of competent jurisdiction.

65 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
66 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
67 part in the conduct of the affairs of a debt collector or a third party loan servicer in Massachusetts  
68 may not, while such order is in effect, continue or commence to perform in the capacity of a  
69 principal employee, or otherwise participate in any manner, if so prohibited by order of the  
70 commissioner, in the conduct of the affairs of:

71 any licensee under this chapter;

72 any other business which requires a license from the commissioner; and

73 any bank, as defined under section one of chapter one hundred sixty-seven, or any  
74 subsidiary thereof.

75 SECTION 3. Section 96 of chapter 140 of the General Laws, as so appearing, is hereby  
76 amended by striking out the first sentence and inserting in place thereof the following sentence: -  
77 -

78 No person shall directly or indirectly engage in the business of making loans of nine  
79 thousand dollars or less, adjusted to the average annual rate of inflation as measured by the  
80 Consumer Price Index released for the previous year and announced each year as of March 1 by  
81 the commissioner, if the amount to be paid on any such loan for interest and expenses exceeds in  
82 the aggregate an amount equivalent to twelve per cent per annum upon the sum loaned, without  
83 first obtaining from the commissioner of banks, in sections ninety-six to one hundred and  
84 fourteen, inclusive, called the commissioner, a license to carry on the said business in the town  
85 where the business is to be transacted.

86 SECTION 4. Section 96 of said chapter 140, as so appearing, is hereby amended by  
87 striking out, in lines 25 and 63, the words “loan of six thousand dollars or less” and inserting in  
88 place thereof in each instance the following words: - such loan.

89 SECTION 5. Section 96 of said chapter 140, as so appearing, is hereby amended by  
90 striking out, in line 38, the words “loans of six thousand dollars or less” and inserting in place  
91 thereof the following words: - such loans.

92 SECTION 6. Section 96 of said chapter 140, as so appearing, is hereby amended by  
93 striking out the fifth sentence and inserting in place thereof the following sentence: --

94 If, after all deductions or payments, whether on account of interest, expenses or principal  
95 made substantially contemporaneously with the making of the loan, the amount retained by the  
96 borrower be nine thousand dollars or less, adjusted to the average annual rate of inflation as

97 measured by the Consumer Price Index released for the previous year, the transaction shall be  
98 deemed to be a loan in the amount of the sum so retained by the borrower after such deductions  
99 or payments, notwithstanding that the loan be nominally for a greater sum.

100 SECTION 7. Section 98 of chapter 140 of the General Laws, as so appearing, is hereby  
101 amended by striking out the words “the fifteenth day of April” in line 3 and inserting in place  
102 thereof the words: a date to be determined by the commissioner.

103 SECTION 8. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
104 striking out section 99 and inserting in place thereof the following section:-

105 Section 99. The commissioner may summon said licensees, companies or associations,  
106 or any of their agents or employees, and such other witnesses as he deems necessary, and  
107 examine them relative to their transactions and to the condition of their business, and for that  
108 purpose may administer oaths. Whoever without justifiable cause refuses to appear and testify  
109 when so required, or obstructs the commissioner or his representatives in the performance of  
110 their duties, shall be punished by a fine of not more than one thousand dollars or by  
111 imprisonment for not more than six months, or both. The penalty provision of this section shall  
112 be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other  
113 person for violating section 96 or any rule or regulation made thereunder.

114 SECTION 9. Section 100 of said chapter 140, as so appearing, is hereby amended by  
115 striking out, in line 14, the words “of six thousand dollars or less” and inserting in place thereof  
116 the following words: - subject to the provisions of section ninety-six.

117 SECTION 10. Section 101 of chapter 140 of the General Laws, as so appearing, is  
118 hereby amended by striking out, in line 2, the words “from October first”, and inserting in place  
119 thereof the following words:- as determined by the commissioner.

120 SECTION 11. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
121 striking out section 103, and inserting in place thereof the following three sections: -

122 Section 103. Whoever, being duly licensed as provided in section ninety-six, violates  
123 any provision of sections ninety-seven, ninety-eight, one hundred and one, one hundred and two,  
124 one hundred and four or one hundred and nine, or any regulation, rule or order made by the  
125 commissioner under sections ninety-seven or one hundred and six, shall be punished by a fine of  
126 not more than one thousand dollars, and his license may be suspended or revoked by the  
127 commissioner. Each day such violation occurs or continues shall be deemed a separate offense.

128 Whoever, being so licensed, violates the provisions of section one hundred shall be  
129 punished by a fine of not more than one thousand dollars or by imprisonment for not more than  
130 one year, or both. Each day such violation occurs or continues shall be deemed a separate  
131 offense. Any loan made by any person so licensed in violation of said section one hundred may  
132 be declared void by the supreme judicial or superior court in equity upon petition by the person  
133 to whom the loan was made.

134 The commissioner may also suspend or revoke any license issued pursuant to section  
135 ninety-six if said commissioner finds that:

136 (i) the licensee has violated any provision of sections ninety-six to one hundred and  
137 fourteen, inclusive, or any rule or regulation made by the commissioner under any provision of

138 sections ninety-six to one hundred and fourteen, inclusive, or any other law applicable to the  
139 conduct of the business; or

140 (ii) any fact or condition exists which, if it had existed at the time of the original  
141 application for such license, would have warranted the commissioner in refusing to issue such  
142 license.

143 Except as provided in section one hundred and three A, no license shall be revoked or  
144 suspended except after notice and a hearing thereon pursuant to chapter thirty A.

145 A licensee may surrender a license by delivering to the commissioner written notice that  
146 it thereby surrenders such license, but such surrender shall not affect the civil or criminal liability  
147 of the licensee for acts committed before such surrender.

148 No revocation, suspension or surrender of any license shall impair or affect the obligation  
149 of any pre-existing lawful contract between the licensee and any person.

150 The penalty provision of this section shall be in addition to, and not in lieu of, any other  
151 provision of law applicable to a licensee or other person for violating section ninety-six, ninety-  
152 seven, ninety-eight, one hundred, one hundred and one, one hundred and two, one hundred and  
153 four, one hundred and six, and one hundred and nine or any rule or regulation made thereunder.

154 Section 103A. (a) If the commissioner determines, after giving notice of an opportunity  
155 for a hearing, that a licensee has engaged or is about to engage in an act or practice constituting a  
156 violation of a provision of sections ninety-seven, ninety-eight, one hundred, one hundred and  
157 one, one hundred and two, one hundred and four or one hundred and nine, or any rule or  
158 regulation made by the commissioner under section ninety-seven or one hundred and six, or any



159 other law applicable to the conduct of the business, he may order such licensee to cease and  
160 desist from such unlawful act or practice and take such affirmative action as in his judgment will  
161 effect the purpose of sections ninety-seven, ninety-eight, one hundred, one hundred and one, one  
162 hundred and two, one hundred and four or one hundred and nine, or any rule or regulation made  
163 by the commissioner under section ninety-seven or one hundred and six, or any other law  
164 applicable to the conduct of the business.

165 (b) If the commissioner makes written findings of fact that the public interest will be  
166 irreparably harmed by delay in issuing an order under section (a) he may issue a temporary cease  
167 and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall  
168 promptly notify, in writing, the licensee affected thereby that such order has been so entered, the  
169 reasons therefor, and that within twenty days after receipt of a written request from such  
170 licensee, the matter will be scheduled for a hearing to determine whether or not such temporary  
171 order shall become permanent and final. If no such hearing is requested and none is ordered by  
172 the commissioner, the order shall remain in effect until it is modified or vacated by the  
173 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and  
174 opportunity for a hearing to the licensee subject to said order, shall, by written finding of facts  
175 and conclusions of law, vacate, modify or make permanent the order.

176 (c) No order under this section, except an order issued pursuant to subsection (b), may be  
177 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or  
178 modify an order under this section upon finding that the conditions which required such an order  
179 have changed and that it is in the public interest to so vacate or modify.

180 Any order issued pursuant to this section shall be subject to review as provided in chapter  
181 thirty A.

182 Section 103B. The commissioner may enforce the provisions of section ninety-six  
183 through one hundred and fourteen A, or restrain any violations thereof, by filing a civil action in  
184 any court of competent jurisdiction.

185 SECTION 12. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
186 adding after section 113 the following two sections:-

187 Section 113A. (a) Whenever the commissioner finds that any licensee or exempt  
188 person under section ninety-six of this chapter has violated any provision of this chapter or any  
189 rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the  
190 conduct of the business of making small loans, the commissioner may, by order, in addition to  
191 any other action authorized under this chapter or any rule or regulation made thereunder, impose  
192 a penalty upon such person which shall not exceed five thousand dollars for each violation, up to  
193 a maximum of one hundred thousand dollars for such violation plus the costs of investigation.  
194 The commissioner may impose a penalty which shall not exceed five thousand dollars for each  
195 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
196 licensee or exempt person under section ninety-six of this chapter, plus the costs of investigation.

197 Nothing in this section shall limit the right of any individual or entity who has been  
198 injured as a result of any violation of this chapter by a licensee, or any person other than a  
199 licensee or exempt person under section ninety-six of this chapter, to bring an action to recover  
200 damages or restitution in a court of competent jurisdiction.

201 Any findings or order issued by the commissioner pursuant to this section shall be subject  
202 to review as provided in chapter thirty A.

203 Section 113B. (a) Whenever the commissioner determines that any person has, directly or  
204 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
205 applicable to the conduct of the business of making small loans; or any order issued by the  
206 commissioner under this chapter or any written agreement entered between such licensee and the  
207 commissioner; the commissioner may serve upon such person a written notice of intention:

208 (1) to prohibit such person from performing in the capacity of a principal employee on  
209 behalf of any licensee for such period of time that the commissioner deems necessary;

210 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
211 for a period up to thirty-six months following the effective date of an order issued under  
212 subsection (b) or (c); or

213 (3) to prohibit such person from any further participation, in any manner, in the conduct  
214 of the affairs of a business making small loans in Massachusetts or to prohibit such person from  
215 being employed by, an agent of, or operating on behalf of a licensee under this chapter or any  
216 other business which requires a license from the commissioner.

217 (b) A written notice issued under subsection (a) shall contain a written statement of the  
218 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
219 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
220 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
221 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to

222 appear in person or by a duly authorized representative, such party shall be deemed to have  
223 consented to the issuance of an order of such prohibition in accordance with the notice.

224 (c) In the event of such consent under subsection (b), or if after a hearing the  
225 commissioner finds that any of the grounds specified in such notice have been established, the  
226 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
227 commissioner finds appropriate.

228 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
229 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
230 person is an employee or on whose behalf the person is performing. The order shall remain in  
231 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
232 commissioner or a court of competent jurisdiction.

233 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
234 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
235 part in the conduct of the affairs of a business making small loans in Massachusetts may not,  
236 while such order is in effect, continue or commence to perform in the capacity of a principal  
237 employee, or otherwise participate in any manner, if so prohibited by order of the commissioner,  
238 in the conduct of the affairs of:

239 any licensee under this chapter;

240 any other business which requires a license from the commissioner; and

241 any bank, as defined under section one of chapter one hundred sixty-seven, or any  
242 subsidiary thereof.

243 SECTION 13. Section 114A of chapter 140 of the General Laws, as so appearing, is  
244 hereby amended by striking out the first two sentences and inserting the following two  
245 sentences:--

246 A bank as defined in section one of chapter one hundred sixty-seven, a national banking  
247 association, a federally chartered credit union, a federal savings and loan association, a federal  
248 savings bank, or any subsidiary of the above, or any bank, trust company, savings bank, savings  
249 and loan association, or credit union organized under the laws of any other state, or any  
250 subsidiary of the above, shall not be subject to the provisions of sections ninety-six to one  
251 hundred fourteen, inclusive; provided, that such institutions may not take, receive, reserve or  
252 charge interest, expenses and other considerations for making or securing any loan subject to the  
253 provisions of section ninety-six in excess of those permitted by section one hundred. Any loan  
254 subject to the provisions of section ninety-six made by any bank as defined in section one of  
255 chapter one hundred sixty-seven, a national banking association, a federally-chartered credit  
256 union, a federal savings and loan association, a federal savings bank, or any subsidiary of the  
257 above, or any bank, trust company, savings bank, savings and loan association, or credit union  
258 organized under the laws of any other state on which charges for interest, expenses and other  
259 considerations exceed those permitted by section one hundred may be declared void by the  
260 supreme judicial court or superior court in equity upon petition by the person to whom the loans  
261 were made, and any such bank as defined section one of chapter one hundred sixty-seven, a  
262 national banking association, a federally chartered credit union, a federal savings and loan  
263 association, a federal savings bank, or any subsidiary of the above, or any bank, trust company,  
264 savings bank, savings and loan association, or credit union organized under the laws of any other  
265 state making such a loan shall be subject to a fine of not more than one thousand dollars.

266 This section shall not be construed as preventing a rate of charge for interest, expenses  
267 and other consideration on one or more portions of a loan in excess of the permitted maximum  
268 rate of charge applicable to said portion or portions, provided, that the composite rate of charge  
269 on the whole loan produces an amount equal to or less than that which would be produced were  
270 said maximum rate of charge applied to said loan. Extension, default or deferment charges shall  
271 not be deemed to be interest, expenses and other considerations in determining the maximum  
272 rate of charge that may be taken, received, reserved or charged for said loan.

273 SECTION 14. Section 4 of chapter 167F of the General Laws, as so appearing, is hereby  
274 amended by striking out the first paragraph and inserting in place thereof the following  
275 paragraph:-

276 Any bank as defined in section one of chapter one hundred sixty-seven, a national  
277 banking association, a federally-chartered credit union, a federal savings and loan association, a  
278 federal savings bank, or any subsidiary of the above, any bank, trust company, savings bank,  
279 savings and loan association, or credit union organized under the laws of any other state or any  
280 subsidiary of the above, may engage directly in the business of selling, issuing or registering  
281 checks or money orders for use primarily for personal, family, or household purposes, except all  
282 of the institutions described above may engage in such business through agents who shall not be  
283 deemed to be branches of such institutions. No person, other than the foregoing, shall engage in  
284 such business directly or indirectly unless he files annually, as of a date determined by the  
285 commissioner, a sworn statement setting forth his name and address, the names and business  
286 addresses of his agents, other than the financial institutions described above, authorized to  
287 receive money and transact such business on his behalf.

288 SECTION 15. Section 4 of chapter 167F of the General Laws, as so appearing, is hereby  
289 further amended by striking out the fifth paragraph and inserting in place thereof the following  
290 paragraph:--

291 Whoever violates any provision of this section or any rule or regulation established  
292 hereunder shall be punished by a fine of not more than one thousand dollars for each day during  
293 which such violation continues. The penalty provision of this section shall be in addition to, and  
294 not in lieu of, any other provision of law applicable to a licensee or other person for violating  
295 section 4 or any rule or regulation made thereunder.

296 SECTION 16. Chapter 167F of the General Laws, as so appearing, is hereby amended by  
297 adding after section 4 the following two sections:-

298 Section 4A. (a) Whenever the commissioner finds that any licensee or exempt  
299 person under section 4 of this chapter has violated any provision of this chapter or any rule or  
300 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
301 of the business of selling, issuing or registering checks or money orders, the commissioner may,  
302 by order, in addition to any other action authorized under this chapter or any rule or regulation  
303 made thereunder, impose a penalty upon such person which shall not exceed five thousand  
304 dollars for each violation, up to a maximum of one hundred thousand dollars for such violation  
305 plus the costs of investigation. The commissioner may impose a penalty which shall not exceed  
306 five thousand dollars for each violation of this chapter, or any rule or regulation adopted  
307 thereunder, by a person other than a licensee or exempt person under section 4 of this chapter,  
308 plus the costs of investigation.

309           Nothing in this section shall limit the right of any individual or entity who has been  
310 injured as a result of any violation of this chapter by a licensee, or any person other than a  
311 licensee or exempt person under section 4 of this chapter, to bring an action to recover damages  
312 or restitution in a court of competent jurisdiction.

313           Any findings or order issued by the commissioner pursuant to this section shall be subject  
314 to review as provided in chapter thirty A.

315           Section 4B. (a) Whenever the commissioner determines that any person has, directly or  
316 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
317 applicable to the conduct of the business of selling, issuing or registering checks or money  
318 orders; or any order issued by the commissioner under this chapter or any written agreement  
319 entered between such licensee and the commissioner; the commissioner may serve upon such  
320 person a written notice of intention:

321           (1) to prohibit such person from performing in the capacity of a principal employee on  
322 behalf of any licensee for such period of time that the commissioner deems necessary;

323           (2) to prohibit the person from applying for or obtaining a license from the commissioner  
324 for a period up to thirty-six months following the effective date of an order issued under  
325 subsection (b) or (c); or

326           (3) to prohibit such person from any further participation, in any manner, in the conduct  
327 of the affairs of selling, issuing or registering checks or money orders in Massachusetts or to  
328 prohibit such person from being employed by, an agent of, or operating on behalf of a licensee  
329 under this chapter or any other business which requires a license from the commissioner.



330 (b) A written notice issued under subsection (a) shall contain a written statement of the  
331 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
332 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
333 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
334 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to  
335 appear in person or by a duly authorized representative, such party shall be deemed to have  
336 consented to the issuance of an order of such prohibition in accordance with the notice.

337 (c) In the event of such consent under subsection (b), or if after a hearing the  
338 commissioner finds that any of the grounds specified in such notice have been established, the  
339 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
340 commissioner finds appropriate.

341 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
342 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
343 person is an employee or on whose behalf the person is performing. The order shall remain in  
344 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
345 commissioner or a court of competent jurisdiction.

346 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
347 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
348 part in the conduct of the affairs of business of selling, issuing or registering checks or money  
349 orders in Massachusetts may not, while such order is in effect, continue or commence to perform  
350 in the capacity of a principal employee, or otherwise participate in any manner, if so prohibited  
351 by order of the commissioner, in the conduct of the affairs of:

- 352 (1) any licensee under this chapter;
- 353 (2) any other business which requires a license from the commissioner; and
- 354 (3) any bank, as defined under section one of chapter one hundred sixty-seven, or any  
355 subsidiary thereof.

356 SECTION 17. Chapter 169 of the General Laws, as so appearing, is hereby amended by  
357 striking out Section 1 and inserting the following section:--

358 Section 1. This chapter shall apply to all persons who engage or are financially interested  
359 in the business of receiving deposits of money for the purpose of transmitting the same or  
360 equivalents thereof to foreign countries, except banks as defined in section one of chapter one  
361 hundred sixty-seven, a national banking association, a federally-chartered credit union, a federal  
362 savings and loan association, a federal savings bank, or any bank, trust company, savings bank,  
363 savings and loan association, or credit union organized under the law of any other state, or any  
364 subsidiary of the above, persons doing business under section forty-three of chapter one hundred  
365 sixty-seven, express companies having contracts with transportation companies for the operation  
366 of an express service upon the lines of such companies or express companies doing an  
367 international express business or global transportation companies or telegraph companies.

368 SECTION 18. Section 3 of chapter 169 of the General Laws, as so appearing, is hereby  
369 amended by striking out, in lines 30 and 31, the words "from July first" and inserting place  
370 thereof the following:- as determined by the commissioner.

371 SECTION 19. Section 9 of chapter 169 of the General Laws, as so appearing, is hereby  
372 amended by striking out the first paragraph and inserting in place thereof the following:

373 Licensees shall annually, on or before a date to be determined by the commissioner, and  
374 at such other times as the commissioner may specify, make a return to said commissioner in such  
375 form as said commissioner may prescribe, signed and sworn to by such officer or person as said  
376 commissioner may designate, which form shall disclose the condition of such licensee as of the  
377 close of business on the last day of December or such other day as the commissioner may  
378 prescribe.

379 SECTION 20. Section 16 of chapter 169 of the General Laws, as so appearing, is hereby  
380 amended by adding at the end thereof the following sentence:--

381 The penalty provision of this section shall be in addition to, and not in lieu of, any other  
382 provision of law applicable to a licensee or other person for violating any provision of this  
383 chapter or any rule or regulation made thereunder.

384 SECTION 21. Chapter 169 of the General Laws, as so appearing, is hereby amended by  
385 adding after section 16 the following two sections:-

386 Section 17. (a) Whenever the commissioner finds that any licensee or exempt  
387 person under any provision of this chapter has violated any provision of this chapter or any rule  
388 or regulation adopted thereunder, or any other law of the Commonwealth applicable to the  
389 conduct of the business of receiving deposits of money for the purpose of transmitting the same  
390 or equivalents thereof to foreign countries, the commissioner may, by order, in addition to any  
391 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
392 penalty upon such person which shall not exceed five thousand dollars for each violation, up to a  
393 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The  
394 commissioner may impose a penalty which shall not exceed five thousand dollars for each

395 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
396 licensee or exempt person under any provision of this chapter, plus the costs of investigation.

397 (b) Nothing in this section shall limit the right of any individual or entity who has  
398 been injured as a result of any violation of this chapter by a licensee, or any person other than a  
399 licensee or exempt person under any provision of this chapter, to bring an action to recover  
400 damages or restitution in a court of competent jurisdiction.

401 (c) Any findings or order issued by the commissioner pursuant to this section shall be  
402 subject to review as provided in chapter thirty A.

403 Section 18. (a) Whenever the commissioner determines that any person has, directly or  
404 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
405 applicable to the conduct of the business of receiving deposits of money for the purpose of  
406 transmitting the same or equivalents thereof to foreign countries; or any order issued by the  
407 commissioner under this chapter or any written agreement entered between such licensee and the  
408 commissioner; the commissioner may serve upon such person a written notice of intention:

409 (1) to prohibit such person from performing in the capacity of a principal employee on  
410 behalf of any licensee for such period of time that the commissioner deems necessary;

411 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
412 for a period up to thirty-six months following the effective date of an order issued under  
413 subsection (b) or (c); or

414 (3) to prohibit such person from any further participation, in any manner, in the conduct  
415 of the affairs of a business of receiving deposits of money for the purpose of transmitting the

416 same or equivalents thereof to foreign countries in Massachusetts or to prohibit such person from  
417 being employed by, an agent of, or operating on behalf of a licensee under this chapter or any  
418 other business which requires a license from the commissioner.

419 (b) A written notice issued under subsection (a) shall contain a written statement of the  
420 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
421 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
422 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
423 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to  
424 appear in person or by a duly authorized representative, such party shall be deemed to have  
425 consented to the issuance of an order of such prohibition in accordance with the notice.

426 (c) In the event of such consent under subsection (b), or if after a hearing the  
427 commissioner finds that any of the grounds specified in such notice have been established, the  
428 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
429 commissioner finds appropriate.

430 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
431 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
432 person is an employee or on whose behalf the person is performing. The order shall remain in  
433 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
434 commissioner or a court of competent jurisdiction.

435 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
436 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
437 part in the conduct of the affairs of a business of receiving deposits of money for the purpose of

438 transmitting the same or equivalents thereof to foreign countries in Massachusetts may not, while  
439 such order is in effect, continue or commence to perform in the capacity of a principal employee,  
440 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
441 conduct of the affairs of:

442 any licensee under this chapter;

443 (2) any other business which requires a license from the commissioner; and

444 (3) any bank, as defined under section one of chapter one hundred sixty-seven, or any  
445 subsidiary thereof.

446 SECTION 22. Section 2 of chapter 169A of the General Laws, as so appearing, is hereby  
447 amended, in line 7, by inserting after the word "bank" the words: -- or any bank, trust company,  
448 savings bank, savings and loan association, or credit union organized under the laws of any other  
449 state, or any subsidiary of the above,.

450 SECTION 23. Section 5 of chapter 169A of the General Laws, as so appearing, is hereby  
451 amended by striking out the words "June first" in lines 9 and 10 and inserting in place thereof the  
452 following words: a date to be determined by the commissioner.

453 SECTION 24. Chapter 169A of the General Laws, as so appearing, is hereby amended  
454 by striking out section 13 and inserting in place thereof the following section:-

455 Section 13. Whoever violates any provision of section two or any rule or regulation  
456 made thereunder by the commissioner shall be punished by a fine of not more than one thousand  
457 dollars or by imprisonment for not more than six months, or both. Each day a violation  
458 continues shall be deemed a separate offense. The penalty provision of this section shall be in

459 addition to, and not in lieu of, any other provision of law applicable to a licensee or other person  
460 for violating section two or any rule or regulation made thereunder.

461 SECTION 25. Chapter 169A of the General Laws, as so appearing, is hereby amended  
462 by adding after said section 13 the following two sections:-

463 Section 14. (a) Whenever the commissioner finds that any licensee or exempt  
464 person under section two of this chapter has violated any provision of this chapter or any rule or  
465 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
466 of the business of cashing checks, drafts or money orders, the commissioner may, by order, in  
467 addition to any other action authorized under this chapter or any rule or regulation made  
468 thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for  
469 each violation, up to a maximum of one hundred thousand dollars for such violation plus the  
470 costs of investigation. The commissioner may impose a penalty which shall not exceed five  
471 thousand dollars for each violation of this chapter, or any rule or regulation adopted thereunder,  
472 by a person other than a licensee or exempt person under section two of this chapter, plus the  
473 costs of investigation.

474 (b) Nothing in this section shall limit the right of any individual or entity who has been  
475 injured as a result of any violation of this chapter by a licensee, or any person other than a  
476 licensee or exempt person under section two of this chapter, to bring an action to recover  
477 damages or restitution in a court of competent jurisdiction.

478 Any findings or order issued by the commissioner pursuant to this section shall be subject  
479 to review as provided in chapter thirty A.

480           Section 15. (a) Whenever the commissioner determines that any person has, directly or  
481 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
482 applicable to the conduct of the business of cashing checks, drafts or money orders; or any order  
483 issued by the commissioner under this chapter or any written agreement entered between such  
484 licensee and the commissioner; the commissioner may serve upon such person a written notice of  
485 intention:

486           (1) to prohibit such person from performing in the capacity of a principal employee on  
487 behalf of any licensee for such period of time that the commissioner deems necessary;

488           (2) to prohibit the person from applying for or obtaining a license from the commissioner  
489 for a period up to thirty-six months following the effective date of an order issued under  
490 subsection (b) or (c); or (3) to prohibit such person from any further participation, in any manner,  
491 in the conduct of the affairs of a sales finance company in Massachusetts or to prohibit such  
492 person from being employed by, an agent of, or operating on behalf of a licensee under this  
493 chapter or any other business which requires a license from the commissioner.

494           (b) A written notice issued under subsection (a) shall contain a written statement of the  
495 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
496 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
497 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
498 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to  
499 appear in person or by a duly authorized representative, such party shall be deemed to have  
500 consented to the issuance of an order of such prohibition in accordance with the notice.



501 (c) In the event of such consent under subsection (b), or if after a hearing the  
502 commissioner finds that any of the grounds specified in such notice have been established, the  
503 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
504 commissioner finds appropriate.

505 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
506 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
507 person is an employee or on whose behalf the person is performing. The order shall remain in  
508 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
509 commissioner or a court of competent jurisdiction.

510 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
511 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
512 part in the conduct of the affairs of a sales finance company in Massachusetts may not, while  
513 such order is in effect, continue or commence to perform in the capacity of a principal employee,  
514 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
515 conduct of the affairs of:

516 any licensee under this chapter;

517 any other business which requires a license from the commissioner; and

518 any bank, as defined under section one of chapter one hundred sixty-seven, or any  
519 subsidiary thereof.

520 SECTION 34. Chapter 255C of the General Laws, as so appearing, is hereby amended  
521 by striking out section 2 and inserting in place thereof the following section:-

522           Section 2. No person, other than a bank as defined in section one of chapter one hundred  
523 sixty-seven, a national banking association, a federally-chartered credit union, a federal savings  
524 and loan association, a federal savings bank, or any subsidiary of the above, or a bank, a trust  
525 company, savings bank, savings and loan association or credit union organized under the laws of  
526 any other state, or any subsidiary of the above, a sales finance company, as defined in section  
527 one of chapter two hundred fifty-five B, and a company licensed to carry on the business of  
528 making small loans, shall engage in the business of premium finance agency unless licensed by  
529 the commissioner, as provided in section three; provided, however, that no property and casualty  
530 insurance agent or broker, including an insurance agent or insurance broker conducting an  
531 insurance premium financing agency business under a subsidiary or different company name,  
532 who provides premium financing only to his own customers for purposes of financing payment  
533 of premiums on contracts of insurance, which contracts of insurance are exclusively limited to  
534 commercial insurance policies, shall be required to be licensed pursuant to this section or any  
535 other section of this chapter. The commissioner may adopt, amend or repeal rules and  
536 regulations, which may include an adequate capitalization requirement for sales finance  
537 companies, to aid in the administration and enforcement of this chapter.

538           Such license shall allow the holder to maintain only one office from which said business  
539 may be conducted, but more than one license may be issued to any person. Any change of  
540 location of an office of a licensee shall require the prior approval of the commissioner. Such  
541 request for relocation shall be in writing setting forth the reason or reasons for the request, and  
542 shall be accompanied by a relocation investigation fee of \$50. If an applicant has more than one  
543 office, he may obtain a license for each office from which he intends to conduct said business.

544 SECTION 35. Section 3 of said chapter 255C of the General Laws, as so appearing, is  
545 hereby amended by striking out the last sentence and inserting in place thereof the following  
546 sentence:- Each license shall be issued annually as of a date determined by the commissioner and  
547 shall remain in full force and effect unless suspended, revoked or surrendered as provided in  
548 section five.

549 SECTION 36. Chapter 255C of the General Laws, as so appearing, is hereby amended by  
550 striking out section 4, and inserting in place thereof the following section:--

551 Section 4. Each license shall plainly state the name of the licensee and the city or town  
552 with the name of the street and number, if any, of the place where the business is to be carried on  
553 and shall be prominently posted in each place of business of the licensee. Any such business  
554 shall at all times be conducted in the name of the licensee as it appears on the license. The  
555 license shall not be transferable, except as hereinafter provided, or assignable. Before any  
556 licensee changes such office from one location to another he shall give written notice thereof to  
557 the commissioner who, if he approves said change, shall issue without charge an endorsement  
558 indicating the change and the date thereof, which endorsement shall be attached to the license for  
559 such office and shall constitute the authority for the operation of the business under such license  
560 at such new location.

561 SECTION 37. Chapter 255C of the General Laws, as so appearing, is hereby amended  
562 by striking out section 5, and inserting in place thereof the following three sections:--

563 Section 5. The commissioner may suspend or revoke any license issued pursuant to this  
564 chapter if said commissioner finds that:

565 (i) the licensee has violated any provision of this chapter or any rule or regulation  
566 adopted hereunder, or any other law applicable to the conduct of its business; or

567 (ii) any fact or condition exists which, if it had existed at the time of the original  
568 application for such license, would have warranted the commissioner in refusing to issue such  
569 license.

570 The commissioner shall have sufficient cause to suspend or revoke a license whenever he  
571 learns from the commissioner of insurance or from any other source that the licensee has failed  
572 to return the full amount of a return premium to the person whose insurance policy has been  
573 cancelled or to his assignee, as required by section one hundred and seventy-six A of chapter one  
574 hundred and seventy-five.

575 A licensee may surrender a license by delivering to the commissioner written notice that  
576 it thereby surrenders such license, but such surrender shall not affect the civil or criminal liability  
577 of the licensee for acts committed before such surrender. A revocation or suspension or surrender  
578 of any license shall not impair or affect the obligation of an insured under any lawful premium  
579 finance agreement previously acquired or held by the licensee.

580 No revocation, suspension or surrender of any license shall impair or affect the obligation  
581 of any pre-existing lawful contract between the licensee and any person.

582 Whenever the commissioner revokes or suspends a license, he shall forthwith execute in  
583 duplicate a written order to that effect, and shall file one copy of such order in the office of the  
584 secretary of state and mail one copy to the licensee. A suspension or revocation of a license shall  
585 not be subject to the provisions of chapter thirty A.

586           Section 5A. (a) If the commissioner determines, after giving notice of and opportunity for  
587 a hearing, that a licensee has engaged in or is about to engage in an act or practice constituting a  
588 violation of a provision of this chapter or a rule, regulation or order hereunder, he may order  
589 such licensee to cease and desist from such unlawful act or practice and take such affirmative  
590 action as in his judgment will effect the purposes of this chapter.

591           (b) If the commissioner makes written findings of fact that the public interest will be  
592 irreparably harmed by delay in issuing an order under subsection (a) he may issue a temporary  
593 cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner  
594 shall promptly notify, in writing, the licensee affected thereby that such order has been so  
595 entered, the reasons therefor, and that within twenty days after the receipt of a written request  
596 from such licensee, the matter will be scheduled for hearing to determine whether or not such  
597 temporary order shall become permanent and final. If no such hearing is requested and none is  
598 ordered by the commissioner, the order shall remain in effect until it is modified or vacated by  
599 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of  
600 and opportunity for a hearing to the licensee subject to said order, shall, by written finding of  
601 facts and conclusions of law, vacate, modify or make permanent the order.

602           (c) No order under this section, except an order issued pursuant to subsection (b), may be  
603 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or  
604 modify an order under this section upon finding that the conditions which required such an order  
605 have changed and that it is in the public interest to so vacate or modify.

606           Any order issued pursuant to this section shall be subject to review as provided in chapter  
607 thirty A.

608 Section 5B. The commissioner may enforce the provisions of this chapter, or restrain any  
609 violations thereof, by filing a civil action in any court of competent jurisdiction.

610 SECTION 38. Section 6 of chapter 255C of the General Laws, as so appearing, is hereby  
611 further amended by striking out the words “April fifteenth” in line 57 and inserting in place  
612 thereof the words: a date to be determined by the commissioner.

613 SECTION 39. Section 9 of chapter 255C of the General Laws, as so appearing, is hereby  
614 amended by striking out the first paragraph and inserting in place thereof the following  
615 paragraph:-

616 Whoever violates any provision of this chapter, or knowingly makes any incorrect  
617 statement of a material fact in any application, report or statement filed pursuant to this chapter,  
618 or knowingly omits to state any material fact necessary to give the commissioner any  
619 information lawfully required by him or refuses to permit any lawful investigation or  
620 examination, shall be punished by a fine of not more than one thousand dollars or by  
621 imprisonment for not more than six months, or both. The penalty provision of this section shall  
622 be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other  
623 person for violating any provision of this chapter or any rule or regulation made thereunder.

624 SECTION 40. Chapter 255C of the General Laws, as so appearing, is hereby amended  
625 by adding after section 23 the following two sections:-

626 Section 24. (a) Whenever the commissioner finds that any licensee or exempt  
627 person under section two of this chapter has violated any provision of this chapter or any rule or  
628 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
629 of the business of a premium finance agency, the commissioner may, by order, in addition to any

630 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
631 penalty upon such person which shall not exceed five thousand dollars for each violation, up to a  
632 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The  
633 commissioner may impose a penalty which shall not exceed five thousand dollars for each  
634 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
635 licensee or exempt person under section two of this chapter, plus the costs of investigation.

636 Nothing in this section shall limit the right of any individual or entity who has been  
637 injured as a result of any violation of this chapter by a licensee, or any person other than a  
638 licensee or exempt person under section two of this chapter, to bring an action to recover  
639 damages or restitution in a court of competent jurisdiction.

640 Any findings or order issued by the commissioner pursuant to this section shall be  
641 subject to review as provided in chapter thirty A.

642 Section 25. (a) Whenever the commissioner determines that any person has, directly or  
643 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
644 applicable to the conduct of the business of a premium finance agency; or any order issued by  
645 the commissioner under this chapter or any written agreement entered between such licensee and  
646 the commissioner; the commissioner may serve upon such person a written notice of intention:

647 (1) to prohibit such person from performing in the capacity of a principal employee on  
648 behalf of any licensee for such period of time that the commissioner deems necessary;

649 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
650 for a period up to thirty-six months following the effective date of an order issued under  
651 subsection (b) or (c); or

652 (3) to prohibit such person from any further participation, in any manner, in the conduct  
653 of the affairs of a premium finance agency in Massachusetts or to prohibit such person from  
654 being employed by, an agent of, or operating on behalf of a licensee under this chapter or any  
655 other business which requires a license from the commissioner.

656 (b) A written notice issued under subsection (a) shall contain a written statement of the  
657 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
658 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
659 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
660 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to  
661 appear in person or by a duly authorized representative, such party shall be deemed to have  
662 consented to the issuance of an order of such prohibition in accordance with the notice.

663 (c) In the event of such consent under subsection (b), or if after a hearing the  
664 commissioner finds that any of the grounds specified in such notice have been established, the  
665 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
666 commissioner finds appropriate.

667 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
668 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
669 person is an employee or on whose behalf the person is performing. The order shall remain in  
670 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
671 commissioner or a court of competent jurisdiction.

672 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
673 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in



674 part in the conduct of the affairs of a premium finance agency in Massachusetts may not, while  
675 such order is in effect, continue or commence to perform in the capacity of a principal employee,  
676 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
677 conduct of the affairs of:

678 any licensee under this chapter;

679 any other business which requires a license from the commissioner; and

680 any bank, as defined under section one of chapter one hundred sixty-seven, or any  
681 subsidiary thereof.

682 SECTION 41. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby  
683 amended by striking out the definition of "Sales finance company" in lines 90 through 97,  
684 inclusive, and inserting in place thereof the following definition: --

685 "Sales finance company",

686 (1) a bank as defined in section one of chapter one hundred and sixty-seven, or a national  
687 banking association or a savings and loan association, federal savings bank, federal savings and  
688 loan association, federal credit union, or any bank, trust company, savings bank, savings and  
689 loan association or credit union organized under the laws of any other state of the United States,  
690 or any subsidiary of the above.

691 (2) any person other than an installment seller engaged, in whole or in part, in the  
692 business of purchasing retail installment sale agreements or revolving credit agreements of one  
693 or more retail sellers. The term "sales finance company" shall not include the pledgee of an  
694 aggregate number of such agreements to secure a bona fide loan thereon.

695 SECTION 42. Chapter 255D of the General Laws, as so appearing, is hereby amended  
696 by striking out section 2 and inserting in place thereof the following two sections:--

697 Section 2. No person other than a bank as defined in section one of chapter one hundred  
698 and sixty-seven, a national banking association, federal savings bank, federal savings and loan  
699 association, federal credit union, or any bank, trust company, savings bank, savings and loan  
700 association or credit union organized under the laws of any other state of the United States which  
701 is insured by a federal deposit insurer, or any subsidiary of the above. The commissioner may  
702 adopt, amend or repeal rules and regulations, which may include an adequate capitalization  
703 requirement for sales finance companies, to aid in the administration and enforcement of this  
704 chapter.

705 Section 2A. The application for such license shall be in writing and shall contain such  
706 information as the commissioner may, from time to time, determine. The commissioner may  
707 reject any application for a license or any application for the renewal of a license if he is not  
708 satisfied that the financial responsibility, character, reputation, integrity and general fitness of the  
709 applicant and of the owners, partners or members thereof, if the applicant be a partnership or  
710 association, and of the officers and directors, if the applicant be a corporation, are such as to  
711 command the confidence of the public and to warrant the belief that the business for which the  
712 application for a license is filed will be operated lawfully, honestly, fairly and efficiently. Such  
713 licenses shall expire annually as of a date determined by the commissioner. Each license shall  
714 plainly state the name of the licensee and the city or town with the name of the street and  
715 number, if any, of the place where the business is to be carried on and shall be prominently  
716 posted in each place of business of the licensee. Any such business shall at all times be  
717 conducted in the name of the licensee as it appears on the license. Each application for a license

718 shall be accompanied by an investigation fee. Investigation fees and license fees shall be  
719 determined annually by the commissioner of administration under the provision of section three  
720 B of chapter seven.

721 If a licensee desires to carry on business in more than one place, he shall procure a  
722 license for each place where the business is to be conducted. Such license shall not be  
723 transferable or assignable. Any change of location of a place of business of a licensee shall  
724 require the prior approval of the commissioner. Such request for relocation shall be in writing  
725 setting forth the reason or reasons for the request and shall be accompanied by a relocation  
726 investigation fee to be determined annually by the commissioner of administration under the  
727 provision of section three B of chapter seven.

728 SECTION 43. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby  
729 further amended by striking out the words "April fifteenth" in line 48 and inserting in place  
730 thereof the words: a date to be determined by the commissioner.

731 SECTION 44. Chapter 255D of the General Laws, as so appearing, is hereby amended by  
732 striking out section 7 as so appearing, and inserting in place thereof the following section:--

733 Section 7. The commissioner may suspend or revoke any license issued pursuant to this  
734 chapter if said commissioner finds that:

735 (i) the licensee has violated any provision of this chapter or any rule or regulation  
736 adopted hereunder, or any other law applicable to the conduct of its business; or

737 (ii) any fact or condition exists which, if it had existed at the time of the original  
738 application for such license, would have warranted the commissioner in refusing to issue such  
739 license.

740 Except as provided in section eight, no license shall be revoked or suspended except after  
741 notice and a hearing thereon pursuant to chapter thirty A.

742 A licensee may surrender a license by delivering to the commissioner written notice that  
743 it thereby surrenders such license, but such surrender shall not affect the civil or criminal liability  
744 of the licensee for acts committed before such surrender.

745 No revocation, suspension or surrender of any license shall impair or affect the obligation  
746 of any pre-existing lawful contract between the licensee and any person.

747 SECTION 45. Said chapter 255D of the General Laws, as so appearing, is hereby further  
748 amended by striking out section 8, as so appearing, and inserting in place thereof the following  
749 two sections:--

750 Section 8. (a) If the commissioner determines, after giving notice of and opportunity for  
751 a hearing, that a licensee has engaged in or is about to engage in an act or practice constituting a  
752 violation of a provision of this chapter or a rule, regulation or order hereunder, he may order  
753 such licensee to cease and desist from such unlawful act or practice and take such affirmative  
754 action as in his judgment will effect the purposes of this chapter.

755 (b) If the commissioner makes written findings of fact that the public interest will be  
756 irreparably harmed by delay in issuing an order under subsection (a) he may issue a temporary  
757 cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner

758 shall promptly notify, in writing, the licensee affected thereby that such order has been so  
759 entered, the reasons therefor, and that within twenty days after the receipt of a written request  
760 from such licensee, the matter will be scheduled for hearing to determine whether or not such  
761 temporary order shall become permanent and final. If no such hearing is requested and none is  
762 ordered by the commissioner, the order shall remain in effect until it is modified or vacated by  
763 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of  
764 and opportunity for a hearing to the licensee subject to said order, shall, by written finding of  
765 facts and conclusions of law, vacate, modify or make permanent the order.

766 (c) No order under this section, except an order issued pursuant to subsection (b), may be  
767 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or  
768 modify an order under this section upon finding that the conditions which required such an order  
769 have changed and that it is in the public interest to so vacate or modify.

770 Any order issued pursuant to this section shall be subject to review as provided in chapter  
771 thirty A.

772 Section 8A. The commissioner may enforce the provisions of this chapter, or restrain any  
773 violations thereof, by filing a civil action in any court of competent jurisdiction.

774 SECTION 46. Chapter 255D of the General Laws, as so appearing, is hereby amended  
775 by striking out section 30 and inserting in place thereof the following section:

776 Section 30. Whoever violates any provision of this chapter shall be punished by a fine of  
777 not more than one thousand dollars or by imprisonment for not more than six months, or both.  
778 The penalty provision of this section shall be in addition to, and not in lieu of, any other

779 provision of law applicable to a licensee or other person for violating section two or any rule or  
780 regulation made thereunder.

781 SECTION 47. Chapter 255D of the General Laws, as so appearing, is hereby amended  
782 by adding after section 31 the following two sections:-

783 Section 32. (a) Whenever the commissioner finds that any licensee or exempt  
784 person under section two of this chapter has violated any provision of this chapter or any rule or  
785 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
786 of the business of a sales finance company, the commissioner may, by order, in addition to any  
787 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
788 penalty upon such person which shall not exceed five thousand dollars for each violation, up to a  
789 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The  
790 commissioner may impose a penalty which shall not exceed five thousand dollars for each  
791 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
792 licensee or exempt person under section two of this chapter, plus the costs of investigation.

793 Nothing in this section shall limit the right of any individual or entity who has been  
794 injured as a result of any violation of this chapter by a licensee, or any person other than a  
795 licensee or exempt person under section two of this chapter, to bring an action to recover  
796 damages or restitution in a court of competent jurisdiction.

797 Any findings or order issued by the commissioner pursuant to this section shall be subject  
798 to review as provided in chapter thirty A.

799 Section 33. (a) Whenever the commissioner determines that any person has, directly or  
800 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,

801 applicable to the conduct of the business of a sales finance company; or any order issued by the  
802 commissioner under this chapter or any written agreement entered between such licensee and the  
803 commissioner; the commissioner may serve upon such person a written notice of intention:

804 (1) to prohibit such person from performing in the capacity of a principal employee on  
805 behalf of any licensee for such period of time that the commissioner deems necessary;

806 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
807 for a period up to thirty-six months following the effective date of an order issued under  
808 subsection (b) or (c); or

809 (3) to prohibit such person from any further participation, in any manner, in the conduct  
810 of the affairs of a sales finance company in Massachusetts or to prohibit such person from being  
811 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other  
812 business which requires a license from the commissioner.

813 (b) A written notice issued under subsection (a) shall contain a written statement of the  
814 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
815 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
816 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
817 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to  
818 appear in person or by a duly authorized representative, such party shall be deemed to have  
819 consented to the issuance of an order of such prohibition in accordance with the notice.

820 (c) In the event of such consent under subsection (b), or if after a hearing the  
821 commissioner finds that any of the grounds specified in such notice have been established, the

822 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
823 commissioner finds appropriate.

824 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
825 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
826 person is an employee or on whose behalf the person is performing. The order shall remain in  
827 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
828 commissioner or a court of competent jurisdiction.

829 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
830 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
831 part in the conduct of the affairs of a sales finance company in Massachusetts may not, while  
832 such order is in effect, continue or commence to perform in the capacity of a principal employee,  
833 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
834 conduct of the affairs of:

835 any licensee under this chapter;

836 any other business which requires a license from the commissioner; and

837 any bank, as defined under section one of chapter one hundred sixty-seven, or any  
838 subsidiary thereof.