

**SENATE . . . . . No. 750**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Paul R. Feeney***

*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:

*Paul R. Feeney*

DISTRICT/ADDRESS:

*Bristol and Norfolk*

**SENATE . . . . . No. 750**

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By Mr. Feeney, a petition (accompanied by bill, Senate, No. 750) of Paul R. Feeney for legislation to establish uniform enforcement and confidentiality provisions relative to certain licensees under the jurisdiction of the division of banks by enforcing fines and penalties for violations. Financial Services.

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**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 2022  
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. Said section 24D of said chapter 93, as so appearing, is hereby further  
5   amended by inserting after the word "licensees" in line 36, the following words:- or registrants.

6           SECTION 3. Said chapter 93, as so appearing, is hereby amended by striking out section  
7   24F and inserting in place thereof the following section:-

8           Section 24F. The commissioner, or the commissioner's examiners or other assistants as  
9   the commissioner may designate, may summon a licensee or registrant, or any of its agents or  
10   employees, and other witnesses as necessary, and examine them relative to their transactions,

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

19 SECTION 4. Said chapter 93, is hereby amended by adding after section 24K the  
20 following two sections:-

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

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

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

35 (c) Any findings or order issued by the commissioner pursuant to this section shall be  
36 subject to review as provided in chapter 30A.

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

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

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

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

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

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

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

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

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

74 (1) any licensee or registrant under this chapter;

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

76 (3) any bank, as defined under section 1 of chapter 167 or any subsidiary thereof.

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

79 Section 99. A licensee shall, when directed by the commissioner, permit the  
80 commissioner or the commissioner's duly authorized representative to inspect its records and  
81 evidence of compliance with this chapter or any rule and regulation issued thereunder and with  
82 any other law, rule and regulation applicable to the conduct of its business. The commissioner  
83 shall preserve a full record of each examination of a licensee including a statement of its  
84 condition. All records of investigations and reports of examinations by the commissioner,  
85 including workpapers, information derived from the reports or responses to the reports, and any  
86 copies thereof in the possession of any licensee under the supervision of the commissioner, shall  
87 be confidential and privileged communications, shall not be subject to subpoena and shall not be  
88 a public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this  
89 paragraph, records of investigation and reports of examinations shall include records of  
90 investigation and reports of examinations conducted by a financial regulatory agency of the  
91 federal government and any other state, and of any foreign government which are considered  
92 confidential by the agency or foreign government and which are in possession of the  
93 commissioner. In any proceeding before a court, the court may issue a protective order to seal the  
94 record protecting the confidentiality of any such record, and other than any such record on file  
95 with the court or filed in connection with the court proceeding, and the court may exclude the  
96 public from any portion of a proceeding at which any such record may be disclosed. Copies of  
97 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited  
98 to any other person, organization or agency without prior written approval by the commissioner.

99 The commissioner may, in the commissioner's discretion, furnish to regulatory agencies of the  
100 federal government, of other states, or of foreign countries, and any law enforcement agency, the  
101 information, reports, inspections and statements relating to the licensees under the  
102 commissioner's supervision.

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

112 SECTION 6. Section 103 of said chapter 140 is hereby amended by striking out section  
113 103, and inserting in place thereof the following three sections:-

114 Section 103. The commissioner may suspend or revoke any license issued pursuant to  
115 section 96 if the commissioner finds that:

116 (i) the licensee has violated any provision of sections 96 to 114, inclusive, or any rule or  
117 regulation made by the commissioner under any provision of sections 96 to 114, inclusive, or  
118 any other law applicable to the conduct of the business; or

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

122 Except as provided in section 103A, no license shall be revoked or suspended except  
123 after notice and a hearing thereon pursuant to chapter 30A.

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

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

129 The penalty provision of this section shall be in addition to, and not in lieu of, any other  
130 provision of law applicable to a licensee or other person for violating section 96, 97, 98, 100,  
131 101, 102, 104, 106, and 109 or any rule or regulation made thereunder.

132 Section 103A. (a) If the commissioner determines, after giving notice of an opportunity  
133 for a hearing, that a licensee has engaged or is about to engage in an act or practice constituting a  
134 violation of a provision of sections 97, 98, 100, 101, 102, 104 or 109, or any rule or regulation  
135 made by the commissioner under section 97 or 106, or any other law applicable to the conduct of  
136 the business, the commissioner may order the licensee to cease and desist from the unlawful act  
137 or practice and take affirmative action as in the commissioner's judgment will effect the purpose  
138 of sections 97, 98, 100, 101, 102, 104 or 109, or any rule or regulation made by the  
139 commissioner under section 97 or 106, or any other law applicable to the conduct of the  
140 business.

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

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

156 Any order issued pursuant to this section shall be subject to review as provided in chapter  
157 30A.

158 Section 103B. The commissioner may enforce the provisions of section 96 through 114A,  
159 or restrain any violations thereof, by filing a civil action in any court of competent jurisdiction.

160 SECTION 7. Said chapter 140 is hereby amended by adding after section 113 the  
161 following two sections:-

162           Section 113A. (a) Whenever the commissioner finds that any licensee or exempt person  
163 under section 96 of this chapter has violated any provision of this chapter or any rule or  
164 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct  
165 of the business of making small loans, the commissioner may, by order, in addition to any other  
166 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty  
167 upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000  
168 for the violation plus the costs of investigation. The commissioner may impose a penalty which  
169 shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted  
170 thereunder, by a person other than a licensee or exempt person under section 96 of this chapter,  
171 plus the costs of investigation.

172           (b) In addition to any other action authorized under this chapter or any rule of regulation  
173 made thereunder, a licensee who violates the provisions of section 100 may also be punished by  
174 imprisonment for not more than 1 year. Each day the violation occurs or continues shall be  
175 deemed a separate offense. Any loan made by any person so licensed in violation of section  
176 100 may be declared void by the supreme judicial or superior court in equity upon petition by the  
177 person to whom the loan was made.

178           (c) Nothing in this section shall limit the right of any individual or entity who has been  
179 injured as a result of any violation of this chapter by a licensee, or any person other than a  
180 licensee or exempt person under section 96 of this chapter, to bring an action to recover damages  
181 or restitution in a court of competent jurisdiction.

182           (d) Any findings or order issued by the commissioner pursuant to this section shall be  
183 subject to review as provided in chapter 30A.

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

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

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

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

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

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

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

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

220 (1) any licensee under this chapter;

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

222 (3) any bank, as defined under section 1 of chapter 167, or any subsidiary thereof

223 SECTION 8. Said chapter 140, as so appearing, is hereby amended by striking section  
224 114A and inserting in place thereof the following section:-

225           Section 114A. A bank as defined in section 1 of chapter 167, a national banking  
226 association, a federally chartered credit union, a federal savings and loan association, a federal  
227 savings bank, or any subsidiary of the above, or any bank, trust company, savings bank, savings  
228 and loan association, or credit union organized under the laws of any other state, or any  
229 subsidiary of the above, shall not be subject to the provisions of sections 96 to 114, inclusive;  
230 provided, that the institutions may not take, receive, reserve or charge interest, expenses and  
231 other considerations for making or securing any loan subject to the provisions of section 96 in  
232 excess of those permitted by section 100. Any loan subject to the provisions of section 96 made  
233 by any bank as defined in section 1 of chapter 167, a national banking association, a federally-  
234 chartered credit union, a federal savings and loan association, a federal savings bank, or any  
235 subsidiary of the above, or any bank, trust company, savings bank, savings and loan association,  
236 or credit union organized under the laws of any other state on which charges for interest,  
237 expenses and other considerations exceed those permitted by section 100 may be declared void  
238 by the supreme judicial court or superior court in equity upon petition by the person to whom the  
239 loans were made, and any bank as defined section 1 of chapter 167, a national banking  
240 association, a federally chartered credit union, a federal savings and loan association, a federal  
241 savings bank, or any subsidiary of the above, or any bank, trust company, savings bank, savings  
242 and loan association, or credit union organized under the laws of any other state making such a  
243 loan shall be subject to a fine of not more than \$1,000.

244           This section shall not be construed as preventing a rate of charge for interest, expenses  
245 and other consideration on 1 or more portions of a loan in excess of the permitted maximum rate  
246 of charge applicable to the portion or portions, provided, that the composite rate of charge on the  
247 whole loan produces an amount equal to or less than that which would be produced were the

248 maximum rate of charge applied to the loan. Extension, default or deferment charges shall not be  
249 deemed to be interest, expenses and other considerations in determining the maximum rate of  
250 charge that may be taken, received, reserved or charged for the loan.

251 SECTION 9. Section 2 of chapter 169A of the General Laws, as so appearing, is hereby  
252 amended, in line 7, by striking out the word “bank.” and inserting in place thereof the words:-  
253 bank or any bank, trust company, savings bank, savings and loan association, or credit union  
254 organized under the laws of any other state, or any subsidiary of the above.

255 SECTION 10. Section 5 of said chapter 169A, as so appearing, is hereby amended by  
256 striking out the third and fourth sentences.

257 SECTION 11. Section 10 of chapter 169A, as so appearing, is hereby amended by adding  
258 the following two paragraphs:-

259 The commissioner shall preserve a full record of each such examination of a licensee  
260 including a statement of its condition. All records of investigations and reports of examinations  
261 by the commissioner, including workpapers, information derived from such reports or responses  
262 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
263 the commissioner, shall be confidential and privileged communications, shall not be subject to  
264 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
265 the purpose of this paragraph, records of investigation and reports of examinations shall include  
266 records of investigation and reports of examinations conducted by a financial regulatory agency  
267 of the federal government and any other state, and of any foreign government which are  
268 considered confidential by such agency or foreign government and which are in possession of the  
269 commissioner. In any proceeding before a court, the court may issue a protective order to seal the

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

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

286 SECTION 12. Said chapter 169A, as so appearing, is hereby amended by striking out  
287 section 13 and inserting in place thereof the following two sections:-

288 Section 13. (a) Whenever the commissioner finds that any licensee or exempt person  
289 under section 2 of this chapter has violated any provision of this chapter or any rule or regulation  
290 adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the  
291 business of cashing checks, drafts or money orders, the commissioner may, by order, in addition

292 to any other action authorized under this chapter or any rule or regulation made thereunder,  
293 impose a penalty upon such person which shall not exceed \$5,000 for each violation, up to a  
294 maximum of \$100,000 for such violation plus the costs of investigation. The commissioner may  
295 impose a penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or  
296 regulation adopted thereunder, by a person other than a licensee or exempt person under section  
297 2 of this chapter, plus the costs of investigation.

298 (b) In addition to any other action authorized under this chapter or any rule of regulation  
299 made thereunder, whoever violates any provision of section 2 or any rule or regulation made  
300 thereunder by the commissioner may be punished by imprisonment for not more than 6 months.  
301 Each day a violation continues shall be deemed a separate offense. The penalty provision of this  
302 section shall be in addition to, and not in lieu of, any other provision of law applicable to a  
303 licensee or other person for violating section 2 or any rule or regulation made thereunder.

304 (c) Nothing in this section shall limit the right of any individual or entity who has been  
305 injured as a result of any violation of this chapter by a licensee, or any person other than a  
306 licensee or exempt person under section 2 of this chapter, to bring an action to recover damages  
307 or restitution in a court of competent jurisdiction.

308 (d) Any findings or order issued by the commissioner pursuant to this section shall be  
309 subject to review as provided in chapter 30A.

310 Section 14. (a) Whenever the commissioner determines that any person has, directly or  
311 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,  
312 applicable to the conduct of the business of cashing checks, drafts or money orders; or any order  
313 issued by the commissioner under this chapter or any written agreement entered between such

314 licensee and the commissioner; the commissioner may serve upon such person a written notice of  
315 intention:

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

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

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

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

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

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

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

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

348 (1) any licensee under this chapter;

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

350 (3) any bank, as defined under section 1 of chapter 167, or any subsidiary thereof.

351 SECTION 13. Section 1 of chapter 255B of the General Laws, as so appearing, is hereby  
352 amended by striking out the definition of "Sales finance company" and inserting in place thereof  
353 the following definition:- "Sales finance company", (1) a bank as defined in section 1 of chapter  
354 167, a national banking association, federal savings bank, federal savings and loan association,  
355 federal credit union, or any bank, trust company, savings bank, savings and loan association or

356 credit union organized under the laws of any other state of the United States, or any subsidiary of  
357 the above;

358 (2) any person engaged, in whole or in part, in the business of purchasing retail  
359 installment contracts from 1 or more retail sellers; and

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

363 SECTION 14. Section 2 of said chapter 255B, as so appearing, is hereby amended by  
364 striking out the fourth and fifth sentences.

365 SECTION 15. Section 3 of said chapter 255B, as so appearing, is hereby amended by  
366 inserting after the first paragraph the following two paragraphs:-

367 The commissioner shall preserve a full record of each such examination of a licensee  
368 including a statement of its condition. All records of investigations and reports of examinations  
369 by the commissioner, including workpapers, information derived from such reports or responses  
370 to such reports, and any copies thereof in the possession of any licensee under the supervision of  
371 the commissioner, shall be confidential and privileged communications, shall not be subject to  
372 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For  
373 the purpose of this paragraph, records of investigation and reports of examinations shall include  
374 records of investigation and reports of examinations conducted by a financial regulatory agency  
375 of the federal government and any other state, and of any foreign government which are  
376 considered confidential by such agency or foreign government and which are in possession of the  
377 commissioner. In any proceeding before a court, the court may issue a protective order to seal the

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

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

394         SECTION 16. Section 4 of said chapter 255B, as so appearing, is hereby amended by  
395 adding the following sentence:- Each day such violation occurs or continues shall be deemed a  
396 separate offense.

397         SECTION 17. Said chapter 255B, as so appearing, is hereby amended by striking out  
398 section 7, and inserting in place thereof the following section:-

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

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

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

406 Except as provided in section 8, no license shall be revoked or suspended except after  
407 notice and a hearing thereon pursuant to 30A.

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

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

413 SECTION 18. Said chapter 255B, as so appearing, is hereby amended by striking out  
414 section 8 and inserting in place thereof the following two sections:-

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

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

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

435 Any order issued pursuant to this section shall be subject to review as provided in chapter  
436 30A.

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

439 SECTION 19. Said chapter 255B is hereby amended by adding after section 25 the  
440 following two sections:-

441           Section 26. (a) Whenever the commissioner finds that any licensee or exempt person  
442 under section 2 of this chapter has violated any provision of this chapter or any rule or regulation  
443 adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the  
444 business of a sales finance company, the commissioner may, by order, in addition to any other  
445 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty  
446 upon such person which shall not exceed \$5,000 for each violation, up to a maximum of  
447 \$100,000 for such violation plus the costs of investigation. The commissioner may impose a  
448 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation  
449 adopted thereunder, by a person other than a licensee or exempt person under section 2 of this  
450 chapter, plus the costs of investigation.

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

457           (c) Nothing in this section shall limit the right of any individual or entity who has been  
458 injured as a result of any violation of this chapter by a licensee, or any person other than a  
459 licensee or exempt person under section 2 of this chapter, to bring an action to recover damages  
460 or restitution in a court of competent jurisdiction.

461           (d) Any findings or order issued by the commissioner pursuant to this section shall be  
462 subject to review as provided in chapter 30A.

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

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

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

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

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

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

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

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

499 (1) any licensee under this chapter;

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

501 (3) any bank, as defined under section 1 of chapter 167, or any subsidiary thereof.

502 SECTION 20. Chapter 255C of the General Laws, as so appearing, is hereby amended by  
503 striking out section 2 and inserting in place thereof the following section:-

504           Section 2. No person, other than a bank as defined in section 1 of chapter 167, a national  
505 banking association, a federally-chartered credit union, a federal savings and loan association, a  
506 federal savings bank, or any subsidiary of the above, or a bank, a trust company, savings bank,  
507 savings and loan association or credit union organized under the laws of any other state, or any  
508 subsidiary of the above, a sales finance company, as defined in section 1 of chapter 255B, and a  
509 company licensed to carry on the business of making small loans, shall engage in the business of  
510 premium finance agency unless licensed by the commissioner, as provided in section 3;  
511 provided, however, that no property and casualty insurance agent or broker, including an  
512 insurance agent or insurance broker conducting an insurance premium financing agency business  
513 under a subsidiary or different company name, who provides premium financing only to their  
514 own customers for purposes of financing payment of premiums on contracts of insurance, which  
515 contracts of insurance are exclusively limited to commercial insurance policies, shall be required  
516 to be licensed pursuant to this section or any other section of this chapter. The commissioner  
517 may adopt, amend or repeal rules and regulations, which may include an adequate capitalization  
518 requirement for sales finance companies, to aid in the administration and enforcement of this  
519 chapter.

520           The license shall allow the holder to maintain only 1 office from which the business may  
521 be conducted, but more than 1 license may be issued to any person. Any change of location of an  
522 office of a licensee shall require the prior approval of the commissioner. The request for  
523 relocation shall be in writing setting forth the reason or reasons for the request, and shall be  
524 accompanied by a relocation investigation fee to be determined annually by the secretary of  
525 administration and finance under section 3B of chapter 7. If an applicant has more than 1 office,

526 the applicant may obtain a license for each office from which the applicant intends to conduct the  
527 business.

528 SECTION 21. Section 4 of said chapter 255C, as so appearing, is hereby amended by  
529 striking out the second sentence.

530 SECTION 22. Section 4 of said chapter 255C is hereby further amended by adding the  
531 following paragraph:-

532 If a licensee intends to carry on the business at any place in addition to the address on the  
533 license, the licensee shall so notify the commissioner, in writing, at least 30 days prior thereto,  
534 and the licensee shall pay a fee for the additional location in an amount to be determined  
535 annually by the commissioner of administration under the provision of section 3B of chapter 7.  
536 The license shall not be transferable or assignable and shall expire annually on a date determined  
537 by the commissioner.

538 SECTION 23. Said chapter 255C, as so appearing, is hereby amended by striking out  
539 section 5, and inserting in place thereof the following three sections:-

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

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

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

547           The commissioner shall have sufficient cause to suspend or revoke a license whenever  
548 the commissioner learns from the commissioner of insurance or from any other source that the  
549 licensee has failed to return the full amount of a return premium to the person whose insurance  
550 policy has been cancelled or to the person's assignee, as required by section 176A of chapter  
551 175.

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

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

559           Whenever the commissioner revokes or suspends a license, the commissioner shall  
560 forthwith execute in duplicate a written order to that effect, and shall file 1 copy of the order in  
561 the office of the secretary of state and mail 1 copy to the licensee. A suspension or revocation of  
562 a license shall not be subject to the provisions of chapter 30A.

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

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

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

583 Any order issued pursuant to this section shall be subject to review as provided in chapter  
584 30A.

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

587 SECTION 24. Section 6 of said chapter 255C, as so appearing, is hereby amended by  
588 striking out the second paragraph and inserting in place thereof the following two paragraphs:-

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

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

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

616 SECTION 25. Section 9 of said chapter 255C of the General Laws, as so appearing, is  
617 hereby amended by striking out the first paragraph.

618 SECTION 26. Said chapter 255C, as so appearing, is hereby amended by adding after  
619 section 23 the following two sections:-

620 Section 24. (a) Whenever the commissioner finds that any licensee or exempt person  
621 under section 2 of this chapter has violated any provision of this chapter or any rule or regulation  
622 adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the  
623 business of a premium finance agency, the commissioner may, by order, in addition to any other  
624 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty  
625 upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000  
626 for the violation plus the costs of investigation. The commissioner may impose a penalty which  
627 shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted  
628 thereunder, by a person other than a licensee or exempt person under section 2 of this chapter,  
629 plus the costs of investigation.

630 (b) In addition to any other action authorized under this chapter or any rule of regulation  
631 made thereunder, whoever violates any provision of this chapter, or knowingly makes any  
632 incorrect statement of a material fact in any application, report or statement filed pursuant to this  
633 chapter, or knowingly omits to state any material fact necessary to give the commissioner any

634 information lawfully required, may be punished by imprisonment for not more than 6 months.  
635 The penalty provision of this section shall be in addition to, and not in lieu of, any other  
636 provision of law applicable to a licensee or other person for violating any provision of this  
637 chapter or any rule or regulation made thereunder.

638 (c) Nothing in this section shall limit the right of any individual or entity who has been  
639 injured as a result of any violation of this chapter by a licensee, or any person other than a  
640 licensee or exempt person under section 2 of this chapter, to bring an action to recover damages  
641 or restitution in a court of competent jurisdiction.

642 (d) Any findings or order issued by the commissioner pursuant to this section shall be  
643 subject to review as provided in chapter 30A.

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

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

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

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

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

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

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

674 (e) Except as consented to in writing by the commissioner, any person who, pursuant to  
675 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in

676 part in the conduct of the affairs of a premium finance agency in Massachusetts may not, while  
677 the order is in effect, continue or commence to perform in the capacity of a principal employee,  
678 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the  
679 conduct of the affairs of:

680 (1) any licensee under this chapter;

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

682 (3) any bank, as defined under section 1 of chapter 167, or any subsidiary thereof.

683 SECTION 27. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby  
684 amended by striking out the definition of "Sales finance company" in lines 98 through 105,  
685 inclusive, and inserting in place thereof the following definition:-

686 "Sales finance company",

687 (1) a bank as defined in section 1 of chapter 167, or a national banking association or a  
688 savings and loan association, federal savings bank, federal savings and loan association, federal  
689 credit union, or any bank, trust company, savings bank, savings and loan association or credit  
690 union organized under the laws of any other state of the United States, or any subsidiary of the  
691 above,

692 (2) any person other than an installment seller engaged, in whole or in part, in the  
693 business of purchasing retail installment sale agreements or revolving credit agreements of 1 or  
694 more retail sellers. The term "sales finance company" shall not include the pledgee of an  
695 aggregate number of such agreements to secure a bona fide loan thereon.

696 SECTION 28. The first paragraph of section 2 of said chapter 255D, as so appearing, is  
697 hereby amended by striking out the fourth and fifth sentences.

698 SECTION 29. Said section 2 of said chapter 255D, as so appearing, is hereby further  
699 amended by striking out the ninth sentence.

700 SECTION 30. Section 3 of said chapter 255D, as so appearing, is hereby amended by  
701 inserting after the first paragraph the following two paragraphs:-

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

718 The commissioner may, in the commissioner's discretion, furnish to regulatory agencies of the  
719 federal government, of other states, or of foreign countries, and any law enforcement agency, the  
720 information, reports, inspections and statements relating to the licensees under the  
721 commissioner's supervision.

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

729 SECTION 31. Said chapter 255D, as so appearing, is hereby amended by striking out  
730 section 7 as so appearing, and inserting in place thereof the following section:-

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

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

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

738 Except as provided in section 8, no license shall be revoked or suspended except after  
739 notice and a hearing thereon pursuant to chapter 30A.

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

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

745 SECTION 32. Said chapter 255D, as so appearing, is hereby further amended by striking  
746 out section 8, as so appearing, and inserting in place thereof the following two sections:-

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

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

760 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and  
761 opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts and  
762 conclusions of law, vacate, modify or make permanent the order.

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

767 Any order issued pursuant to this section shall be subject to review as provided in chapter  
768 30A.

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

771 SECTION 33. Section 30 of said chapter 255D, as so appearing, is hereby repealed.

772 SECTION 34. Said chapter 255D is hereby amended by adding after section 31 the  
773 following two sections:-

774 Section 32. (a) Whenever the commissioner finds that any licensee or exempt person  
775 under section 2 of this chapter has violated any provision of this chapter or any rule or regulation  
776 adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the  
777 business of a sales finance company, the commissioner may, by order, in addition to any other  
778 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty  
779 upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000  
780 for the violation plus the costs of investigation. The commissioner may impose a penalty which

781 shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted  
782 thereunder, by a person other than a licensee or exempt person under section 2 of this chapter,  
783 plus the costs of investigation.

784 (b) In addition to any other action authorized under this chapter or any rule of regulation  
785 made thereunder, whoever violates any provision of this chapter may be punished by  
786 imprisonment for not more than 6 months. The penalty provision of this section shall be in  
787 addition to, and not in lieu of, any other provision of law applicable to a licensee or other person  
788 for violating section 2 or any rule or regulation made thereunder.

789 (c) Nothing in this section shall limit the right of any individual or entity who has been  
790 injured as a result of any violation of this chapter by a licensee, or any person other than a  
791 licensee or exempt person under section 2 of this chapter, to bring an action to recover damages  
792 or restitution in a court of competent jurisdiction.

793 (d) Any findings or order issued by the commissioner pursuant to this section shall be  
794 subject to review as provided in chapter 30A.

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

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

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

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

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

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

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

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

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

831 (1) any licensee under this chapter;

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

833 (3) any bank, as defined under section 1 of chapter 167, or any subsidiary thereof.

834 SECTION 35. Section 8 of chapter 255E of the General Laws, as so appearing, is hereby  
835 amended by adding the following paragraph:-

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