

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

REGULATORY LOAN LICENSEES

Filed with the secretary of state on June 8, 2020

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of insurance and financial services by section 21 of the regulatory loan act, 1939 PA 21, MCL 493.21, and Executive Reorganization Order Nos. 2003-1, 2008-1, 2008-4, 2011-4, and 2013-1, MCL 445.2011, 445.2005, 445.2025, 445.2030, and 550.991)

R 493.5, R 493.10, and R 493.95 of the Michigan Administrative Code are rescinded, R 493.1, R 493.11, R 493.12, R 493.14, R 493.15, R 493.16, and R 493.20 are amended, and R 493.22 and R 492.24 are added, as follows:

R 493.1 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.
- (b) "Department" means the department of insurance and financial services.
- (c) "Director" means the director of the department of insurance and financial services.
- (2) Terms defined in the act have the same meaning when used in these rules.

R 493.5 Rescinded.

R 493.10 Rescinded.

R 493.11 Records; daily transactions; borrowers; alphabetical index; judgments.

Rule 11. (1) A licensee shall maintain a record of all transactions involving receipt or disbursement of funds by each office from which the licensee operates. The record must identify each transaction; show separately payments received on principal and interest charges; show account numbers, names of borrowers, and all amounts disbursed; and be posted and balanced daily.

(2) A licensee shall maintain, from the date of loan inception, a record for each borrower that contains all of the following information:

- (a) Borrower's name and address.
- (b) Loan number.
- (c) Loan amount.
- (d) Loan date.
- (e) Rate of charge.
- (f) Repayment terms.
- (g) Description of security.

- (h) Names of endorsers, comakers, or sureties.
 - (i) Amount of filing or discharge fees collected from the borrower.
 - (j) Marital status only if the loan is secured by household goods.
 - (k) Any amount received or withheld from the borrower as a premium for insurance in connection with the loan, and the period covered by such insurance policy or policies.
 - (l) The date and amounts of all principal payments received, interest charges received, and cash disbursements pertaining to the loan, including court costs.
 - (m) The date to which interest charges are paid and the unpaid balance due on the principal.
- (3) A licensee shall maintain an alphabetical index identifying the name, loan number, and original loan amount of each borrower, comaker, surety, guarantor, or endorser. Information concerning a comaker, surety, guarantor, or endorser must be readily identifiable.
- (4) When a note is reduced to judgment, all of the following provisions must be complied with:
- (a) The loan record maintained pursuant to subrule (2) of this rule must be clearly designated a judgment account.
 - (b) Payments received must be identified and applied on the judgment loan record.
 - (c) The licensee shall retain all filings, judgments, and other documents related to the judgment.
 - (d) A licensee shall maintain a list of all loans reduced to judgment during the previous 25 months.
 - (e) A licensee that charges a borrower for court costs it incurred on a judgment account shall itemize the costs on the loan record and retain a receipt or other document substantiating the costs.
 - (f) A licensee shall retain a copy of the officer's return of execution issued when property is sold pursuant to a judgment.
- (5) When property is taken in accordance with the terms of a security agreement or by judicial process or abandonment, the loan record must be designated clearly as a repossession account and must state when and how possession of the security was obtained and must identify the proceeds of the sale of the property. The licensee shall retain all of the following:
- (a) A copy of any agreement entered into with the borrower with respect to terms of surrender.
 - (b) A copy of the notice of sale, together with evidence of mailing or personal delivery.
 - (c) An inventory of the property taken.
 - (d) A signed statement from the purchasers, or from the auctioneer if the sale was public, describing the collateral purchased and showing the amounts paid.
 - (e) Evidence that the sale was held on the date set forth in the notice of sale, including a record of any bids received.
 - (f) A copy of a detailed statement of final accounting sent to the borrower setting forth the disposition of the proceeds of the sale and the principal balance due on the account, if any.
 - (g) Paid receipts evidencing costs incurred in the repossession and sale of the security which have been charged to the borrower.
 - (h) A list of all loan accounts where collateral was repossessed each month during the previous 25 months.
- (6) When the property is abandoned and the address of the borrower is uncertain or unknown, a notice of sale and statement of final accounting shall be sent to the last known

address by registered or certified mail, return receipt requested, and the copies of the notice and statement shall be retained by the licensee.

R 493.12 Records; assets, liabilities, income, and expenses; temporary entry items.

Rule 12. (1) A licensee shall maintain records showing all of its assets, liabilities, income, and expenses.

(2) A licensee shall maintain lists of temporary entry items.

(3) The records required by this rule must be posted not less frequently than monthly and must be available for examination by the department not later than 25 days after the end of a month.

R 493.14 Correspondence; retention by licensee.

Rule 14. Each licensee shall retain all its written correspondence with the department.

R 493.15 Insurance certificate or policy; provision to borrower of copy of document evidencing indebtedness or constituting security; consolidation of loans; retention of documents evidencing indebtedness or security.

Rule 15. (1) When a licensee obtains insurance on behalf of the borrower in connection with a loan, wherein the premium is paid by the borrower, a properly executed policy or certificate of insurance must be furnished to the borrower within 15 days of the date of the loan. Such policy or certificate must clearly show all of the following:

(a) The name of the insurance company.

(b) The nature of the insurance.

(c) The extent of the coverage.

(d) The amount of the premium.

(e) The effective date and expiration date of the policy.

(2) A licensee shall furnish to a borrower, upon request, a copy of any note, assignment, or other document, that evidences indebtedness or constitutes security and that the borrower is required to sign.

(3) Each licensee shall retain the original or a copy of each note, security agreement, or other evidence of indebtedness or security that has been signed by a borrower in favor of the licensee.

R 493.16 Designated business hours.

Rule 16. A licensee shall prominently display, at each business location and website, the respective days and times a borrower will be able to make payments.

R 493.20 Advertising.

Rule 20. (1) A licensee shall maintain copies of all advertising material sent to residents of Michigan. The date that the advertising material was used must be indicated on the material. A licensee that operates 2 or more physical locations or websites, or both, in Michigan may, upon notice to the director, maintain 1 record of the advertising material required by this rule in a centrally located office in Michigan for all licensed offices. All copies that are required to be maintained by this rule must be retained for a minimum of 3 years.

(2) An address must not be carried in any advertisement, except for the address of an active location or the home office of the licensee.

R 493.22 Display of license information.

Rule 22. (1) A licensee shall display a copy of its license in a public area at each physical office location within Michigan.

(2) Each website operated by a licensee must display the assigned license number and effective date, identify the department as the licensee's regulator, and provide the address and telephone number that a person may use to contact the department.

R 493.24 Monthly statements.

Rule 24. A licensee shall provide each borrower listed on a loan document with a monthly statement of account that includes all of the following:

- (a) Borrower's name and address.
- (b) Loan number.
- (c) Loan amount.
- (d) Loan date.
- (e) Rate of charge.
- (f) Amount of filing or discharge fees collected from the borrower.
- (g) Any amount received or withheld from the borrower as a premium for insurance in connection with the loan, and the period covered by such insurance policy or policies.
- (h) The date and amounts of all principal payments received, interest charges received, fees received, fees assessed, and cash disbursements pertaining to the loan, including court costs.
- (i) The date to which interest charges are current, any unpaid fees, and the balance due on the principal.

R 493.95 Rescinded.