

## No. 1996-80

## AN ACT

## HB 2619

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 providing for use of licensee name, for dishonored checks, for larger loan limit, for annual fee and for delinquent payments.

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

Section 1. Section 3A and B of the act of April 8, 1937 (P.L.262, No.66), known as the Consumer Discount Company Act, amended December 18, 1984 (P.L.1083, No.216), are amended to read:

Section 3. License Required.—A. On and after the effective date of this act, no person shall engage or continue to engage in this Commonwealth, either as principal, employe, agent or broker, in the business of negotiating or making loans or advances of money on credit, in the amount or value of [~~fifteen thousand dollars (\$15,000)] *twenty-five thousand dollars (\$25,000)* or less, and charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges, or other considerations which aggregate in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act on the amount actually loaned or advanced, or on the unpaid principal balances when the contract is payable by stated installments except a domestic business corporation organized under or existing by virtue of the Business Corporation Law of this Commonwealth, after first obtaining a license from the Secretary of Banking of the Commonwealth of Pennsylvania in accordance with the provisions of this act.~~

B. Any person who shall hold himself out as willing or able to arrange for or negotiate such loans of [~~fifteen thousand dollars (\$15,000)] *twenty-five thousand dollars (\$25,000)*, or less where the interest, discount, bonus, fees, fines, commissions or other considerations in the aggregate exceeds the interest that the lender would otherwise be permitted by law to charge or who solicits prospective borrowers of such loans of [~~fifteen thousand dollars (\$15,000)] *twenty-five thousand dollars (\$25,000)*, or less shall be deemed to be engaged in the business contemplated by this act, unless otherwise permitted by law to engage in such activities. The referring borrowers to a licensee shall not be deemed to be engaged in the business contemplated by this act if no charge, no matter how denominated, for such reference is imposed on the prospective borrower by the person making the reference. No licensee shall knowingly include in any loan under this act any amount which~~~~

is to be paid by the borrower to another as a fee or charge, no matter how denominated, for referring said borrower to the licensee.

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Section 2. Section 4 of the act is amended to read:

Section 4. Application for License.—The application for such license shall be in writing, under oath and in the form prescribed by the Secretary of Banking. The application shall contain the corporate title of the applicant[, **which shall include the words “Consumer Discount Company”**] *and any registered or otherwise qualified name to be used as a fictitious business name*; the street and number, if any, [office building and room number, if any,] city, borough, township or municipality, and county where the business is to be conducted; date of incorporation; name and residence address of all directors; and such other information as the Secretary of Banking may require.

A separate application on the prescribed form shall be filed for each place of business conducted by a licensee.

Section 3. Section 13E of the act, amended December 18, 1984 (P.L.1083, No.216), is amended and the section is amended by adding a subsection 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 forty-eight (48) months from the date of making. When the contract is repayable more than forty-eight (48) months from the date of making, the rate of interest or discount which may be charged, contracted for, received or collected, shall not exceed nine dollars and fifty cents (\$9.50) per one hundred dollars (\$100) per year for the first forty-eight (48) months of the term of the contract plus six dollars (\$6) per one hundred dollars (\$100) per year for any remainder of the term of the contract. Such interest or discount shall be computed at the time the loan is made on the face amount of the contract for the full term of the contract from the date of the contract to the date of the scheduled maturity notwithstanding any requirement for installment payments. On contracts for periods which are less or greater than one year, or which are not a multiple of one year, the interest or discount shall be computed proportionately on even calendar months: Provided, however, That for a period of less than one month the computation may be based on a full calendar month. The face amount of any note or contract made pursuant to this act may, notwithstanding any other provision, exceed [fifteen thousand dollars (\$15,000)] *twenty-five thousand dollars (\$25,000)* by the amount of interest or discount and service or other charge authorized by this act collected or

deducted in advance or added to the principal at the time of making the loan. As an alternative to the rates provided for in this clause, a licensee may charge, contract for, and collect interest at the rate and in the manner provided for in section 17.1 A: Provided, however, That on loans secured by a security interest, mortgage or other lien on real property, and in which the principal amount exceeds five thousand dollars (\$5,000), a licensee may not charge, contract for, receive, or collect interest in excess of the rate specified in section 9 of the act of December 12, 1980 (P.L.1179, No.219), known as the "Secondary Mortgage Loan Act."

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

Section 4. Section 14A of the act, amended December 18, 1984 (P.L.1083, No.216), is amended to read:

Section 14. Licensee Requirements and Limitations.—A. A licensee shall not permit any person to become obligated to such licensee as a consumer on one or more loan contracts for an aggregate amount in excess of **[fifteen thousand dollars (\$15,000)]** *twenty-five thousand dollars (\$25,000)*, exclusive of charges authorized by this act. This limitation shall not apply to the purchase of contracts which arise from the bona fide sale of goods or services by a seller regularly engaged in the sale of such goods or services. This limitation shall not impair the authority of a licensee to lend money, credit, goods or things in action, or to purchase contracts in amounts in excess of **[fifteen thousand dollars (\$15,000)]** *twenty-five thousand dollars (\$25,000)* and charge, contract for, receive or collect interest or discount at the legal rate established by the General Usury Statute of the Commonwealth.

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Section 5. Section 17.1 of the act is amended by adding subsections to read:

Section 17.1. Revolving Loan Accounts.—\* \* \*

*C. A licensee may charge and collect a delinquency charge of twenty dollars (\$20) or ten per cent (10%) of each payment, whichever is higher, for a payment which is in default for more than fifteen (15) days.*

*D. A licensee may charge, contract for, receive or collect on any revolving loan account an annual fee not to exceed fifty dollars (\$50) per year.*

Section 6. Section 18 of the act, amended December 12, 1994 (P.L.1060, No.144), is amended to read:

Section 18. Penalties.—Any person who has not obtained a license from the Secretary of Banking of the Commonwealth of Pennsylvania in accordance with the provisions of this act, and who shall engage in the business of negotiating or making loans or advances of money or credit, in the amount or value of **[fifteen thousand dollars (\$15,000)]** *twenty-five thousand dollars (\$25,000)* or less, and charge, collect, contract for or

receive interest, discount, bonus, fees, fines, commissions, charges or other considerations which aggregate in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act on the amount actually loaned or advanced, or on the unpaid principal balances when the contract is payable by stated installments, shall be guilty of a misdemeanor, upon conviction thereof shall be sentenced to pay a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), and/or suffer imprisonment not less than six (6) months nor more than three (3) years, in the discretion of the court.

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

The payment of [**fifteen thousand dollars (\$15,000)**] *twenty-five thousand dollars (\$25,000)* or less, in money, credit, goods or things in action as consideration for any sale or assignment of, or order for, the payment of wages, salary, commissions or other compensation for services, whether earned or to be earned, shall, for the purposes of regulation under this act, be deemed a loan secured by such assignment, and the amount by which such assigned compensation exceeds the amount of such consideration actually paid shall for the purpose of regulation under this act, be deemed interest or charges upon such loan from the date of such payment to the date such compensation is payable. Such transactions shall be governed by and subject to the provisions of this act.

The payment of [**fifteen thousand dollars (\$15,000)**] *twenty-five thousand dollars (\$25,000)* or less, in money, credit, goods or things in action as consideration for any sale of real or personal property which is made on condition or agreement, expressed or implied, that such property be sold back at a greater price shall, for the purpose of this act, be deemed to be a loan secured by such property, and the amount by which the repurchase price exceeds such original purchase price actually paid shall be deemed interest or charges upon such loan from the date such original payment is made until the date such repurchase price is paid. Such transaction shall be governed by and subject to the provisions of this act.

When real or personal property is pledged as security on a loan of [**fifteen thousand dollars (\$15,000)**] *twenty-five thousand dollars (\$25,000)* or less, and the lender requires the borrower to pay for insurance thereon, such charge for insurance shall be construed as interest under this act when the lender has failed to have such insurance written by an insurance company legally authorized to conduct business in Pennsylvania. When the amount charged for such insurance is in excess of the standard cost of similar

insurance in other insurance companies legally authorized to conduct business in Pennsylvania, the excess shall be construed as interest under this act.

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

Section 7. This act shall take effect immediately.

APPROVED—The 2nd day of July, A.D. 1996.

THOMAS J. RIDGE