

**Note: This regulation was repealed in its entirety effective
January 28, 2005. See 209 CMR 20.00.**

209 CMR 12.00: SMALL LOANS

Section

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12.01: Purpose and Scope

The purpose of 209 CMR 12.00 is to establish procedures and requirements for the licensing and supervision of licensees under the provisions of M.G.L. c. 140, § 96.

Nothing contained in 209 CMR 12.00 shall limit the ability of the Commissioner to consider other information in determining whether or not to approve an application, or to require information in addition to that required by the application form provided to the applicant.

12.02: Definitions

As used in 209 CMR 12.00 the following words shall, unless the context otherwise requires, have the following meanings:

Applicant, any person or entity who is required to be licensed under the provisions of M.G.L. c. 140, § 96.

Commissioner, the commissioner of banks.

Licensee, any person who is licensed to make small loans under M.G.L. c. 140, §§ 96 to 113, inclusive.

Net Worth, the applicant's or licensee's total assets less total liabilities, omitting the following assets:

- (a) that portion of an applicant's assets pledged to secure obligations of any person or entity other than that of the applicant;
- (b) any asset due from officers or stockholders of the applicant or persons in which the applicant's officers or stockholders have an interest;
- (c) an amount in excess of the lower of the cost or fair market value of mortgage loans in foreclosure, or real property acquired through foreclosure;
- (d) an investment shown on the balance sheet in joint ventures, subsidiaries, or affiliates, which is greater than the fair market value of the assets;
- (e) goodwill or value placed on insurance renewals or other similar intangible value;
- (f) organization costs;
- (g) any other intangible asset, as may be determined by the commissioner.

Person, a natural person or an organization including a corporation, partnership, association, cooperative or trust.

12.03: Application Procedure

(1) Application. An Applicant for a license shall submit a written application on a form prescribed by the Commissioner, signed under the pains and penalties of perjury, containing such information as the Commissioner may from time to time require to support the following general requirements:

- (a) Financial responsibility. An Applicant shall submit a sworn statement which states that

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the Applicant maintains a net worth of not less than \$75,000.00, and shall provide the commissioner with evidence of its financial responsibility.

12.03: continued

(b) Financial Statements. An Applicant shall submit financial statements prepared in accordance with generally accepted accounting principles meeting the following minimum requirements:

1. Contents. The financial statements shall include, but are not limited to, a Balance Sheet, Income Statement and Statement of Cash, and all relevant notes thereto.

2. Initial Application. An Applicant shall submit financial statements, for the preceding fiscal year which have been either audited or reviewed by an independent Certified Public Accountant. The financial statements must include a statement of condition, an income statement and a statement of cash flows. In the discretion of the Commissioner and under such conditions as he may impose, an Applicant's unaudited financial statements may be submitted with audited consolidated financial statements of its parent.

3. Renewal Application. An Applicant seeking to renew its license shall submit financial statements for the licensee, which have been either audited or reviewed by an independent Certified Public Accountant ("CPA"). The financial statements must include a statement of condition, an income statement and a statement of cash flows. In the discretion of the commissioner and under such conditions as he may impose, an Applicant's unaudited financial statements may be submitted with audited consolidated financial statements of its parent.

(c) Character and Fitness. An Applicant shall submit information demonstrating that the Applicant possesses the character, reputation, integrity and fitness to engage in the business of a sales finance company or a small loan agency in an honest, fair, sound and efficient manner.

(d) Business Experience. An Applicant shall demonstrate to the commissioner's satisfaction that the Applicant and its applicable officers and employees possess the necessary educational and business experience to engage in the business of a sales finance company or a small loan agency.

(e) Other Information. An Applicant shall submit such other information as the commissioner may deem necessary to properly evaluate an application.

(2) A Licensee in good standing as a mortgage lender under the provisions of M.G.L. c. 255E, who intends to engage in the business of making small loans, shall be exempt from the provisions of 209 CMR 12.03(1) and 12.06 but shall be required to file a letter application, with applicable application fee, or supplementary information with its application pursuant to M.G.L. c. 255E, for a license pursuant to M.G.L. c. 140, § 96 setting forth its licensed status and a brief description on the extent it intends to engage in the making of loans of \$6,000 or less and such other information as the commissioner may require.

12.04: Licensing Standards

(1) The commissioner will issue a license to engage in the business of making small loans to an Applicant if the commissioner, upon review of the application and all other relevant information, determines that the Applicant has met all of the requirements of M.G.L. c. 140, § 96.

(2) The commissioner may deny such an application if the Applicant has:

(a) violated any provisions of M.G.L. c. 140, § 96 or 209 CMR 12.00;

(b) violated or engaged in a pattern of violations of any state or federal law applicable to the conduct of the business of a small loan company, including but not limited to M.G.L. c. 93A, c. 140D, and any rule, regulation or administrative order or directive promulgated thereunder;

(c) conducted, or will conduct, its business in any unsafe and unsound manner; or

(d) engaged in conduct which has resulted in the suspension or revocation of its license to engage in any business by the licensing authority of any other state.

12.05: Books and Records

(1) Each Licensee shall keep and use its books, records, and accounts in a manner which will allow the Commissioner to determine whether the Licensee is complying with the provisions of M.G.L. c. 140, §§ 96 through 114, inclusive, and applicable state and federal laws and regulations. Each Licensee shall comply with the provisions of 209 CMR 48.00.

12.05: continued

(2) A Licensee shall maintain a complete customer account history including but not limited to terms and conditions of the loan, payment dates, pay off date, refunds, refinancing date, collection or legal action taken.

12.06: Notice of Significant Events and Proposed Change in Ownership or Personnel

(1) A Licensee shall be required to notify the Division in writing within one business day of the occurrence of any of the following significant developments:

- (a) Licensee filing for bankruptcy or reorganization.
- (b) Notification of the institution of license revocation procedures in any state against the Licensee.
- (c) The filing of a criminal indictment any way related to the activities of a licensee, an officer, director, or principal, including, but not limited to, the handling and/or reporting of moneys received and/or instruments sold.
- (d) A Licensee, officer, director, or principal being convicted of a crime.

(2) (a) 30 days prior to any proposed change in control occurs in the ownership of a Licensee, or among the officers, partners or directors of a Licensee, a notice shall forthwith be filed with the Commissioner who may thereupon cause such investigation to be made as he deems necessary, as if it were a new license. In the case of a corporation, control is defined as a change of ownership by a person or group acting in concert to acquire 10% of the stock, or the ability of a person or group acting in concert to elect a majority of the directors or otherwise effect a change in policy of the corporation.

- (b) A notice of change in personnel or ownership shall contain the following information:
 1. the name, address and occupation of each proposed officer, partner, director or shareholders; and
 2. provide such other information as the Commissioner may require.

12.07: Office Locations

(1) A Licensee who wishes to carry on its business at any location in addition to the address on its original license shall obtain the prior approval of the commissioner. Such approval shall contain the address of any such place and such other information as the commissioner may require. A license shall be valid for the transaction of business at or from the address specified on the license.

(2) No change in the location of a licensed business shall take place without the written approval of the commissioner.

REGULATORY AUTHORITY

209 CMR 12.00: M.G.L. c. 140, § 96.