

**SUBSTITUTE FOR
SENATE BILL NO. 668**

A bill to amend 1988 PA 161, entitled "Consumer financial services act," by amending sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, and 19 (MCL 487.2052, 487.2053, 487.2054, 487.2055, 487.2056, 487.2057, 487.2058, 487.2059, 487.2060, 487.2061, 487.2062, 487.2064, 487.2065, 487.2066, 487.2067, and 487.2069), sections 5, 7, 8, 11, 12, and 15 as amended by 1992 PA 76, and by adding sections 10a, 10b, 10c, 10d, 10e, 16a, and 16b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (A) "APPLICANT" MEANS A PERSON THAT HAS APPLIED TO THE COM-
3 MISSIONER TO BE LICENSED UNDER THIS ACT.

4 (B) ~~(a)~~ "Bureau" means the financial institutions bureau
5 of the department of ~~commerce~~ CONSUMER AND INDUSTRY SERVICES.

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1 (C) "BUSINESS ACTIVITY" MEANS ANY ACTIVITY REGULATED BY ANY
2 OF THE FINANCIAL LICENSING ACTS IDENTIFIED UNDER SUBDIVISION (D).

3 (D) ~~(b)~~ "Class I license" means a license issued under
4 this act ~~which~~ THAT authorizes the licensee to engage in all of
5 the activities permitted under the regulatory loan act of 1963,
6 ~~Act No. 21 of the Public Acts of 1939, being sections 493.1 to~~
7 ~~493.26 of the Michigan Compiled Laws; Act No. 125 of the Public~~
8 ~~Acts of 1981, being sections 493.51 to 493.81 of the Michigan~~
9 ~~Compiled Laws; the motor vehicle sales finance act, Act No. 27 of~~
10 ~~the Public Acts of the Extra Session of 1950, being sections~~
11 ~~492.101 to 492.141 of the Michigan Compiled Laws; Act No. 379 of~~
12 ~~the Public Acts of 1984, being sections 493.101 to 493.114 of the~~
13 ~~Michigan Compiled Laws; the sale of checks act, Act No. 136 of~~
14 ~~the Public Acts of 1960, being sections 487.901 to 487.916 of the~~
15 ~~Michigan Compiled Laws; or the mortgage brokers, lenders, and~~
16 ~~servicers licensing act, Act No. 173 of the Public Acts of 1987,~~
17 ~~being sections 445.1651 to 445.1683 of the Michigan Compiled~~
18 ~~Laws— 1939 PA 21, MCL 493.1 TO 493.26, THE SECONDARY MORTGAGE~~
19 ~~LOAN ACT, 1981 PA 125, MCL 493.51 TO 493.81, THE MOTOR VEHICLE~~
20 ~~SALES FINANCE ACT, 1950 (EX SESS) PA 27, MCL 492.101 TO 492.141,~~
21 ~~1984 PA 379, MCL 493.101 TO 493.114, THE SALE OF CHECKS ACT, 1960~~
22 ~~PA 136, MCL 487.901 TO 487.916, OR THE MORTGAGE BROKERS, LENDERS,~~
23 ~~AND SERVICERS LICENSING ACT, 1987 PA 173, MCL 445.1651 TO~~
24 ~~445.1684.~~

25 (E) ~~(c)~~ "Class II license" means a license issued under
26 this act ~~which~~ THAT authorizes all of the activities permitted
27 under a class I license except for activities permitted under the

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1 sale of checks act, ~~Act No. 136 of the Public Acts of 1960, or~~
2 ~~the mortgage brokers, lenders, and servicers licensing act, Act~~
3 ~~No. 173 of the Public Acts of 1987~~ 1960 PA 136, MCL 487.901 TO
4 487.916, LOAN SERVICING ACTIVITIES UNDER THE SECONDARY MORTGAGE
5 LOAN ACT, 1981 PA 125, MCL 493.51 TO 493.81, OR THE MORTGAGE BRO-
6 KERS, LENDERS, AND SERVICERS LICENSING ACT, 1987 PA 173, MCL
7 445.1651 TO 445.1684.

8 (F) ~~(d)~~ "Commissioner" means the commissioner of the
9 financial institutions bureau ~~of the department of commerce~~ or
10 an authorized representative of the commissioner.

11 (G) "DEPOSITORY FINANCIAL INSTITUTION" MEANS A BANK, SAVINGS
12 AND LOAN ASSOCIATION, SAVINGS BANK, OR CREDIT UNION ORGANIZED
13 UNDER THE LAWS OF THIS STATE, ANOTHER STATE, THE DISTRICT OF
14 COLUMBIA, THE UNITED STATES, OR A TERRITORY OR PROTECTORATE OF
15 THE UNITED STATES, WHOSE DEPOSITS ARE INSURED BY AN AGENCY OF THE
16 FEDERAL GOVERNMENT.

17 (H) ~~(e)~~ "Financial licensing acts" means the acts listed
18 in subdivision ~~(b)~~ (D).

19 (I) "LICENSEE" MEANS A PERSON THAT IS LICENSED UNDER THIS
20 ACT.

21 (J) "LOAN SERVICING ACTIVITIES" MEANS THE COLLECTION OR
22 REMITTANCE FOR A LENDER, NOTEOWNER, NOTEHOLDER, OR THE LICENSEE'S
23 OWN ACCOUNT OF 4 OR MORE INSTALLMENT PAYMENTS OF THE PRINCIPAL,
24 INTEREST, OR AN AMOUNT PLACED IN ESCROW UNDER A MORTGAGE SERVIC-
25 ING AGREEMENT OR A MORTGAGE LOAN SUBJECT TO THE MORTGAGE BROKERS,
26 LENDERS, AND SERVICERS LICENSING ACT, 1987 PA 173, MCL 445.1651
27 TO 445.1684, OR A MORTGAGE SERVICING AGREEMENT OR SECONDARY

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1 MORTGAGE LOAN SUBJECT TO THE SECONDARY MORTGAGE LOAN ACT, 1981 PA
2 125, MCL 493.51 TO 493.81, OR AN AGREEMENT WITH THE MORTGAGOR.

3 (K) ~~(f)~~ "Person" means an individual, corporation, part-
4 nership, association, LIMITED LIABILITY COMPANY, or ANY other
5 legal entity.

6 Sec. 3. (1) A person shall not engage in ~~an~~ A BUSINESS
7 activity ~~regulated by the financial licensing acts, or this~~
8 ~~act,~~ unless the person is licensed ~~pursuant to~~ UNDER the
9 appropriate financial licensing act, or by this act. ~~Except as~~
10 ~~otherwise provided in this act, this act shall~~

11 (2) THIS ACT APPLIES TO A PERSON WHO ENGAGES IN ANY BUSINESS
12 ACTIVITY IF THE PERSON IS NOT LICENSED OR, AS APPLICABLE, REGIS-
13 TERED UNDER THE APPLICABLE FINANCIAL LICENSING ACT OR LICENSED
14 UNDER THIS ACT AND IS NOT OTHERWISE EXEMPT FROM APPLICABLE
15 LICENSING OR REGISTRATION REQUIREMENTS. IF A PERSON ENGAGES IN 1
16 OR MORE BUSINESS ACTIVITIES WITHOUT THE APPLICABLE LICENSES OR
17 REGISTRATIONS, IT SHALL BE DISCRETIONARY WITH THE COMMISSIONER TO
18 ENFORCE THE APPLICABLE LICENSING OR REGISTRATION REQUIREMENTS
19 UNDER EITHER 1 OR MORE OF THE FINANCIAL LICENSING ACTS OR THIS
20 ACT, BUT NOT BOTH.

21 (3) THIS ACT DOES not apply to a ~~state or national bank,~~
22 ~~state or federal credit union, or state or federal savings and~~
23 ~~loan association~~ DEPOSITORY FINANCIAL INSTITUTION.

24 Sec. 4. An application for a ~~class I license or class II~~
25 license under this act shall be made in writing and under oath to
26 the commissioner in the form ~~he or she~~ THE COMMISSIONER may

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1 prescribe. The application shall state the full name, business
2 address, and residence address of the following:

3 (a) The proprietor, if the applicant is an individual.

4 (b) Every member, if the applicant is a partnership, LIMITED
5 LIABILITY COMPANY, or association, except that if the applicant
6 is a joint stock association having 50 or more members, the name
7 and business address need be given only for the association and
8 each of its officers and directors.

9 (c) If the applicant is a corporation, the name of the cor-
10 poration and each of its officers, directors, and stockholders.
11 The commissioner may exempt publicly held corporations from the
12 requirement of providing information regarding stockholders.

13 Sec. 5. (1) An application for a license shall be accom-
14 panied by all of the following:

15 (a) ~~A license fee as provided by~~ AN ANNUAL OPERATING FEE
16 AS ESTABLISHED BY THE COMMISSIONER UNDER section 11.

17 (b) An ~~investigation~~ APPLICATION fee as provided by
18 section 11. The ~~investigation~~ APPLICATION fee is not
19 refundable.

20 (c) Financial statements, reasonably satisfactory to the
21 commissioner, showing that the applicant's net worth exceeds
22 \$100,000.00 for applicants for a class I license, ~~and~~
23 \$50,000.00 for applicants for a class II license, AND
24 \$1,000,000.00 FOR APPLICANTS THAT INTEND TO ENGAGE IN BUSINESS
25 ACTIVITY GOVERNED BY 1984 PA 379, MCL 493.101 TO 493.114. ~~If~~
26 ~~the applicant deposits with the commissioner bonds, notes,~~
27 ~~debentures, or other obligations of the United States, of this~~

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1 ~~state, or of a local unit of government in the state, as provided~~
2 ~~under section 6(4), the financial statement shall show that the~~
3 ~~applicant's net worth exceeds \$200,000.00 for a class I license~~
4 ~~and \$100,000.00 for a class II license.~~ A licensee shall have
5 and continue to maintain the required net worth while engaging in
6 the BUSINESS activities authorized for licensing under this act.
7 The commissioner may ~~promulgate rules establishing~~ BY ORDER
8 ESTABLISH a higher net worth requirement for new class I licens-
9 ees to assure safe and sound operation of the activities.

10 (2) NET WORTH UNDER SUBSECTION (1)(C) SHALL BE DETERMINED AT
11 THE CONCLUSION OF THE FISCAL YEAR OF THE LICENSEE IMMEDIATELY
12 PRECEDING THE DATE AN APPLICATION FOR A LICENSE IS SUBMITTED TO
13 THE COMMISSIONER OR, FOR CORPORATIONS NOT IN EXISTENCE AS OF THE
14 PREVIOUS YEAR END, THE IMMEDIATELY PRECEDING MONTH END. NET
15 WORTH SHALL BE DISCLOSED ON A FORM PRESCRIBED BY THE COMMISSIONER
16 OR ON A FORM PREPARED OR REVIEWED BY A CERTIFIED PUBLIC ACCOUN-
17 TANT AND SHALL BE COMPUTED IN ACCORDANCE WITH GENERALLY ACCEPTED
18 ACCOUNTING PRINCIPLES. THE FOLLOWING ASSETS SHALL BE EXCLUDED IN
19 THE COMPUTATION OF NET WORTH:

20 (A) THAT PORTION OF AN APPLICANT'S ASSETS PLEDGED TO SECURE
21 OBLIGATIONS OF ANY PERSON OTHER THAN THE APPLICANT.

22 (B) RECEIVABLES FROM OFFICERS OR, IN THE CASE OF A CORPORATE
23 APPLICANT OTHER THAN A PUBLICLY TRADED COMPANY, STOCKHOLDERS OF
24 THE APPLICANT OR PERSONS IN WHICH THE APPLICANT'S OFFICERS OR
25 STOCKHOLDERS HAVE AN INTEREST, EXCEPT THAT CONSTRUCTION LOAN
26 RECEIVABLES SECURED BY MORTGAGES FROM RELATED COMPANIES ARE NOT
27 SO EXCLUDED.

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1 (C) AN AMOUNT IN EXCESS OF THE LOWER OF THE COST OR MARKET
2 VALUE OF MORTGAGE LOANS IN FORECLOSURE OR REAL PROPERTY ACQUIRED
3 THROUGH FORECLOSURE.

4 (D) AN INVESTMENT SHOWN ON THE BALANCE SHEET IN JOINT VEN-
5 TURES, SUBSIDIARIES, OR AFFILIATES THAT IS GREATER THAN THE
6 MARKET VALUE OF THE INVESTMENT.

7 (E) GOODWILL OR VALUE PLACED ON INSURANCE RENEWALS OR PROP-
8 ERTY MANAGEMENT CONTRACT RENEWALS OR OTHER SIMILAR INTANGIBLE
9 VALUE.

10 (F) ORGANIZATION COSTS.

11 Sec. 6. (1) ~~Except as provided by subsection (4), the~~ AN
12 applicant for a ~~class I~~ license ~~, at the time of filing an~~
13 application, ~~shall also file when required by the~~
14 commissioner a surety bond ~~in the principal sum of \$125,000.00~~
15 and in an additional principal sum of \$3,000.00 for each office
16 or agency of the applicant engaged in the sale of checks, but the
17 total amount of the bond required under this subsection shall not
18 exceed \$250,000.00 OR LETTER OF CREDIT IN AN AMOUNT NOT LESS
19 THAN \$500,000.00.

20 ~~(2) Except as provided by subsection (4), the applicant for~~
21 a ~~class II~~ license, at the time of filing an application, shall
22 also file, when required by the commissioner, a surety bond in
23 the principal sum of \$25,000.00.

24 (2) ~~(3) The applicant for the surety bond shall be the~~
25 obligor on the surety bond of which the surety company shall be
26 the surety. The company shall be qualified in this state to
27 write bonds required by this act. The surety bond shall run to

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1 the commissioner for the benefit of the people of the state of
2 Michigan for the use of, and may be sued on by, the state. ~~or~~
3 ~~any person who may have a cause of action against the obligor of~~
4 ~~the bond under this act. The surety bond shall be conditioned~~
5 ~~that the obligor will faithfully conform to and abide by the pro-~~
6 ~~visions of this act and of all rules lawfully promulgated by the~~
7 ~~commissioner, and will pay to the state and to a person any money~~
8 ~~that may become due or owing to the state or to a person from the~~
9 ~~obligor under this act.~~ THE SURETY BOND OR LETTER OF CREDIT
10 SHALL REMAIN FOR THE DURATION OF THE LICENSURE PERIOD.

11 (3) THE SURETY BOND OR LETTER OF CREDIT REQUIRED UNDER THIS
12 SECTION SHALL BE IN A FORM SATISFACTORY TO THE COMMISSIONER AND
13 PAYABLE UPON DEMAND BY THE COMMISSIONER IF HE OR SHE DETERMINES
14 THAT THE LICENSEE IS NOT CONDUCTING ITS ACTIVITIES AS REQUIRED BY
15 THIS ACT AND ALL OF THE RULES PROMULGATED UNDER THIS ACT, AND HAS
16 FAILED TO PAY ALL MONEY THAT BECOMES DUE TO A PERSON WHO IS AN
17 INSTALLMENT BUYER UNDER THE MOTOR VEHICLE SALES FINANCE ACT, 1950
18 (EX SESS) PA 27, MCL 492.101 TO 492.141, MICHIGAN RESIDENTS WHO
19 PURCHASE CHECKS UNDER THE SALE OF CHECKS ACT, 1960 PA 136, MCL
20 487.901 TO 487.916, LOAN APPLICANTS, LOAN SERVICING CUSTOMERS,
21 AND BORROWERS UNDER THE SECONDARY MORTGAGE LOAN ACT, 1981 PA 125,
22 MCL 493.51 TO 493.81, OR THE MORTGAGE BROKERS, LENDERS, AND SERV-
23 ICERS LICENSING ACT, 1987 PA 173, MCL 445.1651 TO 445.1684, AND
24 THE COMMISSIONER.

25 (4) ~~For a class II license, instead of a surety bond, the~~
26 ~~applicant may deposit with the commissioner bonds, notes,~~
27 ~~debentures, or other obligations of the United States, of this~~

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1 ~~state, or of any local unit of government in this state. The~~
2 ~~securities shall have a market value of at least the amount of~~
3 ~~the surety bond that would be required of the applicant by this~~
4 ~~section. The securities shall be deposited with the commissioner~~
5 ~~to secure the same obligations as would a surety bond, but the~~
6 ~~depositor shall be entitled to receive all interest and dividends~~
7 ~~on the securities. With written approval of the commissioner the~~
8 ~~licensee may have the right to substitute other securities for~~
9 ~~those deposited, or shall be required to do so on order of the~~
10 ~~commissioner made for good cause shown. The licensee shall~~
11 ~~insure that the securities on deposit shall be maintained at a~~
12 ~~market value of at least the amount of the surety bond that is~~
13 ~~required of the licensee by this section.~~ THE COMMISSIONER SHALL
14 PRIORITIZE AND PAY CLAIMS AGAINST A BOND OR LETTER OF CREDIT
15 FILED WITH THE COMMISSIONER UNDER THIS SECTION IN A MANNER THAT,
16 IN THE COMMISSIONER'S DISCRETION, BEST PROTECTS THE PUBLIC
17 INTEREST.

18 (5) CLAIMS DESCRIBED IN SUBSECTION (4) MAY ONLY BE FILED
19 AGAINST A LICENSEE'S BOND OR LETTER OF CREDIT BY THE COMMISSIONER
20 ON BEHALF OF THE BUREAU AND OF INDIVIDUALS HAVING CLAIMS AND WHO
21 ARE, AS APPLICABLE, THE LICENSEE'S LOAN APPLICANTS, LOAN SERVIC-
22 ING CUSTOMERS, AND BORROWERS UNDER THE SECONDARY MORTGAGE LOAN
23 ACT, 1981 PA 125, MCL 493.51 TO 493.81, OR THE MORTGAGE BROKERS,
24 LENDERS, AND SERVICERS LICENSING ACT, 1987 PA 173, MCL 445.1651
25 TO 445.1684, MICHIGAN RESIDENTS WHO PURCHASE CHECKS UNDER THE
26 SALE OF CHECKS ACT, 1960 PA 136, MCL 487.901 TO 487.916, OR

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1 PERSONS WHO ARE INSTALLMENT BUYERS UNDER THE MOTOR VEHICLE SALES
2 FINANCE ACT, 1950 (EX SESS) PA 27, MCL 492.101 TO 492.141.

3 (6) CLAIMS FILED WITH THE COMMISSIONER AGAINST A BOND OR
4 LETTER OF CREDIT BY A LOAN APPLICANT, LOAN SERVICING CUSTOMER, OR
5 BORROWER UNDER THE SECONDARY MORTGAGE LOAN ACT, 1981 PA 125, MCL
6 493.51 TO 493.81, OR THE MORTGAGE BROKERS, LENDERS, AND SERVICERS
7 LICENSING ACT, 1987 PA 173, MCL 445.1651 TO 445.1684, SHALL
8 INVOLVE, AS APPLICABLE, ONLY A MORTGAGE LOAN, MORTGAGE LOAN
9 APPLICATION, SECONDARY MORTGAGE LOAN, OR SECONDARY MORTGAGE LOAN
10 APPLICATION SECURED OR TO BE SECURED BY REAL PROPERTY USED AS A
11 DWELLING LOCATED IN THIS STATE. THE AMOUNT OF THE CLAIM SHALL
12 NOT EXCEED ACTUAL FEES PAID BY THE CLAIMANT TO THE LICENSEE IN
13 CONNECTION WITH A LOAN APPLICATION, OVERCHARGES OF PRINCIPAL AND
14 INTEREST, AND EXCESS ESCROW COLLECTIONS BY THE LICENSEE.

15 (7) BEFORE PAYMENT OF ANY CLAIM FILED UNDER THIS SECTION,
16 UNLESS THE COMMISSIONER WAIVES, IN WHOLE OR IN PART, THE RIGHT TO
17 PRIORITY OF PAYMENT, THE COMMISSIONER SHALL BE PAID IN FULL FOR
18 FINES AND FEES DUE TO THE BUREAU AND FOR EXPENSES INCURRED IN
19 INVESTIGATING THE LICENSEE AND IN DISTRIBUTING THE PROCEEDS OF
20 THE BOND OR LETTER OF CREDIT. IN THE EVENT THAT VALID CLAIMS
21 EXCEED THE AMOUNT OF THE BOND OR LETTER OF CREDIT, EACH CLAIMANT
22 EXCEPT THE COMMISSIONER SHALL BE ENTITLED ONLY TO A PRO RATA
23 AMOUNT OF HIS OR HER VALID CLAIM.

24 Sec. 7. (1) Upon the filing of an application and the pay-
25 ment of the required fees by an applicant, the commissioner shall
26 investigate the applicant. ~~for a class I license or class II~~
27 ~~license.~~ If the commissioner finds that the financial

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1 responsibility, experience, character, and general fitness of the
2 applicant, and of the applicant's members if the applicant is a
3 partnership, LIMITED LIABILITY COMPANY, or association, and of
4 the applicant's officers and directors if the applicant is a cor-
5 poration, are such as to command the confidence of the community
6 and to warrant belief that the business will be operated lawfully,
7 honestly, fairly, and efficiently within the purposes of this
8 act, the commissioner shall issue and deliver to the applicant a
9 license to engage in all of the activities authorized under this
10 act or by rule or order of the commissioner.

11 (2) A license issued or renewed under this act expires on
12 December 31 each year. To renew an existing license, a licensee
13 shall pay an annual ~~license~~ OPERATING fee as provided in
14 section 11 on or before December 15 of the year immediately pre-
15 ceding the year for which the renewal is requested. ~~A license~~
16 ~~renewal~~ AN ANNUAL OPERATING fee paid after December 31 is
17 subject to a penalty of \$25.00 for each day the fee is delinquent
18 or \$1,000.00, whichever is less, AND MAY BE GROUNDS FOR THE
19 COMMISSIONER'S REFUSAL TO REISSUE THE LICENSE.

20 Sec. 8. (1) Upon approval by the commissioner of an appli-
21 cation for ~~issuance or renewal of a class I or class II~~ A
22 license, the commissioner shall issue to the applicant a ~~class I~~
23 ~~or class II~~ license certificate showing the name of the person
24 authorized to do business and the business address of the
25 licensee. The ~~license certificate when issued to a~~ licensee
26 shall ~~be posted in a conspicuous place in the~~ MAKE A COPY OF
27 THE LICENSE AVAILABLE AT THE LICENSEE'S place of business ~~so~~

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1 ~~that it will be in full view of the public at all times~~ FOR
2 INSPECTION UPON REQUEST BY ANY NATURAL PERSON.

3 (2) A ~~class I or class II license issued under this act is~~
4 ~~not transferable or assignable~~ LICENSE SHALL NOT BE TRANSFERRED
5 OR ASSIGNED WITHOUT THE PRIOR CONSENT OF THE COMMISSIONER. FOR
6 PURPOSES OF THIS SUBSECTION, TRANSFER MEANS THE SALE, ASSIGNMENT,
7 OR CONVEYANCE OF MORE THAN 25% OF THE OUTSTANDING VOTING STOCK OF
8 A LICENSEE THAT IS A CORPORATION, OR MORE THAN 25% OF THE OWNER-
9 SHIP INTEREST IN A LICENSEE THAT IS A PARTNERSHIP OR OTHER LEGAL
10 ENTITY.

11 (3) A licensee under this act may change its name or place
12 of business ~~to another location within the state~~ SHOWN ON THE
13 LICENSE. To change its name or the ~~address of its place of~~
14 ~~business~~ PLACE OF BUSINESS SHOWN ON THE LICENSE, a licensee
15 shall give prior written notice to the commissioner and return
16 the license certificate to the commissioner for amendment. The
17 commissioner shall amend the license certificate to show the new
18 name or the new ~~address~~ PLACE OF BUSINESS SHOWN ON THE LICENSE
19 and the date of reissue.

20 (4) ~~Only 1 place of business may be operated under a~~
21 ~~license.~~ A licensee may engage in activities for which a ~~class~~
22 ~~I or class II~~ license is required at more than 1 place of busi-
23 ness by ~~filing an application on the prescribed form and comply-~~
24 ~~ing with the bond and license fee provisions of this act for~~
25 PROVIDING NOT LESS THAN 30 DAYS' WRITTEN NOTICE TO THE COMMIS-
26 SIONER BEFORE OPENING each additional place of business, and
27 otherwise complying with the requirements of this act. AN

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1 APPLICATION THAT IDENTIFIES THE LOCATIONS AT WHICH THE APPLICANT,
2 IF APPROVED, WILL CONDUCT BUSINESS ACTIVITIES THAT ARE SUBJECT TO
3 THIS ACT MEETS THE NOTICE REQUIREMENT OF THIS SUBSECTION FOR
4 THOSE LOCATIONS.

5 (5) A LICENSEE THAT ELECTS TO CEASE ENGAGING IN BUSINESS
6 ACTIVITIES THAT ARE SUBJECT TO THIS ACT AT A PLACE OF BUSINESS
7 SHALL PROVIDE PRIOR WRITTEN NOTICE TO THE COMMISSIONER.

8 Sec. 9. (1) ~~Unless exempt~~ EXCEPT AS OTHERWISE PROVIDED by
9 subsection (2), a licensee under this act shall comply with all
10 of the requirements of the financial licensing acts.

11 (2) A licensee under this act shall be exempt from provi-
12 sions of the financial licensing acts regulating the following:

13 (a) Application procedures.

14 (b) Licensing procedures.

15 (c) Payment of fees by the licensee.

16 (d) Filing of surety bonds.

17 (e) Denial, suspension, or revocation of a license.

18 (f) Retention of records.

19 (G) FILING OF REPORTS.

20 (3) A licensee may purchase a contract made in compliance
21 with the retail installment sales act, ~~Act No. 224 of the Public~~
22 ~~Acts of 1966, being sections 445.851 to 445.873 of the Michigan~~
23 ~~Compiled Laws~~ 1966 PA 224, MCL 445.851 TO 445.873, or the home
24 improvement finance act, ~~Act No. 332 of the Public Acts of 1965,~~
25 ~~being sections 445.1101 to 445.1431 of the Michigan Compiled~~
26 ~~Laws~~ 1965 PA 332, MCL 445.1101 TO 445.1431.

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1 (4) A licensee ~~under this act~~ may have 1 or more loans
2 outstanding to 1 borrower, but no single loan transaction shall
3 violate the financial licensing act which regulates the type of
4 loan transaction.

5 Sec. 10. (1) A ~~class I or class II~~ license shall not be
6 ~~denied,~~ suspended ~~,~~ or revoked except on not less than 10
7 days' notice to the ~~applicant or~~ licensee setting forth in
8 writing the reasons for the ~~denial,~~ suspension ~~,~~ or
9 revocation. Within 5 days after receipt of the notice, the
10 ~~applicant or~~ licensee may make written demand for a hearing.
11 The commissioner with reasonable promptness shall hear and deter-
12 mine the matter as provided by the administrative procedures act
13 of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
14 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL
15 24.201 TO 24.328. If the ~~applicant or~~ licensee considers
16 itself aggrieved by the order of the commissioner, the ~~applicant~~
17 ~~or~~ licensee may appeal within 30 days from the date of the order
18 to the circuit court in the manner provided by the administrative
19 procedures act of 1969, 1969 PA 306, MCL 24.201 TO 24.328, and
20 shall be entitled to judicial review as provided in that act. If
21 an appeal is taken from an order revoking any license, the effect
22 of the order may be stayed by the court pending the final deter-
23 mination of the appeal.

24 (2) The commissioner may ~~deny,~~ suspend, revoke, or refuse
25 to renew a license under this act if the commissioner finds 1 or
26 more of the following:

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1 (a) The licensee has made a material misstatement in the
2 application for license.

3 (b) The licensee has violated a provision of this act or a
4 rule promulgated ~~pursuant to~~ UNDER this act, or an order of the
5 commissioner.

6 (c) The licensee has refused to permit the commissioner or
7 the commissioner's designated representative to make examinations
8 authorized by this act.

9 (d) The licensee has failed to meet or maintain the require-
10 ments of section 6 or any other requirements of this act.

11 (e) The licensee has failed to maintain satisfactory records
12 as required by this act.

13 (f) The licensee has falsified a record required by this act
14 to be maintained in connection with the business regulated by
15 this act.

16 (g) The licensee has, after proper notice, failed to file a
17 report with the commissioner within the time stipulated in this
18 act.

19 (h) The licensee has failed to pay the fine required by this
20 act for failure to file reports within the time stipulated.

21 (i) The licensee has defrauded a consumer or willfully
22 failed to perform a written agreement with a consumer.

23 (J) THE LICENSEE HAS REFUSED OR FAILED, WITHIN A REASONABLE
24 TIME, TO FURNISH ANY INFORMATION OR MAKE ANY REPORT THAT IS
25 REQUIRED BY THE COMMISSIONER.

26 (K) ~~(j)~~ A fact or condition exists ~~which~~ THAT, if it had
27 existed or had been known to exist at the time of filing of the

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1 application for a license, would have warranted refusal by the
2 commissioner to issue a license.

3 (1) ~~(k)~~ A class I licensee ~~, in issuing or selling~~
4 AUTHORIZED TO ISSUE OR SELL checks, has refused or is unable to
5 pay its obligations generally as they become due.

6 (M) A LICENSEE ENGAGED IN LOAN SERVICING ACTIVITIES, INTEN-
7 TIONALLY OR AS A RESULT OF GROSS OR WANTON NEGLIGENCE, IS NOT
8 SERVICING LOANS AS REQUIRED BY LAW OR BY THE TERMS OF THE SERVIC-
9 ING CONTRACTS.

10 (N) THE LICENSEE HAS FAILED TO PAY AN ANNUAL OPERATING FEE
11 OR ANY ASSOCIATED LATE FILING FEES.

12 (3) Based on the findings of the commissioner ~~pursuant to~~
13 UNDER subsection (2), he or she may suspend or revoke all activi-
14 ties under the license, or only the particular regulated activity
15 ~~to~~ FOR which grounds for revocation or suspension occurred or
16 existed.

17 (4) The commissioner may make investigations OR CONDUCT
18 EXAMINATIONS OF ANY PERSON and conduct hearings as the commis-
19 sioner considers necessary to determine whether any licensee or
20 any other person has violated any of the provisions of this act,
21 or whether any licensee has conducted business in such a manner
22 as would justify suspension or revocation of its license.

23 (5) The commissioner may subpoena witnesses and documents,
24 papers, books, records, and other evidence in any matter over
25 which the commissioner has jurisdiction, control, or
26 supervision. The commissioner may administer oaths and
27 affirmations to any person whose testimony is required.

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1 (6) If a person fails to comply with a subpoena issued by
2 the commissioner or to testify with respect to any matter con-
3 cerning which the person may be lawfully questioned, the circuit
4 court for Ingham county, on application of the commissioner, may
5 issue an order requiring the attendance of the person and the
6 giving of testimony or production of evidence.

7 ~~-(7) If, in the opinion of the commissioner, a person or~~
8 ~~licensee is engaging in, or has engaged in, or the commissioner~~
9 ~~has reasonable cause to believe that the person or licensee is~~
10 ~~about to engage in, an unsafe or unsound practice, to the detri-~~
11 ~~ment of the people of the state, or the commissioner has reason-~~
12 ~~able cause to believe the licensee has violated, is violating, or~~
13 ~~is about to violate a state law or rule promulgated pursuant to a~~
14 ~~state law, the commissioner may issue and serve upon the person~~
15 ~~or licensee a notice of the charges regarding the unsafe or~~
16 ~~unsound practice or violation. The notice shall contain a state-~~
17 ~~ment of the facts constituting the alleged unsafe or unsound~~
18 ~~practice or violation and shall fix a time and place at which a~~
19 ~~hearing will be held to determine whether an order to cease and~~
20 ~~desist, or refrain, from the practice or violation should issue~~
21 ~~against the licensee. The hearing shall be not earlier than 5~~
22 ~~days nor later than 10 days after service of the notice unless an~~
23 ~~earlier or a later date is set by the commissioner at the request~~
24 ~~of the person or licensee. Unless the person or licensee appears~~
25 ~~at the hearing personally or by a duly authorized representative,~~
26 ~~the person or licensee shall be considered to have consented to~~
27 ~~the issuance of the cease and desist or refraining order. If the~~

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~~1 person or licensee has consented, or if upon the record made at
2 the hearing, the commissioner finds that any unsafe or unsound
3 practice or violation to comply specified in the notice of
4 charges has been established, the commissioner may issue and
5 serve upon the person or licensee an order to cease and desist,
6 or refrain, from any practice or violation. The order may also
7 require that the person or licensee take affirmative action to
8 correct the conditions resulting from any practice or violation.~~

~~9 (8) A cease and desist or refraining order issued under sub-
10 section (7) shall become effective at the expiration of 5 days
11 after service of the order upon the licensee, except in the case
12 of an order issued upon consent which shall become effective at
13 the time specified in the order, and shall remain in effect and
14 enforceable as provided in the order, except to the extent it is
15 stayed, modified, terminated, or set aside by action of the com-
16 missioner or a reviewing court.~~

17 (7) IF IN THE OPINION OF THE COMMISSIONER A LICENSEE IS,
18 HAS, OR IS ABOUT TO ENGAGE IN A PRACTICE THAT POSES A THREAT OF
19 FINANCIAL LOSS OR THREAT TO THE PUBLIC WELFARE, OR IS, HAS, OR IS
20 ABOUT TO VIOLATE A LAW OR RULE, THE COMMISSIONER MAY SERVE A
21 NOTICE OF INTENTION TO ISSUE A CEASE AND DESIST ORDER AS PROVIDED
22 IN SUBSECTION (8).

23 (8) A NOTICE SERVED UNDER THIS SECTION SHALL CONTAIN A
24 STATEMENT OF THE FACTS CONSTITUTING THE ALLEGED PRACTICE OR VIO-
25 LATION, AND SHALL FIX A TIME AND PLACE AT WHICH A HEARING WILL BE
26 HELD TO DETERMINE WHETHER AN ORDER TO CEASE AND DESIST SHOULD BE
27 ISSUED AGAINST THE LICENSEE.

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1 (9) IF THE LICENSEE FAILS TO APPEAR AT THE HEARING BY A DULY
2 AUTHORIZED REPRESENTATIVE, THE LICENSEE SHALL HAVE CONSENTED TO
3 THE ISSUANCE OF THE CEASE AND DESIST ORDER.

4 (10) IN THE EVENT OF CONSENT UNDER SUBSECTION (9), OR IF
5 UPON THE RECORD MADE AT THE HEARING, THE COMMISSIONER FINDS THAT
6 THE PRACTICE OR VIOLATION SPECIFIED IN THE NOTICE HAS BEEN ESTAB-
7 LISHED, THE COMMISSIONER MAY SERVE UPON THE LICENSEE AN ORDER TO
8 CEASE AND DESIST FROM THE PRACTICE OR VIOLATION. THE ORDER MAY
9 REQUIRE THE LICENSEE AND ITS OFFICERS, DIRECTORS, MEMBERS, PART-
10 NERS, TRUSTEES, EMPLOYEES, AGENTS, AND PERSONS EXERCISING CONTROL
11 OVER THE BUSINESS ACTIVITIES OF THE LICENSEE TO CEASE AND DESIST
12 FROM THE PRACTICE OR VIOLATION AND TO TAKE AFFIRMATIVE ACTION TO
13 CORRECT THE CONDITIONS RESULTING FROM THE PRACTICE OR VIOLATION.

14 (11) EXCEPT AS PROVIDED IN SUBSECTION (12) OR TO THE EXTENT
15 IT IS STAYED, MODIFIED, TERMINATED, OR SET ASIDE BY THE COMMIS-
16 SIONER OR A COURT, A CEASE AND DESIST ORDER SHALL BECOME EFFEC-
17 TIVE ON THE DATE OF SERVICE.

18 (12) A CEASE AND DESIST ORDER ISSUED UPON CONSENT SHALL
19 BECOME EFFECTIVE AT THE TIME SPECIFIED IN THE ORDER AND REMAIN
20 EFFECTIVE AND ENFORCEABLE AS PROVIDED IN THE ORDER.

21 (13) FOR PURPOSES OF THIS ACT, THE MANNER OF THE SERVICE OF
22 PROCESS SHALL BE IN ACCORDANCE WITH THE MICHIGAN COURT RULES.

23 SEC. 10A. (1) IF AN APPLICANT FOR A LICENSE IS DISSATISFIED
24 WITH THE ORDER ISSUED UNDER SECTION 10 BY THE COMMISSIONER, THE
25 APPLICANT MAY FILE WITH THE COMMISSIONER, NOT LATER THAN 15 DAYS
26 AFTER THE ISSUANCE OF THE ORDER, A NOTICE OF REQUEST FOR
27 RECONSIDERATION OF THE ORDER TOGETHER WITH A STATEMENT IN SUPPORT

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1 OF THE APPLICANT'S REQUEST FOR RECONSIDERATION AND, IF DESIRED, A
2 REQUEST FOR ORAL ARGUMENT. THE NOTICE OF REQUEST FOR A RECONSID-
3 ERATION AND SUPPORTING STATEMENT SHALL BE IN WRITING.

4 (2) THE ISSUES RAISED IN THE APPLICANT'S STATEMENT SHALL BE
5 LIMITED TO THE COMMISSIONER'S FINDINGS OF FACT AND CONCLUSIONS OF
6 LAW SET FORTH IN THE ORDER.

7 (3) IF THE COMMISSIONER GRANTS THE REQUEST FOR RECONSIDERA-
8 TION, NOT LATER THAN 10 DAYS AFTER THE COMMISSIONER RECEIVES THE
9 STATEMENT, THE COMMISSIONER SHALL EITHER PROVIDE A WRITTEN
10 RESPONSE TO THE APPLICANT'S REQUEST FOR RECONSIDERATION OR CON-
11 DUCT AN ORAL ARGUMENT. IF THE COMMISSIONER DOES NOT GRANT THE
12 REQUEST FOR RECONSIDERATION, THE ORDER SHALL STAND.

13 (4) IF AN ORAL ARGUMENT IS CONDUCTED UNDER SUBSECTION (3),
14 THE ORAL ARGUMENT SHALL BE LIMITED TO THE ISSUES RAISED IN THE
15 APPLICANT'S STATEMENT. THE COMMISSIONER SHALL EITHER AFFIRM THE
16 ORDER OR REVISE THE ORDER AS THE COMMISSIONER CONSIDERS APPROPRI-
17 ATE NOT LATER THAN 10 DAYS AFTER THE COMPLETION OF THE ORAL
18 ARGUMENT.

19 (5) FOR PURPOSES OF THIS ACT, AN APPLICATION FOR A LICENSE
20 AND THE COMMISSIONER'S FINAL DECISIONS, FINDINGS, RULINGS, AND
21 ORDERS ARE NOT CONTESTED CASES WITHIN THE MEANING OF THE ADMINIS-
22 TRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
23 24.328.

24 (6) IF THE APPLICANT CONSIDERS ITSELF AGGRIEVED BY AN ORDER
25 OF THE COMMISSIONER, THE APPLICANT MAY APPEAL WITHIN 30 DAYS FROM
26 THE DATE OF THE ORDER TO THE INGHAM COUNTY CIRCUIT COURT IN THE

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1 MANNER PROVIDED BY THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
2 1969 PA 306, MCL 24.201 TO 24.328.

3 SEC. 10B. (1) A HEARING PROVIDED FOR IN SECTION 10 SHALL BE
4 CONDUCTED IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT OF
5 1969, 1969 PA 306, MCL 24.201 TO 24.328. THE HEARING SHALL BE
6 PRIVATE, UNLESS THE COMMISSIONER DETERMINES THAT A PUBLIC HEARING
7 IS NECESSARY TO PROTECT THE PUBLIC INTEREST. AFTER THE HEARING
8 AND WITHIN 90 DAYS AFTER THE COMMISSIONER HAS NOTIFIED THE PAR-
9 TIES THAT THE CASE HAS BEEN SUBMITTED TO HIM OR HER FOR FINAL
10 DECISION, THE COMMISSIONER SHALL RENDER HIS OR HER DECISION,
11 WHICH SHALL INCLUDE FINDINGS OF FACT UPON WHICH THE DECISION IS
12 PREDICATED AND SHALL ISSUE AND SERVE UPON EACH PARTY TO THE PRO-
13 CEEDING AN ORDER CONSISTENT WITH THIS SECTION.

14 (2) ANY PARTY TO THE PROCEEDING, OR ANY PERSON REQUIRED BY
15 AN ORDER ISSUED UNDER SECTION 10 TO CEASE AND DESIST FROM ANY OF
16 THE VIOLATIONS OR PRACTICES STATED IN THE ORDER, MAY OBTAIN A
17 JUDICIAL REVIEW OF ANY ORDER SERVED UNDER SUBSECTION (1), OTHER
18 THAN A CONSENT ORDER, WHICH REVIEW SHALL BE EXCLUSIVELY AS PRO-
19 VIDED IN THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
20 MCL 24.201 TO 24.328. UNLESS A PETITION FOR REVIEW IS TIMELY
21 FILED AS PROVIDED IN THAT ACT, THE COMMISSIONER, AT ANY TIME,
22 UPON NOTICE THAT THE COMMISSIONER CONSIDERS PROPER, MAY MODIFY,
23 TERMINATE, OR SET ASIDE THE ORDER. UPON THE TIMELY FILING OF A
24 PETITION FOR REVIEW, THE COMMISSIONER MAY MODIFY, TERMINATE, OR
25 SET ASIDE THE ORDER WITH THE PERMISSION OF THE COURT.

26 (3) UNLESS SPECIFICALLY ORDERED BY THE COURT, THE
27 COMMENCEMENT OF PROCEEDINGS FOR JUDICIAL REVIEW UNDER SUBSECTION

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1 (2) SHALL NOT OPERATE AS A STAY OF ANY ORDER ISSUED BY THE
2 COMMISSIONER.

3 SEC. 10C. THE COMMISSIONER MAY APPLY TO THE CIRCUIT COURT
4 OF INGHAM COUNTY FOR THE ENFORCEMENT OF ANY EFFECTIVE AND OUT-
5 STANDING NOTICE OR ORDER ISSUED UNDER SECTION 10 OR 10A, AND THE
6 COURT SHALL HAVE JURISDICTION AND POWER TO ORDER AND REQUIRE COM-
7 PLIANCE WITH THE NOTICE. EXCEPT AS OTHERWISE PROVIDED IN THIS
8 ACT, A COURT DOES NOT HAVE JURISDICTION TO REVIEW, MODIFY, SUS-
9 PEND, TERMINATE, OR SET ASIDE BY INJUNCTION ANY NOTICE OR ORDER
10 ISSUED UNDER SECTION 10 OR 10A.

11 SEC. 10D. (1) AFTER A COMPLAINT IS FILED OR, AS APPLICABLE,
12 AN INVESTIGATION OR ADMINISTRATIVE ACTION AGAINST A LICENSEE IS
13 COMMENCED UNDER SECTION 10, THE COMMISSIONER MAY ISSUE AN ORDER
14 SUMMARILY SUSPENDING THE LICENSE UNDER SECTION 92 OF THE ADMINIS-
15 TRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.292, SUP-
16 PORTED BY AN AFFIDAVIT FROM A PERSON FAMILIAR WITH THE FACTS SET
17 FORTH IN THE AFFIDAVIT OR, IF APPROPRIATE, BASED UPON AN AFFIDA-
18 VIT ON INFORMATION THAT AN IMMINENT THREAT OF FINANCIAL LOSS OR
19 IMMINENT THREAT TO THE PUBLIC WELFARE EXISTS. THE ORDER TO SUM-
20 MARILY SUSPEND A LICENSE SHALL BE SERVED UPON THE LICENSEE.

21 (2) A LICENSEE UPON WHICH AN ORDER TO SUMMARILY SUSPEND ITS
22 LICENSE HAS BEEN SERVED SHALL HAVE 20 DAYS AFTER THE DATE OF THE
23 ORDER BY WHICH TO FILE WITH THE COMMISSIONER A REQUEST FOR A
24 HEARING.

25 (3) A HEARING SHALL BE HELD PROMPTLY UPON RECEIPT OF A
26 REQUEST FOR A HEARING FILED BY A LICENSEE UNDER SUBSECTION (2).

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1 (4) A SUMMARY SUSPENSION OF A LICENSE SHALL CONTINUE UNTIL
2 THE COMMISSIONER FINDS THAT THE IMMINENT THREAT OF FINANCIAL LOSS
3 OR IMMINENT THREAT TO THE PUBLIC WELFARE NO LONGER EXISTS.

4 (5) THE RECORD CREATED AT THE HEARING ON THE SUMMARY SUSPEN-
5 SION SHALL BECOME PART OF THE RECORD ON THE COMPLAINT AT A SUBSE-
6 QUENT HEARING IN A CONTESTED CASE.

7 SEC. 10E. A SUMMARY SUSPENSION ORDER, CEASE AND DESIST
8 ORDER, OR INJUNCTIVE RELIEF ISSUED OR GRANTED IN RELATION TO A
9 LICENSE SHALL BE IN ADDITION TO AN INFORMAL CONFERENCE, CRIMINAL
10 PROSECUTION, OR PROCEEDING TO DENY, REVOKE, OR SUSPEND A LICENSE,
11 OR ANY OTHER LEGAL ACTION.

12 Sec. 11. (1) The commissioner shall annually establish a
13 schedule of fees sufficient to pay in full the bureau's costs of
14 administering this act. The fees are as follows:

15 ~~(a) For a new class I license or a renewal of a class I~~
16 ~~license, not less than \$800.00 or more than \$2,500.00.~~

17 ~~(b) For a new class II license or a renewal of a class II~~
18 ~~license, not less than \$500.00 or more than \$2,000.00.~~

19 (A) ~~(c)~~ For an application ~~investigation~~ fee, not less
20 than \$500.00 or more than \$2,000.00. However, if an applicant
21 has 1 or more licenses under the financial licensing acts, the
22 ~~investigation~~ APPLICATION fee shall be not less than \$100.00 or
23 more than \$700.00.

24 (B) ~~(d)~~ For amending OR REISSUING a license, not less than
25 \$50.00 or more than \$100.00.

26 (C) AN ANNUAL OPERATING FEE BASED UPON THE VOLUME AND TYPES
27 OF ACTIVITIES CONDUCTED BY THE LICENSEE DURING THE PREVIOUS

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1 CALENDAR YEAR. THE ANNUAL OPERATING FEE SET BY THE COMMISSIONER
2 UNDER THIS SUBSECTION SHALL BE BASED UPON INFORMATION IN REPORTS
3 FILED UNDER SECTION 15.

4 (D) ~~(e) For an examination or investigation of a licensee's~~
5 ~~records, not less than \$40.00 or more than \$70.00 per hour per~~
6 ~~examiner involved in an examination. In addition, a~~ A licensee
7 shall pay the actual travel, lodging, and meal expenses incurred
8 by bureau employees who travel out of state to examine the
9 records of OR INVESTIGATE the licensee.

10 (2) Fees received ~~pursuant to~~ UNDER this act are not
11 refundable, EXCEPT THAT IF AN APPLICATION FOR LICENSE IS NOT
12 APPROVED, THE BUREAU SHALL REFUND THE PREPAID ANNUAL OPERATING
13 FEE.

14 (3) If any fees or penalties provided for in this act are
15 not paid when required, the attorney general may maintain an
16 action against the delinquent licensee for the recovery of the
17 fees or penalties, together with interest and costs.

18 (4) MONEY RECEIVED UNDER THIS ACT SHALL BE PAID INTO THE
19 STATE TREASURY AND CREDITED TO THE FINANCIAL INSTITUTIONS BUREAU
20 FOR THE OPERATION OF THE BUREAU.

21 Sec. 12. ~~(1) A licensee under this act shall be examined~~
22 ~~at least annually and shall pay an examination fee for examina=~~
23 ~~tion of its records conducted by the commissioner. The examina=~~
24 ~~tion fee shall be invoiced upon completion of the examination and~~
25 ~~is due and payable upon receipt of the invoice by the licensee.~~
26 A licensee is not required to pay for more than 1 examination
27 required by this section in a calendar year.

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1 (1) ~~(2)~~ The commissioner at any time may investigate the
2 business ~~done in this state of any licensee under this act, and~~
3 ACTIVITIES AS THE COMMISSIONER CONSIDERS NECESSARY, may examine
4 the books, accounts, records, and files used and maintained by
5 any licensee, and MAY require the licensee to furnish additional
6 reports relating to the licensee's business. ~~In addition to the~~
7 ~~annual fee provided for in section 11, the commissioner shall~~
8 ~~charge the licensee an amount sufficient to cover the cost of any~~
9 ~~investigation.~~

10 (2) ~~(3)~~ The commissioner may accept an ~~annual report and~~
11 ~~audit of~~ AND MANAGEMENT LETTER REGARDING the affairs of any
12 licensee under this act, if made by a certified public
13 accountant. ~~, instead of the examination provided for in subsec-~~
14 ~~tion (1).~~

15 Sec. 14. (1) A licensee under this act shall maintain
16 records relating to all transactions under this act so that the
17 commissioner may enforce compliance with this act. Records ~~kept~~
18 ~~at the licensee's principal place of business~~ shall be made
19 available to the commissioner during normal business hours upon
20 request. ~~or the licensee shall pay for an examiner under section~~
21 ~~11 or 12 to go to the place where the records are kept.~~

22 (2) ~~A record of the licensee shall be preserved and kept~~
23 ~~available for not less than 25 months after making the final~~
24 ~~entry on any loan recorded in the record. The commissioner may~~
25 ~~for reasonable cause order an independent audit of the records of~~
26 ~~a licensee and the cost of the audit shall be an expense of the~~
27 ~~licensee.~~ A LICENSEE SHALL PRESERVE AND KEEP AVAILABLE FOR

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1 EXAMINATION BY THE COMMISSIONER EACH LOAN DOCUMENT IN ITS
2 POSSESSION OR CONTROL, INCLUDING THE APPLICATION, CREDIT REPORT,
3 EMPLOYMENT VERIFICATION, LOAN DISCLOSURE STATEMENT, AND SETTLE-
4 MENT STATEMENT, UNTIL THE LOAN IS TRANSFERRED OR ASSIGNED, OR THE
5 EXPIRATION OF 2 YEARS AFTER THE DATE THE LOAN IS MADE, WHICHEVER
6 OCCURS FIRST.

7 (3) IF THE LOAN IS TRANSFERRED OR ASSIGNED, THE LICENSEE
8 SHALL PRESERVE AND KEEP AVAILABLE FOR EXAMINATION BY THE COMMIS-
9 SIONER, AS APPLICABLE, COPIES OF THE PROMISSORY NOTE, MORTGAGE,
10 TRUTH-IN-LENDING DISCLOSURE STATEMENT, AND SETTLEMENT STATEMENT
11 IN ITS POSSESSION OR CONTROL FOR 3 YEARS AFTER THE DATE THE LOAN
12 IS TRANSFERRED OR ASSIGNED.

13 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, EACH
14 LICENSEE SHALL PRESERVE AND KEEP AVAILABLE FOR EXAMINATION BY THE
15 COMMISSIONER ALL DOCUMENTS PERTAINING TO A REJECTED LOAN APPLICA-
16 TION FOR A PERIOD OF TIME REQUIRED BY STATE OR FEDERAL LAW.

17 (5) A LICENSEE SHALL PRESERVE ALL OTHER BOOKS, ACCOUNTS,
18 RECORDS, DOCUMENTS, AND FILES PERTAINING TO THE LICENSEE'S BUSI-
19 NESS AND KEEP THEM AVAILABLE FOR EXAMINATION BY THE COMMISSIONER
20 FOR NOT LESS THAN 2 YEARS AFTER THE CONCLUSION OF THE FISCAL YEAR
21 OF THE LICENSEE IN WHICH THE BOOK, ACCOUNT, RECORD, DOCUMENT, OR
22 FILE WAS CREATED.

23 (6) ~~(3)~~ The requirements of this section shall not be con-
24 strued to prohibit keeping records by electronic data processing
25 methods.

26 Sec. 15. (1) A licensee shall annually on or before
27 ~~February 15 of each year~~ A DATE ESTABLISHED BY THE COMMISSIONER

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1 file with the commissioner a report, on a form provided by the
2 commissioner, stating the licensee's VOLUME AND TYPES OF BUSINESS
3 activities for the immediately preceding calendar year. THE COM-
4 MISSIONER SHALL PROVIDE AT LEAST 30 DAYS' ADVANCE NOTICE OF THE
5 DATE EACH REPORT IS DUE.

6 (2) The fine for failure to file a report required by this
7 act is \$25.00 for each day the report is delinquent or \$1,000.00,
8 whichever is less. FAILURE TO FILE A REPORT REQUIRED BY THIS ACT
9 MAY RESULT IN NONRENEWAL OF THE LICENSE BY THE COMMISSIONER.

10 Sec. 16. ~~(1)~~ Notwithstanding licensing under this act, if
11 a licensee engaging in the issue or sale of checks ~~which~~ THAT
12 would otherwise be subject to the sale of checks act, ~~Act~~
13 ~~No. 136 of the Public Acts of 1960, being sections 487.901 to~~
14 ~~487.916 of the Michigan Compiled Laws~~ 1960 PA 136, MCL 487.901
15 TO 487.916, has refused ~~or~~ TO PAY ITS DEBTS IN THE ORDINARY
16 COURSE OF BUSINESS, is unable to pay its obligations generally as
17 they become due, OR HAS LIABILITIES EXCEEDING ITS ASSETS or when-
18 ever it appears to the commissioner that a licensee is in an
19 unsafe or unsound condition, the commissioner may appoint a con-
20 servator or, with the attorney general representing the commis-
21 sioner, may apply to the circuit court for the county in which
22 the licensee is located for the appointment of a receiver for the
23 licensee. The commissioner may require of the conservator ~~such~~
24 A bond and security as the commissioner considers ~~proper~~
25 NECESSARY.

26 ~~(2) The conservator, under the direction of the~~
27 ~~commissioner, or the receiver, subject to the approval of the~~

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1 ~~appointing court, shall take possession of the books, records,~~
2 ~~and assets of the licensee and shall take such action with~~
3 ~~respect to employees, agents, or representatives of the licensee~~
4 ~~or any other action as may be necessary to conserve the assets of~~
5 ~~the licensee or ensure payment of instruments issued by the~~
6 ~~licensee pending further disposition of its business as provided~~
7 ~~by law. The conservator or receiver shall sue and defend, com-~~
8 ~~promise and settle all claims involving the licensee, and exer-~~
9 ~~cise such powers and duties as may be necessary, consistent with~~
10 ~~the laws of this state applicable to the appointment of~~
11 ~~receivers.~~

12 ~~(3) The commissioner may appoint as conservator 1 of the~~
13 ~~employees of the bureau or some other competent and disinterested~~
14 ~~person. The bureau shall be reimbursed out of the assets of the~~
15 ~~conservatorship for all sums expended by it in connection with~~
16 ~~the conservatorship. All expenses of the conservatorship shall~~
17 ~~be paid out of the assets of the licensee, upon the approval of~~
18 ~~the commissioner. The expenses shall be a first charge upon the~~
19 ~~assets and shall be fully paid before any final distribution is~~
20 ~~made.~~

21 ~~(4) The conservator or receiver from time to time, but in no~~
22 ~~event less frequently than once each calendar quarter, shall~~
23 ~~report to the commissioner with respect to all acts and proceed-~~
24 ~~ings in connection with the conservatorship or receivership.~~

25 ~~(5) If satisfied that it may be done safely and that it~~
26 ~~would be in the public interest, the commissioner may terminate~~
27 ~~the conservatorship or receivership and permit the licensee to~~

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~~1 resume the transaction of its business subject to such terms,
2 conditions, restrictions, and limitations as the commissioner may
3 prescribe.~~

4 SEC. 16A. IF THE COMMISSIONER DETERMINES THAT A LICENSEE
5 ENGAGING IN LOAN SERVICING ACTIVITIES, INTENTIONALLY OR AS A
6 RESULT OF GROSS OR WANTON NEGLIGENCE, IS NOT SERVICING, AS APPLI-
7 CABLE, MORTGAGE LOANS OR SECONDARY MORTGAGE LOANS AS REQUIRED BY
8 LAW OR BY THE TERMS OF THE SERVICING CONTRACTS, THE COMMISSIONER
9 MAY APPOINT A CONSERVATOR FOR THE LICENSEE AND REQUIRE THE CON-
10 SERVATOR TO PROVIDE A BOND OR SECURITY AS THE COMMISSIONER CON-
11 SIDERS NECESSARY. ALTERNATIVELY, THE COMMISSIONER, THROUGH THE
12 ATTORNEY GENERAL, MAY APPLY TO THE CIRCUIT COURT FOR THE COUNTY
13 IN WHICH THE LICENSEE IS LOCATED FOR THE APPOINTMENT OF A
14 RECEIVER FOR THE LICENSEE.

15 SEC. 16B. (1) THE CONSERVATOR, UNDER THE DIRECTION OF THE
16 COMMISSIONER, OR THE RECEIVER, SUBJECT TO THE APPROVAL OF THE
17 APPOINTING COURT, SHALL TAKE POSSESSION OF THE BOOKS, RECORDS,
18 AND ASSETS OF THE LICENSEE AND SHALL TAKE ACTION WITH RESPECT TO
19 EMPLOYEES, AGENTS, OR REPRESENTATIVES OF THE LICENSEE OR ANY
20 OTHER ACTION AS MAY BE NECESSARY TO CONSERVE THE ASSETS OF THE
21 LICENSEE, ENSURE PAYMENT OF INSTRUMENTS ISSUED BY THE LICENSEE,
22 OR ENSURE THAT THE MORTGAGE LOANS AND SECONDARY MORTGAGE LOANS
23 ARE SERVICED AS REQUIRED BY APPLICABLE LAW AND THE SERVICING CON-
24 TRACTS PENDING DISPOSITION OF ITS BUSINESS AS PROVIDED BY LAW.
25 THE CONSERVATOR OR RECEIVER SHALL SUE AND DEFEND, COMPROMISE, AND
26 SETTLE ALL CLAIMS INVOLVING THE LICENSEE, AND EXERCISE THE POWERS

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1 AND DUTIES AS MAY BE NECESSARY, CONSISTENT WITH THE LAWS OF THIS
2 STATE APPLICABLE TO THE APPOINTMENT OF RECEIVERS.

3 (2) THE COMMISSIONER MAY APPOINT AS CONSERVATOR 1 OF THE
4 EMPLOYEES OF THE BUREAU OR SOME OTHER COMPETENT AND DISINTERESTED
5 PERSON. THE BUREAU SHALL BE REIMBURSED OUT OF THE ASSETS OF THE
6 CONSERVATORSHIP FOR ALL SUMS EXPENDED BY IT IN CONNECTION WITH
7 THE CONSERVATORSHIP. ALL EXPENSES OF THE CONSERVATORSHIP SHALL
8 BE PAID OUT OF THE ASSETS OF THE LICENSEE, UPON APPROVAL OF THE
9 COMMISSIONER. THE EXPENSES SHALL BE A FIRST CHARGE UPON THE
10 ASSETS AND SHALL BE FULLY PAID BEFORE ANY FINAL DISTRIBUTION OR
11 PAYMENT OF DIVIDENDS IS MADE TO CREDITORS OR SHAREHOLDERS.

12 (3) THE CONSERVATOR OR RECEIVER APPOINTED UNDER SECTION 16
13 OR SECTION 16A FROM TIME TO TIME, BUT IN NO EVENT LESS FREQUENTLY
14 THAN ONCE EACH CALENDAR QUARTER, SHALL REPORT TO THE COMMISSIONER
15 WITH RESPECT TO ALL ACTS AND PROCEEDINGS IN CONNECTION WITH THE
16 CONSERVATORSHIP OR RECEIVERSHIP.

17 (4) THE CONSERVATOR, UNDER THE DIRECTION OF THE COMMISSION-
18 ER, SHALL TAKE SOLE CONTROL OF ALL OF THE AFFAIRS OF THE LICENSEE
19 AND THE POSSESSION OF THE BOOKS AND RECORDS OF THE LICENSEE. THE
20 LICENSEE MAY TRANSFER OR ASSIGN THE RIGHTS TO SERVICE MORTGAGE
21 LOANS OR SECONDARY MORTGAGE LOANS TO A PERSON APPROVED BY THE
22 COMMISSIONER. THE CONSERVATOR OF THE LICENSEE SHALL TAKE ACTION
23 AS MAY BE NECESSARY TO ASSURE THAT THE MORTGAGE LOANS AND SECOND-
24 ARY MORTGAGE LOANS ARE SERVICED AS REQUIRED BY APPLICABLE LAW AND
25 THE SERVICING CONTRACTS.

26 (5) IF SATISFIED THAT IT MAY BE DONE SAFELY AND THAT IT
27 WOULD BE IN THE PUBLIC INTEREST, THE COMMISSIONER MAY TERMINATE

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1 THE CONSERVATORSHIP ESTABLISHED UNDER SECTION 16 OR SECTION 16A
2 AND PERMIT THE LICENSEE TO RESUME THE TRANSACTION OF ITS BUSINESS
3 SUBJECT TO THOSE TERMS, CONDITIONS, RESTRICTIONS, AND LIMITATIONS
4 AS THE COMMISSIONER MAY PRESCRIBE. ALTERNATIVELY, THE COMMIS-
5 SIONER, IN HIS OR HER DISCRETION, MAY PERMIT, UNDER SECTION 16 OR
6 SECTION 16A, THE LICENSEE TO CONTINUE TO CONDUCT 1 OR MORE BUSI-
7 NESS ACTIVITIES SUBJECT TO THOSE TERMS, CONDITIONS, RESTRICTIONS,
8 AND LIMITATIONS AS THE COMMISSIONER MAY PRESCRIBE.

9 (6) IF THE COMMISSIONER DETERMINES THAT IT WOULD BE IN THE
10 PUBLIC INTEREST, THE COMMISSIONER MAY TERMINATE A CONSERVATORSHIP
11 ESTABLISHED UNDER SECTION 16 OR SECTION 16A AND MAY APPLY TO THE
12 CIRCUIT COURT FOR THE COUNTY IN WHICH THE LICENSEE IS LOCATED FOR
13 THE APPOINTMENT OF A RECEIVER FOR THE LICENSEE AS PROVIDED IN
14 SECTION 16 OR SECTION 16A.

15 (7) FUNDS RECEIVED FOR PAYMENT OF THE BUREAU'S EXPENSES
16 INCURRED IN CONNECTION WITH A CONSERVATORSHIP AND ALL EXPENSES
17 FOR STATE SUPERVISION OF CONSERVATORSHIPS UNDER THIS ACT SHALL BE
18 DEPOSITED IN THE STATE TREASURY AND USED TO REIMBURSE THE BUREAU
19 FOR EXPENSES INCURRED IN CONNECTION WITH CONSERVATORSHIPS OF
20 LICENSEES.

21 Sec. 17. ~~(1)~~ A licensee under this act is prohibited from
22 engaging in the following activities OR PRACTICES:

23 ~~-(a) The business of a real estate broker or real estate~~
24 ~~salesperson licensed under article 25 of the occupational code,~~
25 ~~Act No. 299 of the Public Acts of 1980, being sections 339.2501~~
26 ~~to 339.2515 of the Michigan Compiled Laws.~~

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1 (A) ~~(b)~~ The business of a pawnbroker licensed under ~~Act~~
2 ~~No. 273 of the Public Acts of 1917, being sections 446.201 to~~
3 ~~446.219 of the Michigan Compiled Laws~~ 1917 PA 273, MCL 446.201
4 TO 446.219.

5 (B) ~~(c)~~ The business of a debt management company licensed
6 under the debt management act, ~~Act No. 148 of the Public Acts of~~
7 ~~1975, being sections 451.411 to 451.437 of the Michigan Compiled~~
8 ~~Laws~~ 1975 PA 148, MCL 451.411 TO 451.437.

9 (C) ~~(2) A licensee is prohibited from entering~~ ENTERING
10 into a tying arrangement whereby the licensee conditions the sale
11 of 1 financial service to a consumer on the agreement by the con-
12 sumer to purchase 1 or more other financial services from the
13 licensee, an affiliate, or subsidiary of the licensee.

14 Sec. 19. This act shall not be construed to impair or
15 affect the obligation of any PARTY TO A contract entered into
16 under a provision of the financial licensing acts.

17 Enacting section 1. Section 13 of the consumer financial
18 services act, 1988 PA 161, MCL 487.2063, is repealed.