

CONSUMER DISCOUNT COMPANY ACT

Act of 1937, P.L. 262, No. 66

AN ACT

Relating to consumer credit; requiring licenses from the Secretary of Banking; restricting licenses to domestic business corporations; fixing minimum capital requirements; conferring certain powers on the Secretary of Banking; limiting interest and other charges; providing certain exemptions; and imposing penalties.

(Tit. amended June 20, 1947, P.L. 665, No. 288)

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Section 1. Short Title.

Be it enacted, &c., That this act shall be known, and may be cited, as the "Consumer Discount Company Act."

Section 2. Definitions.

The following terms shall be construed in the act to have the following meanings, except in those instances where the context clearly indicates otherwise:

"Person" includes an individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or any other group of individuals however organized.

"Contract" means a promissory or judgment note, bill of exchange, judgment, mortgage, conditional sales, contract, lease or bailment by which the lessee or bailee has the option of becoming or is bound to become the owner of real or personal property upon full compliance with the terms of the agreement, or any other form of negotiable or nonnegotiable instrument evidencing an agreement to pay a sum certain in money at a fixed or determinable time, either by a single payment or by stated installments.

"Applicant" means a corporation applying for a license under the provisions of this act.

"Licensee" means a corporation holding a license issued under the provisions of this act, which license has not been cancelled, surrendered or revoked and has not expired.

"Consumer" means the person who is the maker on a note, or the acceptor of a bill of exchange, or the defendant on a judgment, or the mortgagor on a mortgage, or the lessee on a lease, or the bailee on a bailment, or the purchaser on a conditional sales contract, or the person or persons obligated to pay any other negotiable instrument defined as a "contract" under this act.

"Charges" means and includes all interest or discount and the service charge which a licensee is authorized to collect by the provisions of this act.
(Def. amended June 20, 1947, P.L. 665, No. 288)

"Default" means failure to pay a contract when due or failure to pay any stated installment when due.

"Revolving loan account" means an agreement pursuant to which

- (i) the licensee may permit the borrower to obtain one or a series of loans or advances from time to time: Provided, however, That the aggregate of the unpaid principal balances due a licensee from a consumer under this act on any date shall not exceed the sum of twenty-five thousand dollars (\$25,000),
- (ii) the unpaid principal balances and the appropriate charges are debited to an account,
- (iii) the charges for the loan are computed on the outstanding unpaid principal balances of the account from time to time, and
- (iv) the borrower has the privilege of paying the balances in installments.

(Def. amended December 18, 1984, P.L. 1083, No. 216)

(Def. amended December 21, 1998, P.L. 1286, No. 167)

"Capital or capitalization" means the legal or stated capital which, at any particular time, is fully paid in and the sum of the par value of all shares issued and outstanding or the amount of consideration received by the corporation for all shares issued and outstanding without par value but is limited to the amount which has been credited to capital stock accounts.

(Def. added December 9, 1982, P.L. 1072, No. 249)

Section 3. License Required.

A. On and after the effective date of this act, no person shall engage or continue to engage in this Commonwealth, either as principal, employee, agent or broker, in the business of negotiating or making loans or advances of money on credit, in the amount or value of twenty-five thousand dollars (\$25,000) or less, and charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges, or other considerations which aggregate in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act on the amount actually loaned or advanced, or on the unpaid principal balances when the contract is payable by stated installments except a domestic business corporation organized under or existing by virtue of the Business Corporation Law of this Commonwealth, after first obtaining a license from the Secretary of Banking of the Commonwealth of Pennsylvania in accordance with the provisions of this act.

(A amended July 2, 1996, P.L. 490, No. 80)

B. Any person who shall hold himself out as willing or able to arrange for or negotiate such loans of twenty-five thousand dollars (\$25,000), or less where the interest, discount, bonus, fees, fines, commissions or other considerations in the aggregate exceeds the interest that the lender would otherwise be permitted by law to charge or who solicits prospective borrowers of such loans of twenty-five thousand dollars (\$25,000), or less shall be deemed to be engaged in the business contemplated by this act, unless otherwise permitted by law to engage in such activities. The referring borrowers to a licensee shall not be deemed to be engaged in the business contemplated by this act if no charge, no matter how denominated, for such reference is imposed on the prospective borrower by the person making the reference. No licensee shall knowingly include in any loan under this act any amount which is to be paid by the borrower to another as a fee or charge, no matter how denominated, for referring said borrower to the licensee.

(B amended July 2, 1996, P.L. 490, No. 80)

C. Notwithstanding subsection A, the Secretary of Banking may license a branch office in another state provided the licensee maintains a place of business in this Commonwealth which is licensed under the provisions of this act.

(C added December 12, 1994, P.L. 1060, No. 144)

(3 amended December 18, 1984, P.L. 1083, No. 216)

Section 4. Application for License.

The application for such license shall be in writing, under oath and in the form prescribed by the Secretary of Banking. The application shall contain the corporate title of the applicant and any registered or otherwise qualified name to be used as a fictitious business name; the street and number, if any, city, borough, township or municipality, and county where the business is to be conducted; date of incorporation; name and residence address of all directors; and such other information as the Secretary of Banking may require. A separate application on the prescribed form shall be filed for each place of business conducted by a licensee.

(4 amended July 2, 1996, P.L. 490, No. 80)

Section 5. License Bond.

A bond in the penal sum of five thousand dollars (\$5,000) shall accompany every application for license. Such bond shall be executed by a surety company authorized by the laws of Pennsylvania to transact business within this Commonwealth. The bond shall be renewed and refiled annually not later than June first for the first three consecutive years from the date on which the licensee was first licensed. The bond shall be executed to the Commonwealth of Pennsylvania and shall be for the use of the Commonwealth and for any person or persons who may have a cause of action against the licensee. The condition of the bond shall be that the licensee will comply with and abide by all the provisions of this act and all the rules and regulations of the Secretary of Banking, lawfully issued in accordance with this act and that the licensee will pay to the Commonwealth, to the Secretary of Banking, or to any person or persons, any and all monies that may come due to the Commonwealth, to the Secretary of Banking, or to any person or persons, from the said licensee under and by virtue of the provisions of this act. If any person shall be aggrieved by the misconduct of a licensee and shall recover judgment against such licensee, such person may, on any execution issued under such judgment, maintain an action upon the bond of the licensee in any court having jurisdiction of the amount claimed, provided the Secretary of Banking assents thereto.

A separate bond shall be provided for each place of business conducted by a licensee. After the licensee has been continuously licensed for three (3) consecutive years, such bond shall not be renewed or refiled unless the Secretary of Banking has reason to believe that such bond is necessary and notifies the licensee in writing on or before May 1 that such bond is required.

(5 amended July 30, 1963, P.L. 335, No. 183)

Section 6. License Fee.

A license fee of two hundred dollars (\$200) shall accompany each application for license under this act. Each license shall remain in full force and effect until surrendered, revoked or suspended as herein provided. The license fee of two hundred dollars (\$200) shall be paid annually on or before June first. No abatement of the said license fee shall be made if the license is issued for less than one year. An additional license fee of two hundred dollars (\$200) shall be paid for each place of business conducted by a licensee.

(Par. amended December 30, 1970, P.L. 959, No. 301)

All license fees and fines received by the Secretary of Banking under this act shall be deposited in the State Treasury to the credit of the Banking Department Fund for the use of the Secretary of Banking in administering this act.

Compiler's Note: The act of July 1, 1981, P.L. 143, No. 48, which provided for the fixing of fees charged by administrative agencies also repealed section 6 of this act insofar as it establishes a set fee for any activity inconsistent with the fees set forth in the 1981 act.

Section 7. Organization; Minimum Capital.

A license under the provisions of this act shall be issued only to a corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania. Such corporation shall be incorporated with a minimum capitalization of seventy-five thousand dollars (\$75,000). At the time of applying for a license under this act, the minimum paid in capital shall be seventy-five thousand dollars (\$75,000). The minimum capitalization required shall be increased by twenty-five thousand dollars (\$25,000) for each additional place of business licensed under this act and no license for such additional place of business shall be granted until the minimum capitalization requirements are met provided, however, in the event that such place of business is to be operated by an affiliate or subsidiary corporation, whether newly organized or otherwise related to the licensee by virtue of common ownership or management the minimum capitalization for such affiliate or subsidiary shall be only twenty-five thousand dollars (\$25,000), and the minimum capitalization of the licensee need not be increased. The minimum capitalization shall be maintained as permanent capital which shall not be distributed to stockholders or be purchased by a licensee without the prior written approval of the Secretary of Banking. Corporations holding valid licenses on the effective date of this amendment shall meet the minimum capitalization requirements listed above within two years after the effective date of this amendment.

(7 amended December 9, 1982, P.L. 1072, No. 249)

Section 8. Issuance of License.

The Secretary of Banking, if he approves the application for license, shall issue to each applicant a certificate showing the name of the corporation and address of the place of business. Such license shall be posted in a conspicuous place in the office of the licensee. A license may not be transferred or assigned.

A licensee may, upon prior written notification to the Secretary of Banking, change its place of business to another location within the same city, town, borough or township. A licensee desiring to change its place of business to other than the same city, town, borough or township shall give written notice thereof to the Secretary of Banking and return the license certificate to the Secretary of Banking for amendment.

The Secretary of Banking, if he approves the removal of the place of business, shall endorse on the license his approval of the change of address and the date thereof, which shall thereafter be the authority for the operation of such business under such license at the new location. Except as provided herein, no change in the place of business of a licensee to a location outside the original municipality shall be permitted: Provided, however, A licensee may obtain a new license for a place of business in a new location in a municipality other than that in which the original place of business was located. Only one place of business may be operated under the same license.

A licensee may operate more than one place of business, in Pennsylvania or another state, by obtaining a separate license by filing an application for each additional place of business, and by furnishing a bond for each additional place of business and by paying the license fee provided by law for each additional place of business.

No license shall be required for any place of business at which payments on contracts are received and processed, records are maintained, or servicing of contracts is performed. Any such place of business may be located outside of this Commonwealth, and the licensee shall provide the Secretary of Banking with the address of such place of business. The licensee shall maintain at its principal place of business within this Commonwealth or at such place within or outside this Commonwealth, subject to the prior written approval of the Secretary of Banking or designee, either the original or a copy of such books, accounts, records and documents, or electronic or other similar access thereto, of the business conducted under the license as may be prescribed by the Department to enable it to determine whether the business of the licensee is being conducted in accordance with the provisions of this act and the orders, rules and regulations issued under this act.

(8 amended December 12, 1994, P.L. 1060, No. 144)

Section 9. Records Required.

Licensees operating under the provisions of this act shall maintain adequate and complete records of all business transacted, containing such information and in such form as shall be prescribed by the Secretary of Banking by general rule or regulation. The records of licensees shall be maintained in the English language. The records of licensees shall be retained for a period of two years after the date of final payment on any contract.

Section 10. Reports to the Secretary of Banking.

Licensees operating under the provisions of this act shall annually, on or before the first day of March, file a report with the Secretary of Banking, giving such relevant information concerning the business and operations during the previous calendar year as the Secretary of Banking may require. Such report shall be made under oath and shall be in the form prescribed by the Secretary of Banking. A separate report shall be filed for each place of business maintained by a licensee. The Secretary of Banking may at any time upon thirty (30) days' notice require a licensee to file special reports in addition to the annual report. For failure to file such reports within the time specified, the licensee shall pay to the Secretary of Banking a penalty of ten dollars (\$10) for each calendar day which such report is overdue, but the Secretary of Banking may, in his discretion, relieve a licensee of any portion or of all such fine. Such fine, which has not been paid by the licensee and for the payment of which the licensee has not been relieved, may be collected by the Secretary of Banking from the bonding company which has executed the bond required under this act, and the Secretary of Banking may maintain an action for the recovery of such fine in any court of competent jurisdiction.

Section 11. Examinations by the Secretary of Banking.

The Secretary of Banking, and any person designated by him for that purpose, shall at least once every two calendar years investigate the business and affairs and examine the books, accounts, papers, records, documents, and files therein of every licensee and of every person who shall be engaged in business contemplated by this act, whether such person shall act or claim to act as principal, agent or broker, or under or without the authority of this act. For this purpose, the Secretary of Banking shall have access during normal business hours to the offices and places of business, books, accounts, papers, records, documents, files, safes and vaults of all such persons. A person, who is not licensed under this act, shall be presumed to be engaged in business contemplated by this act if he advertises or solicits business as principal, agent or broker for which a license is required by the provisions of this act, and the Secretary of Banking, and any person designated by him for that purpose, is in such cases authorized to examine the books, accounts, papers, records, documents, files, safes and vaults of such persons for the purpose of discovering violations of this act.

(Par. amended December 9, 1982, P.L. 1072, No. 249)

The cost of every examination of the business of a licensee by the Secretary of Banking, or his duly authorized representative, shall be paid by the licensee so examined, and the Secretary of Banking may collect such costs from the licensee or from the surety company which has executed the bond required under this act, and he may maintain an action for the recovery of such costs in any court of competent jurisdiction.

(11 amended December 12, 1994, P.L. 1060, No. 144)

Section 12. Authority of the Secretary of Banking.

The Secretary of Banking shall have the power to reject any application for license if he is satisfied that the financial responsibility, experience, character and general fitness of the person or persons shown on the application for license as officers and directors of the applicant corporation are not such as to command the confidence of the community and to warrant the conclusion that the business will be operated honestly, fairly, and within the intent and purpose of this act and in accordance with the general laws of this Commonwealth: Provided, however, that no license may be issued, if any director, officer, employee, or agent of the applicant corporation has been convicted under this act for engaging in business contemplated by this act without having obtained a license under this act, or if any director, officer, employee, or agent of the applicant corporation was a director, officer, employee, or agent of a corporation which had been convicted of a second offense violation of this act and had its license revoked. Whenever the Secretary of Banking rejects an application for a license, he shall furnish the applicant with a written specification of the reason or reasons therefor.

The failure of the Secretary of Banking to act upon an application within three (3) months of receipt thereof shall be deemed to be an approval of such application.

(Par. amended December 17, 1959, P.L. 1890, No. 691 and repealed in part April 28, 1978, P.L. 202, No. 53)

The Secretary of Banking, upon thirty (30) days' written notice to the licensee, forwarded by registered mail to the place of business of such licensee, as shown on the application for license, stating the contemplated action and in general the grounds therefor, may revoke any license if the licensee shall violate any provision of this act; or if the licensee shall violate any rule or regulation issued by the Secretary of Banking under and within the authority of this act; or if a licensee shall fail to comply with any demand, rule or regulation, lawfully made by the Secretary of Banking under and within the authority of this act; or if the licensee shall refuse to permit the Secretary of Banking, or his designated representative, to make examinations authorized by this act; or if the licensee shall fail to pay the cost of examination by the Secretary of Banking, or his duly authorized representative; or if the licensee has failed to maintain in effect the bond required under the provisions of this act; or if the licensee has failed to maintain records prescribed by the Secretary of Banking; or if the licensee has failed to file the annual report to the Secretary of Banking within the time stipulated in this act; or if the licensee, having failed to file the annual report within the stipulated time, has not paid the fine required under this act; or if any fact or condition exists or is discovered, which, if it had existed or had been discovered at the time of filing of the application for such license, would have warranted the Secretary of Banking in refusing to issue such license. Whenever such license is revoked, the Secretary of Banking shall not issue another license to the licensee until the expiration of at least one year from the date of revocation of said license and not at all if such licensee, or any officer, director, employee or agent thereof, shall have been convicted for a second offense violation of this act.

(Par. repealed in part April 28, 1978, P.L. 202, No. 53)

The Secretary of Banking is hereby authorized and empowered to issue rules and regulations governing the records to be maintained by licensees, the statements of contract to be given consumers, the receipts for payment of contracts to be given consumers, the foreclosure and replevin of real or personal property upon default, and the procedure for sale of real or personal property upon default, and he is further authorized and empowered to issue such general rules and regulations as may be necessary for the protection of the public, for insuring the proper conduct of the business contemplated by this act, and for the enforcement of this act, which rules and regulations shall have the force and effect of law.

The Secretary of Banking shall be authorized to require the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents, and files relating to such business which the Secretary of Banking has authority by this act to investigate, and, for this purpose, the Secretary of Banking may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence. In case of disobedience of any subpoena or the contumacy of any witness appearing before the Secretary of Banking, the Secretary of Banking may invoke the aid of the courts, and such court shall thereupon issue an order requiring the person subpoenaed to obey the subpoena or to give evidence or to produce books, accounts, papers, records, documents, and files relative to the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Par. repealed in part April 28, 1978, P.L. 202, No. 53)

Section 13. Powers Conferred on Licensees.

In addition to the general powers conferred upon a corporation by the Business Corporation Law of this Commonwealth, a corporation licensed under this act shall have power and authority:

- A. To lend money, credit, goods or things in action and charge, contract for, receive or collect charges herein provided.
- B. To lend money on the security of real or personal property or without security.
- C. To lend money on promissory or judgment notes with or without co-makers, endorsers, guarantors or sureties.
- D. To purchase contracts evidencing an agreement to pay a sum certain in money or credit at a fixed or determinable time.
- E. To charge, contract for, receive or collect interest or discount at a rate not to exceed nine dollars and fifty cents (\$9.50) per one hundred dollars (\$100) per year when the contract is repayable within forty-eight (48) months from the date of making. When the contract is repayable more than forty-eight (48) months from the date of making, the rate of interest or discount which may be charged, contracted for, received or collected, shall not exceed nine dollars and fifty cents (\$9.50) per one hundred dollars (\$100) per year for the first forty-eight (48) months of the term of the contract plus six dollars (\$6) per one hundred dollars (\$100) per year for any remainder of the term of the contract. Such interest or discount shall be computed at the time the loan is made on the face amount of the contract for the full term of the contract from the date of the contract to the date of the scheduled maturity notwithstanding any requirement for installment payments. On contracts for periods which are less or greater than one year, or which are not a multiple of one year, the interest or discount shall be computed proportionately on even calendar months: Provided, however, That for a period of less than one month the computation may be based on a full calendar month. The face amount of any note or contract made pursuant to this act may, notwithstanding any other provision, exceed twenty-five thousand dollars (\$25,000) by the amount of interest or discount and service or other charge authorized by this act collected or deducted in advance or added to the principal at the time of making the loan. As an alternative to the rates provided for in this clause, a licensee may charge, contract for, and collect interest at the rate and in the manner provided for in section 17.1 A: Provided, however, That on loans secured by a security interest, mortgage or other lien on real property, and in which the principal amount exceeds five thousand dollars (\$5,000), a licensee may not charge, contract for, receive, or collect interest in excess of the rate specified in section 9 of the act of December 12, 1980 (P.L. 1179, No. 219), known as the "Secondary Mortgage Loan Act."
(E amended December 18, 1984, P.L. 1083, No. 216)
(E amended July 2, 1996, P.L. 490, No. 80)
- F. To charge, contract for, receive or collect on any contract a service charge of one dollar and fifty cents (\$1.50) for each fifty dollars (\$50), or fraction thereof, provided that the total service charge shall not exceed one hundred fifty dollars (\$150) on any contract.
(F amended December 9, 1982, P.L. 1072, No. 249)
(F amended December 21, 1998, P.L. 1286, No. 167)

- G. To charge, contract for, or collect for interest or discount and service charge a minimum charge of three dollars (\$3.00) on any contract of twenty-five dollars (\$25) or less, which is payable in one year by a single payment, or is payable in one year, by installment payments and a minimum charge of six dollars (\$6.00) on any contract in excess of twenty-five dollars (\$25), which is payable in one year by a single payment, or is payable in one year by installment payments. On contracts for periods which are less or greater than one year, a proportionate minimum charge may be collected which shall be computed on even calendar months: Provided, however, That for a period less than one month the computation of the minimum charge may be based on a full calendar month.
- H. To collect or deduct interest or discount and service charges in advance; or to add interest or discount and service charges to the principal amount of the contract and divide the total into equal or substantially equal installment payments; or to collect interest or discount and service charges wholly or partially at any time during the term of the contract; or to collect interest or discount and service charges at the end of the term of the contract.
- I. [Reserved]
- J. To require payment of contracts in equal weekly, semi- monthly, monthly or any other periodic installments: Provided, however, The first installment period may exceed one month by as much as fifteen (15) days without being deemed violative of this provision.
(J amended December 30, 1970, P.L. 959, No. 301)
- K. To collect an additional charge for extension, deferment or default in the payment of any contract or for extension, deferment or default in the payment of any installment on a contract at the rate of one and one-half per cent (1 1/2%) per month on the amount extended, deferred or in arrears: Provided, however, A minimum charge of one dollar (\$1) may be collected for any extension, deferment or default of ten (10) or more days.
(K amended December 30, 1970, P.L. 959, No. 301)
- L. To renew or refinance contracts. On a contract which is renewed or refinanced prior to the expiration of the term of the contract, a refund shall be made of unearned interest or discount which has been prepaid and shall be computed as on a prepaid contract.
- M. To collect from the consumer, in addition to the interest or discount and service charges permitted under this act, the actual fees charged by a public official or agency of the Commonwealth for recording and satisfying a judgment, mortgage, encumbrance or lien on any real or personal property which constitutes security on a contract.
- N. To collect from the consumer, in addition to the interest or discount and service charges permitted under this act, the premium actually paid for insurance required or obtained as security for, or by reason of, a loan made or contract purchased, provided insurance is obtained from an insurance company authorized by the laws of Pennsylvania to conduct business in this Commonwealth. Any benefit or return to the licensee from the sale or provision of such insurance shall not be deemed a violation of this act when the insurance is written pursuant to the laws of this Commonwealth governing insurance.
(N amended July 30, 1963, P.L. 335, No. 183)

- O. [Reserved]
- P. To collect attorney's fees and court costs incurred in the collection of any contract in default and to collect actual and reasonable expenses of repossessing, storing and selling collateral, pledged as security on any contract in default.
- Q. To conduct the business regulated by this act in any licensed place of business where another business is conducted by the licensee or another person unless the Secretary of Banking shall find, after a hearing, the conduct of the other business has concealed evasions of this act and shall order such person to desist from such conduct and to offer other services and products for voluntary purchase subject to the provisions of this clause.
 - (1) The licensee, or such other person, may offer the types of products or services described in subclause (2) provided, however, that if the products or services are to be offered to an applicant or applicants for a loan:
 - (i) the products or services shall not be offered to such applicant or applicants until the loan has been approved and the applicants, or the applicant being offered the service or product in the case of co-applicants, have been advised that the loan has been approved, either orally or in writing;
 - (ii) when the applicant has been advised that the loan is approved and products or services are then offered orally, by telephone or otherwise, the applicant shall also be advised that the purchase of the service or product is not required in order to qualify for the loan and that the purchase thereof is voluntary;
 - (iii) whether or not an oral disclosure has been made as provided in paragraph (ii), the applicant or applicants shall be provided a separate and distinct disclosure written in plain language to be signed by the applicant prior to the closing of the loan, which clearly states that the purchase of the service or product is not required in order to obtain the loan and that the purchase thereof is voluntary; and
 - (iv) if the cost of the service or product is to be included in the loan and paid from the loan proceeds, a separate loan proceeds check shall be drawn, made payable to the borrower or borrowers, for the cost or price of the service or product, which may then be endorsed by the borrower or borrowers to the vendor of the service or product after closing at the option of the borrower or borrowers.
 - ((1) added December 21, 1998, P.L. 1286, No. 167)

- (2) A licensee may offer the types of services and products described in this subclause and may conduct, or permit others to conduct, the types of business described in this subclause within the same office, room or place of business where the licensee conducts its licensed business without prior approval by the Secretary of Banking.
- (i) Automobile security plans which provide protection against automobile emergencies and which provide for full or partial reimbursement of certain costs incurred as the result of such emergencies, such as towing, lost key service, emergency transportation, stolen automobile expenses, bail bonds, emergency treatment expense, legal defense and similar or related items, which may include extended warranties, travel discounts and service items, among other things.
 - (ii) Home security plans which provide protection against home emergencies and provide full or partial reimbursement of certain costs incurred because of home emergencies, such as medical costs, health insurance deductibles, pharmacy service, extended warranties, lost or stolen key protection, credit card liability coverage, and which may include life-saving training, home security training and protection services and products, among other things.
 - (iii) First mortgage lending in accordance with all applicable Federal and State law and regulation.
 - (iv) Secondary mortgage lending in accordance with all applicable Federal and State law and regulation.
 - (v) Sales finance agreements pursuant to applicable law and regulation.
 - (vi) Income tax preparation services.
 - (vii) Commercial or business loans, including installment sales financing contracts for commercial purposes.
 - (viii) Credit card agreements, including additional services or goods which are or may be offered in connection with such credit card or credit card agreements.

((2) added December 21, 1998, P.L. 1286, No. 167)

(Q amended December 9, 1982, P.L. 1072, No. 249)

- R. To collect a fee for a subsequent dishonored check or instrument taken in payment, not to exceed the service charge permitted to be imposed under 18 Pa.C.S. ' 4105(e)(3) (relating to bad checks).

(R added July 2, 1996, P.L. 490, No. 80)

(13 amended June 20, 1947, P.L. 665, No. 288)

Section 14. Licensee Requirements and Limitations.

- A. A licensee shall not permit any person to become obligated to such licensee as a consumer on one or more loan contracts for an aggregate amount in excess of twenty-five thousand dollars (\$25,000), exclusive of charges authorized by this act. This limitation shall not apply to the purchase of contracts which arise from the bona fide sale of goods or services by a

seller regularly engaged in the sale of such goods or services. This limitation shall not impair the authority of a licensee to lend money, credit, goods or things in action, or to purchase contracts in amounts in excess of twenty-five thousand dollars (\$25,000) and charge, contract for, receive or collect interest or discount at the legal rate established by the General Usury Statute of the Commonwealth.

(A amended December 18, 1984, P.L. 1083, No. 216)

(A amended July 2, 1996, P.L. 490, No. 80)

- B. A licensee shall not charge, contract for, collect or receive interest, discounts, fees, fines, commissions, charges or other considerations in excess of the interest or discount, service charges, extension charges, deferment charges, default charges, recording and satisfaction fees, premiums for insurance, attorney's fees, court costs, repossession expenses, storage charges, and selling expenses authorized by the provisions of this act.
- C. A licensee shall not split or divide any contract so as to obtain charges in excess of those authorized by this act.
- D. A licensee shall permit a consumer to pay partially or wholly any contract or any installment on a contract, prior to the due date. On any contract which is wholly prepaid by cash, renewal or otherwise, at any time prior to maturity, the licensee shall refund to the consumer a portion of the interest or discount. The portion to be refunded shall be that proportion of the interest or discount which the sum of the monthly balances originally scheduled to be outstanding during the full months following such prepayment in full bears to the sum of all monthly balances originally scheduled to be outstanding, both sums to be determined by the schedule of payments in the original contract, provided a licensee shall not be required to refund any portion of such interest or discount when the total amount of the refund computed as herein provided is less than one dollar (\$1). Such refund shall be computed and paid or credited at the time of prepayment on the contract.
(D amended December 30, 1970, P.L. 959, No. 301)
- E. A licensee shall not charge, contract for, receive or collect the service charge authorized by this act when only the unpaid balance of an existing contract is renewed or refinanced prior to the expiration of four (4) months from the date of such existing contract: Provided, however, That when an existing contract is renewed or refinanced for an amount in excess of the unpaid balance of such existing contract prior to the expiration of four (4) months from the date of such existing contract, the service charge may be charged on the amount, whereby the amount of the renewed or refinanced contract exceeds the amount of the unpaid balance of such existing contract, after crediting such balance with any refund of interest or discount which may be due on such existing contract.
- F. Except as otherwise permitted by this act all installment contracts shall provide for repayment in substantially equal periods and in substantially equal amounts: Provided, That when appropriate for the purpose of facilitating payment in accordance with a consumer's intermittent income, an installment contract may provide for repayment on a schedule which reduces or omits payments over any period or periods in which the consumer's income is reduced or suspended.
(F amended December 30, 1970, P.L. 959, No. 301)
- G. A licensee shall not charge or collect a service charge for investigating an application or any other charges if a contract is not consummated.

- H. A licensee shall not discount or deduct interest in advance on any contract, for any period in excess of seven years and fifteen days.
(H amended March 3, 1976, P.L. 36, No. 17)
(H amended December 21, 1998, P.L. 1286, No. 167)
- I. A licensee may sell contracts to and buy contracts from another licensee upon giving prior written notification to the Secretary of Banking. The written notification shall state the name and address of the licensee to whom or from whom the contracts are being sold or purchased, the type of loan and number of contracts in the transaction and their aggregate principal balances. A licensee may not sell contracts to a person or corporation not holding a license under this act without the prior written approval of the Secretary of Banking.
(I added December 21, 1998, P.L. 1286, No. 167)
(14 amended June 20, 1947, P.L. 665, No. 288)

Section 15. Statement of Contract.

A licensee shall furnish to the consumer a statement setting forth the type of contract, description of the security on the contract, the date of the contract, the total amount due on the contract, the date upon which the contract is due or the dates upon which the installment payments are payable, the amount of such installment payments, and a statement indicating the basis for computing default charges. No default charges may be collected if the statement of contract does not give due notice of the licensee's intention to collect default charges. This statement of the contract shall contain such additional information as the Secretary of Banking may require.

Section 16. Receipt for Payment.

A licensee shall furnish, at the time payment of any installment on a contract is made in cash, a written receipt setting forth the account number or other identification mark or symbol, the date of the payment, AND the amount paid.
(16 amended December 9, 1982, P.L. 1072, No. 249)
(16 amended December 21, 1998, P.L. 1286, No. 167)

Section 16.1. Certain Advertising Restricted.

Advertisement by use of a negotiable check, money order, draft, or other instrument which may be used for the transfer of funds IS RESTRICTED, unless

- (i) the instrument is negotiable for not more than six (6) months, and the consumer is advised to destroy the instrument if it is not going to be negotiated, and
- (ii) the solicitation, OR ANY DOCUMENT PHYSICALLY ATTACHED TO THE SOLICITATION, prominently contains the following statement in ten-point print:
"THIS IS A SOLICITATION FOR A LOAN--READ THE ENCLOSED DISCLOSURE BEFORE SIGNING THIS CHECK!"

(16.1 added December 12, 1994, P.L. 1060, No. 144)

Section 17. Scope of Act.

This act shall not affect any existing laws, special or general, authorizing a charge for the loan of money in excess of interest at the legal rate. This act shall not apply to any person, persons, partnership, association or corporation operating under the laws related to banking institutions, building and loan associations, credit unions or licensed under the Small Loans Act, approved June seventeen, one thousand nine hundred fifteen, and supplements or amendments, or licensed by the Secretary of Banking of the Commonwealth of Pennsylvania under the provisions of any other statute. This act shall not apply to any bona fide sale of personal property by a person regularly engaged in the sale of such personal property, wherein the purchaser may pay any part or all of the purchase price in stated installments, nor to any such bona fide sale under a conditional sale contract, lease or bailment, wherein the purchaser, lessee or bailee has the option of becoming, or is bound to become, the owner of the property upon full compliance with the terms of the agreement. This act shall not apply to nonprofit corporations organized under the laws of the Commonwealth of Pennsylvania having memberships consisting exclusively of duly licensed physicians, surgeons and dentists, operated exclusively for and by their members, and engaged in, among other activities, the financing of personal obligations arising from the rendering of professional services by the members of such nonprofit corporations, which are limited strictly to medical, surgical, dental, operative, diagnostic and treatment services, or nursing and hospital care.

(17 amended May 23, 1947, P.L. 296, No. 128)

Section 17.1. Revolving Loan Accounts.

- A. A licensee may in lieu of contracting for, collecting and receiving charges in the manner authorized by section 13, contract for, charge, collect and receive charges at a rate not in excess of two per cent (2%) per month on the unpaid principal balances from time to time outstanding; which charges shall not be paid, deducted or received in advance nor compounded but shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof and be computed upon the basis of the number of days actually elapsed. For the purpose of computing charges under this section, whether at the maximum rate or less, a month shall be from one date in a month to the corresponding date in the following month but if there is no such corresponding date, then to the last day of such following month and a day shall be considered one-thirtieth (1/30) of a month when computation is made for a fraction of a month. If part or all of the consideration for a loan contract made under this subsection is the unpaid principal balance of a prior loan, then the principal payable under such loan contract may include any unpaid charges on the prior loan which have accrued within sixty (60) days before the making of such new loan contract.

- B. Variable or fixed rate revolving loan accounts may be made under the provisions of this section. In lieu of the statement required by section 15 before making a loan pursuant to a revolving loan account, the licensee shall disclose to the borrower the maximum amount that may be borrowed, the method by which loans or advances are to be made, whether by check or draft drawn on the licensee or otherwise; a simple statement of the method by which the amount of the charges is to be calculated; a simple statement of the insurance coverages to be afforded the borrower, if obtained by or through the licensee, and if a charge for insurance is to be made a simple statement of the amount of such charge or the method by which it will be calculated. If, during a billing cycle, the licensee makes a loan or advance or the borrower makes a payment the licensee shall give to the borrower within a reasonable time after the end of the billing cycle a written statement of (i) the outstanding balance at the beginning of the billing cycle, (ii) the loans or advances made during the billing period excluding charges, (iii) the amount of charges accrued or debited during the period, (iv) payments made by the borrower, (v) the balance at the end of the billing cycle, and (vi) the amount which must be paid and the date by which it must be paid to avoid a default.
(B amended December 12, 1994, P.L. 1060, No. 144)
- C. A licensee may charge and collect a delinquency charge of twenty dollars (\$20) or ten per cent (10%) of each payment, whichever is higher, for a payment which is in default for more than fifteen (15) days.
(C added July 2, 1996, P.L. 490, No. 80)
- D. A licensee may charge, contract for, receive or collect on any revolving loan account an annual fee not to exceed fifty dollars (\$50) per year.
(D added July 2, 1996, P.L. 490, No. 80)
- (17.1 added December 30, 1970, P.L. 959, No. 301)

Section 18. Penalties.

Any person who has not obtained a license from the Secretary of Banking of the Commonwealth of Pennsylvania in accordance with the provisions of this act, and who shall engage in the business of negotiating or making loans or advances of money or credit, in the amount or value of twenty-five thousand dollars (\$25,000) or less, and charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges or other considerations which aggregate in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act on the amount actually loaned or advanced, or on the unpaid principal balances when the contract is payable by stated installments, shall be guilty of a misdemeanor, upon conviction thereof shall be sentenced to pay a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), and/or suffer imprisonment not less than six (6) months nor more than three (3) years, in the discretion of the court.

Except as the result of an accidental bona fide error, a corporation licensed under the provisions of this act or any director, officer, employee or agent who shall violate any provision of this act or shall direct or consent to such violations, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than two thousand dollars (\$2,000) for the first offense, and for each subsequent offense a like fine, and/or suffer imprisonment not to exceed one year, in the discretion of the court.

The payment of twenty-five thousand dollars (\$25,000) or less, in money, credit, goods or things in action as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under this act, be deemed a loan secured by such assignment, and the amount by which such assigned compensation exceeds the amount of such consideration actually paid shall for the purpose of regulation under this act, be deemed interest or charges upon such loan from the date of such payment to the date such compensation is payable. Such transactions shall be governed by and subject to the provisions of this act.

The payment of twenty-five thousand dollars (\$25,000) or less, in money, credit, goods or things in action as consideration for any sale of real or personal property which is made on condition or agreement, expressed or implied, that such property be sold back at a greater price shall, for the purpose of this act, be deemed to be a loan secured by such property, and the amount by which the repurchase price exceeds such original purchase price actually paid shall be deemed interest or charges upon such loan from the date such original payment is made until the date such repurchase price is paid. Such transaction shall be governed by and subject to the provisions of this act.

When real or personal property is pledged as security on a loan of twenty-five thousand dollars (\$25,000) or less, and the lender requires the borrower to pay for insurance thereon, such charge for insurance shall be construed as interest under this act when the lender has failed to have such insurance written by an insurance company legally authorized to conduct business in Pennsylvania.

When the amount charged for such insurance is in excess of the standard cost of similar insurance in other insurance companies legally authorized to conduct business in Pennsylvania, the excess shall be construed as interest under this act.

If a contract is made in good faith in conformity with an interpretation of this act by the appellate courts of the Commonwealth or in compliance with a rule or regulation promulgated by the Secretary of Banking, no provision of this section imposing any penalty shall apply, notwithstanding that after such contract is made, such interpretation, rule or regulation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(18 amended December 18, 1984, P.L. 1083, No. 216)

(18 amended December 12, 1994, P.L. 1060, No. 144)

(18 amended July 2, 1996, P.L. 490, No. 80)

Section 19. Interpretation of Act.

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included.

Section headings shall not be taken to govern or limit the scope of the sections of this act. The singular shall include the plural, and the masculine shall include the feminine or neuter.

Section 20. Repealer.

All acts or parts of acts which are inconsistent herewith are hereby repealed.

Section 21. Effective Date.

This act shall become effective on the first day of June, one thousand nine hundred thirty-seven, or if subsequently enacted, this act shall become effective immediately upon final enactment.