

HOUSE No. 1105

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Murphy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing uniform enforcement and confidentiality provisions relative to certain licensees under the jurisdiction of the Division of Banks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James M. Murphy</i>	<i>4th Norfolk</i>	<i>1/19/2023</i>

HOUSE No. 1105

By Representative Murphy of Weymouth, a petition (accompanied by bill, House, No. 1105) of James M. Murphy for legislation to establish uniform enforcement and confidentiality provisions relative to certain licensees under the jurisdiction of the Division of Banks. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act establishing uniform enforcement and confidentiality provisions relative to certain licensees under the jurisdiction of the Division of Banks.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 24D of chapter 93 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the word "licensee" in lines 13, 17 and 31,
3 the following words:— or registrant.

4 SECTION 2. Section 24D of chapter 93 of the General Laws, as so appearing, is hereby
5 further amended by inserting after the word "licensees" in line 36, the following words:— or
6 registrants.

7 SECTION 3. Chapter 93 of the General Laws, as so appearing, is hereby amended by
8 striking out section 24F and inserting in place thereof the following section:—

9 Section 24F. The commissioner, or the commissioner’s examiners or other assistants as
10 the commissioner may designate, may summon a licensee or registrant, or any of its agents or
11 employees, and other witnesses as necessary, and examine them relative to their transactions,

12 may require the production of books and papers and, for those purposes may administer oaths.
13 Whoever, without justifiable cause, fails or refuses to appear and testify or to produce books and
14 papers when so required, or obstructs the commissioner or the commissioner's representatives
15 making the examination in the performance of their duties, shall be punished by a fine of not
16 more than \$1,000 or by imprisonment for not more than 6 months, or both. Each day a violation
17 occurs or continues shall be considered a separate offense. The penalty provision of this section
18 shall be in addition to, and not in lieu of, any other provision of law applicable to a licensee or
19 other person for violating section 24A or any rule or regulation made thereunder.

20 SECTION 4. Chapter 93 of the General Laws, as so appearing, is hereby amended by
21 adding after section 24K the following two sections:—

22 Section 24L. (a) Whenever the commissioner finds that any licensee or exempt person
23 under section 24A of this chapter has violated any provision of this chapter or any rule or
24 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
25 of the business of a debt collector or a third party loan servicer, the commissioner may, by order,
26 in addition to any other action authorized under this chapter or any rule or regulation made
27 thereunder, impose a penalty upon the person which shall not exceed \$5,000 for each violation,
28 up to a maximum of \$100,000 for the violation plus the costs of investigation. The commissioner
29 may impose a penalty which shall not exceed \$5,000 for each violation of this chapter, or any
30 rule or regulation adopted thereunder, by a person other than a licensee or exempt person under
31 section 24A of this chapter, plus the costs of investigation.

32 (b) Nothing in this section shall limit the right of any individual or entity who has been
33 injured as a result of any violation of this chapter by a licensee, or any person other than a

34 licensee or exempt person under section 24A of this chapter, to bring an action to recover
35 damages or restitution in a court of competent jurisdiction.

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

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

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

46 (2) to prohibit the person from applying for or obtaining a license from the commissioner
47 for a period up to 36 months following the effective date of an order issued under subsection (b)
48 or (c); or

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

53 (b) A written notice issued under subsection (a) shall contain a written statement of the
54 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held

55 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
56 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing
57 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or
58 by a duly authorized representative, the party shall be deemed to have consented to the issuance
59 of an order of prohibition in accordance with the notice.

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

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

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

75 (1) any licensee or registrant under this chapter;

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

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

79 SECTION 5. Section 99 of chapter 140 of the General Laws, as so appearing, is hereby
80 amended by striking out section 99 and inserting in place thereof the following section:—

81 Section 99. A licensee shall, when directed by the commissioner, permit the
82 commissioner or the commissioner's duly authorized representative to inspect its records and
83 evidence of compliance with this chapter or any rule and regulation issued thereunder and with
84 any other law, rule and regulation applicable to the conduct of its business. The commissioner
85 shall preserve a full record of each examination of a licensee including a statement of its
86 condition. All records of investigations and reports of examinations by the commissioner,
87 including workpapers, information derived from the reports or responses to the reports, and any
88 copies thereof in the possession of any licensee under the supervision of the commissioner, shall
89 be confidential and privileged communications, shall not be subject to subpoena and shall not be
90 a public record under clause twenty-sixth of section 7 of chapter 4. For the purpose of this
91 paragraph, records of investigation and reports of examinations shall include records of
92 investigation and reports of examinations conducted by a financial regulatory agency of the
93 federal government and any other state, and of any foreign government which are considered
94 confidential by the agency or foreign government and which are in possession of the
95 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
96 record protecting the confidentiality of any such record, and other than any such record on file
97 with the court or filed in connection with the court proceeding, and the court may exclude the
98 public from any portion of a proceeding at which any such record may be disclosed. Copies of
99 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited

100 to any other person, organization or agency without prior written approval by the commissioner.
101 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal
102 government, of other states, or of foreign countries, and any law enforcement agency, the
103 information, reports, inspections and statements relating to the licensees under the
104 commissioner's supervision.

105 The commissioner may summon licensees, companies or associations, or any of their
106 agents or employees, and other witnesses as necessary, and examine them relative to their
107 transactions and to the condition of their business, and for that purpose may administer oaths.
108 Whoever without justifiable cause refuses to appear and testify when so required, or obstructs the
109 commissioner or the commissioner's representatives in the performance of their duties, shall be
110 punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or
111 both. The penalty provision of this section shall be in addition to, and not in lieu of, any other
112 provision of law applicable to a licensee or other person for violating section 96 or any rule or
113 regulation made thereunder.

114 SECTION 6. Section 103 Chapter 140 of the General Laws, as so appearing, is hereby
115 amended by striking out section 103, and inserting in place thereof the following three
116 sections:—

117 Section 103. The commissioner may suspend or revoke any license issued pursuant to
118 section ninety-six if the commissioner finds that:

119 (i) the licensee has violated any provision of sections ninety-six to one hundred and
120 fourteen, inclusive, or any rule or regulation made by the commissioner under any provision of

121 sections ninety-six to one hundred and fourteen, inclusive, or any other law applicable to the
122 conduct of the business; or

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

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

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

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

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

137 Section 103A. (a) If the commissioner determines, after giving notice of an opportunity
138 for a hearing, that a licensee has engaged or is about to engage in an act or practice constituting a
139 violation of a provision of sections ninety-seven, ninety-eight, one hundred, one hundred and
140 one, one hundred and two, one hundred and four or one hundred and nine, or any rule or
141 regulation made by the commissioner under section ninety-seven or one hundred and six, or any

142 other law applicable to the conduct of the business, the commissioner may order the licensee to
143 cease and desist from the unlawful act or practice and take affirmative action as in his or her
144 judgment will effect the purpose of sections ninety-seven, ninety-eight, one hundred, one
145 hundred and one, one hundred and two, one hundred and four or one hundred and nine, or any
146 rule or regulation made by the commissioner under section ninety-seven or one hundred and six,
147 or any other law applicable to the conduct of the business.

148 (b) If the commissioner makes written findings of fact that the public interest will be
149 irreparably harmed by delay in issuing an order under section (a) the commissioner may issue a
150 temporary cease and desist order. Upon the entry of a temporary cease and desist order, the
151 commissioner shall promptly notify, in writing, the licensee affected thereby that the order has
152 been so entered, the reasons therefor, and that within 20 days after receipt of a written request
153 from the licensee, the matter will be scheduled for a hearing to determine whether or not the
154 temporary order shall become permanent and final. If no hearing is requested and none is
155 ordered by the commissioner, the order shall remain in effect until it is modified or vacated by
156 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of
157 and opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts
158 and conclusions of law, vacate, modify or make permanent the order.

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

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

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

168 SECTION 7. Chapter 140 of the General Laws, as so appearing, is hereby amended by
169 adding after section 113 the following two sections:—

170 Section 113A. (a) Whenever the commissioner finds that any licensee or exempt person
171 under section ninety-six of this chapter has violated any provision of this chapter or any rule or
172 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
173 of the business of making small loans, the commissioner may, by order, in addition to any other
174 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty
175 upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000
176 for the violation plus the costs of investigation. The commissioner may impose a penalty which
177 shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted
178 thereunder, by a person other than a licensee or exempt person under section ninety-six of this
179 chapter, plus the costs of investigation.

180 (b) In addition to any other action authorized under this chapter or any rule of regulation
181 made thereunder, a licensee who violates the provisions of section one hundred may also be
182 punished by imprisonment for not more than one year. Each day the violation occurs or
183 continues shall be deemed a separate offense. Any loan made by any person so licensed in

184 violation of section one hundred may be declared void by the supreme judicial or superior court
185 in equity upon petition by the person to whom the loan was made.

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

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

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

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

199 (2) to prohibit the person from applying for or obtaining a license from the commissioner
200 for a period up to 36 months following the effective date of an order issued under subsection (b)
201 or (c); or

202 (3) to prohibit the person from any further participation, in any manner, in the conduct of
203 the affairs of a business making small loans in Massachusetts or to prohibit the person from

204 being employed by, an agent of, or operating on behalf of a licensee under this chapter or any
205 other business which requires a license from the commissioner.

206 (b) A written notice issued under subsection (a) shall contain a written statement of the
207 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
208 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
209 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing
210 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or
211 by a duly authorized representative, the party shall be deemed to have consented to the issuance
212 of an order of prohibition in accordance with the notice.

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

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

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

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

228 (1) any licensee under this chapter;

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

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

232 SECTION 8. Chapter 140 of the General Laws, as so appearing, is hereby amended by
233 striking section 114A and inserting in place thereof the following section:—

234 Section 114A. A bank as defined in section one of chapter one hundred sixty-seven, a
235 national banking association, a federally chartered credit union, a federal savings and loan
236 association, a federal savings bank, or any subsidiary of the above, or any bank, trust company,
237 savings bank, savings and loan association, or credit union organized under the laws of any other
238 state, or any subsidiary of the above, shall not be subject to the provisions of sections ninety-six
239 to one hundred fourteen, inclusive; provided, that the institutions may not take, receive, reserve
240 or charge interest, expenses and other considerations for making or securing any loan subject to
241 the provisions of section ninety-six in excess of those permitted by section one hundred. Any
242 loan subject to the provisions of section ninety-six made by any bank as defined in section one of
243 chapter one hundred sixty-seven, a national banking association, a federally-chartered credit
244 union, a federal savings and loan association, a federal savings bank, or any subsidiary of the
245 above, or any bank, trust company, savings bank, savings and loan association, or credit union
246 organized under the laws of any other state on which charges for interest, expenses and other
247 considerations exceed those permitted by section one hundred may be declared void by the

248 supreme judicial court or superior court in equity upon petition by the person to whom the loans
249 were made, and any bank as defined section one of chapter one hundred sixty-seven, a national
250 banking association, a federally chartered credit union, a federal savings and loan association, a
251 federal savings bank, or any subsidiary of the above, or any bank, trust company, savings bank,
252 savings and loan association, or credit union organized under the laws of any other state making
253 such a loan shall be subject to a fine of not more than \$1,000.

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

261 SECTION 9. Section 4 of chapter 167F of the General Laws, as amended by section 5 of
262 chapter 144 of the acts of 2012, is hereby amended by striking out the first paragraph and
263 inserting in place thereof the following paragraph:—

264 Any bank as defined in section one of chapter one hundred sixty-seven, a national
265 banking association, a federally-chartered credit union, a federal savings and loan association, a
266 federal savings bank, or any subsidiary of the above, any bank, trust company, savings bank,
267 savings and loan association, or credit union organized under the laws of any other state or any
268 subsidiary of the above, may engage directly in the business of selling, issuing or registering
269 checks or money orders for use primarily for personal, family, or household purposes, except all

270 of the institutions described above may engage in the business through agents who shall not be
271 deemed to be branches of the institutions. No person, other than the foregoing, shall engage in
272 such business directly or indirectly unless a sworn statement setting forth the person's name and
273 address, the names and business addresses of the person's agents, other than the financial
274 institutions described above, authorized to receive money and transact such business on the
275 person's behalf is filed annually, as of a date determined by the commissioner.

276 SECTION 10. Section 4 of Chapter 167F, as so appearing, is hereby further amended by
277 inserting after the fourth paragraph the following two paragraphs:—

278 The commissioner shall examine any person, to whom a certificate to engage in the
279 business of selling, issuing or registering checks or money orders has been issued, as the
280 commissioner deems necessary and in a manner the commissioner deems appropriate. The
281 commissioner shall preserve a full record of each examination of a check seller including a
282 statement of its condition. All records of investigations and reports of examinations by the
283 commissioner, including workpapers, information derived from the reports or responses to the
284 reports, and any copies thereof in the possession of any licensee under the supervision of the
285 commissioner, shall be confidential and privileged communications, shall not be subject to
286 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
287 the purpose of this paragraph, records of investigation and reports of examinations shall include
288 records of investigation and reports of examinations conducted by a financial regulatory agency
289 of the federal government and any other state, and of any foreign government which are
290 considered confidential by the agency or foreign government and which are in possession of the
291 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
292 record protecting the confidentiality of any such record, other than any such record on file with

293 the court or filed in connection with the court proceeding, and the court may exclude the public
294 from any portion of the proceeding at which any such record may be disclosed. Copies of the
295 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
296 to any other person, organization or agency without prior written approval by the commissioner.
297 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal
298 government, of other states, or of foreign countries, and any law enforcement agency, the
299 information, reports, inspections and statements relating to the licensees under the
300 commissioner's supervision.

301 The commissioner, or the commissioner's examiners or other assistants as the
302 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
303 other witnesses, and examine them relative to the affairs, transactions and condition of the
304 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
305 to appear and testify when so required or obstructs the person making the examination in the
306 performance of their duty, shall be punished by a fine of not more than \$1,000 or by
307 imprisonment for not more than one year.

308 SECTION 11. Said section 4 of chapter 167F of the General Laws, as so appearing, is
309 hereby further amended by striking out the fifth paragraph.

310 SECTION 12. Chapter 167F of the General Laws, as so appearing, is hereby amended by
311 adding after section 4 the following two sections:—

312 Section 4A. (a) Whenever the commissioner finds that any licensee or exempt person
313 under section 4 of this chapter has violated any provision of this chapter or any rule or regulation
314 adopted thereunder, or any other law of the Commonwealth applicable to the conduct of the

315 business of selling, issuing or registering checks or money orders, the commissioner may, by
316 order, in addition to any other action authorized under this chapter or any rule or regulation made
317 thereunder, impose a penalty upon the person which shall not exceed \$5,000 for each violation,
318 up to a maximum of \$100,000 for the violation plus the costs of investigation. The commissioner
319 may impose a penalty which shall not exceed \$5,000 for each violation of this chapter, or any
320 rule or regulation adopted thereunder, by a person other than a licensee or exempt person under
321 section 4 of this chapter, plus the costs of investigation.

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

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

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

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

336 (2) to prohibit the person from applying for or obtaining a license from the commissioner
337 for a period up to 36 months following the effective date of an order issued under subsection (b)
338 or (c); or

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

343 (b) A written notice issued under subsection (a) shall contain a written statement of the
344 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
345 thereon. Such hearing shall be fixed for a date not more than 30 days after the date of service
346 upon the commissioner of the request for a hearing. If the person fails to submit a request for a
347 hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in
348 person or by a duly authorized representative, the party shall be deemed to have consented to the
349 issuance of an order of prohibition in accordance with the notice.

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

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

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

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

365 (1) any licensee under this chapter;

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

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

369 SECTION 13. Chapter 169 of the General Laws, as so appearing, is hereby amended by
370 striking out Section 1 and inserting in place thereof the following section:—

371 Section 1. This chapter shall apply to all persons who engage or are financially interested
372 in the business of receiving deposits of money for the purpose of transmitting the same or
373 equivalents thereof to foreign countries primarily for personal, family, or household purposes,
374 except banks as defined in section one of chapter one hundred sixty-seven, a national banking
375 association, a federally-chartered credit union, a federal savings and loan association, a federal
376 savings bank, or any bank, trust company, savings bank, savings and loan association, or credit
377 union organized under the law of any other state, or any subsidiary of the above, persons doing

378 business under section 17 of chapter 167C, express companies having contracts with
379 transportation companies for the operation of an express service upon the lines of such
380 companies or express companies doing an international express business or global transportation
381 companies or telegraph companies.

382 SECTION 14. Section 3 of chapter 169 of the General Laws, as amended by section 8 of
383 chapter 144 of the acts of 2012, is hereby amended by striking out the eighth, thirteenth and
384 fourteenth sentence.

385 SECTION 15. Section 10 of chapter 169, as so appearing, is hereby amended by inserting
386 after the second paragraph the following two paragraphs:—

387 The commissioner shall preserve a full record of each examination of a licensee including
388 a statement of its condition. All records of investigations and reports of examinations by the
389 commissioner, including workpapers, information derived from the reports or responses to the
390 reports, and any copies thereof in the possession of any licensee under the supervision of the
391 commissioner, shall be confidential and privileged communications, shall not be subject to
392 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
393 the purpose of this paragraph, records of investigation and reports of examinations shall include
394 records of investigation and reports of examinations conducted by a financial regulatory agency
395 of the federal government and any other state, and of any foreign government which are
396 considered confidential by the agency or foreign government and which are in possession of the
397 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
398 record protecting the confidentiality in appropriate circumstances to protect the confidentiality of
399 any such record, other than any such record on file with the court or filed in connection with the

400 court proceeding, and the court may exclude the public from any portion of the proceeding at
401 which any such record may be disclosed. Copies of the reports of examination shall be furnished
402 to a licensee for its use only and shall not be exhibited to any other person, organization or
403 agency without prior written approval by the commissioner. The commissioner may, in his or her
404 discretion, furnish to regulatory agencies of the federal government, of other states, or of foreign
405 countries, and any law enforcement agency, the information, reports, inspections and statements
406 relating to the licensees under the commissioner's supervision.

407 The commissioner, or the commissioner's examiners, or other assistants as the
408 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
409 other witnesses, and examine them relative to the affairs, transactions and condition of the
410 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
411 to appear and testify when so required or obstructs the person making the examination in the
412 performance of their duty, shall be punished by a fine of not more than \$1,000 or by
413 imprisonment for not more than one year.

414 SECTION 16. Chapter 169 of the General Laws is hereby amended by striking out
415 section 16, as so appearing, and inserting in place thereof, the following two sections:—

416 Section 16. (a) Whenever the commissioner finds that any licensee or exempt person
417 under any provision of this chapter has violated any provision of this chapter or any rule or
418 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
419 of the business of receiving deposits of money for the purpose of transmitting the same or
420 equivalents thereof to foreign countries, the commissioner may, by order, in addition to any other
421 action authorized under this chapter or any rule or regulation made thereunder, impose a penalty

422 upon the person which shall not exceed \$5,000 for each violation, up to a maximum of \$100,000
423 for the violation plus the costs of investigation. The commissioner may impose a penalty which
424 shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation adopted
425 thereunder, by a person other than a licensee or exempt person under any provision of this
426 chapter, plus the costs of investigation.

427 (b) In addition to any other action authorized under this chapter or any rule of regulation
428 made thereunder, whoever violates any provision of this chapter or any rule or regulation made
429 hereunder by the commissioner may be punished by imprisonment for not more than one year.

430

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

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

437 Section 16. (a) Whenever the commissioner determines that any person has, directly or
438 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
439 applicable to the conduct of the business of receiving deposits of money for the purpose of
440 transmitting the same or equivalents thereof to foreign countries; or any order issued by the
441 commissioner under this chapter or any written agreement entered between the licensee and the
442 commissioner; the commissioner may serve upon the person a written notice of intention:

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

445 (2) to prohibit the person from applying for or obtaining a license from the commissioner
446 for a period up to 36 months following the effective date of an order issued under subsection (b)
447 or (c); or

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

453 (b) A written notice issued under subsection (a) shall contain a written statement of the
454 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
455 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
456 the commissioner of such request for a hearing. If such person fails to submit a request for a
457 hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in
458 person or by a duly authorized representative, such party shall be deemed to have consented to
459 the issuance of an order of such prohibition in accordance with the notice.

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

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

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

476 (1) any licensee under this chapter;

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

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

480 SECTION 17. Section 2 of chapter 169A of the General Laws, as so appearing, is hereby
481 amended, in line 7, by striking out the word “bank.” and inserting in place thereof the words:—
482 bank or any bank, trust company, savings bank, savings and loan association, or credit union
483 organized under the laws of any other state, or any subsidiary of the above,.

484 SECTION 18. Section 5 of chapter 169A, as so appearing, is hereby amended by striking
485 out the third and fourth sentences.

486 SECTION 19. Section 10 of chapter 169A, as so appearing, is hereby amended by adding
487 the following two paragraphs:—

488 The commissioner shall preserve a full record of each such examination of a licensee
489 including a statement of its condition. All records of investigations and reports of examinations
490 by the commissioner, including workpapers, information derived from such reports or responses
491 to such reports, and any copies thereof in the possession of any licensee under the supervision of
492 the commissioner, shall be confidential and privileged communications, shall not be subject to
493 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
494 the purpose of this paragraph, records of investigation and reports of examinations shall include
495 records of investigation and reports of examinations conducted by a financial regulatory agency
496 of the federal government and any other state, and of any foreign government which are
497 considered confidential by such agency or foreign government and which are in possession of the
498 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
499 record protecting the confidentiality of any such record, other than any such record on file with
500 the court or filed in connection with the court proceeding, and the court may exclude the public
501 from any portion of the proceeding at which any such record may be disclosed. Copies of such
502 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
503 to any other person, organization or agency without prior written approval by the commissioner.
504 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal
505 government, of other states, or of foreign countries, and any law enforcement agency, such

506 information, reports, inspections and statements relating to the licensees under the
507 commissioner's supervision.

508 The commissioner, or the commissioner's examiners or such other assistants as the
509 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
510 other witnesses, and examine them relative to the affairs, transactions and condition of the
511 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
512 to appear and testify when so required or obstructs the person making such examination in the
513 performance of their duty, shall be punished by a fine of not more than \$1,000 or by
514 imprisonment for not more than one year.

515 SECTION 20. Chapter 169A of the General Laws, as so appearing, is hereby amended by
516 striking out section 13 and inserting in place thereof the following two sections:—

517 Section 13. (a) Whenever the commissioner finds that any licensee or exempt person
518 under section two of this chapter has violated any provision of this chapter or any rule or
519 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
520 of the business of cashing checks, drafts or money orders, the commissioner may, by order, in
521 addition to any other action authorized under this chapter or any rule or regulation made
522 thereunder, impose a penalty upon such person which shall not exceed \$5,000 for each violation,
523 up to a maximum of \$100,000 for such violation plus the costs of investigation. The
524 commissioner may impose a penalty which shall not exceed \$5,000 for each violation of this
525 chapter, or any rule or regulation adopted thereunder, by a person other than a licensee or exempt
526 person under section two of this chapter, plus the costs of investigation.

527 (b) In addition to any other action authorized under this chapter or any rule of regulation
528 made thereunder, whoever violates any provision of section two or any rule or regulation made
529 thereunder by the commissioner may be punished by imprisonment for not more than 6 months.
530 Each day a violation continues shall be deemed a separate offense. The penalty provision of this
531 section shall be in addition to, and not in lieu of, any other provision of law applicable to a
532 licensee or other person for violating section two or any rule or regulation made thereunder.

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

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

539 Section 14. (a) Whenever the commissioner determines that any person has, directly or
540 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
541 applicable to the conduct of the business of cashing checks, drafts or money orders; or any order
542 issued by the commissioner under this chapter or any written agreement entered between such
543 licensee and the commissioner; the commissioner may serve upon such person a written notice of
544 intention:

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

547 (2) to prohibit the person from applying for or obtaining a license from the commissioner
548 for a period up to 36 months following the effective date of an order issued under subsection (b)
549 or (c); or

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

555 (b) A written notice issued under subsection (a) shall contain a written statement of the
556 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
557 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
558 the commissioner of such request for a hearing. If such person fails to submit a request for a
559 hearing within 20 days of service of notice under subsection (a), or otherwise fails to appear in
560 person or by a duly authorized representative, such party shall be deemed to have consented to
561 the issuance of an order of such prohibition in accordance with the notice.

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

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

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

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

577 (1) any licensee under this chapter;

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

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

581 SECTION 21. Section 1 of chapter 255B of the General Laws, as so appearing, is hereby
582 amended by striking out the definition of "Sales finance company" and inserting in place thereof
583 the following definition:— "Sales finance company",. (1) a bank as defined in section one of
584 chapter one hundred and sixty-seven, a national banking association, federal savings bank,
585 federal savings and loan association, federal credit union, or any bank, trust company, savings
586 bank, savings and loan association or credit union organized under the laws of any other state of
587 the United States, or any subsidiary of the above;

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

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

593 SECTION 22. Section 2 of chapter 255B, as amended by section 9 of chapter 144 of the
594 acts of 2012, is hereby amended by striking out the fourth and fifth sentences.

595 SECTION 23. Section 3 of Chapter 255B, as so appearing, is hereby amended by
596 inserting after the first paragraph the following two paragraphs:—

597 The commissioner shall preserve a full record of each such examination of a licensee
598 including a statement of its condition. All records of investigations and reports of examinations
599 by the commissioner, including workpapers, information derived from such reports or responses
600 to such reports, and any copies thereof in the possession of any licensee under the supervision of
601 the commissioner, shall be confidential and privileged communications, shall not be subject to
602 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
603 the purpose of this paragraph, records of investigation and reports of examinations shall include
604 records of investigation and reports of examinations conducted by a financial regulatory agency
605 of the federal government and any other state, and of any foreign government which are
606 considered confidential by such agency or foreign government and which are in possession of the
607 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
608 record protecting the confidentiality of any such record, other than any such record on file with
609 the court or filed in connection with the court proceeding, and the court may exclude the public
610 from any portion of the proceeding at which any such record may be disclosed. Copies of such
611 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited

612 to any other person, organization or agency without prior written approval by the commissioner.
613 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal
614 government, of other states, or of foreign countries, and any law enforcement agency, such
615 information, reports, inspections and statements relating to the licensees under the
616 commissioner's supervision.

617 The commissioner, or the commissioner's examiners, or such other assistants as the
618 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
619 other witnesses, and examine them relative to the affairs, transactions and condition of the
620 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
621 to appear and testify when so required or obstructs the person making such examination in the
622 performance of their duty, shall be punished by a fine of not more than \$1000 or by
623 imprisonment for not more than one year.

624 SECTION 24. Section 4 of said chapter 255B of the General Laws, as so appearing, is
625 hereby amended by adding the following sentence:— Each day such violation occurs or
626 continues shall be deemed a separate offense.

627 SECTION 25. Chapter 255B of the General Laws, as so appearing, is hereby amended by
628 striking out section 7, and inserting in place thereof the following section:—

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

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

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

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

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

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

643 SECTION 26. Chapter 255B of the General Laws, as so appearing, is hereby amended by
644 striking out section 8 and inserting in place thereof the following two sections:—

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

650 (b) If the commissioner makes written findings of fact that the public interest will be
651 irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue
652 a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the
653 commissioner shall promptly notify, in writing, the licensee affected thereby that such order has

654 been so entered, the reasons therefor, and that within 20 days after the receipt of a written request
655 from such licensee, the matter will be scheduled for a hearing to determine whether or not such
656 temporary order shall become permanent and final. If no such hearing is requested and none is
657 ordered by the commissioner, the order shall remain in effect until it is modified or vacated by
658 the commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of
659 and opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts
660 and conclusions of law, vacate, modify or make permanent the order.

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

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

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

669 SECTION 27. Chapter 255B of the General Laws, as so appearing, is hereby amended by
670 adding after section 25 the following two sections:—

671 Section 26. (a) Whenever the commissioner finds that any licensee or exempt person
672 under section two of this chapter has violated any provision of this chapter or any rule or
673 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
674 of the business of a sales finance company, the commissioner may, by order, in addition to any
675 other action authorized under this chapter or any rule or regulation made thereunder, impose a

676 penalty upon such person which shall not exceed \$5,000 for each violation, up to a maximum of
677 \$100,000 for such violation plus the costs of investigation. The commissioner may impose a
678 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation
679 adopted thereunder, by a person other than a licensee or exempt person under section two of this
680 chapter, plus the costs of investigation.

681 (b) In addition to any other action authorized under this chapter or any rule of regulation
682 made thereunder, whoever violates any provision of this chapter or any rule or regulation made
683 thereunder by the commissioner may also be punished by imprisonment for not more than 6
684 months. The penalty provision of this section shall be in addition to, and not in lieu of, any other
685 provision of law applicable to a licensee or other person for violating provision of this chapter or
686 any rule or regulation made thereunder.

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

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

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

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

700 (2) to prohibit the person from applying for or obtaining a license from the commissioner
701 for a period up to 36 months following the effective date of an order issued under subsection (b)
702 or (c); or

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

707 (b) A written notice issued under subsection (a) shall contain a written statement of the
708 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
709 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
710 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing
711 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or
712 by a duly authorized representative, the party shall be deemed to have consented to the issuance
713 of an order of prohibition in accordance with the notice.

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

718 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the
719 person. The commissioner shall also serve a copy of the order upon the licensee of which the

720 person is an employee or on whose behalf the person is performing. The order shall remain in
721 effect and enforceable until it is modified, terminated, suspended, or set aside by the
722 commissioner or a court of competent jurisdiction.

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

729 (1) any licensee under this chapter;

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

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

733 SECTION 28. Chapter 255C of the General Laws, as amended by section 11 of chapter
734 144 of the acts of 2012, is hereby amended by striking out section 2 and inserting in place
735 thereof the following section:—

736 Section 2. No person, other than a bank as defined in section one of chapter one hundred
737 sixty-seven, a national banking association, a federally-chartered credit union, a federal savings
738 and loan association, a federal savings bank, or any subsidiary of the above, or a bank, a trust
739 company, savings bank, savings and loan association or credit union organized under the laws of
740 any other state, or any subsidiary of the above, a sales finance company, as defined in section

741 one of chapter two hundred fifty-five B, and a company licensed to carry on the business of
742 making small loans, shall engage in the business of premium finance agency unless licensed by
743 the commissioner, as provided in section three; provided, however, that no property and casualty
744 insurance agent or broker, including an insurance agent or insurance broker conducting an
745 insurance premium financing agency business under a subsidiary or different company name,
746 who provides premium financing only to their own customers for purposes of financing payment
747 of premiums on contracts of insurance, which contracts of insurance are exclusively limited to
748 commercial insurance policies, shall be required to be licensed pursuant to this section or any
749 other section of this chapter. The commissioner may adopt, amend or repeal rules and
750 regulations, which may include an adequate capitalization requirement for sales finance
751 companies, to aid in the administration and enforcement of this chapter.

752 The license shall allow the holder to maintain only one office from which the business
753 may be conducted, but more than one license may be issued to any person. Any change of
754 location of an office of a licensee shall require the prior approval of the commissioner. The
755 request for relocation shall be in writing setting forth the reason or reasons for the request, and
756 shall be accompanied by a relocation investigation fee to be determined annually by the secretary
757 of administration and finance under section 3B of chapter 7. If an applicant has more than one
758 office, the applicant may obtain a license for each office from which the applicant intends to
759 conduct the business.

760 SECTION 29. Section 4 of chapter 255C, as so appearing, is hereby amended by striking
761 out the second sentence.

762 SECTION 30. Section 4 of chapter 255C is hereby further amended by adding the
763 following paragraph: —

764 If a licensee intends to carry on the business at any place in addition to the address on the
765 license, the licensee shall so notify the commissioner, in writing, at least 30 days prior thereto,
766 and the licensee shall pay a fee for the additional location in an amount to be determined
767 annually by the commissioner of administration under the provision of section three B of chapter
768 seven. The license shall not be transferable or assignable and shall expire annually on a date
769 determined by the commissioner.

770 SECTION 31. Chapter 255C of the General Laws, as so appearing, is hereby amended by
771 striking out section 5, and inserting in place thereof the following three sections:—

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

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

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

779 The commissioner shall have sufficient cause to suspend or revoke a license whenever
780 the commissioner learns from the commissioner of insurance or from any other source that the
781 licensee has failed to return the full amount of a return premium to the person whose insurance

782 policy has been cancelled or to the person's assignee, as required by section one hundred and
783 seventy-six A of chapter one hundred and seventy-five.

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

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

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

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

800 (b) If the commissioner makes written findings of fact that the public interest will be
801 irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue
802 a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the
803 commissioner shall promptly notify, in writing, the licensee affected thereby that the order has

804 been so entered, the reasons therefor, and that within 2 days after the receipt of a written request
805 from the licensee, the matter will be scheduled for hearing to determine whether or not the
806 temporary order shall become permanent and final. If no hearing is requested and none is ordered
807 by the commissioner, the order shall remain in effect until it is modified or vacated by the
808 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and
809 opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts and
810 conclusions of law, vacate, modify or make permanent the order.

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

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

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

819 SECTION 32. Section 6 of chapter 255C, as amended by section 14 of chapter 44 of the
820 acts of 2012, is hereby amended by striking out the second paragraph and inserting in place
821 thereof the following two paragraphs:—

822 The commissioner shall preserve a full record of each examination of a licensee including
823 a statement of its condition. All records of investigations and reports of examinations by the
824 commissioner, including workpapers, information derived from the reports or responses to the
825 reports, and any copies thereof in the possession of any licensee under the supervision of the

826 commissioner, shall be confidential and privileged communications, shall not be subject to
827 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
828 the purpose of this paragraph, records of investigation and reports of examinations shall include
829 records of investigation and reports of examinations conducted by a financial regulatory agency
830 of the federal government and any other state, and of any foreign government which are
831 considered confidential by the agency or foreign government and which are in possession of the
832 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
833 record protecting the confidentiality of any such record, other than any such record on file with
834 the court or filed in connection with the court proceeding, and the court may exclude the public
835 from any portion of the proceeding at which any such record may be disclosed. Copies of such
836 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
837 to any other person, organization or agency without prior written approval by the commissioner.
838 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal
839 government, of other states, or of foreign countries, and any law enforcement agency, the
840 information, reports, inspections and statements relating to the licensees under the
841 commissioner's supervision.

842 The commissioner, or the commissioner's examiners or other assistants as the
843 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
844 other witnesses, and examine them relative to the affairs, transactions and condition of the
845 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
846 to appear and testify when so required or obstructs the person making the examination in the
847 performance of their duty, shall be punished by a fine of not more than \$1,000 or by
848 imprisonment for not more than one year.

849 SECTION 33. Section 9 of chapter 255C of the General Laws, as so appearing, is hereby
850 amended by striking out the first paragraph:—

851 SECTION 34. Chapter 255C of the General Laws, as so appearing, is hereby amended by
852 adding after section 23 the following two sections:—

853 Section 24. (a) Whenever the commissioner finds that any licensee or exempt person
854 under section two of this chapter has violated any provision of this chapter or any rule or
855 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
856 of the business of a premium finance agency, the commissioner may, by order, in addition to any
857 other action authorized under this chapter or any rule or regulation made thereunder, impose a
858 penalty upon the person which shall not exceed \$5,000 for each violation, up to a maximum of
859 \$100,000 for the violation plus the costs of investigation. The commissioner may impose a
860 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation
861 adopted thereunder, by a person other than a licensee or exempt person under section two of this
862 chapter, plus the costs of investigation.

863 (b)In addition to any other action authorized under this chapter or any rule of regulation
864 made thereunder, whoever violates any provision of this chapter, or knowingly makes any
865 incorrect statement of a material fact in any application, report or statement filed pursuant to this
866 chapter, or knowingly omits to state any material fact necessary to give the commissioner any
867 information lawfully required, may be punished by imprisonment for not more than 6 months.
868 The penalty provision of this section shall be in addition to, and not in lieu of, any other
869 provision of law applicable to a licensee or other person for violating any provision of this
870 chapter or any rule or regulation made thereunder.

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

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

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

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

884 (2) to prohibit the person from applying for or obtaining a license from the commissioner
885 for a period up to 36 months following the effective date of an order issued under subsection (b)
886 or (c); or

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

891 (b) A written notice issued under subsection (a) shall contain a written statement of the
892 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
893 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
894 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing
895 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or
896 by a duly authorized representative, the party shall be deemed to have consented to the issuance
897 of an order of prohibition in accordance with the notice.

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

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

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

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

917 SECTION 35. Section 1 of chapter 255D of the General Laws, as so appearing, is hereby

918 amended by striking out the definition of "Sales finance company" in lines 98 through 105,

919 inclusive, and inserting in place thereof the following definition:—

920 "Sales finance company",

921 (1) a bank as defined in section one of chapter one hundred and sixty-seven, or a national

922 banking association or a savings and loan association, federal savings bank, federal savings and

923 loan association, federal credit union, or any bank, trust company, savings bank, savings and

924 loan association or credit union organized under the laws of any other state of the United States,

925 or any subsidiary of the above,

926 (2) any person other than an installment seller engaged, in whole or in part, in the

927 business of purchasing retail installment sale agreements or revolving credit agreements of one

928 or more retail sellers. The term "sales finance company" shall not include the pledgee of an

929 aggregate number of such agreements to secure a bona fide loan thereon.

930 SECTION 36. The first paragraph of section 2 of chapter 255D, as amended by section

931 14 of chapter 144 of the acts of 2012, is hereby amended by striking out the fourth and fifth

932 sentences.

933 SECTION 37. Section 2 of chapter 255D, as so appearing, is hereby further amended by
934 striking out the ninth sentence.

935 SECTION 38. Section 3 of chapter 255D of the General Laws, as so appearing, is hereby
936 amended by inserting after the first paragraph the following two paragraphs:—

937 The commissioner shall preserve a full record of each examination of a licensee including
938 a statement of its condition. All records of investigations and reports of examinations by the
939 commissioner, including workpapers, information derived from the reports or responses to the
940 reports, and any copies thereof in the possession of any licensee under the supervision of the
941 commissioner, shall be confidential and privileged communications, shall not be subject to
942 subpoena and shall not be a public record under clause twenty-sixth of section 7 of chapter 4. For
943 the purpose of this paragraph, records of investigation and reports of examinations shall include
944 records of investigation and reports of examinations conducted by a financial regulatory agency
945 of the federal government and any other state, and of any foreign government which are
946 considered confidential by the agency or foreign government and which are in possession of the
947 commissioner. In any proceeding before a court, the court may issue a protective order to seal the
948 record protecting the confidentiality of any such record, other than any such record on file with
949 the court or filed in connection with the court proceeding, and the court may exclude the public
950 from any portion of the proceeding at which any such record may be disclosed. Copies of such
951 reports of examination shall be furnished to a licensee for its use only and shall not be exhibited
952 to any other person, organization or agency without prior written approval by the commissioner.
953 The commissioner may, in his or her discretion, furnish to regulatory agencies of the federal
954 government, of other states, or of foreign countries, and any law enforcement agency, the

955 information, reports, inspections and statements relating to the licensees under the
956 commissioner's supervision.

957 The commissioner, or the commissioner's examiners, or other assistants as the
958 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
959 other witnesses, and examine them relative to the affairs, transactions and condition of the
960 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
961 to appear and testify when so required or obstructs the person making the examination in the
962 performance of their duty, shall be punished by a fine of not more than \$1,000 or by
963 imprisonment for not more than one year.

964 SECTION 39. Chapter 255D of the General Laws, as so appearing, is hereby amended by
965 striking out section 7 as so appearing, and inserting in place thereof the following section:—

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

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

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

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

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

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

980 SECTION 40. Said chapter 255D of the General Laws, as so appearing, is hereby further
981 amended by striking out section 8, as so appearing, and inserting in place thereof the following
982 two sections:—

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

988 (b) If the commissioner makes written findings of fact that the public interest will be
989 irreparably harmed by delay in issuing an order under subsection (a) the commissioner may issue
990 a temporary cease and desist order. Upon the entry of a temporary cease and desist order, the
991 commissioner shall promptly notify, in writing, the licensee affected thereby that the order has
992 been so entered, the reasons therefor, and that within 20 days after the receipt of a written request
993 from the licensee, the matter will be scheduled for hearing to determine whether or not the
994 temporary order shall become permanent and final. If no hearing is requested and none is ordered
995 by the commissioner, the order shall remain in effect until it is modified or vacated by the
996 commissioner. If a hearing is requested or ordered, the commissioner, after giving notice of and

997 opportunity for a hearing to the licensee subject to the order, shall, by written finding of facts and
998 conclusions of law, vacate, modify or make permanent the order.

999 (c) No order under this section, except an order issued pursuant to subsection (b), may be
1000 entered without prior notice of and opportunity for a hearing. The commissioner may vacate or
1001 modify an order under this section upon finding that the conditions which required the order
1002 have changed and that it is in the public interest to so vacate or modify.

1003 Any order issued pursuant to this section shall be subject to review as provided in chapter
1004 thirty A.

1005 Section 8A. The commissioner may enforce the provisions of this chapter, or restrain any
1006 violations thereof, by filing a civil action in any court of competent jurisdiction.

1007 SECTION 41. Section 30 of chapter 255D of the General Laws, as so appearing, is
1008 hereby repealed.

1009 SECTION 42. Chapter 255D of the General Laws, as so appearing, is hereby amended by
1010 adding after section 31 the following two sections:—

1011 Section 32. (a) Whenever the commissioner finds that any licensee or exempt person
1012 under section two of this chapter has violated any provision of this chapter or any rule or
1013 regulation adopted thereunder, or any other law of the Commonwealth applicable to the conduct
1014 of the business of a sales finance company, the commissioner may, by order, in addition to any
1015 other action authorized under this chapter or any rule or regulation made thereunder, impose a
1016 penalty upon the person which shall not exceed \$5,000 for each violation, up to a maximum of
1017 \$100,000 for the violation plus the costs of investigation. The commissioner may impose a

1018 penalty which shall not exceed \$5,000 for each violation of this chapter, or any rule or regulation
1019 adopted thereunder, by a person other than a licensee or exempt person under section two of this
1020 chapter, plus the costs of investigation.

1021 (b) In addition to any other action authorized under this chapter or any rule of regulation
1022 made thereunder, whoever violates any provision of this chapter may be punished by
1023 imprisonment for not more than 6 months. The penalty provision of this section shall be in
1024 addition to, and not in lieu of, any other provision of law applicable to a licensee or other person
1025 for violating section two or any rule or regulation made thereunder.

1026 (c) Nothing in this section shall limit the right of any individual or entity who has been
1027 injured as a result of any violation of this chapter by a licensee, or any person other than a
1028 licensee or exempt person under section two of this chapter, to bring an action to recover
1029 damages or restitution in a court of competent jurisdiction.

1030 (d) Any findings or order issued by the commissioner pursuant to this section shall be
1031 subject to review as provided in chapter thirty A.

1032 Section 33. (a) Whenever the commissioner determines that any person has, directly or
1033 indirectly, violated any section of this chapter or any rule or regulation adopted thereunder,
1034 applicable to the conduct of the business of a sales finance company; or any order issued by the
1035 commissioner under this chapter or any written agreement entered between the licensee and the
1036 commissioner; the commissioner may serve upon the person a written notice of intention:

1037 (1) to prohibit the person from performing in the capacity of a principal employee on
1038 behalf of any licensee for a period of time that the commissioner deems necessary;

1039 (2) to prohibit the person from applying for or obtaining a license from the commissioner
1040 for a period up to 36 months following the effective date of an order issued under subsection (b)
1041 or (c); or

1042 (3) to prohibit the person from any further participation, in any manner, in the conduct of
1043 the affairs of a sales finance company in Massachusetts or to prohibit the person from being
1044 employed by, an agent of, or operating on behalf of a licensee under this chapter or any other
1045 business which requires a license from the commissioner.

1046 (b) A written notice issued under subsection (a) shall contain a written statement of the
1047 facts that support the prohibition and shall give notice of an opportunity for a hearing to be held
1048 thereon. The hearing shall be fixed for a date not more than 30 days after the date of service upon
1049 the commissioner of the request for a hearing. If the person fails to submit a request for a hearing
1050 within 20 days of service of notice under subsection (a), or otherwise fails to appear in person or
1051 by a duly authorized representative, the party shall be deemed to have consented to the issuance
1052 of an order of prohibition in accordance with the notice.

1053 (c) In the event of a consent under subsection (b), or if after a hearing the commissioner
1054 finds that any of the grounds specified in the notice have been established, the commissioner
1055 may issue an order of prohibition in accordance with subsection (a) as the commissioner finds
1056 appropriate.

1057 (d) An order issued under subsection (b) or (c) shall be effective upon service upon the
1058 person. The commissioner shall also serve a copy of the order upon the licensee of which the
1059 person is an employee or on whose behalf the person is performing. The order shall remain in

1060 effect and enforceable until it is modified, terminated, suspended, or set aside by the
1061 commissioner or a court of competent jurisdiction.

1062 (e) Except as consented to in writing by the commissioner, any person who, pursuant to
1063 an order issued under subsection (b) or (c), has been prohibited from participating in whole or in
1064 part in the conduct of the affairs of a sales finance company in Massachusetts may not, while the
1065 order is in effect, continue or commence to perform in the capacity of a principal employee, or
1066 otherwise participate in any manner, if so prohibited by order of the commissioner, in the
1067 conduct of the affairs of:

1068 (1) any licensee under this chapter;

1069 (2) any other business which requires a license from the commissioner; and

1070 (3) any bank, as defined under section one of chapter one hundred sixty-seven, or any
1071 subsidiary thereof.

1072 SECTION 43. Section 8 of chapter 255E, as so appearing, is hereby amended by adding
1073 the following paragraph:--

1074 The commissioner, or the commissioner's examiners, or other assistants as the
1075 commissioner may designate, may summon the directors, officers or agents of a licensee, or any
1076 other witnesses, and examine them relative to the affairs, transactions and condition of the
1077 licensee, and, for that purpose, may administer oaths. Whoever, without justifiable cause, refuses
1078 to appear and testify when so required or obstructs the person making the examination in the
1079 performance of their duty, shall be punished by a fine of not more than \$1,000 or by
1080 imprisonment for not more than one year.