

SENATE BILL No. 842

March 3, 2016, Introduced by Senator ROBERTSON and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1939 PA 21, entitled
"Regulatory loan act,"
by amending sections 1 and 13 (MCL 493.1 and 493.13), section 1 as
amended by 2002 PA 393 and section 13 as amended by 2001 PA 270.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (2) As used in this act:

4 (a) "Advertising" means publishing or broadcasting, or causing
5 to be published or broadcast, material that has been prepared for
6 public distribution by means of newspapers, magazines, or
7 electronic media. Advertising does not include a stockholder
8 communication, such as an annual report, interim financial report,
9 registration statement, security, prospectus, application for
10 listing a security on a stock exchange, or proxy materials.

Advertising does not include a communication addressed to ~~a person~~
AN INDIVIDUAL who has previously executed a loan agreement relative
to that ~~person's~~ **INDIVIDUAL'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" **OR "DIRECTOR"** means the ~~commissioner of the~~
~~office of financial and insurance services in the department of~~
~~consumer and industry services.~~ **DIRECTOR OF THE DEPARTMENT OF**
INSURANCE AND FINANCIAL SERVICES.

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

(E) **"CREDIT SERVICES ORGANIZATION" MEANS A CREDIT SERVICES**
ORGANIZATION AS DEFINED IN SECTION 2 OF THE CREDIT SERVICES
PROTECTION ACT, 1994 PA 160, MCL 445.1822.

(F) ~~(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.

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

(H) ~~(g)~~ "License" means a single license **THAT IS** issued to a
single place of business.

1 (I) ~~(h)~~ "Licensee" means a person **THAT IS** licensed or required
2 to be licensed under this act.

3 (J) ~~(i)~~ "Liquid assets" means cash, unrestricted deposits in
4 banks, and readily marketable securities at their then market
5 value.

6 (K) ~~(j)~~ "Loan" or "regulatory loan" means a loan made by a
7 licensee to an individual for personal, family, or household use.

8 (L) ~~(k)~~ "Person" means an individual, partnership,
9 association, corporation, limited liability company, or other legal
10 entity.

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

16 (a) A closed-end loan.

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

21 (2) A licensee shall not induce ~~a person~~ **AN INDIVIDUAL** to
22 become directly obligated under more than 1 loan contract **THAT IS**
23 not secured by personal property at the same time.

24 (3) Charges on loans made under this act shall not be paid,
25 deducted, or received in advance, or compounded. All charges on
26 loans made under this act shall be computed on the unpaid principal
27 balance or portions of the balance, specifically expressed in every

1 obligation signed by the borrower, and computed on the basis of the
2 number of days actually elapsed.

3 (4) In addition to the interest and charges provided for in
4 this act, a loan processing fee ~~not to~~ **THAT DOES NOT** exceed 5% of
5 the principal, up to \$250.00, may be charged for each closed-end
6 loan made, and may be included in the principal of the loan. The
7 \$250.00 limit on the loan processing fee shall be adjusted every 2
8 years to reflect the percentage change in the United States
9 consumer price index for the 2 immediately preceding calendar
10 years, rounded to the nearest hundred dollars. As used in this
11 subsection, "United States consumer price index" means the United
12 States consumer price index for all urban consumers in the United
13 States city average, as defined and reported by the United States
14 ~~department of labor, bureau of labor statistics,~~ **DEPARTMENT OF**
15 **LABOR, BUREAU OF LABOR STATISTICS** and after certification by the
16 ~~commissioner.~~ **DIRECTOR.**

17 (5) A licensee may require the borrower to pay the late
18 charges permitted by the credit reform act, 1995 PA 162, MCL
19 445.1851 to 445.1864. A licensee shall not induce or permit a
20 ~~person~~ **AN INDIVIDUAL** to become obligated, directly or contingently,
21 under more than 1 loan contract **THAT IS** not secured by personal
22 property at the same time for the purpose or with the result of
23 obtaining a loan processing fee **THAT IS** not otherwise permitted ~~by~~
24 **UNDER** this section. ~~No other amount shall be~~

25 (6) **EXCEPT FOR THE FEES DESCRIBED IN THIS SECTION OR OTHERWISE**
26 **AUTHORIZED UNDER THIS ACT, A LICENSEE SHALL NOT** directly or
27 indirectly charged, ~~contracted for, or received,~~ **CHARGE, CONTRACT**

1 **FOR, OR RECEIVE ANY OTHER AMOUNT FROM A BORROWER,** except the lawful
2 fees, if any, actually and necessarily paid by the licensee to a
3 governmental entity for the filing, recording, or releasing of
4 ~~either~~ **ANY** of the following:

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

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

10 (7) ~~(5)~~ The fees permitted under this section may be collected
11 at any time on or after the date the loan is made.

12 (8) ~~(6)~~ A licensee may charge a handling fee for the return of
13 an unpaid and dishonored check, draft, negotiable order, or similar
14 instrument given to the licensee in full or partial repayment of a
15 loan as authorized by the credit reform act, 1995 PA 162, MCL
16 445.1851 to 445.1864.

17 (9) ~~(7)~~ A licensee may recover from the borrower the costs and
18 expenses of retaking, holding, repairing, preparing for sale, and
19 selling any personal property in accordance with sections 9609 and
20 9615 of the uniform commercial code, 1962 PA 174, MCL 440.9609 and
21 440.9615.

22 (10) ~~(8)~~ A licensee may charge a reasonable annual fee for the
23 privilege of receiving open-end credit from the licensee.

24 (11) ~~(9)~~ A licensee may charge a reasonable fee per payment if
25 a borrower makes a payment or payments by authorizing a licensee
26 verbally or in writing to execute a debit or otherwise process a
27 payment, through automated clearing procedures, drawn on the

1 borrower's deposit account. This subsection shall not be construed
2 to permit the imposition of a fee in cases where the borrower, at
3 the time of consummation of the loan, authorizes the licensee to
4 effect all periodic installment payments by way of electronic
5 automated clearing procedures drawn on the borrower's deposit
6 account.

7 **(12)** ~~(10)~~—In addition to the penalties ~~provided by~~ **UNDER** this
8 act, a violation of this act with respect to a particular
9 regulatory loan transaction is also subject to the penalty and
10 remedy provisions of the credit reform act, 1995 PA 162, MCL
11 445.1851 to 445.1864.

12 **(13) IF THE FEE OR CHARGE IS NOT PAID TO THE LICENSEE, A FEE**
13 **OR CHARGE BY A THIRD PARTY, INCLUDING, BUT NOT LIMITED TO, A CREDIT**
14 **SERVICES ORGANIZATION, IN CONNECTION WITH A REGULATORY LOAN**
15 **TRANSACTION IS NOT CONSIDERED A FEE OR CHARGE BY A LICENSEE AND THE**
16 **ASSESSMENT OF THAT FEE OR CHARGE IS NOT A VIOLATION OF THIS ACT BY**
17 **THE LICENSEE.**

18 **(14)** ~~(11)~~—As used in this section, "open-end credit" means
19 credit that is not secured by an interest in real property and is
20 extended under a plan in which both of the following apply:

21 (a) The licensee reasonably contemplates repeated
22 transactions.

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

26 Enacting section 1. This amendatory act takes effect 90 days
27 after the date it is enacted into law.