

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Insurance and Financial Services

Bureau name:

Financial Institutions

Name of person filling out RIS:

Michele Estrada

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Rule Set Information:

ARD assigned rule set number:

2019-29 IF

Title of proposed rule set:

Regulatory Loan Licensees

Comparison of Rule(s) to Federal/State/Association Standard:

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association.

A. Are these rules required by state law or federal mandate?

No. Rulemaking is permissive under the Regulatory Loan Act; see MCL 493.21.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

These rules do not exceed any federal standard.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

The proposed rule amendments are intended to provide consistency between the rules and the Regulatory Loan Act, MCL 493.21 et seq. (RLA) and to eliminate duplication between the rules and the RLA. Similarly situated states have similar statutes governing these types of loans.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

The rules do not exceed standards in other states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no laws, rules, or other legal requirements that would duplicate, overlap, or conflict with the proposed rule amendments.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There are no laws, rules, or other legal requirements that would duplicate, overlap, or conflict with the proposed rule amendments, so no coordination has occurred.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There is no applicable federal mandated standard.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the statute that specifically authorizes the more stringent rules or a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There is no applicable federal mandated standard.

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

These rule amendments are designed to ensure consistent regulation under the Regulatory Loan Act; the act was amended and now contains provisions that duplicate some of these rules. Accordingly, no significant behaviors are expected to be altered by amending this rule set.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

There is no expected change in the frequency of any behavior.

B. Describe the difference between current behavior/practice and desired behavior/practice.

The goal of amending these rules is to eliminate duplication between the authorizing statute and the administrative rules. This will streamline regulated behavior by ensuring regulated entities have a clear regulatory statute and rules.

C. What is the desired outcome?

Amending the rule set will ensure consistency and eliminate duplication between the statute and administrative rules.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

The harm that will occur if the rules are not amended is that confusion will result from having inconsistent and/or identical requirements in the statute and the administrative rules.

A. What is the rationale for changing the rules instead of leaving them as currently written?

The proposed rule amendments are intended to provide consistency between the rules and the Regulatory Loan Act, MCL 493.21 et seq. (RLA) and to eliminate duplication between the rules and the RLA. Similarly situated states have similar statutes governing these types of loans.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules will continue to protect Michigan citizens as they have in the past. There is no additional burden to licensees as they must already comply with the statute.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

The proposed amendments would rescind R 493.5, 493.10 and 493.95. These contain requirements that are now in the Regulatory Loan Act, MCL 493.21 et seq.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

There will be no fiscal impact on DIFS resulting from the proposed amendments to the rules.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation or funding source is necessary because there are no expenditures associated with the amended rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The amended rules are necessary and suitable to accomplish the purpose of eliminating duplication between the Regulatory Loan Act and these rules.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

The Regulatory Loan Act permits the DIFS Director to promulgate rules to effectuate the statute. These rules are necessary and reasonable to assist industry in determining requirements necessary to comply with the Regulatory Loan Act.

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There are no increases or decreases in revenues to other state or local governmental units.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There are no programs, services, duties, or responsibilities imposed upon any city, county, town, village or school district by these rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

The proposed rules do not affect these governmental units.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriation or funding source has been secured because no additional expenditures are associated with the proposed rules.

16. In general, what impact will the rules have on rural areas?

The rules will not have an impact on rural areas. Licensees will comply with the rules equally regardless of their location.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

There are no specific public or private interests in rural areas that will be affected by the rules.

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules do not have any impact on the environment.

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules are intended to provide alignment with changes in the statute. All licensees must follow the statute, regardless of size. DIFS expects that updates to the rules will be received favorably by industry. For these reasons exempting small businesses is not considered necessary or appropriate.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed rules are intended to provide alignment with changes in the statute. All licensees must follow the statute, regardless of size. DIFS expects that updates to the rules will be received favorably by industry. For these reasons, exempting small businesses is not considered necessary or appropriate.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

Licensees do not report their size to DIFS; accordingly, it is not possible to estimate how many are small businesses.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

DIFS did not establish differing compliance or reporting requirements because of the consumer-protective goal of the rules. Small businesses must comply with the rules to the same extent as larger companies.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

DIFS did not consolidate or simplify any compliance or reporting requirements because of the consumer-protective goal of the rules. Small businesses must comply with the rules to the same extent as larger companies.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The rules do not require design or operation standards, so the Department of Insurance and Financial Services did not establish performance standards to replace them.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

There is no expected disproportionate impact on small businesses due to their size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

There is no expected report or estimated cost of preparation by small businesses required to comply with the amended rules.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The proposed rules should not require further costs by small businesses in the areas of equipment, supplies, labor, and increased administrative costs other than costs already undertaken in order to achieve and maintain compliance with the RLA.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

Small businesses will not incur costs for any legal, consulting, or accounting services in complying with the proposed rules.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

As stated in items 21, 22, and 23, the proposed rules should not require further costs by small businesses other than costs already undertaken in order to achieve and maintain compliance with the RLA.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The Department of Insurance and Financial Services has not exempted or lessened standards of compliance for small businesses.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The Department of Insurance and Financial Services has not exempted or lessened standards of compliance for small businesses.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The Department of Insurance and Financial Services has not involved small businesses, given that the proposed rules are intended to align with requirements already in the RLA.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses were not involved in the proposed amendments to these rules.

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

Compliance costs will be nonexistent or negligible for businesses and groups; all affected businesses already have implemented processes for complying with the RLA.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Entities regulated under the RLA will be directly affected by, bear the cost of, and directly benefit from the proposed rules.

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

Regulated entities affected by this rule are already required to comply with the RLA; therefore, there will be no, or very little, additional costs imposed as a result of these proposed rules.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There are no additional compliance costs associated with the proposed rules.

A. How many and what category of individuals will be affected by the rules?

Licenses under the RLA will be affected by the rules. There are currently 81 licensed entities.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Impact is expected to be minimal; licensees currently must comply with the RLA. The rules will provide alignment with the RLA.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

Little or no cost reductions are anticipated for businesses, individuals, groups of individuals, or governmental units due to the proposed rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The benefits of the proposed rules will be to provide consistency between the rules and the RLA. Covered parties (i.e. licensees) will have modernized regulations that allow for consistency and clarity.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

The agency does not anticipate a significant impact on business growth or job creation/elimination in Michigan as a result of the rules.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The proposed rules will apply equally to all licensees; there is no expected disproportionate effect.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

The proposed rules are intended to align the rules with existing statutory language. No additional requirements are being imposed; accordingly, no sources were consulted.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rules.

The proposed rules are intended to align the rules with existing statutory language. No additional requirements are being imposed, so there was no need to provide estimates or make assumptions.

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There are no reasonable alternatives to the proposed rules; these have been in effect for many years and regulated entities rely on them for compliance.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

There are no statutory amendments that would achieve an alternative to these rules.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Regulatory loan licensees are subject to state regulation; this is not a function that can be performed through private market-based mechanisms.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

DIFS did not consider any significant alternatives; these amendments were necessary to align the RLA with the rules.

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The Department of Insurance and Financial Services provides instructions to regulated persons and entities on compliance with the RLA and applicable administrative rules on the DIFS website. (<https://www.michigan.gov/difs>). In addition, after the rules have been promulgated, the Director of the Department of Insurance and Financial Services will issue notice, via email, to the licensee population that will inform them of the modernization and required continued compliance with the rules. Regulatory loan companies are generally sophisticated business entities that will be familiar with the regulatory processes and compliance with regulatory requirements.