

# PROPOSED RULEMAKING

## DEPARTMENT OF BANKING

[10 PA. CODE CH. 41]

### Consumer Discount Companies

The Department of Banking (Department), under the authority contained in section 12 of the Consumer Discount Company Act (CDCA) (7 P. S. § 6212) proposes to amend the regulations to the CDCA codified in Chapter 41 (relating to consumer discount companies). The proposed amendments will implement the act of July 2, 1996 (P. L. 490, No. 80) (Act 80).

#### *Purpose*

The purpose of the proposed amendments is to eliminate any discrepancy between the CDCA and its regulations.

#### *Explanation of Regulatory Requirements*

Act 80 amended the CDCA by raising the ceiling on permissible consumer discount company loans from \$15,000 to \$25,000. Act 80 amended the CDCA to permit licensed consumer discount companies to utilize a fictitious name as a substitute for, or in addition to, its corporate name. Act 80 removed the former requirement that a consumer discount company's corporate name contain the words "Consumer Discount Company." Additionally, Act 80 amended the CDCA to permit a licensed consumer discount company to charge a delinquency fee of \$20 or 10% of each payment, whichever is higher, which is in default for more than 15 days on interest-bearing closed end or revolving loan accounts. The proposed amendments seek to remove any discrepancy between the CDCA and its regulations as a result of the amendments to the CDCA as set forth in Act 80. Thus, the proposal amends the regulations to the CDCA by making "technical" amendments to those regulations. The proposal amends the regulations to the CDCA by changing "\$15,000" to "\$25,000" in several different provisions of the regulations. Additionally, the proposed amendments set forth language which recognizes the new ability of a licensed consumer discount company to utilize a fictitious name as a substitute for, or in addition to, its corporate name. Finally, the proposal adds language to § 41.3a(a) (relating to contracts with consumers) thereby clarifying that § 41.3a applies only to default charges on precomputed loans as authorized in section 13K. of the CDCA (7 P. S. § 6213K.).

#### *Entities Affected*

The proposed amendments will affect the 76 licensed Commonwealth consumer discount companies, as well as any State or Federally-chartered banks or savings associations which originate loans under the CDCA. The proposed amendments also conform to the liberalized statutory requirements under which a licensed consumer discount company can extend credit to a consumer.

#### *Cost and Paperwork Requirements*

These proposed amendments will impose no additional paperwork or costs to the Commonwealth, the Department or any political subdivision of this Commonwealth. The proposed amendments also will not impose additional costs or paperwork requirements upon the regulated community.

#### *Effectiveness/Sunset Date*

The anticipated effective date is 30 days after the final adoption of the proposal.

There is no sunset date applicable to the proposed amendments.

#### *Contact Person*

Interested persons are invited to submit their written comments, if any, within 30 days of the date of this publication to Laurie Schnarrs, Deputy Chief Counsel, Department of Banking, 333 Market Street, 16th Floor, Harrisburg, PA 17101-2290, (717)787-1471.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 19, 1997, the Department submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairperson of the House Committee for Business and Economic Development and the Senate Committee on Banking and Insurance. In addition to submitting the proposal, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 30 days of the close of the Committee comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review and comments including objections to the proposed amendments by IRRC, the General Assembly and the Office of Attorney General prior to final publication and approval of the proposed amendments.

RICHARD RISHEL,  
*Secretary*

**Fiscal Note:** 3-36. No fiscal impact; (8) recommends adoption.

#### **Annex A**

### **TITLE 10. BANKS AND BANKING PART IV. BUREAU OF CONSUMER CREDIT AGENCIES CHAPTER 41. CONSUMER DISCOUNT COMPANIES**

#### **§ 41.2. Advertising.**

(a) In a printed or written advertisement, a licensee shall set forth its corporate **or fictitious business** name, **or both**, as designated in its license certificate; except that with respect to direct mail solicitation, it is only necessary for a licensee to set forth its corporate **or fictitious business** name, **or both**, once on any one of the pieces constituting a mail solicitation. A licensee shall set forth prominently its corporate **or fictitious business** name, **or both**, as designated in its license certificate on or at the entrance to its place of business. A licensee shall retain copies of advertising matter for at least **[ 6 months ] 2 years** following the final public dissemination of the advertising and shall make the advertising available upon request for inspection by the Administrator.

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§ 41.3. Contracts with consumers.

\* \* \* \* \*

(o) For the purposes of this subsection, an individual signing the face of a joint note shall, in the absence of a specific designation to the contrary, be construed as being liable as maker. When a licensee knows or has reason to know that an individual consumer derives the use, benefit[, ] or advantage of an aggregate amount in excess of \$[ 15,000 ] 25,000 from the proceeds of one or more separate loan contracts granted by a licensee directly to the consumer or indirectly through other consumers, the loan contracts shall be construed as a single loan contract in excess of \$[ 15,000 ] 25,000, and the interest on the amount in excess of \$[ 15,000 ] 25,000 shall be limited to the legal rate established by section 202 of the act of January 30, 1974 (P. L. 13, No. 6)(41 P. S. § 202), which rate is 6% per annum simple interest. This limitation does not apply to the purchase of installment sale contracts or home improvement contracts, or another loan granted under another statute of the Commonwealth.

(p) When a loan in excess of \$[ 15,000 ]25,000 is granted to one consumer or when an aggregate number of loans are granted to one consumer by a licensee under the same management or control, the total of which exceeds \$[ 15,000 ]25,000, the interest rate on the amount in excess of \$[ 15,000 ]25,000 shall be limited to the legal rate established by section 202 of the act of January 30, 1974 (P. L. 13, No. 6) [ (41 P. S. § 202) ], which rate is 6.0% per annum simple interest. This means that a licensee may grant a single loan in excess of \$[ 15,000 ]25,000 or a series of loans the average of which exceeds \$[ 15,000 ]25,000 and charge interest on the portion thereof not in excess of \$[ 15,000 ]25,000 at the rate provided in the act and on the portion thereof in excess of \$[ 15,000 ]25,000 at 6.0% per annum simple interest; except, interest shall be charged so as not to exceed that which could be charged in a manner which would amortize that portion of the loan balance on a single, or the aggregate on a series of loans, not in excess of \$[ 15,000 ]25,000 simultaneously with the portion in excess of \$[ 15,000 ]25,000. Licensees shall take reasonable precautions to prevent the granting of loans in violation of this subsection. This subsection does not apply to the purchase of installment sale contracts or home improvement contracts or to revolving loan accounts, or another loan granted under another statute of the Commonwealth.

\* \* \* \* \*

§ 41.3a. Calculation of default charges—statement of policy.

(a) This section applies only to default charges on precomputed loans as authorized in section 13K. of the act (7 P. S. § 6213K.). Refer to § 41.3(d)(relating to contracts with consumers) for information on default.

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[Pa.B. Doc. No. 98-16. Filed for public inspection January 2, 1998, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61 AND 65]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 61 and 65 (relating to seasons, sizes and creel limits; and special fishing regulations). The Commission is publishing these amendments as a notice of proposed rulemaking under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The proposed amendments relate to fishing.

A. Effective Date

These proposed amendments will, if approved on final rulemaking, go into effect on January 1, 1999, or upon publication of an order adopting the regulations, whichever occurs later.

B. Contact Person

For further information on the proposed changes, contact Laurie E. Shepler, Esq., (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. Statutory Authority

These proposed amendments are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

The proposed amendments are designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the amendments is described in more detail under the summary of proposal.

E. Summary of Proposal

At its October 28, 1996, meeting, the Commission, acting on a recommendation of the Fisheries Committee, established a Bass Workgroup chaired by Commissioner Anderson and comprised of Commission staff and various public representatives with a demonstrated interest in bass fishing. The workgroup's discussions focused on ways to increase bass angling opportunities by permitting a catch-and-release fishery for bass in the spring while assuring that populations are adequately protected at other times of the year to compensate for any possible increase in fishing mortality resulting from the catch-and-release fishery. The workgroup met twice (details of discussions and results were provided in a briefing book at the Commission's July 1997 meeting) and developed recommendations for changes in regulations and for actions to be taken by Commission staff relative to public education and resource classification.

The results of workgroup discussions were presented to the Fisheries Committee at the Commission's July 20, 1997, meeting, and the Committee recommended that the Commission accept the results. The report was accepted, and staff were instructed to bring the workgroup recommendations to the Commission at its October 1997 meeting as a proposed rulemaking item.

The proposed amendments package involves several major changes. These are:

- 1. Rivers and streams (mostly smallmouth) will be under different regulations than lakes and ponds (mostly largemouth).

2. A catch-and-release fishery, a No Harvest-Immediate Release regulation, will be in effect for bass during the spring period when bass season (harvest) is not "open."

3. A 15-inch minimum size, 4-bass creel limit will be in effect on lakes and ponds from January 1 to mid-April and November through December (essentially a Big Bass regulation for the late fall through spring fishery).

4. A 20-inch minimum size, 1 bass creel limit will be in effect on rivers and streams from January 1 to mid-April and October through December (harvest limited to only the exceptional trophy-sized bass). This change also will apply to those river reaches contained within the Big Bass Program.

The Commission proposes that its staff will develop a system of resource classification to identify those lakes and ponds where reproduction and production of bass is such that any increase in fishing mortality or disruption of reproductive activity could be expected to have a negative impact on populations. These waters should be excluded from the spring No Harvest-Immediate Release fishery. The Commission also proposes initiating an informational campaign, including a publication or pamphlet to advise anglers on how to handle and release bass to assure maximum likelihood of survival of fish taken in a catch-and-release fishery. This could be done as a cooperative effort with organized bass angling groups or members of the workgroup who have writing/communication skills and who volunteer to assist.

Over the past several months, the Commission has received numerous public comments regarding these issues. Copies of all public comments have been provided to the Commissioners.

*F. Paperwork*

The proposed amendments will not increase paperwork and will create no new paperwork requirements.

*G. Fiscal Impact*

The proposed amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed amendments will impose no new costs on the private sector or the general public.

*H. Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to the Executive Director, Pennsylvania Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 90 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations@fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The Commission will hold public hearings on the proposals during the months of February, March and April, 1998. The exact dates, times and locations will be announced at a later date. The Commission will consider the proposal on final rulemaking at its July 1998 meeting.

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** 48A-75. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS**

**§ 61.1. Commonwealth inland waters.**

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(d) Except as otherwise provided in this subpart, the following seasons, sizes and creel limits apply to inland waters of this Commonwealth and the Youghiogeny Reservoir:

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
	* * * * *		
[ BASS—Largemouth and Smallmouth and Spotted All inland waters* ]	[ January 1 to midnight day before opening day of trout season; 12:01 a.m. first Saturday after June 11 to midnight December 31 ]	[ 12 inches ]	[ 6 (combined species from all habitats) ]
BASS—Largemouth and Smallmouth and Spotted Lakes:	January 1 to midnight the day before the opening day of trout season in April and November 1 to midnight December 31 **	15 inches	4 (combined species)

SPECIES	SEASONS	MINIMUM SIZE	DAILY LIMIT
	12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
	12:01 a.m. the first Saturday after June 11 to midnight October 31	12 inches	6 (combined species)
BASS—Largemouth and Smallmouth and Spotted Rivers and Streams*:	January 1 to midnight the day before the opening day of trout season in April and October 1 to midnight December 31 **	20 inches	1 (combined species)
	12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
	12:01 a.m. the first Saturday after June 11 to midnight September 30	12 inches	6 (combined species)
* * * * *			

\*[ Note: See §§ 61.4 and 61.7 (relating to Conowingo Reservoir; and Susquehanna River and tributaries) for special bass seasons applicable to flowing water within the Susquehanna River Basin. ] For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are “rivers.”

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**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 65.8. Warmwater/coolwater species special conservation waters.**

(a) The Executive Director, with the approval of the Commission, may designate waters as warmwater/coolwater special conservation waters. The designation of the waters shall be [ **effected** ] **effective** when the waters are posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish **for the following species** in designated and posted warmwater/coolwater special conservation waters except in compliance with the seasons established in § 61.1 (relating to the Commonwealth inland waters) and the following size and creel limits:

<i>Species</i>	<i>Size (in)</i>	<i>Creel Limit</i>
[ Bass (all species) ]	[ 15 ]	[ 2 ]
* * * * *		

(c) It is unlawful to fish for bass (all species) in designated and posted warmwater/coolwater special conservation waters except in compliance with the following seasons and size and creel limits. It is not a violation of this subsection if the bass is immediately returned unharmed to the waters from which it is taken

<i>Seasons</i>	<i>Size (in)</i>	<i>Creel Limit</i>
<b>Lakes:</b> January 1 to midnight the day before the opening day of trout season in April and 12:01 a.m. the first Saturday after June 11 to midnight December 31	15	4 (combined species)
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	
<b>Rivers and Streams:</b> January 1 to midnight the day before the opening day of trout season in April and October 1 to midnight December 31	20	1 (combined species)
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (No Tournaments Permitted)	

<i>Seasons</i>	<i>Size (in)</i>	<i>Creel Limit</i>
12:01 a.m. the first Saturday after June 11 to mid-night September 30	15	4 (combined species)

**Note:** For purposes of this subsection, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are “rivers.”

§ 65.9. Big bass special regulations.

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(b) [ The minimum size limit for largemouth and smallmouth bass in designated “Big Bass Regulation” waters is 15 inches.

(c) The daily creel limit for largemouth and smallmouth bass in designated “Big Bass Regulation” waters is four per day (combined species).

(d) It is unlawful to take, catch, kill or possess a largemouth or smallmouth bass on or in designated “Big Bass Regulation” waters except in compliance with the size and creel limits specified in subsections (b) and (c). It is not a violation of this section if the bass is immediately returned unharmed to the waters from which it is taken.

(e) ] It is unlawful to take, catch, kill or possess a largemouth, smallmouth or spotted bass on or in designated “Big Bass Regulation” waters except in compliance with the following seasons and size and creel limits. It is not a violation of this section if the bass is immediately returned unharmed to the waters from which it is taken.

<i>Seasons</i>	<i>Size (in)</i>	<i>Creel Limit</i>
<b>Lakes:</b> January 1 to midnight the day before the opening day of trout season in April and 12:01 a.m. the first Saturday after June 11 to midnight December 31	15	4 (combined species)
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (NO TOURNAMENTS PERMITTED)	
<b>Rivers and Streams:</b> January 1 to midnight the day before the opening day of trout season in April and October 1 to mid-night December 31	20	1 (combined species)
12:01 a.m. the opening day of trout season in April to 12:01 a.m. the first Saturday after June 11	NO HARVEST—Catch and immediate release only (NO TOURNAMENTS PERMITTED)	
12:01 a.m. the first Saturday after June 11 to mid-night September 30	15	4 (combined species)

**Note:** For purposes of this section, power dam pools and recreational dam pools on the Susquehanna River and navigational dam pools in the Ohio drainage are “rivers.”

(c) Other Commonwealth inland fishing regulations apply to designated “Big Bass Regulation” waters.

[Pa.B. Doc. No. 98-17. Filed for public inspection January 2, 1998, 9:00 a.m.]