

# HOUSE . . . . . No. 1105

---

## The Commonwealth of Massachusetts

PRESENTED BY:

*James M. Murphy*

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

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

An Act establishing uniform enforcement and confidentiality provisions relative to certain licensees under the jurisdiction of the Division of Banks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>1/19/2023</i>

# HOUSE . . . . . No. 1105

---

By Representative Murphy of Weymouth, a petition (accompanied by bill, House, No. 1105) of James M. Murphy for legislation to establish uniform enforcement and confidentiality provisions relative to certain licensees under the jurisdiction of the Division of Banks. Financial Services.

---

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the One Hundred and Ninety-Third General Court  
(2023-2024)  
\_\_\_\_\_

An Act establishing uniform enforcement and confidentiality 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 2018  
2   Official Edition, is hereby amended by inserting after the word "licensee" in lines 13, 17 and 31,  
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 36, 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,

may require the production of books and papers and, for those purposes may administer oaths. Whoever, without justifiable cause, fails or refuses to appear and testify or to produce books and papers when so required, or obstructs the commissioner or the commissioner's representatives making the examination in the performance of their duties, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or both. Each day a violation occurs or continues shall be considered a separate offense. The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating section 24A or any rule or regulation made thereunder.

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

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

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

licensee or exempt person under section 24A of this chapter, to bring an action to recover damages or restitution in a court of competent jurisdiction.

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

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

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held

thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon the commissioner of the request for a hearing. If the person fails to submit a request for a hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, the party shall be deemed to have consented to the issuance of an order of prohibition in accordance with the notice.

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

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

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

(1) any licensee or registrant under this chapter;

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

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

SECTION 5. Section 99 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out section 99 and inserting in place thereof the following section:—

Section 99. A licensee shall, when directed by the commissioner, permit the commissioner or the commissioner's duly authorized representative to inspect its records and evidence of compliance with this chapter or any rule and regulation issued thereunder and with any other law, rule and regulation applicable to the conduct of its business. The commissioner shall preserve a full record of each examination of a licensee including a statement of its condition. All records of investigations and reports of examinations by the commissioner, including workpapers, information derived from the reports or responses to the reports, and any copies thereof in the possession of any licensee under the supervision of the commissioner, shall be confidential and privileged communications, shall not be subject to subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this paragraph, records of investigation and reports of examinations shall include records of investigation and reports of examinations conducted by a financial regulatory agency of the federal government and any other state, and of any foreign government which are considered confidential by the agency or foreign government and which are in possession of the commissioner. In any proceeding before a court, the court may issue a protective order to seal the record protecting the confidentiality of any such record, and other than any such record on file with the court or filed in connection with the court proceeding, and the court may exclude the public from any portion of a proceeding at which any such record may be disclosed. Copies of reports of examination shall be furnished to a licensee for its use only and shall not be exhibited

to any other person, organization or agency without prior written approval by the commissioner.  
The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal government, of other states, or of foreign countries, and any law enforcement agency, the information, reports, inspections and statements relating to the licensees under the commissioner's supervision.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) any licensee under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

(1) any licensee under this chapter;

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

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

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

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

business under section 17 of chapter 167C, express companies having contracts with transportation companies for the operation of an express service upon the lines of such companies or express companies doing an international express business or global transportation companies or telegraph companies.

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

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

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

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

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

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

416         Section 16. (a) Whenever the commissioner finds that any licensee or exempt person  
417 under any provision of this chapter has violated any provision of this chapter or any rule or  
418 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
419 of the business of receiving deposits of money for the purpose of transmitting the same or  
420 equivalents thereof to foreign countries, the commissioner may, by order, in addition to any other  
421 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty

upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000 for the violation plus the costs of investigation. The commissioner may impose a penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt person under any provision of this chapter, plus the costs of investigation.

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

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

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

Section 16. (a) Whenever the commissioner determines that any person has, directly or indirectly, violated any section of this chapter or any rule or regulation adopted thereunder, applicable to the conduct of the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries; or any order issued by the commissioner under this chapter or any written agreement entered between the licensee and the commissioner; the commissioner may serve upon the person a written notice of intention:

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

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

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

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

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

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

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

(1) any licensee under this chapter;

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

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

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



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

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

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

506 information, reports, inspections and statements relating to the licensees under the  
507 commissioner's supervision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) any licensee under this chapter;

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

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

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

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

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

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

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

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

612 to any other person, organization or agency without prior written approval by the commissioner.  
613 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
614 government, of other states, or of foreign countries, and any law enforcement agency, such  
615 information, reports, inspections and statements relating to the licensees under the  
616 commissioner's supervision.

617 The commissioner, or the commissioner's examiners, or such other assistants as the  
618 commissioner may designate, may summon the directors, officers or agents of a licensee, or any  
619 other witnesses, and examine them relative to the affairs, transactions and condition of the  
620 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses  
621 to appear and testify when so required or obstructs the person making such examination in the  
622 performance of their duty, shall be punished by a fine of not more than \$1000 or by  
623 imprisonment for not more than one year.

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

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

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

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

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

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

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

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

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

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

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall promptly notify, in writing, the licensee affected thereby that such order has



654 been so entered, the reasons therefor, and that within 20 days after the receipt of a written request  
655 from such licensee, the matter will be scheduled for a hearing to determine whether or not such  
656 temporary order shall become permanent and final. If no such hearing is requested and none is  
657 ordered by the commissioner, the order shall remain in effect until it is modified or vacated by  
658 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of  
659 and opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts  
660 and conclusions of law, vacate, modify or make permanent the order.

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

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

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

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

671 Section 26. (a) Whenever the commissioner finds that any licensee or exempt person  
672 under section two of this chapter has violated any provision of this chapter or any rule or  
673 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
674 of the business of a sales finance company, the commissioner may, by order, in addition to any  
675 other action authorized under this chapter or any rule or regulation made thereunder, impose a

676 penalty upon such person which shall not exceed \$5,000 for each violation, up to a maximum of  
677 \$100,000 for such violation plus the costs of investigation. The commissioner may impose a  
678 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation  
679 adopted thereunder, by a person other than a licensee or exempt person under section two of this  
680 chapter, plus the costs of investigation.

681 (b) In addition to any other action authorized under this chapter or any rule of regulation  
682 made thereunder, whoever violates any provision of this chapter or any rule or regulation made  
683 thereunder by the commissioner may also be punished by imprisonment for not more than 6  
684 months. The penalty provision of this section shall be in addition to, and not in lieu of, any other  
685 provision of law applicable to a licensee or other person for violating provision of this chapter or  
686 any rule or regulation made thereunder.

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

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

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

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

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

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

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

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

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

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

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

729 (1) any licensee under this chapter;

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

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

733 SECTION 28. Chapter 255C of the General Laws, as amended by section 11 of chapter  
734 144 of the acts of 2012, is hereby amended by striking out section 2 and inserting in place  
735 thereof the following section:—

736 Section 2. No person, other than a bank as defined in section one of chapter one hundred  
737 sixty-seven, a national banking association, a federally-chartered credit union, a federal savings  
738 and loan association, a federal savings bank, or any subsidiary of the above, or a bank, a trust  
739 company, savings bank, savings and loan association or credit union organized under the laws of  
740 any other state, or any subsidiary of the above, a sales finance company, as defined in section

one of chapter two hundred fifty-five B, and a company licensed to carry on the business of making small loans, shall engage in the business of premium finance agency unless licensed by the commissioner, as provided in section three; provided, however, that no property and casualty insurance agent or broker, including an insurance agent or insurance broker conducting an insurance premium financing agency business under a subsidiary or different company name, who provides premium financing only to their own customers for purposes of financing payment of premiums on contracts of insurance, which contracts of insurance are exclusively limited to commercial insurance policies, shall be required to be licensed pursuant to this section or any other section of this chapter. The commissioner may adopt, amend or repeal rules and regulations, which may include an adequate capitalization requirement for sales finance companies, to aid in the administration and enforcement of this chapter.

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

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

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

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

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

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

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

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

The commissioner shall have sufficient cause to suspend or revoke a license whenever the commissioner learns from the commissioner of insurance or from any other source that the licensee has failed to return the full amount of a return premium to the person whose insurance

policy has been cancelled or to the person's assignee, as required by section one hundred and seventy-six A of chapter one hundred and seventy-five.

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

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

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

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

(b) If the commissioner makes written findings of fact that the public interest will be irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the commissioner shall promptly notify, in writing, the licensee affected thereby that the order has

804 been so entered, the reasons therefor, and that within 2 days after the receipt of a written request  
805 from the licensee, the matter will be scheduled for hearing to determine whether or not the  
806 temporary order shall become permanent and final. If no hearing is requested and none is ordered  
807 by the commissioner, the order shall remain in effect until it is modified or vacated by the  
808 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and  
809 opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts and  
810 conclusions of law, vacate, modify or make permanent the order.

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

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

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

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

822 The commissioner shall preserve a full record of each examination of a licensee including  
823 a statement of its condition. All records of investigations and reports of examinations by the  
824 commissioner, including workpapers, information derived from the reports or responses to the  
825 reports, and any copies thereof in the possession of any licensee under the supervision of the



826 commissioner, shall be confidential and privileged communications, shall not be subject to  
827 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
828 the purpose of this paragraph, records of investigation and reports of examinations shall include  
829 records of investigation and reports of examinations conducted by a financial regulatory agency  
830 of the federal government and any other state, and of any foreign government which are  
831 considered confidential by the agency or foreign government and which are in possession of the  
832 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
833 record protecting the confidentiality of any such record, other than any such record on file with  
834 the court or filed in connection with the court proceeding, and the court may exclude the public  
835 from any portion of the proceeding at which any such record may be disclosed. Copies of such  
836 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
837 to any other person, organization or agency without prior written approval by the commissioner.  
838 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal  
839 government, of other states, or of foreign countries, and any law enforcement agency, the  
840 information, reports, inspections and statements relating to the licensees under the  
841 commissioner's supervision.

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

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

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

Section 24. (a) Whenever the commissioner finds that any licensee or exempt person under section two of this chapter has violated any provision of this chapter or any rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the business of a premium finance agency, the commissioner may, by order, in addition to any other action authorized under this chapter or any rule or regulation made thereunder, impose a penalty upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000 for the violation plus the costs of investigation. The commissioner may impose a penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt person under section two of this chapter, plus the costs of investigation.

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

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

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

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

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

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

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

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

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

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

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

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

917 SECTION 35. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby  
918 amended by striking out the definition of "Sales finance company" in lines 98 through 105,  
919 inclusive, and inserting in place thereof the following definition:—

920 "Sales finance company",

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

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

930 SECTION 36. The first paragraph of section 2 of chapter 255D, as amended by section  
931 14 of chapter 144 of the acts of 2012, is hereby amended by striking out the fourth and fifth  
932 sentences.

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

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

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

955 information, reports, inspections and statements relating to the licensees under the  
956 commissioner's supervision.

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

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

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

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

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

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

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

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

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

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

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



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

999 (c) No order under this section, except an order issued pursuant to subsection (b), may be  
1000 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or  
1001 modify an order under this section upon finding that the conditions which required the order  
1002 have changed and that it is in the public interest to so vacate or modify.

1003 Any order issued pursuant to this section shall be subject to review as provided in chapter  
1004 thirty A.

1005 Section 8A. The commissioner may enforce the provisions of this chapter, or restrain any  
1006 violations thereof, by filing a civil action in any court of competent jurisdiction.

1007 SECTION 41. Section 30 of chapter 255D of the General Laws, as so appearing, is  
1008 hereby repealed.

1009 SECTION 42. Chapter 255D of the General Laws, as so appearing, is hereby amended by  
1010 adding after section 31 the following two sections:—

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

1018 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation  
1019 adopted thereunder, by a person other than a licensee or exempt person under section two of this  
1020 chapter, plus the costs of investigation.

1021 (b) In addition to any other action authorized under this chapter or any rule of regulation  
1022 made thereunder, whoever violates any provision of this chapter may be punished by  
1023 imprisonment for not more than 6 months. The penalty provision of this section shall be in  
1024 addition to, and not in lieu of, any other provision of law applicable to a licensee or other person  
1025 for violating section two or any rule or regulation made thereunder.

1026 (c) Nothing in this section shall limit the right of any individual or entity who has been  
1027 injured as a result of any violation of this chapter by a licensee, or any person other than a  
1028 licensee or exempt person under section two of this chapter, to bring an action to recover  
1029 damages or restitution in a court of competent jurisdiction.

1030 (d) Any findings or order issued by the commissioner pursuant to this section shall be  
1031 subject to review as provided in chapter thirty A.

1032 Section 33. (a) Whenever the commissioner determines that any person has, directly or  
1033 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
1034 applicable to the conduct of the business of a sales finance company; or any order issued by the  
1035 commissioner under this chapter or any written agreement entered between the licensee and the  
1036 commissioner; the commissioner may serve upon the person a written notice of intention:

1037 (1) to prohibit the person from performing in the capacity of a principal employee on  
1038 behalf of any licensee for a period of time that the commissioner deems necessary;

1039           (2) to prohibit the person from applying for or obtaining a license from the commissioner  
1040 for a period up to 36 months following the effective date of an order issued under subsection (b)  
1041 or (c); or

1042           (3) to prohibit the person from any further participation, in any manner, in the conduct of  
1043 the affairs of a sales finance company in Massachusetts or to prohibit the person from being  
1044 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other  
1045 business which requires a license from the commissioner.

1046           (b) A written notice issued under subsection (a) shall contain a written statement of the  
1047 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held  
1048 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon  
1049 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing  
1050 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or  
1051 by a duly authorized representative, the party shall be deemed to have consented to the issuance  
1052 of an order of prohibition in accordance with the notice.

1053           (c) In the event of a consent under subsection (b), or if after a hearing the commissioner  
1054 finds that any of the grounds specified in the notice have been established, the commissioner  
1055 may issue an order of prohibition in accordance with subsection (a) as the commissioner finds  
1056 appropriate.

1057           (d) An order issued under subsection (b) or (c) shall be effective upon service upon the  
1058 person. The commissioner shall also serve a copy of the order upon the licensee of which the  
1059 person is an employee or on whose behalf the person is performing. The order shall remain in

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

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

(1) any licensee under this chapter;

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

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

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

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