

SENATE No.

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.

[Pin Slip]

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.