

No. 1982-249

## AN ACT

HB 2386

Amending the act of April 8, 1937 (P.L.262, No.66), entitled, as amended, "An act relating to consumer credit; requiring licenses from the Secretary of Banking; restricting licenses to domestic business corporations; fixing minimum capital requirements; conferring certain powers on the Secretary of Banking; limiting interest and other charges; providing certain exemptions; and imposing penalties," further defining capital; requiring compliance with permanent minimum capital requirements; requiring annual examinations; extending the discount rate; increasing the service charge ceiling, and modifying the requirement for issuance of a written receipt for payment.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2, act of April 8, 1937 (P.L.262, No.66), known as the "Consumer Discount Company Act," is amended by adding a definition to read:

Section 2. Definitions.—The following terms shall be construed in the act to have the following meanings, except in those instances where the context clearly indicates otherwise:

\* \* \*

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

Section 2. Section 7 of the act, amended December 30, 1970 (P.L.959, No.301), is amended to read:

Section 7. Organization; Minimum Capital.—A license under the provisions of this act shall be issued only to a corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania. Such corporation shall be incorporated with a minimum capitalization of seventy-five thousand dollars (\$75,000). At the time of applying for a license under this act, the minimum paid in capital shall be seventy-five thousand dollars (\$75,000). The minimum capitalization **[and paid in capital]** required shall be increased by twenty-five thousand dollars (\$25,000) for each additional place of business licensed under this act and no license for such additional place of business shall be granted until the minimum capitalization **[and paid in capital]** requirements are met provided, however, in the event that such place of business is to be operated by an affiliate or subsidiary corporation, whether newly organized or otherwise related to the licensee by virtue of common ownership or management the minimum **[capital and paid in capital] capitalization** for such affiliate or subsidiary shall be only twenty-five thousand dollars (\$25,000), and the minimum **[capital and paid in capital] capitalization**

of the licensee need not be increased. *The minimum capitalization shall be maintained as permanent capital which shall not be distributed to stockholders or be purchased by a licensee without the prior written approval of the Secretary of Banking.* Corporations holding valid licenses on the effective date of this amendment [need not] shall meet the minimum capitalization [and paid in capital] requirements listed above [but shall meet and otherwise comply with the minimum capitalization requirements in effect prior to this amendment however if such corporation or any affiliate or subsidiary corporation, whether newly organized or otherwise, shall apply for a license for an additional place of business after the effective date of this amendment the minimum capitalization requirements otherwise applicable to such corporation shall be increased by twenty-five thousand dollars (\$25,000) for each such additional place of business and in the case of an affiliate or subsidiary corporation related to a corporation to which this sentence applies the minimum capitalization shall be twenty-five thousand dollars (\$25,000) for each place of business and the minimum capitalization of the said licensed corporation need not be increased.] *within two years after the effective date of this amendment.*

Section 3. The first paragraph of section 11 of the act is amended to read:

Section 11. Examinations by the Secretary of Banking.—The Secretary of Banking, and any person designated by him for that purpose, [may at any time] shall at least annually investigate the business and affairs and examine the books, accounts, papers, records, documents, and files therein of every licensee and of every person who shall be engaged in business contemplated by this act, whether such person shall act or claim to act as principal, agent or broker, or under or without the authority of this act. For this purpose the Secretary of Banking shall have free access to the offices and places of business, books, accounts, papers, records, documents, files, safes and vaults of all such persons. A person, who is not licensed under this act, shall be presumed to be engaged in business contemplated by this act if he advertises or solicits business as principal, agent or broker for which a license is required by the provisions of this act, and the Secretary of Banking, and any person designated by him for that purpose, is in such cases authorized to examine the books, accounts, papers, records, documents, files, safes and vaults of such persons for the purpose of discovering violations of this act.

\* \* \*

Section 4. Clauses E, F and Q of section 13 of the act, clause E amended March 3, 1976 (P.L.36, No.17), clause F amended June 20, 1947 (P.L.665, No.288) and clause Q added December 30, 1970 (P.L.959, No.301), are amended to read:

Section 13. Powers Conferred on Licensees.—In addition to the general powers conferred upon a corporation by the Business Corporation Law of this Commonwealth, a corporation licensed under this act shall have power and authority:

\* \* \*

E. To charge, contract for, receive or collect interest or discount at a rate not to exceed nine dollars and fifty cents (\$9.50) per one hundred dollars (\$100) per year when the contract is repayable within **[thirty-six (36)] forty-eight (48)** months from the date of making. When the contract is repayable more than **[thirty-six (36)] forty-eight (48)** months from the date of making, the rate of interest or discount which may be charged, contracted for, received or collected, shall not exceed nine dollars and fifty cents (\$9.50) per one hundred dollars (\$100) per year for the first **[thirty-six (36)] forty-eight (48)** months of the term of the contract plus six dollars (\$6) per one hundred dollars (\$100) per year for any remainder of the term of the contract. Such interest or discount shall be computed at the time the loan is made on the face amount of the contract for the full term of the contract from the date of the contract to the date of the scheduled maturity notwithstanding any requirement for installment payments. On contracts for periods which are less or greater than one year, or which are not a multiple of one year, the interest or discount shall be computed proportionately on even calendar months: Provided, however, That for a period of less than one month the computation may be based on a full calendar month. The face amount of any note or contract made pursuant to this act may, notwithstanding any other provision, exceed five thousand dollars (\$5,000) by the amount of interest or discount and service or other charge authorized by this act collected or deducted in advance or added to the principal at the time of making the loan.

F. To charge, contract for, receive or collect on any contract a service charge of one dollar (\$1.00) for each fifty dollars (\$50), or fraction thereof, provided that the total service charge shall not exceed **[fifteen dollars (\$15)] one hundred dollars (\$100)** on any contract.

\* \* \*

Q. To conduct the business regulated by this act in any *licensed* place of business, **[room, office or suite]** where another business is conducted *by the licensee or another person unless the Secretary of Banking shall find, after a hearing, the conduct of the other business [by the corporation licensed under this act] has concealed evasions of this act and shall order such [corporation] person to desist from such conduct.*

Section 5. Section 16 of the act is amended to read:

Section 16. Receipts for Payment.—A licensee shall furnish, at the time **[of] payment [of a contract or at the time of payment]** of any installment on a contract, **[a] is made in cash, a written receipt setting forth the account number or other identification mark or symbol, the date of the payment, the amount paid and [the amount remaining due and identifying the contract upon which the payment is to apply. If the payment includes charges for default, the receipt shall show the amount of such**

**charges separately. The receipt of payment shall contain such additional information as the Secretary of Banking may require.] upon request of the borrower the unpaid balance of the account prior to and after the cash payment.**

Section 6. This act shall take effect immediately.

APPROVED—The 9th day of December, A. D. 1982.

DICK THORNBURGH