

## REGULATORY LOAN ACT (EXCERPT)

Act 21 of 1939

### **493.13 Limitation on amount of loan and interest charge; obligation under more than 1 loan contract; computation and payment of charges; loan processing fee; fees; amount other than or in excess of charges permitted by act; penalties; "open-end credit" defined.**

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

(a) A closed-end loan.

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

(2) A licensee shall not induce a person to become directly obligated under more than 1 loan contract not secured by personal property at the same time.

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

(4) In addition to the interest and charges provided for in this act, a loan processing fee not to exceed 5% of the principal, up to \$250.00, may be charged for each closed-end loan made, and may be included in the principal of the loan. The \$250.00 limit on the loan processing fee shall be adjusted every 2 years to reflect the percentage change in the United States consumer price index for the 2 immediately preceding calendar years, rounded to the nearest hundred dollars. As used in this subsection, "United States consumer price index" means the United States consumer price index for all urban consumers in the United States city average, as defined and reported by the United States department of labor, bureau of labor statistics, and after certification by the commissioner. A licensee may require the borrower to pay the late charges permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864. A licensee shall not induce or permit a person to become obligated, directly or contingently, under more than 1 loan contract not secured by personal property at the same time for the purpose or with the result of obtaining a loan processing fee not otherwise permitted by this section. No other amount shall be directly or indirectly charged, contracted for, or received, except the lawful fees, if any, actually and necessarily paid by the licensee to a governmental entity for the filing, recording, or releasing of either of the following:

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

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

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

(6) A licensee may charge a handling fee for the return of an unpaid and dishonored check, draft, negotiable order, or similar instrument given to the licensee in full or partial repayment of a loan as authorized by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(7) A licensee may recover from the borrower the costs and expenses of retaking, holding, repairing, preparing for sale, and selling any personal property in accordance with sections 9609 and 9615 of the uniform commercial code, 1962 PA 174, MCL 440.9609 and 440.9615.

(8) A licensee may charge a reasonable annual fee for the privilege of receiving open-end credit from the licensee.

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

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

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

(a) The licensee reasonably contemplates repeated transactions.

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

**History:** 1939, Act 21, Eff. Sept. 29, 1939;—Am. 1947, Act 130, Eff. Oct. 11, 1947;—CL 1948, 493.13;—Am. 1963, Act 103, Eff. Sept. 6, 1963;—Am. 1971, Act 168, Eff. Mar. 30, 1972;—Am. 1978, Act 528, Eff. Mar. 30, 1979;—Am. 1991, Act 14, Eff. Oct. 1, 1991;—Am. 1994, Act 142, Imd. Eff. May 27, 1994;—Am. 1995, Act 165, Eff. Mar. 28, 1996;—Am. 1996, Act 184, Imd. Eff. May 3, 1996;—Am. 2001, Act 270, Imd. Eff. Jan. 11, 2002.

**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.