



2019 MAR -5 PM 2:31
OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

MAR - 5 2019

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

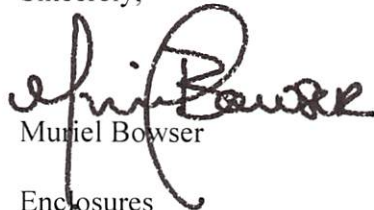
Today, I am transmitting to the Council of the District of Columbia for its consideration and enactment, the "Financial Services Consumer Protection Act of 2019." The purpose of the Bill is to enhance the ability of the Department of Insurance, Securities and Banking ("DISB") to protect consumers by licensing and regulating business entities that are not currently regulated.

The legislation adds several new licensing categories and regulatory requirements to non-depository financial institutions, including currency exchangers, retail sellers, sales finance companies, debt collectors, and third party servicers. These categories of businesses are not currently subject to regulation in the District. Many state governments have seen marked increases in abuse allegations and complaints among the types of businesses included in this legislation. The Bill represents the District taking a proactive approach to ensure that consumers are able to engage in safe and reliable transactions with these types of business entities.


The legislation adds critical provisions to the District of Columbia Banking Code, and provides a vehicle for important enhancements to the District's regulatory structure, as well as key protections that will benefit District consumers. The Bill promotes accountability, transparency, and efficiency among institutions that affect the daily lives of District residents, which ultimately will bolster the economic vitality of the District as a whole.

Accordingly, I urge the Council to act favorably and expeditiously on the proposed Bill.

Sincerely,


Muriel Bowser

Enclosures


Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill,
which was referred to the Committee _____.

To regulate the activities of currency exchangers, retail sellers, sales finance companies,
debt collectors, and third party servicers operating in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Financial Services Consumer Protection Act of 2019".

TITLE I. CURRENCY EXCHANGE SERVICES.

Sec. 101. Short title.

This title may be cited as the "Currency Exchange Services Act of 2019".

Sec. 102. Definitions.

For the purposes of this act, the term:

(1) "Applicant" means a person that files an application for a license or to
acquire control of a licensee under this title.

(2) "Commissioner" means the Commissioner of the Department of
Insurance, Securities and Banking.

(3) "Control" means:

34 (A) Ownership of, or the power to vote, directly or indirectly, at
35 least 25% of a class of voting securities or voting interests of a licensee or person in
36 control of a licensee;

37 (B) Power to elect a majority of executive officers, managers,
38 directors, trustees, or other persons exercising managerial authority of a licensee or
39 person in control of a licensee; or

40 (C) The power to exercise, directly or indirectly, a controlling
41 influence over the management or policies of a licensee or person in control of a licensee.

42 (4) "Controlling person" means any person that is a general partner or
43 executive officer, including Chief Executive Officer, Chief Financial Officer, Chief
44 Operations Officer, Chief Legal Officer, Chief Credit Officer, Chief Compliance Officer,
45 Director, and individuals occupying similar positions or performing similar functions
46 who are presumed to control that company.

47 (5) "Conference of State Bank Supervisors" or "CSBS" means the
48 professional association of state officials responsible for chartering, regulating, and
49 supervising state-chartered commercial and savings banks and state-licensed branches
50 and agencies of foreign banks.

51 (6) "Currency" means a medium of exchange or verifiable record that is
52 generally accepted as payment for goods and services and repayment of debts in the
53 United States, or any other country. Currency includes digital or electronic mediums of
54 exchange approved by the Commissioner.

55 (7) "Currency exchange" means exchanging one medium of exchange
56 defined as money under the act for another medium of exchange defined as money under
57 the act, or holding oneself out as able to exchange one medium of exchange for another.

58 (8) "Currency exchanger" means a person that is engaged in currency
59 exchange. The following persons are not considered currency exchangers:

60 (A) A person who provides currency exchange services for a
61 person acting primarily for a business, commercial, agricultural, or investment purpose
62 when the currency exchange is incidental to the transaction;

63 (B) A person who deals in coins or a person who deals in money
64 whose value is primarily determined because it is rare, old, or collectible; or

65 (C) A person who in the regular course of business chooses to
66 accept from a customer the currency of a country other than the United States to complete
67 the sale of a good or service other than currency exchange, that may include cash back to
68 the customer, and does not otherwise trade in currencies or transmit money for
69 compensation or gain.

70 (9) "Department" means the Department of Insurance, Securities and
71 Banking.

72 (10) "Executive officer" means a president, chairperson of the executive
73 committee, chief financial officer, responsible individual, or other individual who
74 performs similar functions.

75 (11) "License application" means an application processed through the
76 Department or its designee, such as the NMLS, or any other person or third party
77 prescribed by the Commissioner.

78 (12) “Licensee” means a person licensed under this title.

79 (13) “Nationwide Multistate Licensing System and Registry” or “NMLS”
80 means a licensing system developed and maintained by the CSBS, the American
81 Association of Residential Mortgage Regulators, or their successors for the licensing and
82 registration of persons engaged in the state-regulated financial service industries.

83 (14) “Person” means an individual, firm, corporation, business trust,
84 estate, trust, partnership, limited liability company, association, 2 or more persons having
85 a joint or common interest, or any other legal or commercial entity, or group of
86 individuals however organized but does not include the United States government, the
87 government of the District of Columbia, or the United States Postal Service.

88 (15) “Principal” means any person who, directly or indirectly, owns or
89 controls 10% or more of the outstanding stock of a stock corporation or 10% or greater
90 interest in a nonstock corporation or a limited liability company.

91 (16) “Record” means information that is inscribed on a tangible medium
92 or that is stored in an electronic or other medium and is retrievable in perceivable form.

93 (17) “Responsible individual” means an individual who is employed by a
94 licensee and has principal managerial authority over the provision of currency exchange
95 services by the licensee in the District.

96 (18) “State” means a State of the United States, the District of Columbia,
97 Puerto Rico, the United States Virgin Islands, or any territory or insular possession
98 subject to the jurisdiction of the United States.

99 (19) “State Regulatory Registry, LLC” or “SRR” means the entity which
100 owns and operates the NMLS, or its successors.

101 (20) “Unique identifier” means a number or other identifier assigned by
102 protocols established by the NMLS.

103 (21) “Unsafe or unsound practice” means a practice or conduct by a
104 person licensed to engage in currency exchange services which creates the likelihood of
105 material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially
106 prejudices the interests of its customers.

107 Sec. 103. Exemptions.

108 The following entities are exempt from the provisions of this title:

109 (1) Banks, trust companies, foreign bank agencies, credit unions, savings
110 banks, and savings and loan associations authorized to do business in the District, or
111 which qualify as federally insured depository institutions;

112 (2) The United States and any department or agency thereof; and

113 (3) The United States Postal Service.

114 Sec. 104. License requirements.

115 (a) No person shall engage in currency exchange services or advertise, solicit, or
116 hold itself out as providing currency exchange services unless the person has first
117 obtained a license under this title.

118 (b) Each licensee shall register with, and maintain a valid unique identifier issued
119 by the NMLS.

120 (c) To qualify for a license, an applicant shall satisfy the Commissioner that the
121 applicant, including its members, officers, directors, and principals is of good moral
122 character and has sufficient financial responsibility, business experience, and general
123 fitness to:

- 124 (1) Engage in business as a currency exchanger;
- 125 (2) Warrant the belief that the business will be conducted lawfully,
126 honestly, fairly, and efficiently; and
- 127 (3) Capitalize the business by maintaining at least \$50,000 of funds
128 available.
- 129 (d) The Commissioner may deny an application for a license to any person who
130 has committed any act prior to the granting of the license that would be a ground for
131 suspension or revocation of a license under this title or who has failed to provide
132 information required by the Commissioner.
- 133 (e) To apply for a license an applicant shall:
- 134 (1) Complete, sign, and submit to the Commissioner an application made
135 under oath on the form, and including the information, that the Commissioner prescribes
136 by rule; and
- 137 (2) Comply with all conditions and provisions of the application for
138 licensure.
- 139 (f) With each application, the applicant shall pay to the Commissioner:
- 140 (1) A nonrefundable application fee in an amount prescribed by the
141 Commissioner by rule;
- 142 (2) A license fee in an amount prescribed by the Commissioner by rule;
- 143 (3) Any required third party fees; and
- 144 (4) Any other fees that the Commissioner prescribes by rule.
- 145 (g) For each license for which an applicant applies, the applicant shall:
- 146 (1) Submit a separate application;

147 (2) Pay the applicable fees prescribed by the Commissioner and any third-
148 party fees, which shall be non-refundable; and

149 (3) File a separate surety bond or other financial guaranty in a manner and
150 amount prescribed by the Commissioner by rule.

151 (h) Any person who may be damaged by noncompliance of a licensee with any
152 condition of the bond may proceed on the bond against the principal or surety thereon, or
153 both, to recover damages.

154 Sec. 105. Issuance of license.

155 (a) The Commissioner may use the NMLS as an agent for requesting information
156 from, and distributing information to, the Federal Bureau of Investigation, the
157 Department of Justice, any governmental agency, or any source so directed by the
158 Commissioner.

159 (b) When an application for an original license under this title is filed with the
160 Department, the Commissioner shall investigate the applicant's financial condition and
161 responsibility, financial and business experience, character, and general fitness. The
162 Commissioner may conduct an on-site investigation of the applicant, the reasonable cost
163 of which the applicant must pay.

164 (c) The Commissioner shall issue a license to an applicant under this title if the
165 Commissioner finds that all of the following conditions have been fulfilled:

166 (1) The applicant has complied with section 104; and

167 (2)(A) The financial condition and responsibility, financial and business
168 experience, competence, character, and general fitness of the applicant indicate that it is

169 in the interest of the public to permit the applicant to engage in currency exchange
170 services; and

171 (B) The competence, experience, character, and general fitness of
172 the executive officers, managers, directors, and persons in control of the applicant
173 indicate that it is in the interest of the public to permit the applicant to engage in currency
174 exchange services.

175 (d) An applicant who is denied a license by the Commissioner under this title
176 may appeal. The applicant may request a hearing within 30 days after receipt of the
177 notice of the denial.

178 (e) A license may not be transferred, assigned, or pledged.

179 Sec. 106. Renewal of license.

180 (a) A license issued under this act shall expire on a date prescribed by the
181 Commissioner by rule. A license may thereafter be renewed for one-year term extensions
182 in a manner prescribed by the Commissioner by rule.

183 Sec. 107. Activities of currency exchanges.

184 (a) The rate of exchange and fees charged by a licensee for rendering currency
185 exchange services shall be prominently displayed to the public at each business location.

186 (b) Licensees shall provide each customer with a written receipt sufficient to
187 identify the transaction, the licensee, the rate of exchange, the fees charged and the
188 amount of currency exchanged.

189 Sec. 108. Examinations.

190 (a) The Commissioner, or his or her designated agent, shall examine the affairs,
191 business, premises, and records of each licensee at least once in every 5-year period and
192 at any other time the Commissioner reasonably considers necessary.

193 (b) For each examination conducted by the Department under this section, the
194 licensee shall pay an examination fee established by the Commissioner by rule, and any
195 reasonable cost incurred by the Department in connection with the examination.

196 (c) Information obtained during an examination under this title may be disclosed
197 only as provided in section 114.

198 Sec. 109. Joint examinations.

199 (a) The Commissioner may conduct an on-site examination of records maintained
200 under section 112 of this title in conjunction with representatives of other District
201 agencies or agencies of another state or of the federal government.

202 (b) In lieu of an examination, the Commissioner may accept the examination
203 report of an agency of the District, another state, the federal government or a report
204 prepared by an independent licensed or certified public accountant.

205 (c) A joint examination or an acceptance of an examination report under this
206 section does not preclude the Commissioner from conducting an examination as provided
207 under this title.

208 (d) A joint report under subsection (a) of this section or a report accepted under
209 subsection (b) of this section shall be an official report of the Commissioner.

210 Sec. 110. Reports.

211 (a) Within 15 days after a material change regarding information previously
212 provided to the Department in a licensee's application, the licensee shall file a report with

213 the Commissioner, in a form prescribed by the Commissioner by rule, providing the
214 material change in information.

215 (b) A licensee shall file a report with the Commissioner within 3 business days
216 after the licensee knows, or has reason to know, of the occurrence any of the following
217 events:

218 (1) The filing of a petition by or against the licensee under the United
219 States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, for bankruptcy, reorganization,
220 arrangement, or other relief;

221 (2) The filing of a petition by or against the licensee for receivership, the
222 commencement of any other judicial or administrative proceeding for the licensee's
223 dissolution or reorganization, or the making of a general assignment for the benefit of its
224 creditors;

225 (3) The commencement of a proceeding to revoke or suspend its license in
226 a state or country in which the licensee engages in business or is licensed;

227 (4) The cancellation or other impairment of the licensee's bond or other
228 security;

229 (5) A charge or conviction of the licensee or of an executive officer,
230 manager, or director of, or person in control of, the licensee for a felony; or

231 (6) Any event or activity that the Commissioner requires, by rule, to be
232 reported by a licensee.

233 Sec. 111. Change in control.

234 (a) Except as provided in this section, no person shall acquire directly or
235 indirectly 25% or more of the voting shares of a corporation or 25% of the ownership of
236 any other entity licensed to conduct business under this title unless such person first:

237 (1) Files an application with the Commissioner in a form prescribed by the
238 Commissioner by rule;

239 (2) Provides any other information to the Commissioner that the
240 Commissioner may require concerning the financial responsibility, background,
241 experience, and activities of the applicant, its directors, officers, principals, and members,
242 and of any proposed new directors, officers, principals, or members of the licensee; and

243 (3) Pays a non-refundable application fee in an amount prescribed by the
244 Commissioner by rule.

245 (b) Upon the filing and investigation of an application to acquire control of a
246 licensee, the Commissioner may permit the applicant to acquire the interest in the
247 licensee if the Commissioner finds that the applicant, its members, if applicable, its
248 directors, officers, and principals and any proposed new directors, members, officers, and
249 principals have the financial responsibility, character, reputation, experience and general
250 fitness to warrant the belief that the business will be operated efficiently and fairly, in the
251 public interest, and in accordance with the law.

252 (c) The Commissioner shall grant or deny the application within 60 days after the
253 date a completed application accompanied by the required fee is filed, unless the period is
254 extended by order of the Commissioner reciting the reasons for the extension. If the
255 application is denied, the Commissioner shall notify the applicant of the denial and the
256 reasons for the denial.

257 (d) The provisions of this section shall not apply to:

258 (1) The acquisition of an interest in a licensee directly or indirectly,
259 including an acquisition by merger or consolidation by or with a person exempt from this
260 title; or

261 (2) The acquisition of an interest in a licensee by a person by bequest,
262 descent, survivorship, or operation of law.

263 (e) The person acquiring an interest in a licensee in a transaction which is exempt
264 from filing an application pursuant to subsection (c) of this section shall send written
265 notice to the Commissioner of the acquisition within 10 days after the closing of the
266 acquisition.

267 (f) The Commissioner may, for good cause, extend the application review period.

268 Sec. 112. Records.

269 (a) For determining its compliance with this title, a licensee shall maintain the
270 records prescribed by the Commissioner by rule, in any form consistent with generally
271 accepted accounting principles and relevant pronouncements of the Financial Accounting
272 Standards Board, for at least 3 years.

273 (b) If any records subject to this section are located outside the District, the
274 licensee shall, at the licensee's option:

275 (1) Make the records available to the Commissioner at a convenient
276 location within the District; or

277 (2) Pay the reasonable and necessary expenses for the Commissioner or
278 the Commissioner's representative(s) to examine the records where they are maintained.

279 Sec. 113. Money laundering reports.

280 (a) Except as provided by subsection (b) of this section, a licensee shall file all
281 reports required by federal currency reporting, record keeping, and suspicious transaction
282 reporting requirements as set forth in 31 U.S.C. § 5311 and other federal and state laws
283 pertaining to money laundering.

284 (b) The timely filing of a complete and accurate report required under subsection
285 (a) of this section with the appropriate federal agency constitutes compliance with the
286 requirements of subsection (a) of this section.

287 Sec. 114. Information sharing.

288 To assist in the performance of the Commissioner's duties under this act, the
289 Commissioner may:

290 (1) Share documents, materials, or other information, including
291 confidential and privileged documents, materials, or information subject to this act, with
292 state, federal, and international regulatory agencies and law enforcement authorities, and
293 with the CSBS, SRR, NMLS, and their affiliates or subsidiaries; provided, that the
294 recipient agrees to maintain the confidentiality and privileged status of the documents,
295 materials, or other information;

296 (2) Receive documents, materials, or information, including confidential
297 and privileged documents, materials, or other information, from state, federal, or
298 international regulatory agencies or law enforcement authorities, or from the CSBS, SRR,
299 NMLS, or their affiliates or subsidiaries, and shall maintain as confidential or privileged
300 any documents, materials, or other information received with notice or the understanding
301 that it is confidential or privileged under the laws of the jurisdiction that is the source of
302 the documents, materials, or other information;

303 (3) Enter into agreements for sharing and using confidential information
304 consistent with this act;

305 (4) Authorize a national criminal background check and submission of
306 fingerprints and other identifying information, submitted through the NMLS, and receive
307 criminal history record information from, the NMLS, the Metropolitan Police
308 Department, and the Federal Bureau of Investigation for the purposes of facilitating
309 determinations regarding eligibility for licensure under this act; and

310 (5) Contract with a third party, including the SRR, the CSBS, or their
311 affiliates or subsidiaries, to perform any functions, including the collection of licensing
312 and processing fees, collection of contact information and other identifying information,
313 fingerprints, written consent to a criminal background check, personal history and
314 experience, and conduct of examinations related to activities covered under this act, that
315 the Commissioner may consider appropriate.

316 Sec. 115. NMLS reporting requirements.

317 The Commissioner shall regularly report violations of this act, as well as
318 enforcement actions and other relevant information, to the NMLS. The reports shall be
319 subject to the provisions of section 114.

320 Sec. 116. NMLS information challenge process.

321 The Commissioner shall establish a process whereby licensees may challenge
322 information entered into the NMLS by the Commissioner.

323 Sec. 117. Confidentiality

324 (a) Except as provided in section 114, all information or reports obtained by the
325 Commissioner from an applicant or licensee and all information contained in or related to

326 examination, investigation, operating, or condition reports prepared by, on behalf of, or
327 for the use of the Commissioner, or financial statements or balance sheets, are
328 confidential and are not subject to disclosure.

329 (b) The Commissioner may disclose information not otherwise subject to
330 disclosure under subsection (a) of this section if the Commissioner finds that the release
331 is reasonably necessary for the protection of the public and in the interests of justice, and
332 the licensee has been given previous notice by the Commissioner of his or her intent to
333 release the information.

334 (c) This section shall not prohibit the Commissioner from disclosing to the public
335 a list of persons licensed under this title or the aggregated financial data concerning those
336 licensees.

337 Sec. 118. Enforcement.

338 (a) The Commissioner, or the Commissioner's designee, shall conduct any
339 enforcement hearing in accordance with the provisions of section 10 of the District of
340 Columbia Administrative Procedure Act, approved October 21, 1968 (Pub. L. 90-614, 82
341 Stat. 1208; D.C. Official Code § 2-509).

342 (b) After notice and hearing, the Commissioner may suspend or revoke a
343 licensee's license if the Commissioner finds that:

344 (1) Any fact or condition exists that, if it had existed at the time when the
345 licensee applied for its license, would have been grounds for denying the application;

346 (2) The licensee's net worth becomes inadequate and the licensee, after 10
347 days written notice from the Commissioner, fails to take such steps as the Commissioner
348 deems necessary to remedy such deficiency;

349 (3) The licensee knowingly violates any provision of this act or any rule or
350 order promulgated by the Commissioner under authority of this act;

351 (4) The licensee is conducting its business in an unsafe or unsound
352 manner;

353 (5) The licensee is insolvent;

354 (6) The licensee has suspended payment of its obligations, has made an
355 assignment for the benefit of its creditors, or has admitted in writing its inability to pay its
356 debts as they become due;

357 (7) The licensee has applied for an adjudication of bankruptcy,
358 reorganization, arrangement, or other relief under any bankruptcy;

359 (8) The licensee refuses to permit the Commissioner to make any
360 examination or investigation authorized by this act, or provide information required by
361 the Commissioner;

362 (9) The licensee engages in fraud, intentional misrepresentation, or gross
363 negligence;

364 (10) The licensee fails to display the fees for rendering currency exchange
365 services on the premises of the currency exchange location in such manner as the
366 Commissioner requires;

367 (11) The licensee willfully fails to make any report required by this act;

368 (12) The licensee has willfully violated any provision of the regulations
369 set forth at 31 C.F.R. Part 103;

370 (13) The competence, experience, character, or general fitness of the
371 licensee, person in control of a licensee, or responsible person of the licensee indicates
372 that it is not in the public interest to permit the person to provide money services; or

373 (14) The licensee engages in false, misleading, or deceptive advertising.

374 (c) In determining whether a licensee is engaging in an unsafe or unsound
375 practice, the Commissioner may consider the size and condition of the licensee's
376 business, the magnitude of the loss, the gravity of the violation of this title, and the
377 previous conduct of the person involved.

378 Sec. 119. Cease and desist orders.

379 Pursuant to section 116 and 117 of the 21st Century Financial Modernization Act
380 of 2000, effective June 9, 2001 (D.C. Law 13-308; D.C. Official Code §§ 26-551.16 and
381 26-551.17), the Commissioner may issue a permanent or temporary cease and desist
382 order against a licensee that is in violation of this title or of a rule adopted or an order
383 issued under this title.

384 Sec. 120. Consent orders.

385 The Commissioner may enter into a consent order at any time with a person to
386 resolve a matter arising under this title or a rule adopted or order issued under this title.
387 A consent order must be signed by the person to whom it is issued or by the person's
388 authorized representative, and must indicate agreement with the terms contained in the
389 order. A consent order may provide that it does not constitute an admission by a person
390 that this title or a rule adopted or an order issued under this title has been violated.

391 Sec. 121. Civil penalties.

392 (a) Any person who violates any provision of this title, any rule or regulation or
393 order issued or promulgated pursuant to this title, or any order of the Commissioner
394 directed to that person, shall be liable for a penalty of not more than \$1,000 per day for
395 each day the violation is outstanding, plus the District's costs and expenses for the
396 investigation and prosecution of the matter, including reasonable attorney's fees.

397 (b) The Commissioner may request the Office of the Attorney General to bring
398 proceedings to recover amounts due to the District under this section.

399 (c) The Commissioner, in the exercise of his or her reasonable judgment, is
400 authorized to compromise, settle, and collect civil penalties with or from any person for
401 violations of any provision of this title, or of any rule, regulation or order issued or
402 promulgated pursuant to this title.

403 Sec. 122. Criminal penalties

404 (a) Any person who knowingly and willfully violates any provision of this title for
405 which a penalty is not specifically provided shall be guilty of a misdemeanor and, upon
406 conviction thereof, shall be fined not more than \$5,000, or imprisoned for not more than
407 1 year, or both.

408 (b) Any person who knowingly and willfully makes a material, false statement in
409 any document filed or required to be filed under this title with the intent to deceive the
410 recipient of the document shall be guilty of a felony and, on conviction thereof, shall be
411 fined not more than \$10,000, or imprisoned for not more than 3 years, or both.

412 (c) Any person who engages in the business of currency exchange without a
413 license as provided herein shall be guilty of a felony and, on conviction thereof, shall be
414 fined not more than \$25,000, or imprisoned for not more than 5 years, or both.

415 Sec. 123. Department’s ability to pursue remedies
416 The remedies and penalties set forth in this act shall not be deemed to be mutually
417 exclusive. The Department may pursue the remedies and penalties jointly and
418 concurrently.

419 **TITLE II. RETAIL SELLERS AND SALES FINANCE COMPANIES.**

420 Sec. 201. Short Title

421 This title may be cited as the “District of Columbia Retail Seller and Sales
422 Finance Company Act of 2019.”

423 Sec. 202. Definitions.

424 For the purposes of this act, the term:

425 (1) “Borrower” means any person obtaining or desiring to obtain a loan of
426 money under this act.

427 (2) “Buyer” means a natural person who buys consumer goods or services
428 from a retail seller in a retail installment transaction.

429 (3) “Consumer goods” means tangible items bought by a natural person
430 for use primarily for personal, family, or household purposes, including certificates or
431 coupons exchangeable for such goods. The term “consumer goods” does not include
432 goods acquired for commercial or business use or resale.

433 (4) “Commissioner” means the Commissioner of the Department of
434 Insurance, Securities and Banking.

435 (5) “Department” means the Department of Insurance, Securities and
436 Banking.

437 (6) "Loan" any installment loan, single pay loan, or open-end loan which
438 may be secured or unsecured by real or personal property.

439 (7) "Loan of money" means each transaction, whatever its form and
440 however designated, which is in truth the borrowing and lending of money, including
441 every transaction where the substance is the advance, directly or indirectly, by a lender to
442 a borrower of any sum of money upon an absolute promise to repay, irrespective of
443 whether the money advanced is the property of the lender or the creditor.

444 (8) "Material litigation" means any litigation that, according to generally
445 accepted accounting principles, is deemed significant to an applicant's or licensee's
446 financial health and would be required to be referenced in that entity's annual audited
447 financial statements, report to shareholders, or similar document.

448 (9) "Nationwide Multistate Licensing System and Registry" or "NMLS"
449 means a licensing system developed and maintained by the CSBS, the American
450 Association of Residential Mortgage Regulators, or their successors for the licensing and
451 registration of persons engaged in the state-regulated financial service industries.

452 (10) "Open-end credit" means consumer credit extended on an account
453 pursuant to a plan under which the following apply:

454 (A) The seller may permit the customer to make purchases or
455 obtain services, from time to time, directly from the seller or indirectly by use of a credit
456 card, or other device, as the plan may provide;

457 (B) The buyer may pay the balance in full or in installments; and

458 (C) A finance charge, as determined by section 106(a) of the Truth
459 in Lending Act (Pub. L. 90-321, 82 Stat. 148; 15 U.S.C. § 1605(a)), as applicable to retail
460 transactions, may be computed from time to time on an outstanding unpaid balance.

461 (D) The term “open end credit” does not include negotiated
462 advances under an open end real estate mortgage or letter of credit.

463 (11) “Person” means an individual, firm, corporation, business trust,
464 estate, trust, partnership, limited liability company, association, 2 or more persons having
465 a joint or common interest, or any other legal or commercial entity, or group of
466 individuals however organized but does not include the United States government, the
467 government of the District of Columbia, or the United States Postal Service.

468 (12) “Retail installment contract” means a contract entered into by a buyer
469 and a seller evidencing a retail installment transaction involving other than open end
470 credit.

471 (13) “Retail installment transaction” means any retail transaction between
472 a buyer and a seller in which there is an agreement for the purchase of consumer goods or
473 services, or both, for which the price is to be paid in one or more deferred installments
474 and the “amount financed” (as defined by Regulation Z, 12 C.F.R. § 1026.18(b)) does not
475 exceed \$25,000. The term “retail installment transaction” shall include open end credit
476 and other than open end transactions, and shall also include any transactions involving a
477 contract in the form of a bailment or a lease if the bailee or lessee contracts to pay
478 compensation for the use of the consumer goods or services, or both, which are the
479 subject of that contract and it is agreed that the bailee or lessee is bound to become or, for
480 no further (or a merely nominal) consideration, has the option, upon full compliance with

481 the provisions of the bailment or lease, of becoming the owner of the consumer goods or
482 services or both. The term “retail installment transaction” shall not include any retail
483 transaction in which all of the following conditions apply:

484 (A) The purchase price is to be paid in full within not more than 90
485 days from the initial billing date;

486 (B) No security interest in the consumer goods is retained by the
487 seller and no other collateral or security is required or accepted by the seller; and

488 (C) No charge is made as consideration for the deferral of payment
489 or as an incident to the extension of credit.

490 (14) “Sales finance company” means any person who, in the District,
491 regularly purchases retail installment contracts or other evidences of indebtedness arising
492 from retail installment transactions.

493 (15) “Seller” means a person engaged in the business of selling consumer
494 goods or services involving retail installment transactions in the District.

495 (16) “Series of sales” means a series of consumer credit sales transactions
496 made pursuant to an agreement providing for the addition of the deferred payment price
497 of that sale to an existing outstanding balance, where the person to whom the credit is
498 extended has approved in writing both the annual percentage rate or rates and the method
499 of computing the finance charge or charges, and where the creditor retains no security
500 interest in any property as to which he has received payments aggregating the amount of
501 sales price including any finance charges attributable thereto. For items purchased on
502 different dates, the first purchased shall be deemed first paid for, and for items purchased
503 on the same date, the lowest priced shall be deemed first paid for.

504 (17) "Services" means work, labor, or other kind of activity furnished, or
505 agreed to be furnished, in connection with the delivery, installation, servicing, repair, or
506 improvement of consumer goods. The term "services" shall not include work, labor, or
507 other activity furnished, or agreed to be furnished, for which the price or tariff charged or
508 to be charged is required by law to be determined by, approved by, filed with, or subject
509 to the approval or disapproval of, the United States, the District, or a department,
510 division, agency, officer, or official thereof.

511 Sec. 202. Truth in Lending; federal law and regulations.

512 (a) Except as otherwise specifically provided in this act, the following sections of
513 the Truth in Lending Act (Pub. L. 90-321, 82 Stat. 146, 15 U.S.C. § 1601 et seq.), as
514 amended, are incorporated into this act by reference:

- 515 (1) Section 106 - Determination of finance charge;
- 516 (2) Section 107 - Determination of annual percentage rate;
- 517 (3) Section 121 - General requirements of disclosure;
- 518 (4) Section 122 - Form of disclosure;
- 519 (5) Section 124 - Effect of subsequent occurrence;
- 520 (6) Section 127 - Open end consumer credit plans;
- 521 (7) Section 128 - Sales not under open end credit plans;
- 522 (8) Section 141 - Catalogs and multiple-page advertisements;
- 523 (9) Section 142 - Advertising of down payments and installments;
- 524 (10) Section 143 - Advertising of open end credit plans;
- 525 (11) Section 144 - Advertising of credit other than open end plans; and
- 526 (12) Section 145 - Non-liability of media.

527 (b) Failure of any person covered by this act to comply with the sections of the
528 Truth in Lending Act incorporated by reference in this section, and the regulations
529 thereunder, shall constitute a violation of this act.

530 (c) Except to the extent provided in this act, compliance with the incorporated
531 sections of the Truth in Lending Act shall constitute compliance with this section.

532 Sec. 203. Requirement of license.

533 Except as provided in section 204, no person shall act as a retail seller or sales
534 finance company without first obtaining a license from the Commissioner pursuant to this
535 act. Each licensee shall register with, and maintain a valid unique identifier issued by, the
536 NMLS.

537 Sec. 204. Exemptions.

538 The provisions of this act shall not apply to the following:

539 (1) Banks, credit unions, trust companies, building and loan associations,
540 and savings and loan associations organized under the laws of the United States or of the
541 District or authorized to do business in the District.

542 Sec. 205. Application requirements; renewal.

543 (a) A license application under this act shall be filed on a form prescribed by the
544 Commissioner by rule, including all information required by the Commissioner,
545 applicable fees as prescribed by the Commissioner, and any third-party fees.

546 (b) In its application, an applicant for a license as a retail seller or sales finance
547 company shall demonstrate to the Commissioner that the applicant is of good moral
548 character and has sufficient financial responsibility, business experience, and general
549 fitness to:

550 (1) Engage in business as a retail seller or sales finance company;

551 (2) Warrant the belief that the business will be conducted lawfully,
552 honestly, fairly, and efficiently; and

553 (3) Command the confidence of the public.

554 (c) The Commissioner is authorized, for good cause shown, to waive any
555 requirement of this section with respect to any license application or to permit a license
556 applicant to submit substituted information in its license application in lieu of the
557 information required by this section.

558 (d) The Commissioner may require that an applicant applying for licensure under
559 this act, and any such other person as the Commissioner considers appropriate, submit his
560 or her name, contact information and other identifying information, fingerprints, written
561 consent to a criminal background check, an independent credit report, and information
562 related to any administrative, civil, or criminal findings by any governmental jurisdiction
563 with the applicant's license application.

564 (e) The Commissioner may use the NMLS as an agent for requesting information
565 from, and distributing information to, the Federal Bureau of Investigation, the
566 Department of Justice, any governmental agency, or any source so directed by the
567 Commissioner.

568 (f) If an applicant wishes to do business as a collection agency or third party loan
569 servicer at more than one place, the applicant shall submit a separate application and pay
570 a separate application fee for each location at which the applicant proposes to conduct
571 business.

572 (g) A license issued under this act shall expire on a date prescribed by the
573 Commissioner by rule.

574 (h) At least 30 days before a license expires, the licensee may renew the license
575 for an additional one-year term, if the licensee:

576 (1) Satisfies all renewal requirements, and pays all applicable fees that the
577 Commissioner prescribes by rule, as well as any third-party fees; and

578 (2) Files with the Commissioner a bond or bond continuation certificate
579 as required under section 402.

580 Sec. 205. Granting of license.

581 Upon the filing of an application in proper form, including the required fee and
582 accompanying documents, the Commissioner shall issue to the applicant a license to act
583 as a retail seller or sales finance company in the District, unless the Commissioner finds
584 that the requirements prescribed by this act have not been met or the application is
585 incomplete or incorrect.

586 Sec. 206. Issuance and form of license.

587 (a) A license to act as a retail seller or sales finance company shall state:

588 (1) The name of the licensee;

589 (2) The date of issuance and of expiration of the license;

590 (3) Type of license; and

591 (4) The address at which the business is to be conducted.

592 (b) A person may not conduct a retail sales or sales finance company business at
593 any location or under any name different from the address and name that appears on the
594 person's license.

595 (c) A license shall remain in force until it has expired or been surrendered,
596 revoked, or suspended. The expiration, surrender, revocation, or suspension of a license
597 shall not affect any pre-existing legal right or obligation of such licensee.

598 (d) A license may not be transferred, assigned, or pledged.

599 Sec. 207. Retail installment contracts disclosures.

600 (a) To the extent that the disclosure of “cash price” includes the cash price of
601 delivery, installation, servicing, repairs, alterations, or improvements, the charge made
602 for such items shall be stated. For the purposes of this section, the amount by which the
603 cash price stated in a retail installment contract exceeds the cash price of goods or
604 services offered by the seller to other buyers in the ordinary course of business shall be
605 deemed a finance charge.

606 (b) Each retail installment contract shall include the name, address, and telephone
607 number, if any, of both the seller and the buyer.

608 (c) Each retail installment contract shall contain a description of the consumer
609 goods or services purchased, including, where applicable, the trade name, and the model
610 number of the consumer goods.

611 (d) The contract shall state if the consumer goods are used, seconds, or damaged.

612 (e) If the seller takes collateral to secure the buyer’s obligations under the
613 agreement, a description of the collateral shall be described in the contract.

614 (f) The seller shall disclose whether a financial benefit could inure to the seller by
615 way of commission, rebate, or otherwise resulting from the buyer’s obtaining any
616 insurance coverage offered or arranged for by the seller if the seller, in connection with a
617 retail installment contract, offers or arranges for any of the following:

- 618 (1) Credit life, accident, or health insurance;
619 (2) Insurance against loss of or damage to property;
620 (3) Insurance against liability arising out of ownership or use of property;
621 or
622 (4) Insurance protecting the seller against the buyer's default or other
623 credit loss.

624 Sec. 208. Form and content of retail installment contracts.

625 Except in a series of sales transactions, each retail installment contract shall be
626 contained in a single document in a form prescribed by the Commissioner by rule, each
627 page of which shall be signed by both the buyer and the seller.

628 Sec. 209. Delivery of copy of retail installment contracts.

629 (a) The seller shall deliver in person to the buyer, or mail to the buyer at the
630 buyer's address shown on the retail installment contract or at the buyer's last known
631 address (if more recent than the address shown on the retail installment contract), a
632 legible, executed, and completed copy of the contract before the delivery of the consumer
633 goods or services or before the consummation of the transaction, whichever occurs first.

634 (b) If the transaction is one of a series of sales, the other disclosures for the
635 particular sale required by section 207, section 208, this section, and any applicable rules
636 may be made at any time before the date the first payment for that sale is due, if the seller
637 furnishes the buyer a memorandum of the sale when either:

- 638 (1) The sale is consummated; or
639 (2) The goods are delivered.

640 (c) The memorandum of sale shall clearly set forth the following:

641 (1) The cash price of the goods or services sold;

642 (2) A statement that the goods are used, seconds, or damaged, if

643 applicable; and

644 (3) The insurance disclosure required by section 207(f).

645 Sec. 210. Additional disclosures with respect to open end credit.

646 (a) The seller shall disclose whether a financial benefit could inure to the seller by

647 way of commission, rebate, or otherwise resulting from the buyer's obtaining any

648 insurance coverage offered or arranged for by the seller if the seller, in connection with

649 an open end credit account, offers or arranges for any of the following:

650 (1) Credit life, accident, or health insurance;

651 (2) Insurance against loss of or damage to property;

652 (3) Insurance against liability arising out of ownership or use of property;

653 or

654 (4) Insurance protecting the seller against the buyer's default or other

655 credit loss.

656 (b) The disclosure required by subsection (a) of this section shall be made before

657 the first transaction on an open end credit account in a single written statement which the

658 customer may retain.

659 (c) If any goods sold pursuant to an open end credit account are used, seconds, or

660 damaged, the seller shall disclose that fact in writing to the buyer at the time of the sale.

661 The disclosure may be made on a sales receipt issued in connection with the sale.

662 Sec. 211. Prohibition against signing blank or incomplete contract form.

663 No person covered by this act shall cause or permit any contract or other
664 document relating to a retail installment transaction to be signed by the buyer before all
665 blank spaces (other than signature spaces) are filled in with easily legible writing and
666 such seller has submitted to the buyer the completed contract or other document and
667 given the buyer a reasonable opportunity to examine it.

668 Sec. 212. Acknowledgment of delivery of contract.

669 Any acknowledgment by the buyer of delivery of a copy of the contract shall be a
670 rebuttable presumption of that delivery.

671 Sec. 213. Requirement for property insurance prohibited.

672 (a) Except as provided by subsection (b) of this section, no seller, as a condition
673 to the extension of credit, shall require a buyer to obtain insurance against loss of or
674 damage to property which is the subject of a sale, or against liability arising out of the
675 ownership or use of the property.

676 (b) Subsection (a) of this section shall not apply to transactions where the sales
677 price of the property is \$1,000 or more.

678 (c) If the sales price of property sold is \$1,000 or more, the amount of loss or
679 damage insurance a seller may require a buyer to obtain, as a condition to the extension
680 of credit to the buyer, shall not exceed the sales price of the property insured.

681 Sec. 214. Validity of completion certificate.

682 In any transaction involving the modernization, rehabilitation, repair, alteration,
683 improvement, or construction of real property, a document signed by the buyer
684 acknowledging that the work has been satisfactorily completed shall not be valid or of

685 any effect unless the work to be performed by the seller has been actually completed
686 before the time of signing.

687 Sec. 215. Waiver prohibited.

688 (a) Except as provided in section 219(b) through (d), no provision shall be
689 inserted in any retail installment contract, contract extension, or refinancing agreement
690 designed to nullify and make ineffective the provisions of this act, or otherwise deprive a
691 buyer of the protection afforded by this act.

692 (b) No provision shall be inserted in any contract or agreement by which the
693 buyer waives or purports to waive any provision of this act.

694 (c) The insertion in any contract or agreement of a provision designed or intended
695 to nullify this section, or to waive the requirements of this section, shall constitute a
696 violation of this act, and the provision shall be void and of no effect.

697 Sec. 216. Prohibited contract form provisions.

698 (a) No person subject to this act shall use any contract form or any other
699 instrument arising in connection with a retail installment transaction which contains any
700 of the following:

701 (1) Any schedule of payments under which any one installment, except the
702 down payment, is not equal or substantially equal to all other installments, excluding the
703 down payment, or under which the intervals between any consecutive installments differ
704 substantially, except as follows:

705 (A) The intervals for the first installment payment may be longer
706 or shorter than the other intervals;

707 (B) The final installment payment may be less in amount than the
708 preceding installment payment; and

709 (C) If a buyer's livelihood is dependent upon seasonal or
710 intermittent income, the seller and the buyer may agree that one or more installment
711 payments in the schedule of payments may be reduced or deferred;

712 (2) Any provision for the acceleration of the time when any part or all of
713 the indebtedness becomes payable other than for a substantial default in payment or
714 performance by the buyer, or on the same grounds that would authorize an attachment
715 before judgment under section 16-501 of An Act to enact Part II of the District of
716 Columbia Code, entitled "Judiciary and Judicial Procedure," approved December 23,
717 1963 (Pub. L. 88-241, 77 Stat. 543-544; D.C. Official Code §§ 16-501(d)(3)-(5));

718 (3) Any provision by which the buyer agrees not to assert against a seller,
719 or against an assignee, any claim or defense arising from the sale of the consumer goods
720 or services which are the subject matter of the contract;

721 (4) Any provision by which the buyer grants authority to the seller or
722 assignee to enter the buyer's premises without consent of the buyer obtained immediately
723 before entering the premises to repossess the collateral security, if any;

724 (5) Any provision by which the buyer waives any right of action against
725 the seller, assignee, or other person acting on behalf of either, for any illegal act
726 committed in the collection of payments under the contract or in the repossession of
727 goods;

728 (6) Any provision whereby the buyer executes a power of attorney
729 appointing the seller, assignee, or other persons acting in the seller's behalf, as the

730 buyer's agent in the collection of payments under the contract or in the repossession of
731 collateral security;

732 (7) Any provision for the payment by the buyer of attorney's fees incurred
733 by the seller or the seller's assignee in the collection of the debt created by the contract;
734 or

735 (8) Any provision permitting a seller or seller's assignee on default of the
736 buyer to take possession of the goods sold under the contract, unless the contract
737 expressly waives all claims against the buyer for any deficiency between the proceeds of
738 the disposition and the outstanding balance due on the contract.

739 (b) Notwithstanding any other provision of this section, any written provision in a
740 retail installment contract or agreement which provides for settlement by arbitration of
741 any controversy thereafter arising out of or related to the contract or agreement or breach
742 of the contract or agreement, or any agreement in writing to submit to arbitration of any
743 controversy, shall not be unenforceable or made invalid by reason of this section.

744 Sec. 217. Receipts: statement of account.

745 (a) When any payment is made on account of any retail installment contract, the
746 seller or an assignee, receiving the payment shall, if the payment is made in cash, give the
747 buyer a written receipt for the payment including the date and amount of payment.

748 (b) If the buyer specifies that the payment is made on one of several obligations,
749 the receipt shall state the obligation(s) to which the payment is to be applied.

750 (c) With respect to other than an open end credit plan, within 6 months after the
751 execution of a retail installment transaction, and within every six-month period thereafter
752 until the buyer has discharged all obligations under the contract, the seller or a

753 subsequent assignee, in addition to any other statements or notices required by this
754 section, shall send to the buyer upon written request a statement of account which shall
755 include information about the status of the transaction that the Commissioner prescribes
756 by rule.

757 (d) The buyer shall be entitled to only one statement under this section in any six-
758 month period free of charge. An amount prescribed by the Commissioner by rule may be
759 charged for each additional written statement requested by the buyer before supplying the
760 additional written statement.

761 Sec. 218. Acknowledgement of payment in full.

762 (a) Promptly on written request and in any event within 60 days after payment of
763 all sums for which the buyer is obligated under a retail installment contract, the seller or
764 assignee shall mail or deliver to the buyer sufficient instruments to indicate payment in
765 full and to release all security in the collateral, if any, under the contract.

766 (b) Delivery, including delivery by mail, of the instruments shall be to the buyer's
767 last known address.

768 Sec. 219. Default and repossession.

769 (a) If a buyer is in default in the payment of any sum due under a contract subject
770 to this title or in the performance of any lawful condition imposed by the contract, the
771 seller or seller's assignee may when authorized by law repossess the goods secured under
772 the contract.

773 (b) Unless the goods can be repossessed with the permission of the possessor
774 obtained immediately before the repossession, and without use of force, intimidation,

775 undue influence, fraud, or breach of the peace, the goods shall be not repossessed except
776 by legal process.

777 (c) Nothing in this section shall be construed to authorize violation of the criminal
778 laws of the District.

779 (d) The disposition of repossessed goods and the application of any sums realized
780 by the disposition, shall be in accordance with applicable statutory law, including
781 Sections 28:9-505 and 28:9-615 of the District of Columbia Official Code.

782 (e) The seller or the seller's assignee shall account to the buyer for any surplus
783 from the proceeds of disposition as provided by Section 28:9-615 of the District of
784 Columbia Official Code, notwithstanding the absence of buyer liability for a deficiency.

785 Sec. 220. Duties on repossession and buyer's right of redemption.

786 (a) Within 5 days after any consumer goods are repossessed, the seller or
787 subsequent assignee shall deliver to the buyer personally, or send to the buyer by
788 registered or certified mail to the buyer's last known address, a written notice stating the
789 following:

790 (1) A general description of the goods and a statement that the goods have
791 been repossessed;

792 (2) The buyer's right to redeem and the amount due and payable;

793 (3) The buyer's rights with respect to resale of the goods; and

794 (4) The exact address where the consumer goods are stored and the exact
795 address where any payment is to be made or notice delivered.

796 (b) For 30 days after notice has been delivered personally or mailed, the seller or
797 assignee shall retain the repossessed goods, during which period the buyer may redeem
798 the goods and become entitled to take possession of the goods.

799 (c) If the seller or assignee does not maintain a place of business within the
800 District at which the buyer may exercise redemption rights, goods repossessed within the
801 District may not be removed from the District unless the goods are repossessed pursuant
802 to legal process and an adequate bond is posted to protect the buyer.

803 (d) Whenever repossessed goods are removed from the District, no fee or cost
804 shall be charged to the buyer for transporting the goods outside the District, and upon
805 redemption the goods shall be returned and made available to the buyer within the
806 District without additional transportation charges.

807 (e) Notwithstanding any other provisions of this act, the redemption period
808 provided in this section may be waived by written agreement between the buyer and the
809 seller following repossession of the goods.

810 (f) To redeem the consumer goods, the buyer shall do the following:

811 (1) Pay or tender the amount due under the installment contract;

812 (2) Perform or tender performance of any other promise for the breach of
813 which the consumer goods were repossessed; and

814 (3) Pay actual and reasonable charges for repossession and storage.

815 **TITLE III. DEBT COLLECTION AGENCIES AND THIRD PARTY**

816 **LOAN SERVICERS.**

817 Sec. 301. Short Title.

818 This act may be cited as the “District of Columbia Debt Collection Agency and
819 Third Party Loan Servicer Act of 2019”.

820 Sec. 302. Definitions.

821 For the purposes of this act the term:

822 (1) “Borrower” means the person(s) who owes money under a consumer
823 claim.

824 (2) “Collection agency” means a person who engages directly or indirectly
825 in the business of:

826 (A) Collecting for, or soliciting from another, a consumer claim; or
827 collecting a consumer claim the person owns, if the claim was in default when the person
828 acquired it;

829 (B) Collecting a consumer claim the person owns, using a name or
830 other artifice that indicates that another party is attempting to collect the consumer claim;

831 (C) Giving, selling, attempting to give or sell to another, or using,
832 for collection of a consumer claim, a series or system of forms or letters that indicates
833 directly or indirectly that a person other than the owner is asserting the consumer claim;
834 or

835 (D) Employing the services of an individual or business to solicit
836 or sell a collection system to be used for collection of a consumer claim.

837 (3) “Commissioner” means the Commissioner of the Department of
838 Insurance, Securities and Banking.

839 (4) “Common ownership” means direct or indirect ownership of more than
840 50% of a person as defined under this title.

841 (5) “Consumer claim” means a claim that:
842 (A) Is for money owed or said to be owed by a resident of the
843 District; and
844 (B) Arises from a transaction in which, for a family, household, or
845 personal purpose, the resident sought or got credit, money, personal property, real
846 property, or services.

847 (6) “License” means a license issued by the Commissioner to do business
848 as a collection agency.

849 (7) “Licensed collection agency” means a person who is licensed by the
850 Department of Insurance, Securities and Banking to do business as a collection agency.

851 (8) “Nationwide Multistate Licensing System and Registry” or “NMLS”
852 means a licensing system developed and maintained by the CSBS, the American
853 Association of Residential Mortgage Regulators, or their successors for the licensing and
854 registration of persons engaged in the state-regulated financial service industries.

855 (9) “Person” means an individual, firm, corporation, business trust, estate,
856 trust, partnership, limited liability company, association, 2 or more persons having a joint
857 or common interest, or any other legal or commercial entity, or group of individuals
858 however organized but does not include the United States government, the government of
859 the District of Columbia, or the United States Postal Service.

860 (10) “Principal business” means a business activity of a person that
861 comprises more than 50% of the total business activities of the person.

862 (11) “Servicing” means receiving a scheduled periodic payment from a
863 borrower pursuant to the terms of a loan, including amounts for escrow accounts, and

864 making the payments to the owner of the loan or other third party of principal and interest
865 and other payments with respect to the amounts received from the borrower as may be
866 required pursuant to the terms of the servicing loan document or servicing contract. For a
867 home equity conversion mortgage or reverse mortgage as referenced to in this section,
868 servicing includes making payments to the borrower.

869 (12) "Third party loan servicer" means a person who uses an
870 instrumentality of interstate commerce or the mails in any business for the principal
871 purpose of servicing a loan directly or indirectly, owed or due, or asserted to be owed or
872 due another.

873 Sec. 303. License required; exceptions.

874 (a) No person shall engage in business as a collection agency or a third party loan
875 servicer without obtaining a license issued by the Commissioner pursuant to this act,
876 except as otherwise provided in this section. Each licensee shall register with, and
877 maintain a valid unique identifier issued by the NMLS.

878 (b) This section does not apply to:

879 (1) A bank;

880 (2) A federal or state credit union;

881 (3) A mortgage lender acting within the scope of that license;

882 (4) A person acting under an order of a court of competent jurisdiction;

883 (5) A licensed real estate broker, or an individual acting on behalf of the
884 real estate broker, in the collection of rent or allied charges for property;

885 (6) A savings and loan association;

886 (7) A title company as to its escrow business;

- 887 (8) A trust company;
- 888 (9) A student loan servicer licensed and operating pursuant to section 7(b)
889 of the Department of Insurance and Securities Regulation Establishment Act of 1996,
890 effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-106.02)
- 891 (10) A lawyer, who does not engage debt collection or servicing as a
892 regular part of his practice, who is collecting a debt for a client, unless the lawyer has an
893 employee who:
- 894 (A) Is not a lawyer; and
- 895 (B) Is engaged primarily to solicit debts for collection or primarily
896 makes contact with a debtor to collect or adjust a debt through a procedure identified with
897 the operation of a collection agency; or
- 898 (11) A person who is collecting a debt for another person if:
- 899 (A) Both persons are related by common ownership;
- 900 (B) The person who is collecting a debt does so only for those
901 persons to whom it is related by common ownership;
- 902 (C) The principal business of the person who is collecting a debt is
903 not the collection of debts; and
- 904 (D) Before collecting a debt, the person files with the
905 Commissioner the correct name of the person, an address and telephone number of a
906 contact person and the name of the person's registered agent;
- 907 (12) A regular employee of a creditor while the employee is acting under
908 the general direction and control of the creditor to collect a consumer claim that the
909 creditor owns; or

910 (13) A regular employee of a licensed collection agency while the
911 employee is acting within the scope of employment.

912 Sec. 304. Application requirements; renewal.

913 (a) A license application under this act shall be filed on a form prescribed by the
914 Commissioner by rule, including all information required by the Commissioner.

915 (b) In its application, an applicant for a license as a collection agency or third
916 party loan servicer shall demonstrate to the Commissioner that the applicant is of good
917 moral character and has sufficient financial responsibility, business experience, and
918 general fitness to:

919 (1) Engage in business as a collection agency or third party loan servicer;

920 (2) Warrant the belief that the business will be conducted lawfully,
921 honestly, fairly, and efficiently; and

922 (3) Command the confidence of the public.

923 (c) The Commissioner is authorized, for good cause shown, to waive any
924 requirement of this section with respect to any license application or to permit a license
925 applicant to submit substituted information in its license application in lieu of the
926 information required by this section and any applicable rules.

927 (d) The Commissioner may require that an applicant applying for licensure under
928 this act, and any such other person as the Commissioner considers appropriate, submit his
929 or her name, contact information and other identifying information, fingerprints, written
930 consent to a criminal background check, an independent credit report, and information
931 related to any administrative, civil, or criminal findings by any governmental jurisdiction
932 with the applicant's license application.

933 (e) The Commissioner may use the NMLS as an agent for requesting information
934 from, and distributing information to, the Federal Bureau of Investigation, the
935 Department of Justice, any governmental agency, or any source so directed by the
936 Commissioner.

937 (f) If an applicant wishes to do business as a collection agency or third party loan
938 servicer at more than one place, the applicant shall submit a separate application and pay
939 a separate application fee for each location at which the applicant proposes to conduct
940 business.

941 (g) A license issued under this act shall expire on a date prescribed by the
942 Commissioner by rule.

943 (h) At least 30 days before a license expires, the licensee may renew the license
944 for an additional one-year term, if the licensee:

945 (1) Satisfies all renewal requirements, and pays all applicable fees that the
946 Commissioner prescribes by rule, as well as any third-party fees; and

947 (2) Files with the Commissioner a bond or bond continuation certificate
948 as required under section 402.

949 Sec. 305. Approval or denial of application.

950 (a) A license authorizes the licensee to do business as a collection agency or third
951 party loan servicer at only one place of business.

952 (b) The Commissioner may deny an application for a license to any person who:

953 (1) Has committed any act that would be grounds for reprimand,
954 suspension, or revocation of a license under this section; or

955 (2) Otherwise fails to meet the requirements for licensure.

956 (c) The Commissioner may deny an application if it contains erroneous or
957 incomplete information.

958 (d) An applicant who seeks a hearing on a license application denial shall file a
959 written request for a hearing within 30 days following receipt of the notice to the
960 applicant of the applicant's right to a hearing.

961 Sec. 306. Surrender of license.

962 (a) A licensee may surrender a license by giving the Commissioner written notice
963 that the license is surrendered.

964 (b) Surrender of a license does not affect:

965 (1) The civil or criminal liability of the licensee for an act committed
966 before surrender of the license; or

967 (2) The obligation of a claim that the licensee lawfully acquired before the
968 surrender.

969 **TITLE IV. BONDING AND ENFORCEMENT PROVISIONS.**

970 Sec. 401. Applicability

971 This title shall apply to the District of Columbia Retail Seller and Sales Finance
972 Company Act of 2019 and the District of Columbia Debt Collection Agency and Third
973 Party Loan Servicer Act of 2019.

974 Sec. 402. Bond requirement.

975 (a) When filing a new or renewal license application pursuant to sections 205 or
976 304, each applicant shall file with the Commissioner a bond for an amount prescribed by
977 the Commissioner by rule for each location from which the applicant proposes in the
978 license application to conduct business.

979 (b) The bond shall be issued by a surety company authorized to issue such bonds
980 in the District.

981 (c) The bond shall be in a form satisfactory to the Commissioner and shall run to
982 the District for the benefit of any claimants against a licensee to secure the faithful
983 performance of the obligations of the licensee with respect to any law or regulation
984 governing the activities of the licensee. The aggregate liability of the bond shall not
985 exceed the principal sum of the bond.

986 (d) The applicant shall be the obligor of the bond.

987 (e) The bond shall be conditioned upon the observance by the applicant of all the
988 provisions of this act and of all rules and regulations lawfully made by the Commissioner
989 under this act.

990 (f) The bond shall remain in effect until cancellation, which may occur only after
991 30 days' written notice to the Commissioner. The surety shall be relieved of liability for
992 any breach of condition occurring after the effective date of the cancellation. Cancellation
993 shall not affect any liability incurred or accrued during the period prior to the
994 cancellation.

995 (g) Any license issued pursuant to this section shall be revoked, and void, by
996 operation of law during any period when the bond required by this section is not in full
997 force and effect.

998 (h) If the Commissioner reasonably determines that a bond required by this act is
999 insecure, deficient in amount, or exhausted in whole or in part, or if the surety on the
1000 bond has notified the Commissioner of its intention to cancel the bond, the Commissioner
1001 may, by written order, require the filing of a new or supplemental bond to secure

1002 compliance with this act. The licensee shall comply with the order within 20 days
1003 following service of the order upon the licensee.

1004 Sec. 403. Enforcement.

1005 (a) If the Commissioner has a reasonable basis to believe that any licensee or
1006 person required to have a license pursuant to sections 203 and 303 has violated this act,
1007 the Commissioner may give notice to that person of the Commissioner's intent to hold a
1008 hearing to determine whether a cease and desist order with respect to the violation(s)
1009 should be issued.

1010 (b) The hearing shall be scheduled at least 15 days after the date of the notice. The
1011 notice of hearing shall state the time and place for the hearing and the alleged
1012 violation(s).

1013 (c) The notice of hearing shall be served upon the licensee or person required to
1014 have a license, referenced in subsection (a) of this section, personally or by one of the
1015 following means:

1016 (1) By leaving the notice at the last business address (or home address, if
1017 there is no business address) of which the Department has been given notice by the
1018 person complained against; or

1019 (2) By mailing the notice by certified mail to the last business address (or
1020 home address if there is no business address) of which the Department has been given
1021 notice by the person complained against; or

1022 (3) By mailing the notice by certified mail to the address of the person
1023 complained against or that person's registered agent, if person complained against is a
1024 non-resident.

1025 (d) The Commissioner, or the Commissioner's designee, shall conduct the hearing
1026 in accordance with the provisions of section 10 of the District of Columbia
1027 Administrative Procedure Act, approved October 21, 1968 (Pub. L. 90-614, 82 Stat.
1028 1208; D.C. Official Code § 2-509).

1029 (e) At the conclusion of the hearing, if the Commissioner or the Commissioner's
1030 designee determines, upon the preponderance of testimony and evidence that the person
1031 complained against has violated this act, the Commissioner or designee shall do one of
1032 the following:

1033 (1) State the findings and issue an order requiring the person complained
1034 against to cease and desist from the unlawful conduct and to take affirmative action
1035 including restitution as will effectuate the purposes of this act, with notice that if the
1036 Department determines that the person complained against has not, after 15 calendar days
1037 following service of its order, corrected the unlawful practice and complied with the
1038 order, the Commissioner will certify the matter to the Office of the Attorney General and
1039 to such other agencies, as may be appropriate, for enforcement; or

1040 (2) Immediately certify the matter to the Office of the Attorney General
1041 for civil or criminal enforcement pursuant to this section.

1042 (f) Failure to comply with an order issued pursuant to this section shall constitute
1043 grounds for suspension of licensure.

1044 (g) Any certification under this section, for the purpose of a civil proceeding, shall
1045 constitute a determination that there exists a prima facie case of violation of this act.

1046 (h) The Office of the Attorney General may institute such civil proceedings in the
1047 name of the District in an appropriate court, including the seeking of such restraining

1048 orders and temporary or permanent injunctions as are necessary to obtain complete
1049 compliance with the orders of the Commissioner.

1050 (i) If, at any time after a complaint has been filed, the Commissioner believes that
1051 appropriate civil action to preserve the status quo or to prevent irreparable harm appears
1052 advisable, the Commissioner may certify the matter to the Office of the Attorney General
1053 who may bring, in the name of the District, in an appropriate court, any action necessary
1054 to preserve such status quo or to prevent such harm, including the seeking of temporary
1055 restraining orders and preliminary injunctions.

1056 (j) If at the conclusion of the hearing, the Commissioner, or the Commissioner's
1057 designee determines, upon the preponderance of the testimony and evidence that the
1058 person complained against has not violated this act, the Commissioner or designee shall
1059 state his or her findings and issue an order dismissing the complaint.

1060 Sec. 404. Penalties.

1061 (a) A person violating any provision of this act shall be subject to a fine or penalty
1062 not exceeding \$1,000 or imprisonment for not more than 90 days for each violation.
1063 Prosecutions for violations of this act or any rules issued pursuant to this act shall be
1064 conducted in the Superior Court of the District of Columbia by the Office of the Attorney
1065 General in the name of the District.

1066 (b) Civil fines, penalties, and fees may be imposed as alternative sanctions for any
1067 infraction of this act.

1068 (c) The remedies and penalties set forth in this section shall not be deemed to be
1069 mutually exclusive. The Department may pursue the remedies and penalties jointly and
1070 concurrently.

1071 (d) Nothing in this act shall prevent any person from exercising any right or
1072 seeking any remedy to which he might otherwise be entitled, or from filing any complaint
1073 with any other agency.

1074 Sec. 405. Examinations and Investigations

1075 (a) The Department may at any time examine or investigate the transactions,
1076 business, and records of any person subject to this act relating to matters covered by this
1077 act.

1078 (b) If any records subject to this section are located outside the District, the
1079 licensee shall, at the licensee's option:

1080 (1) Make the records available to the Commissioner at a convenient
1081 location within the District; or

1082 (2) Pay the reasonable and necessary expenses for the Commissioner or
1083 the Commissioner's representative(s) to examine the records where they are maintained.

1084 (c) The Commissioner may designate representatives, including comparable
1085 officials of the state in which the records are located, to inspect them on the
1086 Commissioner's behalf.

1087 **TITLE V. EFFECT ON OTHER LAWS.**

1088 (a) Enforcement of this act shall not limit the authority of the District or any
1089 persons under Section 28-3815 of the District of Columbia Official Code, Title 28,
1090 Chapter 39 of the District of Columbia Official Code, or any other applicable District
1091 law.

1092 (b) The Commissioner has the authority to enforce the administrative enforcement
1093 provisions of this act under Section 28-3815 of the District of Columbia Official Code.

1094

1095 **TITLE VI. RULEMAKING.**

1096 Sec. 501. Rulemaking.

1097 The Commissioner may promulgate rules and regulations as deemed necessary
1098 and appropriate to implement the provisions of this act.

1099 **TITLE VII. FISCAL IMPACT STATEMENT.**

1100 Sec. 601. Fiscal impact statement.

1101 The Council adopts the fiscal impact statement in the committee report as the
1102 fiscal impact statement required by section 602(c)(3) of the District of Columbia Home
1103 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-
1104 206.02(c)(3)).

1105 **TITLE VIII. EFFECTIVE DATE.**

1106 Sec. 701. Effective date.

1107 This Act shall take effect following approval by the Mayor (or in the event of veto
1108 by the Mayor, action by the Council to override the veto), and a 30-day period of
1109 Congressional review as provided in section 602(c)(1) of the District of Columbia Home
1110 Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-206(c)(1)), and
1111 publication in the District of Columbia Register.

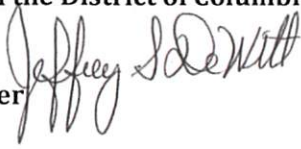
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: January 10, 2019

SUBJECT: Fiscal Impact Statement –Financial Services Consumer Protection Act
of 2019

REFERENCE: Draft Bill as shared with the Office of Revenue Analysis on January 4,
2019

Conclusion

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill.

Background

The bill expands or creates new requirements for three industries: currency exchange stores, consumer product financing companies, and collection agencies.

First, the bill proposes restrictions and requirements for retail currency exchange establishments. These establishments must register with the National Multistate Licensing System and Registry (NMLS) and obtain a license from the Department of Insurance, Securities, and Banking (DISB). The licensee must pay any applicable fees, appropriately capitalize the business,¹ and provide detailed data on the soundness of the ownership's business experience. The bill also outlines the guidelines for DISB examination, reporting, and enforcement activities and the licensee's record-keeping requirements.

The bill does not apply to the currency exchange activities of a bank, trust company, foreign bank agency, credit union, savings bank, savings and loan association, department of the United States government, or the United States Postal Service.

¹ The business must maintain at least \$50,000 in available funds.

The Honorable Phil Mendelson

FIS: "Financial Services Consumer Protection Act of 2019," Draft Bill as shared with the Office of Revenue Analysis on January 4, 2019

Next, the bill proposes restrictions and requirements on retailers that allow for installment payments and companies that purchase retail installment contracts. These companies must also register with NMLS and obtain a license from DISB. The bill establishes guidelines for the disclosures, content, and delivery requirements of retail installment contracts,² including provisions that are prohibited from inclusion in such contracts. The bill also adopts by reference a number of the provisions of the federal Truth in Lending Act.³

The bill's provisions on lending do not apply to banks, trust companies, credit union, savings and loan associations or building and loan associations. The bill also does not apply to transactions over \$25,000, purchases requiring the consumer to pay in-full within 90 days, and purchases where the seller retains no security interest in the good.

The last group that the bill subjects to NMLS registration and DISB licensing requirements includes collection agencies and third-party loan servicers. These provisions do not cover banks, credit unions, mortgage lenders, court-ordered actions, real estate brokers collecting rent payments, savings and loan associations, title companies, trust companies, student loan servicers, lawyers,⁴ regular employees of creditors, or employees of a licensed collection agency.

The bill also requires certain companies to file a bond issued by a surety company with DISB at the time the company submits a license application in an amount determined by DISB by rule. The surety bond requirement applies to consumer retailers that offer installment contracts, companies that purchase such contracts, collection agencies, and third-party loan servicers.

Financial Plan Impact

Funds are sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill requires currency exchange stores, consumer product sellers, retail financiers, collection agencies, and third-party loan servicers to register with NMLS and obtain a license with DISB. The Office of Revenue Analysis and DISB are unable to determine the full population of affected businesses,⁵ but the new licensing requirements will result in new revenues for the District's General Fund once DISB establishes the license fee structure. We estimate a minimal impact on existing general business license fees from current businesses that choose not to remain in the District due to the new law.

DISB can absorb the costs associated with licensing these new businesses and will rely on third party information and evaluations when available. This includes relying on NMLS for official background check information on many of the businesses and their owners.

² These are contracts between a buyer and seller that evidence a transaction where the purchase price is paid in one or more deferred installments.

³ Sections 106, 107, 121, 122, 124, 127, 128, and 141-145 (Pub. L. 90-321, Stat. 146,15 U.S.C. § 1601 et seq.).

⁴ So long as debt collection is not the lawyer's primary business

⁵ NMLS has approximately 81 retail seller and consumer finance companies registered for the District. A public search indicates there could be a dozen or so currency exchange stores, and DISB estimates there could be hundreds of collection-agency related services operating in the District.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division



MEMORANDUM

TO: Alana Intrieri
Director
Office of Policy and Legislative Affairs

FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: January 4, 2019

SUBJECT: Financial Services Consumer Protection Act of 2019
(AE-17-345 rev.)

This is to Certify that this Office has reviewed the legislation entitled the “Financial Services Consumer Protection Act of 2019”, and determined that it is legally unobjectionable. If you have any questions, please do not hesitate to call me at 724-5524.

Janet M. Robins