
**Rules of
Department of Economic
Development**

**Division 140—Division of Finance
Chapter 5—Small Loan Companies**

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 140—Division of
Finance
Chapter 5—Small Loan Companies**

4 CSR 140-5.010 Audits

PURPOSE: Small loan companies are required to file an audit once a year with the Division of Finance. Unless this audit is filed, a company may not receive a renewal of its certificate of registration. This rule sets out the type of audit required and the time when it must be filed.

(1) No certificate of registration will be renewed unless a properly completed audit report is submitted to this division.

(2) A properly computed audit report shall meet the following requirements:

(A) It shall contain a balance sheet reflecting the registrant's financial condition; and

(B) It shall contain an opinion statement signed by a certified public accountant (C.P.A.) or authorized representative stating that s/he believes that, according to generally accepted accounting principles, the enclosed balance sheet fairly and accurately reflects the registrant's financial condition.

(3) The audit may only be prepared by a C.P.A. or a firm of which one (1) of the partners or employees is a C.P.A. The accountant, if an individual, shall have no financial interest in the registrant. If the accountant is a partnership or professional corporation, none of the partners nor any of the directors, officers or employees shall have a financial interest.

(4) The registrant shall submit an audit report reflecting its financial condition as of the end of the most recent fiscal year. However, if the registrant's most recent fiscal year ends within five (5) months of the statutory deadline for submitting the audit (May 31), the registrant may submit an audit report for the next most recent fiscal year.

(5) Since the requirements of this rule, specifically section (4), differ from the prior manner in which this division administered sections 367.205, 367.210 and 367.215, RSMo the following procedure shall be observed by registrants in applying for a renewal of a certificate of registration commencing with July 1, 1975 and ending with June 30, 1976:

(A) If the registrant has a fiscal year ending in the period commencing with July 1 and

ending with December 31, it shall submit an audit report covering the fiscal year ending in 1974;

(B) If the registrant has a fiscal year ending in the period commencing with January 1 and ending with June 30, it need only submit an audit report for the fiscal year ending in 1974 and need not submit an audit report for the fiscal year ending in 1975; and

(C) If the registrant has already submitted an audit report for its fiscal year ending in 1974, it need not resubmit that report in order to obtain a renewal of its certificate of registration for the year commencing with July 1, 1975 and ending with June 30, 1976.

AUTHORITY: section 367.170, RSMo 1986. Original rule filed Sept. 19, 1975, effective Sept. 29, 1975.*

**Original authority: 367.170, RSMo 1951, amended 1984.*

State ex rel. Miller v. Crist, 579 SW2d 837 (Mo. App. 1979). Appellant sought through writ of mandamus to compel the commissioner of finance to disclose certain records of the division involving small loan companies. Since the records are made confidential by a specific statutory provision predating the general open records laws, and no repeal by implication is apparent, the general law must yield to the specific, and disclosure is not required.

4 CSR 140-5.020 Lending Activities

PURPOSE: Consumer credit lenders (small loan companies) are subject to examination by the Division of Finance for the purpose of determining these companies are complying with the provisions of Chapter 367, RSMo and the laws relating to consumer lending. In addition, these companies are subject to regulation by the Division of Finance with respect to their lending activities and the sale of insurance in connection with loans made. This rule sets out minimum recordkeeping requirements to facilitate examinations by the Division of Finance and establishes limitations upon the sale of insurance by small loan companies in connection with their lending activities.

(1) Each applicant, at the time of filing application, shall pay the sum of one hundred fifty dollars (\$150) as an annual registration fee for the period July 1 through June 30 of the following year. The annual fee shall be paid on or before June 30 of each year. If the initial fee is for a period of less than twelve (12) months, the fee shall be prorated according to the number of months remaining in the peri-

od. The remittance covering registration fee shall be made payable to the director of revenue and mailed to the Division of Finance. Surety bond in the amount of one thousand dollars (\$1000) shall accompany the initial application for certificate of registration and registration fee. The bond is to be coextensive with the registration year and must be furnished by a surety company authorized to do business in Missouri by the superintendent of insurance. Bond form will be furnished with the initial application for certificate of registration. No surety bond shall be required on renewal applications unless the commissioner shall otherwise determine and no surety bond shall be required in connection with the initial application if the applicant or, in the case of a corporation, any affiliate under the same general management has had a certificate of registration in effect for at least one (1) year unless the commissioner deems a bond necessary and requires that bond.

(2) No special system of records is required by the commissioner of finance. The records of a consumer credit lender will be considered sufficient if they include a cash journal, double entry general ledger, or a comparable record, and an individual account ledger. The records of the business of each registered office shall be maintained so that the assets, liabilities, income and expense may be readily segregated.

(3) A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including refunds, title transfer fees, filing fees and all other items of receipt or expenditure incidental to the granting or collection of a loan and replevin, repossession or sale of collateral.

(4) The general ledger shall be posted at least monthly. A trial balance sheet and a profit and loss statement shall be prepared within thirty (30) days after the close of every monthly period. This trial balance or balance sheet and profit and loss statement shall be available to the examiner. Where the general ledger is kept at a central office other than the location of the registered lender, the general office shall provide information in line with this section.

(5) The individual ledger, preferably individual account card, shall be kept for each individual loan. The ledger card or sheet shall set forth not less than the following items: kind of security pledged for loan; account number; name and address of the borrower; names of

comakers and endorsers; number of installments; dates of first and subsequent payments; date of loan; principal amount of loan; renewal notes (old account so stamped shows also number of current loan); date payments received; amount paid on interest when interest is not added to principal; amount paid on principal when face of note does not include interest; amount of payment including interest and principal; unpaid balance of principal or principal and interest combined; date interest paid to, if this date differs from date of payment, if interest is not included in face of note; if interest is added on, show this amount in a separate figure; amount of any additional interest collected on default or extension, if interest according to original contract is included in face of note; and direct loan ledger cards and sales finance ledger cards shall be filed separately.

(6) The lender shall maintain a file which shall index alphabetically each maker, comaker and endorser on each loan and shall recite each loan in respect to which party is a maker, comaker or endorser and make available the following information: name and address of borrower, and name of husband or wife, if married; names and addresses of comakers or endorsers; date of loan; amount of loan; number of loan; and date loan paid in full. The current record shall be filed separately from those paid in full.

(7) Each loan or loan contract shall bear a number which corresponds to the account number. Using this procedure it will not be necessary to provide a loan register.

(8) All books, records and papers, including the notes, applications, assignments, bills of sale, mortgages, motor vehicle titles, record of all insurance policies issued by or through the lender as agent or broker in connection with the loan shall be kept in the office of the lender and made available to the examiner of the Division of Finance for examination at any time without previous notice. When notes are hypothecated or deposited with a financial institution or parties in connection with a loan or credit, access must be provided for the examiner when the institution holding those notes is situated in Missouri. When the institution or person holding those notes is not so situated or access is not provided, the lender shall obtain from this institution or person either a monthly list of all notes held or a copy of the lists of notes deposited and withdrawn; these lists to show date, original amount, name or number of account and bear authorized signature of the institution or person.

(9) When an error is made on the individual ledger or general ledger, a single thin line, preferably in red, shall be drawn through the improper entry and the correct entry made on the following line. No erasures shall be made in any account of record.

(10) A consumer credit lender shall keep all records on loans available for examination for a period of two (2) years from the date of final payment.

(11) Extensions on precomputed loans made pursuant to the Small Loan Act shall be calculated according to the following formula:

$$\text{UNIT CHARGE (UC)} = \frac{\text{Total Finance Charge}}{\text{Sum of the Digits in the Original term that is } 1 + 2 + 3, \text{ etc.}}$$

Extension fee = UC times NUMBER OF FULL REMAINING INSTALLMENTS. Example: Consider a twenty-four (24)-month contract of \$1,925.25 with finance charges of \$474.75, monthly payments of \$100 and APR of 22.13%.

$$\text{UC} = \frac{474.75}{300} = 1.5825$$

If an extension is taken with twenty-two (22) installments remaining, the extension fee would be 22×1.5825 or \$34.81. Considerations within the Act necessitate the following limitations on extensions:

(A) No extension may be taken on the first installment;

(B) No extension fee shall be collected more than one (1) month prior to the due date of the earliest installment being deferred;

(C) No extension shall be collected for any partial payment, however, two dollars (\$2) or less shall not be considered a partial payment;

(D) A minimum extension fee of one dollar (\$1) will be allowed;

(E) Any principal payment collected on the same day as an extension shall be applied before calculating the extension fee; and

(F) In the event of prepayment in full of the note or contract, the extensions shall be counted as months and the Rule of Seventy-Eight's (78's) factor, based on this total, applied to all of the interest contracted for, plus the extension fees collected.

(12) If a lender customarily by arrangement or otherwise permits its loan forms, including applications, notes, mortgages, financial statement, etc., to be in the hands of any person, firm or corporation at a place of business other than the place of business recited in the registration certificate for the purpose

of having these applications, notes, mortgages or other documents executed by others at that place, whether or not this person, firm or corporation be an employee or agent of the lender, or purports to be an agent of prospective borrowers or a broker, the place where these loan papers are located shall be deemed to be a place of business of the lender and shall require a separate certificate of registration.

(13) Whenever a loan is secured by a lien on a motor vehicle, it shall be the responsibility of the lender to see that the title to the motor vehicle is in the name of the borrower executing the mortgage on this motor vehicle.

(14) No note or loan contract shall be accelerated as to payment unless it shall be duly signed by the borrower and shall contain a provision that, upon default in payment of the note or loan contract or any part, or upon default of a condition contained in this note or loan contract, it may be so accelerated. Whenever the lender shall accelerate the balance due on a note or loan contract which provides for an amount of interest added to the principal amount, the unpaid balance shall be reduced by the refund of that portion of the amount of interest originally contracted for and added to the principal which would be required by section 408.170, RSMo as if prepayment in full occurred on the date of acceleration and the lender may charge interest at the rate originally contracted for computed on unpaid balances for the time actually outstanding from the installment date following the date of acceleration until paid.

(15) Comprehensive and collision insurance with a deductible clause of not less than fifty dollars (\$50) may be sold, requisitioned, required or accepted in connection with any consumer credit loan secured by a lien on any motor vehicle in an amount that does not exceed the average retail value of the motor vehicle in accordance with any of the standard automobile manuals. Motor vehicle insurance is limited to the motor vehicle owned by the borrower and shall not cover motor vehicles of comakers, endorsers, guarantors or others. Provided, that on consumer credit loans of three hundred dollars (\$300) or less secured by a lien on a motor vehicle, no insurance may be sold, requisitioned or required.

(16) Decreasing term life insurance may be sold, requisitioned, required or accepted by any lender in connection with any consumer credit loan. The original amount of this insurance shall not exceed the face amount of the note evidencing this loan.

(17) Credit property insurance may be sold, requisitioned, required or accepted in connection with any consumer credit loan; provided, that the credit property insurance is subject to the following requirements, restrictions and qualifications:

(A) Minimum Policy Standards. Credit property insurance must include standard fire coverage, extended coverage endorsement and replacement cost provision endorsement; this insurance must calculate benefits from the state of loss;

(B) Written Evidence of Coverage. The borrower must be provided with a copy of the policy or certificate of insurance within thirty (30) days of the extension of credit;

(C) Personal Property Lists. Whenever credit property insurance is sold by a creditor, the creditor must retain a list of the personal property securing the loan which list must be signed by the borrower and dated to correspond with the loan;

(D) Borrower's Rights. The borrower shall have the following rights concerning any credit property insurance:

1. The borrower shall not be required or coerced to obtain insurance from any particular insurer or agent as a condition for obtaining a loan;

2. The borrower may substitute coverage at any time and, upon substitution, shall be entitled to a *pro rata* refund of the unearned premium; where insurance was not initially required by the creditor, the borrower may cancel at any time without substituting and shall be entitled to a *pro rata* refund of any premium paid; and

3. Credit property insurance must be cancelled upon the satisfaction or termination of the underlying indebtedness; upon cancellation, the borrower shall be entitled to a *pro rata* refund of the unearned premium;

(E) Notice of Borrower's Rights. Lenders must provide borrowers with a summary of their rights concerning credit property insurance, a signed, dated notice of the following or substantially similar language will evidence compliance with this requirement:

"I understand that I am free to insure my furniture with whatever licensed company, agent or broker I may choose; that I may do so at any time after the date of this loan; that I have not cancelled existing insurance on my furniture if I owned it before this loan; and that this loan cannot be denied me simply because I did not purchase my insurance through the lender."

Date

Signature of Insured

(F) Insurance Not to Exceed Contract Terms. Credit property insurance may not

exceed in amount the total amount of the indebtedness nor exceed in duration the scheduled term of the underlying contract;

(G) Rates. Credit property insurance rates may not exceed the rates for coverage prescribed or approved by the Department of Insurance; and

(H) Severability. If any provision of any section of this rule or the application of any person or circumstances is held invalid, these invalidity shall not affect other provisions of that section or application of the rule which can be given effect without the invalid provision or application and to this end the provisions of this rule are declared to be severable.

(18) No insurance shall be sold in connection with consumer credit loans except in companies duly authorized to do business in this state.

(19) No insurance may be sold in connection with consumer credit loans which contain special policy provisions covering conversion, embezzlement or similar protections against the borrower's dishonesty.

(20) Health and accident insurance may be sold, requisitioned or accepted by any lender in connection with any consumer credit loan. A certificate of policy must be issued to borrower. Insurance shall be obtained from an insurance company duly authorized to conduct business in this state. Accident and health insurance may be in the form prescribed in section 385.070(2), RSMo or in the form known as dismemberment insurance; under no circumstances may both types of accident and health insurance be sold in connection with the same consumer credit loan. If credit dismemberment insurance is sold, requisitioned or accepted in connection with a consumer credit loan, this insurance shall be subject to the following requirements, restrictions and qualifications:

(A) Persons Insured. Credit dismemberment insurance may be written on no more than one (1) person on any contract;

(B) Written Evidence of Coverage. The borrower must be provided with a copy of the dismemberment policy or certificate of insurance within thirty (30) days of the extension of credit;

(C) Insurance must be available as coverage by itself and not merely as a supplement to other insurance;

(D) Cancellation. Credit dismemberment insurance shall be subject to the refunding provisions as though it were credit life insurance issued pursuant to Chapter 385, RSMo and corresponding regulations;

(E) Insurance Not to Exceed Contract Terms. Credit dismemberment insurance may not exceed in amount the total indebtedness nor exceed the underlying contract in duration;

(F) Minimum Standards. Credit dismemberment insurance must provide for a total payoff of an underlying indebtedness in the event of loss of the sight of one (1) eye, loss of one (1) hand at or above the wrist, or loss of one (1) foot at or above the ankle or both, no restrictions shall be permitted, that is, full benefits must be payable on any dismemberment or blindness which occurs during the coverage; and

(G) Recordkeeping. Claims which are made through the dismemberment insurance shall be maintained in the same manner as a death claim.

(21) The charge for any insurance sold shall not be greater than the standard or usual rate charged for comparable insurance by insurance companies or agents for similar insurance that is sold other than in connection with consumer credit loans.

(22) The lender shall deliver to the borrower at the time the loan is made or within a reasonable time, in all cases where insurance is sold or requisitioned by the lender and paid for by the borrower, a copy of the insurance policy or a certificate of insurance which shall set out the effective date, date of expiration, type and amount of coverage and amount of premium.

(23) When a loan secured by insurance is renewed or refinanced, the insurance policy or certificate shall be cancelled before any new insurance is written. When this cancellation is made, the insured shall receive a refund of a portion of the premium paid as follows: If the policy is decreasing term life insurance or health and accident insurance, the amount of the refund shall be computed under the Rule of Seventy Eight's (78's) refund method, which is the method specified in section 408.170, RSMo for refund of interest. If the policy is level term insurance or personal property insurance, the amount of the refund shall be that portion of the insurance premium paid which the number of full unexpired months of the policy after the date of renewal or refinancing bears to the total number of full months for which the premium was paid. Where the amount of the refund is less than one dollar (\$1), no refund need be made. Not more than one (1) policy of life and one (1) policy of health and accident may be in force at any one (1) time.

(24) Whenever any loan is prepaid in full, the lender shall release all claims to any insurance policy sold, requisitioned, required or accepted in connection with any consumer credit loan and the lender shall return any policy held by it to the borrower.

(25) Every lender shall disclose in the annual report the income received by it from insurance sold in connection with consumer credit loans, together with the expense incurred in connection with this insurance and other relevant information as the commissioner finance may prescribe.

(26) Every lender shall keep a record of each insurance transaction, available for inspection by the commissioner of finance, his/her deputies and examiners.

(27) If an issuing company shall cancel the original motor vehicle policy, the responsibility for securing new insurance of similar coverage rests upon the lender and, in the absence of this insurance, full refund of unearned premium shall be paid to the borrower in cash or credit to the borrower's loan account. In no case may a lender foreclose the account or seize the mortgaged chattel by reason of failure to furnish insurance under thirty (30) days' written notice, delivered to the borrower in person or by registered mail. This notice shall require the borrower to provide similar insurance coverage within ten (10) days as provided in the mortgage clause with the policy or to pay off his/her loan or loan contract without penalty of costs of suit, attorney's fees or otherwise.

(28) The lender shall not require, as a condition of making any loan or the renewal or extension of the loan, that the borrower shall negotiate through a particular insurance company or insurance agent or broker any policy of insurance or renewal of insurance.

(29) The lender shall display in a conspicuous place the following: "Credit insurance is available to borrowers. No new loan, renewal or extension thereof is conditioned upon purchase of such insurance from the lender or any particular insurer or agent."

AUTHORITY: section 367.170, RSMo 1986. Original rule filed Oct. 2, 1951, effective Oct. 12, 1951. Amended: Filed Feb. 23, 1952, effective March 5, 1952. Amended: Filed Feb. 26, 1952, effective March 8, 1952. Amended: Filed July 17, 1953, effective July 27, 1953. Amended: Filed May 21, 1954, effective May 31, 1954. Amended: Filed July 1, 1957, effective July 11, 1957. Amended: Filed Aug.*

6, 1957, effective Aug. 16, 1957. Amended: Filed Jan. 6, 1958, effective Jan. 16, 1958. Amended: Filed Aug. 31, 1959, effective Sept. 10, 1959. Amended: Filed Sept. 25, 1961, effective Oct. 5, 1961. Amended: Filed Aug. 11, 1965, effective Aug. 21, 1965. Amended: Filed March 11, 1966, effective March 21, 1966. Amended: Filed Aug. 12, 1967, effective Aug. 22, 1967. Amended: Filed April 8, 1968, effective April 18, 1968. Amended: Filed April 13, 1978, effective Aug. 11, 1978. Amended: Filed June 14, 1978, effective Sept. 11, 1978. Amended: Filed April 12, 1979, effective July 12, 1979. Amended: Filed Feb. 13, 1980, effective June 12, 1980. Amended: Filed July 15, 1981, effective Oct. 15, 1981.

**Original authority: 367.170, RSMo 1951, amended 1984.*