

UNSECURED LOANS OF FIVE HUNDRED DOLLARS OR LESS

Introduction & Overview

Sections 408.500 to 408.506 are the governing authority for specific types of small, unsecured loans. The primary body of law covering these loans is found in the regulations, 20 CSR 1140-11.030 and 20 CSR 1140-11.040. These are short-term, typically single payment loans commonly referred to as “Payday” loans.

The following is a quick reference guide for 408.500 to 408.506, and the related regulations.

408.500.1	Requires loans to be unsecured and \$500 or less. Requires a license from the Division of Finance with an annual fee of \$300. Excludes consumer credit lenders and pawnbrokers from licensing. Requires Truth in Lending and Regulation Z disclosures, and requires the borrower’s signature on all loans, extensions, or renewals.
408.500.2	Provides for simple interest and fees in accordance with 408.100 and 408.140. Establishes a penalty provision for violations of the section.
408.500.3	The cost of collection expenses are not considered as a fee or charge for the purposes of this section. Limits collection costs to court costs and attorney fees awarded by the court.
408.500.4	Requires the lender to conspicuously post the maximum annual percentage rates currently being charged and a statement concerning the short-term nature of the loans.
408.500.5	Requires a notice to the borrower containing the language in 408.500.4 and a statement that the loan may be canceled by the borrower by returning the funds by the end of the lender’s next full business day. The statement must be acknowledged by the borrower’s signature.
408.500.6	Limits the number of renewals to six and requires a five percent reduction of the original principal amount commencing with the first renewal.
408.500.7	Lenders must consider the borrower’s ability to reasonably repay the loan and must retain records for at least two years.
408.500.8	A licensee must notify the director to request an examination 10 days prior to ceasing operations. The licensee must retain records for at least two years.
408.500.9	Permits the director to suspend or revoke licenses subject to a hearing.
408.500.10	Permits the director to issue cease and desist orders enforceable by fines of not more than \$1,000 per day.
408.505.1	Establishes coverage of the section for lenders licensed, or who should have been licensed, pursuant to 408.500, lenders who are deemed to have disguised loans to evade the section, and lenders who have engaged in subterfuge to avoid the section.
408.505.2	Creates minimum and maximum loan terms of 14 and 31 days respectively.
408.505.3	Permits only interest and fees as provided for in 408.100 and 408.140 and limits the total amount of accumulated interest and fees to 75% of the initial loan amount for the life of the loan including all renewals.
408.505.4	Defines completed and renewed loans.
408.505.5	Prohibits a loan from being repaid by a loan from the same lender or an affiliate and limits the aggregate of loans from a lender and affiliate to the same borrower to \$500. The lender may comply with this section by having the borrower sign a statement certifying that the above conditions are true.
408.505.6	No functional applicability.
408.505.7	Prohibits the enforcement of any contract in violation of the terms of this section.
408.505.8	Restricts the crime of passing a bad check to accounts closed before the negotiation date and checks for which payment was stopped.
408.505.9	Prohibits a lender from disguising transactions with the purpose or result of evading the provisions of this section.
408.505.10	Limits the provisions of this section to entities subject to 408.500 and this section.

The following is a quick reference guide for each of the regulations relating to 20 CSR 1140-11.030 and 20 CSR 1140-11.040.

20 CSR 1140-11.030 (1)	Requires the license to be prominently displayed.
20 CSR 1140-11.030 (2)	Requires the lender to conspicuously display the notice provided for in 408.500.4 and also requires the notice to include the name, address, and phone number of the Division of Finance.
20 CSR 1140-11.030 (3)	Places certain restrictions on the licensee's location.
20 CSR 1140-11.030 (4)	Requires a separate license for each location.
20 CSR 1140-11.030 (5)	Requires the lender to provide the borrower with a copy of the contract, and to retain a copy for the file.
20 CSR 1140-11.030 (6)	Details how interest and fees are earned.
20 CSR 1140-11.030 (7)	Provides certain restrictions and limitations for post-dated checks held by the lender.
20 CSR 1140-11.030 (8)	Defines renewals and the renewal process.
20 CSR 1140-11.030 (9)	Sets forth procedures for collection by Automated Clearing House.
20 CSR 1140-11.030 (10)	Requires a receipt be given for each payment made in currency.
20 CSR 1140-11.030 (11)	Provides penalty provisions for violations of this rule.
20 CSR 1140-11.040 (1)	Establishes minimum recordkeeping requirements.
20 CSR 1140-11.040 (2)	Requires the lender to maintain a cash journal.
20 CSR 1140-11.040 (3)	Requires the lender to maintain a general ledger, a trial balance sheet, and a profit and loss statement.
20 CSR 1140-11.040 (4)	Requires the lender to maintain an individual account ledger.
20 CSR 1140-11.040 (5)	Establishes certain record maintenance requirements and permits examiner access to records.
20 CSR 1140-11.040 (6)	Prohibits erasures on individual ledgers.
20 CSR 1140-11.040 (7)	Establishes a record retention requirement.
20 CSR 1140-11.040 (8)	Requires paid notes to be returned to the borrower.
20 CSR 1140-11.040 (9)	Provides penalty provisions for violations of this rule.

The following is a cross-reference guide to some of the more fundamental sections of 408.500 to 408.506 and the various regulations governing these loans.

Additional Fees	408.500.2, 408.505.3
Examination Authority	20 CSR 1140-11.040 (5)
License Display	20 CSR 1140-11.030 (1)
Loan Term	408.505.2
Maximum Loan Amount	408.500.1, 408.505.1(1)
Notice Display	408.500.4, 20 CSR 1140-11.030 (2)
Paid Notes	20 CSR 1140-11.040 (8)
Post Dated Checks	20 CSR 1140-11.030 (7)
Principal Reduction	408.500.6, 20 CSR 1140-11.030 (8)
Rates	408.500.2, 408.505.3, 20 CSR 1140-11.030 (8)
Record Retention	20 CSR 1140-11.040 (7)
Renewals	408.500.6, 20 CSR 1140-11.030 (8)