

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

FINANCIAL INSTITUTIONS BUREAU

MORTGAGE AND HOME IMPROVEMENT LENDING PRACTICES

(By authority conferred on the commissioner of the financial institutions bureau by section 10 of Act No. 135 of the Public Acts of 1977, as amended, being S445.1610 of the Michigan Compiled Laws)

R 445.1001 Definitions and explanation of terms.

Rule 1. (1) As used in these rules and the act:

(a) "Act" means Act No. 135 of the Public Acts of 1977, as amended, being S445.1601 et seq. of the Michigan Compiled Laws.

(b) "Administrative procedures act" means Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws.

(c) "Branch office" or "service center" does not mean an electronic funds transfer facility or a branch or service center that is exclusively a drive-in branch or drive-in service center.

(d) "Bureau" means the financial institutions bureau of the Michigan department of commerce.

(e) "Contested case hearing" means a hearing conducted pursuant to chapter 4 of the administrative procedures act, being SS24.271 to 24.281 of the Michigan Compiled Laws.

(f) "Loan inquiry" means a request made in person or by telephone, letter, or other communication device that is related to the prospects of obtaining a mortgage loan or a home improvement loan from a credit-granting institution.

(g) "Neighborhood," as defined in section 1(h) of the act, includes an area designated by a single zip code number under the zoning improvement plan of the United States postal service for any area located within a standard metropolitan statistical area that has not been assigned a census tract number as defined by the United States bureau of the census.

(h) "Objections" means exceptions and written arguments made by a party adversely affected by a proposal for decision to a contested case hearing held pursuant to these rules.

(2) A home improvement loan secured by a mortgage shall be considered a home improvement loan and not a mortgage loan.

History: 1979 AC; 1995 AACS.

R 445.1002 Forms, reports, and correspondence; providing requested copies.

Rule 2. A credit-granting institution shall be deemed in compliance with section 2(7) of the act if the copies of completed forms, reports, or correspondence

requested by an applicant are mailed within a reasonable time after receipt of the request.

History: 1979 AC; 1995 AACS.

R 445.1003 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1004 Pamphlet or document required pursuant to section 2(10) of the act; availability.

Rule 4. The pamphlet or document required to be made available pursuant to section 2(10) of the act shall be available where loan applications or loan inquiries are routinely received by the credit-granting institution and where the public may obtain a copy without the aid of an employee of the credit-granting institution.

History: 1979 AC; 1995 AACS.

R 445.1005 Notice to inquirers and loan applicants required by section 5 of the act; printing; type size requirements.

Rule 5. The text of the written notice required by section 5 of the act shall be printed in 18-point or larger medium face type, and the heading shall be printed in 48-point or larger capital letter boldface type.

History: 1979 AC; 1995 AACS.

R 445.1006 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1007 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1008 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1009 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1010 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1011 Affidavit required by section 6 of the act; form.

Rule 11. The affidavit required by section 6 of the act shall be completed in a form prescribed by the commissioner.

History: 1979 AC; 1995 AACS.

R 445.1012 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1013 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1014 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1015 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1016 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1017 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1018 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1019 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1020 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1021 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1022 Complaint; form; initiation of investigation pursuant to section 8(1) of the act.

Rule 22. (1) The commissioner shall prescribe a standardized complaint form and make it available to any individual who desires to file a written complaint alleging a violation of the act by a credit-granting institution.

(2) The commissioner shall provide a copy of the complaint form prescribed in subrule (1) of this rule to each depository credit-granting institution. The commissioner shall provide a copy of the complaint form prescribed in subrule (1) of this rule to each nondepository credit-granting institution that makes a request and provides its name and address. A credit-granting institution may duplicate the complaint form in order to provide sufficient copies for use by its loan applicants or inquirers.

(3) The complaint form shall be provided by a credit-granting institution upon receipt of a written request mailed or delivered to any office of the credit-granting institution or upon a request made in person at the main office of the credit-granting institution in the area of the main office where loan applications or loan inquiries are routinely received.

(4) An investigation pursuant to section 8(1) of the act shall be initiated if a written complaint is received by the bureau and is determined by the commissioner or a representative of the commissioner to contain sufficient information to constitute an allegation of a violation of the act by a credit-granting institution.

History: 1979 AC; 1995 AACS.

R 445.1023 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1024 Investigation; location; written response; report of findings.

Rule 24. (1) An investigation conducted pursuant to section 8(1) of the act may include an inspection of the books, records, papers, documents, or files of the credit-granting institution and may be conducted by either or both of the following means:

(a) An on-site investigation at the office of the credit-granting institution where an application was submitted or loan inquiry was made that is the subject of a written complaint or at an office of the credit-granting institution where the commissioner or a representative of the commissioner reasonably believes the materials and information necessary to conduct an investigation are located.

(b) By serving the chief executive officer of the credit-granting institution with a notice of investigation that requires a written response to an allegation of a violation of the act and submission of copies of all requested materials and information pertaining to the alleged violation.

(2) An investigation conducted pursuant to subrule 1(b) of this rule shall be conducted as follows:

(a) The notice of investigation shall contain a short, plain statement of the alleged violation of the act that enables the credit-granting institution to respond to each allegation with specificity and assemble all materials and information requested. A copy of the complaint form or written complaint shall be attached to the notice of investigation required by this rule.

(b) Each question shall be responded to in writing and in a manner deemed sufficient by the commissioner or a representative of the commissioner, and all documentation requested in the notice prescribed by this rule shall be submitted, within 20 days from the date of service of the notice of investigation. In the discretion of the commissioner, the time to submit materials and information may be extended not more than 10 days if the credit-granting institution provides written notice to the commissioner, within 15 days from the date of service, that it has made a good faith effort to comply with this rule.

(c) The response shall be accompanied by a sworn affidavit signed by an officer of the credit-granting institution stating that all of the questions have been fully answered and all documentation requested has been submitted to the commissioner. If, in the discretion of the commissioner or a representative of the commissioner, the responses or documentation submitted are insufficient to conduct an investigation, an additional request for information may be made or an on-site investigation may be conducted, or both.

(3) At the conclusion of an investigation pursuant to section 8(1) of the act and these rules, the commissioner or a representative of the commissioner shall issue a written report of findings to be served on the complainant and the chief executive officer of the credit-granting institution.

History: 1979 AC; 1995 AACS.

R 445.1025 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1026 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1027 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1028 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1029 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1030 Violation of act; fine; recommendation in proposal for decision.

Rule 30. (1) If after an investigation the commissioner, or a representative of the commissioner concludes that the credit-granting institution has violated the act, the report of findings shall contain a recommendation stating whether a fine should be imposed pursuant to section 12 of the act.

(2) If the report of findings contains a conclusion that the act has been violated, recommends the imposition of a fine, or both, a notice of opportunity for a contested case hearing shall accompany the report of findings served on the chief executive officer of the credit-granting institution.

History: 1979 AC; 1995 AACS.

R 445.1031 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1032 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1033 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1034 Rescinded.

History: 1979 AC; 1996 AACS.

R 445.1035 Contested case hearing; parties.

Rule 35. Parties to a contested case hearing held pursuant to these rules shall be the credit-granting institution through its designated representative or representatives and the bureau.

History: 1979 AC; 1995 AACS.

R 445.1036 Contested case hearing; proposal for decision; objections; final decision; rehearing; judicial review.

Rule 36. (1) A proposal for decision of a contested case hearing held pursuant to these rules shall be served on the chief executive officer of the credit-granting institution or any other party.

(2) The proposal for decision shall become the final decision of the bureau unless either of the following provisions is complied with:

(a) Within 20 days from the date of service, or within a period the commissioner may authorize, an adversely affected party files objections with the commissioner, who shall do either of the following:

(i) Review the hearing record, proposal for decision, and objections and within a reasonable time after the review, issue the final decision and final order of the bureau.

(ii) Order a hearing over which the commissioner presides and which is limited in scope to the issues raised in the objections, review the hearing records, and proposal for decision, and within a reasonable time after the review issue the final decision and final order of the bureau.

(b) After the expiration of the time allowed by this rule for the filing of objections during which no objections are filed and within 40 days from the date of service, the commissioner provides notice to the parties that he or she will review the hearing record and proposal for decision, and within a reasonable time after the review issue the final decision and final order of the bureau.

(3) Before a party may seek judicial review of a final decision and final order of the bureau, a motion requesting a rehearing shall be made to the commissioner in accordance with the administrative procedures act and a ruling on the motion shall be made.

(4) Any objection that has not been raised before the commissioner shall not be considered by a court, unless the failure or neglect to raise the objection is excused because of extraordinary circumstances.

History: 1979 AC; 1995 AACS.

R 445.1037 Payment of fine.

Rule 37. If a fine is to be assessed against a credit-granting institution, it shall be payable to the "State of Michigan" for deposit in the general fund and shall be paid within 30 days from the date of the order, unless stayed by further order of the commissioner or an order of the circuit court that has jurisdiction over the matter.

History: 1979 AC; 1995 AACS.

R 445.1038 Rescinded.

History: 1979 AC; 1996 AACS.