

SENATE BILL No. 476

September 11, 1991, Introduced by Senator ARTHURHULTZ and referred to the Committee on Appropriations.

A bill to amend sections 2, 7, 8, 12c, and 21 of Act No. 21 of the Public Acts of 1939, entitled as amended

"Regulatory loan act of 1963,"

sections 2, 7, 8, and 21 as amended by Act No. 14 of the Public Acts of 1991, being sections 493.2 493.7, 493.8, 493.12c, and 493.21 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 7, 8, 12c, and 21 of Act No. 21 of
2 the Public Acts of 1939, sections 2, 7, 8, and 21 as amended by
3 Act No. 14 of the Public Acts of 1991, being sections 493.2
4 493.7, 493.8, 493.12c, and 493.21 of the Michigan Compiled Laws,
5 are amended to read as follows:

6 Sec. 2. (1) Application for each license shall be in
7 writing, under oath, and in the form prescribed by the
8 commissioner, and ~~shall~~ contain the name and the address, both

1 of the residence and place of business, of the applicant, if the
 2 applicant is a copartnership or association, of every member, and
 3 if a corporation, of each officer and director; also the county
 4 and municipality with street and number, if any, where the busi-
 5 ness is to be conducted, and all ~~further~~ OTHER relevant infor-
 6 mation as the commissioner may require. The applicant at the
 7 time of making each application shall pay to the commissioner
 8 ~~the sum of \$300.00 as a fee for investigating the application~~
 9 ~~and the additional sum of \$300.00 as an annual license fee for a~~
 10 ~~period terminating on December 31 of the current calendar year-~~
 11 AN INVESTIGATION AND ANNUAL LICENSE FEE AS PROVIDED BY THIS ACT.
 12 If the application is filed after June 30 in any year, the
 13 ~~additional sum shall be only \$150.00 as~~ APPLICANT SHALL PAY THE
 14 INVESTIGATION FEE AND 1/2 OF the ANNUAL license fee. ~~in addition~~
 15 ~~to the fee for investigation.~~

16 (2) ~~Every~~ AN applicant shall ~~also~~ prove, in form satis-
 17 factory to the commissioner, that ~~he or she~~ THE APPLICANT has
 18 available LIQUID ASSETS OF AT LEAST \$50,000.00 for the operation
 19 of the business at the location specified in the application. ~~—~~
 20 ~~liquid assets of at least \$50,000.00.~~

21 Sec. 7. (1) ~~No more than~~ ONLY 1 place of business shall
 22 be maintained under ~~the same~~ A license, but the commissioner
 23 may issue more than 1 license to the same licensee upon compli-
 24 ance with ~~all~~ the provisions of this act ~~governing an~~ THAT
 25 COVER THE original issuance of a license. ~~for each new license.~~

26 (2) ~~If a~~ A licensee ~~desires to~~ MAY change a licensed
 27 place of business to a street address other than that designated

1 in the license ~~, he or she shall give~~ BY GIVING written notice
2 to the commissioner who shall indicate ~~his or her~~ approval of
3 the change ~~and the date~~ by ~~the issuance of~~ ISSUING a new
4 license. ~~which shall be authority for the operation of the busi-~~
5 ~~ness under the license at the new location.~~

6 (3) The licensee at the time of giving written notice to
7 change the street address or change the name of the licensee
8 shall pay to the commissioner ~~the sum of \$10.00~~ A FEE FOR
9 AMENDING THE LICENSE AS PROVIDED IN SECTION 8.

10 Sec. 8. ~~Every licensee, on or before December 22 of each~~
11 ~~year, shall pay to the commissioner the sum of \$300.00 for each~~
12 ~~license held by him or her, as an annual license fee, and at the~~
13 ~~same time file with the commissioner a bond for each license held~~
14 ~~by him or her in the same amount and of the same character as~~
15 ~~required by section 3. This section shall not apply to any~~
16 ~~licensee who shall surrender his or her license and discontinue~~
17 ~~the business of making loans as authorized by this act.~~

18 (1) THE COMMISSIONER SHALL ANNUALLY ESTABLISH THE SCHEDULE
19 OF FEES SUFFICIENT TO PAY THE BUREAU'S COSTS OF ADMINISTERING
20 THIS ACT. THE FEES ARE AS FOLLOWS:

21 (A) FOR THE INVESTIGATION OF AN APPLICANT FOR A LICENSE, NOT
22 LESS THAN \$200.00 OR MORE THAN \$600.00, WHICH IS NOT REFUNDABLE.

23 (B) FOR THE ISSUANCE OR ANNUAL RENEWAL OF A LICENSE, NOT
24 LESS THAN \$300.00 OR MORE THAN \$800.00, WHICH IS TO BE PAID ON OR
25 BEFORE DECEMBER 22 EACH YEAR. A LICENSE RENEWAL FEE PAID AFTER
26 DECEMBER 22 IS SUBJECT TO A PENALTY OF \$25.00 FOR EACH DAY THE
27 FEE IS DELINQUENT OR \$1,000.00, WHICHEVER IS LESS.

1 (C) FOR AMENDING A LICENSE, NOT LESS THAN \$20.00 OR MORE
2 THAN \$75.00.

3 (D) FOR EXAMINATION OF THE LICENSEE, NOT LESS THAN \$40.00 OR
4 MORE THAN \$70.00 PER HOUR FOR EACH EXAMINER INVOLVED IN AN
5 EXAMINATION. IN ADDITION, A LICENSEE SHALL PAY THE ACTUAL TRAVEL
6 AND LODGING EXPENSES INCURRED BY BUREAU EMPLOYEES WHO TRAVEL OUT
7 OF MICHIGAN TO EXAMINE THE RECORDS OF THE LICENSEE.

8 (2) AT THE TIME OF PAYING THE ANNUAL LICENSE FEE, EACH
9 LICENSEE SHALL FILE WITH THE COMMISSIONER A BOND FOR EACH LICENSE
10 HELD IN THE AMOUNT AND CHARACTER AS REQUIRED BY SECTION 3.

11 (3) IF ANY FEES OR PENALTIES PROVIDED FOR IN THIS ACT ARE
12 NOT PAID WHEN REQUIRED, THE ATTORNEY GENERAL MAY MAINTAIN AN
13 ACTION AGAINST THE DELINQUENT LICENSEE FOR THE RECOVERY OF THE
14 FEES OR PENALTIES TOGETHER WITH INTEREST AND COSTS.

15 (4) FEES RECEIVED PURSUANT TO THIS ACT ARE NOT REFUNDABLE.

16 (5) A LICENSEE WHO FAILS TO SUBMIT TO THE COMMISSIONER A
17 REPORT REQUIRED PURSUANT TO SECTION 11 IS SUBJECT TO A PENALTY OF
18 \$25.00 FOR EACH DAY THE REPORT IS DELINQUENT OR \$1,000.00, WHICH-
19 EVER IS LESS.

20 (6) MONEY RECEIVED UNDER THIS ACT SHALL BE PAID INTO THE
21 STATE TREASURY TO THE CREDIT OF THE FINANCIAL INSTITUTIONS BUREAU
22 AND SHALL BE USED FOR THE OPERATION OF THE FINANCIAL INSTITUTIONS
23 BUREAU.

24 Sec. 12c. (1) If the commissioner has probable cause to
25 believe that a licensee has engaged, is engaged, or is about to
26 engage in advertising ~~which~~ THAT is false, misleading,
27 deceptive, or irresponsible as defined in section 12a, and upon

1 notice given in accordance with this section, the commissioner
2 shall report the matter to the attorney general. Upon receipt of
3 the notice, the attorney general may bring an action to restrain
4 the licensee by temporary or permanent injunction from engaging
5 in the advertising. The action may be brought in the circuit
6 court ~~of~~ FOR the county where the licensee is established or
7 conducts business or in the circuit court ~~of~~ FOR Ingham
8 county. The court may award costs to the prevailing party. For
9 persistent and knowing violation of section 12a the court may
10 assess the defendant a civil penalty of not more than \$5,000.00.
11 ~~payable to the general fund of the state.~~

12 (2) Unless waived by the court on good cause shown, not less
13 than 10 days before the commencement of a proceeding under this
14 section the commissioner shall notify the licensee of the
15 intended referral to the attorney general ~~which notice shall~~
16 ~~give~~ AND PROVIDE the licensee an opportunity to cease and desist
17 from the alleged unlawful advertising or to confer with the com-
18 missioner in person, by counsel, or by other representative as to
19 the proposed action before the proposed filing date. ~~The~~
20 SERVICE OF THE notice may be given TO the licensee by mail, post-
21 age prepaid, to the licensee's usual place of business or, with
22 respect to a corporation, only to a resident agent who is desig-
23 nated to receive service of process or to an officer of the
24 corporation.

25 (3) ~~When~~ IF the commissioner has authority to institute a
26 proceeding pursuant to this section, the commissioner, upon the
27 concurrence of the attorney general, may accept an assurance of

1 discontinuance of advertising ~~which~~ THAT is alleged to be
2 unlawful under section 12a from the person who is alleged to have
3 engaged, be engaging, or be about to engage in the advertising.
4 The assurance ~~shall~~ DOES not constitute an admission of guilt
5 nor CAN IT be introduced in any other proceeding. An assurance
6 of discontinuance shall be in writing and ~~may be~~ filed with the
7 circuit court ~~of~~ FOR Ingham county. The clerk of the court
8 shall maintain a record of the filings. Unless rescinded by the
9 parties or voided by ~~a~~ THE court for good cause, the assurance
10 may be enforced in the circuit court by the parties to the
11 assurance. The assurance may be modified by the parties or by
12 ~~a~~ THE court for good cause.

13 (4) A person who knowingly violates the terms of an injunc-
14 tion, order, decree, or judgment issued pursuant to this section
15 ~~shall be~~ IS subject to a civil penalty of not more than \$500.00
16 for each violation. ~~payable to the general fund of the state.~~
17 For the purposes of this section, the court issuing an injunc-
18 tion, order, decree, or judgment shall retain jurisdiction, AND
19 the cause shall be continued. ~~, and the~~ THE attorney general
20 may petition for recovery of a civil penalty as provided by this
21 section.

22 (5) The action or the failure to act by the commissioner
23 under this section shall not be considered specific authorization
24 of conduct barring the attorney general from bringing an action
25 pursuant to THE MICHIGAN CONSUMER PROTECTION ACT, Act No. 331 of
26 the Public Acts of 1976, being sections 445.901 to 445.922 of the
27 Michigan Compiled Laws.

1 Sec. 21. ~~-(1)-~~ In addition to the provisions of this act,
2 the commissioner may make rules, specific rulings, demands, and
3 findings for the enforcement of this act, but which ~~-shall-~~ ARE
4 not ~~-be-~~ inconsistent with this act. Rules shall be filed by the
5 commissioner with the financial institutions bureau in an index-
6 ed, permanent book, with the effective date of the rules suitably
7 indicated, and the book shall be a public record. A copy of a
8 rule promulgated pursuant to this act shall be mailed by the com-
9 missioner to all licensees under this act at their respective
10 licensed places of business at least 10 days before the effective
11 date of that rule.

12 ~~-(2)- Fees received by the commissioner under this act shall~~
13 ~~be deposited in the state treasury to the credit of the financial~~
14 ~~institutions bureau, and the money in this account shall be used~~
15 ~~for the operation of the bureau.~~