



COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

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The Commonwealth of Pennsylvania Department of Banking and Securities (the “Department”) has recently received a number of inquiries from Pennsylvania state-chartered banks regarding interest rates. In particular, these banks have asked whether Pennsylvania law imposes any restrictions on the interest rates that Pennsylvania state-chartered banks may charge to customers. This letter sets forth the Department’s position on this issue.

The Banking Law Modernization Package (“BLMP”) was enacted in 2012 to “update, simplify and modernize the Banking Code of 1965.”<sup>1</sup> The BLMP “[a]mended Sections 303 and 506 and deleted Sections 309, 301, 316-322, 505 and 506 of the Banking Code,” which “eliminate[d] archaic lending requirements and pricing restrictions in order to simplify the lending provisions of the Banking Code.” *Id.* at 2. Section 303(b) now provides:

(i) An institution may, subject to any applicable restriction under other provisions of this act, lend money, extend credit and discount or purchase evidences of indebtedness and agreements for the payment of money at such interest, finance charge, rate or terms authorized under this section or at any interest, finance charge, rate or terms permitted for any other financial institution or any other lender regulated by any Federal or State supervisory authority on the specified class of loan.

(ii) This section shall govern all direct and indirect extensions of credit by an institution for personal, family, household, business or agricultural purposes to an individual, a partnership, a limited liability company or an unincorporated association, whether as closed-end credit or open-end credit.

7 P.S. § 303(b) (emphasis added). Section 301 defines “institution” as “a bank and a bank and trust company.” 7 P.S. § 301. Similarly, § 506 provides that “[a] savings bank may lend money, extend credit and discount or purchase evidences of indebtedness and agreements for the payment of money pursuant to section 303. . . .” 7 P.S. § 506(a).

Thus, by their terms, §§ 303 and 506 authorize banks chartered in Pennsylvania to charge interest rates permitted by any other federal or state supervisory authority. The effect of these

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<sup>1</sup> Letter from Glenn E. Moyer, Secretary of Department of Banking and Securities, to Pennsylvania Banks at 1 (Nov. 14, 2012) (the “2012 Department Letter”) available at: [https://www.dobs.pa.gov/Documents/Secretary%20Letters/Banks/11.14.12%20Secretary\\_s%20Letter%20Re\\_%20Banking%20Law%20Modernization%20Package.pdf](https://www.dobs.pa.gov/Documents/Secretary%20Letters/Banks/11.14.12%20Secretary_s%20Letter%20Re_%20Banking%20Law%20Modernization%20Package.pdf)

provisions is to eliminate any interest rate restrictions that would otherwise apply to Pennsylvania state-chartered banks. *See Pennsylvania v. Think Fin., Inc.*, No. 14-cv-7139, 2016 U.S. Dist. LEXIS 4649, at \*42 (E.D. Pa. Jan. 14, 2016) (noting that the BLMP “removed interest rate restrictions on Pennsylvania state-chartered banks”). This interpretation is confirmed by the 2012 Department Letter, which states:

By virtue of amended Sections 303 and 506 of the Banking Code, interest rate and fee restrictions regarding lending activity by Pennsylvania state-chartered banks and savings banks have been removed, thus statutorily putting in place what has largely been the existing state of law regarding the lending authority for Pennsylvania state-chartered banks and savings banks.

2012 Department Letter at 2 (emphasis added). *See* 1 Pa.C.S. § 1921(c)(8) (the meaning of a statute “may be ascertained by considering . . . administrative interpretations of such statute”).

Nonetheless, some litigants have argued that Pennsylvania’s Loan Interest and Protection Law (“LIPL”) – which caps the maximum amount of interest that can be charged on a consumer loan of \$50,000 or less at 6% (*see* 41 P.S. § 201(a)) – applies to Pennsylvania banks. *See Robinson v. Nat’l Collegiate Student Loan Tr.* 2006-2, Civil Action No. 20-cv-10203-ADB, 2021 U.S. Dist. LEXIS 68342, at \*12 (D. Mass. Apr. 7, 2021) (“Plaintiffs claim that the Loan was not valid when made” by a Pennsylvania bank “because it had an interest rate above the 6% maximum rate allowed under Pennsylvania’s usury law, which Plaintiffs say governs the Loan.”). This argument is misplaced.

Section 604 of the LIPL provides: “[i]f any maximum lawful rate of interest provided for in this act is inconsistent with the provision of any other act establishing, permitting or removing a maximum interest rate, . . . then the provision of such other act shall prevail.” 41 P.S. § 604. “Other acts, therefore, can set different interest rate maximums, or remove them entirely.” *Robinson*, 2021 U.S. Dist. LEXIS 68342, at \*19 (citing 41 P.S. § 604). Here, §§ 303 and 506 of the Banking Code are “other acts” within the meaning of § 604 of the LIPL that remove the 6 percent interstate rate cap prescribed by § 201 of the LIPL. Consequently, the cap does not apply to Pennsylvania banks. *See Think Fin. supra*; *see also Robinson*, 2021 U.S. Dist. LEXIS 68342, at \*21 (holding that §§ 318 and 319 of the Banking Code, which were repealed by the BLMP and replaced by § 303, also “allow[ed] Pennsylvania banks to charge interest above the rate set in the state’s usury statute”).

The Consumer Discount Company Act (“CDCA”) also limits the interest rate that may be applied to certain consumer loans. Under the CDCA, a lender licensed by the Department may charge an annual interest rate up to 24% for loans of \$25,000 or less. *See* 7 P.S. §§ 6203(a), 6213. “[T]he effect of these two statutes is that if a lender is licensed by the Department in accord with the CDCA, it can charge between 6-24% on loans under \$25,000. If it is not licensed, it is bound by the 6% cap imposed by the LIPL.” *Cash Am. Net of Nev., LLC v. Dep’t of Banking*, 8 A.3d 282, 285-86 (Pa. 2010). However, the CDCA states expressly that “[t]his act shall not apply to any person, persons, partnership, association or corporation operating under the laws related to banking institutions . . . or licensed by the Secretary of Banking of the

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Commonwealth of Pennsylvania under the provisions of any other statute.” 7 P.S. § 6217. As such, the interest rate restrictions in the CDCA also do not apply to Pennsylvania banks.

For the foregoing reasons, the Department has determined that Pennsylvania law does not impose any restrictions on the interest rate that Pennsylvania state-chartered banks may charge to customers.

The Department’s analysis is based upon the facts and assumptions as stated this letter. Any changes in the facts or assumptions could result in an amendment or reversal of the Department’s position. This letter has been authorized by the appropriate Department personnel and constitutes a duly authorized statement of the Department’s position regarding the issues discussed herein. This letter may not be relied upon or construed as constituting legal advice.

For the Commonwealth of Pennsylvania  
Department of Banking and Securities

Stefanie Hamilton  
Chief Counsel  
Office of General Counsel