

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:*

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

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

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

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

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

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

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

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

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

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

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

59 (c) In the event of such consent under subsection (b), or if after a hearing the commissioner finds
60 that any of the grounds specified in such notice have been established, the commissioner may
61 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 person.
64 The commissioner shall also serve a copy of the order upon the licensee of which the person
65 is an employee or on whose behalf the person is performing. The order shall remain in effect
66 and enforceable until it is modified, terminated, suspended, or set aside by the commissioner
67 or a court of competent jurisdiction.

68 (e) Except as consented to in writing by the commissioner, any person who, pursuant to an order
69 issued under subsection (b) or (c), has been prohibited from participating in whole or in part
70 in the conduct of the affairs of a debt collector or a third party loan servicer in Massachusetts

71 may not, while such 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 under this chapter;
- 75 (2) any other business which requires a license from the commissioner; and
- 76 (3) any bank, as defined under section one of chapter one hundred sixty-seven,
77 or any subsidiary thereof.

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

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

92

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

96

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

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

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

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

115

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

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119 Section 99. The commissioner may summon said licensees, companies or associations,
120 or any of their agents or employees, and such other witnesses as he deems necessary, and
121 examine them relative to their transactions and to the condition of their business, and for that
122 purpose may administer oaths. Whoever without justifiable cause refuses to appear and testify
123 when so required, or obstructs the commissioner or his representatives in the performance of

124 their duties, shall be punished by a fine of not more than one thousand dollars or by
125 imprisonment for not more than six months, or both. The penalty provision of this section shall
126 be in addition to, and not in lieu of, any other provision of law applicable to a licensee or other
127 person for violating section 96 or any rule or regulation made thereunder.

128
129 SECTION 9. Section 100 of said chapter 140, as so appearing, is hereby amended by striking
130 out, in line 14, the words “of six thousand dollars or less” and inserting in place thereof the
131 following words: - subject to the provisions of section ninety-six.

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

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

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

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

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

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

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

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

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

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

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

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

182 by the commissioner under section ninety-seven or one hundred and six, or any other law
183 applicable to the conduct of the business.

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

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

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

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

204

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

207 Section 113A. (a) Whenever the commissioner finds that any licensee or exempt person
208 under section ninety-six of this chapter has violated any provision of this chapter or any rule or
209 regulation adopted thereunder, or any other law of the Commonwealth applicable to the
210 conduct of the business of making small loans, the commissioner may, by order, in addition to
211 any other action authorized under this chapter or any rule or regulation made thereunder,

212 impose a penalty upon such person which shall not exceed five thousand dollars for each
213 violation, up to a maximum of one hundred thousand dollars for such violation plus the costs of
214 investigation. The commissioner may impose a penalty which shall not exceed five thousand
215 dollars for each violation of this chapter, or any rule or regulation adopted thereunder, by a
216 person other than a licensee or exempt person under section ninety-six of this chapter, plus the
217 costs of investigation.

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

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

224

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

230

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

234

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

238

239 (3) to prohibit such person from any further participation, in any manner, in the
240 conduct of the affairs of a business making small loans in Massachusetts or to
241 prohibit such person from being employed by, an agent of, or operating on behalf
242 of a licensee under this chapter or any other business which requires a license
243 from the commissioner.
244

245 (b) A written notice issued under subsection (a) shall contain a written statement of the
246 facts that support the prohibition and shall give notice of an opportunity for a hearing to be
247 held thereon. Such hearing shall be fixed for a date not more than thirty days after the date of
248 service upon the commissioner of such request for a hearing. If such person fails to submit a
249 request for a hearing within twenty days of service of notice under subsection (a), or otherwise
250 fails to appear in person or by a duly authorized representative, such party shall be deemed to
251 have consented to the issuance of an order of such prohibition in accordance with the notice.
252

253 (c) In the event of such consent under subsection (b), or if after a hearing the commissioner finds
254 that any of the grounds specified in such notice have been established, the commissioner may
255 issue an order of prohibition in accordance with subsection (a) as the commissioner finds
256 appropriate.
257

258 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the person.
259 The commissioner shall also serve a copy of the order upon the licensee of which the person
260 is an employee or on whose behalf the person is performing. The order shall remain in effect
261 and enforceable until it is modified, terminated, suspended, or set aside by the commissioner
262 or a court of competent jurisdiction.
263

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

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

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

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275

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

278 A bank as defined in section one of chapter one hundred sixty-seven, a national banking
279 association, a federally chartered credit union, a federal savings and loan association, a federal
280 savings bank, or any subsidiary of the above, or any bank, trust company, savings bank, savings
281 and loan association, or credit union organized under the laws of any other state, or any
282 subsidiary of the above, shall not be subject to the provisions of sections ninety-six to one
283 hundred fourteen, inclusive; provided, that such institutions may not take, receive, reserve or
284 charge interest, expenses and other considerations for making or securing any loan subject to
285 the provisions of section ninety-six in excess of those permitted by section one hundred. Any
286 loan subject to the provisions of section ninety-six made by any bank as defined in section one
287 of chapter one hundred sixty-seven, a national banking association, a federally-chartered credit
288 union, a federal savings and loan association, a federal savings bank, or any subsidiary of the
289 above, or any bank, trust company, savings bank, savings and loan association, or credit union
290 organized under the laws of any other state on which charges for interest, expenses and other
291 considerations exceed those permitted by section one hundred may be declared void by the
292 supreme judicial court or superior court in equity upon petition by the person to whom the
293 loans were made, and any such bank as defined section one of chapter one hundred sixty-
294 seven, a national banking association, a federally chartered credit union, a federal savings and
295 loan association, a federal savings bank, or any subsidiary of the above, or any bank, trust

296 company, savings bank, savings and loan association, or credit union organized under the laws
297 of any other state making such a loan shall be subject to a fine of not more than one thousand
298 dollars.

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

306

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

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

322

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

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

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

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

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

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

350

351 Section 4B. (a) Whenever the commissioner determines that any person has, directly or
352 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
353 applicable to the conduct of the business of selling, issuing or registering checks or money

354 orders; or any order issued by the commissioner under this chapter or any written agreement
355 entered between such licensee and the commissioner; the commissioner may serve upon such
356 person a written notice of intention:

357

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

361

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

365

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

371

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

379

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

384
385 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the person.
386 The commissioner shall also serve a copy of the order upon the licensee of which the person
387 is an employee or on whose behalf the person is performing. The order shall remain in effect
388 and enforceable until it is modified, terminated, suspended, or set aside by the commissioner
389 or a court of competent jurisdiction.

390
391 (e) Except as consented to in writing by the commissioner, any person who, pursuant to an order
392 issued under subsection (b) or (c), has been prohibited from participating in whole or in part
393 in the conduct of the affairs of business of selling, issuing or registering checks or money
394 orders in Massachusetts may not, while such order is in effect, continue or commence to
395 perform in the capacity of a principal employee, or otherwise participate in any manner, if so
396 prohibited by order of the commissioner, in the conduct of the affairs of:

397 (1) any licensee under this chapter;

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

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

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

404 Section 1. This chapter shall apply to all persons who engage or are financially interested
405 in the business of receiving deposits of money for the purpose of transmitting the same or
406 equivalents thereof to foreign countries, except banks as defined in section one of chapter one
407 hundred sixty-seven, a national banking association, a federally-chartered credit union, a federal
408 savings and loan association, a federal savings bank, or any bank, trust company, savings bank,

409 savings and loan association, or credit union organized under the law of any other state, or any
410 subsidiary of the above, persons doing business under section forty-three of chapter one hundred
411 sixty-seven, express companies having contracts with transportation companies for the operation
412 of an express service upon the lines of such companies or express companies doing an
413 international express business or global transportation companies or telegraph companies.

414

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

418

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

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

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428

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

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

434

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

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

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

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

455

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

462

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

466

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

470

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

477

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

485

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

490

491 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the person.

492 The commissioner shall also serve a copy of the order upon the licensee of which the person
493 is an employee or on whose behalf the person is performing. The order shall remain in effect
494 and enforceable until it is modified, terminated, suspended, or set aside by the commissioner
495 or a court of competent jurisdiction.

496

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

504 (1) any licensee under this chapter;

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

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

508

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

513

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

517

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

520

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

527

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

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

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

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

547

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

554

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

558

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

562

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

568

569 (b) A written notice issued under subsection (a) shall contain a written statement of the
570 facts that support the prohibition and shall give notice of an opportunity for a hearing to be
571 held thereon. Such hearing shall be fixed for a date not more than thirty days after the date of
572 service upon the commissioner of such request for a hearing. If such person fails to submit a
573 request for a hearing within twenty days of service of notice under subsection (a), or otherwise

574 fails to appear in person or by a duly authorized representative, such party shall be deemed to
575 have consented to the issuance of an order of such prohibition in accordance with the notice.

576

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

581

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

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

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

597

598 SECTION 26. Section 1 of chapter 255B of the General Laws, as so appearing, is hereby
599 amended by striking out the definition of "Sales finance company" and inserting in place
600 thereof the following definition: -- "Sales finance company",. (1) a bank as defined in section
601 one of chapter one hundred and sixty-seven, a national banking association, federal savings
602 bank, federal savings and loan association, federal credit union, or any bank, trust company,

603 savings bank, savings and loan association or credit union organized under the laws of any
604 other state of the United States, or any subsidiary of the above.

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

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

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

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

622 Section 2A. The application for such license shall be in writing, shall contain such
623 information as the commissioner may determine and shall be accompanied by an investigation
624 fee to be determined annually by the commissioner of administration under the provision of
625 section three B of chapter seven. The commissioner may reject any application for a license or
626 any application for the renewal of a license if he is not satisfied that the financial responsibility,
627 character, reputation, integrity and general fitness of the applicant and of the owners, partners
628 or members thereof, if the applicant be a partnership or association, and of the officers and
629 directors, if the applicant be a corporation, are such as to command the confidence of the
630 public and to warrant the belief that the business for which the application for a license is filed
631 will be operated lawfully, honestly and fairly. Such license shall be for a period of one year as of

632 a date determined by the Commissioner. Each license shall plainly state the name of the
633 licensee and the city or town with the name of the street and number, if any, of the place
634 where the business is to be carried on and shall be prominently posted in each place of
635 business of the licensee. Any such business shall at all times be conducted in the name of the
636 licensee as it appears on the license. The fee for such license shall be determined annually by
637 the commissioner of administration under the provision of section three B of chapter seven. If a
638 licensee desires to carry on business in more than one place, he shall procure a license for each
639 place where the business is to be conducted. Such license shall not be transferable nor
640 assignable. Any change of location of an office of a licensee shall require the prior approval of
641 the commissioner. Such request for relocation shall be in writing setting forth the reason or
642 reasons for the request, and shall be accompanied by a relocation investigation fee to be
643 determined annually by the commissioner of administration under the provision of section
644 three B of chapter seven.

645

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

649

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

653

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

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

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

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

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

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

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

670

671 SECTION 31. Chapter 255B of the General Laws, as so appearing, is hereby amended by
672 striking out section 8, as so appearing, and inserting in place thereof the following two sections:-
673 -

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

679 (b) If the commissioner makes written findings of fact that the public interest will be
680 irreparably harmed by delay in issuing an order under subsection (a) he may issue a temporary
681 cease and desist order. Upon the entry of a temporary cease and desist order, the
682 commissioner shall promptly notify, in writing, the licensee affected thereby that such order
683 has been so entered, the reasons therefor, and that within twenty days after the receipt of a

684 written request from such licensee, the matter will be scheduled for a hearing to determine
685 whether or not such temporary order shall become permanent and final. If no such hearing is
686 requested and none is ordered by the commissioner, the order shall remain in effect until it is
687 modified or vacated by the commissioner. If a hearing is requested or ordered, the
688 commissioner, after giving notice of and opportunity for a hearing to the licensee subject to
689 said order, shall, by written finding of facts and conclusions of law, vacate, modify or make
690 permanent the order.

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

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

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

699

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

702

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

709

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

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

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

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

729

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

735

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

739
740 (2) to prohibit the person from applying for or obtaining a license from the
741 commissioner for a period up to thirty-six months following the effective date of
742 an order issued under subsection (b) or (c); or

743
744 (3) to prohibit such person from any further participation, in any manner, in the
745 conduct of the affairs of a sales finance company in Massachusetts or to prohibit
746 such person from being employed by, an agent of, or operating on behalf of a
747 licensee under this chapter or any other business which requires a license from the
748 commissioner.

749
750 (b) A written notice issued under subsection (a) shall contain a written statement of the
751 facts that support the prohibition and shall give notice of an opportunity for a hearing to be
752 held thereon. Such hearing shall be fixed for a date not more than thirty days after the date of
753 service upon the commissioner of such request for a hearing. If such person fails to submit a
754 request for a hearing within twenty days of service of notice under subsection (a), or otherwise
755 fails to appear in person or by a duly authorized representative, such party shall be deemed to
756 have consented to the issuance of an order of such prohibition in accordance with the notice.

757
758 (c) In the event of such consent under subsection (b), or if after a hearing the commissioner finds
759 that any of the grounds specified in such notice have been established, the commissioner may
760 issue an order of prohibition in accordance with subsection (a) as the commissioner finds
761 appropriate.

762

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

768
769 (e) Except as consented to in writing by the commissioner, any person who, pursuant to an order
770 issued under subsection (b) or (c), has been prohibited from participating in whole or in part
771 in the conduct of the affairs of a sales finance company in Massachusetts may not, while such
772 order is in effect, continue or commence to perform in the capacity of a principal employee,
773 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the
774 conduct of the affairs of:

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

779
780

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

783 Section 2. No person, other than a bank as defined in section one of chapter one hundred sixty-
784 seven, a national banking association, a federally-chartered credit union, a federal savings and
785 loan association, a federal savings bank, or any subsidiary of the above, or a bank, a trust
786 company, savings bank, savings and loan association or credit union organized under the laws
787 of any other state, or any subsidiary of the above, a sales finance company, as defined in
788 section one of chapter two hundred fifty-five B, and a company licensed to carry on the
789 business of making small loans, shall engage in the business of premium finance agency unless
790 licensed by the commissioner, as provided in section three; provided, however, that no
791 property and casualty insurance agent or broker, including an insurance agent or insurance

792 broker conducting an insurance premium financing agency business under a subsidiary or
793 different company name, who provides premium financing only to his own customers for
794 purposes of financing payment of premiums on contracts of insurance, which contracts of
795 insurance are exclusively limited to commercial insurance policies, shall be required to be
796 licensed pursuant to this section or any other section of this chapter. The commissioner may
797 adopt, amend or repeal rules and regulations, which may include an adequate capitalization
798 requirement for sales finance companies, to aid in the administration and enforcement of this
799 chapter.

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

806
807 SECTION 35. Section 3 of said chapter 255C of the General Laws, as so appearing, is hereby
808 amended by striking out the last sentence and inserting in place thereof the following sentence:-
809 Each license shall be issued annually as of a date determined by the commissioner and shall
810 remain in full force and effect unless suspended, revoked or surrendered as provided in section
811 five.

812
813 SECTION 36. Chapter 255C of the General Laws, as so appearing, is hereby amended by
814 striking out section 4, and inserting in place thereof the following section:--

815 Section 4. Each license shall plainly state the name of the licensee and the city or town with the
816 name of the street and number, if any, of the place where the business is to be carried on and
817 shall be prominently posted in each place of business of the licensee. Any such business shall at
818 all times be conducted in the name of the licensee as it appears on the license. The license
819 shall not be transferable, except as hereinafter provided, or assignable. Before any licensee

820 changes such office from one location to another he shall give written notice thereof to the
821 commissioner who, if he approves said change, shall issue without charge an endorsement
822 indicating the change and the date thereof, which endorsement shall be attached to the license
823 for such office and shall constitute the authority for the operation of the business under such
824 license at such new location.

825
826 SECTION 37. Chapter 255C of the General Laws, as so appearing, is hereby amended by
827 striking out section 5, and inserting in place thereof the following three sections:--

828
829 Section 5. The commissioner may suspend or revoke any license issued pursuant to this
830 chapter if said commissioner finds that:

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

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

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

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

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

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

852

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

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

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

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

876

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

879

880

881

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

885

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

889

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

898

899

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

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

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

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

919

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

926

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

930

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

934

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

940

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

948

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

953

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

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

959
960 (e) Except as consented to in writing by the commissioner, any person who, pursuant to an order
961 issued under subsection (b) or (c), has been prohibited from participating in whole or in part
962 in the conduct of the affairs of a premium finance agency in Massachusetts may not, while
963 such order is in effect, continue or commence to perform in the capacity of a principal
964 employee, or otherwise participate in any manner, if so prohibited by order of the
965 commissioner, in the conduct of the affairs of:

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

970
971 SECTION 41. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby
972 amended by striking out the definition of "Sales finance company" in lines 90 through 97,
973 inclusive, and inserting in place thereof the following definition: --

974 "Sales finance company",

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

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

984

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

987

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

996

997 Section 2A. The application for such license shall be in writing and shall contain such
998 information as the commissioner may, from time to time, determine. The commissioner may
999 reject any application for a license or any application for the renewal of a license if he is not
1000 satisfied that the financial responsibility, character, reputation, integrity and general fitness of
1001 the applicant and of the owners, partners or members thereof, if the applicant be a partnership
1002 or association, and of the officers and directors, if the applicant be a corporation, are such as to
1003 command the confidence of the public and to warrant the belief that the business for which the
1004 application for a license is filed will be operated lawfully, honestly, fairly and efficiently. Such
1005 licenses shall expire annually as of a date determined by the commissioner. Each license shall
1006 plainly state the name of the licensee and the city or town with the name of the street and
1007 number, if any, of the place where the business is to be carried on and shall be prominently
1008 posted in each place of business of the licensee. Any such business shall at all times be
1009 conducted in the name of the licensee as it appears on the license. Each application for a
1010 license shall be accompanied by an investigation fee. Investigation fees and license fees shall be
1011 determined annually by the commissioner of administration under the provision of section
1012 three B of chapter seven.

1013 If a licensee desires to carry on business in more than one place, he shall procure a
1014 license for each place where the business is to be conducted. Such license shall not be
1015 transferable or assignable. Any change of location of a place of business of a licensee shall
1016 require the prior approval of the commissioner. Such request for relocation shall be in writing
1017 setting forth the reason or reasons for the request and shall be accompanied by a relocation
1018 investigation fee to be determined annually by the commissioner of administration under the
1019 provision of section three B of chapter seven.

1020

1021 SECTION 43. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby further
1022 amended by striking out the words "April fifteenth" in line 48 and inserting in place thereof the
1023 words: a date to be determined by the commissioner.

1024

1025 SECTION 44. Chapter 255D of the General Laws, as so appearing, is hereby amended by
1026 striking out section 7 as so appearing, and inserting in place thereof the following section:--

1027

1028 Section 7. The commissioner may suspend or revoke any license issued pursuant to this
1029 chapter if said commissioner finds that:

1030 (i) the licensee has violated any provision of this chapter or any rule or regulation
1031 adopted hereunder, or any other law applicable to the conduct of its business; or

1032 (ii) any fact or condition exists which, if it had existed at the time of the original
1033 application for such license, would have warranted the commissioner in refusing to issue such
1034 license.

1035 Except as provided in section eight, no license shall be revoked or suspended except
1036 after notice and a hearing thereon pursuant to chapter thirty A.

1037 A licensee may surrender a license by delivering to the commissioner written notice that
1038 it thereby surrenders such license, but such surrender shall not affect the civil or criminal
1039 liability of the licensee for acts committed before such surrender.

1040 No revocation, suspension or surrender of any license shall impair or affect the
1041 obligation of any pre-existing lawful contract between the licensee and any person.

1042
1043 SECTION 45. Said chapter 255D of the General Laws, as so appearing, is hereby further
1044 amended by striking out section 8, as so appearing, and inserting in place thereof the following
1045 two sections:--

1046
1047 Section 8. (a) If the commissioner determines, after giving notice of and opportunity for
1048 a hearing, that a licensee has engaged in or is about to engage in an act or practice constituting
1049 a violation of a provision of this chapter or a rule, regulation or order hereunder, he may order
1050 such licensee to cease and desist from such unlawful act or practice and take such affirmative
1051 action as in his judgment will effect the purposes of this chapter.

1052 (b) If the commissioner makes written findings of fact that the public interest will be
1053 irreparably harmed by delay in issuing an order under subsection (a) he may issue a temporary
1054 cease and desist order. Upon the entry of a temporary cease and desist order, the
1055 commissioner shall promptly notify, in writing, the licensee affected thereby that such order
1056 has been so entered, the reasons therefor, and that within twenty days after the receipt of a
1057 written request from such licensee, the matter will be scheduled for hearing to determine
1058 whether or not such temporary order shall become permanent and final. If no such hearing is
1059 requested and none is ordered by the commissioner, the order shall remain in effect until it is
1060 modified or vacated by the commissioner. If a hearing is requested or ordered, the
1061 commissioner, after giving notice of and opportunity for a hearing to the licensee subject to
1062 said order, shall, by written finding of facts and conclusions of law, vacate, modify or make
1063 permanent the order.

1064 (c) No order under this section, except an order issued pursuant to subsection (b), may
1065 be entered without prior notice of and opportunity for a hearing. The commissioner may vacate
1066 or modify an order under this section upon finding that the conditions which required such an
1067 order have changed and that it is in the public interest to so vacate or modify.

1068 Any order issued pursuant to this section shall be subject to review as provided in
1069 chapter thirty A.

1070 Section 8A. The commissioner may enforce the provisions of this chapter, or restrain
1071 any violations thereof, by filing a civil action in any court of competent jurisdiction.

1072

1073 SECTION 46. Chapter 255D of the General Laws, as so appearing, is hereby amended by striking
1074 out section 30 and inserting in place thereof the following section:

1075

1076 Section 30. Whoever violates any provision of this chapter shall be punished by a fine of
1077 not more than one thousand dollars or by imprisonment for not more than six months, or both.
1078 The penalty provision of this section shall be in addition to, and not in lieu of, any other
1079 provision of law applicable to a licensee or other person for violating section two or any rule or
1080 regulation made thereunder.

1081

1082 SECTION 47. Chapter 255D of the General Laws, as so appearing, is hereby amended by adding
1083 after section 31 the following two sections:-

1084 Section 32. (a) Whenever the commissioner finds that any licensee or exempt person
1085 under section two of this chapter has violated any provision of this chapter or any rule or
1086 regulation adopted thereunder, or any other law of the Commonwealth applicable to the
1087 conduct of the business of a sales finance company, the commissioner may, by order, in
1088 addition to any other action authorized under this chapter or any rule or regulation made

1089 thereunder, impose a penalty upon such person which shall not exceed five thousand dollars
1090 for each violation, up to a maximum of one hundred thousand dollars for such violation plus the
1091 costs of investigation. The commissioner may impose a penalty which shall not exceed five
1092 thousand dollars for each violation of this chapter, or any rule or regulation adopted
1093 thereunder, by a person other than a licensee or exempt person under section two of this
1094 chapter, plus the costs of investigation.

1095 (b) Nothing in this section shall limit the right of any individual or entity who has been injured
1096 as a result of any violation of this chapter by a licensee, or any person other than a licensee
1097 or exempt person under section two of this chapter, to bring an action to recover damages
1098 or restitution in a court of competent jurisdiction.

1099 (c) Any findings or order issued by the commissioner pursuant to this section shall be subject
1100 to review as provided in chapter thirty A.

1101

1102 Section 33. (a) Whenever the commissioner determines that any person has, directly or
1103 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
1104 applicable to the conduct of the business of a sales finance company; or any order issued by the
1105 commissioner under this chapter or any written agreement entered between such licensee and
1106 the commissioner; the commissioner may serve upon such person a written notice of intention:

1107

1108 (1) to prohibit such person from performing in the capacity of a principal
1109 employee on behalf of any licensee for such period of time that the commissioner
1110 deems necessary;

1111

1112 (2) to prohibit the person from applying for or obtaining a license from the
1113 commissioner for a period up to thirty-six months following the effective date of
1114 an order issued under subsection (b) or (c); or

1115

1116 (3) to prohibit such person from any further participation, in any manner, in the
1117 conduct of the affairs of a sales finance company in Massachusetts or to prohibit
1118 such person from being employed by, an agent of, or operating on behalf of a
1119 licensee under this chapter or any other business which requires a license from the
1120 commissioner.

1121
1122 (b) A written notice issued under subsection (a) shall contain a written statement of the
1123 facts that support the prohibition and shall give notice of an opportunity for a hearing to be
1124 held thereon. Such hearing shall be fixed for a date not more than thirty days after the date of
1125 service upon the commissioner of such request for a hearing. If such person fails to submit a
1126 request for a hearing within twenty days of service of notice under subsection (a), or otherwise
1127 fails to appear in person or by a duly authorized representative, such party shall be deemed to
1128 have consented to the issuance of an order of such prohibition in accordance with the notice.

1129
1130 (c) In the event of such consent under subsection (b), or if after a hearing the commissioner finds
1131 that any of the grounds specified in such notice have been established, the commissioner may
1132 issue an order of prohibition in accordance with subsection (a) as the commissioner finds
1133 appropriate.

1134
1135 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the person.
1136 The commissioner shall also serve a copy of the order upon the licensee of which the person
1137 is an employee or on whose behalf the person is performing. The order shall remain in effect
1138 and enforceable until it is modified, terminated, suspended, or set aside by the commissioner
1139 or a court of competent jurisdiction.

1140
1141 (e) Except as consented to in writing by the commissioner, any person who, pursuant to an order
1142 issued under subsection (b) or (c), has been prohibited from participating in whole or in part
1143 in the conduct of the affairs of a sales finance company in Massachusetts may not, while such
1144 order is in effect, continue or commence to perform in the capacity of a principal employee,

1145 or otherwise participate in any manner, if so prohibited by order of the commissioner, in the
1146 conduct of the affairs of:

1147 (1) any licensee under this chapter;

1148 (2) any other business which requires a license from the commissioner; and

1149 (3) any bank, as defined under section one of chapter one hundred sixty-seven,
1150 or any subsidiary thereof.

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