

CONSUMER FINANCIAL SERVICES ACT (EXCERPT)
Act 161 of 1988

487.2060 Suspension or revocation of license; notice; hearing; determination; appeal; grounds for suspending, revoking, or refusing to renew license; suspension or revocation of activities; investigations, examinations, and hearings; evidence; failure to comply with subpoena; cease and desist order.

Sec. 10.

(1) A license shall not be suspended or revoked except on not less than 10 days' notice to the licensee setting forth in writing the reasons for the suspension or revocation. Within 5 days after receipt of the notice, the licensee may make written demand for a hearing. The commissioner with reasonable promptness shall hear and determine the matter as provided by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the licensee considers itself aggrieved by the order of the commissioner, the licensee may appeal within 30 days from the date of the order to the circuit court in the manner provided by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall be entitled to judicial review as provided in that act. If an appeal is taken from an order revoking any license, the effect of the order may be stayed by the court pending the final determination of the appeal.

(2) The commissioner may suspend, revoke, or refuse to renew a license under this act if the commissioner finds 1 or more of the following:

(a) The licensee has made a material misstatement in the application for license.

(b) The licensee has violated a provision of this act or a rule promulgated under this act, or an order of the commissioner.

(c) The licensee has refused to permit the commissioner or the commissioner's designated representative to make examinations authorized by this act.

(d) The licensee has failed to meet or maintain the requirements of section 6 or any other requirements of this act.

(e) The licensee has failed to maintain satisfactory records as required by this act.

(f) The licensee has falsified a record required by this act to be maintained in connection with the business regulated by this act.

(g) The licensee has, after proper notice, failed to file a report with the commissioner within the time stipulated in this act.

(h) The licensee has failed to pay the fine required by this act for failure to file reports within the time stipulated.

(i) The licensee has defrauded a consumer or willfully failed to perform a written agreement with a consumer.

(j) The licensee has refused or failed, within a reasonable time, to furnish any information or make any report that is required by the commissioner.

(k) A fact or condition exists that, if it had existed or had been known to exist at the time of filing of the application for a license, would have warranted refusal by the commissioner to issue a license.

(l) A class I licensee authorized to issue or sell checks, has refused or is unable to pay its obligations generally as they become due.

(m) A licensee engaged in loan servicing activities, intentionally or as a result of gross or wanton negligence, is not servicing loans as required by law or by the terms of the servicing contracts.

(n) The licensee has failed to pay an annual operating fee or any associated late filing fees.

(3) Based on the findings of the commissioner under subsection (2), he or she may suspend or revoke all activities under the license, or only the particular regulated activity for which grounds for revocation or suspension occurred or existed.

(4) The commissioner may make investigations or conduct examinations of any person and conduct hearings as the commissioner considers necessary to determine whether any licensee or any other person has violated any of the provisions of this act, or whether any licensee has conducted business in such a manner as would justify suspension or revocation of its license.

(5) The commissioner may subpoena witnesses and documents, papers, books, records, and other evidence in any matter over which the commissioner has jurisdiction, control, or supervision. The commissioner may administer oaths and affirmations to any person whose testimony is required.

(6) If a person fails to comply with a subpoena issued by the commissioner or to testify with respect to any matter concerning which the person may be lawfully questioned, the circuit court for Ingham county, on application of the commissioner, may issue an order requiring the attendance of the person and the giving of testimony or production of evidence.

(7) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare, or is, has, or is about to violate a law or rule, the commissioner may serve a notice of intention to issue a cease and desist order as provided in subsection (8).

(8) A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued against the licensee.

(9) If the licensee fails to appear at the hearing by a duly authorized representative, the licensee shall have consented to the issuance of the cease and desist order.

(10) In the event of consent under subsection (9), or if upon the record made at the hearing, the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its officers, directors, members, partners, trustees, employees, agents, and persons exercising control over the business activities of the licensee to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(11) Except as provided in subsection (12) or to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order shall become effective on the date of service.

(12) A cease and desist order issued upon consent shall become effective at the time specified in the order and remain effective and enforceable as provided in the order.

(13) For purposes of this act, the manner of the service of process shall be in accordance with the Michigan court rules.

History: 1988, Act 161, Eff. Sept. 1, 1988 ;-- Am. 1999, Act 275, Imd. Eff. Jan. 5, 2000

Compiler's Notes: 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 MCL 445.2003 of the Michigan compiled laws.