HOUSE DOCKET, NO. FILED ON: 1/14/2009

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

|  |
| --- |
|  |

The Commonwealth of Massachusetts

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PRESENTED BY:

**Ronald Mariano**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*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 passage of the accompanying bill:

An Act establishing uniform enforcement provisions and making other changes applicable to certain licensees under the jurisdiction of the division of banks.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| Ronald Mariano | 3rd Norfolk |

The Commonwealth of Massachusetts

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act establishing uniform enforcement provisions and making other changes applicable 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:*

SECTION 1. Section 24F of chapter 93 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out section 24F and inserting in place thereof the following section:-

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

 SECTION 2.Chapter 93 of the General Laws, as so appearing, is hereby amended by adding after section 24K the following two sections:-

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

1. Nothing in this section shall limit the right of any individual or entity who has been injured as a result of any violation of this chapter by a licensee, or any person other than a licensee or exempt person under section 24A of this chapter, to bring an action to recover damages or restitution in a court of competent jurisdiction.
2. Any findings or order issued by the commissioner pursuant to this section shall be subject to review as provided in chapter thirty A.

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

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

SECTION 3. Section 96 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence: --

No person shall directly or indirectly engage in the business of making loans of nine thousand dollars or less, adjusted to the average annual rate of inflation as measured by the Consumer Price Index released for the previous year and announced each year as of March 1 by the commissioner, if the amount to be paid on any such loan for interest and expenses exceeds in the aggregate an amount equivalent to twelve per cent per annum upon the sum loaned, without first obtaining from the commissioner of banks, in sections ninety-six to one hundred and fourteen, inclusive, called the commissioner, a license to carry on the said business in the town where the business is to be transacted.

SECTION 4. Section 96 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 25 and 63, the words “loan of six thousand dollars or less” and inserting in place thereof in each instance the following words: - such loan.

 SECTION 5. Section 96 of said chapter 140, as so appearing, is hereby amended by striking out, in line 38, the words “loans of six thousand dollars or less” and inserting in place thereof the following words: - such loans.

SECTION 6. Section 96 of said chapter 140, as so appearing, is hereby amended by striking out the fifth sentence and inserting in place thereof the following sentence: --

If, after all deductions or payments, whether on account of interest, expenses or principal made substantially contemporaneously with the making of the loan, the amount retained by the borrower be nine thousand dollars or less, adjusted to the average annual rate of inflation as measured by the Consumer Price Index released for the previous year, the transaction shall be deemed to be a loan in the amount of the sum so retained by the borrower after such deductions or payments, notwithstanding that the loan be nominally for a greater sum.

SECTION 7. Section 98 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the words “the fifteenth day of April” in line 3 and inserting in place thereof the words: a date to be determined by the commissioner.

SECTION 8. Chapter 140 of the General Laws, as so appearing, is hereby amended by striking out section 99 and inserting in place thereof the following section:-

Section 99. The commissioner may summon said licensees, companies or associations, or any of their agents or employees, and such other witnesses as he deems necessary, and examine them relative to their transactions and to the condition of their business, and for that purpose may administer oaths. Whoever without justifiable cause refuses to appear and testify when so required, or obstructs the commissioner or his representatives in the performance of their duties, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both. The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating section 96 or any rule or regulation made thereunder.

SECTION 9. Section 100 of said chapter 140, as so appearing, is hereby amended by striking out, in line 14, the words “of six thousand dollars or less” and inserting in place thereof the following words: - subject to the provisions of section ninety-six.

 SECTION 10. Section 101 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “from October first”, and inserting in place thereof the following words:- as determined by the commissioner.

SECTION 11. Chapter 140 of the General Laws, as so appearing, is hereby amended by striking out section 103, and inserting in place thereof the following three sections: -

Section 103. Whoever, being duly licensed as provided in section ninety-six, violates any provision of sections ninety-seven, ninety-eight, one hundred and one, one hundred and two, one hundred and four or one hundred and nine, or any regulation, rule or order made by the commissioner under sections ninety-seven or one hundred and six, shall be punished by a fine of not more than one thousand dollars, and his license may be suspended or revoked by the commissioner. Each day such violation occurs or continues shall be deemed a separate offense.

Whoever, being so licensed, violates the provisions of section one hundred shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both. Each day such violation occurs or continues shall be deemed a separate offense. Any loan made by any person so licensed in violation of said section one hundred may be declared void by the supreme judicial or superior court in equity upon petition by the person to whom the loan was made.

The commissioner may also suspend or revoke any license issued pursuant to section ninety-six if said commissioner finds that:

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

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

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

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

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

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

Section 103A. (a) If the commissioner determines, after giving notice of an opportunity for a hearing, that a licensee has engaged or is about to engage in an act or practice constituting a violation of a provision of sections ninety-seven, ninety-eight, one hundred, one hundred and one, one hundred and two, one hundred and four or one hundred and nine, or any rule or regulation made by the commissioner under section ninety-seven or one hundred and six, or any other law applicable to the conduct of the business, he may order such licensee to cease and desist from such unlawful act or practice and take such affirmative action as in his judgment will effect the purpose of sections ninety-seven, ninety-eight, one hundred, one hundred and one, one hundred and two, one hundred and four or one hundred and nine, or any rule or regulation made by the commissioner under section ninety-seven or one hundred and six, or any other law applicable to the conduct of the business.

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

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

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

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

 SECTION 12.Chapter 140 of the General Laws, as so appearing, is hereby amended by adding after section 113 the following two sections:-

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

1. Nothing in this section shall limit the right of any individual or entity who has been injured as a result of any violation of this chapter by a licensee, or any person other than a licensee or exempt person under section ninety-six of this chapter, to bring an action to recover damages or restitution in a court of competent jurisdiction.
2. Any findings or order issued by the commissioner pursuant to this section shall be subject to review as provided in chapter thirty A.

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

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

SECTION 13. Section 114A of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the first two sentences and inserting the following two sentences:--

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

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

SECTION 14. Section 4 of chapter 167F of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

 Any bank as defined in section one of chapter one hundred sixty-seven, a national banking association, a federally-chartered credit union, a federal savings and loan association, a federal savings bank, or any subsidiary of the above, any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state or any subsidiary of the above, may engage directly in the business of selling, issuing or registering checks or money orders for use primarily for personal, family, or household purposes, except all of the institutions described above may engage in such business through agents who shall not be deemed to be branches of such institutions. No person, other than the foregoing, shall engage in such business directly or indirectly unless he files annually, as of a date determined by the commissioner, a sworn statement setting forth his name and address, the names and business addresses of his agents, other than the financial institutions described above, authorized to receive money and transact such business on his behalf.

SECTION 15. Section 4 of chapter 167F of the General Laws, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:--

Whoever violates any provision of this section or any rule or regulation established hereunder shall be punished by a fine of not more than one thousand dollars for each day during which such violation continues. The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating section 4 or any rule or regulation made thereunder.

 SECTION 16.Chapter 167F of the General Laws, as so appearing, is hereby amended by adding after section 4 the following two sections:-

 Section 4A. (a) Whenever the commissioner finds that any licensee or exempt person under section 4 of this chapter has violated any provision of this chapter or any rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the business of selling, issuing or registering checks or money orders, the commissioner may, by order, in addition to any other action authorized under this chapter or any rule or regulation made thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for each violation, up to a maximum of one hundred thousand dollars for such violationplus the costs of investigation*.* The commissioner may impose a penalty which shall not exceed five thousand dollars for each violationof this chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt person under section 4 of this chapter, plus the costs of investigation.

1. Nothing in this section shall limit the right of any individual or entity who has been injured as a result of any violation of this chapter by a licensee, or any person other than a licensee or exempt person under section 4 of this chapter, to bring an action to recover damages or restitution in a court of competent jurisdiction.
2. Any findings or order issued by the commissioner pursuant to this section shall be subject to review as provided in chapter thirty A.

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

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

(1) any licensee under this chapter;

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

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

SECTION 17. Chapter 169 of the General Laws, as so appearing, is hereby amended by striking out Section 1 and inserting the following section:--

 Section 1. This chapter shall apply to all persons who engage or are financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries, except banks as defined in section one of chapter one hundred sixty-seven, a national banking association, a federally-chartered credit union, a federal savings and loan association, a federal savings bank, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the law of any other state, or any subsidiary of the above, persons doing business under section forty-three of chapter one hundred sixty-seven, express companies having contracts with transportation companies for the operation of an express service upon the lines of such companies or express companies doing an international express business or global transportation companies or telegraph companies.

SECTION 18. Section 3 of chapter 169 of the General Laws, as so appearing, is hereby amended by striking out, in lines 30 and 31, the words “from July first” and inserting place thereof the following:- as determined by the commissioner.

SECTION 19. Section 9 of chapter 169 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following:

 Licensees shall annually, on or before a date to be determined by the commissioner, and at such other times as the commissioner may specify, make a return to said commissioner in such form as said commissioner may prescribe, signed and sworn to by such officer or person as said commissioner may designate, which form shall disclose the condition of such licensee as of the close of business on the last day of December or such other day as the commissioner may prescribe.

SECTION 20. Section 16 of chapter 169 of the General Laws, as so appearing, is hereby amended by adding at the end thereof the following sentence:--

The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating any provision of this chapter or any rule or regulation made thereunder.

SECTION 21.Chapter 169 of the General Laws, as so appearing, is hereby amended by adding after section 16 the following two sections:-

 Section 17. (a) Whenever the commissioner finds that any licensee or exempt person under any provision of this chapter has violated any provision of this chapter or any rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries, the commissioner may, by order, in addition to any other action authorized under this chapter or any rule or regulation made thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for each violation, up to a maximum of one hundred thousand dollars for such violationplus the costs of investigation*.* The commissioner may impose a penalty which shall not exceed five thousand dollars for each violationof this chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt person under any provision of this chapter, plus the costs of investigation.

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

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

 Section 18. (a) Whenever the commissioner determines that any person has, directly or indirectly, violated any section of this chapter or any rule or regulation adopted thereunder, applicable to the conduct of the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries; or any order issued by the commissioner under this chapter or any written agreement entered between such licensee and the commissioner; the commissioner may serve upon such person a written notice of intention:

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

1. any licensee under this chapter;

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

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

SECTION 22. Section 2 of chapter 169A of the General Laws, as so appearing, is hereby amended, in line 7, by inserting after the word “bank” the words: -- or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state, or any subsidiary of the above,.

SECTION 23. Section 5 of chapter 169A of the General Laws, as so appearing, is hereby amended by striking out the words “June first” in lines 9 and 10 and inserting in place thereof the following words: a date to be determined by the commissioner.

SECTION 24. Chapter 169A of the General Laws, as so appearing, is hereby amended by striking out section 13 and inserting in place thereof the following section:-

Section 13. Whoever violates any provision of section two or any rule or regulation made thereunder by the commissioner shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both. Each day a violation continues shall be deemed a separate offense. The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating section two or any rule or regulation made thereunder.

SECTION 25.Chapter 169A of the General Laws, as so appearing, is hereby amended by adding after said section 13 the following two sections:-

 Section 14. (a) Whenever the commissioner finds that any licensee or exempt person under section two of this chapter has violated any provision of this chapter or any rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the business of cashing checks, drafts or money orders, the commissioner may, by order, in addition to any other action authorized under this chapter or any rule or regulation made thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for each violation, up to a maximum of one hundred thousand dollars for such violationplus the costs of investigation*.* The commissioner may impose a penalty which shall not exceed five thousand dollars for each violationof this chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt person under section two of this chapter, plus the costs of investigation.

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

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

 Section 15. (a) Whenever the commissioner determines that any person has, directly or indirectly, violated any section of this chapter or any rule or regulation adopted thereunder, applicable to the conduct of the business of cashing checks, drafts or money orders; or any order issued by the commissioner under this chapter or any written agreement entered between such licensee and the commissioner; the commissioner may serve upon such person a written notice of intention:

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

SECTION 26. Section 1 of chapter 255B of the General Laws, as so appearing, is hereby amended by striking out the definition of “Sales finance company” and inserting in place thereof the following definition: -- "Sales finance company",. (1) a bank as defined in section one of chapter one hundred and sixty-seven, a national banking association, federal savings bank, federal savings and loan association, federal credit union, or any bank, trust company, savings bank, savings and loan association or credit union organized under the laws of any other state of the United States, or any subsidiary of the above.

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

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

SECTION 27. Chapter 255B of the General Laws, as so appearing, is hereby amended by striking out section 2 and inserting in place thereof the following two sections:

Section 2. No person, other than a bank as defined in section one of chapter one hundred and sixty-seven, a national banking association, a federally chartered credit union, a federal savings and loan association, a federal savings bank, or any subsidiary of the above, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state, or any subsidiary of the above, shall engage in the business of a sales finance company without first obtaining from the commissioner a license to carry on said business in the city or town where the business is to be transacted as provided herein. The commissioner may adopt, amend, or repeal rules and regulations, which may include an adequate capitalization requirement for the sales finance companies, to aid in the administration and enforcement of this chapter.

Section 2A.The application for such license shall be in writing, shall contain such information as the commissioner may determine and shall be accompanied by an investigation fee to be determined annually by the commissioner of administration under the provision of section three B of chapter seven. The commissioner may reject any application for a license or any application for the renewal of a license if he is not satisfied that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the owners, partners or members thereof, if the applicant be a partnership or association, and of the officers and directors, if the applicant be a corporation, are such as to command the confidence of the public and to warrant the belief that the business for which the application for a license is filed will be operated lawfully, honestly and fairly. Such license shall be for a period of one year as of a date determined by the Commissioner. Each license shall plainly state the name of the licensee and the city or town with the name of the street and number, if any, of the place where the business is to be carried on and shall be prominently posted in each place of business of the licensee. Any such business shall at all times be conducted in the name of the licensee as it appears on the license. The fee for such license shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven. If a licensee desires to carry on business in more than one place, he shall procure a license for each place where the business is to be conducted. Such license shall not be transferable nor assignable. Any change of location of an office of a licensee shall require the prior approval of the commissioner. Such request for relocation shall be in writing setting forth the reason or reasons for the request, and shall be accompanied by a relocation investigation fee to be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

SECTION 28. Section 3 of chapter 255B of the General Laws, as so appearing, is hereby further amended by striking out the words “April fifteenth” in line 47 and inserting in place thereof the words: a date to be determined by the commissioner.

SECTION 29. Section 4 of said chapter 255B of the General Laws, as so appearing, is hereby amended by adding the following sentence:-- Each day such violation occurs or continues shall be deemed a separate offense.

SECTION 30. Chapter 255B of the General Laws, as so appearing, is hereby amended by striking out section 7 as so appearing, and inserting in place thereof the following section:--

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

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

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

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

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

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

SECTION 31. Chapter 255B of the General Laws, as so appearing, is hereby amended by striking out section 8, as so appearing, and inserting in place thereof the following two sections:--

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

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

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

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

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

SECTION 32. Chapter 255B of the General Laws, as so appearing, is hereby amended by striking out section 21 and inserting in place thereof the following section:-

Section 21. Whoever violates any provision of this chapter or any rule or regulation made thereunder by the commissioner shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both. The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating provision of this chapter or any rule or regulation made thereunder.

SECTION 33.Chapter 255B of the General Laws, as so appearing, is hereby amended by adding after section 25 the following two sections:-

 Section 26. (a) Whenever the commissioner finds that any licensee or exempt person under section two of this chapter has violated any provision of this chapter or any rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the business of a sales finance company, the commissioner may, by order, in addition to any other action authorized under this chapter or any rule or regulation made thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for each violation, up to a maximum of one hundred thousand dollars for such violationplus the costs of investigation*.* The commissioner may impose a penalty which shall not exceed five thousand dollars for each violationof this chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt person under section two of this chapter, plus the costs of investigation.

1. Nothing in this section shall limit the right of any individual or entity who has been injured as a result of any violation of this chapter by a licensee, or any person other than a licensee or exempt person under section two of this chapter, to bring an action to recover damages or restitution in a court of competent jurisdiction.
2. Any findings or order issued by the commissioner pursuant to this section shall be subject to review as provided in chapter thirty A.

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

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

SECTION 34. Chapter 255C of the General Laws, as so appearing, is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. No person, other than a bank as defined in section one of chapter one hundred sixty-seven, a national banking association, a federally-chartered credit union, a federal savings and loan association, a federal savings bank, or any subsidiary of the above, or a bank, a trust company, savings bank, savings and loan association or credit union organized under the laws of any other state, or any subsidiary of the above, a sales finance company, as defined in section one of chapter two hundred fifty-five B, and a company licensed to carry on the business of making small loans, shall engage in the business of premium finance agency unless licensed by the commissioner, as provided in section three; provided, however, that no property and casualty insurance agent or broker, including an insurance agent or insurance broker conducting an insurance premium financing agency business under a subsidiary or different company name, who provides premium financing only to his own customers for purposes of financing payment of premiums on contracts of insurance, which contracts of insurance are exclusively limited to commercial insurance policies, shall be required to be licensed pursuant to this section or any other section of this chapter. The commissioner may adopt, amend or repeal rules and regulations, which may include an adequate capitalization requirement for sales finance companies, to aid in the administration and enforcement of this chapter.

Such license shall allow the holder to maintain only one office from which said business may be conducted, but more than one license may be issued to any person. Any change of location of an office of a licensee shall require the prior approval of the commissioner. Such request for relocation shall be in writing setting forth the reason or reasons for the request, and shall be accompanied by a relocation investigation fee of $50. If an applicant has more than one office, he may obtain a license for each office from which he intends to conduct said business.

SECTION 35. Section 3 of said chapter 255C of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Each license shall be issued annually as of a date determined by thecommissioner and shall remain in full force and effect unless suspended, revoked or surrendered as provided in section five.

SECTION 36. Chapter 255C of the General Laws, as so appearing, is hereby amended by striking out section 4, and inserting in place thereof the following section:--

Section 4. Each license shall plainly state the name of the licensee and the city or town with the name of the street and number, if any, of the place where the business is to be carried on and shall be prominently posted in each place of business of the licensee. Any such business shall at all times be conducted in the name of the licensee as it appears on the license. The license shall not be transferable, except as hereinafter provided, or assignable. Before any licensee changes such office from one location to another he shall give written notice thereof to the commissioner who, if he approves said change, shall issue without charge an endorsement indicating the change and the date thereof, which endorsement shall be attached to the license for such office and shall constitute the authority for the operation of the business under such license at such new location.

SECTION 37. Chapter 255C of the General Laws, as so appearing, is hereby amended by striking out section 5, and inserting in place thereof the following three sections:--

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 38. Section 6 of chapter 255C of the General Laws, as so appearing, is hereby further amended by striking out the words “April fifteenth” in line 57 and inserting in place thereof the words: a date to be determined by the commissioner.

SECTION 39. Section 9 of chapter 255C of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Whoever violates any provision of this chapter, or knowingly makes any incorrect statement of a material fact in any application, report or statement filed pursuant to this chapter, or knowingly omits to state any material fact necessary to give the commissioner any information lawfully required by him or refuses to permit any lawful investigation or examination, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both. The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating any provision of this chapter or any rule or regulation made thereunder.

SECTION 40.Chapter 255C of the General Laws, as so appearing, is hereby amended by adding after section 23 the following two sections:-

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

1. Nothing in this section shall limit the right of any individual or entity who has been injured as a result of any violation of this chapter by a licensee, or any person other than a licensee or exempt person under section two of this chapter, to bring an action to recover damages or restitution in a court of competent jurisdiction.
2. Any findings or order issued by the commissioner pursuant to this section shall be subject to review as provided in chapter thirty A.

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

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

SECTION 41. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby amended by striking out the definition of “Sales finance company” in lines 90 through 97, inclusive, and inserting in place thereof the following definition: --

"Sales finance company",

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

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

SECTION 42. Chapter 255D of the General Laws, as so appearing, is hereby amended by striking out section 2 and inserting in place thereof the following two sections:--

Section 2. No person other than a bank as defined in section one of chapter one hundred and sixty-seven, a national banking association, federal savings bank, federal savings and loan association, federal credit union, or any bank, trust company, savings bank, savings and loan association or credit union organized under the laws of any other state of the United States which is insured by a federal deposit insurer, or any subsidiary of the above. The commissioner may adopt, amend or repeal rules and regulations, which may include an adequate capitalization requirement for sales finance companies, to aid in the administration and enforcement of this chapter.

Section 2A. The application for such license shall be in writing and shall contain such information as the commissioner may, from time to time, determine. The commissioner may reject any application for a license or any application for the renewal of a license if he is not satisfied that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the owners, partners or members thereof, if the applicant be a partnership or association, and of the officers and directors, if the applicant be a corporation, are such as to command the confidence of the public and to warrant the belief that the business for which the application for a license is filed will be operated lawfully, honestly, fairly and efficiently. Such licenses shall expire annually as of a date determined by the commissioner. Each license shall plainly state the name of the licensee and the city or town with the name of the street and number, if any, of the place where the business is to be carried on and shall be prominently posted in each place of business of the licensee. Any such business shall at all times be conducted in the name of the licensee as it appears on the license. Each application for a license shall be accompanied by an investigation fee. Investigation fees and license fees shall be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

If a licensee desires to carry on business in more than one place, he shall procure a license for each place where the business is to be conducted. Such license shall not be transferable or assignable. Any change of location of a place of business of a licensee shall require the prior approval of the commissioner. Such request for relocation shall be in writing setting forth the reason or reasons for the request and shall be accompanied by a relocation investigation fee to be determined annually by the commissioner of administration under the provision of section three B of chapter seven.

SECTION 43. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby further amended by striking out the words “April fifteenth” in line 48 and inserting in place thereof the words: a date to be determined by the commissioner.

SECTION 44. Chapter 255D of the General Laws, as so appearing, is hereby amended by striking out section 7 as so appearing, and inserting in place thereof the following section:--

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

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

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

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

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

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

SECTION 45. Said chapter 255D of the General Laws, as so appearing, is hereby further amended by striking out section 8, as so appearing, an inserting in place thereof the following two sections:--

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

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

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

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

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

SECTION 46. Chapter 255D of the General Laws, as so appearing, is hereby amended by striking out section 30 and inserting in place thereof the following section:

Section 30. Whoever violates any provision of this chapter shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or both. The penalty provision of this section shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other person for violating section two or any rule or regulation made thereunder.

SECTION 47.Chapter 255D of the General Laws, as so appearing, is hereby amended by adding after section 31 the following two sections:-

 Section 32. (a) Whenever the commissioner finds that any licensee or exempt person under section two of this chapter has violated any provision of this chapter or any rule or regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the business of a sales finance company, the commissioner may, by order, in addition to any other action authorized under this chapter or any rule or regulation made thereunder, impose a penalty upon such person which shall not exceed five thousand dollars for each violation, up to a maximum of one hundred thousand dollars for such violationplus the costs of investigation*.* The commissioner may impose a penalty which shall not exceed five thousand dollars for each violationof this chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt person under section two of this chapter, plus the costs of investigation.

1. Nothing in this section shall limit the right of any individual or entity who has been injured as a result of any violation of this chapter by a licensee, or any person other than a licensee or exempt person under section two of this chapter, to bring an action to recover damages or restitution in a court of competent jurisdiction.
2. Any findings or order issued by the commissioner pursuant to this section shall be subject to review as provided in chapter thirty A.

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

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

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

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

(b) A written notice issued under subsection (a) shall contain a written statement of the facts that support the prohibition and shall give notice of an opportunity for a hearing to be held thereon. Such hearing shall be fixed for a datenot more than thirty daysafter the date of service upon the commissioner of such request for a hearing. If such person fails to submit a request for a hearing within twenty days of service of notice under subsection (a), or otherwise fails to appear in person or by a duly authorized representative, such party shall be deemed to have consented to the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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