

SENATE No. 175

The Commonwealth of Massachusetts

PRESENTED BY:

Kathleen O'Connor Ives

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 relative to unsolicited loans.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>

SENATE No. 175

By Ms. O'Connor Ives, a petition (accompanied by bill, Senate, No. 175) of Kathleen O'Connor Ives, Linda Dorcena Forry, Diana DiZoglio and Chris Walsh for legislation relative to unsolicited loans. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 2337 OF 2013-2014.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to unsolicited loans.

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. The General Laws are hereby amended by inserting after chapter 140E the
2 following chapter:-

3 CHAPTER 140F

4 UNSOLICITED LOAN CONSUMER PROTECTION

5 Section 1. For the purposes of this chapter the following words shall have the following
6 meanings, unless the context clearly requires otherwise:-

7 "Addressee", the intended recipient of an unsolicited loan instrument.

8 "Commissioner", the commissioner of banks.

9 "Unauthorized use", negotiation of an unsolicited loan instrument by a person other than
10 the addressee who does not have actual, implied or apparent authority for the negotiation and
11 from which the addressee receives no benefit.

12 "Unsolicited loan instrument", a negotiable check, money order, draft or other instrument
13 that may be used by a consumer to activate a loan, which was not solicited by the consumer.

14 Section 2. No person or entity shall issue an unsolicited loan instrument.

15 Section 3. An addressee shall not be held liable for any debt incurred by the
16 unauthorized use of an unsolicited loan instrument by a party other than the addressee. In the
17 event of an unauthorized use of an unsolicited loan instrument, the issuing institution shall: (1)
18 provide the addressee with a written statement releasing the addressee of liability for the debt;
19 (2) take steps in accordance with the rules and regulations of the commissioner to repair an
20 adverse effect to the addressee's credit rating as a result of the unauthorized use; and (3) provide
21 the addressee with a written statement informing the addressee that such steps have been or will
22 be taken.

23 Section 4. A financial institution or lender shall not transfer funds held in an account of
24 the addressee in the financial institution as a consequence of a default of a debt owed to the
25 institution as a result of the unauthorized use of an unsolicited loan instrument.

26 Section 5. A person or entity that knowingly sends an unsolicited loan instrument shall be
27 punished by a fine of not more than \$5,000 for each violation.

28 Section 6. The commissioner shall adopt rules and regulations to implement this chapter.

29 Section 7. A violation of this chapter, or any rule or regulation issued hereunder, shall
30 constitute an unfair or deceptive act under chapter 93A.