

3 AAC 11.010 is repealed and readopted to read:

3 AAC 11.010. Deferred deposit advances applications. (a) A person applying for a deferred deposit license under AS 06.50.010 must submit a separate application to the department through the registry for each physical location, and each Internet website, and each App through which a person conducts business. In addition to the information required through AS 06.50.020, the application must contain

- (1) a complete Form MU1;
- (2) a complete Form MU2 for each control person and office manager;
- (3) the applicant's current business license issued under AS 43.70;
- (4) for an applicant that is a corporation, a limited liability company, a

partnership, or another entity,

(A) a brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(B) documentation of the business organization and authorization under (b) through (e) of this section; and

(C) a copy of the current filing, with the department division overseeing corporations, that designates the registered agent in the state;

(5) a copy of the business name registration form for the legal name of the applicant, submitted to and stamped "received" by the department division overseeing corporations;

- (6) if the applicant is applying for the use of one or more other trade names on

the Form MU1, a copy of the business name registration form for each other trade name, submitted to and stamped "received" by the department division overseeing corporations;

(7) satisfactory proof that the person holds at least \$25,000 in cash assets for each location engaging in deferred deposit activity;

(8) proposed and current instruments that are related to advance transactions for the purpose of investigating compliance with AS 06.50, other state law, and federal law requirements, including

(A) the advance agreement;

(B) the disclosure statements required under AS 06.50 and under Federal law;

(C) the maximum advance terms and fees;

(D) the required fee notice and descriptions of where the notice will be posted in each location; and

(E) other documents used in the regular course of business;

(9) a fully executed bond submitted electronically through the registry as required by AS 06.50.040;

(10) a complete set of fingerprints in a form acceptable to the registry for the applicant and each control person of the applicant for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive that information;

(11) a personal history and experience for the applicant and each control person of the applicant on a form prescribed by the registry, and authorization for the registry and the department to obtain information related to administrative, civil, or criminal findings by a governmental jurisdiction; and

(12) any other information the department reasonably requires with respect to the applicant.

(b) If the applicant is a corporation, in addition to the requirements in subsection (a), the applicant must submit through the registry a certified copy of

(1) complete and current articles of incorporation and bylaws, and a certificate of good standing issued by the domestic state; and

(2) if the corporation is not organized in this state, a copy of the corporation's certificate of authority to transact business in this state.

(c) If the applicant is a limited liability company, in addition to the requirements in subsection (a), the applicant must submit through the registry a certified copy of

(1) complete and current articles of organization and operating agreement, and a certificate of good standing issued by the domestic state; and

(2) if the limited liability company is not organized in this state, a copy of the limited liability company's certificate of registration in this state, required before conducting affairs in this state.

(d) If the applicant is a limited partnership, in addition to the requirements in subsection (a), the applicant must submit through the registry a certified copy of

(1) the complete and current certificate of limited partnership and the partnership agreement, and a certificate of good standing issued by the domestic state; and

(2) if the limited partnership is not organized in this state, a copy of the limited partnership's certificate of registration in this state, required before transacting business in this state.

(e) If the applicant is a limited liability partnership, in addition to the requirements in subsection (a), the applicant must submit through the registry a certified copy of

(1) the complete and current certificate of qualification and the partnership agreement, and a certificate of good standing issued by the domestic state; and

(2) if the limited liability partnership is not organized in this state, a copy of the limited liability partnership’s statement of foreign qualification required before transacting business in this state.

(f) If the answer to any of the disclosure questions on the Form MU1 or Form MU2 is "yes," the applicant must provide complete details in writing of each event or proceeding, including as applicable, the name and location of the court, the docket or case number, and the status and summary of the event or proceeding, and a copy of an applicable charge, order, or consent agreement submitted through the registry.

(g) To obtain and maintain a license under AS 06.50 a person shall comply with all requirements of, including the payment of fees assessed by the registry.

(h) Reasonable investigation expenses incurred by the department when processing and reviewing an initial or renewal license application to do business under AS 06.50 must be paid in full by the applicant prior to license approval. (i) A nonrefundable fee as referenced in 3 AAC 11.020 must be paid at time of application through the registry.

(Eff. 1/1/2005, Register 172; am __/__/__, Register __)

Authority:	AS 06.01.010	AS 06.50.020	AS 06.50.030
	AS 06.50.040	AS 06.50.050	AS 06.50.080
	AS 06.50.330	AS 06.50.400	AS 06.50.410

AS 06.50.460	AS 06.50.500	AS 06.50.510
AS 06.50.600	AS 06.50.610	

3 AAC 11.020 is repealed and readopted to read:

3 AAC 11.020. Fee for initial or renewed license. (a) The nonrefundable fee for an initial or biennial renewed license to do business under AS 06.50 is \$3,000, which shall be paid to the department through the registry in two annual installments of \$1,500 each.

(b) Nothing in this section relieves an applicant from the obligation to pay processing or other fees that the registry sets for services that the registry provides. (Eff. 1/1/2005, Register 172; am __/__/__, Register _____)

Authority: AS 06.50.030 AS 06.50.600 AS 44.33.020
 AS 06.50.080

3 AAC 11.030 is repealed.

3 AAC 11.030. Duration of license. Repealed. (Eff. 1/1/2005, Register 172; repealed __/__/__, Register _____)

3 AAC 11.040 is amended to read:

3 AAC 11.040. Time for renewal application. A request to renew a deferred deposit advance license shall be made to the department through the registry. A licensee seeking to renew a license must submit the renewal application, bond, and fee to the department so that the department receives the renewal application, bond, and fee no later than November 1 of the year in which the license is due to expire. (Eff. 1/1/2005, Register 172;

Authority: AS 06.50.020 AS 06.50.030 AS 06.50.080
 AS 06.50.600

3 AAC 11.050 is amended to read:

3 AAC 11.050. Annual Report [REPORTS TO THE DEPARTMENT]. In addition to the information required in AS 06.50.310(b)(1) – (10), an annual report to the department, **through the registry,** must include the

- (1) total number of advance recipients offered a payment plan under AS 06.50.550(a)(2);
- (2) average length of the payment plans entered into under AS 06.50.550(a)(2);
- (3) total number of advance recipients whose payment obligations were assigned to third parties for collection; [AND]
- (4) total number of advance recipients against whom the licensee initiated a court action under AS 06.50.550(b);

(5) reports of financial condition of the licensee which must be in the form and contain the information that the registry may require; and

(6) any other information the department reasonably requires with respect to the licensee under AS 06.50.550(b). Eff. 1/1/2005, Register 172

Authority: AS 06.50.300 AS 06.50.310 AS 06.50.600

3 AAC 11.060 is amended to read:

3 AAC 11.060. Posted notice of license. In addition to posting the information required in AS 06.50.500, the licensee must post **notice that license information may be found through the registry's consumer access web site** [ITS CURRENT LICENSE, OR A COPY OF THE SAME SIZE AND LEGIBILITY,] in each business location, **to include Internet web sites and Apps,** so that the **notice** [LICENSE OR COPY] is **clear and** conspicuous to **the consumer** [AN ADVANCE RECIPIENT OR A POTENTIAL ADVANCE RECIPIENT].

History: Eff. 1/1/2005, Register 172

Authority: AS 06.50.500 AS 06.50.600

3 AAC 11 is amended by adding new sections to read:

3 AAC 11.080. Right to challenge information entered into the registry by the

department.(a) A person required to be licensed under this chapter may challenge information pertaining to the person that is entered into the registry by the department. The challenge must be limited to the factual accuracy of the information pertaining to the person's record entered into the registry by the department. The requested relief must be limited to correction of the information submitted by the department to the registry pertaining to the person's record. The challenge must be in writing, must set out the specific information being challenged, and must include supporting evidence. A person may not submit a challenge for the purpose of protesting disciplinary action taken against the person by the department or to appeal the underlying reasons for the disciplinary action.

(b) The department will review all information submitted by a person to support a challenge and will determine the merits of the challenge. The department will issue a written determination and send a copy of the determination to the last known address of the person making the challenge by certified mail, return receipt requested. If the department determines that the information submitted by the department to the registry is factually incorrect, the department will take prompt steps to correct the information submitted. The department will not grant relief other than correction of the information submitted to the registry by the department.

(c) The department's determination is the final decision on the challenge, unless the person making the challenge files a written request for a hearing under AS 44.64.030 no later than 30 days after receipt of the department's determination.

(Eff. __/__/__, Register __; am __/__/__, Register __)

3 AAC 11.090. Surety bond required of deferred deposit advance licensee. (a) An applicant for a deferred deposit advance license under AS 06.50 shall file with the department a bond with one or more sureties. The amount of the bond must be at least \$25,000 for a business with one location or \$50,000 for a business with multiple locations as described in 3 AAC 11.010. The bond must be executed by the applicant and by a surety company authorized to conduct a surety business in the state. The bond must secure the performance by the deferred deposit advance licensee of its obligations under AS 06.50 and this chapter and must be in a form acceptable to the department.

(b) The bond must run to the benefit of the department, the Department of Law, or another person with a claim for relief because of a violation of AS 06.50 or this chapter by a deferred deposit advance licensee.

(c) The bond must provide that, no later than 14 days after receipt of a final order issued by a court or the department that finds the deferred deposit advance licensee has violated AS 06.50 or this chapter and orders the deferred deposit licensee to pay a sum of money as a result of the violation, the surety shall pay the amount required in the final order to be paid to the department, the Department of Law, or another person up to the full amount of the bond. The bond must provide that if, at the time the surety makes payment under the bond, the surety has received a final order under this subsection from more than one claimant and the total amount of the claims exceeds the bond amount, the surety shall make a pro rata payment to all claimants who have submitted a final order to the surety under this subsection.

(d) No later than 10 days after the deferred deposit advance licensee receives notice of an action against the deferred deposit advance licensee that could result in recovery against the

bond, a deferred deposit advance licensee shall provide written notice or electronic mail notice to the department of the action or final order to the department.

(e) The bond must provide that, no later than 10 days after the surety receives notice of an action against the bond or a final order of a court under (c) of this section, the surety shall provide written notice or electronic mail notice of the action or final order to the department.

(f) The bond must provide that immediately upon a payment by the surety under the bond, the surety shall provide written notice or electronic mail notice of the payment to the department.

(g) A deferred deposit advance licensee shall ensure that the full amount of the required bond is in effect continuously while the deferred deposit advance licensee is licensed and for a three-year period after the department revokes or otherwise terminates the license. Failure to maintain the surety bond at the level required in this section is grounds for immediate suspension of the deferred deposit advance license under AS 06.50.300. If the department receives notice of a final order of a court under (c) of this section or submits a final order of the department to the surety under (c) of this section, the department may require the filing of a new bond. If a new bond is required, the deferred deposit advance licensee shall file a new bond in the required amount no later than 30 days after receiving notice from the department. Immediately upon payment by the surety under the bond the deferred deposit advance licensee shall file a new bond with the department.

(h) The bond must provide that the surety shall provide written notice or electronic mail notice to the department at least 10 days before canceling the surety bond for any reason. Upon receipt by the department of a notice of cancellation, the department will notify the deferred deposit advance licensee who is the principal on the bond of the effective date of the cancellation

of the bond and that the deferred deposit advance license will be suspended when the bond is cancelled, unless the deferred deposit advance licensee furnishes the department with an equivalent bond before the effective date of the cancellation. The department will send the notice to the deferred deposit advance licensee institution through the registry. The department will suspend the deferred deposit advance license under AS 06.50.300, on the effective date of the cancellation, unless the surety bond has been replaced, renewed, or otherwise reinstated.

(1) The remedies provided under this section are cumulative and nonexclusive and do not affect any other remedy available at law. (Eff. __/__/__, Register ____)

Authority: AS 06.50.010 AS 06.50.040 AS 06.50.300
AS 06.50.310 AS 06.50.600

3 AAC 11.100 Department notifications. The department may use the registry as an agent to post notices to deferred deposit advance licensees and applicants for deferred deposit advance licenses. These notices may include deficiencies, application and license status changes, and request for additional information. The registry will serve as the primary license record. (Eff. __/__/__, Register __; am __/__/__, Register __)

Authority: AS 06.50.010 AS 06.50.020 AS 06.50.300
AS 06.50.310 AS 06.50.600

3 AAC 11.110 Reports to the department. (a) A deferred deposit advance licensee shall file a written report through an advance change notice in the registry at least 15 days prior to the occurrence for the following events. The department may require the information it considers necessary to determine whether a new application is required. The deferred deposit advance licensee requesting approval of the change in control shall pay all reasonable expenses incurred

by the department to investigate and approve or deny the change in control. The information must be complete as described in 3 AAC 11.010. The events requiring advance notice in the registry are:

(1) material changes to the deferred deposit advance licensee which require prior approval of the department. The department may require the information it considers necessary to determine whether a new application for the deferred deposit advance licensee is required. The deferred deposit advance licensee requesting approval of the change in control shall pay all reasonable expenses incurred by the department to investigate and approve or deny the material change in business;

(2) change in control and office manager of the deferred deposit advance licensee is proposed, and requires prior approval of the department.;

(3) proposed change of the deferred advance licensee’s business name(s) including other trade names

(4) proposed transfer of the deferred advance licensee’s business to new location(s)

(b) a \$300 partial payment of the department’s investigative expenses is due when the deferred deposit advance applicant or licensee submits the advance change notice to the registry

(c) additional reasonable investigation expenses may be incurred upon department review. (Eff. __/__/__, Register _____)

Authority: AS 06.50.200 AS 06.50.210 AS 06.50.220
AS 06.50.310 AS 06.50.600

3 AAC 11.110 Incorporation by reference. The regulations regarding debt collection activities contained in 3 AAC 01 are applicable to and adopted in this chapter by reference. (Eff.

__/__/____, Register _____)

Authority: AS 06.50.550 AS 06.50.600 AS 45.50.471

3 AAC 11.200. Licensee required to know Deferred Deposit Advances Act and regulations.

Each licensee shall be familiar with the state and federal laws and regulations relating to the business. (Eff. __/__/____, Register _____)

Authority: AS 06.50.080

3 AAC 11.300 Late filing civil penalty. A deferred deposit advance licensee shall pay a late filing civil penalty of \$25 per day for each day that a report required under AS 06.50.310 and 3 AAC 11.050 is late. (Eff. __/__/____, Register _____)

Authority: AS 06.01.035

3 AAC 11.400 Abandoned applications. (a) An application is considered abandoned if the department does not receive any response from the applicant or licensee for 60 days after the department assigns a notice of deficiency to the record of the applicant or licensee in the registry.

(b) An abandoned application is denied without prejudice and all fees are forfeited.

(Eff. __/__/____, Register ____; am __/__/____, Register ____)

Authority: AS 06.50.030 AS 06.50.600

3 AAC 11.500 Termination of operations. A deferred deposit advance licensee shall

(1) provide electronic notice to the department through the registry of its decision to cease operations as a deferred deposit advance licensee or the cessation of operations within seven days after that decision or cessation; and

(2) submit a completed request for surrender and annual report as required under 3 AAC 11.050.

Authority: AS 06.50.210 AS 06.50.600 AS 44.33.020

3 AAC 11.600. Authority to conduct examinations and investigations

When the department conducts an investigation under AS 06.50.330,

(1) the licensee shall provide the department unrestricted access to the licensee's place of business, books (including electronic records), accounts, safes, and vaults to examine and make copies as necessary;

(2) the department may retain accountants, professionals, or specialists as examiners, auditors, or investigators, to conduct or assist in conducting an investigation or examination; and

(3) the applicant shall pay the department examination and investigation fees in accordance with AS 06.01.010 and any expenses required to be paid under 3 AAC 11 for each representative of the department who is reasonably necessary to conduct the investigation or examination.

(Eff. __/__/__, Register __; am __/__/__, Register __)

Authority: AS 06.01.010 AS 06.50.600

3 AAC 11.700. Reimbursement of expenses. When the department conducts an investigation or examination under AS 06.50.330, the applicant shall pay the fees and actual expenses of required

travel, including transportation, lodging, and per diem expense not to exceed the per diem allowance for employees of the state under AS 39.20.110. (Eff. __/__/____, Register __; am __/__/____,)

Authority: AS 06.01.010 AS 06.50.600

3 AAC 11.990. Definitions. In this chapter, unless the context requires otherwise,

1. “App” means a software application, downloaded by a user to a mobile device or computer;
2. "control person" means a key individual described in the deferred deposit advance license application form of the registry NMLS who directly or indirectly exercises control over the applicant. A member, partner, director, senior officer, or owner of 10 percent or more of the equity of the applicant for a or deferred deposit advance licensee;
3. “department” means the Department of Commerce, Community, and Economic Development;
4. “Form MU1” means the uniform company application developed and used by the registry;
5. “Form MU2” means the uniform individual statement and consent form developed and used by the registry;
6. “office manager” means an individual who is in charge of and responsible for the business operations of an office of a deferred deposit advance licensee;
7. “registry” means the Nationwide Multistate Licensing System and Registry (NMLS), a licensing system owned and operated by the State Regulatory Registry, LLC, for the licensing and registration of persons in the mortgage and other financial services industries;

8. “report of condition” means a quarterly report as required by the registry.

(Eff. __/__/____, Register ____; am __/__/____, Register ____)

Authority: AS 06.50.600