

## No. 301

## AN ACT

## HB 2182

Amending the act of April 8, 1937 (P.L.262), 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," defining certain terms; further providing for the granting of licenses, license fee and the organization of companies; changing authorized charges; providing for the place of conducting business; providing for bona fide or accidental error; providing for revolving loan accounts and providing penalties.

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

Section 1. Section 2, act of April 8, 1937 (P.L.262), known as the "Consumer Discount Company Act," is amended by adding a new 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:

\* \* \*

*"Revolving loan account" means an agreement pursuant to which (i) the licensee may permit the borrower to obtain one or a series of loans or advances from time to time: Provided, however, That the aggregate of the unpaid principal balances due a licensee from a consumer under this act on any date shall not exceed the sum of three thousand five hundred dollars (\$3,500), (ii) the unpaid principal balances and the appropriate charges are debited to an account, (iii) the charges for the loan are computed on the outstanding unpaid principal balances of the account from time to time, and (iv) the borrower has the privilege of paying the balances in installments.*

Section 2. Section 3 and the first paragraph of section 6 of the act, amended July 30, 1963 (P.L.335), are amended to read:

Section 3. License Required.—A. On and after the effective date of this act, no person [ **partnership, association, foreign business corporation organized under or by virtue of any laws other than those of this Commonwealth, nonprofit corporation, common law trust, joint-stock company, or any other group of individuals however organized,** ] 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 three thousand five hundred dollars (\$3,500) or less, and charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges, or other considerations which aggregate in excess of [ **six per cent (6%) per year** ] *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

**[B. On and after the effective date of this act, no] except a** domestic business corporation organized under or existing by virtue of the Business Corporation Law of this Commonwealth **[, and no director, officer, employe, agent or member of such corporation, 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 or credit, in the amount or value of three thousand five hundred dollars (\$3,500) or less, and charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges, or other considerations which aggregate in excess of six per cent (6%) per year on the amount actually loaned or advanced or on the unpaid principal balances when the contract is payable by stated installments, without] 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 three thousand five hundred dollars (\$3,500) 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 three thousand five hundred dollars (\$3,500) or less shall be deemed to be engaged in the business contemplated by this act. 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.*

Section 6. License Fee.—A license fee of **[one hundred dollars (\$100)] two hundred dollars (\$200)** shall accompany each application for license under this act. Each license shall remain in full force and effect until surrendered, revoked or suspended as herein provided. The license fee of **[one hundred dollars (\$100)] two hundred dollars (\$200)** shall be paid annually on or before June first. No abatement of the said license fee shall be made if the license is issued for less than one year. An additional license fee of **[one hundred dollars (\$100)] two hundred dollars (\$200)** shall be paid for each place of business conducted by a licensee.

\* \* \*

Section 3. Section 7 of the act 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 [twenty-five thousand dollars (\$25,000)] *seventy-five thousand dollars (\$75,000)*. At the time of applying for a license under this act, the minimum [subscribed] *paid in capital* shall be [twenty-five thousand dollars (\$25,000)] *seventy-five thousand dollars (\$75,000)*. [and the minimum paid in capital shall be ten thousand dollars (\$10,000). The minimum subscribed capital of twenty-five thousand dollars (\$25,000) shall be fully paid in within one year of the date of issuance of the license.] *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 for such affiliate or subsidiary shall be only twenty-five thousand dollars (\$25,000), and the minimum capital and paid in capital of the licensee need not be increased. Corporations holding valid licenses on the effective date of this amendment need not meet the minimum capitalization and paid in capital requirements 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.*

Section 4. Clauses E, J and K of section 13, amended June 20, 1947 (P.L.665) and clause E amended July 30, 1963 (P.L.335), are amended, and said section is amended by adding a new clause 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 [seven dollars and fifty cents (\$7.50)] *nine dollars and*

*fifty cents (\$9.50)* per one hundred dollars (\$100) per year when the contract is repayable within thirty-six (36) months from the date of making. When the contract is repayable more than thirty-six (36) months from the date of making, the rate of interest or discount which may be charged, contracted for, received or collected, shall not exceed [**seven dollars and fifty cents (\$7.50)**] *nine dollars and fifty cents (\$9.50)* per one hundred dollars (\$100) per year for the first thirty-six (36) 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 three thousand five hundred dollars (\$3,500) 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.

\* \* \*

J. To require payment of contracts in equal weekly, semi-monthly, monthly or any other periodic installments: *Provided, however, The first installment period may exceed one month by as much as fifteen (15) days without being deemed violative of this provision.*

K. To collect an additional charge for extension, deferment or default in the payment of any contract or for extension, deferment or default in the payment of any installment on a contract at the rate of one and one-half per cent (1 1/2%) per month on the amount extended, deferred or in arrears: Provided, however, A minimum charge of [**twenty-five cents (\$.25)**] *one dollar (\$1)* may be collected for any extension, deferment or default *of ten (10) or more days.*

\* \* \*

*Q. To conduct the business regulated by this act in any place of business, room, office or suite where another business is conducted 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 to desist from such conduct.*

Section 5. Clauses D and F of section 14, amended June 20, 1947 (P.L.665) and clause D amended July 30, 1963 (P.L.335), are amended to read:

Section 14. Licensee Requirements and Limitations.—\* \* \*

D. A licensee shall permit a consumer to pay partially or wholly any contract or any installment on a contract, prior to the due date. On any contract which is wholly prepaid by cash, renewal or otherwise, at any time prior to maturity, the licensee shall refund to the consumer a portion of the interest or discount. The portion to be refunded shall be that proportion of the interest or discount which the sum of the monthly balances originally scheduled to be outstanding during the full months following such prepayment in full bears to the sum of all monthly balances originally scheduled to be outstanding, both sums to be determined by the schedule of payments in the original contract, provided a licensee shall not be required to refund any portion of such interest or discount when the total amount of the refund computed as herein provided is less than [twenty-five cents (\$.25)] *one dollar (\$1)*. Such refund shall be computed and paid or credited at the time of prepayment on the contract.

\* \* \*

F. [All] *Except as otherwise permitted by this act all* installment contracts shall provide for repayment in substantially equal periods and in substantially equal amounts: Provided, That when appropriate for the purpose of facilitating payment in accordance with a consumer's intermittent income, an installment contract may provide for repayment on a schedule which reduces or omits payments over any period or periods in which the consumer's income is reduced or suspended.

\* \* \*

Section 6. The act is amended by adding a new section to read:

*Section 17.1. Revolving Loan Accounts.—A. A licensee may in lieu of contracting for, collecting and receiving charges in the manner authorized by section 13, contract for, charge, collect and receive charges at a rate not in excess of two per cent (2%) per month on the unpaid principal balances from time to time outstanding; which charges shall not be paid, deducted or received in advance nor compounded but shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof and be computed upon the basis of the number of days actually elapsed. For the purpose of computing charges under this section, whether at the maximum rate or less, a month shall be from one date in a month to the corresponding date in the following month but if there is no such corresponding date, then to the last day of such following month and a day shall be considered one-thirtieth (1/30) of a month when computation is made for a fraction of a month. If part or all of the consideration for a loan contract made under this subsection is the unpaid principal balance of a prior loan, then the principal payable under such loan contract may include any unpaid charges on the prior loan which have accrued within sixty (60) days before the making of such new loan contract.*

*B. Revolving loan accounts may be made under the provisions of*

*this section. In lieu of the statement required by section 15 before making a loan pursuant to a revolving loan account, the licensee shall disclose to the borrower the maximum amount that may be borrowed, the method by which loans or advances are to be made, whether by check or draft drawn on the licensee or otherwise; a simple statement of the method by which the amount of the charges is to be calculated; a simple statement of the insurance coverages to be afforded the borrower, if obtained by or through the licensee, and if a charge for insurance is to be made a simple statement of the amount of such charge or the method by which it will be calculated. If, during a billing cycle, the licensee makes a loan or advance or the borrower makes a payment the licensee shall give to the borrower within a reasonable time after the end of the billing cycle a written statement of (i) the outstanding balance at the beginning of the billing cycle, (ii) the loans or advances made during the billing period excluding charges, (iii) the amount of charges accrued or debited during the period, (iv) payments made by the borrower, (v) the balance at the end of the billing cycle, and (vi) the amount which must be paid and the date by which it must be paid to avoid a default.*

Section 7. The first two paragraphs of section 18 of the act, amended July 30, 1963 (P.L.335), are amended to read:

Section 18. Penalties.—Any person [, **partnership, association, foreign business corporation, nonprofit corporation, common law trust, joint-stock company, or any other group of individuals however organized, or any domestic business corporation which**] *who* has not obtained a license from the Secretary of Banking of the Commonwealth of Pennsylvania in accordance with the provisions of this act, [**or any partner, director, officer, employe, agent, or member thereof,**] *and* who shall engage in the business of negotiating or making loans or advances of money or credit, in the amount or value of three thousand five hundred dollars (\$3,500) or less, and charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges or other considerations which aggregate in excess of [**six per cent (6%) per year**] *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, and 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.

[A] *Except as the result of an accidental or 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.

\* \* \*

APPROVED—The 30th day of December, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 301.



*Joseph P. Kelly II*  
Secretary of the Commonwealth.

