

HOUSE BILL No. 5594

May 21, 2014, Introduced by Rep. Lyons and referred to the Committee on Financial Services.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6 (a) A closed-end loan.

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

11 (2) A licensee shall not induce a person to become directly

1 obligated under more than 1 loan contract **THAT IS** not secured by
2 personal property at the same time.

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

9 (4) In addition to the interest and charges provided for in
10 this act, a loan processing fee ~~not to~~ **THAT DOES NOT** exceed 5% of
11 the principal, up to \$250.00, may be charged for each closed-end
12 loan made, and may be included in the principal of the loan. The
13 \$250.00 limit on the loan processing fee shall be adjusted every 2
14 years to reflect the percentage change in the United States
15 consumer price index for the 2 immediately preceding calendar
16 years, rounded to the nearest hundred dollars. As used in this
17 subsection, "United States consumer price index" means the United
18 States consumer price index for all urban consumers in the United
19 States city average, as defined and reported by the United States
20 department of labor, bureau of labor statistics, and after
21 certification by the commissioner. A licensee may require the
22 borrower to pay the late charges permitted ~~by~~ **UNDER** the credit
23 reform act, 1995 PA 162, MCL 445.1851 to 445.1864. A licensee shall
24 not induce or permit a person to become obligated, directly or
25 contingently, under more than 1 loan contract **THAT IS** not secured
26 by personal property at the same time for the purpose or with the
27 result of ~~obtaining~~ **RECEIVING** a loan processing fee **THAT IS** not

1 otherwise permitted by this section. No other amount shall be
2 directly or indirectly charged, contracted for, or received, except
3 the lawful fees, if any, actually and necessarily paid by the
4 licensee to a governmental entity for the filing, recording, or
5 releasing of either of the following:

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

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

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

13 (6) A licensee may charge a handling fee for the return of an
14 unpaid and dishonored check, draft, negotiable order, or similar
15 instrument given to the licensee in full or partial repayment of a
16 loan as authorized ~~by~~ **UNDER** the credit reform act, 1995 PA 162, MCL
17 445.1851 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 and
21 9615 of the uniform commercial code, 1962 PA 174, MCL 440.9609 and
22 440.9615.

23 (8) A licensee may charge a reasonable annual fee for the
24 privilege of receiving open-end credit from the licensee. **A**
25 **LICENSEE MAY CHARGE A MONTHLY ACCOUNT SERVICE FEE FOR EACH**
26 **OUTSTANDING CLOSED-END LOAN, IN AN AMOUNT THAT DOES NOT EXCEED**
27 **9.75% OF THE ORIGINAL PRINCIPAL AMOUNT OF THE LOAN.**

1 (9) A licensee may charge a reasonable fee per payment if a
2 borrower makes a payment or payments by authorizing a licensee
3 verbally or in writing to execute a debit or otherwise process a
4 payment, through automated clearing procedures, drawn on the
5 borrower's deposit account. This subsection shall not be construed
6 to permit the imposition of a fee in cases where the borrower, at
7 the time of consummation of the loan, authorizes the licensee to
8 effect all periodic installment payments by way of electronic
9 automated clearing procedures drawn on the borrower's deposit
10 account.

11 (10) In addition to the penalties provided ~~by~~ **UNDER** this act,
12 a violation of this act with respect to a particular regulatory
13 loan transaction is also subject to the penalty and remedy
14 provisions of the credit reform act, 1995 PA 162, MCL 445.1851 to
15 445.1864.

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

19 (a) The licensee reasonably contemplates repeated
20 transactions.

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