

CONSUMER FINANCIAL SERVICES ACT (EXCERPT)
Act 161 of 1988

487.2056 Surety bond or letter of credit.

Sec. 6. (1) An applicant for a license shall furnish a surety bond or letter of credit to secure its obligations under this act to the commissioner. Except as provided in this subsection, the principal amount of a surety bond or letter of credit shall be at least \$500,000.00. If the applicant intends to provide money transmission services as defined in section 2 of the money transmission services act, the applicant shall file a surety bond that is in a principal amount as determined under section 13(5)(b) of the money transmission services act for a licensee under that act.

(2) A surety bond described in subsection (1) shall be payable to the commissioner for the benefit of the people of the state of Michigan for the use of, and may be sued on by, the state. A surety bond or letter of credit shall remain for the duration of the licensure period.

(3) A surety bond or letter of credit required under subsection (1) shall be in a form satisfactory to the commissioner and payable upon demand by the commissioner if he or she determines that the licensee is not conducting its activities as required by this act and all of the rules promulgated under this act, and has failed to pay all money that becomes due to a person who is an installment buyer under the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, Michigan residents who purchase checks under the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, Michigan residents who purchase money transmission services as defined in section 2 of the money transmission services act, loan applicants, loan servicing customers, and borrowers under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, and the commissioner.

(4) The commissioner shall prioritize and pay claims against a bond or letter of credit filed with the commissioner under this section in a manner that, in the commissioner's discretion, best protects the public interest.

(5) Claims described in subsection (4) may only be filed against a licensee's bond or letter of credit by the commissioner on behalf of the bureau and of individuals having claims and who are, as applicable, the licensee's loan applicants, loan servicing customers, and borrowers under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, Michigan residents who purchase checks under the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, Michigan residents who purchase money transmission services as defined in section 2 of the money transmission services act, or persons who are installment buyers under the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(6) Claims filed with the commissioner against a bond or letter of credit by a loan applicant, loan servicing customer, or borrower under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, shall involve, as applicable, only a mortgage loan, mortgage loan application, secondary mortgage loan, or secondary mortgage loan application secured or to be secured by real property used as a dwelling located in this state. The amount of the claim shall not exceed actual fees paid by the claimant to the licensee in connection with a loan application, overcharges of principal and interest, and excess escrow collections by the licensee.

(7) Before payment of any claim filed under this section, unless the commissioner waives, in whole or in part, the right to priority of payment, the commissioner shall be paid in full for fines and fees due to the bureau and for expenses incurred in investigating the licensee and in distributing the proceeds of the bond or letter of credit. In the event that valid claims exceed the amount of the bond or letter of credit, each claimant except the commissioner is entitled only to a pro rata amount of his or her valid claim.

History: 1988, Act 161, Eff. Sept. 1, 1988;—Am. 1999, Act 275, Imd. Eff. Jan. 5, 2000;—Am. 2006, Act 252, Imd. Eff. July 3, 2006

Compiler's note: 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.