

**REGULATORY LOAN ACT**  
**Act 21 of 1939**

AN ACT to define and regulate the business of making regulatory loans; to permit the licensing of persons engaged in that business; to provide for the administration of this act and for the promulgation of rules; and to prescribe penalties.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1980, Act 392, Eff. Mar. 31, 1981;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

*The People of the State of Michigan enact:*

**493.1 Short title; definitions.**

Sec. 1. (1) This act shall be known and may be cited as the “regulatory loan act”.

(2) As used in this act:

(a) “Advertising” means publishing or broadcasting, or causing to be published or broadcast, material that has been prepared for public distribution by means of newspapers, magazines, or electronic media. Advertising does not include a stockholder communication, such as an annual report, interim financial report, registration statement, security, prospectus, application for listing a security on a stock exchange, or proxy materials. Advertising does not include a communication addressed to a person who has previously executed a loan agreement relative to that person's account.

(b) “Assets” means liquid assets, collectible loans made in accordance with this act, and personal property acquired in the general conduct of business transacted under this act.

(c) “Commissioner” means the commissioner of the office of financial and insurance services in the department of consumer and industry services.

(d) “Control person” means a director or executive officer of a licensee or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee.

(e) “Executive officer” means an officer, member, or partner of a licensee, including chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(f) “Financial licensing act” means any act listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(g) “License” means a single license issued to a single place of business.

(h) “Licensee” means a person licensed or required to be licensed under this act.

(i) “Liquid assets” means cash, unrestricted deposits in banks, and readily marketable securities at their then market value.

(j) “Loan” or “regulatory loan” means a loan made by a licensee to an individual for personal, family, or household use.

(k) “Person” means an individual, partnership, association, corporation, limited liability company, or other legal entity.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.1;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1988, Act 162, Eff. Sept. 1, 1988;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1995, Act 165, Eff. Mar. 28, 1996;—Am. 1996, Act 184, Imd. Eff. May 3, 1996;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002;—Am. 2002, Act 393, Imd. Eff. May 30, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**493.1a Repealed. 2001, Act 270, Imd. Eff. Jan. 11, 2002.**

**Compiler's note:** The repealed section pertained to short title.

**493.2 Business of making loans; license required; application for license; oath; form and contents; fees; proof of net worth.**

Sec. 2. (1) Except as otherwise provided under this act, a person shall not engage in the business of making loans of money, credit, goods, or things in action and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if the lender were not a licensee under this act and without first obtaining a license from the commissioner, or by obtaining a license under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(2) Application for a license shall be in writing, under oath, and in the form prescribed by the commissioner, and contain the name and the address, both of the residence and place of business, of the applicant, if the applicant is a copartnership or association, of every member, and if a corporation, of each officer and director. The application shall also include the address where the business is to be conducted and all other relevant information as the commissioner may require. The applicant at the time of making the application shall pay to the commissioner an investigation and annual operating fee as provided by this act.

(3) An applicant shall prove, in form satisfactory to the commissioner, that the applicant has available net worth of at least \$100,000.00 for the operation of the business at the location specified in the application.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.2;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1992, Act 71, Imd. Eff. June 2, 1992;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

### **493.3 Licenses; bond of applicant; approval; conditions.**

Sec. 3. The applicant, at the time of filing an application, shall also file when requested by the commissioner a bond in an amount to be approved by the commissioner, in which the applicant shall be the obligor. The surety company issuing the bond shall be qualified, able, and willing to write bonds required by this act. The bond shall run to the people of the state of Michigan and may be sued on by the state or any person who may have a cause of action against the obligor. The bond shall be conditioned that the obligor will comply with this act and all rules and regulations made under this act, and will pay to the state and to any person all money due or owing to the state or to the person from the obligor.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.3;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

### **493.4 Investigation; findings; issuance or denial of license; notice; transcript of decision and findings.**

Sec. 4. (1) Upon the filing of the application, the payment of the fees, and the approval of the bond, the commissioner shall investigate the applicant and if he or she finds that the financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated lawfully, honestly, fairly, and efficiently within the purposes of this act and that the applicant has a net worth in the amounts required under section 2, the commissioner shall issue a license to the applicant to conduct business at the location or locations specified in the application. The license shall remain in effect until it is surrendered by the licensee or revoked or suspended as provided under this act.

(2) If the commissioner finds that the applicant fails to meet the requirements of this act, he or she shall not issue a license and shall notify the applicant of the denial and return to the applicant the bond and fee paid by the applicant, retaining the investigation fee to cover the costs of investigating the application.

(3) The commissioner shall approve or deny every application for license within 60 days from the date that the application was filed with the fees and the approved bond.

(4) If the application is denied, the commissioner shall within 20 days from the date of denial file with the office of financial and insurance services a written transcript of the decision and findings containing the evidence and the reasons supporting the denial and shall serve upon the applicant a copy of the filing.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.4;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

### **493.5 Licenses; contents; posting; transfer; assignment.**

Sec. 5. (1) Except as otherwise provided under this section, the license shall state the address at which the principal office of the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a co-partnership or association, the names of the members, and if a corporation, the date and place of its incorporation.

(2) The license shall be kept conspicuously posted in the places of business specified in the license.

(3) The license is not transferable or assignable without the prior approval of the commissioner.

(4) The sale, transfer, assignment, or conveyance of more than 25% of the outstanding voting stock of a licensee that is a corporation, or more than 25% of the interest in a licensee that is a partnership or other unincorporated legal entity, shall be considered to be a transfer of the license.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.5;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.6 Net worth; additional bond; filing.**

Sec. 6. (1) Every licensee shall maintain at all times net worth in the amount required under section 2.

(2) If the commissioner determines at any time that any bond is insecure, exhausted, or otherwise of doubtful validity or collectability, the commissioner may require the licensee to obtain an additional bond in an amount of not more than \$1,000.00. The licensee shall file the new bond within 10 days after the commissioner has issued written demand upon the licensee.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.6;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.7 Changing name or place of business; procedure; activities at more than 1 place of business; ceasing to engage in activities subject to act.**

Sec. 7. (1) A licensee under this act may change its name or place of business shown on the license by giving prior written notice to the commissioner and returning the license to the commissioner. The commissioner shall amend the license certificate to show the new name or the new place of business and the date of the new certificate.

(2) A licensee may engage in activities for which a license is required at more than 1 place of business by providing not less than 30 days' written notice to the commissioner before opening each additional place of business. This subsection does not apply to any place of business listed in the licensee's approved application for licensure.

(3) A licensee that ceases engaging in business activities that are subject to this act at a place of business shall provide written notice to the commissioner within 30 days.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.7;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1992, Act 71, Imd. Eff. June 2, 1992;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.8 Annual establishment of fees schedule; bond; action for recovery of fees or penalties; fees nonrefundable; report; disposition and use of money received.**

Sec. 8. (1) The commissioner shall annually establish the schedule of fees sufficient to pay the costs of administering this act. The fees are as follows:

(a) For the investigation of an applicant for a license, not less than \$250.00 or more than \$1,000.00, which is not refundable.

(b) For the issuance or annual renewal of a license, an annual operating fee based upon the volume and types of activities conducted by the licensee during the previous calendar year. The annual operating fee set by the commissioner under this subsection shall be based upon information in reports filed under section 11.

(c) For amending a license, not less than \$50.00 or more than \$100.00.

(2) At the time of paying the annual operating fee, each licensee shall file with the commissioner a bond as required by section 3.

(3) If any fees or penalties provided for in this act are not paid when required, the commissioner may maintain an action against the delinquent licensee for the recovery of the fees or penalties together with interest and costs.

(4) Except as otherwise provided by this act, the fees received under this act are not refundable.

(5) A licensee who fails to submit to the commissioner a report required under section 11 is subject to a penalty of \$50.00 for each day the report is delinquent or \$5,000.00, whichever is less.

(6) Money received under this act shall be paid into the state treasury to the credit of the office of financial and insurance services and shall be used for the operation of the office of financial and insurance services.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.8;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1992, Act 71, Imd. Eff. June 2, 1992;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.9 Revocation, suspension, or surrender of license; reinstatement or issuance of new license; transcript of order.**

Sec. 9. (1) The commissioner, upon 10 days' written notice to the licensee stating the contemplated action and the grounds for the action, and upon reasonable opportunity to be heard, may revoke any license if he or she finds any of the following:

(a) The licensee has failed, after 5 days' written notice of default, to pay the annual operating fee, to maintain the bond required under this act, or to comply with any demand, ruling, or requirement of the commissioner made under this act.

(b) The licensee either knowingly or without the exercise of due care has violated any provision of this act or any rule made by the commissioner under this act.

(c) Any fact or condition that exists which, if it had existed at the time of the original application for the license, would have warranted the commissioner in refusing originally to issue the license.

(2) If the commissioner finds that probable cause for revocation of any license exists and that the enforcement of the act requires immediate suspension of the license pending investigation, he or she may, upon 3 days' written notice and a hearing, suspend any license for a period not exceeding 30 days.

(3) A licensee may surrender its license by delivering to the commissioner written notice that it surrenders the license. The surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

(4) A revocation or suspension or surrender of a license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

(5) The commissioner shall have authority to reinstate suspended licenses or to issue new licenses to a licensee whose license shall have been revoked if no fact or condition exists that clearly would have warranted the commissioner in refusing originally to issue the license.

(6) If the commissioner revokes or suspends a license, he or she shall file with the office of financial and insurance services a written transcript of the order containing the evidence and the reasons supporting the revocation or suspension, and serve upon the licensee a copy of the transcript.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.9;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.9a Cease and desist order; grounds; notice; failure to appear at hearing; findings; effective date and duration of order.**

Sec. 9a. (1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare or is, has, or is about to violate a law or rule, the commissioner may serve a notice of intention to issue a cease and desist order as provided in subsection (2).

(2) A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation and fix a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued against the licensee.

(3) If the licensee fails to appear at the hearing by a duly authorized representative, the licensee shall have consented to the issuance of the cease and desist order.

(4) In the event of consent under subsection (3) or if, upon the record made at the hearing, the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its officers, directors, members, partners, trustees, employees, agents, and control persons to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(5) Except as provided in subsection (6) or to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order shall become effective on the date of service.

(6) A cease and desist order issued upon consent shall become effective at the time specified in the order and remain effective and enforceable as provided in the order.

**History:** Add. 2002, Act 393, Imd. Eff. May 30, 2002.

#### **493.9b Investigation or examination by commissioner; complaint or action; suspension of**

### **license; request for hearing; duration of suspension.**

Sec. 9b. (1) As provided in section 10, the commissioner may investigate or conduct an examination of any person and conduct hearings as the commissioner considers necessary to determine whether a licensee or any other person has violated this act, or whether a licensee has conducted business in a manner that would justify suspension or revocation of its license.

(2) Upon the filing of a complaint or the taking of action against a licensee under section 9c, the commissioner may issue and serve upon a licensee an order suspending that person's license. The order shall be supported by an affidavit from a person familiar with the facts set forth in the affidavit and shall contain information that an imminent threat of financial loss or threat to the public welfare exists.

(3) Upon service of the order under subsection (2), the licensee shall have 20 days to file with the commissioner a request for a hearing. The hearing shall be scheduled within 20 days of the receipt of a request filed under this subsection.

(4) A suspension of a license under this section shall continue until the commissioner finds that the threat of financial loss or threat to the public welfare no longer exists.

**History:** Add. 2002, Act 393, Imd. Eff. May 30, 2002.

### **493.9c Fraud.**

Sec. 9c. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee under this act or a licensee or registrant under a financial licensing act. For purposes of this section, "fraud" shall include actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act.

(4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to applicants for loans, mortgage loans, secondary mortgage loans, credit card arrangements, or installment sales credit, borrowers on loans, obligors on installment sale contracts, loan servicing customers, purchasers of mortgage loans or interests in mortgage loans, or purchasers of checks from a licensee, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) the commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or control person.

**History:** Add. 2002, Act 393, Imd. Eff. May 30, 2002.

### **493.9d Hearing; decision; findings; judicial review; stay.**

Sec. 9d. (1) A hearing under sections 9, 9a, and 9c shall be conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that shall include findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(2) Except for a consent order, a party to the proceeding or a person affected by an order issued under sections 9, 9a, and 9c may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(3) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (2) does not stay the commissioner's order.

**History:** Add. 2002, Act 393, Imd. Eff. May 30, 2002.

#### **493.9e Enforcement of order; jurisdiction.**

Sec. 9e. The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under section 9, 9a, 9b, or 9c.

**History:** Add. 2002, Act 393, Imd. Eff. May 30, 2002.

#### **493.9f Violation as misdemeanor; penalty.**

Sec. 9f. Any current or former executive officer, director, agent, or control person who violates a final order issued under section 9c is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both.

**History:** Add. 2002, Act 393, Imd. Eff. May 30, 2002.

#### **493.9g Violation of order; exceptions.**

Sec. 9g. A control person who is subject to an order issued under section 9c and who meets all of the following requirements is not in violation of the order:

(a) The control person shall not in any manner, directly or indirectly, participate in the control of a licensee after the date the order is issued.

(b) The control person shall within 6 months after the date the order is final transfer any interest the control person owns in a licensee to an unrelated third party.

**History:** Add. 2002, Act 393, Imd. Eff. May 30, 2002.

#### **493.10 Commissioner of state banking department; authority to investigate business and examine records; witnesses; examination of licensee; construction of section; disposition of fees.**

Sec. 10. (1) For the purpose of investigating violations of this act or securing information lawfully required under this act, the commissioner may at any time, either personally or by a designated person or persons, investigate the loans and business and examine the books, accounts, records, and files used with the loans and business of any licensee or any person engaged in the business described in section 2. The commissioner and his or her duly designated representatives shall have and be given free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all persons investigated under this section. The commissioner and persons duly designated by him or her have the authority to require the attendance of and to examine under oath all persons whose testimony the commissioner may require relative to the loans or business or to the subject matter of an examination, investigation, or hearing.

(2) The commissioner at any time may investigate the business activities of a licensee as the commissioner considers necessary, examine the books, accounts, records, and files used and maintained by any licensee, and require the licensee to furnish additional reports relating to the licensee's business. The commissioner shall examine the books, accounts, records, and files of a licensee at least once during every 5-year period.

(3) This act shall not be construed to prohibit the keeping of records by electronic data processing methods.

(4) All fees collected under this section shall be paid into the state treasury and credited to the office of financial and insurance services.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.10;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1996, Act 184, Imd. Eff. May 3, 1996;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**493.11 Books, accounts, and records of licensee; preservation and accessibility; filing financial statement with commissioner; reports.**

Sec. 11. (1) The licensee shall keep and use in the licensee's business the books, accounts, and records the commissioner may require in order to determine whether the licensee is complying with this act and with the rules promulgated by the commissioner under this act. The licensee shall preserve within this state and make accessible to the commissioner, the books, accounts, and records for at least 2 years after making the final entry on any loan recorded in the books, accounts, and records. Books and accounts may be kept at a location other than the licensee's principal place of business, provided that they are made available to the commissioner upon request and the licensee pays the actual and reasonable travel expenses if the examiner must travel out of state.

(2) The licensee shall file, annually on or before February 15 of each year, with the commissioner its financial statement in a uniform format prescribed by the commissioner, including information on earnings, for the prior calendar year.

(3) A licensee shall annually on or before a date established by the commissioner file with the commissioner a report, on a form provided by the commissioner, stating the licensee's volume and type of business activities for the immediately preceding calendar year. The commissioner shall provide at least 30 days' advance notice of the date each report is due.

(4) All reports shall be made under oath and shall be in the form prescribed by the commissioner.

(5) The commissioner shall make and publish annually an analysis and recapitulation of the reports filed under subsections (2) and (3).

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.11;—Am. 1983, Act 103, Imd. Eff. June 30, 1983;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

\*\*\*\*\* 493.12 THIS SECTION IS AMENDED EFFECTIVE FEBRUARY 19, 2018: See 493.12.amended \*\*\*\*\*

**493.12 Statements or representations by licensee; lien on real estate; confession of judgment or power of attorney prohibited; note or evidence of indebtedness; blanks; discrimination on basis of sex or marital status prohibited.**

Sec. 12. (1) A licensee or other person shall not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever a false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action.

(2) A licensee shall not take a lien upon real estate as security for a loan made under this act, except a lien acquired by execution or otherwise after the entry of a judgment.

(3) A licensee shall not take a confession of judgment or a power of attorney to appear or to confess judgment on behalf of a borrower. A licensee shall not take a note or evidence of indebtedness that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, or an instrument in which blanks are left to be filled in after execution.

(4) A licensee shall not discriminate against a person in the extension of credit on the basis of sex or marital status.

(5) Except as provided under section 9g, a licensee shall not knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.12;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002;—Am. 2002, Act 393, Imd. Eff. May 30, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

\*\*\*\*\* 493.12.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 19, 2018 \*\*\*\*\*

**493.12.amended Statements or representations by licensee; lien on real estate; confession of judgment or power of attorney prohibited; note or evidence of indebtedness; blanks;**

**discrimination on basis of sex or marital status prohibited; knowingly permitting person to violate order; fee; conditions.**

Sec. 12. (1) A licensee or other person shall not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever a false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action.

(2) A licensee shall not take a lien on real estate as security for a loan made under this act, except a lien acquired by execution or otherwise after the entry of a judgment.

(3) A licensee shall not take a confession of judgment or a power of attorney to appear or to confess judgment on behalf of a borrower. A licensee shall not take a note or evidence of indebtedness that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, or an instrument in which blanks are left to be filled in after execution.

(4) A licensee shall not discriminate against an individual in the extension of credit on the basis of sex or marital status.

(5) Except as provided under section 9g, a licensee shall not knowingly permit a person to violate an order that is issued under this act or any other financial licensing act that prohibits that individual from being employed by, an agent of, or a control person of the licensee.

(6) A licensee shall not pay a person a fee for locating a potential borrower for the licensee or introducing or referring a potential borrower to the licensee unless both of the following are met:

(a) The potential borrower is not directly or indirectly charged for all or any part of the fee if he or she enters into a loan with the licensee.

(b) The amount of the fee does not exceed \$500.00.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.12;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002;—Am. 2002, Act 393, Imd. Eff. May 30, 2002;—Am. 2017, Act 171, Eff. Feb. 19, 2018.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**493.12a False, misleading, deceptive, or irresponsible advertising unlawful; definition; requirements for advertising.**

Sec. 12a. (1) False, misleading, deceptive, or irresponsible advertising is unlawful and is defined as follows:

(a) Advertising which lures, entices, induces, or tends to induce a person to incur a debt by unreasonably minimizing the consequences of assuming a legal repayment obligation or by depicting the assumption of a debt obligation as a frivolous transaction.

(b) Advertising that describes or depicts the benefits or advantages of having the money from a loan, without describing or depicting the obligation of repaying the loan with interest.

(c) Advertising with claims and representations that are not accurate or provable.

(d) Advertising which misrepresents facts or creates misleading impressions.

(e) Advertising which uses the phrase "lowest rates", "lowest rates in the city", or similar phrases unless the rates are actually lower than those of other lenders.

(f) Advertising which uses the phrase "new reduced rates", "new low rates", "reduced rates", or similar phrases for more than 60 days after the changed rates become effective.

(g) Advertising which causes a probability of confusion or misunderstanding as to the legal rights, obligations, or remedies of a lender, or as to the terms or conditions of credit.

(h) Advertising which represents that a borrower will receive a rebate, discount, or other benefit as an inducement for entering into a transaction, if the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(i) Advertising which suggests or infers that a loan is not a loan, or that interest is not charged, or that the borrower is not under an obligation to repay.

(2) A licensee shall not advertise any size of loan, security required for a loan, rate of charge, or other condition of lending except with the full intent of making loans at those rates, or lower rates, and under those conditions, to applicants who meet the standards or qualifications prescribed.

**History:** Add. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of



financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.12b Repealed. 1991, Act 14, Eff. Oct. 1, 1991.**

**Compiler's note:** The repealed section pertained to licensee promotional plans.

#### **493.12c False, misleading, deceptive, or irresponsible advertising; report to attorney general; action to restrain by temporary or permanent injunction; costs; civil penalty; notice to licensee; assurance of discontinuance; violation subject to civil penalty; jurisdiction, continuance of cause, and petition for recovery of civil penalty; effect of action or failure to act by commissioner.**

Sec. 12c. (1) If the commissioner has probable cause to believe that a licensee has engaged, is engaged, or is about to engage in advertising that is false, misleading, deceptive, or irresponsible as defined in section 12a, and upon notice given in accordance with this section, the commissioner shall report the matter to the attorney general. The attorney general or the commissioner may bring an action to restrain the licensee by temporary or permanent injunction from engaging in the advertising. The action may be brought in the circuit court for the county where the licensee is established or conducts business or in the circuit court for Ingham county. The court may award costs to the prevailing party. For persistent and knowing violation of section 12a the court may assess the defendant a civil penalty of not more than \$5,000.00.

(2) Unless waived by the court on good cause shown, not less than 10 days before the commencement of a proceeding under this section the commissioner shall notify the licensee of the intended referral to the attorney general and provide the licensee an opportunity to cease and desist from the alleged unlawful advertising or to confer with the commissioner in person, by counsel, or by other representative as to the proposed action before the proposed filing date.

(3) Service of the notice may be given to the licensee by mail, postage prepaid, to the licensee's usual place of business or, with respect to a corporation, only to a resident agent who is designated to receive service of process or to an officer of the corporation.

(4) If the commissioner has authority to institute a proceeding under this section, the commissioner, upon the concurrence of the attorney general, may accept an assurance of discontinuance of advertising that is alleged to be unlawful under section 12a from the person who is alleged to have engaged, be engaging, or be about to engage in the advertising. The assurance does not constitute an admission of guilt nor can it be introduced in any other proceeding. An assurance of discontinuance shall be in writing and filed with the circuit court for Ingham county. The clerk of the court shall maintain a record of the filings. Unless rescinded by the parties or voided by the court for good cause, the assurance may be enforced in the circuit court by the parties to the assurance. The assurance may be modified by the parties or by the court for good cause.

(5) A person who knowingly violates the terms of an injunction, order, decree, or judgment issued under this section is subject to a civil penalty of not more than \$500.00 for each violation. For the purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, and the cause shall be continued. The attorney general or the commissioner may petition for recovery of a civil penalty as provided by this section.

(6) The action or the failure to act by the commissioner under this section shall not be considered specific authorization of conduct barring the attorney general from bringing an action under the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

**History:** Add. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1992, Act 71, Imd. Eff. June 2, 1992;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.12d Action to enjoin licensee from advertising; circuit court.**

Sec. 12d. A person may bring an action in the circuit court of the county in which an office of a licensee is located, or in the circuit court for Ingham county, to enjoin a licensee from advertising in violation of section 12a.

**History:** Add. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.13 Limitation on amount of loan and interest charge; obligation under more than 1 loan contract; computation and payment of charges; loan processing fee; fees; amount other**

**than or in excess of charges permitted by act; penalties; “open-end credit” defined.**

Sec. 13. (1) A licensee may lend money and may contract for, compute, and receive interest charges on the loan at a rate that does not exceed the rate permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864. A loan by a licensee may be 1 of the following:

(a) A closed-end loan.

(b) Open-end credit consisting of direct advances from the licensee or checks issued by the licensee. This subdivision does not apply to open-end credit available through the use of a credit card or charge card.

(2) A licensee shall not induce a person to become directly obligated under more than 1 loan contract not secured by personal property at the same time.

(3) Charges on loans made under this act shall not be paid, deducted, or received in advance, or compounded. All charges on loans made under this act shall be computed on the unpaid principal balance or portions of the balance, specifically expressed in every obligation signed by the borrower, and computed on the basis of the number of days actually elapsed.

(4) In addition to the interest and charges provided for in this act, a loan processing fee not to exceed 5% of the principal, up to \$250.00, may be charged for each closed-end loan made, and may be included in the principal of the loan. The \$250.00 limit on the loan processing fee shall be adjusted every 2 years to reflect the percentage change in the United States consumer price index for the 2 immediately preceding calendar years, rounded to the nearest hundred dollars. As used in this subsection, “United States consumer price index” means the United States consumer price index for all urban consumers in the United States city average, as defined and reported by the United States department of labor, bureau of labor statistics, and after certification by the commissioner. A licensee may require the borrower to pay the late charges permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864. A licensee shall not induce or permit a person to become obligated, directly or contingently, under more than 1 loan contract not secured by personal property at the same time for the purpose or with the result of obtaining a loan processing fee not otherwise permitted by this section. No other amount shall be directly or indirectly charged, contracted for, or received, except the lawful fees, if any, actually and necessarily paid by the licensee to a governmental entity for the filing, recording, or releasing of either of the following:

(a) A financing statement or an instrument securing the loan, or both.

(b) A record noting or releasing a lien or transferring a certificate of title under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(5) The fees permitted under this section may be collected at any time on or after the date the loan is made.

(6) A licensee may charge a handling fee for the return of an unpaid and dishonored check, draft, negotiable order, or similar instrument given to the licensee in full or partial repayment of a loan as authorized by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(7) A licensee may recover from the borrower the costs and expenses of retaking, holding, repairing, preparing for sale, and selling any personal property in accordance with sections 9609 and 9615 of the uniform commercial code, 1962 PA 174, MCL 440.9609 and 440.9615.

(8) A licensee may charge a reasonable annual fee for the privilege of receiving open-end credit from the licensee.

(9) A licensee may charge a reasonable fee per payment if a borrower makes a payment or payments by authorizing a licensee verbally or in writing to execute a debit or otherwise process a payment, through automated clearing procedures, drawn on the borrower's deposit account. This subsection shall not be construed to permit the imposition of a fee in cases where the borrower, at the time of consummation of the loan, authorizes the licensee to effect all periodic installment payments by way of electronic automated clearing procedures drawn on the borrower's deposit account.

(10) In addition to the penalties provided by this act, a violation of this act with respect to a particular regulatory loan transaction is also subject to the penalty and remedy provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(11) As used in this section, “open-end credit” means credit that is not secured by an interest in real property and is extended under a plan in which both of the following apply:

(a) The licensee reasonably contemplates repeated transactions.

(b) The amount of credit that may be extended to the borrower during the term of the plan is generally made available to the extent that any part of the outstanding balance is repaid.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.13;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1994, Act 142, Imd. Eff. May 27, 1994;—Am. 1995, Act 165, Eff. Mar. 28, 1996;—Am. 1996, Act 184, Imd. Eff. May 3, 1996;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.13a Credit life insurance; other insurance.**

Sec. 13a. (1) In addition to charges allowed under section 13, at the option of the borrower, a licensee may obtain or provide 1 or both of the following and deduct from the principal of a loan and retain an amount equal to the premium lawfully charged by the insurance company:

(a) Credit insurance as defined in the credit insurance act, 1958 PA 173, MCL 550.601 to 550.624.

(b) Any other insurance under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(2) The insurance permitted by this section shall be in force when the loan is made. If the borrower obtains the insurance from or through a licensee, the statement required by section 14 shall show the cost of the insurance and the licensee shall provide to the borrower a copy of the policy, certificate, or other evidence of the insurance. This act does not prohibit the licensee or any employee, affiliate, subsidiary, or associate of the licensee from collecting the premium or identifiable charge for the insurance permitted by this section or from receiving and retaining any gain or other benefit resulting from the insurance. A licensee shall not require the purchase of insurance as a condition precedent to the making of a loan.

**History:** Add. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1994, Act 407, Eff. Mar. 30, 1995;—Am. 1996, Act 184, Imd. Eff. May 3, 1996;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.14 Licensee; duties.**

Sec. 14. A licensee shall:

(a) Deliver to the borrower a disclosure statement in compliance with 12 C.F.R. part 226.

(b) Give to the borrower a plain and complete receipt for cash payments made on account of a loan at the time the payments are made, specifying the amount applied to charges and the amount, if any, applied to principal, and stating the unpaid principal balance of the loan. An unitemized receipt may be given temporarily and within 30 days a receipt as prescribed above delivered or mailed.

(c) Permit payment to be made in advance in any amount on any contract of loan at any time during regular business hours, but the licensee may apply that payment first to all charges in full at the agreed rate up to the date of the payment.

(d) Upon repayment of the loan in full, mark plainly every obligation and security signed by the borrower with the word "Paid" or "Canceled", and release any mortgage, restore any pledge, cancel and return any note, and cancel and return any assignment given to the licensee by the borrower.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.14;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.14a Compliance with federal consumer credit protection act.**

Sec. 14a. Compliance with the requirements of the consumer credit protection act, Public Law 90-321, 82 statute 146, commonly referred to as the federal truth in lending act is compliance with section 12 as to advertising, section 13a as to cost of insurance, and section 14.

**History:** Add. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.15 Contract in compliance with retail installment sales act or home improvement finance act.**

Sec. 15. A licensee may purchase a contract made in compliance with the retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873, or the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.15;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.15a Regulatory loan contract; nonperformance by borrower; advances by licensee; termination of insurance upon reinstatement of contractual duties by borrower.**

Sec. 15a. (1) If a regulatory loan contract contains obligations by the borrower to perform certain duties pertaining to insuring or preserving collateral and the licensee, because of the borrower's failure to perform these duties, pays for performance of the duties on behalf of the borrower, the licensee may add the amounts paid to the debt and collect interest at the contract rate on the amounts.

(2) Within 30 days after advancing any sums under this section, the licensee shall notify the borrower in writing of the amount of the sums advanced, any charges with respect to this amount, any revised payment schedule, and a brief description of the services or products paid for by the licensee, including the type and amount of insurance coverages, if applicable.

(3) The licensee shall promptly terminate insurance or other services procured under this section once the borrower provides evidence that the performance of contractual duties have been reinstated.

**History:** Add. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

#### **493.16 Repealed. 1978, Act 528, Eff. Mar. 30, 1979.**

**Compiler's note:** The repealed section pertained to sale or assignment of wages as loans.

#### **493.17 Assignment or order for payment of compensation to secure loan invalid; validity of chattel mortgage or lien on household goods; married borrower; signatures; written assent of spouse.**

Sec. 17. (1) An assignment of, or order for payment of, salary, wages, commissions, or other compensation for services, earned or to be earned, given to secure a loan made by a licensee under this act, shall not be valid. A chattel mortgage or other lien on household goods then in the possession and use of the borrower shall not be valid unless it is in writing and signed in person by the borrower.

(2) If the borrower is married, a chattel mortgage or other lien on household goods shall not be valid unless it is signed in person by both husband and wife. The written assent of a spouse under this section shall not be required when husband and wife have been living separate and apart for a period of not less than 5 months before the making of the chattel mortgage or other lien.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.17;—Am. 1980, Act 392, Eff. Mar. 31, 1981;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.18 Unlicensed persons; limitation on interest, discount, or consideration; applicability of act to loans made in another state or country.**

Sec. 18. (1) A person, except as authorized by this act, shall not directly or indirectly charge, contract for, or receive an interest, discount, or consideration greater than the lender would be permitted by law to charge if the lender were not licensed under this act upon the loan, use, or forbearance of money, goods, or things in action.

(2) The prohibition specified in subsection (1) applies to a person who or which, by any device, subterfuge, or pretense charges, contracts for, or receives greater interest, consideration, or charges than authorized by this act for the loan, use, or forbearance of money, goods, or things in action or for the loan, use, or sale of credit.

(3) This act does not apply to loans legally made in another state or country by a licensee under a regulatory loan law similar in principle to this act, except that loans made by mail to Michigan residents are subject to this act.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.18;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1995, Act 165, Eff. Mar. 28, 1996;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.19 Violation as misdemeanor; penalty.**

Sec. 19. (1) A person, including a member, officer, director, agent, or employee of a licensee, who violates

or participates in the violation of section 1, 12, 13, 14, or 18 is guilty of a misdemeanor punishable by a fine of not more than \$500.00, or imprisonment for not more than 6 months, or both.

(2) A person who makes or collects upon a loan contract in a manner prohibited by this act is guilty of a misdemeanor under section and is subject to the credit reform act.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.19;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1995, Act 165, Eff. Mar. 28, 1996.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.20 Businesses exempt from act.**

Sec. 20. This act shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, industrial banks, trust companies, building and loan associations, or credit unions, nor to any business transacted under any pawnbroker's license.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.20.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.21 Enforcement of act; rules.**

Sec. 21. The commissioner may promulgate rules that are necessary for the administration and enforcement of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.21;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1992, Act 71, Imd. Eff. June 2, 1992;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**Administrative rules:** R 493.1 et seq. of the Michigan Administrative Code.

#### **493.22 Amendments or repeals of act; impairment of obligation.**

Sec. 22. This act or any part thereof may be modified, amended, or repealed so as to effect a cancellation or alteration of any license or right of a licensee hereunder, provided that such cancellation or alteration shall not impair or affect the obligation of any pre-existing lawful contract between any licensee and any borrower.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.22.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

#### **493.23 Repealed. 1991, Act 14, Eff. Oct. 1, 1991.**

**Compiler's note:** The repealed section pertained to licensees under former act.

#### **493.24 Review of decisions and regulations; limitations; method; jurisdiction of courts.**

Sec. 24. Any applicant under section 4 of this act or any licensee, being dissatisfied with any rule, regulation, order, demand, ruling, or finding (hereinafter in this section referred to as an order) whatsoever, made by the commissioner under and by virtue of the provisions of this act, may, within 30 days from the issuance of such order and the giving of notice thereof as required herein, commence an action in the circuit court in chancery for the county of Ingham, or in the chancery court of the county in which is located the place of business of such licensee or applicant concerning which such rule, regulation, order, demand, ruling or finding was made, against the commissioner as defendant to vacate and set aside such order on the ground that the same is unlawful or unreasonable or not correct as to the facts, or that any regulation or practice fixed in such order is unlawful or unreasonable. In such action the trial shall be de novo and the court shall not be bound by any finding of fact or law on the part of the commissioner, and the burden of proof shall be on the commissioner. The same shall proceed, be tried and determined as other chancery suits and appeal therefrom may be taken by any party to the supreme court in the same manner as from other chancery suits. Any party to such suit may introduce original evidence in addition to the transcript of evidence taken before the commissioner. The said circuit court in chancery is hereby given jurisdiction of such suits and empowered to affirm, modify, vacate, or set aside the order of the commissioner in whole or in part and to make such other order or decree as the court shall decide to be proper and in accordance with the facts and the law. In all

actions and proceedings in court arising under this section of this act, all process shall be served and the practice and rules of evidence shall be the same as in actions in equity except as otherwise herein provided.

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—CL 1948, 493.24.

**Compiler's note:** For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

**493.25 Repealed. 2001, Act 270, Imd. Eff. Jan. 11, 2002.**

**Compiler's note:** The repealed section pertained to certified copy of order as evidence.

**493.26 Repealed. 1991, Act 14, Eff. Oct. 1, 1991.**

**Compiler's note:** The repealed section contained a repealer and saving clause.

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