

HOUSE No. 1273

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>1/16/2025</i>

HOUSE No. 1273

By Representative Murphy of Weymouth, a petition (accompanied by bill, House, No. 1273) 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.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1105 OF 2023-2024.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

228 (1) any licensee under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

365 (1) any licensee under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

475 (1) any licensee under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

728 (1) any licensee under this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

856 other action authorized under this chapter or any rule or regulation made thereunder, impose a
857 penalty upon the person which shall not exceed \$5,000 for each violation, up to a maximum of
858 \$100,000 for the violation plus the costs of investigation. The commissioner may impose a
859 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation
860 adopted thereunder, by a person other than a licensee or exempt person under section two of this
861 chapter, plus the costs of investigation.

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

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

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

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

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

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

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

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

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

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

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

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

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

912 (1) any licensee under this chapter;

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

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

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

919 "Sales finance company",

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1002 Any order issued pursuant to this section shall be subject to review as provided in chapter
1003 thirty A.

1004 Section 8A. The commissioner may enforce the provisions of this chapter, or restrain any
1005 violations thereof, by filing a civil action in any court of competent jurisdiction.

1006 SECTION 41. Section 30 of chapter 255D of the General Laws, as so appearing, is
1007 hereby repealed.

1008 SECTION 42. Chapter 255D of the General Laws, as so appearing, is hereby amended by
1009 adding after section 31 the following two sections:—

1010 Section 32. (a) Whenever the commissioner finds that any licensee or exempt person
1011 under section two of this chapter has violated any provision of this chapter or any rule or
1012 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
1013 of the business of a sales finance company, the commissioner may, by order, in addition to any
1014 other action authorized under this chapter or any rule or regulation made thereunder, impose a
1015 penalty upon the person which shall not exceed \$5,000 for each violation, up to a maximum of
1016 \$100,000 for the violation plus the costs of investigation. The commissioner may impose a
1017 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation
1018 adopted thereunder, by a person other than a licensee or exempt person under section two of this
1019 chapter, plus the costs of investigation.

1020 (b) In addition to any other action authorized under this chapter or any rule of regulation
1021 made thereunder, whoever violates any provision of this chapter may be punished by
1022 imprisonment for not more than 6 months. The penalty provision of this section shall be in
1023 addition to, and not in lieu of, any other provision of law applicable to a licensee or other person
1024 for violating section two or any rule or regulation made thereunder.

1025 (c) Nothing in this section shall limit the right of any individual or entity who has been
1026 injured as a result of any violation of this chapter by a licensee, or any person other than a

1027 licensee or exempt person under section two of this chapter, to bring an action to recover
1028 damages or restitution in a court of competent jurisdiction.

1029 (d) Any findings or order issued by the commissioner pursuant to this section shall be
1030 subject to review as provided in chapter thirty A.

1031 Section 33. (a) Whenever the commissioner determines that any person has, directly or
1032 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
1033 applicable to the conduct of the business of a sales finance company; or any order issued by the
1034 commissioner under this chapter or any written agreement entered between the licensee and the
1035 commissioner; the commissioner may serve upon the person a written notice of intention:

1036 (1) to prohibit the person from performing in the capacity of a principal employee on
1037 behalf of any licensee for a period of time that the commissioner deems necessary;

1038 (2) to prohibit the person from applying for or obtaining a license from the commissioner
1039 for a period up to 36 months following the effective date of an order issued under subsection (b)
1040 or (c); or

1041 (3) to prohibit the person from any further participation, in any manner, in the conduct of
1042 the affairs of a sales finance company in Massachusetts or to prohibit the person from being
1043 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other
1044 business which requires a license from the commissioner.

1045 (b) A written notice issued under subsection (a) shall contain a written statement of the
1046 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
1047 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon

1048 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing
1049 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or
1050 by a duly authorized representative, the party shall be deemed to have consented to the issuance
1051 of an order of prohibition in accordance with the notice.

1052 (c) In the event of a consent under subsection (b), or if after a hearing the commissioner
1053 finds that any of the grounds specified in the notice have been established, the commissioner
1054 may issue an order of prohibition in accordance with subsection (a) as the commissioner finds
1055 appropriate.

1056 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the
1057 person. The commissioner shall also serve a copy of the order upon the licensee of which the
1058 person is an employee or on whose behalf the person is performing. The order shall remain in
1059 effect and enforceable until it is modified, terminated, suspended, or set aside by the
1060 commissioner or a court of competent jurisdiction.

1061 (e) Except as consented to in writing by the commissioner, any person who, pursuant to
1062 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in
1063 part in the conduct of the affairs of a sales finance company in Massachusetts may not, while the
1064 order is in effect, continue or commence to perform in the capacity of a principal employee, or
1065 otherwise participate in any manner, if so prohibited by order of the commissioner, in the
1066 conduct of the affairs of:

1067 (1) any licensee under this chapter;

1068 (2) any other business which requires a license from the commissioner; and

1069 (3) any bank, as defined under section one of chapter one hundred sixty-seven, or any
1070 subsidiary thereof.

1071 SECTION 43. Section 8 of chapter 255E, as so appearing, is hereby amended by adding
1072 the following paragraph:--

1073 The commissioner, or the commissioner's examiners, or other assistants as the
1074 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
1075 other witnesses, and examine them relative to the affairs, transactions and condition of the
1076 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
1077 to appear and testify when so required or obstructs the person making the examination in the
1078 performance of their duty, shall be punished by a fine of not more than \$1,000 or by
1079 imprisonment for not more than one year.