

Michigan Office of Administrative Hearings and Rules

Administrative Rules Division (ARD)

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**REGULATORY IMPACT STATEMENT
and COST-BENEFIT ANALYSIS (RIS)**

Agency Information:

Department name:

Insurance and Financial Services

Bureau name:

Financial Institutions

Name of person filling out RIS:

Michele Estrada

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Rule Set Information:

ARD assigned rule set number:

2019-32 IF

Title of proposed rule set:

Debt Management

Comparison of Rule(s) to Federal/State/Association Standard:

1. Compare the proposed rules to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist.

There are no parallel federal rules or standards set by a state or national licensing agency or accreditation association that address the same subject matter as the rules do.

A. Are these rules required by state law or federal mandate?

No. These rules are not required by state law or federal mandate.

B. If these rules exceed a federal standard, please identify the federal standard or citation, describe why it is necessary that the proposed rules exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no applicable federal standards.

2. Compare the proposed rules to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities.

Other states have statutes that regulate the same types of entities; these statutes are very similar to Michigan's in the scope, extent, and depth of regulation.

A. If the rules exceed standards in those states, please explain why and specify the costs and benefits arising out of the deviation.

These rules do not exceed standards in similarly situated states.

3. Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rules.

There are no laws, rules, or other legal requirements that duplicate, overlap, or conflict with these rules.

A. Explain how the rules have been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

There are no other federal, state, or local laws applicable to the same activity or subject matter.

4. If MCL 24.232(8) applies and the proposed rules are more stringent than the applicable federally mandated standard, a statement of specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There is no applicable federally mandated standard.

5. If MCL 24.232(9) applies and the proposed rules are more stringent than the applicable federal standard, either the statute that specifically authorizes the more stringent rules or a statement of the specific facts that establish the clear and convincing need to adopt the more stringent rules and an explanation of the exceptional circumstances that necessitate the more stringent standards is required.

There is no applicable federally mandated standard.

6. Identify the behavior and frequency of behavior that the proposed rules are designed to alter.

The proposed rules are being amended to provide consistency with the DMA. The rules are intended to provide clarity to regulatory requirements set forth in the DMA. The rules were promulgated in 1979 while the DMA was last amended in 2015. The proposed rules will omit obsolete terminology and/or conflicting regulatory requirements with the DMA while adding clarifying terminology/statements. It will also provide covered parties clarity with regard to implementing business practices to comply with the regulatory requirements set forth in the DMA.

A. Estimate the change in the frequency of the targeted behavior expected from the proposed rules.

Upon promulgation, the proposed rules will align with the DMA. In addition, covered parties will benefit from the consistency.

B. Describe the difference between current behavior/practice and desired behavior/practice.

Upon promulgation, the proposed rules will align with the DMA. In addition, covered parties will have clarity on regulatory requirements so that compliance can be better achieved.

C. What is the desired outcome?

The desired outcome is that the modernization of the proposed rules is consistent with the DMA.

7. Identify the harm resulting from the behavior that the proposed rules are designed to alter and the likelihood that the harm will occur in the absence of the rule.

No harm is expected; licensees must already comply with the statute.

A. What is the rationale for changing the rules instead of leaving them as currently written?

Modernizing the rules will better align with the DMA.

8. Describe how the proposed rules protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

The proposed rules will continue to protect Michigan citizens as they have in the past. There is no additional burden to licensees as they must already comply with the statute.

9. Describe any rules in the affected rule set that are obsolete or unnecessary and can be rescinded.

DIFS has proposed to rescind R 451.1229, R 451.1231, R 451.1232, and R 451.1244. These rules were incorporated into the Debt Management Act, MCL 451.411 et seq., by PA 362 of 2014.

10. Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings for the agency promulgating the rule).

There will be no fiscal impact on DIFS resulting from the amendments to these rules.

11. Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rules.

No agency appropriation or funding source is necessary because there are no expenditures associated with the amended rules.

12. Describe how the proposed rules are necessary and suitable to accomplish their purpose, in relationship to the burden(s) the rules place on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts.

The amended rules are necessary and suitable to accomplish the purpose of eliminating duplication between the Debt Management Act and these rules. There is no expected burden on individuals because regulated entities are already complying with the statute.

A. Despite the identified burden(s), identify how the requirements in the rules are still needed and reasonable compared to the burdens.

There is no expected burden. The Debt Management Act permits the DIFS Director to promulgate rules to effectuate the statute. These rules are necessary and reasonable to assist industry in determining requirements necessary to comply with the Debt Management Act.

13. Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions for other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Include the cost of equipment, supplies, labor, and increased administrative costs in both the initial imposition of the rule and any ongoing monitoring.

There is no expected effect in revenues to other state or local governmental units.

14. Discuss any program, service, duty, or responsibility imposed upon any city, county, town, village, or school district by the rules.

There are no programs, services, duties, or responsibilities imposed upon any city, county, town, village, or school district by these rules.

A. Describe any actions that governmental units must take to be in compliance with the rules. This section should include items such as record keeping and reporting requirements or changing operational practices.

Governmental units do not have to comply with these rules.

15. Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rules.

No appropriation or funding source has been secured because no additional expenditures are associated with the proposed rules.

16. In general, what impact will the rules have on rural areas?

There is no anticipated impact on rural areas.

A. Describe the types of public or private interests in rural areas that will be affected by the rules.

Debt management licensees in rural areas will be affected by the rules to the same degree as debt management licensees in non-rural areas.

17. Do the proposed rules have any impact on the environment? If yes, please explain.

The proposed rules will not have any impact on the environment.

18. Describe whether and how the agency considered exempting small businesses from the proposed rules.

The proposed rules are intended to provide alignment with changes in the statute. All licensees must follow the statute, regardless of size. DIFS expects that updates to the rules will be received favorably by industry. For these reasons exempting small businesses is not considered necessary or appropriate.

19. If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rules on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rules upon small businesses as described below (in accordance with MCL 24.240(1)(a-d)), or (b) the reasons such a reduction was not lawful or feasible.

The described reduction was not feasible because regulation of the affected entities must be uniform in order to be effective.

A. Identify and estimate the number of small businesses affected by the proposed rules and the probable effect on small businesses.

The number of licensees that qualify as small businesses is not known because licensees do not report their number of employees to DIFS.

B. Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rules after projecting the required reporting, record-keeping, and other administrative costs.

DIFS did not establish differing compliance or reporting requirements or timetables for small businesses because all licensees must be regulated uniformly.

C. Describe how the agency consolidated or simplified the compliance and reporting requirements for small businesses and identify the skills necessary to comply with the reporting requirements.

DIFS did not consolidate or simplify compliance or reporting requirements or timetables for small businesses because all licensees must be regulated uniformly.

D. Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The rules do not require design or operation standards, so the Department of Insurance and Financial Services did not establish performance standards to replace them.

20. Identify any disproportionate impact the proposed rules may have on small businesses because of their size or geographic location.

The rules are not expected to have a disproportionate impact on small businesses because of their size or geographic location.

21. Identify the nature of any report and the estimated cost of its preparation by small businesses required to comply with the proposed rules.

The proposed rules do not provide for any report and costs by small businesses other than what is already stated in the DMA.

22. Analyze the costs of compliance for all small businesses affected by the proposed rules, including costs of equipment, supplies, labor, and increased administrative costs.

The proposed rules should not require further costs by small businesses in the areas of equipment, supplies, labor, and increased administrative costs other than costs already undertaken in order to achieve and maintain compliance with the DMA.

23. Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rules.

The proposed rules should not require further costs by small businesses in the areas of legal, consulting, or accounting services other than costs already undertaken in order to achieve and maintain compliance with the DMA.

24. Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

As stated in items 21, 22, and 23, the proposed rules should not require further costs by small businesses other than costs already undertaken in order to achieve and maintain compliance with the DMA.

25. Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

Not applicable. The Department of Insurance and Financial Services has not exempted or lessened standards of compliance for small businesses.

26. Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

If DIFS had exempted or set lesser compliance standards for small businesses, the public interest would be adversely affected because not all licensees would be regulated consistently, potentially resulting in increased instances of noncompliance.

27. Describe whether and how the agency has involved small businesses in the development of the proposed rules.

The Department of Insurance and Financial Services has not involved small businesses, given that the proposed rules are intended to align with requirements already in the DMA.

A. If small businesses were involved in the development of the rules, please identify the business(es).

Small businesses were not involved in the development of the rules.

28. Estimate the actual statewide compliance costs of the rule amendments on businesses or groups.

Compliance costs will be negligible for businesses and groups; all affected businesses already have implemented processes for complying with the DMA.

A. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rules.

Licensees under the DMA will be directly affected by, bear the cost of, and also directly benefit from the proposed rules

B. What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

Licensees affected by this rule are already required to comply with the DMA; therefore, there will be no, or very little, additional costs imposed as a result of these proposed rules.

29. Estimate the actual statewide compliance costs of the proposed rules on individuals (regulated individuals or the public). Include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping.

There are no additional compliance costs associated with the proposed rules.

A. How many and what category of individuals will be affected by the rules?

Individuals will not be affected by the rules. The costs they will incur are already addressed in the DMA.

B. What qualitative and quantitative impact do the proposed changes in rules have on these individuals?

Impact is expected to be minimal; licensees currently must comply with the DMA. The rules will provide alignment with the DMA.

30. Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rules.

Little or no cost reductions are anticipated for businesses, individuals, groups of individuals, or governmental units due to the proposed rules.

31. Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rules. Please provide both quantitative and qualitative information, as well as your assumptions.

The primary and direct benefits of the proposed rules will be consistency between the current rules and the DMA.

The secondary benefit of the proposed rules is covered parties (i.e. licensees) will have modernized regulations that allow for consistency and clarity.

32. Explain how the proposed rules will impact business growth and job creation (or elimination) in Michigan.

DIFS does not anticipate any impact on business growth or job creation/elimination in Michigan as a result of the rules.

33. Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The proposed rules will apply equally to all individuals and businesses regardless of their industrial sector, segment of the public, business size, or geographic location.

34. Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of the proposed rules and a cost-benefit analysis of the proposed rules.

DIFS reviewed other similarly situated states' statutes (via Westlaw) to confirm that they are similar in scope and extent of regulation. No other sources were consulted.

A. How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rules.

No estimates or assumptions are made in this regulatory impact statement.

35. Identify any reasonable alternatives to the proposed rules that would achieve the same or similar goals.

There is no reasonable alternative to the proposed rules. The rules are revisions based on the amendment of the DMA, effective March 16, 2015.

A. Please include any statutory amendments that may be necessary to achieve such alternatives.

The proposed amendments are necessary due to statutory amendments, and cannot be achieved by additional statutory amendments.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

Regulation of the debt management industry is performed almost exclusively by state governments. There are no private mechanisms that can regulate these entities.

36. Discuss the feasibility of establishing a regulatory program similar to that proposed in the rules that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

The Department of Insurance and Financial Services did not consider significant alternatives to these rules because a key goal in promulgating these rules is to create consistency between the rules and the DMA.

38. As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

The Department of Insurance and Financial Services regularly provides instructions to regulated persons and entities on compliance with the DMA and applicable administrative rules. In addition, after the rules have been promulgated, the Director of the Department of Insurance and Financial Services will issue forms with instructions for the licensee population that will inform them of the modernization and required continued compliance with the rules. Debt Management companies are generally sophisticated business entities that will be familiar with the regulatory processes and compliance with regulatory requirements.