

**HOUSE . . . . . No. 1196**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Peter J. Koutoujian***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing uniform enforcement provisions and making other changes applicable to certain licensees under the jurisdiction of the Division of Banks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Peter J. Koutoujian</i>	<i>10th Middlesex</i>	<i>1/20/2011</i>

**HOUSE . . . . . No. 1196**

By Mr. Koutoujian of Waltham, a petition (accompanied by bill, House, No. 1196) of Peter J. Koutoujian establishing uniform enforcement provisions and making other changes applicable to certain licensees under the jurisdiction of the Division of Banks. Financial Services.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Eleven**

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 24B of chapter 93, as appearing in the 2008 Official Edition, is  
2 hereby amended by striking out subsection (b) and inserting in place thereof the following:—

3 (b) Each license shall state the address at which the business is to be conducted and shall  
4 state the name of the licensee. If a licensee intends to carry on such business at any place in  
5 addition to the address on the license, he shall so notify the commissioner, in writing, at least 30  
6 days prior thereto, and he shall pay a fee for such additional location at a reasonable cost as  
7 determined by the commissioner. Such notice shall contain the address of any such additional  
8 location and such other information as the commissioner may require; provided, however, that  
9 any such business shall at all times be conducted in the name of the licensee as it appears on the  
10 license. A copy of such license shall be posted as determined by the Commissioner. Such  
11 copies for places of business at addresses other than that appearing on the license may be

12 obtained at a reasonable cost, as determined by the commissioner. Such license shall not be  
13 transferable or assignable and shall expire annually on a date determined by the commissioner.

14 SECTION 2. Chapter 93 of the General Laws, as so appearing, is hereby amended by  
15 striking out section 24F and inserting in place thereof the following section:—

16 Section 24F. The commissioner, or such other of his assistants as he may designate, may  
17 summon a licensee, or any of his agents or employees, and other witnesses as he considers  
18 necessary, and examine them relative to their transactions, may require the production of books  
19 and papers and, for those purposes may administer oaths. Whoever, without justifiable cause,  
20 fails or refuses to appear and testify or to produce books and papers when so required, or  
21 obstructs the commissioner or his representatives in the performance of their duties, shall be  
22 punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or  
23 both. Each day a violation occurs or continues shall be considered a separate offense. The  
24 penalty provision of this section shall be in addition to, and not in lieu of, any other provision of  
25 law applicable to a licensee or other person for violating section 24A or any rule or regulation  
26 made thereunder.

27 SECTION 3. Chapter 93 of the General Laws, as so appearing, is hereby amended by  
28 adding after section 24K the following two sections:—

29 Section 24L. (a) Whenever the commissioner finds that any licensee or exempt  
30 person under section 24A of this chapter has violated any provision of this chapter or any rule or  
31 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
32 of the business of a debt collector or a third party loan servicer, the commissioner may, by order,  
33 in addition to any other action authorized under this chapter or any rule or regulation made

34 thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for  
35 each violation, up to a maximum of one hundred thousand dollars for such violation plus the  
36 costs of investigation. The commissioner may impose a penalty which shall not exceed five  
37 thousand dollars for each violation of this chapter, or any rule or regulation adopted thereunder,  
38 by a person other than a licensee or exempt person under section 24A of this chapter, plus the  
39 costs of investigation.

40 (b) Nothing in this section shall limit the right of any individual or entity who has  
41 been injured as a result of any violation of this chapter by a licensee, or any person other than a  
42 licensee or exempt person under section 24A of this chapter, to bring an action to recover  
43 damages or restitution in a court of competent jurisdiction.

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

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

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

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

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

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

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

72 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
73 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
74 person is an employee or on whose behalf the person is performing. The order shall remain in

75 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
76 commissioner or a court of competent jurisdiction.

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

83 (1) any licensee under this chapter;

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

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

87 SECTION 4. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
88 striking out section 96 and inserting in place thereof the following section:—

89 Section 96. No person shall directly or indirectly engage in the business of making loans  
90 of nine thousand dollars or less, adjusted to the average annual rate of inflation as measured by  
91 the Consumer Price Index released for the previous year and announced each year as of March 1  
92 by the commissioner, if the amount to be paid on any such loan for interest and expenses exceeds  
93 in the aggregate an amount equivalent to twelve per cent per annum upon the sum loaned,  
94 without first obtaining from the commissioner of banks, in sections ninety-six to one hundred

95 and fourteen, inclusive, called the commissioner, a license to carry on the said business in the  
96 town where the business is to be transacted.

97         When an application for a loan or for an endorsement or guarantee or for the purchase of  
98 a note is made by any person within this commonwealth, and the money is advanced or the  
99 endorsement or guarantee is made or furnished by any person without this commonwealth, the  
100 transaction shall be deemed a loan made within this commonwealth, and such a loan and the  
101 parties making it shall be subject to sections ninety-six to one hundred and thirteen, inclusive.  
102 The buying or endorsing of notes or the furnishing of guarantee or security for compensation  
103 shall be considered to be engaging in the business of making small loans within said sections, but  
104 the foregoing provisions of this sentence shall not apply in the case of any transaction which  
105 involves any note or other instrument evidencing the indebtedness of a buyer to the seller of  
106 goods, services or insurance for a part or all of the purchase price; provided, however, that any  
107 advance of money by such seller or, by a person acting on his behalf for the purpose of paying an  
108 existing indebtedness of such buyer or for any other purpose shall constitute a loan of money  
109 subject to the provisions of this section. For the purposes of said sections, the amount to be paid  
110 upon any such loan for interest or expenses shall include all sums paid or to be paid by or on  
111 behalf of the borrower for interest, brokerage, recording fees, commissions, services, extension  
112 of loan, forbearance to enforce payment, and all other sums charged against or paid or to be paid  
113 by the borrower for making or securing directly or indirectly the loan, and shall include all such  
114 sums when paid by or on behalf of or charged against the borrower for or on account of making  
115 or securing the loan, directly or indirectly, to or by any person, other than the lender, if such  
116 payment or charge was known to the lender at the time of making the loan, or might have been  
117 ascertained by reasonable inquiry. Any person directly or indirectly engaging, for a fee,

118 commission, bonus or other consideration, in the business of negotiating, arranging, aiding or  
119 assisting the borrower or lender in procuring or making such loans, for which the amount paid or  
120 to be paid for interest and expenses, including all amounts paid or to be paid to any other party  
121 therefor, exceeds in the aggregate an amount equivalent to twelve per cent per annum, whether  
122 such loans are actually made by such person or by another party, shall be deemed to be engaged  
123 in the business of making small loans, and shall be subject to sections ninety-six to one hundred  
124 and twelve, inclusive. If, after all deductions or payments, whether on account of interest,  
125 expenses or principal made substantially contemporaneously with the making of the loan, the  
126 amount retained by the borrower be nine thousand dollars or less, as so adjusted, as provided  
127 herein, the transaction shall be deemed to be a loan in the amount of the sum so retained by the  
128 borrower after such deductions or payments, notwithstanding that the loan be nominally for a  
129 greater sum.

130           This section shall not apply to loans that are subject to section 90A or section 28B of  
131 chapter 183.

132           The provisions of this section and sections ninety-six A to one hundred and fourteen A,  
133 inclusive, shall apply only to loans made primarily for personal, family or household purpose;  
134 provided, however, that the provisions of this section and said sections ninety-six A to one  
135 hundred and fourteen, inclusive, shall not apply to loans to any student, or to any parent, legal  
136 guardian or sponsor of a student, made by any nonprofit, public or independent post-secondary  
137 educational institution within the commonwealth authorized by law to grant degrees, by the  
138 commonwealth or by any agency or instrumentality thereof; and provided, further, that such  
139 institutions may not take, receive, reserve, or charge interest, expenses and other consideration  
140 for making or securing such loan in excess of those permitted by section one hundred, except in



141 the event of prepayment or refinancing, in whole or in part, of any existing loans by such  
142 institution to any such student, or to any such parent, legal guardian or sponsor of a student,  
143 which refinancing or prepayment occurs within eighteen months of the date such loan was made.

144 SECTION 5. Section 98 of chapter 140 of the General Laws, as so appearing, is hereby  
145 amended by striking out the words “the fifteenth day of April” in line 3 and inserting in place  
146 thereof the words:— a date to be determined by the commissioner.

147 SECTION 6. Section 99 of chapter 140 of the General Laws, as so appearing, is hereby  
148 amended by striking out section 99 and inserting in place thereof the following section:—

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

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159 SECTION 7. Chapter 140, as so appearing, is hereby amended by striking out section  
160 101 and inserting in place thereof the following section:—

161           Section 101. Each license shall state the address at which the business is to be conducted  
162 and shall state the name of the licensee. If a licensee intends to carry on such business at any  
163 place in addition to the address on the license, he shall so notify the commissioner, in writing, at  
164 least 30 days prior thereto, and he shall pay a fee for such additional location at a reasonable cost  
165 as determined by the commissioner. Such notice shall contain the address of any such additional  
166 location and such other information as the commissioner may require; provided, however, that  
167 any such business shall at all times be conducted in the name of the licensee as it appears on the  
168 license. A copy of such license shall be posted as determined by the Commissioner. Such  
169 copies for places of business at addresses other than that appearing on the license may be  
170 obtained at a reasonable cost, as determined by the commissioner. Such license shall not be  
171 transferable or assignable and shall expire annually on a date determined by the commissioner.

172           SECTION 8. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
173 striking out section 103, and inserting in place thereof the following three sections:—

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

180           Whoever, being so licensed, violates the provisions of section one hundred shall be  
181 punished by a fine of not more than one thousand dollars or by imprisonment for not more than  
182 one year, or both. Each day such violation occurs or continues shall be deemed a separate

183 offense. Any loan made by any person so licensed in violation of said section one hundred may  
184 be declared void by the supreme judicial or superior court in equity upon petition by the person  
185 to whom the loan was made.

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

188 (i) the licensee has violated any provision of sections ninety-six to one hundred and  
189 fourteen, inclusive, or any rule or regulation made by the commissioner under any provision of  
190 sections ninety-six to one hundred and fourteen, inclusive, or any other law applicable to the  
191 conduct of the business; or

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

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

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

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

202 The penalty provision of this section shall be in addition to, and not in lieu of, any other  
203 provision of law applicable to a licensee or other person for violating section ninety-six, ninety-

204 seven, ninety-eight, one hundred, one hundred and one, one hundred and two, one hundred and  
205 four, one hundred and six, and one hundred and nine or any rule or regulation made thereunder.

206 Section 103A. (a) If the commissioner determines, after giving notice of an opportunity  
207 for a hearing, that a licensee has engaged or is about to engage in an act or practice constituting a  
208 violation of a provision of sections ninety-seven, ninety-eight, one hundred, one hundred and  
209 one, one hundred and two, one hundred and four or one hundred and nine, or any rule or  
210 regulation made by the commissioner under section ninety-seven or one hundred and six, or any  
211 other law applicable to the conduct of the business, he may order such licensee to cease and  
212 desist from such unlawful act or practice and take such affirmative action as in his judgment will  
213 effect the purpose of sections ninety-seven, ninety-eight, one hundred, one hundred and one, one  
214 hundred and two, one hundred and four or one hundred and nine, or any rule or regulation made  
215 by the commissioner under section ninety-seven or one hundred and six, or any other law  
216 applicable to the conduct of the business.

217 (b) If the commissioner makes written findings of fact that the public interest will be  
218 irreparably harmed by delay in issuing an order under section (a) he may issue a temporary cease  
219 and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall  
220 promptly notify, in writing, the licensee affected thereby that such order has been so entered, the  
221 reasons therefor, and that within twenty days after receipt of a written request from such  
222 licensee, the matter will be scheduled for a hearing to determine whether or not such temporary  
223 order shall become permanent and final. If no such hearing is requested and none is ordered by  
224 the commissioner, the order shall remain in effect until it is modified or vacated by the  
225 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and

226 opportunity for a hearing to the licensee subject to said order, shall, by written finding of facts  
227 and conclusions of law, vacate, modify or make permanent the order.

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

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

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

237 SECTION 9. Section 110 of chapter 140, as so appearing, is hereby amended by striking  
238 out, in line 14, the words “six thousand dollars or less”, and inserting in place thereof the  
239 following words:— nine thousand dollars or less.

240 SECTION 10. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
241 adding after section 113 the following two sections:—

242 Section 113A. (a) Whenever the commissioner finds that any licensee or exempt  
243 person under section ninety-six of this chapter has violated any provision of this chapter or any  
244 rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the  
245 conduct of the business of making small loans, the commissioner may, by order, in addition to  
246 any other action authorized under this chapter or any rule or regulation made thereunder, impose

247 a penalty upon such person which shall not exceed five thousand dollars for each violation, up to  
248 a maximum of one hundred thousand dollars for such violation plus the costs of investigation.  
249 The commissioner may impose a penalty which shall not exceed five thousand dollars for each  
250 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
251 licensee or exempt person under section ninety-six of this chapter, plus the costs of investigation.

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

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

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

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

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

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

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

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

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

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

295 (1) any licensee under this chapter;

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

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

299 SECTION 11. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
300 striking section 114A and inserting in place thereof the following section:—

301 Section 114A. A bank as defined in section one of chapter one hundred sixty-seven, a  
302 national banking association, a federally chartered credit union, a federal savings and loan  
303 association, a federal savings bank, or any subsidiary of the above, or any bank, trust company,  
304 savings bank, savings and loan association, or credit union organized under the laws of any other  
305 state, or any subsidiary of the above, shall not be subject to the provisions of sections ninety-six  
306 to one hundred fourteen, inclusive; provided, that such institutions may not take, receive, reserve  
307 or charge interest, expenses and other considerations for making or securing any loan subject to  
308 the provisions of section ninety-six in excess of those permitted by section one hundred. Any  
309 loan subject to the provisions of section ninety-six made by any bank as defined in section one of  
310 chapter one hundred sixty-seven, a national banking association, a federally-chartered credit



311 union, a federal savings and loan association, a federal savings bank, or any subsidiary of the  
312 above, or any bank, trust company, savings bank, savings and loan association, or credit union  
313 organized under the laws of any other state on which charges for interest, expenses and other  
314 considerations exceed those permitted by section one hundred may be declared void by the  
315 supreme judicial court or superior court in equity upon petition by the person to whom the loans  
316 were made, and any such bank as defined section one of chapter one hundred sixty-seven, a  
317 national banking association, a federally chartered credit union, a federal savings and loan  
318 association, a federal savings bank, or any subsidiary of the above, or any bank, trust company,  
319 savings bank, savings and loan association, or credit union organized under the laws of any other  
320 state making such a loan shall be subject to a fine of not more than one thousand dollars.

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

328 SECTION 12. Section 4 of chapter 167F of the General Laws, as so appearing, is hereby  
329 amended by striking out the first paragraph and inserting in place thereof the following  
330 paragraph:—

331 Any bank as defined in section one of chapter one hundred sixty-seven, a national  
332 banking association, a federally-chartered credit union, a federal savings and loan association, a

333 federal savings bank, or any subsidiary of the above, any bank, trust company, savings bank,  
334 savings and loan association, or credit union organized under the laws of any other state or any  
335 subsidiary of the above, may engage directly in the business of selling, issuing or registering  
336 checks or money orders for use primarily for personal, family, or household purposes, except all  
337 of the institutions described above may engage in such business through agents who shall not be  
338 deemed to be branches of such institutions. No person, other than the foregoing, shall engage in  
339 such business directly or indirectly unless he files annually, as of a date determined by the  
340 commissioner, a sworn statement setting forth his name and address, the names and business  
341 addresses of his agents, other than the financial institutions described above, authorized to  
342 receive money and transact such business on his behalf.

343 SECTION 13. Said section 4 of chapter 167F of the General Laws, as so appearing, is  
344 hereby further amended by striking out the fifth paragraph and inserting in place thereof the  
345 following paragraph:—

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

351 SECTION 14. Chapter 167F of the General Laws, as so appearing, is hereby amended by  
352 adding after section 4 the following two sections:—

353 Section 4A. (a) Whenever the commissioner finds that any licensee or exempt  
354 person under section 4 of this chapter has violated any provision of this chapter or any rule or

355 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
356 of the business of selling, issuing or registering checks or money orders, the commissioner may,  
357 by order, in addition to any other action authorized under this chapter or any rule or regulation  
358 made thereunder, impose a penalty upon such person which shall not exceed five thousand  
359 dollars for each violation, up to a maximum of one hundred thousand dollars for such violation  
360 plus the costs of investigation. The commissioner may impose a penalty which shall not exceed  
361 five thousand dollars for each violation of this chapter, or any rule or regulation adopted  
362 thereunder, by a person other than a licensee or exempt person under section 4 of this chapter,  
363 plus the costs of investigation.

364 (b) Nothing in this section shall limit the right of any individual or entity who has  
365 been injured as a result of any violation of this chapter by a licensee, or any person other than a  
366 licensee or exempt person under section 4 of this chapter, to bring an action to recover damages  
367 or restitution in a court of competent jurisdiction.

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

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

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

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

381

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

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

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

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

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

408 (1) any licensee under this chapter;

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

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

412 SECTION 15. Chapter 169 of the General Laws, as so appearing, is hereby amended by  
413 striking out Section 1 and inserting the following section:—

414 Section 1. This chapter shall apply to all persons who engage or are financially interested  
415 in the business of receiving deposits of money for the purpose of transmitting the same or  
416 equivalents thereof to foreign countries, except banks as defined in section one of chapter one  
417 hundred sixty-seven, a national banking association, a federally-chartered credit union, a federal

418 savings and loan association, a federal savings bank, or any bank, trust company, savings bank,  
419 savings and loan association, or credit union organized under the law of any other state, or any  
420 subsidiary of the above, persons doing business under section forty-three of chapter one hundred  
421 sixty-seven, express companies having contracts with transportation companies for the operation  
422 of an express service upon the lines of such companies or express companies doing an  
423 international express business or global transportation companies or telegraph companies.

424 SECTION 16. Section 3 of chapter 169 of the General Laws, as so appearing, is hereby  
425 amended by striking out the eighth sentence.

426 SECTION 17. Section 4 of chapter 169, as so appearing, is hereby amended by striking  
427 out the fifth and sixth sentences and inserting in place thereof the following six sentences:—

428 Each license shall state the address at which the business is to be conducted and shall  
429 state the name of the licensee. If a licensee intends to carry on such business at any place in  
430 addition to the address on the license, he shall so notify the commissioner, in writing, at least 30  
431 days prior thereto, and he shall pay a fee for such additional location at a reasonable cost as  
432 determined by the commissioner. Such notice shall contain the address of any such additional  
433 location and such other information as the commissioner may require; provided, however, that  
434 any such business shall at all times be conducted in the name of the licensee as it appears on the  
435 license. A copy of such license shall be posted as determined by the Commissioner. Such  
436 copies for places of business at addresses other than that appearing on the license may be  
437 obtained at a reasonable cost, as determined by the commissioner. Such license shall not be  
438 transferable or assignable and shall expire annually on a date determined by the commissioner.

439 SECTION 18. Section 9 of chapter 169 of the General Laws, as so appearing, is hereby  
440 amended by striking out the first paragraph and inserting in place thereof the following  
441 paragraph:—

442 Licensees shall annually, on or before a date to be determined by the commissioner, and  
443 at such other times as the commissioner may specify, make a return to said commissioner in such  
444 form as said commissioner may prescribe, signed and sworn to by such officer or person as said  
445 commissioner may designate, which form shall disclose the condition of such licensee as of the  
446 close of business on the last day of December or such other day as the commissioner may  
447 prescribe.

448 SECTION 19. Section 16 of chapter 169 of the General Laws, as so appearing, is hereby  
449 amended by adding the following sentence:—

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

453 SECTION 20. Chapter 169 of the General Laws, as so appearing, is hereby amended by  
454 adding after section 16 the following two sections:—

455 Section 17. (a) Whenever the commissioner finds that any licensee or exempt  
456 person under any provision of this chapter has violated any provision of this chapter or any rule  
457 or regulation adopted thereunder, or any other law of the Commonwealth applicable to the  
458 conduct of the business of receiving deposits of money for the purpose of transmitting the same  
459 or equivalents thereof to foreign countries, the commissioner may, by order, in addition to any  
460 other action authorized under this chapter or any rule or regulation made thereunder, impose a

461 penalty upon such person which shall not exceed five thousand dollars for each violation, up to a  
462 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The  
463 commissioner may impose a penalty which shall not exceed five thousand dollars for each  
464 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
465 licensee or exempt person under any provision of this chapter, plus the costs of investigation.

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

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

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

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

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



483

484 (3) to prohibit such person from any further participation, in any manner, in the conduct  
485 of the affairs of a business of receiving deposits of money for the purpose of transmitting the  
486 same or equivalents thereof to foreign countries in Massachusetts or to prohibit such person from  
487 being employed by, an agent of, or operating on behalf of a licensee under this chapter or any  
488 other business which requires a license from the commissioner.

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

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

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

505 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
506 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
507 part in the conduct of the affairs of a business of receiving deposits of money for the purpose of  
508 transmitting the same or equivalents thereof to foreign countries in Massachusetts may not, while  
509 such order is in effect, continue or commence to perform in the capacity of a principal employee,  
510 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
511 conduct of the affairs of:

512 (1) any licensee under this chapter;

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

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

516 SECTION 21. Section 2 of chapter 169A of the General Laws, as so appearing, is hereby  
517 amended, in line 7, by striking out the word “bank.” and inserting in place thereof the words:—  
518 bank or any bank, trust company, savings bank, savings and loan association, or credit union  
519 organized under the laws of any other state, or any subsidiary of the above,.

520 SECTION 22. Section 5 of chapter 169A, as so appearing, is hereby amended by striking  
521 the first four sentences and inserting in place thereof the following six sentences:—

522 Each license shall state the address at which the business is to be conducted and shall  
523 state the name of the licensee. If a licensee intends to carry on such business at any place in  
524 addition to the address on the license, he shall so notify the commissioner, in writing, at least 30  
525 days prior thereto, and he shall pay a fee for such additional location at a reasonable cost as

526 determined by the commissioner. Such notice shall contain the address of any such additional  
527 location and such other information as the commissioner may require; provided, however, that  
528 any such business shall at all times be conducted in the name of the licensee as it appears on the  
529 license. A copy of such license shall be posted as determined by the commissioner. Such copies  
530 for places of business at addresses other than that appearing on the license may be obtained at a  
531 reasonable cost, as determined by the commissioner. Such license shall not be transferable or  
532 assignable and shall expire annually on a date determined by the commissioner.

533 SECTION 23. Chapter 169A of the General Laws, as so appearing, is hereby amended  
534 by striking out section 13 and inserting in place thereof the following section:—

535 Section 13. Whoever violates any provision of section two or any rule or regulation  
536 made thereunder by the commissioner shall be punished by a fine of not more than one thousand  
537 dollars or by imprisonment for not more than six months, or both. Each day a violation  
538 continues shall be deemed a separate offense. The penalty provision of this section shall be in  
539 addition to, and not in lieu of, any other provision of law applicable to a licensee or other person  
540 for violating section two or any rule or regulation made thereunder.

541 SECTION 24. Chapter 169A of the General Laws, as so appearing, is hereby amended  
542 by adding after said section 13 the following two sections:—

543 Section 14. (a) Whenever the commissioner finds that any licensee or exempt  
544 person under section two of this chapter has violated any provision of this chapter or any rule or  
545 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
546 of the business of cashing checks, drafts or money orders, the commissioner may, by order, in  
547 addition to any other action authorized under this chapter or any rule or regulation made

548 thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for  
549 each violation, up to a maximum of one hundred thousand dollars for such violation plus the  
550 costs of investigation. The commissioner may impose a penalty which shall not exceed five  
551 thousand dollars for each violation of this chapter, or any rule or regulation adopted thereunder,  
552 by a person other than a licensee or exempt person under section two of this chapter, plus the  
553 costs of investigation.

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

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

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

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

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

571

572 (3) to prohibit such person from any further participation, in any manner, in the conduct  
573 of the affairs of person or entity engaged in the cashing of checks, drafts or money orders in  
574 Massachusetts or to prohibit such person from being employed by, an agent of, or operating on  
575 behalf of a licensee under this chapter or any other business which requires a license from the  
576 commissioner.

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

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

588 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
589 person. The commissioner shall also serve a copy of the order upon the licensee of which the

590 person is an employee or on whose behalf the person is performing. The order shall remain in  
591 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
592 commissioner or a court of competent jurisdiction.

593 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
594 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
595 part in the conduct of the affairs of a person or entity engaged in the cashing of checks, drafts or  
596 money orders in Massachusetts may not, while such order is in effect, continue or commence to  
597 perform in the capacity of a principal employee, or otherwise participate in any manner, if so  
598 prohibited by order of the commissioner, in the conduct of the affairs of:

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

603 SECTION 25. Section 1 of chapter 255B of the General Laws, as so appearing, is hereby  
604 amended by striking out the definition of "Sales finance company" and inserting in place thereof  
605 the following definition:— "Sales finance company",. (1) a bank as defined in section one of  
606 chapter one hundred and sixty-seven, a national banking association, federal savings bank,  
607 federal savings and loan association, federal credit union, or any bank, trust company, savings  
608 bank, savings and loan association or credit union organized under the laws of any other state of  
609 the United States, or any subsidiary of the above;

610 (2) any person engaged, in whole or in part, in the business of purchasing retail  
611 installment contracts from one or more retail sellers; and

612 (3) a retail seller engaged, in whole or in part, in the business of holding retail installment  
613 contracts acquired from retail buyers. The term "sales finance company" does not include the  
614 pledgee of an aggregate number of such contracts to secure a bona fide loan thereon.

615 SECTION 26. Section 2 of chapter 255B, as so appearing, is hereby amended by striking  
616 out the fourth, fifth, sixth, seventh and eighth sentences and inserting in place thereof the  
617 following six sentences:—

618 Each license shall state the address at which the business is to be conducted and shall  
619 state the name of the licensee. If a licensee intends to carry on such business at any place in  
620 addition to the address on the license, he shall so notify the commissioner, in writing, at least 30  
621 days prior thereto, and he shall pay a fee for such additional location at a reasonable cost as  
622 determined by the commissioner. Such notice shall contain the address of any such additional  
623 location and such other information as the commissioner may require; provided, however, that  
624 any such business shall at all times be conducted in the name of the licensee as it appears on the  
625 license. A copy of such license shall be posted as determined by the commissioner. Such copies  
626 for places of business at addresses other than that appearing on the license may be obtained at a  
627 reasonable cost, as determined by the commissioner. Such license shall not be transferable or  
628 assignable and shall expire annually on a date determined by the commissioner.

629 SECTION 27. Section 3 of chapter 255B of the General Laws, as so appearing, is hereby  
630 further amended by striking out the words "April fifteenth" in line 47 and inserting in place  
631 thereof the words:— a date to be determined by the commissioner.

632 SECTION 28. Section 4 of said chapter 255B of the General Laws, as so appearing, is  
633 hereby amended by adding the following sentence:— Each day such violation occurs or  
634 continues shall be deemed a separate offense.

635 SECTION 29. Chapter 255B of the General Laws, as so appearing, is hereby amended by  
636 striking out section 7, and inserting in place thereof the following section:—

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

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

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

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

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

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

651 SECTION 30. Chapter 255B of the General Laws, as so appearing, is hereby amended by  
652 striking out section 8 and inserting in place thereof the following two sections:—



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

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

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

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

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

677 SECTION 31. Chapter 255B of the General Laws, as so appearing, is hereby amended  
678 by striking out section 21 and inserting in place thereof the following section:—

679 Section 21. Whoever violates any provision of this chapter or any rule or regulation  
680 made thereunder by the commissioner shall be punished by a fine of not more than one thousand  
681 dollars or by imprisonment for not more than six months, or both. The penalty provision of this  
682 section shall be in addition to, and not in lieu of, any other provision of law applicable to a  
683 licensee or other person for violating provision of this chapter or any rule or regulation made  
684 thereunder.

685 SECTION 32. Chapter 255B of the General Laws, as so appearing, is hereby amended  
686 by adding after section 25 the following two sections:—

687 Section 26. (a) Whenever the commissioner finds that any licensee or exempt  
688 person under section two of this chapter has violated any provision of this chapter or any rule or  
689 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
690 of the business of a sales finance company, the commissioner may, by order, in addition to any  
691 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
692 penalty upon such person which shall not exceed five thousand dollars for each violation, up to a  
693 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The  
694 commissioner may impose a penalty which shall not exceed five thousand dollars for each  
695 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
696 licensee or exempt person under section two of this chapter, plus the costs of investigation.

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

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

703 Section 27. (a) Whenever the commissioner determines that any person has, directly or  
704 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
705 applicable to the conduct of the business of a sales finance company; or any order issued by the  
706 commissioner under this chapter or any written agreement entered between such licensee and the  
707 commissioner; the commissioner may serve upon such person a written notice of intention:

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

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

713

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

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

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

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

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

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

744 SECTION 33. Chapter 255C of the General Laws, as so appearing, is hereby amended  
745 by striking out section 2 and inserting in place thereof the following section:—

746 Section 2. No person, other than a bank as defined in section one of chapter one hundred  
747 sixty-seven, a national banking association, a federally-chartered credit union, a federal savings  
748 and loan association, a federal savings bank, or any subsidiary of the above, or a bank, a trust  
749 company, savings bank, savings and loan association or credit union organized under the laws of  
750 any other state, or any subsidiary of the above, a sales finance company, as defined in section  
751 one of chapter two hundred fifty-five B, and a company licensed to carry on the business of  
752 making small loans, shall engage in the business of premium finance agency unless licensed by  
753 the commissioner, as provided in section three; provided, however, that no property and casualty  
754 insurance agent or broker, including an insurance agent or insurance broker conducting an  
755 insurance premium financing agency business under a subsidiary or different company name,  
756 who provides premium financing only to his own customers for purposes of financing payment  
757 of premiums on contracts of insurance, which contracts of insurance are exclusively limited to  
758 commercial insurance policies, shall be required to be licensed pursuant to this section or any  
759 other section of this chapter. The commissioner may adopt, amend or repeal rules and  
760 regulations, which may include an adequate capitalization requirement for sales finance  
761 companies, to aid in the administration and enforcement of this chapter.

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

768           SECTION 34. Section 3 of said chapter 255C of the General Laws, as so appearing, is  
769 hereby amended by striking out the last sentence and inserting in place thereof the following  
770 sentence:— Each license shall be issued annually as of a date determined by the commissioner  
771 and shall remain in full force and effect unless suspended, revoked or surrendered as provided in  
772 section five.

773           SECTION 35. Section 4 of chapter 255C, as so appearing, is hereby amended by striking  
774 out the first two sentences and inserting in place thereof the following six sentences:—

775           Each license shall state the address at which the business is to be conducted and shall  
776 state the name of the licensee. If a licensee intends to carry on such business at any place in  
777 addition to the address on the license, he shall so notify the commissioner, in writing, at least 30  
778 days prior thereto, and he shall pay a fee for such additional location at a reasonable cost as  
779 determined by the commissioner. Such notice shall contain the address of any such additional  
780 location and such other information as the commissioner may require; provided, however, that  
781 any such business shall at all times be conducted in the name of the licensee as it appears on the  
782 license. A copy of such license shall be posted as determined by the commissioner. Such copies  
783 for places of business at addresses other than that appearing on the license may be obtained at a

784 reasonable cost, as determined by the commissioner. Such license shall not be transferable or  
785 assignable and shall expire annually on a date determined by the commissioner.

786 SECTION 36. Chapter 255C of the General Laws, as so appearing, is hereby amended  
787 by striking out section 5, and inserting in place thereof the following three sections:—

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

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

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

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

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

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

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

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

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



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

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

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

835 SECTION 37. Section 6 of chapter 255C of the General Laws, as so appearing, is hereby  
836 further amended by striking out the words “April fifteenth” in line 57 and inserting in place  
837 thereof the words:— a date to be determined by the commissioner.

838 SECTION 38. Section 9 of chapter 255C of the General Laws, as so appearing, is hereby  
839 amended by striking out the first paragraph and inserting in place thereof the following  
840 paragraph:—

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

849 SECTION 39. Chapter 255C of the General Laws, as so appearing, is hereby amended  
850 by adding after section 23 the following two sections:—

851 Section 24. (a) Whenever the commissioner finds that any licensee or exempt  
852 person under section two of this chapter has violated any provision of this chapter or any rule or  
853 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
854 of the business of a premium finance agency, the commissioner may, by order, in addition to any  
855 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
856 penalty upon such person which shall not exceed five thousand dollars for each violation, up to a  
857 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The  
858 commissioner may impose a penalty which shall not exceed five thousand dollars for each  
859 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
860 licensee or exempt person under section two of this chapter, plus the costs of investigation.

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

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

867 Section 25. (a) Whenever the commissioner determines that any person has, directly or  
868 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
869 applicable to the conduct of the business of a premium finance agency; or any order issued by

870 the commissioner under this chapter or any written agreement entered between such licensee and  
871 the commissioner; the commissioner may serve upon such person a written notice of intention:

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

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

877

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

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

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

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

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

898 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
899 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
900 part in the conduct of the affairs of a premium finance agency in Massachusetts may not, while  
901 such order is in effect, continue or commence to perform in the capacity of a principal employee,  
902 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
903 conduct of the affairs of:

904 (1) any licensee under this chapter;

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

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

908 SECTION 40. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby  
909 amended by striking out the definition of "Sales finance company" in lines 91 through 98,  
910 inclusive, and inserting in place thereof the following definition:—

911 "Sales finance company",

912 (1) a bank as defined in section one of chapter one hundred and sixty-seven, or a national  
913 banking association or a savings and loan association, federal savings bank, federal savings and  
914 loan association, federal credit union, or any bank, trust company, savings bank, savings and  
915 loan association or credit union organized under the laws of any other state of the United States,  
916 or any subsidiary of the above,

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

921 SECTION 41. The first paragraph of section 2 of chapter 255D, as so appearing, is  
922 hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the  
923 following six sentences:—

924 Each license shall state the address at which the business is to be conducted and shall  
925 state the name of the licensee. If a licensee intends to carry on such business at any place in  
926 addition to the address on the license, he shall so notify the commissioner, in writing, at least 30  
927 days prior thereto, and he shall pay a fee for such additional location at a reasonable cost as  
928 determined by the commissioner. Such notice shall contain the address of any such additional  
929 location and such other information as the commissioner may require; provided, however, that  
930 any such business shall at all times be conducted in the name of the licensee as it appears on the  
931 license. A copy of such license shall be posted as determined by the commissioner. Such copies  
932 for places of business at addresses other than that appearing on the license may be obtained at a

933 reasonable cost, as determined by the commissioner. Such license shall not be transferable or  
934 assignable and shall expire annually on a date determined by the commissioner.

935 SECTION 42. Section 2 of chapter 255D, as so appearing, is hereby further amended by  
936 striking out the ninth sentence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

985 Section 30. Whoever violates any provision of this chapter shall be punished by a fine of  
986 not more than one thousand dollars or by imprisonment for not more than six months, or both.  
987 The penalty provision of this section shall be in addition to, and not in lieu of, any other  
988 provision of law applicable to a licensee or other person for violating section two or any rule or  
989 regulation made thereunder.

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

992 Section 32. (a) Whenever the commissioner finds that any licensee or exempt  
993 person under section two of this chapter has violated any provision of this chapter or any rule or  
994 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
995 of the business of a sales finance company, the commissioner may, by order, in addition to any



996 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
997 penalty upon such person which shall not exceed five thousand dollars for each violation, up to a  
998 maximum of one hundred thousand dollars for such violation plus the costs of investigation. The  
999 commissioner may impose a penalty which shall not exceed five thousand dollars for each  
1000 violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a  
1001 licensee or exempt person under section two of this chapter, plus the costs of investigation.

1002 (b) Nothing in this section shall limit the right of any individual or entity who has  
1003 been injured as a result of any violation of this chapter by a licensee, or any person other than a  
1004 licensee or exempt person under section two of this chapter, to bring an action to recover  
1005 damages or restitution in a court of competent jurisdiction.

1006 (c) Any findings or order issued by the commissioner pursuant to this section shall be  
1007 subject to review as provided in chapter thirty A.

1008 Section 33. (a) Whenever the commissioner determines that any person has, directly or  
1009 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
1010 applicable to the conduct of the business of a sales finance company; or any order issued by the  
1011 commissioner under this chapter or any written agreement entered between such licensee and the  
1012 commissioner; the commissioner may serve upon such person a written notice of intention:

1013 (1) to prohibit such person from performing in the capacity of a principal employee on  
1014 behalf of any licensee for such period of time that the commissioner deems necessary;

1015 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
1016 for a period up to thirty-six months following the effective date of an order issued under  
1017 subsection (b) or (c); or

1018

1019           (3) to prohibit such person from any further participation, in any manner, in the conduct  
1020 of the affairs of a sales finance company in Massachusetts or to prohibit such person from being  
1021 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other  
1022 business which requires a license from the commissioner.

1023           (b) A written notice issued under subsection (a) shall contain a written statement of the  
1024 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
1025 thereon. Such hearing shall be fixed for a date not more than thirty days after the date of service  
1026 upon the commissioner of such request for a hearing. If such person fails to submit a request for  
1027 a hearing within twenty days of service of notice under subsection (a), or otherwise fails to  
1028 appear in person or by a duly authorized representative, such party shall be deemed to have  
1029 consented to the issuance of an order of such prohibition in accordance with the notice.

1030           (c) In the event of such consent under subsection (b), or if after a hearing the  
1031 commissioner finds that any of the grounds specified in such notice have been established, the  
1032 commissioner may issue an order of prohibition in accordance with subsection (a) as the  
1033 commissioner finds appropriate.

1034           (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
1035 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
1036 person is an employee or on whose behalf the person is performing. The order shall remain in  
1037 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
1038 commissioner or a court of competent jurisdiction.

1039           (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
1040 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
1041 part in the conduct of the affairs of a sales finance company in Massachusetts may not, while  
1042 such order is in effect, continue or commence to perform in the capacity of a principal employee,  
1043 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
1044 conduct of the affairs of:

1045           (1)    any licensee under this chapter;

1046           (2)    any other business which requires a license from the commissioner; and

1047           (3)    any bank, as defined under section one of chapter one hundred sixty-seven, or any  
1048 subsidiary thereof.