

**HOUSE . . . . . No. 2190**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Aaron Michlewitz*

*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 confidentiality and enforcement provisions relative to certain licensees under the jurisdiction of the Division of Banks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>	<i>1/19/2017</i>

**HOUSE . . . . . No. 2190**

By Mr. Michlewitz of Boston, a petition (accompanied by bill, House, No. 2190) of Aaron Michlewitz for legislation to establish uniform confidentiality and enforcement provisions relative to certain licensees under the jurisdiction of the Division of Banks. Financial Services.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. 542 OF 2015-2016.]

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
\_\_\_\_\_

An Act establishing uniform confidentiality and enforcement provisions relative 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 24D of chapter 93 of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by inserting after the word “licensee” in lines 12, 15 and 29,  
3 the following words:— or registrant.

4           SECTION 2. Section 24D of chapter 93 of the General Laws, as so appearing, is hereby  
5 further amended by inserting after the word “licensees” in line 34, the following words:— or  
6 registrants.

7           SECTION 3. Chapter 93 of the General Laws, as so appearing, is hereby amended by  
8 striking out section 24F and inserting in place thereof the following section:

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

20           SECTION 4. Chapter 93 of the General Laws, as so appearing, is hereby amended by  
21 adding after section 24K the following two sections:—

22           Section 24L. (a) Whenever the commissioner finds that any licensee or exempt person  
23 under section 24A of this chapter has violated any provision of this chapter or any rule or  
24 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
25 of the business of a debt collector or a third party loan servicer, the commissioner may, by order,  
26 in addition to any other action authorized under this chapter or any rule or regulation made  
27 thereunder, impose a penalty upon the person which shall not exceed \$5,000 for each violation,  
28 up to a maximum of \$100,000 for the violation plus the costs of investigation. The commissioner  
29 may impose a penalty which shall not exceed \$5,000 for each violation of this chapter, or any  
30 rule or regulation adopted thereunder, by a person other than a licensee or exempt person under  
31 section 24A of this chapter, plus the costs of investigation.

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

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

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

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

46 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
47 for a period up to 36 months following the effective date of an order issued under subsection (b)  
48 or (c); or

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

53 (b) A written notice issued under subsection (a) shall contain a written statement of the  
54 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
55 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon  
56 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing  
57 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or  
58 by a duly authorized representative, the party shall be deemed to have consented to the issuance  
59 of an order of prohibition in accordance with the notice.

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

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

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

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

79 SECTION 5. Section 99 of chapter 140 of the General Laws, as so appearing, is hereby

80 amended by striking out section 99 and inserting in place thereof the following section:—

81 Section 99. A licensee shall, when directed by the commissioner, permit the

82 commissioner or the commissioner's duly authorized representative to inspect its records and

83 evidence of compliance with this chapter or any rule and regulation issued thereunder and with

84 any other law, rule and regulation applicable to the conduct of its business. The commissioner

85 shall preserve a full record of each examination of a licensee including a statement of its

86 condition. All records of investigations and reports of examinations by the commissioner,

87 including workpapers, information derived from the reports or responses to the reports, and any

88 copies thereof in the possession of any licensee under the supervision of the commissioner, shall

89 be confidential and privileged communications, shall not be subject to subpoena and shall not be

90 a public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this

91 paragraph, records of investigation and reports of examinations shall include records of

92 investigation and reports of examinations conducted by a financial regulatory agency of the

93 federal government and any other state, and of any foreign government which are considered

94 confidential by the agency or foreign government and which are in possession of the

95 commissioner. In any proceeding before a court, the court may issue a protective order to seal the

96 record protecting the confidentiality of any such record, and other than any such record on file

97 with the court or filed in connection with the court proceeding, and the court may exclude the  
98 public from any portion of a proceeding at which any such record may be disclosed. Copies of  
99 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
100 to any other person, organization or agency without prior written approval by the commissioner.  
101 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
102 government, of other states, or of foreign countries, and any law enforcement agency, the  
103 information, reports, inspections and statements relating to the licensees under the  
104 commissioner's supervision.

105         The commissioner may summon licensees, companies or associations, or any of their  
106 agents or employees, and other witnesses as necessary, and examine them relative to their  
107 transactions and to the condition of their business, and for that purpose may administer oaths.  
108 Whoever without justifiable cause refuses to appear and testify when so required, or obstructs the  
109 commissioner or the commissioner's representatives in the performance of their duties, shall be  
110 punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or  
111 both. The penalty provision of this section shall be in addition to, and not in lieu of, any other  
112 provision of law applicable to a licensee or other person for violating section 96 or any rule or  
113 regulation made thereunder.

114         SECTION 6. Section 103 Chapter 140 of the General Laws, as so appearing, is hereby  
115 amended by striking out section 103, and inserting in place thereof the following three  
116 sections:—

117         Section 103. The commissioner may suspend or revoke any license issued pursuant to  
118 section ninety-six if the commissioner finds that:

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

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

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

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

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

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

137 Section 103A. (a) If the commissioner determines, after giving notice of an opportunity  
138 for a hearing, that a licensee has engaged or is about to engage in an act or practice constituting a  
139 violation of a provision of sections ninety-seven, ninety-eight, one hundred, one hundred and



140 one, one hundred and two, one hundred and four or one hundred and nine, or any rule or  
141 regulation made by the commissioner under section ninety-seven or one hundred and six, or any  
142 other law applicable to the conduct of the business, the commissioner may order the licensee to  
143 cease and desist from the unlawful act or practice and take affirmative action as in his or her  
144 judgment will effect the purpose of sections ninety-seven, ninety-eight, one hundred, one  
145 hundred and one, one hundred and two, one hundred and four or one hundred and nine, or any  
146 rule or regulation made by the commissioner under section ninety-seven or one hundred and six,  
147 or any other law applicable to the conduct of the business.

148 (b) If the commissioner makes written findings of fact that the public interest will be  
149 irreparably harmed by delay in issuing an order under section (a) the commissioner may issue a  
150 temporary cease and desist order. Upon the entry of a temporary cease and desist order, the  
151 commissioner shall promptly notify, in writing, the licensee affected thereby that the order has  
152 been so entered, the reasons therefor, and that within 20 days after receipt of a written request  
153 from the licensee, the matter will be scheduled for a hearing to determine whether or not the  
154 temporary order shall become permanent and final. If no hearing is requested and none is ordered  
155 by the commissioner, the order shall remain in effect until it is modified or vacated by the  
156 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and  
157 opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts and  
158 conclusions of law, vacate, modify or make permanent the order.

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

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

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

168 SECTION 7. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
169 adding after section 113 the following two sections:—

170 Section 113A. (a) Whenever the commissioner finds that any licensee or exempt person  
171 under section ninety-six of this chapter has violated any provision of this chapter or any rule or  
172 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
173 of the business of making small loans, the commissioner may, by order, in addition to any other  
174 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty  
175 upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000  
176 for the violation plus the costs of investigation. The commissioner may impose a penalty which  
177 shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted  
178 thereunder, by a person other than a licensee or exempt person under section ninety-six of this  
179 chapter, plus the costs of investigation.

180 (b) In addition to any other action authorized under this chapter or any rule of regulation  
181 made thereunder, a licensee who violates the provisions of section one hundred may also be  
182 punished by imprisonment for not more than one year. Each day the violation occurs or  
183 continues shall be deemed a separate offense. Any loan made by any person so licensed in

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

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

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

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

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

199 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
200 for a period up to 36 months following the effective date of an order issued under subsection (b)  
201 or (c); or

202 (3) to prohibit the person from any further participation, in any manner, in the conduct of  
203 the affairs of a business making small loans in Massachusetts or to prohibit the person from

204 being employed by, an agent of, or operating on behalf of a licensee under this chapter or any  
205 other business which requires a license from the commissioner.

206 (b) A written notice issued under subsection (a) shall contain a written statement of the  
207 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
208 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon  
209 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing  
210 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or  
211 by a duly authorized representative, the party shall be deemed to have consented to the issuance  
212 of an order of prohibition in accordance with the notice.

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

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

222 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
223 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
224 part in the conduct of the affairs of a business making small loans in Massachusetts may not,  
225 while the order is in effect, continue or commence to perform in the capacity of a principal

226 employee, or otherwise participate in any manner, if so prohibited by order of the commissioner,  
227 in the conduct of the affairs of:

228 (1) any licensee under this chapter;

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

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

232 SECTION 8. Chapter 140 of the General Laws, as so appearing, is hereby amended by  
233 striking section 114A and inserting in place thereof the following section:—

234 Section 114A. A bank as defined in section one of chapter one hundred sixty-seven, a  
235 national banking association, a federally chartered credit union, a federal savings and loan  
236 association, a federal savings bank, or any subsidiary of the above, or any bank, trust company,  
237 savings bank, savings and loan association, or credit union organized under the laws of any other  
238 state, or any subsidiary of the above, shall not be subject to the provisions of sections ninety-six  
239 to one hundred fourteen, inclusive; provided, that the institutions may not take, receive, reserve  
240 or charge interest, expenses and other considerations for making or securing any loan subject to  
241 the provisions of section ninety-six in excess of those permitted by section one hundred. Any  
242 loan subject to the provisions of section ninety-six made by any bank as defined in section one of  
243 chapter one hundred sixty-seven, a national banking association, a federally-chartered credit  
244 union, a federal savings and loan association, a federal savings bank, or any subsidiary of the  
245 above, or any bank, trust company, savings bank, savings and loan association, or credit union  
246 organized under the laws of any other state on which charges for interest, expenses and other  
247 considerations exceed those permitted by section one hundred may be declared void by the

248 supreme judicial court or superior court in equity upon petition by the person to whom the loans  
249 were made, and any bank as defined section one of chapter one hundred sixty-seven, a national  
250 banking association, a federally chartered credit union, a federal savings and loan association, a  
251 federal savings bank, or any subsidiary of the above, or any bank, trust company, savings bank,  
252 savings and loan association, or credit union organized under the laws of any other state making  
253 such a loan shall be subject to a fine of not more than \$1,000.

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

261 SECTION 9. Section 4 of chapter 167F of the General Laws, as amended by section 5 of  
262 chapter 144 of the acts of 2012, is hereby amended by striking out the first paragraph and  
263 inserting in place thereof the following paragraph:—

264 Any bank as defined in section one of chapter one hundred sixty-seven, a national  
265 banking association, a federally-chartered credit union, a federal savings and loan association, a  
266 federal savings bank, or any subsidiary of the above, any bank, trust company, savings bank,  
267 savings and loan association, or credit union organized under the laws of any other state or any  
268 subsidiary of the above, may engage directly in the business of selling, issuing or registering  
269 checks or money orders for use primarily for personal, family, or household purposes, except all

270 of the institutions described above may engage in the business through agents who shall not be  
271 deemed to be branches of the institutions. No person, other than the foregoing, shall engage in  
272 such business directly or indirectly unless a sworn statement setting forth the person's name and  
273 address, the names and business addresses of the person's agents, other than the financial  
274 institutions described above, authorized to receive money and transact such business on the  
275 person's behalf is filed annually, as of a date determined by the commissioner.

276 SECTION 10. Section 4 of Chapter 167F, as so appearing, is hereby further amended by  
277 inserting after the fourth paragraph the following two paragraphs:—

278 The commissioner shall examine any person, to whom a certificate to engage in the  
279 business of selling, issuing or registering checks or money orders has been issued, as the  
280 commissioner deems necessary and in a manner the commissioner deems appropriate. The  
281 commissioner shall preserve a full record of each examination of a check seller including a  
282 statement of its condition. All records of investigations and reports of examinations by the  
283 commissioner, including workpapers, information derived from the reports or responses to the  
284 reports, and any copies thereof in the possession of any licensee under the supervision of the  
285 commissioner, shall be confidential and privileged communications, shall not be subject to  
286 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
287 the purpose of this paragraph, records of investigation and reports of examinations shall include  
288 records of investigation and reports of examinations conducted by a financial regulatory agency  
289 of the federal government and any other state, and of any foreign government which are  
290 considered confidential by the agency or foreign government and which are in possession of the  
291 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
292 record protecting the confidentiality of any such record, other than any such record on file with

293 the court or filed in connection with the court proceeding, and the court may exclude the public  
294 from any portion of the proceeding at which any such record may be disclosed. Copies of the  
295 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
296 to any other person, organization or agency without prior written approval by the commissioner.  
297 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
298 government, of other states, or of foreign countries, and any law enforcement agency, the  
299 information, reports, inspections and statements relating to the licensees under the  
300 commissioner's supervision.

301 The commissioner, or the commissioner's examiners or other assistants as the  
302 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
303 other witnesses, and examine them relative to the affairs, transactions and condition of the  
304 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
305 to appear and testify when so required or obstructs the person making the examination in the  
306 performance of their duty, shall be punished by a fine of not more than \$1,000 or by  
307 imprisonment for not more than one year.

308 SECTION 11. Said section 4 of chapter 167F of the General Laws, as so appearing, is  
309 hereby further amended by striking out the fifth paragraph.

310 SECTION 12. Chapter 167F of the General Laws, as so appearing, is hereby amended by  
311 adding after section 4 the following two sections:—

312 Section 4A. (a) Whenever the commissioner finds that any licensee or exempt person  
313 under section 4 of this chapter has violated any provision of this chapter or any rule or regulation  
314 adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the



315 business of selling, issuing or registering checks or money orders, the commissioner may, by  
316 order, in addition to any other action authorized under this chapter or any rule or regulation made  
317 thereunder, impose a penalty upon the person which shall not exceed \$5,000 for each violation,  
318 up to a maximum of \$100,000 for the violation plus the costs of investigation. The commissioner  
319 may impose a penalty which shall not exceed \$5,000 for each violation of this chapter, or any  
320 rule or regulation adopted thereunder, by a person other than a licensee or exempt person under  
321 section 4 of this chapter, plus the costs of investigation.

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

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

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

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

336 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
337 for a period up to 36 months following the effective date of an order issued under subsection (b)  
338 or (c); or

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

343 (b) A written notice issued under subsection (a) shall contain a written statement of the  
344 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
345 thereon. Such hearing shall be fixed for a date not more than 30 days after the date of service  
346 upon the commissioner of the request for a hearing. If the person fails to submit a request for a  
347 hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in  
348 person or by a duly authorized representative, the party shall be deemed to have consented to the  
349 issuance of an order of prohibition in accordance with the notice.

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

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

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

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

365 (1) any licensee under this chapter;

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

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

369 SECTION 13. Chapter 169 of the General Laws, as so appearing, is hereby amended by  
370 striking out Section 1 and inserting in place thereof the following section:—

371 Section 1. This chapter shall apply to all persons who engage or are financially interested  
372 in the business of receiving deposits of money for the purpose of transmitting the same or  
373 equivalents thereof to foreign countries, except banks as defined in section one of chapter one  
374 hundred sixty-seven, a national banking association, a federally-chartered credit union, a federal  
375 savings and loan association, a federal savings bank, or any bank, trust company, savings bank,  
376 savings and loan association, or credit union organized under the law of any other state, or any  
377 subsidiary of the above, persons doing business under section forty-three of chapter one hundred

378 sixty-seven, express companies having contracts with transportation companies for the operation  
379 of an express service upon the lines of such companies or express companies doing an  
380 international express business or global transportation companies or telegraph companies.

381 SECTION 14. Section 3 of chapter 169 of the General Laws, as amended by section 8 of  
382 chapter 144 of the acts of 2012, is hereby amended by striking out the eighth, thirteenth and  
383 fourteenth sentence.

384 SECTION 15. Section 10 of chapter 169, as so appearing, is hereby amended by inserting  
385 after the second paragraph the following two paragraphs:—

386 The commissioner shall preserve a full record of each examination of a licensee including  
387 a statement of its condition. All records of investigations and reports of examinations by the  
388 commissioner, including workpapers, information derived from the reports or responses to the  
389 reports, and any copies thereof in the possession of any licensee under the supervision of the  
390 commissioner, shall be confidential and privileged communications, shall not be subject to  
391 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
392 the purpose of this paragraph, records of investigation and reports of examinations shall include  
393 records of investigation and reports of examinations conducted by a financial regulatory agency  
394 of the federal government and any other state, and of any foreign government which are  
395 considered confidential by the agency or foreign government and which are in possession of the  
396 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
397 record protecting the confidentiality in appropriate circumstances to protect the confidentiality of  
398 any such record, other than any such record on file with the court or filed in connection with the  
399 court proceeding, and the court may exclude the public from any portion of the proceeding at

400 which any such record may be disclosed. Copies of the reports of examination shall be furnished  
401 to a licensee for its use only and shall not be exhibited to any other person, organization or  
402 agency without prior written approval by the commissioner. The commissioner may, in his or her  
403 discretion, furnish to regulatory agencies of the federal government, of other states, or of foreign  
404 countries, and any law enforcement agency, the information, reports, inspections and statements  
405 relating to the licensees under the commissioner's supervision.

406         The commissioner, or the commissioner's examiners, or other assistants as the  
407 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
408 other witnesses, and examine them relative to the affairs, transactions and condition of the  
409 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
410 to appear and testify when so required or obstructs the person making the examination in the  
411 performance of their duty, shall be punished by a fine of not more than \$1,000 or by  
412 imprisonment for not more than one year.

413         SECTION 16. Chapter 169 of the General Laws is hereby amended by striking our  
414 section 16, as so appearing, and inserting in place thereof, the following two sections:—

415         Section 16. (a) Whenever the commissioner finds that any licensee or exempt person  
416 under any provision of this chapter has violated any provision of this chapter or any rule or  
417 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
418 of the business of receiving deposits of money for the purpose of transmitting the same or  
419 equivalents thereof to foreign countries, the commissioner may, by order, in addition to any other  
420 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty  
421 upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000

422 for the violation plus the costs of investigation. The commissioner may impose a penalty which  
423 shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted  
424 thereunder, by a person other than a licensee or exempt person under any provision of this  
425 chapter, plus the costs of investigation.

426 (b) In addition to any other action authorized under this chapter or any rule of regulation  
427 made thereunder, whoever violates any provision of this chapter or any rule or regulation made  
428 hereunder by the commissioner may be punished by imprisonment for not more than one year.

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

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

435 Section 17. (a) Whenever the commissioner determines that any person has, directly or  
436 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
437 applicable to the conduct of the business of receiving deposits of money for the purpose of  
438 transmitting the same or equivalents thereof to foreign countries; or any order issued by the  
439 commissioner under this chapter or any written agreement entered between the licensee and the  
440 commissioner; the commissioner may serve upon the person a written notice of intention:

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

443 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
444 for a period up to 36 months following the effective date of an order issued under subsection (b)  
445 or (c); or

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

451 (b) A written notice issued under subsection (a) shall contain a written statement of the  
452 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
453 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon  
454 the commissioner of such request for a hearing. If such person fails to submit a request for a  
455 hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in  
456 person or by a duly authorized representative, such party shall be deemed to have consented to  
457 the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

474 (1) any licensee under this chapter;

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

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

478 SECTION 17. Section 2 of chapter 169A of the General Laws, as so appearing, is hereby  
479 amended, in line 7, by striking out the word “bank.” and inserting in place thereof the words:—  
480 bank or any bank, trust company, savings bank, savings and loan association, or credit union  
481 organized under the laws of any other state, or any subsidiary of the above.

482 SECTION 18. Section 5 of chapter 169A, as so appearing, is hereby amended by striking  
483 out the third and fourth sentences.

484 SECTION 19. Section 10 of chapter 169A, as so appearing, is hereby amended by adding  
485 the following two paragraphs:—



486           The commissioner shall preserve a full record of each such examination of a licensee  
487 including a statement of its condition. All records of investigations and reports of examinations  
488 by the commissioner, including workpapers, information derived from such reports or responses  
489 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
490 the commissioner, shall be confidential and privileged communications, shall not be subject to  
491 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
492 the purpose of this paragraph, records of investigation and reports of examinations shall include  
493 records of investigation and reports of examinations conducted by a financial regulatory agency  
494 of the federal government and any other state, and of any foreign government which are  
495 considered confidential by such agency or foreign government and which are in possession of the  
496 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
497 record protecting the confidentiality of any such record, other than any such record on file with  
498 the court or filed in connection with the court proceeding, and the court may exclude the public  
499 from any portion of the proceeding at which any such record may be disclosed. Copies of such  
500 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
501 to any other person, organization or agency without prior written approval by the commissioner.  
502 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
503 government, of other states, or of foreign countries, and any law enforcement agency, such  
504 information, reports, inspections and statements relating to the licensees under the  
505 commissioner's supervision.

506           The commissioner, or the commissioner's examiners or such other assistants as the  
507 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
508 other witnesses, and examine them relative to the affairs, transactions and condition of the

509 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
510 to appear and testify when so required or obstructs the person making such examination in the  
511 performance of their duty, shall be punished by a fine of not more than \$1,000 or by  
512 imprisonment for not more than one year.

513 SECTION 20. Chapter 169A of the General Laws, as so appearing, is hereby amended by  
514 striking out section 13 and inserting in place thereof the following two sections:—

515 Section 13. (a) Whenever the commissioner finds that any licensee or exempt person  
516 under section two of this chapter has violated any provision of this chapter or any rule or  
517 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
518 of the business of cashing checks, drafts or money orders, the commissioner may, by order, in  
519 addition to any other action authorized under this chapter or any rule or regulation made  
520 thereunder, impose a penalty upon such person which shall not exceed \$5,000 for each violation,  
521 up to a maximum of \$100,000 for such violation plus the costs of investigation. The  
522 commissioner may impose a penalty which shall not exceed \$5,000 for each violation of this  
523 chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt  
524 person under section two of this chapter, plus the costs of investigation.

525 (b) In addition to any other action authorized under this chapter or any rule of regulation  
526 made thereunder, whoever violates any provision of section two or any rule or regulation made  
527 thereunder by the commissioner may be punished by imprisonment for not more than 6 months.  
528 Each day a violation continues shall be deemed a separate offense. The penalty provision of this  
529 section shall be in addition to, and not in lieu of, any other provision of law applicable to a  
530 licensee or other person for violating section two or any rule or regulation made thereunder.

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

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

537 Section 14. (a) Whenever the commissioner determines that any person has, directly or  
538 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
539 applicable to the conduct of the business of cashing checks, drafts or money orders; or any order  
540 issued by the commissioner under this chapter or any written agreement entered between such  
541 licensee and the commissioner; the commissioner may serve upon such person a written notice of  
542 intention:

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

545 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
546 for a period up to 36 months following the effective date of an order issued under subsection (b)  
547 or (c); or

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

553 (b) A written notice issued under subsection (a) shall contain a written statement of the  
554 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
555 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon  
556 the commissioner of such request for a hearing. If such person fails to submit a request for a  
557 hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in  
558 person or by a duly authorized representative, such party shall be deemed to have consented to  
559 the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

579 SECTION 21. Section 1 of chapter 255B of the General Laws, as so appearing, is hereby  
580 amended by striking out the definition of "Sales finance company" and inserting in place thereof  
581 the following definition:— "Sales finance company", (1) a bank as defined in section one of  
582 chapter one hundred and sixty-seven, a national banking association, federal savings bank,  
583 federal savings and loan association, federal credit union, or any bank, trust company, savings  
584 bank, savings and loan association or credit union organized under the laws of any other state of  
585 the United States, or any subsidiary of the above;

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

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

591 SECTION 22. Section 2 of chapter 255B, as amended by section 9 of chapter 144 of the  
592 acts of 2012, is hereby amended by striking out the fourth and fifth sentences.

593 SECTION 23. Section 3 of Chapter 255B, as so appearing, is hereby amended by  
594 inserting after the first paragraph the following two paragraphs:—

595           The commissioner shall preserve a full record of each such examination of a licensee  
596 including a statement of its condition. All records of investigations and reports of examinations  
597 by the commissioner, including workpapers, information derived from such reports or responses  
598 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
599 the commissioner, shall be confidential and privileged communications, shall not be subject to  
600 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
601 the purpose of this paragraph, records of investigation and reports of examinations shall include  
602 records of investigation and reports of examinations conducted by a financial regulatory agency  
603 of the federal government and any other state, and of any foreign government which are  
604 considered confidential by such agency or foreign government and which are in possession of the  
605 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
606 record protecting the confidentiality of any such record, other than any such record on file with  
607 the court or filed in connection with the court proceeding, and the court may exclude the public  
608 from any portion of the proceeding at which any such record may be disclosed. Copies of such  
609 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
610 to any other person, organization or agency without prior written approval by the commissioner.  
611 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
612 government, of other states, or of foreign countries, and any law enforcement agency, such  
613 information, reports, inspections and statements relating to the licensees under the  
614 commissioner's supervision.

615           The commissioner, or the commissioner's examiners, or such other assistants as the  
616 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
617 other witnesses, and examine them relative to the affairs, transactions and condition of the

618 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
619 to appear and testify when so required or obstructs the person making such examination in the  
620 performance of their duty, shall be punished by a fine of not more than \$1000 or by  
621 imprisonment for not more than one year.

622 SECTION 24. Section 4 of said chapter 255B of the General Laws, as so appearing, is  
623 hereby amended by adding the following sentence:— Each day such violation occurs or  
624 continues shall be deemed a separate offense.

625 SECTION 25. Chapter 255B of the General Laws, as so appearing, is hereby amended by  
626 striking out section 7, and inserting in place thereof the following section:—

627 Section 7. The commissioner may suspend or revoke any license issued pursuant to this  
628 chapter if the commissioner finds that:

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

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

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

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

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

641 SECTION 26. Chapter 255B of the General Laws, as so appearing, is hereby amended by  
642 striking out section 8 and inserting in place thereof the following two sections:—

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

648 (b) If the commissioner makes written findings of fact that the public interest will be  
649 irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue  
650 a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the  
651 commissioner shall promptly notify, in writing, the licensee affected thereby that such order has  
652 been so entered, the reasons therefor, and that within 20 days after the receipt of a written request  
653 from such licensee, the matter will be scheduled for a hearing to determine whether or not such  
654 temporary order shall become permanent and final. If no such hearing is requested and none is  
655 ordered by the commissioner, the order shall remain in effect until it is modified or vacated by  
656 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of  
657 and opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts  
658 and conclusions of law, vacate, modify or make permanent the order.

659 (c) No order under this section, except an order issued pursuant to subsection (b), may be  
660 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or



661 modify an order under this section upon finding that the conditions which required such an order  
662 have changed and that it is in the public interest to so vacate or modify.

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

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

667 SECTION 27. Chapter 255B of the General Laws, as so appearing, is hereby amended by  
668 adding after section 25 the following two sections:—

669 Section 26. (a) Whenever the commissioner finds that any licensee or exempt person  
670 under section two of this chapter has violated any provision of this chapter or any rule or  
671 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
672 of the business of a sales finance company, the commissioner may, by order, in addition to any  
673 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
674 penalty upon such person which shall not exceed \$5,000 for each violation, up to a maximum of  
675 \$100,000 for such violation plus the costs of investigation. The commissioner may impose a  
676 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation  
677 adopted thereunder, by a person other than a licensee or exempt person under section two of this  
678 chapter, plus the costs of investigation.

679 (b) In addition to any other action authorized under this chapter or any rule of regulation  
680 made thereunder, whoever violates any provision of this chapter or any rule or regulation made  
681 thereunder by the commissioner may also be punished by imprisonment for not more than 6  
682 months. The penalty provision of this section shall be in addition to, and not in lieu of, any other

683 provision of law applicable to a licensee or other person for violating provision of this chapter or  
684 any rule or regulation made thereunder.

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

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

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

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

698 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
699 for a period up to 36 months following the effective date of an order issued under subsection (b)  
700 or (c); or

701 (3) to prohibit the person from any further participation, in any manner, in the conduct of  
702 the affairs of a sales finance company in Massachusetts or to prohibit the person from being

703 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other  
704 business which requires a license from the commissioner.

705 (b) A written notice issued under subsection (a) shall contain a written statement of the  
706 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
707 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon  
708 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing  
709 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or  
710 by a duly authorized representative, the party shall be deemed to have consented to the issuance  
711 of an order of prohibition in accordance with the notice.

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

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

721 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
722 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
723 part in the conduct of the affairs of a sales finance company in Massachusetts may not, while the  
724 order is in effect, continue or commence to perform in the capacity of a principal employee, or

725 otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
726 conduct of the affairs of:

727 (1) any licensee under this chapter;

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

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

731 SECTION 28. Chapter 255C of the General Laws, as amended by section 11 of chapter  
732 144 of the acts of 2012, is hereby amended by striking out section 2 and inserting in place  
733 thereof the following section:—

734 Section 2. No person, other than a bank as defined in section one of chapter one hundred  
735 sixty-seven, a national banking association, a federally-chartered credit union, a federal savings  
736 and loan association, a federal savings bank, or any subsidiary of the above, or a bank, a trust  
737 company, savings bank, savings and loan association or credit union organized under the laws of  
738 any other state, or any subsidiary of the above, a sales finance company, as defined in section  
739 one of chapter two hundred fifty-five B, and a company licensed to carry on the business of  
740 making small loans, shall engage in the business of premium finance agency unless licensed by  
741 the commissioner, as provided in section three; provided, however, that no property and casualty  
742 insurance agent or broker, including an insurance agent or insurance broker conducting an  
743 insurance premium financing agency business under a subsidiary or different company name,  
744 who provides premium financing only to their own customers for purposes of financing payment  
745 of premiums on contracts of insurance, which contracts of insurance are exclusively limited to  
746 commercial insurance policies, shall be required to be licensed pursuant to this section or any

747 other section of this chapter. The commissioner may adopt, amend or repeal rules and  
748 regulations, which may include an adequate capitalization requirement for sales finance  
749 companies, to aid in the administration and enforcement of this chapter.

750         The license shall allow the holder to maintain only one office from which the business  
751 may be conducted, but more than one license may be issued to any person. Any change of  
752 location of an office of a licensee shall require the prior approval of the commissioner. The  
753 request for relocation shall be in writing setting forth the reason or reasons for the request, and  
754 shall be accompanied by a relocation investigation fee to be determined annually by the secretary  
755 of administration and finance under section 3B of chapter 7. If an applicant has more than one  
756 office, the applicant may obtain a license for each office from which the applicant intends to  
757 conduct the business.

758         SECTION 29. Section 4 of chapter 255C, as so appearing, is hereby amended by striking  
759 out the second sentence.

760         SECTION 30. Section 4 of chapter 255C is hereby further amended by adding the  
761 following paragraph: —

762         If a licensee intends to carry on the business at any place in addition to the address on the  
763 license, the licensee shall so notify the commissioner, in writing, at least 30 days prior thereto,  
764 and the licensee shall pay a fee for the additional location in an amount to be determined  
765 annually by the commissioner of administration under the provision of section three B of chapter  
766 seven. The license shall not be transferable or assignable and shall expire annually on a date  
767 determined by the commissioner.

768 SECTION 31. Chapter 255C of the General Laws, as so appearing, is hereby amended by  
769 striking out section 5, and inserting in place thereof the following three sections:—

770 Section 5. The commissioner may suspend or revoke any license issued pursuant to this  
771 chapter if the commissioner finds that:

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

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

777 The commissioner shall have sufficient cause to suspend or revoke a license whenever  
778 the commissioner learns from the commissioner of insurance or from any other source that the  
779 licensee has failed to return the full amount of a return premium to the person whose insurance  
780 policy has been cancelled or to the person's assignee, as required by section one hundred and  
781 seventy-six A of chapter one hundred and seventy-five.

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

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

789 Whenever the commissioner revokes or suspends a license, the commissioner shall  
790 forthwith execute in duplicate a written order to that effect, and shall file one copy of the order in  
791 the office of the secretary of state and mail one copy to the licensee. A suspension or revocation  
792 of a license shall not be subject to the provisions of chapter thirty A.

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

798 (b) If the commissioner makes written findings of fact that the public interest will be  
799 irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue  
800 a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the  
801 commissioner shall promptly notify, in writing, the licensee affected thereby that the order has  
802 been so entered, the reasons therefor, and that within 2 days after the receipt of a written request  
803 from the licensee, the matter will be scheduled for hearing to determine whether or not the  
804 temporary order shall become permanent and final. If no hearing is requested and none is ordered  
805 by the commissioner, the order shall remain in effect until it is modified or vacated by the  
806 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and  
807 opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts and  
808 conclusions of law, vacate, modify or make permanent the order.

809 (c) No order under this section, except an order issued pursuant to subsection (b), may be  
810 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or

811 modify an order under this section upon finding that the conditions which required the order  
812 have changed and that it is in the public interest to so vacate or modify.

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

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

817 SECTION 32. Section 6 of chapter 255C, as amended by section 14 of chapter 44 of the  
818 acts of 2012, is hereby amended by striking out the second paragraph and inserting in place  
819 thereof the following two paragraphs:—

820 The commissioner shall preserve a full record of each examination of a licensee including  
821 a statement of its condition. All records of investigations and reports of examinations by the  
822 commissioner, including workpapers, information derived from the reports or responses to the  
823 reports, and any copies thereof in the possession of any licensee under the supervision of the  
824 commissioner, shall be confidential and privileged communications, shall not be subject to  
825 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
826 the purpose of this paragraph, records of investigation and reports of examinations shall include  
827 records of investigation and reports of examinations conducted by a financial regulatory agency  
828 of the federal government and any other state, and of any foreign government which are  
829 considered confidential by the agency or foreign government and which are in possession of the  
830 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
831 record protecting the confidentiality of any such record, other than any such record on file with  
832 the court or filed in connection with the court proceeding, and the court may exclude the public



833 from any portion of the proceeding at which any such record may be disclosed. Copies of such  
834 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
835 to any other person, organization or agency without prior written approval by the commissioner.  
836 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
837 government, of other states, or of foreign countries, and any law enforcement agency, the  
838 information, reports, inspections and statements relating to the licensees under the  
839 commissioner's supervision.

840 The commissioner, or the commissioner's examiners or other assistants as the  
841 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
842 other witnesses, and examine them relative to the affairs, transactions and condition of the  
843 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
844 to appear and testify when so required or obstructs the person making the examination in the  
845 performance of their duty, shall be punished by a fine of not more than \$1,000 or by  
846 imprisonment for not more than one year.

847 SECTION 33. Section 9 of chapter 255C of the General Laws, as so appearing, is hereby  
848 amended by striking out the first paragraph:—

849 SECTION 34. Chapter 255C of the General Laws, as so appearing, is hereby amended by  
850 adding after section 23 the following two sections:—

851 Section 24. (a) Whenever the commissioner finds that any licensee or exempt person  
852 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 the person which shall not exceed \$5,000 for each violation, up to a maximum of  
857 \$100,000 for the violation plus the costs of investigation. The commissioner may impose a  
858 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation  
859 adopted thereunder, by a person other than a licensee or exempt person under section two of this  
860 chapter, plus the costs of investigation.

861 (b) In addition to any other action authorized under this chapter or any rule of regulation  
862 made thereunder, whoever violates any provision of this chapter, or knowingly makes any  
863 incorrect statement of a material fact in any application, report or statement filed pursuant to this  
864 chapter, or knowingly omits to state any material fact necessary to give the commissioner any  
865 information lawfully required, may be punished by imprisonment for not more than 6 months.  
866 The penalty provision of this section shall be in addition to, and not in lieu of, any other  
867 provision of law applicable to a licensee or other person for violating any provision of this  
868 chapter or any rule or regulation made thereunder.

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

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

875 Section 25. (a) Whenever the commissioner determines that any person has, directly or  
876 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,

877 applicable to the conduct of the business of a premium finance agency; or any order issued by  
878 the commissioner under this chapter or any written agreement entered between the licensee and  
879 the commissioner; the commissioner may serve upon the person a written notice of intention:

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

882 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
883 for a period up to 36 months following the effective date of an order issued under subsection (b)  
884 or (c); or

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

889 (b) A written notice issued under subsection (a) shall contain a written statement of the  
890 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
891 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon  
892 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing  
893 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or  
894 by a duly authorized representative, the party shall be deemed to have consented to the issuance  
895 of an order of prohibition in accordance with the notice.

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

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

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

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

911 (1) any licensee under this chapter;

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

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

915 SECTION 35. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby  
916 amended by striking out the definition of “Sales finance company” in lines 91 through 98,  
917 inclusive, and inserting in place thereof the following definition:—

918 “Sales finance company”

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

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

928 SECTION 36. The first paragraph of section 2 of chapter 255D, as amended by section  
929 14 of chapter 144 of the acts of 2012, is hereby amended by striking out the fourth and fifth  
930 sentences.

931 SECTION 37. Section 2 of chapter 255D, as so appearing, is hereby further amended by  
932 striking out the ninth sentence.

933 SECTION 38. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby  
934 amended by inserting after the first paragraph the following two paragraphs:—

935 The commissioner shall preserve a full record of each examination of a licensee including  
936 a statement of its condition. All records of investigations and reports of examinations by the  
937 commissioner, including workpapers, information derived from the reports or responses to the  
938 reports, and any copies thereof in the possession of any licensee under the supervision of the  
939 commissioner, shall be confidential and privileged communications, shall not be subject to  
940 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For

941 the purpose of this paragraph, records of investigation and reports of examinations shall include  
942 records of investigation and reports of examinations conducted by a financial regulatory agency  
943 of the federal government and any other state, and of any foreign government which are  
944 considered confidential by the agency or foreign government and which are in possession of the  
945 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
946 record protecting the confidentiality of any such record, other than any such record on file with  
947 the court or filed in connection with the court proceeding, and the court may exclude the public  
948 from any portion of the proceeding at which any such record may be disclosed. Copies of such  
949 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
950 to any other person, organization or agency without prior written approval by the commissioner.  
951 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
952 government, of other states, or of foreign countries, and any law enforcement agency, the  
953 information, reports, inspections and statements relating to the licensees under the  
954 commissioner's supervision.

955 The commissioner, or the commissioner's examiners, or other assistants as the  
956 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
957 other witnesses, and examine them relative to the affairs, transactions and condition of the  
958 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
959 to appear and testify when so required or obstructs the person making the examination in the  
960 performance of their duty, shall be punished by a fine of not more than \$1,000 or by  
961 imprisonment for not more than one year.

962 SECTION 39. Chapter 255D of the General Laws, as so appearing, is hereby amended by  
963 striking out section 7 as so appearing, and inserting in place thereof the following section:—

964 Section 7. The commissioner may suspend or revoke any license issued pursuant to this  
965 chapter if the commissioner finds that:

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

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

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

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

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

978 SECTION 40. Said chapter 255D of the General Laws, as so appearing, is hereby further  
979 amended by striking out section 8, as so appearing, and inserting in place thereof the following  
980 two sections:—

981 Section 8. (a) If the commissioner determines, after giving notice of and opportunity for a  
982 hearing, that a licensee has engaged in or is about to engage in an act or practice constituting a  
983 violation of a provision of this chapter or a rule, regulation or order hereunder, the commissioner

984 may order the licensee to cease and desist from the unlawful act or practice and take affirmative  
985 action as in his or her judgment will effect the purposes of this chapter.

986 (b) If the commissioner makes written findings of fact that the public interest will be  
987 irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue  
988 a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the  
989 commissioner shall promptly notify, in writing, the licensee affected thereby that the order has  
990 been so entered, the reasons therefor, and that within 20 days after the receipt of a written request  
991 from the licensee, the matter will be scheduled for hearing to determine whether or not the  
992 temporary order shall become permanent and final. If no hearing is requested and none is ordered  
993 by the commissioner, the order shall remain in effect until it is modified or vacated by the  
994 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and  
995 opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts and  
996 conclusions of law, vacate, modify or make permanent the order.

997 (c) No order under this section, except an order issued pursuant to subsection (b), may be  
998 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or  
999 modify an order under this section upon finding that the conditions which required the order  
1000 have changed and that it is in the public interest to so vacate or modify.

1001 Any order issued pursuant to this section shall be subject to review as provided in chapter  
1002 thirty A.

1003 Section 8A. The commissioner may enforce the provisions of this chapter, or restrain any  
1004 violations thereof, by filing a civil action in any court of competent jurisdiction.



1005 SECTION 41. Section 30 of chapter 255D of the General Laws, as so appearing, is  
1006 hereby repealed.

1007 SECTION 42. Chapter 255D of the General Laws, as so appearing, is hereby amended by  
1008 adding after section 31 the following two sections:—

1009 Section 32. (a) Whenever the commissioner finds that any licensee or exempt person  
1010 under section two of this chapter has violated any provision of this chapter or any rule or  
1011 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
1012 of the business of a sales finance company, the commissioner may, by order, in addition to any  
1013 other action authorized under this chapter or any rule or regulation made thereunder, impose a  
1014 penalty upon the person which shall not exceed \$5,000 for each violation, up to a maximum of  
1015 \$100,000 for the violation plus the costs of investigation. The commissioner may impose a  
1016 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation  
1017 adopted thereunder, by a person other than a licensee or exempt person under section two of this  
1018 chapter, plus the costs of investigation.

1019 (b) In addition to any other action authorized under this chapter or any rule of regulation  
1020 made thereunder, whoever violates any provision of this chapter may be punished by  
1021 imprisonment for not more than 6 months. The penalty provision of this section shall be in  
1022 addition to, and not in lieu of, any other provision of law applicable to a licensee or other person  
1023 for violating section two or any rule or regulation made thereunder.

1024 (c) Nothing in this section shall limit the right of any individual or entity who has been  
1025 injured as a result of any violation of this chapter by a licensee, or any person other than a

1026 licensee or exempt person under section two of this chapter, to bring an action to recover  
1027 damages or restitution in a court of competent jurisdiction.

1028 (d) Any findings or order issued by the commissioner pursuant to this section shall be  
1029 subject to review as provided in chapter thirty A.

1030 Section 33. (a) Whenever the commissioner determines that any person has, directly or  
1031 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
1032 applicable to the conduct of the business of a sales finance company; or any order issued by the  
1033 commissioner under this chapter or any written agreement entered between the licensee and the  
1034 commissioner; the commissioner may serve upon the person a written notice of intention:

1035 (1) to prohibit the person from performing in the capacity of a principal employee on  
1036 behalf of any licensee for a period of time that the commissioner deems necessary;

1037 (2) to prohibit the person from applying for or obtaining a license from the commissioner  
1038 for a period up to 36 months following the effective date of an order issued under subsection (b)  
1039 or (c); or

1040 (3) to prohibit the person from any further participation, in any manner, in the conduct of  
1041 the affairs of a sales finance company in Massachusetts or to prohibit the person from being  
1042 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other  
1043 business which requires a license from the commissioner.

1044 (b) A written notice issued under subsection (a) shall contain a written statement of the  
1045 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
1046 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon

1047 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing  
1048 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or  
1049 by a duly authorized representative, the party shall be deemed to have consented to the issuance  
1050 of an order of prohibition in accordance with the notice.

1051 (c) In the event of a consent under subsection (b), or if after a hearing the commissioner  
1052 finds that any of the grounds specified in the notice have been established, the commissioner  
1053 may issue an order of prohibition in accordance with subsection (a) as the commissioner finds  
1054 appropriate.

1055 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
1056 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
1057 person is an employee or on whose behalf the person is performing. The order shall remain in  
1058 effect and enforceable until it is modified, terminated, suspended, or set aside by the  
1059 commissioner or a court of competent jurisdiction.

1060 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
1061 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in  
1062 part in the conduct of the affairs of a sales finance company in Massachusetts may not, while the  
1063 order is in effect, continue or commence to perform in the capacity of a principal employee, or  
1064 otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
1065 conduct of the affairs of:

1066 (1) any licensee under this chapter;

1067 (2) any other business which requires a license from the commissioner; and

1068 (3) any bank, as defined under section one of chapter one hundred sixty-seven, or any  
1069 subsidiary thereof.

1070 SECTION 43. Section 8 of chapter 255E, as so appearing, is hereby amended by adding  
1071 the following paragraph:—

1072 The commissioner, or the commissioner's examiners, or other assistants as the  
1073 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
1074 other witnesses, and examine them relative to the affairs, transactions and condition of the  
1075 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
1076 to appear and testify when so required or obstructs the person making the examination in the  
1077 performance of their duty, shall be punished by a fine of not more than \$1,000 or by  
1078 imprisonment for not more than one year.