

SENATE No. 2337

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, Thursday, July 31, 2014

The committee on Ways and Means, to whom was referred the Senate relative to unsolicited loans (Senate, No. 128),- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2337).

For the committee,
Stephen M. Brewer

SENATE No. 2337

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to unsolicited loans.

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

1 The General Laws are hereby amended by inserting after chapter 140E the following
2 chapter:-

CHAPTER 140F

UNSOLICITED LOAN CONSUMER PROTECTION

5 Section 1. For the purposes of this chapter the following words shall have the following
6 meanings, unless the context clearly requires otherwise:-

7 "Addressee", the intended recipient of an unsolicited loan instrument.

8 "Commissioner", the commissioner of banks.

9 "Unauthorized use", negotiation of an unsolicited loan instrument by a person other than
10 the addressee who does not have actual, implied or apparent authority for the negotiation and
11 from which the addressee receives no benefit.

12 "Unsolicited loan instrument", a negotiable check, money order, draft or other instrument
13 that may be used by a consumer to activate a loan, which was not solicited by the consumer.

14 Section 2. No person or entity shall issue an unsolicited loan instrument.

15 Section 3. An addressee shall not be held liable for any debt incurred by the
16 unauthorized use of an unsolicited loan instrument by a party other than the addressee. In the
17 event of an unauthorized use of an unsolicited loan instrument, the issuing institution shall: (1)
18 provide the addressee with a written statement releasing the addressee of liability for the debt;
19 (2) take steps in accordance with the rules and regulations of the commissioner to repair an
20 adverse effect to the addressee's credit rating as a result of the unauthorized use; and (3) provide
21 the addressee with a written statement informing the addressee that such steps have been or will
22 be taken.

23 Section 4. A financial institution or lender shall not transfer funds held in an account of
24 the addressee in the financial institution as a consequence of a default of a debt owed to the
25 institution as a result of the unauthorized use of an unsolicited loan instrument.

26 Section 5. A person or entity that knowingly sends an unsolicited loan instrument shall be
27 punished by a fine of not more than \$5,000 for each violation.

28 Section 6. The commissioner shall adopt rules and regulations to implement this chapter.

29 Section 7. A violation of this chapter, or any rule or regulation issued hereunder, shall
30 constitute an unfair or deceptive act under chapter 93A.