

SALE OF CHECKS ACT (EXCERPT)
Act 136 of 1960

487.910a Remitting funds due from actual or projected sale of checks; “remit” defined; funds impressed with trust; attachment, levy of execution, or sequestration of proceeds or property; proceeds deemed assigned to commissioner; criminal penalties for dishonored check; investments; definitions; reporting information on permissible investments.

Sec. 10a. (1) An agent of a licensee whose net worth is less than \$5,000,000 shall remit all funds due from the actual or projected sale of checks, except travelers checks, to the licensee as follows:

(a) If the aggregate face amount of checks issued by the licensee that are sold by the agent does not in any calendar week exceed \$1,000.00, within 10 business days after the sale.

(b) If subdivision (a) does not apply, any of the following:

(i) Within 3 business days after the sale.

(ii) Within a period longer than 3 business days after the sale provided that the agent, pursuant to a written agreement with the licensee, maintains a deposit balance during that period with a federally insured bank or a federally insured savings and loan association located in the United States, which deposit balance is in the sole and exclusive name of the licensee and is equal to an amount that is not less than the aggregate face amount of payment instruments issued by the licensee which the agent usually sells per day, multiplied by the number of days in the period in excess of 3 business days.

(iii) Within 6 days after the sale in the case of a wire transfer.

(iv) Within a shorter period of time after the sale as the licensee may require.

(2) An agent of a licensee whose net worth is \$5,000,000.00 or more shall remit all funds due from the sale of checks, except travelers checks, to the licensee within such period of time as stated in a written agreement between the licensee and its agent.

(3) For purposes of this section, to “remit” means either to make direct payment of the funds to the licensee or its representatives authorized to receive those funds, or to deposit the funds in a bank, credit union, or savings and loan association in an account in the name of the licensee specifically established for the purpose of receiving the funds.

(4) All funds collected or received from the sale of checks by an agent shall be impressed with a trust in favor of such licensee in an amount equal to the amount of the proceeds due the licensee.

(5) No proceeds received by any agent or agents of a licensee from the sale of any check issued by such licensee, while held by the agent, nor any property impressed with a trust pursuant to this section shall be subject to attachment, levy of execution, or sequestration by order of any court, except for the benefit of the licensee. In the event that a licensee's license be revoked by the commissioner, all sales proceeds then held in trust by agents of that licensee shall be deemed to have been assigned to the commissioner.

(6) An agent who remits to the licensee a check in the amount of the proceeds of the sale of checks which is dishonored because the agent does not have sufficient funds in the account may be subject to criminal penalties provided in section 131 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.131 of the Michigan Compiled Laws.

(7) The licensee shall maintain permissible investments during a base period with a book value equal to at least 100% of the average outstanding face value of checks sold in this state, except travelers checks, during the previous base period. As used in this subsection:

(a) “Average outstanding face value of checks” means an amount computed by dividing the sum of the face value of checks sold in this state which are recorded as outstanding on the books of the licensee at the end of the last day of each calendar month in the base period by the number of months in the base period.

(b) “Base period” means a period determined by the commissioner, which period shall not be shorter than 3 consecutive calendar months.

(8) Licensees shall report, on forms prescribed by the commissioner, information on the permissible investments maintained pursuant to this section.

History: Add. 1986, Act 275, Imd. Eff. Dec. 19, 1986.

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 § 445.2003 of the Michigan compiled laws.