

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

FINANCIAL INSTITUTIONS BUREAU

REGULATORY LOAN LICENSEES

(By authority conferred on the commissioner of the financial institutions bureau by section 21 of Act No. 21 of the Public Acts of 1939, as amended, being S493.21 of the Michigan Compiled Laws)

R 493.1 Definitions.

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

(a) "Act" means Act No. 21 of the Public Acts of 1939, as amended, being S493.1 et seq. of the Michigan Compiled Laws.

(b) "Bureau" means the financial institutions bureau.

(c) "Commissioner" means the commissioner of the financial institutions bureau.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1981 AACCS.

R 493.5 Applications.

Rule 5. (1) When a properly completed application form, together with any required fees, bonds, and accompanying documents, is received by the bureau, it shall be filed. The date of the filing shall determine the priority rights of an applicant.

(2) If the application is approved, the applicant shall be given a specified period of time within which the office must be established and in operation. The approval and application shall become void if the applicant does not establish the office within the specified time, unless the period of time is extended in writing by the commissioner.

History: 1981 AACCS; 1983 AACCS.

R 493.10 Records; maintenance by means of data processing equipment permitted; availability.

Rule 10. A licensee may maintain any or all of the records required by R 493.11 to R 493.13 by means of electronic data processing equipment. For examination purposes, a licensee shall make available, at a location in Michigan, all the information contained in these records written in the English language on paper or, with the approval of the commissioner, by means of an alternative medium.

History: 1981 AACCS; 1983 AACCS.

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

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

(2) A licensee shall maintain a record for each borrower which shall contain 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 shall be readily identifiable.

(4) When a note is reduced to judgment, all of the following provisions shall be complied with:

- (a) The loan record maintained pursuant to subrule (2) of this rule shall be clearly designated a judgment account.
- (b) Payments received shall be identified and applied on the judgment loan record.
- (c) The licensee shall retain a statement signed by a judge or clerk of the court which shall disclose all of the following information:
 - (i) Judgment date.
 - (ii) Name of licensee.
 - (iii) Judgment debtor's name.
 - (iv) Date suit was filed.
 - (v) Nature of the suit.
 - (vi) Name and location of the court.
 - (vii) Amount of the judgment, specifying principal, interest charges, and court costs.
 - (viii) A judgment of default, consent, or contested suit.
 - (ix) Disposition of the case.
- (d) A licensee shall maintain a list of all loans reduced to judgment during the previous 25 months.

(e) A licensee which 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 shall be designated clearly as a foreclosure account and shall state when and how possession of the security was obtained and shall 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, unless it appears in detail on the notice of sale.

(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 foreclosed 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.

(7) Within 30 days after consolidation of 2 or more licensed offices, the records maintained pursuant to R 493.11(2) by each of these offices shall be consolidated and the records maintained by the offices pursuant to R 493.11(3) shall be consolidated.

History: 1983 AACCS.

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

Rule 12. (1) A licensee shall maintain records showing the assets and liabilities of each licensed office and records of the aggregate income and aggregate expenses of all its licensed Michigan offices.

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

(3) The records required by this rule shall be posted not less frequently than monthly and shall be available for examination by the bureau not later than 25 days after the end of a month and for 2 years thereafter.

History: 1983 AACCS.

R 493.13 Records; errors.

Rule 13. A licensee shall clearly designate errors and correcting entries in the records required by R 493.11(2). Alternatively, a licensee may maintain a record of all errors made in the records required by R 493.11(2). This record shall identify the loan record in which an error occurred; the date, nature, and amount of the error; and the date of the correcting entry.

History: 1983 AACS.

R 493.14 Correspondence; retention by licensed office.

Rule 14. Each licensed office shall retain all its written correspondence with the bureau.

History: 1983 AACS.

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 shall be furnished to the borrower within 15 days of the date of the loan. Such policy or certificate shall 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, which evidences indebtedness or constitutes security and which the borrower is required to sign.

(3) When an additional loan is made to a borrower who has a loan outstanding, the unpaid balance of the existing loan and the additional loan shall be consolidated into a new loan.

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

History: 1981 AACS; 1983 AACS.

R 493.16 Designated business hours.

Rule 16. A licensed office shall display conspicuously a sign announcing the hours of each day during which an employee of the licensee will be present in the office to accept payments from borrowers.

History: 1983 AACS.

R 493.20 Advertising.

Rule 20. (1) A licensee shall maintain copies of all direct mail advertising material that is mailed from any location and marketed to residents of Michigan. The date that the direct mail advertising material was used shall be indicated on the material. A licensee that operates 2 or more licensed offices located in Michigan may, upon notice to the commissioner, maintain 1 record of the advertising material required by this rule in a centrally located office in Michigan for all licensed offices. A licensee that does not have a licensed office located in Michigan shall maintain the copies required by this rule at its home office. All copies that are required to be maintained by the rule shall be retained for a minimum of 3 years and shall be made available for inspection by a representative of the bureau.

(2) An address shall not be carried in any advertisement, except for the address of a licensed office or the home office of the licensee.

(3) A licensee shall not pay any person for loan applications or recommendations.

History: 1981 AACS; 1983 AACS; 1997 AACS.

R 493.95 Rescission.

Rule 95. R 487.71 to R 487.91 and R 487.205, appearing on pages 4933 to 4937, 4939, and 4940 of the 1979 Michigan Administrative Code, are rescinded.

History: 1981 AACS.