

SB 489, As Passed Senate, July 10, 2001

**SUBSTITUTE FOR
SENATE BILL NO. 489**

A bill to amend 1939 PA 21, entitled
"Regulatory loan act of 1963,"
by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,
11, 12, 12a, 12c, 12d, 13, 13a, 14, 14a, 15, 17, 18, and 21
(MCL 493.1, 493.2, 493.3, 493.4, 493.5, 493.6, 493.7, 493.8,
493.9, 493.10, 493.11, 493.12, 493.12a, 493.12c, 493.12d, 493.13,
493.13a, 493.14, 493.14a, 493.15, 493.17, 493.18, and 493.21),
the title and section 17 as amended by 1980 PA 392, sections 1,
10, 13, and 13a as amended by 1996 PA 184, sections 2, 7, 8, 12c,
and 21 as amended by 1992 PA 71, sections 4, 11, 12, 12a, and 14
as amended by 1991 PA 14, and section 18 as amended by 1995
PA 165, and by adding section 15a; and to repeal acts and parts
of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

2

TITLE

1
2 An act to define and regulate the business of making regula-
3 tory loans; to permit the licensing of persons engaged in that
4 business; ~~to authorize licensees to make charges at a greater~~
5 ~~rate than unlicensed lenders; to prescribe maximum rates of~~
6 ~~charge which licensees are permitted to make; to regulate the~~
7 ~~advertising of the business of making regulatory loans; to autho-~~
8 ~~rize credit life insurance and to permit charges for that insur-~~
9 ~~ance; to prohibit assignments of wages or salaries, earned or to~~
10 ~~be earned, when given as security for a loan or as consideration~~
11 ~~for a payment of a regulatory loan; to provide for the adminis-~~
12 ~~tration of this act and for the promulgation of rules; to autho-~~
13 ~~rize the making of examinations and investigations and the publi-~~
14 ~~cation of reports of examinations and investigations; to provide~~
15 ~~for a review of decisions and findings of the commissioner of the~~
16 ~~financial institutions bureau under this act; and to prescribe~~
17 penalties.

18 Sec. 1. (1) ~~Except as otherwise provided by this act, a~~
19 ~~person shall not engage in the business of making loans of money,~~
20 ~~credit, goods, or things in action and charge, contract for, or~~
21 ~~receive on the loan a greater rate of interest, discount, or con-~~
22 ~~sideration than the lender would be permitted by law to charge if~~
23 ~~the lender were not a licensee under this act and without first~~
24 ~~obtaining a license from the commissioner, for each location at~~
25 ~~which the business is to be conducted under this act, or by~~
26 ~~obtaining a license under the consumer financial services act,~~
27 ~~Act No. 161 of the Public Acts of 1988, being sections 487.2051~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

3

1 to ~~487.2072~~ of the Michigan Compiled Laws. THIS ACT SHALL BE
2 KNOWN AND MAY BE CITED AS THE "REGULATORY LOAN ACT".

3 (2) As used in this act:

4 ~~(a) "Person" means an individual, partnership, association,~~
5 ~~corporation, limited liability company, or other legal entity.~~

6 ~~(b) "Licensee" means a person licensed under this act.~~

7 ~~(c) "License" means a single license issued to a single~~
8 ~~place of business.~~

9 ~~(d) "Liquid assets" means cash, unrestricted deposits in~~
10 ~~banks, and readily marketable securities at their then market~~
11 ~~value.~~

12 ~~(e) "Assets" means liquid assets, collectible loans made in~~
13 ~~accordance with this act, and personal property acquired in the~~
14 ~~general conduct of business transacted under this act.~~

15 ~~(f) "Commissioner" means the commissioner of the financial~~
16 ~~institutions bureau in the department of commerce.~~

17 ~~(g) "Advertising" means publishing or broadcasting, or caus-~~
18 ~~ing to be published or broadcast, material that has been prepared~~
19 ~~for public distribution by means of newspapers, magazines, or~~
20 ~~electronic media. Advertising does not include a stockholder~~
21 ~~communication, such as an annual report, interim financial~~
22 ~~report, registration statement, security, prospectus, application~~
23 ~~for listing a security on a stock exchange, or proxy materials.~~
24 ~~Advertising does not include a communication addressed to a~~
25 ~~person who has previously executed a loan agreement relative to~~
26 ~~that person's account.~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

4

1 (A) "ADVERTISING" MEANS PUBLISHING OR BROADCASTING, OR
2 CAUSING TO BE PUBLISHED OR BROADCAST, MATERIAL THAT HAS BEEN
3 PREPARED FOR PUBLIC DISTRIBUTION BY MEANS OF NEWSPAPERS, MAGA-
4 ZINES, OR ELECTRONIC MEDIA. ADVERTISING DOES NOT INCLUDE A
5 STOCKHOLDER COMMUNICATION, SUCH AS AN ANNUAL REPORT, INTERIM
6 FINANCIAL REPORT, REGISTRATION STATEMENT, SECURITY, PROSPECTUS,
7 APPLICATION FOR LISTING A SECURITY ON A STOCK EXCHANGE, OR PROXY
8 MATERIALS. ADVERTISING DOES NOT INCLUDE A COMMUNICATION
9 ADDRESSED TO A PERSON WHO HAS PREVIOUSLY EXECUTED A LOAN AGREE-
10 MENT RELATIVE TO THAT PERSON'S ACCOUNT.

11 (B) "ASSETS" MEANS LIQUID ASSETS, COLLECTIBLE LOANS MADE IN
12 ACCORDANCE WITH THIS ACT, AND PERSONAL PROPERTY ACQUIRED IN THE
13 GENERAL CONDUCT OF BUSINESS TRANSACTED UNDER THIS ACT.

14 (C) "COMMISSIONER" MEANS THE COMMISSIONER OF THE OFFICE OF
15 FINANCIAL AND INSURANCE SERVICES IN THE DEPARTMENT OF CONSUMER
16 AND INDUSTRY SERVICES.

17 (D) "LICENSEE" MEANS A PERSON LICENSED OR REQUIRED TO BE
18 LICENSED UNDER THIS ACT.

19 (E) "LIQUID ASSETS" MEANS CASH, UNRESTRICTED DEPOSITS IN
20 BANKS, AND READILY MARKETABLE SECURITIES AT THEIR THEN MARKET
21 VALUE.

22 (F) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, ASSOCIATION,
23 CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER LEGAL ENTITY.

24 Sec. 2. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS ACT, A
25 PERSON SHALL NOT ENGAGE IN THE BUSINESS OF MAKING LOANS OF MONEY,
26 CREDIT, GOODS, OR THINGS IN ACTION AND CHARGE, CONTRACT FOR, OR
27 RECEIVE ON THE LOAN A GREATER RATE OF INTEREST, DISCOUNT, OR

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

5

1 CONSIDERATION THAN THE LENDER WOULD BE PERMITTED BY LAW TO CHARGE
2 IF THE LENDER WERE NOT A LICENSEE UNDER THIS ACT AND WITHOUT
3 FIRST OBTAINING A LICENSE FROM THE COMMISSIONER, OR BY OBTAINING
4 A LICENSE UNDER THE CONSUMER FINANCIAL SERVICES ACT, 1988 PA 161,
5 MCL 487.2051 TO 487.2072.

6 (2) ~~(1)~~ Application for ~~each~~ A license shall be in writ-
7 ing, under oath, and in the form prescribed by the commissioner,
8 and contain the name and the address, both of the residence and
9 place of business, of the applicant, if the applicant is a
10 copartnership or association, of every member, and if a corpora-
11 tion, of each officer and director. ~~It also the county and munic-~~
12 ~~ipality with street and number, if any,~~ THE APPLICATION SHALL
13 ALSO INCLUDE THE ADDRESS where the business is to be conducted
14 ~~,~~ and all other relevant information as the commissioner may
15 require. The applicant at the time of making ~~each~~ THE applica-
16 tion shall pay to the commissioner an investigation and annual
17 ~~license~~ OPERATING fee as provided by this act. If the applica-
18 tion is filed after June 30, ~~in any year,~~ the applicant shall
19 pay the investigation fee and 1/2 of the annual ~~license~~
20 OPERATING fee.

21 (3) ~~(2)~~ An applicant shall prove, in form satisfactory to
22 the commissioner, that the applicant has available ~~liquid~~
23 ~~assets~~ NET WORTH of at least ~~\$50,000.00~~ \$100,000.00 for the
24 operation of the business at the location specified in the
25 application.

26 Sec. 3. The applicant, at the time of filing ~~each such~~ AN
27 application, shall also file when requested by the commissioner a

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

6

1 bond in ~~such~~ AN amount ~~and sureties~~ to be approved by ~~him~~
2 THE COMMISSIONER, in which the applicant shall be the obligor.
3 ~~and of which a surety company shall be the surety, if such a~~
4 ~~company shall be found qualified by law in this state and~~ THE
5 SURETY COMPANY ISSUING THE BOND SHALL BE QUALIFIED, able, and
6 willing to write bonds required by this act. The ~~said~~ bond
7 shall run to the people of the state of Michigan ~~for the use~~
8 ~~of,~~ and may be sued on by ~~,~~ the state or any person ~~or~~
9 ~~persons~~ who may have A cause of action against the obligor. ~~of~~
10 ~~said bond under the provisions of this act. Such~~ THE bond shall
11 be conditioned that ~~said~~ THE obligor will ~~faithfully conform~~
12 ~~to and abide by the provisions of~~ COMPLY WITH this act and ~~of~~
13 all rules and regulations ~~lawfully made by the commissioner~~
14 ~~hereunder~~ MADE UNDER THIS ACT, and will pay to the state and to
15 any ~~such~~ person ~~or persons any and all moneys that may~~
16 ~~become~~ MONEY due or owing to the state or to ~~such~~ THE person
17 ~~or persons~~ from ~~said~~ THE obligor. ~~under and by virtue of the~~
18 ~~provisions of this act.~~

19 Sec. 4. (1) Upon the filing of the application, the payment
20 of the fees, and the approval of the bond, the commissioner shall
21 investigate the ~~facts~~ APPLICANT and if he or she finds that the
22 financial responsibility, experience, character, and general fit-
23 ness of the applicant ~~, of the members if the applicant is a~~
24 ~~copartnership or association, and of the officers and directors~~
25 ~~if the applicant is a corporation~~ are such as to command the
26 confidence of the community and to warrant belief that the
27 business will be operated lawfully, honestly, fairly, and

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

7

1 efficiently within the purposes of this act and that the
2 applicant has ~~available for the operation of the business at the~~
3 ~~specified location liquid assets~~ A NET WORTH in the amounts
4 ~~specified in~~ REQUIRED UNDER section 2, ~~the foregoing facts~~
5 ~~being conditions precedent to the issuance of a license under~~
6 ~~this act, he or she~~ THE COMMISSIONER shall issue ~~and deliver~~ a
7 license to the applicant to ~~make loans in accordance with the~~
8 ~~provisions of this act~~ CONDUCT BUSINESS at the location OR
9 LOCATIONS specified in the application. ~~, which~~ THE license
10 shall remain in ~~full force and~~ effect until it is surrendered
11 by the licensee or revoked or suspended AS PROVIDED UNDER THIS
12 ACT.

13 (2) If the commissioner finds that the applicant fails to
14 meet the requirements of this ~~section~~ ACT, he or she shall not
15 issue a license and shall notify the applicant of the denial and
16 return to the applicant the bond and ~~the sum~~ FEE paid by the
17 applicant, ~~as a license fee,~~ retaining the ~~\$300.00~~ investiga-
18 tion fee to cover the costs of investigating the application.

19 (3) The commissioner shall approve or deny every application
20 for license within 60 days from the ~~application's filing~~ DATE
21 THAT THE APPLICATION WAS FILED with the fees and the approved
22 bond.

23 (4) ~~(2)~~ If the application is denied, the commissioner
24 shall within 20 days from the date of denial file with the
25 ~~financial institutions bureau~~ OFFICE OF FINANCIAL AND INSURANCE
26 SERVICES a written transcript of ~~evidence and a~~ THE decision
27 and findings ~~with respect to the denial~~ containing the evidence

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

8

1 and the reasons supporting the denial and shall serve upon the
2 applicant a copy of the filing.

3 Sec. 5. (1) ~~Such~~ EXCEPT AS OTHERWISE PROVIDED UNDER THIS
4 SECTION, THE license shall state the address at which the
5 PRINCIPAL OFFICE OF THE business is to be conducted and shall
6 state fully the name of the licensee, and if the licensee is a
7 co-partnership or association, the names of the members,
8 ~~thereof,~~ and if a corporation, the date and place of its
9 incorporation. ~~Such~~

10 (2) THE license shall be kept conspicuously posted in the
11 ~~place~~ PLACES of business ~~mentioned~~ SPECIFIED in the license.
12 ~~, and shall not be transferable or assignable.~~

13 (3) THE LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE WITHOUT
14 THE PRIOR APPROVAL OF THE COMMISSIONER.

15 (4) THE SALE, TRANSFER, ASSIGNMENT, OR CONVEYANCE OF MORE
16 THAN 25% OF THE OUTSTANDING VOTING STOCK OF A LICENSEE THAT IS A
17 CORPORATION, OR MORE THAN 25% OF THE INTEREST IN A LICENSEE THAT
18 IS A PARTNERSHIP OR OTHER UNINCORPORATED LEGAL ENTITY, SHALL BE
19 CONSIDERED TO BE A TRANSFER OF THE LICENSE.

20 Sec. 6. (1) EVERY LICENSEE SHALL MAINTAIN AT ALL TIMES NET
21 WORTH IN THE AMOUNT REQUIRED UNDER SECTION 2.

22 (2) If the commissioner ~~shall find~~ DETERMINES at any time
23 that any bond is insecure, ~~or~~ exhausted, or otherwise of doubt-
24 ful validity or collectability, ~~an additional bond to be~~
25 ~~approved by him, with 1 or more sureties to be approved by him~~
26 ~~and of the character specified in section 3 of this act in the~~
27 ~~sum~~ THE COMMISSIONER MAY REQUIRE THE LICENSEE TO OBTAIN AN

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

9

1 ADDITIONAL BOND IN AN AMOUNT of not more than \$1,000.00. ~~shall~~
2 ~~be filed by the licensee~~ THE LICENSEE SHALL FILE THE NEW BOND
3 within 10 days after THE COMMISSIONER HAS ISSUED written demand
4 upon the licensee. ~~by the commissioner.~~

5 ~~Every licensee shall maintain at all times assets in the~~
6 ~~amounts specified in section 2 hereof for each licensed place of~~
7 ~~business either in liquid form available for the operation of or~~
8 ~~actually used in the conduct of such business at the location~~
9 ~~specified in the license.~~

10 Sec. 7. (1) ~~Only 1 place of business shall be maintained~~
11 ~~under a license, but the commissioner may issue more than 1~~
12 ~~license to the same licensee upon compliance with the provisions~~
13 ~~of this act that cover the original issuance of a license. A~~
14 LICENSEE UNDER THIS ACT MAY CHANGE ITS NAME OR PLACE OF BUSINESS
15 SHOWN ON THE LICENSE BY GIVING PRIOR WRITTEN NOTICE TO THE COM-
16 MISSIONER AND RETURNING THE LICENSE TO THE COMMISSIONER. THE
17 COMMISSIONER SHALL AMEND THE LICENSE CERTIFICATE TO SHOW THE NEW
18 NAME OR THE NEW PLACE OF BUSINESS AND THE DATE OF THE NEW
19 CERTIFICATE.

20 (2) ~~A licensee may change a licensed place of business to a~~
21 ~~street address other than that designated in the license by~~
22 ~~giving written notice to the commissioner who shall indicate~~
23 ~~approval of the change by issuing a new license. A LICENSEE MAY~~
24 ENGAGE IN ACTIVITIES FOR WHICH A LICENSE IS REQUIRED AT MORE THAN
25 1 PLACE OF BUSINESS BY PROVIDING NOT LESS THAN 30 DAYS' WRITTEN
26 NOTICE TO THE COMMISSIONER BEFORE OPENING EACH ADDITIONAL PLACE
27 OF BUSINESS. THIS SUBSECTION DOES NOT APPLY TO ANY PLACE OF

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

10

1 BUSINESS LISTED IN THE LICENSEE'S APPROVED APPLICATION FOR
2 LICENSURE.

3 (3) ~~The licensee at the time of giving written notice to~~
4 ~~change the street address or change the name of the licensee~~
5 ~~shall pay to the commissioner a fee for amending the license as~~
6 ~~provided in section 8.~~ A LICENSEE THAT CEASES ENGAGING IN BUSI-
7 NESS ACTIVITIES THAT ARE SUBJECT TO THIS ACT AT A PLACE OF BUSI-
8 NESS SHALL PROVIDE WRITTEN NOTICE TO THE COMMISSIONER WITHIN 30
9 DAYS.

10 Sec. 8. (1) The commissioner shall annually establish the
11 schedule of fees sufficient to pay the ~~bureau's~~ costs of admin-
12 istering this act. The fees are as follows:

13 (a) For the investigation of an applicant for a license, not
14 less than \$200.00 or more than \$600.00, which is not refundable.

15 (b) For the issuance or annual renewal of a license, ~~not~~
16 ~~less than \$300.00 or more than \$800.00, which is to be paid on or~~
17 ~~before December 22 each year. A license renewal fee paid after~~
18 ~~December 22 is subject to a penalty of \$25.00 for each day the~~
19 ~~fee is delinquent or \$1,000.00, whichever is less.~~ AN ANNUAL
20 OPERATING FEE BASED UPON THE VOLUME AND TYPES OF ACTIVITIES CON-
21 DUCTED BY THE LICENSEE DURING THE PREVIOUS CALENDAR YEAR. THE
22 ANNUAL OPERATING FEE SET BY THE COMMISSIONER UNDER THIS SUBSEC-
23 TION SHALL BE BASED UPON INFORMATION IN REPORTS FILED UNDER
24 SECTION 11.

25 (c) For amending a license, not less than \$20.00 or more
26 than \$75.00.

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

11

1 ~~(d) For examination of the licensee, not less than \$40.00~~
2 ~~or more than \$70.00 per hour for each examiner involved in an~~
3 ~~examination. In addition, a licensee shall pay the actual travel~~
4 ~~and lodging expenses incurred by bureau employees who travel out~~
5 ~~of Michigan to examine the records of the licensee.~~

6 (2) At the time of paying the annual ~~license~~ OPERATING
7 fee, each licensee shall file with the commissioner a bond ~~for~~
8 ~~each license held in the amount and character~~ as required by
9 section 3.

10 (3) If any fees or penalties provided for in this act are
11 not paid when required, the ~~attorney general~~ COMMISSIONER may
12 maintain an action against the delinquent licensee for the recov-
13 ery of the fees or penalties together with interest and costs.

14 (4) ~~Fees~~ EXCEPT AS OTHERWISE PROVIDED BY THIS ACT, THE
15 FEES received ~~pursuant to~~ UNDER this act are not refundable.

16 (5) A licensee who fails to submit to the commissioner a
17 report required ~~pursuant to~~ UNDER section 11 is subject to a
18 penalty of \$25.00 for each day the report is delinquent or
19 \$1,000.00, whichever is less.

20 (6) Money received under this act shall be paid into the
21 state treasury to the credit of the ~~financial institutions~~
22 ~~bureau~~ OFFICE OF FINANCIAL AND INSURANCE SERVICES and shall be
23 used for the operation of the ~~financial institutions bureau~~
24 OFFICE OF FINANCIAL AND INSURANCE SERVICES.

25 Sec. 9. (1) The commissioner, upon 10 days' written notice
26 to the licensee stating the contemplated action and the grounds
27 ~~therefor~~ FOR THE ACTION, and upon reasonable opportunity to be

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

12

1 heard, ~~shall~~ MAY revoke any license if he ~~shall find that~~ OR
2 SHE FINDS ANY OF THE FOLLOWING:

3 (a) The licensee ~~, with respect to such license,~~ has
4 failed, after 5 days' written notice of default, to pay the
5 annual ~~license~~ OPERATING fee, ~~or~~ to maintain ~~in effect~~ the
6 bond ~~or bonds~~ required under ~~the provisions of~~ this act, or
7 to comply with any demand, ruling, or requirement of the commis-
8 sioner ~~lawfully made pursuant to and within the authority of~~
9 MADE UNDER this act.

10 (b) The licensee either knowingly or without the exercise of
11 due care ~~to prevent the same,~~ has violated any provision of
12 this act or any rule ~~lawfully~~ made by the commissioner under
13 ~~the authority of~~ this act.

14 (c) Any fact or condition THAT exists which, if it had
15 existed at the time of the original application for the license,
16 ~~clearly~~ would have warranted the commissioner in refusing orig-
17 inally to issue the license.

18 (2) If the commissioner ~~shall find~~ FINDS that probable
19 cause for revocation of any license exists and that the enforce-
20 ment of the act requires immediate suspension of the license
21 pending investigation, he OR SHE may, upon 3 days' written notice
22 and a hearing, suspend any license for a period not exceeding 30
23 days.

24 ~~The commissioner may revoke or suspend only the particular~~
25 ~~license with respect to which grounds for revocation or suspen-~~
26 ~~sion may occur or exist, or, if he shall find that such grounds~~
27 ~~for revocation or suspension are of general application to all~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

13

1 ~~offices, or to more than 1 office, operated by the licensee, he~~
2 ~~shall revoke or suspend all of the licenses issued to the~~
3 ~~licensee or such licenses as such grounds apply to.~~

4 (3) ~~Any~~ A licensee may surrender ~~any~~ ITS license by
5 delivering to the commissioner written notice that ~~he~~ IT sur-
6 renders the license. ~~, but the~~ THE surrender ~~shall~~ DOES not
7 affect the licensee's civil or criminal liability for acts com-
8 mitted ~~prior to~~ BEFORE THE surrender.

9 (4) ~~No~~ A revocation or suspension or surrender of ~~any~~ A
10 license ~~shall~~ DOES NOT impair or affect the obligation of any
11 preexisting lawful contract between the licensee and any
12 borrower.

13 ~~Every license shall remain in force until the same shall~~
14 ~~have been surrendered, revoked or suspended in accordance with~~
15 ~~this act but the~~

16 (5) THE commissioner shall have authority ~~on his own~~
17 initiative to reinstate suspended licenses or to issue new
18 licenses to a licensee whose license shall have been revoked if
19 no fact or condition ~~then~~ exists ~~which~~ THAT clearly would
20 have warranted the commissioner in refusing originally to issue
21 the license.

22 (6) ~~Whenever~~ IF the commissioner ~~shall revoke or suspend~~
23 REVOKES OR SUSPENDS a license, he OR SHE shall ~~forthwith~~ file
24 with the ~~financial institutions bureau~~ OFFICE OF FINANCIAL AND
25 INSURANCE SERVICES a written transcript of ~~evidence and an~~ THE
26 order ~~to that effect and findings with respect thereto~~
27 containing the evidence and the reasons supporting the revocation

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

14

1 or suspension, and ~~forthwith~~ serve upon the licensee a copy
2 ~~thereof~~ OF THE TRANSCRIPT.

3 Sec. 10. (1) For the purpose of investigating violations of
4 this act or securing information lawfully required under this
5 act, the commissioner may at any time, either personally or by a
6 designated person or persons, investigate the loans and business
7 and examine the books, accounts, records, and files used with the
8 loans and business ~~, of every~~ OF ANY licensee ~~and~~ OR ANY
9 person engaged in the business described in section ~~1, whether~~
10 ~~the person shall acts or claims to act as a principal or agent,~~
11 ~~or with or without the authority of this act~~ 2. The commis-
12 sioner and his or her duly designated representatives shall have
13 and be given free access to the offices and places of business,
14 books, accounts, papers, records, files, safes, and vaults of all
15 persons investigated under this section. The commissioner and
16 persons duly designated by him or her have the authority to
17 require the attendance of and to examine under oath all persons
18 whose testimony the commissioner may require relative to the
19 loans or business or to the subject matter of an examination,
20 investigation, or hearing.

21 (2) ~~At least once during every 2-year period, the commis-~~
22 ~~sioner shall examine the books, accounts, records, and files of a~~
23 ~~licensee.~~ THE COMMISSIONER AT ANY TIME MAY INVESTIGATE THE BUSI-
24 NESS ACTIVITIES OF A LICENSEE AS THE COMMISSIONER CONSIDERS NEC-
25 ESSARY, EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND FILES USED AND
26 MAINTAINED BY ANY LICENSEE, AND REQUIRE THE LICENSEE TO FURNISH
27 ADDITIONAL REPORTS RELATING TO THE LICENSEE'S BUSINESS. THE

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

15

1 COMMISSIONER SHALL EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND
2 FILES OF A LICENSEE AT LEAST ONCE DURING EVERY 5-YEAR PERIOD.

3 ~~(3) The examination fee shall be invoiced upon the comple-~~
4 ~~tion of the examination and is due and payable upon receipt of~~
5 ~~the invoice by the licensee. A licensee is not required to pay~~
6 ~~more than 1 examination fee in a calendar year.~~

7 (3) ~~(4)~~ This ~~section~~ ACT shall not be construed to pro-
8 hibit the keeping of records by electronic data processing
9 methods.

10 ~~(5) The commissioner may maintain a cause of action in the~~
11 ~~court of claims to recover any fees a licensee fails to pay.~~

12 (4) ~~(6)~~ All fees collected under this section shall be
13 paid into the state treasury and credited to the ~~financial~~
14 ~~institutions bureau~~ OFFICE OF FINANCIAL AND INSURANCE SERVICES.

15 Sec. 11. (1) The licensee shall keep and use in the
16 licensee's business the books, accounts, and records the commis-
17 sioner may require in order to determine whether the licensee is
18 complying with ~~the provisions of~~ this act and with the rules
19 promulgated by the commissioner ~~pursuant to~~ UNDER this act.
20 The licensee shall preserve within this state and make accessible
21 to the commissioner, the books, accounts, and records ~~, includ-~~
22 ~~ing cards used in the card system, if any,~~ for at least 2 years
23 after making the final entry on any loan recorded in the books,
24 accounts, and records. Books and accounts may be kept at a loca-
25 tion other than the licensee's principal place of business, pro-
26 vided that they are made available to the commissioner upon

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

16

1 request and the licensee pays the actual and reasonable travel
2 expenses if the examiner must travel out of state.

3 (2) The licensee shall file, annually on or before February
4 15 of each year, with the commissioner its financial statement in
5 a uniform format prescribed by the commissioner, including infor-
6 mation on earnings, for the prior calendar year.

7 ~~(3) The licensee shall file, on or before March 15, 1990,~~
8 ~~and every third year thereafter, a report with the commissioner~~
9 ~~giving all relevant information as the commissioner reasonably~~
10 ~~may require concerning the business and operations during the~~
11 ~~preceding 3-year period of each licensed place of business con-~~
12 ~~ducted by the licensee within this state. A report filed under~~
13 ~~this subsection is exempt from disclosure under the freedom of~~
14 ~~information act, Act No. 442 of the Public Acts of 1976, being~~
15 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws, except~~
16 ~~if the commissioner finds that disclosure of a report would be in~~
17 ~~the public interest. A LICENSEE SHALL ANNUALLY ON OR BEFORE A~~
18 ~~DATE ESTABLISHED BY THE COMMISSIONER FILE WITH THE COMMISSIONER A~~
19 ~~REPORT, ON A FORM PROVIDED BY THE COMMISSIONER, STATING THE~~
20 ~~LICENSEE'S VOLUME AND TYPE OF BUSINESS ACTIVITIES FOR THE IMMEDI-~~
21 ~~ATELY PRECEDING CALENDAR YEAR. THE COMMISSIONER SHALL PROVIDE AT~~
22 ~~LEAST 30 DAYS' ADVANCE NOTICE OF THE DATE EACH REPORT IS DUE.~~

23 (4) All reports shall be made under oath and shall be in the
24 form prescribed by the commissioner.

25 (5) The commissioner shall make and publish annually an
26 analysis and recapitulation of the reports filed ~~pursuant to~~
27 UNDER subsections (2) and (3).

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

17

1 Sec. 12. (1) A licensee or other person shall not
2 advertise, print, display, publish, distribute, or broadcast or
3 cause or permit to be advertised, printed, displayed, published,
4 distributed, or broadcast, in any manner whatsoever a false, mis-
5 leading, or deceptive statement or representation with regard to
6 the rates, terms, or conditions for the lending of money, credit,
7 goods, or things in action. ~~in an amount or of a value included~~
8 ~~within the regulatory loan ceiling at a greater rate of charge~~
9 ~~than lenders not licensed under this act would be permitted by~~
10 ~~law to make; or, in the case of a licensee, any statement or rep=~~
11 ~~resentation which refers to the supervision of the business by~~
12 ~~this state or a department or official of this state except with~~
13 ~~the approval of the commissioner. The commissioner may order a~~
14 ~~licensee to desist from conduct which the commissioner finds is a~~
15 ~~violation of this section.~~

16 ~~(2) The commissioner may require that rates of charge, if~~
17 ~~stated by a licensee, be stated fully and clearly in a manner the~~
18 ~~commissioner considers necessary to prevent misunderstanding by~~
19 ~~prospective borrowers.~~

20 (2) ~~(3)~~ A licensee shall not take a lien upon real estate
21 as security for a loan made under this act, except a lien
22 acquired by execution or otherwise after the entry of a
23 judgment.

24 ~~(4) A licensee shall not conduct the business of making~~
25 ~~loans under this act within an office, room, suite, or place of~~
26 ~~business in which any other business is solicited or engaged in,~~
27 ~~or in association or conjunction with the business, if the~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

18

1 ~~commissioner finds, after 5 days' written notice and after a~~
2 ~~hearing that the other business is of such a nature that the con-~~
3 ~~duct has concealed or facilitated evasion of this act or of the~~
4 ~~general rules lawfully made under this act, and shall order the~~
5 ~~licensee in writing to desist from that conduct, but the order~~
6 ~~shall not be made by the commissioner unless the commissioner~~
7 ~~finds that the other business has been so conducted at that par-~~
8 ~~ticular location that it has concealed or facilitated evasion of~~
9 ~~this act.~~

10 ~~(5) A licensee shall not transact business or make a loan~~
11 ~~provided for by this act under any other name or at any other~~
12 ~~place of business within this state than that named in the~~
13 ~~license, unless it is also an office of the licensee duly~~
14 ~~licensed under this act. This subsection shall not be construed~~
15 ~~to prohibit a licensee from transacting business or making a loan~~
16 ~~by mail.~~

17 ~~(3) (6)~~ A licensee shall not take a confession of judgment
18 or a power of attorney to appear or to confess judgment on behalf
19 of a borrower. A licensee shall not take a note or evidence of
20 indebtedness that does not accurately disclose the actual amount
21 of the loan, the time for which it is made, and the agreed rate
22 of charge, or an instrument in which blanks are left to be filled
23 in after execution.

24 ~~(4) (7)~~ A licensee shall not discriminate against a person
25 in the extension of credit on the basis of sex or marital
26 status.

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

19

1 Sec. 12a. (1) False, misleading, deceptive, or
2 irresponsible advertising is unlawful and is defined as follows:

3 (a) Advertising which lures, entices, induces, or tends to
4 induce a person to incur a debt by unreasonably minimizing the
5 consequences of assuming a legal repayment obligation or by
6 depicting the assumption of a debt obligation as a frivolous
7 transaction.

8 (b) Advertising that describes or depicts the benefits or
9 advantages of having the money from a loan, without describing or
10 depicting the obligation of repaying the loan with interest.

11 (c) Advertising with claims and representations that are not
12 accurate or provable.

13 (d) Advertising which misrepresents facts or creates mis-
14 leading impressions.

15 ~~(e) Advertising which contains a statement which, though~~
16 ~~true, implies an untruth.~~

17 (E) ~~(f)~~ Advertising which uses the phrase "lowest rates",
18 "lowest rates in the city", or similar phrases unless the rates
19 are actually lower than those of other lenders.

20 (F) ~~(g)~~ Advertising which uses the phrase "new reduced
21 rates", "new low rates", "reduced rates", or similar phrases for
22 more than 60 days after the changed rates become effective.

23 (G) ~~(h)~~ Advertising which causes a probability of confu-
24 sion or misunderstanding as to the legal rights, obligations, or
25 remedies of a lender, or as to the terms or conditions of
26 credit.

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

20

1 (H) ~~-(i)-~~ Advertising which represents that a borrower will
2 receive a rebate, discount, or other benefit as an inducement for
3 entering into a transaction, if the benefit is contingent on an
4 event to occur subsequent to the consummation of the
5 transaction.

6 (I) ~~-(j)-~~ Advertising which suggests or infers that a loan
7 is not a loan, or that interest is not charged, or that the bor-
8 rower is not under an obligation to repay.

9 (2) A licensee shall not advertise any size of loan, secur-
10 ity required for a loan, rate of charge, or other condition of
11 lending except with the full intent of making loans at those
12 rates, or lower rates, and under those conditions, to applicants
13 who meet the standards or qualifications prescribed.

14 Sec. 12c. (1) If the commissioner has probable cause to
15 believe that a licensee has engaged, is engaged, or is about to
16 engage in advertising that is false, misleading, deceptive, or
17 irresponsible as defined in section 12a, and upon notice given in
18 accordance with this section, the commissioner shall report the
19 matter to the attorney general. ~~Upon receipt of the notice, the~~
20 ~~attorney general~~ THE COMMISSIONER may bring an action to
21 restrain the licensee by temporary or permanent injunction from
22 engaging in the advertising. The action may be brought in the
23 circuit court for the county where the licensee is established or
24 conducts business or in the circuit court for Ingham county. The
25 court may award costs to the prevailing party. For persistent
26 and knowing violation of section 12a the court may assess the
27 defendant a civil penalty of not more than \$5,000.00.

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

21

1 (2) Unless waived by the court on good cause shown, not less
2 than 10 days before the commencement of a proceeding under this
3 section the commissioner shall notify the licensee of the
4 intended referral to the attorney general and provide the
5 licensee an opportunity to cease and desist from the alleged
6 unlawful advertising or to confer with the commissioner in
7 person, by counsel, or by other representative as to the proposed
8 action before the proposed filing date.

9 (3) Service of the notice may be given to the licensee by
10 mail, postage prepaid, to the licensee's usual place of business
11 or, with respect to a corporation, only to a resident agent who
12 is designated to receive service of process or to an officer of
13 the corporation.

14 (4) ~~-(3)-~~ If the commissioner has authority to institute a
15 proceeding ~~pursuant to~~ UNDER this section, the commissioner,
16 upon the concurrence of the attorney general, may accept an
17 assurance of discontinuance of advertising that is alleged to be
18 unlawful under section 12a from the person who is alleged to have
19 engaged, be engaging, or be about to engage in the advertising.
20 The assurance does not constitute an admission of guilt nor can
21 it be introduced in any other proceeding. An assurance of dis-
22 continuance shall be in writing and filed with the circuit court
23 for Ingham county. The clerk of the court shall maintain a
24 record of the filings. Unless rescinded by the parties or voided
25 by the court for good cause, the assurance may be enforced in the
26 circuit court by the parties to the assurance. The assurance may
27 be modified by the parties or by the court for good cause.

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

22

1 (5) ~~(4)~~ A person who knowingly violates the terms of an
2 injunction, order, decree, or judgment issued ~~pursuant to~~ UNDER
3 this section is subject to a civil penalty of not more than
4 \$500.00 for each violation. For the purposes of this section,
5 the court issuing an injunction, order, decree, or judgment shall
6 retain jurisdiction, and the cause shall be continued. The
7 ~~attorney general~~ COMMISSIONER may petition for recovery of a
8 civil penalty as provided by this section.

9 (6) ~~(5)~~ The action or the failure to act by the commis-
10 sioner under this section shall not be considered specific autho-
11 rization of conduct barring the attorney general from bringing an
12 action ~~pursuant to~~ UNDER the Michigan consumer protection act,
13 ~~Act No. 331 of the Public Acts of 1976, being sections 445.901~~
14 ~~to 445.922 of the Michigan Compiled Laws 1976 PA 331,~~
15 MCL 445.901 TO 445.922.

16 Sec. 12d. A person may bring an action in the circuit court
17 of the county in which ~~the home~~ AN office of a licensee is
18 located, or in the circuit court for Ingham county, to enjoin a
19 licensee from advertising in violation of section 12a.

20 Sec. 13. (1) A licensee may lend money and may contract
21 for, compute, and receive interest charges on the loan at a rate
22 that does not exceed the rate permitted by the credit reform act,
23 ~~Act No. 162 of the Public Acts of 1995, being sections 445.1851~~
24 ~~to 445.1864 of the Michigan Compiled Laws 1995 PA 162,~~
25 MCL 445.1851 TO 445.1864. A loan by a licensee may be 1 of the
26 following:

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489 as amended June 26, 2001

23

(a) A closed-end loan.

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

(2) A licensee shall not induce ~~or permit~~ a person to become directly obligated under more than 1 loan contract not secured by personal property at the same time.

(3) Charges on loans made under this act shall not be paid, deducted, or received in advance, or compounded. All charges on loans made under this act shall be computed on the unpaid principal balance or portions of the balance, specifically expressed in every obligation signed by the borrower, and computed on the basis of the number of days actually elapsed.

(4) In addition to the interest and charges provided for in this act, a loan processing fee not to exceed ~~2%~~ 5% of the principal, up to \$250.00, may be charged for each closed-end

loan made, and may be included in the principal of the loan. THE \$250.00 LIMIT ON THE LOAN PROCESSING FEE SHALL BE ADJUSTED EVERY TWO YEARS TO REFLECT THE PERCENTAGE CHANGE IN THE UNITED STATES CONSUMER PRICE INDEX FOR THE TWO IMMEDIATELY PRECEDING CALENDAR YEARS, ROUNDED TO THE NEAREST HUNDRED DOLLARS. AS USED IN THIS SUBSECTION, "UNITED STATES CONSUMER PRICE INDEX" MEANS THE UNITED STATES CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS IN THE UNITED STATES CITY AVERAGE, AS DEFINED AND REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, AND AFTER CERTIFICATION BY THE COMMISSIONER. A

licensee may require the borrower to pay the late charges permitted by ~~Act No. 162 of the Public Acts of 1995~~ THE CREDIT REFORM ACT, 1995 PA 162, MCL 445.1851 TO 445.1864. A licensee shall not induce or permit a person to become obligated, directly or contingently, under more than 1 loan contract not secured by personal property at the same time for the purpose or with the result of obtaining a loan processing fee not otherwise permitted by this section. No other amount shall be directly or indirectly charged, contracted for, or received, except the lawful fees, if

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

24

1 any, actually and necessarily paid by the licensee to a
2 governmental entity for the filing, recording, or releasing of
3 either of the following:

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

6 (b) A record noting or releasing a lien or transferring a
7 certificate of title under the Michigan vehicle code, ~~Act~~
8 ~~No. 300 of the Public Acts of 1949, being sections 257.1 to~~
9 ~~257.923 of the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.1 TO
10 257.923.

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

13 (6) A licensee may charge a handling fee ~~of \$5.00~~ for the
14 return of an unpaid and dishonored check, draft, negotiable
15 order, or similar instrument given to the licensee in full or
16 partial repayment of a loan AS AUTHORIZED BY THE CREDIT REFORM
17 ACT, 1995 PA 162, MCL 445.1851 TO 445.1864.

18 (7) A LICENSEE MAY RECOVER FROM THE BORROWER THE COSTS AND
19 EXPENSES OF RETAKING, HOLDING, REPAIRING, PREPARING FOR SALE, AND
20 SELLING ANY PERSONAL PROPERTY IN ACCORDANCE WITH SECTIONS 9609
21 AND 9615 OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174,
22 MCL 440.9609 AND 440.9615.

23 (8) ~~(7)~~ A licensee may charge a reasonable annual fee for
24 the privilege of receiving open-end credit from the licensee.

25 ~~(8) If an amount other than the charges permitted by this~~
26 ~~act is charged, contracted for, or received for any reason other~~
27 ~~than a bona fide clerical error, the loan contract shall be void~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

25

1 ~~and the licensee shall not collect or receive any principal,~~
2 ~~charges, or recompense whatsoever.~~

3 (9) A LICENSEE MAY CHARGE A REASONABLE FEE PER PAYMENT IF A
4 BORROWER MAKES A PAYMENT OR PAYMENTS BY AUTHORIZING A LICENSEE
5 VERBALLY OR IN WRITING TO EXECUTE A DEBIT OR OTHERWISE PROCESS A
6 PAYMENT, THROUGH AUTOMATED CLEARING PROCEDURES, DRAWN ON THE
7 BORROWER'S DEPOSIT ACCOUNT. THIS SUBSECTION SHALL NOT BE CON-
8 STRUED TO PERMIT THE IMPOSITION OF A FEE IN CASES WHERE THE BOR-
9 ROWER, AT THE TIME OF CONSUMMATION OF THE LOAN, AUTHORIZES THE
10 LICENSEE TO EFFECT ALL PERIODIC INSTALLMENT PAYMENTS BY WAY OF
11 ELECTRONIC AUTOMATED CLEARING PROCEDURES DRAWN ON THE BORROWER'S
12 DEPOSIT ACCOUNT.

13 (10) IN ADDITION TO THE PENALTIES PROVIDED BY THIS ACT, A
14 VIOLATION OF THIS ACT WITH RESPECT TO A PARTICULAR REGULATORY
15 LOAN TRANSACTION IS ALSO SUBJECT TO THE PENALTY AND REMEDY PROVI-
16 SIONS OF THE CREDIT REFORM ACT, 1995 PA 162, MCL 445.1851 TO
17 445.1864.

18 (11) ~~(9)~~ 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 bor-
24 rower during the term of the plan is generally made available to
25 the extent that any part of the outstanding balance is repaid.

26 Sec. 13a. (1) In addition to charges allowed under
27 section 13, at the option of the borrower, a licensee may obtain

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

26

1 or provide 1 or both of the following and deduct from the
2 principal of a loan and retain an amount equal to the premium
3 lawfully charged by the insurance company:

4 (a) Credit insurance as defined in the credit insurance act,
5 ~~Act No. 173 of the Public Acts of 1958, being sections 550.601~~
6 ~~to 550.624 of the Michigan Compiled Laws~~ 1958 PA 173,
7 MCL 550.601 TO 550.624.

8 (b) Any other insurance under the insurance code of 1956,
9 ~~Act No. 218 of the Public Acts of 1956, being sections 500.100~~
10 ~~to 500.8302 of the Michigan Compiled Laws~~ 1956 PA 218,
11 MCL 500.100 TO 500.8302.

12 (2) The insurance permitted by this section shall be in
13 force when the loan is made. If the borrower obtains the insur-
14 ance from or through a licensee, the statement required by sec-
15 tion 14 shall show the cost of the insurance and the licensee
16 shall provide to the borrower a copy of the policy, certificate,
17 or other evidence of the insurance. This act does not prohibit
18 the licensee or any employee, affiliate, subsidiary, or associate
19 of the licensee from collecting the premium or identifiable
20 charge for the insurance permitted by this section or from
21 receiving and retaining any gain or other benefit resulting from
22 the insurance. A licensee shall not require the purchase of
23 insurance as a condition precedent to the making of a loan.

24 Sec. 14. A licensee shall:

25 (a) Deliver to the borrower a disclosure statement in com-
26 pliance with ~~regulation Z,~~ 12 C.F.R. part 226.

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

27

1 (b) Give to the borrower a plain and complete receipt for
2 cash payments made on account of a loan at the time the payments
3 are made, specifying the amount applied to charges and the
4 amount, if any, applied to principal, and stating the unpaid
5 principal balance ~~—, if any,—~~ of the loan. An unitemized receipt
6 may be given temporarily and within 30 days a receipt as pre-
7 scribed above delivered or mailed.

8 (c) Permit payment to be made in advance in any amount on
9 any contract of loan at any time during regular business hours,
10 but the licensee may apply that payment first to all charges in
11 full at the agreed rate up to the date of the payment.

12 (d) Upon repayment of the loan in full, mark plainly every
13 obligation and security signed by the borrower with the word
14 "Paid" or "Canceled", and release any mortgage, restore any
15 pledge, cancel and return any note, and cancel and return any
16 assignment given to the licensee by the borrower.

17 ~~—(e) Display in each licensed place of business a full and~~
18 ~~accurate schedule of the maximum charges authorized by this act~~
19 ~~to be made upon loans of all classes and the method of computing~~
20 ~~the charges.—~~

21 Sec. 14a. Compliance with the requirements of the consumer
22 credit protection act, Public Law 90-321, 82 statute 146, ~~—et~~
23 ~~seq.,—~~ commonly referred to as the federal truth in lending act
24 is compliance with section 12 as to advertising, section 13a as
25 to cost of insurance, and section 14.

26 Sec. 15. ~~—A licensee shall not directly or indirectly~~
27 ~~charge, contract for, or receive an interest, discount, or~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

28

1 ~~consideration greater than the lender would be permitted by law~~
2 ~~to charge if the licensee were not licensed under this act upon a~~
3 ~~part or all of any aggregate indebtedness of the same borrower,~~
4 ~~or upon the loan, use, or forbearance of money, goods, or things~~
5 ~~in action, or upon the loan, use, or sale of credit, of the~~
6 ~~amount or value of more than the regulatory loan ceiling. This~~
7 ~~prohibition shall also apply to a licensee who permits a person,~~
8 ~~as borrower or as indorser, guarantor, or surety for a borrower~~
9 ~~or otherwise, to owe directly or contingently or both to the~~
10 ~~licensee at any time a sum of more than the regulatory loan ceil-~~
11 ~~ing for principal. If a licensee acquires, directly or indirect-~~
12 ~~ly, by purchase or discount the bona fide obligation of a pur-~~
13 ~~chaser of goods or services from the person selling the goods or~~
14 ~~rendering the services, then the amount of the purchased or dis-~~
15 ~~counted indebtedness to the licensee shall not be included in~~
16 ~~computing the aggregate indebtedness of the borrower to the~~
17 ~~licensee for the purposes of this prohibition. A LICENSEE MAY~~
18 ~~PURCHASE A CONTRACT MADE IN COMPLIANCE WITH THE RETAIL INSTALL-~~
19 ~~MENT SALES ACT, 1966 PA 224, MCL 445.851 TO 445.873, OR THE HOME~~
20 ~~IMPROVEMENT FINANCE ACT, 1965 PA 332, MCL 445.1101 TO 445.1431.~~
21 SEC. 15A. (1) IF A REGULATORY LOAN CONTRACT CONTAINS OBLI-
22 GATIONS BY THE BORROWER TO PERFORM CERTAIN DUTIES PERTAINING TO
23 INSURING OR PRESERVING COLLATERAL AND THE LICENSEE, BECAUSE OF
24 THE BORROWER'S FAILURE TO PERFORM THESE DUTIES, PAYS FOR PER-
25 FORMANCE OF THE DUTIES ON BEHALF OF THE BORROWER, THE LICENSEE
26 MAY ADD THE AMOUNTS PAID TO THE DEBT AND COLLECT INTEREST AT THE
27 CONTRACT RATE ON THE AMOUNTS.

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

29

1 (2) WITHIN A REASONABLE TIME AFTER ADVANCING ANY SUMS UNDER
2 THIS SECTION, THE LICENSEE SHALL NOTIFY THE BORROWER IN WRITING
3 OF THE AMOUNT OF THE SUMS ADVANCED, ANY CHARGES WITH RESPECT TO
4 THIS AMOUNT, ANY REVISED PAYMENT SCHEDULE, AND A BRIEF DESCRIP-
5 TION OF THE SERVICES OR PRODUCTS PAID FOR BY THE LICENSEE,
6 INCLUDING THE TYPE AND AMOUNT OF INSURANCE COVERAGES, IF
7 APPLICABLE.

8 (3) THE LICENSEE SHALL PROMPTLY TERMINATE INSURANCE OR OTHER
9 SERVICES PROCURED UNDER THIS SECTION ONCE THE BORROWER PROVIDES
10 EVIDENCE THAT THE PERFORMANCE OF CONTRACTUAL DUTIES HAVE BEEN
11 REINSTATED.

12 Sec. 17. (1) An assignment of, or order for payment of,
13 salary, wages, commissions, or other compensation for services,
14 earned or to be earned, given to secure a loan made by a licensee
15 under this act, shall not be valid. A chattel mortgage or other
16 lien on household goods then in the possession and use of the
17 borrower shall not be valid unless it is in writing and signed in
18 person by the borrower.

19 (2) If the borrower is married, a chattel mortgage or other
20 lien on household goods shall not be valid unless it is signed in
21 person by both husband and wife. ~~—however, THE written assent~~
22 ~~of a spouse UNDER THIS SECTION shall not be required when husband~~
23 ~~and wife have been living separate and apart for a period of not~~
24 ~~less than 5 months before the making of the chattel mortgage or~~
25 ~~other lien. Notwithstanding the provisions of section 17, all~~
26 ~~wage assignments taken or executed before the effective date of~~
27 ~~this act shall remain in full force and effect.~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

30

1 Sec. 18. (1) A person, except as authorized by this act,
2 shall not directly or indirectly charge, contract for, or receive
3 an interest, discount, or consideration greater than the lender
4 would be permitted by law to charge if the lender were not
5 licensed under this act upon the loan, use, or forbearance of
6 money, goods, or things in action. ~~, or upon the loan, use, or~~
7 ~~sale of credit of the amount or value included within the regula-~~
8 ~~tory loan ceiling.~~

9 (2) The prohibition specified in subsection (1) applies to a
10 person who or which, by any device, subterfuge, or pretense
11 charges, contracts for, or receives greater interest, considera-
12 tion, or charges than authorized by this act for the loan, use,
13 or forbearance of money, goods, or things in action or for the
14 loan, use, or sale of credit.

15 (3) This act does not apply to loans legally made in another
16 state or country by a licensee under a regulatory loan law simi-
17 lar in principle to this act, except that loans made by mail to
18 Michigan residents are subject to this act.

19 Sec. 21. ~~In addition to the provisions of this act, the~~
20 ~~commissioner may make rules, specific rulings, demands, and find-~~
21 ~~ings for the enforcement of this act, but which are not inconsis-~~
22 ~~tent with this act. Rules shall be filed by the commissioner~~
23 ~~with the financial institutions bureau in an indexed, permanent~~
24 ~~book, with the effective date of the rules suitably indicated,~~
25 ~~and the book shall be a public record. A copy of a rule promul-~~
26 ~~gated pursuant to this act shall be mailed by the commissioner to~~
27 ~~all licensees under this act at their respective licensed places~~

SB 489, As Passed Senate, July 10, 2001

Senate Bill No. 489

31

1 ~~of business at least 10 days before the effective date of that~~
2 ~~rule.~~ THE COMMISSIONER MAY PROMULGATE RULES THAT ARE NECESSARY
3 FOR THE ADMINISTRATION AND ENFORCEMENT OF THIS ACT UNDER THE
4 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
5 24.328.

6 Enacting section 1. Sections 1a and 25 of the regulatory
7 loan act of 1963, 1939 PA 21, MCL 493.1a and 493.25, are
8 repealed.