

SENATE BILL No. 431

June 6, 2017, Introduced by Senators GREGORY, JOHNSON, BIEDA and ROBERTSON
and referred to the Committee on Banking and Financial Institutions.

A bill to regulate the business of providing certain small loans; to require the licensing of providers of small loans; to prescribe powers and duties of certain state agencies and officials; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE 1

SHORT TITLE, DEFINITIONS, AND GENERAL PROVISIONS

Sec. 1. This act shall be known and may be cited as the "small loan regulatory act".

Sec. 3. As used in this act:

(a) "Applicant" means a person that is seeking a license to engage in the business of providing small loans under this act.

(b) "Borrower" means a customer who enters into a small loan transaction under article 2.

1 (c) "Closed" means, in connection with a small loan, that the
2 loan is fully paid or satisfied.

3 (d) "Consumer reporting agency" means that term as defined in
4 the security freeze act, 2013 PA 229, MCL 445.2512.

5 (e) "Customer" means an individual who requests information
6 about the availability of, or applies for, a small loan or who
7 enters into a small loan agreement with a licensee.

8 (f) "Database provider" means 1 of the following:

9 (i) A third party provider selected by the director under
10 section 19 to operate the statewide database described in that
11 section.

12 (ii) If the director has not selected a third party provider
13 under section 19, the director.

14 (g) "Deferred presentment service transaction" means that term
15 as defined in section 2 of the deferred presentment service
16 transactions act, 2005 PA 244, MCL 487.2122.

17 (h) "Department" means the department of insurance and
18 financial services.

19 (i) "Director" means the director of the department or his or
20 her authorized representative.

21 (j) "Executive officer" means an officer or director of a
22 licensee or any other individual who has the authority to
23 participate in the direction, directly or indirectly, through 1 or
24 more persons, or the management or policies of a licensee.

25 (k) "Financial licensing act" means this act or any of the
26 financial licensing acts as defined in section 2 of the consumer
27 financial services act, 1988 PA 161, MCL 487.2052.

1 (l) "Licensee" means a person that is licensed to engage in
2 the business of providing small loans under this act.

3 (m) "Maturity date" means the date a small loan, or the last
4 installment of the loan, is due.

5 (n) "Maximum loan amount" means 1 of the following:

6 (i) If subparagraph (ii) does not apply, \$2,500.00.

7 (ii) If a borrower has an outstanding deferred presentment
8 service transaction at the time he or she applies for a small loan,
9 \$2,500.00 less the amount of the outstanding deferred presentment
10 service transaction.

11 (o) "Person" means an individual, partnership, association,
12 corporation, limited liability company, or other legal entity
13 except a governmental entity.

14 (p) With respect to an existing small loan, "renewal" means
15 renewing, repaying, refinancing, or consolidating an existing small
16 loan with the proceeds of either of the following:

17 (i) Another small loan.

18 (ii) A deferred presentment service transaction.

19 (q) "Simple interest" means a method of calculating interest
20 in which the amount of interest is calculated based on the annual
21 interest rate disclosed in the loan agreement and is computed only
22 on the outstanding principal balance of the loan.

23 (r) "Small loan" means a loan that is made by a licensee to an
24 individual that meets all of the following:

25 (i) The loan is made for personal, family, or household use.

26 (ii) The principal amount of the loan does not exceed the
27 maximum loan amount.

1 (iii) The maturity date for the loan is not more than 730 days
2 after the date of the transaction.

3 (iv) The loan is unsecured and payable in installments.

4 Sec. 5. (1) Subject to subsection (3), beginning June 1, 2018,
5 a person shall not engage in the business of providing small loans,
6 through any method, including, but not limited to, mail, telephone,
7 internet, mobile device application, or in person, without a
8 license under this act.

9 (2) A person may engage in the business of providing small
10 loans and deferred presentment service transactions at a single
11 location under separate licenses. A separate license is required
12 for each location from which the business of providing small loans
13 is conducted.

14 (3) This act does not apply to a state or nationally chartered
15 bank or a state or federally chartered savings and loan
16 association, savings bank, or credit union whose deposits or member
17 accounts are insured by an agency of the United States government.
18 This act does not apply to a person that is licensed or registered
19 under a financial licensing act and is authorized to make small
20 loans under that financial licensing act.

21 (4) Within 90 days after the effective date of this act, the
22 director by administrative bulletin, order, or rule shall establish
23 an application process and an application timeline for license
24 applications under this act.

25 Sec. 7. To obtain a license, an applicant shall satisfy all of
26 the following requirements:

27 (a) Have and maintain net worth of at least \$50,000.00 for

1 each licensed location, subject to a maximum of \$250,000.00 in
2 required net worth for any 1 licensee, determined in accordance
3 with generally accepted accounting principles.

4 (b) Demonstrate to the director that the applicant has the
5 financial responsibility, financial condition, business experience,
6 character, and general fitness to reasonably warrant a belief that
7 the applicant will conduct its business lawfully and fairly. In
8 determining whether this subdivision is satisfied, and for the
9 purpose of investigating compliance with this act, the director may
10 review any of the following:

11 (i) The relevant business records and the capital adequacy of
12 the applicant.

13 (ii) The competence, experience, integrity, and financial
14 ability of any person who is a member, partner, executive officer,
15 or a shareholder with 10% or more interest in the applicant.

16 (iii) Any record regarding the applicant, or any person
17 referred to in subparagraph (ii), of any criminal activity, fraud,
18 or other act of personal dishonesty, any act, omission, or practice
19 that constitutes a breach of a fiduciary duty, or any suspension,
20 removal, or administrative action by any agency or department of
21 the United States or any state.

22 Sec. 9. (1) An applicant shall submit an application for a
23 license to the director. Each application for a license shall be in
24 writing and under oath, in a form prescribed by the director, and
25 shall include all of the following information:

26 (a) The name, street address, and telephone number of the
27 business location within this state from which the applicant will

1 offer small loans, if available.

2 (b) The legal name, residence, street address, and telephone
3 number and business address of the applicant and, if the applicant
4 is not an individual, of each executive officer and each person who
5 directly or indirectly owns or controls 10% or more of the
6 ownership interest in the applicant.

7 (c) If the applicant will not operate a physical business
8 location in this state or if in addition to the location described
9 in subdivision (a) the applicant will make small loans by other
10 means, a detailed description of the manner in which small loans
11 will be offered to customers in this state.

12 (d) Any other information the director considers necessary
13 under this act.

14 (2) An applicant shall include an application fee in an amount
15 determined by the director with the application described in
16 subsection (1).

17 Sec. 11. (1) A licensee shall pay a license fee, in an amount
18 determined by the director under subsection (2), within 60 days of
19 submitting its license application, and then annually.

20 (2) The director shall annually establish a schedule of
21 license fees based upon each licensee's business volume, number of
22 locations, and any other business factors considered reasonable by
23 the director in order to generate funds sufficient to pay, but not
24 to exceed, the department's reasonably anticipated costs of
25 administering this act. A licensee shall pay the actual travel,
26 lodging, and meal expenses incurred by department employees who
27 travel out of state to examine the records of or investigate the

1 licensee. A department employee who travels under this subsection
2 shall comply with all travel regulations and rate schedules
3 currently in effect for the reimbursement of expenses incurred by
4 classified state employees in connection with official state
5 business.

6 (3) Money received under this act shall be deposited in an
7 interest bearing account in the state treasury and credited to the
8 department to be used only for the operation of the department.

9 (4) In addition to the license fee required under subsection
10 (1), except as provided in this subsection, a licensee shall
11 furnish a \$50,000.00 surety bond to secure the performance of its
12 obligations, issued by a bonding company or insurance company
13 authorized to do business in this state and in a form satisfactory
14 to the director. However, if 1 person owns 20% or more of the
15 ownership interest in 2 or more licensees, the group of licensees
16 having that common ownership is only obligated to furnish one
17 \$50,000.00 surety bond.

18 Sec. 13. (1) After the director receives a completed license
19 application, the director shall investigate to determine whether
20 the requirements of this act are satisfied. If the director finds
21 that the requirements of this act are satisfied, the director shall
22 issue to the applicant a license to engage in small loans.

23 (2) A licensee shall post a copy of its license in a
24 conspicuous location at the place of business of the licensee.

25 Sec. 15. (1) A license issued under this article is not
26 transferable or assignable.

27 (2) The prior written approval of the director is required for

1 the continued operation of a licensee if there is a change in
2 control of that licensee. The director may require information
3 considered necessary to determine whether a new application is
4 required. The person that requests the approval shall pay the cost
5 incurred by the director in investigating the change of control
6 request.

7 (3) A licensee shall do all of the following:

8 (a) At least 15 days before providing small loans at any new
9 location or under section 9(1)(c), provide written notice to the
10 director on a form prescribed by the director of the name, street
11 address, and telephone number of the new location or the detailed
12 description required in section 9(1)(c).

13 (b) At least 15 days before discontinuing small loans at any
14 existing location or under section 9(1)(c), provide written notice
15 to the director on a form prescribed by the director of the name,
16 street address, and telephone number of the discontinued location
17 or the detailed description of the services required in section
18 9(1)(c).

19 (4) A licensee shall comply with any request for information
20 or documentation made by the director under this act and shall
21 comply with any reasonable written time deadlines imposed by the
22 director on that request.

23 (5) As used in this section, "control" means 1 of the
24 following:

25 (a) For a corporation, direct or indirect ownership of, or the
26 right to control, 10% or more of the voting shares of the
27 corporation, or the ability of a person to elect a majority of the

1 directors or otherwise effect a change in policy.

2 (b) For any entity other than a corporation, the ability to
3 change the principals of the organization, whether active or
4 passive.

5 Sec. 17. A license issued under this article shall expire on
6 September 30 of each year unless earlier suspended, surrendered, or
7 revoked under this act. A licensee may renew a license for a 12-
8 month period by submitting a complete application that shows
9 continued compliance with this act, in a form prescribed by the
10 director, and paying the license renewal fee to the director. The
11 licensee shall submit a renewal application under this subsection
12 on or before August 1 and the director shall proceed in the manner
13 described in section 13(1).

14 Sec. 19. (1) Before June 1, 2018, the director shall develop,
15 implement, and maintain a statewide common database that has real-
16 time access through an internet connection, is accessible at all
17 time to licensees and to the director for purposes of subsections
18 (10) and (11), and meets the requirements of this section. The
19 director may, in his or her discretion, develop, implement, and
20 maintain this database as a separate database from the deferred
21 presentment service transactions database described in section 22
22 of the deferred presentment service transactions act, 2005 PA 244,
23 MCL 487.2142, or as part of that deferred presentment service
24 transactions database.

25 (2) The director may operate the database described in
26 subsection (1) or may select and contract with a single third party
27 provider to operate the database. If the director contracts with a

1 third party provider for the operation of the database, all of the
2 following apply:

3 (a) The director shall ensure that the third party provider
4 selected as the database provider operates the database pursuant to
5 the provisions of this act.

6 (b) The director shall consider cost of service and ability to
7 meet all the requirements of this section in selecting a third
8 party provider as the database provider.

9 (c) In selecting a third party provider to act as the database
10 provider, the director shall give strong consideration to the third
11 party provider's ability to prevent fraud, abuse, and other
12 unlawful activity associated with small loan transactions and
13 provide additional tools for the administration and enforcement of
14 this act.

15 (d) The third party provider shall only use the data collected
16 under this act in the manner described in this act and the contract
17 with the department and for no other purpose.

18 (e) If the third party provider violates this section, the
19 director shall terminate the contract and the third party provider
20 is barred from becoming a party to any other state contracts.

21 (f) A person injured by the third party provider's violation
22 of this act may maintain a civil cause of action against the third
23 party provider and may recover actual damages plus reasonable
24 attorney fees.

25 (3) The database described in subsection (1) shall allow a
26 licensee accessing the database to do all of the following:

27 (a) Verify whether a customer has any open small loans with

1 any licensee that have not been closed.

2 (b) Provide information necessary to ensure licensee
3 compliance with any requirements imposed by the federal Office of
4 Foreign Asset Control under federal law.

5 (c) Track and monitor the number of customers who notify a
6 licensee of violations of this act, the number of times a licensee
7 agreed that a violation occurred, the number of times that a
8 licensee did not agree that a violation occurred, the amount of
9 restitution paid, and any other information the director requires
10 by rule.

11 (4) While operating the database, the database provider shall
12 do all of the following:

13 (a) Establish and maintain a process for responding to
14 transaction verification requests due to technical difficulties
15 occurring with the database that prevent the licensee from
16 accessing the database through the internet.

17 (b) Comply with any applicable provisions of the social
18 security number privacy act, 2004 PA 454, MCL 445.81 to 445.87.

19 (c) Comply with any applicable provisions of the identity
20 theft protection act, 2004 PA 452, MCL 445.61 to 445.79d.

21 (d) Provide accurate and secure receipt, transmission, and
22 storage of customer data.

23 (e) Meet the requirements of this act.

24 (5) When the database provider receives notification that a
25 small loan is closed, the database provider shall designate the
26 loan as closed in the database immediately, but in no event after
27 11:59 p.m. on the day the director or database provider receives

1 notification.

2 (6) The database provider shall automatically designate a
3 small loan as closed in the database 5 days after the transaction
4 maturity date unless a licensee reports to the database provider
5 before that time that the loan remains open because of the
6 customer's failure to make payment. If a licensee reports the
7 status of a loan as open in a timely manner, the transaction
8 remains an open transaction until it is closed and the database
9 provider is notified that the loan is closed.

10 (7) If a licensee stops providing small loans, the database
11 provider shall designate all open loans with that licensee as
12 closed in the database 60 days after the date the licensee stops
13 offering small loans, unless the licensee reports to the database
14 provider before the expiration of the 60-day period which of its
15 loans remain open and the specific reason each loan remains open.
16 The licensee shall also provide to the director a reasonably
17 acceptable plan that outlines how the licensee will continue to
18 update the database after it stops offering small loans. The
19 director shall promptly approve or disapprove the plan and
20 immediately notify the licensee of his or her decision. If the plan
21 is disapproved, the licensee may submit a new plan or may submit a
22 modified plan for the licensee to follow. If at any time the
23 director reasonably determines that a licensee that has stopped
24 offering small loans is not updating the database in accordance
25 with its approved plan, the director shall immediately close or
26 instruct the database provider to immediately close all remaining
27 open small loans of that licensee.

1 (8) The response to an inquiry to the database provider by a
2 licensee shall only state that a person is eligible or ineligible
3 for a new small loan and describe the reason for that
4 determination. Only the person seeking the small loan may make a
5 direct inquiry to the database provider to request a more detailed
6 explanation of a particular loan that was the basis for the
7 ineligibility determination. Any information regarding any person's
8 loan history is confidential, is not subject to public inspection,
9 is not a public record subject to the disclosure requirements of
10 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,
11 is not subject to discovery, subpoena, or other compulsory process
12 except in an action under section 31, and shall not be disclosed to
13 any person other than the director.

14 (9) The database provider may charge licensees a verification
15 fee for access to the database, in amounts approved by the
16 director.

17 (10) The director may access the database provided under
18 subsection (1) only for purposes of an investigation of,
19 examination of, or enforcement action concerning an individual
20 database provider, licensee, customer, or other person. The
21 director and any employees of the director, the department, or this
22 state shall not obtain or access a customer's social security
23 number, driver license number, or other state-issued identification
24 number in the database except as provided in this subsection. An
25 individual who violates this subsection is guilty of a misdemeanor
26 punishable by imprisonment for not more than 93 days or a fine of
27 not more than \$1,000.00, or both, and if convicted, an individual

1 who violates this subsection shall be dismissed from office or
2 discharged from employment.

3 (11) The director shall investigate violations of and enforce
4 this section. The director shall not delegate its responsibilities
5 under this subsection to any third party provider.

6 (12) The director shall do all of the following:

7 (a) Require by rule that data are retained in the database
8 only as required to ensure licensee compliance with this act.

9 (b) Require by rule that data in the database concerning a
10 customer's small loan are archived within 365 days after the loan
11 is closed unless needed for a pending enforcement action.

12 (c) Require by rule that any identifying customer information
13 is deleted from the database when data are archived.

14 (d) Require by rule that data in the database concerning a
15 customer's small loan are deleted from the database 3 years after
16 the loan is closed or any enforcement action pending 3 years after
17 the loan is closed is completed, whichever is later.

18 (13) The director may maintain access to data archived under
19 subsection (12) for future legislative or policy review.

20 ARTICLE 2

21 SMALL LOANS

22 Sec. 21. (1) A licensee may enter into a small loan with a
23 customer for any amount that does not exceed the maximum loan
24 amount.

25 (2) Subject to subsection (3), a licensee may contract for and
26 receive a monthly finance loan charge for a small loan that meets
27 both of the following:

1 (a) Does not exceed the aggregate of the following, as
2 applicable:

3 (i) Fifteen percent of the first \$500.00 of the original
4 principal amount of the loan.

5 (ii) Fourteen percent of the second \$500.00 of the original
6 principal amount of the loan.

7 (iii) Thirteen percent of the third \$500.00 of the original
8 principal amount of the loan.

9 (iv) Twelve percent of the fourth \$500.00 of the original
10 principal amount of the loan.

11 (v) Eleven percent of the fifth \$500.00 of the original
12 principal amount of the loan.

13 (b) Is earned by the licensee on a daily basis using the
14 simple interest method.

15 (3) All of the following apply for purposes of calculating a
16 monthly finance loan charge under subsection (2):

17 (a) The term of a small loan commences on the date on which
18 the loan is made.

19 (b) A "month" is considered a period that extends from a
20 specific date in 1 calendar month to 1 of the following, as
21 applicable:

22 (i) The same date in the succeeding calendar month.

23 (ii) If there is no same date in the succeeding calendar
24 month, the last day of the succeeding calendar month.

25 (c) In calculating a monthly finance charge, any differences
26 in lengths of months are disregarded and each day is counted as
27 one-thirtieth of a month.

1 (4) A licensee may obtain, other than as a condition for the
2 extension of the small loan, the borrower's written authorization
3 to electronically debit the borrower's account for scheduled
4 automatic payments, or if there is a default under an agreement
5 between the borrower and the licensee that is in compliance with
6 the requirements of 12 CFR part 1005, commonly known as Regulation
7 E.

8 (5) In connection with a payment owed in connection with a
9 default described in subsection (4), a scheduled automatic payment
10 described in subsection (4), or a payment made by electronic debit
11 under section 23(2)(i), if a financial institution refuses to
12 process the payment because there are insufficient funds in the
13 account, the licensee may attempt to collect the payment by means
14 of 1 or more electronic debit transactions processed through an
15 automated clearinghouse, as that term is defined in section 1 of
16 2002 PA 738, MCL 124.301. However, if the licensee makes 2
17 consecutive attempts to collect the payment by electronic debit
18 transactions under this subsection, the licensee shall not make any
19 additional attempts to collect that payment through an electronic
20 debit transaction unless the licensee notifies the borrower of the
21 financial institution's refusal to process the payment because
22 there were insufficient funds in the account and obtains written
23 authorization from the borrower before the licensee makes any
24 additional attempts to collect that payment through an electronic
25 debit transaction.

26 (6) If a borrower makes a small loan payment by check and the
27 check is deposited by the licensee and returned unpaid, the

1 licensee may collect the check by means of 1 or more telephone-
2 initiated entries if all of the following are met:

3 (a) The borrower agrees to each telephone-initiated entry.

4 (b) Each telephone-initiated entry is a single, date-specific
5 payment and does not authorize more than 1 payment or periodic
6 payments.

7 (c) The licensee does not charge the borrower a fee in
8 connection with the telephone-initiated entry or entries.

9 Sec. 22. (1) At the time it makes a small loan, a licensee
10 shall do all of the following:

11 (a) Before the borrower signs the loan agreement, provide the
12 following notice to the borrower, in a document separate from the
13 loan agreement and in at least 12-point type:

14 "1. After signing this loan agreement, if you believe that we
15 have violated the law, you may do 1 of the following:

16 a. Before the close of business on the day you sign the loan
17 agreement, notify us in person of the violation. You must provide
18 supporting documents or other evidence of the violation.

19 b. At any time before signing a new small loan agreement with
20 us, notify us in writing of the violation. Your written notice must
21 state the violation and provide supporting documents or other
22 evidence of the violation.

23 2. We have 3 business days to determine if we agree that we
24 have violated the law and let you know of that determination.

25 3. If we do not agree that we have violated the law, we may
26 take other legal steps to collect our money.

27 4. If you still believe we violated the law, you may file a

1 written complaint including supporting documents or other evidence
2 with the Department of Insurance and Financial Services. The
3 Department is required to investigate your complaint and has the
4 authority to order us to pay you restitution if they agree that we
5 violated the law. In addition, the Department can order us to pay
6 civil fines or take away our right to do business. To do so,
7 contact the Department of Insurance and Financial Services toll-
8 free at 1-877-999-6442."

9 (b) Provide a copy of the signed loan agreement to the
10 borrower.

11 (c) Pay the proceeds under the loan agreement to the borrower
12 by delivering a business check of the licensee, or a money order,
13 as requested by the borrower.

14 (d) Issue a payment schedule in which the payments on the
15 small loan are due in substantially equal and consecutive
16 installments, subject to any adjustments that the licensee may
17 reasonably establish with respect to the first payment due.

18 (2) At the time of entering into a small loan, a licensee
19 shall not do any of the following:

20 (a) Include a maturity date that is more than 730 days after
21 the date of the transaction.

22 (b) Charge an additional fee for cashing the licensee's
23 business check or money order if the licensee pays the proceeds to
24 the borrower by business check or money order.

25 (c) Include a confession of judgment in the loan agreement.

26 (d) Except as provided in this act, charge or collect any
27 other fees for a small loan.

1 (e) Enter into a small loan with a borrower if the total of
2 the scheduled payments for the small loan, and if the borrower has
3 an outstanding deferred presentment service transaction, any
4 scheduled payments under the terms of that transaction, due in any
5 single month exceeds 20% of the borrower's monthly gross income.
6 For purposes of determining a borrower's monthly gross income under
7 this subdivision, a licensee shall obtain and maintain third party
8 verification of all income considered in making the determination.
9 Third party verification is subject to review and approval of the
10 director.

11 (3) A licensee shall not enter into a renewal of an existing
12 small loan with a borrower. However, if a small loan is paid in
13 full, a subsequent small loan is not considered a renewal under
14 this subsection.

15 (4) A licensee shall not require a borrower to secure a small
16 loan with real or personal property.

17 (5) A licensee shall not refuse to provide a small loan to a
18 customer solely because the customer has exercised his or her
19 rights under this act.

20 (6) If a licensee is providing small loans, then the licensee
21 shall post a notice, printed in boldfaced, 36-point type, in a
22 conspicuous location at each customer service window, station, or
23 desk at each place of business, that states the following:

24 "The cost of your small loan may be higher than loans offered
25 by other lending institutions. A borrower may rescind a small loan
26 without cost by paying the amount of the principal of the small
27 loan to the licensee not later than the end of the business day

1 immediately following the day on which the small loan was made.".

2 (7) A licensee that conducts small loan transactions on the
3 internet shall post the notice described in subsection (6) in a
4 prominent and conspicuous place on its internet website that is
5 fully accessible to its customers and the public.

6 Sec. 23. (1) A licensee shall document a small loan by
7 entering into a written small loan agreement signed by both the
8 customer and the licensee.

9 (2) A licensee shall include all of the following in a written
10 small loan agreement:

11 (a) The name of the customer.

12 (b) The name, street address, facsimile number, and telephone
13 number of the licensee.

14 (c) The signature and printed or typed name of the individual
15 who enters into the small loan agreement on behalf of the licensee.

16 (d) The date of the transaction.

17 (e) The amount of the small loan.

18 (f) An itemization of the fees to be paid by the customer.

19 (g) A calculation of the cost of the fees and charges to the
20 customer, expressed as a percentage rate per year.

21 (h) A clear description of the customer's payment obligation
22 under the loan agreement.

23 (i) A provision that allows a borrower to use cash, checks, or
24 other immediately available funds to make payments on the small
25 loan, or, with the borrower's voluntary authorization, through an
26 electronic debit of a deposit account of the borrower.

27 (j) A provision that allows the borrower to prepay in full the

1 unpaid balance of the small loan at any time without any additional
2 interest or penalty.

3 (k) A schedule of all fees associated with the small loan and
4 an example of the amounts the customer would pay based on the
5 amount of the small loan.

6 (l) The maturity date.

7 (m) A description of the process a borrower may use to file a
8 complaint against the licensee.

9 (n) A provision that allows the borrower to rescind the small
10 loan without cost by paying the amount of the principal of the
11 small loan to the licensee not later than the end of the business
12 day immediately following the day on which the small loan is made.

13 Sec. 24. Before it makes any small loans under this act, a
14 licensee must establish reasonable policies and procedures for
15 evaluating the creditworthiness of borrowers and determining a
16 borrower's capability for repaying a small loan.

17 Sec. 25. For each small loan made under this act, a licensee
18 must report the terms of the loan and the borrower's performance
19 under those terms to a consumer reporting agency.

20 Sec. 26. (1) In the event of a default under a loan agreement
21 between a licensee and a borrower, the licensee shall not
22 accelerate the maturity of a small loan or commence any collection
23 action except as provided in this section.

24 (2) If an overdue payment is not satisfied within 10 days
25 after its due date, the licensee must notify the borrower of the
26 default and the borrower has a right to cure the default under
27 subsection (3).

1 (3) Except as provided in subsection (4), a borrower who has
2 received a notice of default under subsection (2) may cure the
3 default within 20 days after the date of the notice. All of the
4 following apply to the cure of a default under this section:

5 (a) The borrower may cure the default by paying the amount of
6 all unpaid installments due at the time of payment.

7 (b) If the borrower makes the payment described in subdivision
8 (a), the licensee shall not accelerate the full loan balance and
9 require the immediate payment of that balance.

10 (c) The act of curing a default under this subsection restores
11 to the borrower the borrower's rights under the loan agreement as
12 though no default had occurred.

13 (4) A borrower does not have a right to cure a default under
14 this section if all of the following occurred during the 12-month
15 period before the date of the default:

16 (a) The customer had previously defaulted in the same loan
17 transaction.

18 (b) The licensee gave the customer notice of the right to cure
19 that previous default under subsection (2).

20 (c) The customer cured the previous default under subsection
21 (3).

22 (5) If a borrower does not cure a default within 20 days of
23 receiving the notice required under subsection (2), the remaining
24 loan balance and any accrued finance loan charges are immediately
25 due. Finance loan charges under section 21(2) shall not accrue
26 after the date a loan balance becomes due under this subsection.
27 However, after that date, the licensee may charge and collect post-

1 default interest on the amount of the loan balance and accrued
2 finance charges, at a rate that does not exceed 20% per annum.

3 ARTICLE 3

4 ENFORCEMENT, PENALTIES, REMEDIES

5 Sec. 31. (1) A customer may file a written complaint with the
6 department on a form prescribed by the director regarding a
7 licensee. The customer shall include with the complaint documentary
8 or other evidence of the violation or activities of the licensee.
9 The director shall investigate a complaint filed by a customer
10 under this subsection.

11 (2) The director may investigate or conduct examinations of a
12 licensee and conduct hearings as the director considers necessary
13 to determine whether a licensee or any other person has violated
14 this act, or whether a licensee has conducted business in a manner
15 that justifies suspension or forfeiture of its authority to engage
16 in the business of providing small loans in this state.

17 (3) The director may subpoena witnesses and documents, papers,
18 books, records, and other evidence in any manner over which the
19 director has jurisdiction, control, or supervision. The director
20 may administer oaths to any person whose testimony is required. If
21 a person fails to comply with a subpoena issued by the director or
22 to testify with respect to any matter concerning which the person
23 may be lawfully questioned, the director may petition the circuit
24 court for Ingham County to issue an order requiring the person to
25 attend, give testimony, or produce evidence.

26 Sec. 33. A person injured by a licensee's violation of this
27 act may maintain a civil cause of action against the licensee and

1 may recover actual damages and an amount equal to the service fee
2 paid in connection with each small loan that is found to violate
3 this act, plus reasonable attorney fees.

4 Enacting section 1. This act takes effect 90 days after the
5 date it is enacted into law.

6 Enacting section 2. This act does not take effect unless
7 Senate Bill No. 432
8 of the 99th Legislature is enacted into law.