



**Rules of
Department of Commerce and
Insurance**

**Division 1140—Division of Finance
Chapter 11—Section 500 Companies**

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**Title 20—DEPARTMENT OF
COMMERCE AND INSURANCE
Division 1140—Division of Finance
Chapter 11—Section 500 Companies**

20 CSR 1140-11.030 Licensing and General Provisions

PURPOSE: Section 500 companies are required by section 408.500.1 to 408.506, RSMo, to obtain a license from the director of finance. This rule establishes guidelines concerning licenses, which locations will require a license and other general provisions.

(1) License. The license issued by the Division of Finance shall specify the location of the section 500 company and shall be prominently displayed therein. The license shall not be transferable or assignable except that the company named in any original license may obtain a change of address without charge, upon approval of the director.

(2) Display of Notice. The notice required by section 408.500.4, RSMo shall be prominently displayed in the section 500 company office. The notice shall be clearly readable from any place in the office where loans are closed and shall include the name, address, and telephone number of the Division of Finance.

(3) Locations. The conduct of other business on the premises will not bar the issuance of a section 500 company license but the records of the company must be kept strictly separate from those of any other enterprise. Further, there should be enough of a distinction, through the use of signage or other means, that the customer can determine that s/he is dealing with a separate company. Under no circumstances will more than one (1) section 500 company license be issued to the same address.

(4) Additional Locations. Any location at which a section 500 company permits the acceptance or execution of any forms or documents relating to section 500 company business shall be deemed to be a place of business of the company and shall require a separate license.

(5) Contract Copies. A section 500 company shall provide the borrower with a copy of the signed contract at the time the loan is made and at each renewal. The company shall also retain a copy for the borrower's file. Each contract shall contain the name and address of the lender and of the borrower.

(6) Interest—Loan Origination Fee—When Earned. Section 408.500.5, RSMo provides that a loan repaid by the close of the section 500 company's next full business day shall be at no cost to the borrower. Section 500 loans which are not so repaid shall bear daily interest to be determined by applying the contract rate of interest to the principal balance and dividing that result by the number of days in the year. The loan origination fee, if permitted by section 408.140.1(1), RSMo is earned at the time the loan is made, unless the borrower returns the full principal balance by the end of the section 500 company's next full business day. The fee is only available on loans with terms of thirty (30) days or longer.

(7) Post-Dated Check. A post-dated check shall not be considered security or collateral; provided, however, that no post-dated check may bear any date earlier than the due date of the loan. A section 500 company shall not accept undated checks, checks that have been altered in any manner, or checks that do not bear the signature of the borrower. Should any such check be accepted, or should any post-dated check be deposited prior to its stated date, the section 500 company shall be barred from recovery of any interest or fees on the loan. A section 500 company shall not accept more than one (1) post-dated check per loan or renewal. A check left with a section 500 company shall be returned to the maker immediately upon payment, or renewal, of the loan.

(8) Renewals. The General Assembly has clearly indicated its intention that no borrower is to be indebted to a section 500 company on any particular loan for any great period of time. This is evidenced by language that a) requires the borrower to begin reducing the principal amount of the loan by not less than five percent (5%) with the first renewal, b) limits the number of renewals to six (6), and c) provides for seventy-five percent (75%) of the original loan amount as the maximum amount of interest and fees that a lender may collect. In determining whether a renewal or something else which does not count as a renewal has occurred, the Division of Finance will insist upon absolute good faith from its licensees and will look to substance rather than form. Generally, if the customer enters the office indebted and leaves the office indebted, a renewal will be assumed to have taken place unless the loan was paid in full in cash. A section 500 company is required by section 408.500.7, RSMo to consider, at the inception of the loan, the borrower's ability to repay. This requires the section 500 company to consider the borrow-

er's ability to make the required principal reductions when necessary. Exceptions to this requirement may result in enforcement as provided in sections 408.500.9 and 408.500.10, RSMo, which may include fines and/or revocation or suspension of the license. If a loan is renewed without the required principal reduction, the section 500 company shall reduce the principal of the loan to an amount that is consistent with the requirements of section 408.500.6, RSMo.

(9) Collection by Automated Clearing House (ACH). Checks may be presented for collection using an automated clearing house; however, a section 500 company shall not use a series of ACH transactions to collect a single check. Fees for dishonored ACH transactions shall be limited to those for refused instruments.

(10) Receipt for Payments. A receipt shall be given for the amount of each payment made in currency.

(11) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

AUTHORITY: sections 361.105, RSMo 2000 and 408.500, RSMo Supp. 2002. This rule originally filed as 4 CSR 140-II.030. Original rule filed Jan. 16, 2003, effective Aug. 30, 2003. Moved to 20 CSR 1140-II.030, effective Aug. 28, 2006.*

**Original authority: 361.105, RSMo 1967, amended 1993, 1994, 1995 and 408.500, RSMo 2002.*

20 CSR 1140-11.040 Record Keeping

PURPOSE: Section 500 companies are subject to regulation and examination by the Division of Finance, pursuant to sections 408.500.1 to 408.506, RSMo, for the purpose of assuring compliance with all applicable laws. This rule establishes minimum record keeping requirements to facilitate examination and regulation.

(1) Books and Records. No special system of records is required by the director of finance. The records of a section 500 company 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 expenses



may be readily ascertained.

(2) Cash Journal. A cash book or cash journal shall contain a chronological record of the receipt and disbursement of all funds including all items of receipt or expenditures incidental to the granting or collection of section 500 company loans. Entries in the cash journal shall be separate from all other business activities.

(3) General Ledger. The general ledger shall be posted at least monthly. A trial balance sheet and profit-and-loss statement shall be available to the examiner. When the general ledger is kept at a central office other than the location of the registered office, the central office shall provide information required by this section.

(4) Account Ledger. An individual record shall be kept for each borrower which shall include at least the following items:

- (A) Name of the borrower;
- (B) Date the original loan was made;
- (C) Original loan amount;
- (D) Interest rate;
- (E) Dates payments were received;
- (F) Amount of each payment received;
- (G) Amount of each payment applied to interest;
- (H) Amount of each payment applied to principal;
- (I) Amount applied to late charges, if any;
- (J) Amount applied to returned check charges, if any;
- (K) Principal balance; and
- (L) Renewal number.

(5) Records Available. All books, records and papers, including the contracts and applications, shall be kept in the office of the section 500 company and made available to the Division of Finance for examination at any time without previous notice. When contracts are hypothecated or deposited with a financial institution or other party in connection with credit, access must be provided for the examiner pursuant to agreement between the section 500 company and the other financial institution(s).

(6) Handling of Errors. When an error is made on the individual ledger or general ledger of a manual operation, 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 whatsoever shall be made in any record.

(7) Records to be Maintained. A section 500

company shall preserve all records of company transactions, including cards used in a card system, if any, for at least two (2) years after making the final entry with respect to any section 500 company agreement. Preservation of records may be by microfilm, microfiche or electronic means.

(8) Contracts Paid in Full. When a section 500 note is paid in full, the original contract or a copy thereof shall be marked "paid" and returned to the borrower.

(9) Penalties. Violations of this rule shall be regarded as violations of sections 408.500.1 to 408.506, RSMo and subject to the same penalties as provided in sections 408.500.9 and 408.500.10, RSMo.

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