

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

LIQUOR CONTROL COMMISSION

FINANCIAL RESPONSIBILITY

(By authority conferred on the liquor control commission by sections 215(1) and 803 of 1998 P.A. 58, MCL 436.1215(1) and 436.1803)

R 436.2001 "Securities" defined.

Rule 1. As used in these rules, "securities" means any of the following:

(a) Stocks or bonds registered by the securities and exchange commission or the office of financial and insurance services of the Michigan department of consumer and industry services which are offered for public sale in the state of Michigan and the values of which are regularly reported in a nationally recognized financial publication.

(b) Obligations of the United States, including bonds, notes, and bills.

(c) Obligations which are guaranteed fully as to principal and interest by the United States, except those requiring partial payment of principal.

(d) General obligations of the state of Michigan.

(e) Unlimited tax general obligation bonds of political subdivisions of the state which are payable directly from the levying of general ad valorem taxes without limitation as to rate or amount.

(f) An irrevocable trust which contains a guaranteed minimum corpus of \$50,000.00, which has as trustee a financial institution registered in this state, and which provides for the state of Michigan as first beneficiary and claimant of a distribution of up to \$50,000.00 from the trust to satisfy judgments arising from liability under section 801 of 1998 P.A. 58, MCL 436.1801.

(g) An irrevocable letter of credit or a certificate of deposit issued by a bank, savings bank, savings and loan association, or credit union which is licensed to do business in this state and which is pledged to the state of Michigan as first claimant for distribution of up to \$50,000.00 to satisfy judgments arising from liability under section 801 of 1998 P.A. 58, MCL 436.1801.

History: 1988 AACS; 2003 AACS.

R 436.2003 "Unencumbered securities" defined.

Rule 3. As used in these rules, "unencumbered securities" means securities that are free and clear of all liens and obligations, including their use as collateral, and upon filing with the commission are without claims or liabilities to third parties.

History: 1988 AACS.

R 436.2005 Forms.

Rule 5. Retail licensees shall submit proof of financial responsibility on forms provided or approved by the commission.

History: 1988 AACS.

R 436.2007 Unencumbered securities; maintenance of value.

Rule 7. (1) Each retail licensee who provides to the commission cash or unencumbered securities as proof of financial responsibility shall maintain the value of the cash or unencumbered securities at not less than \$50,000.00 during the entire period in which the license is in effect. Securities shall not be encumbered during any period in which they serve as proof of financial responsibility to the commission.

(2) The value of unencumbered securities shall be determined by the current market price as reported at the time of filing and thereafter in a nationally recognized financial publication or other reliable source as determined by the commission.

(3) If the market value of unencumbered securities provided to the commission as proof of financial responsibility falls below \$50,000.00, the licensee shall immediately provide additional unencumbered securities or cash to the commission so as to restore, to not less than \$50,000.00, the value of unencumbered securities and cash held by the commission. Failure to provide additional unencumbered securities or cash immediately shall result in the license being suspended until such time as additional unencumbered securities or cash has been provided to the commission.

History: 1988 AACS.

R 436.2009 Interest and dividends on cash and securities.

Rule 9. Each retail licensee who deposits cash shall be entitled to payment of interest at the rate of 1% below the average interest rate earned by the state treasurer on short-term investments for each complete month that the cash is held by the commission. Interest payments shall be made quarterly. Any dividends or interest paid upon unencumbered securities and received by the commission shall be immediately transmitted to the licensee or licensee's agent.

History: 1988 AACS.

R 436.2011 Cash or unencumbered securities; payment of judgments.

Rule 11. Cash or unencumbered securities which have been provided to the commission as proof of financial responsibility shall not be paid or released by the commission to any claimant to satisfy a judgment pursuant to section 801 of 1998 P.A. 58, MCL 436.1801, unless the commission receives a court order requiring the payment or release.

History: 1988 AACS; 2003 AACS.

R 436.2013 Cash or unencumbered securities; release.

Rule 13. When the commission releases all or any portion of cash or unencumbered securities to a claimant, the retail licensee shall immediately provide additional cash or unencumbered securities to the commission so as to restore, to not less than \$50,000.00, the total value of cash and unencumbered securities. If a licensee fails to provide additional cash or unencumbered securities, the license shall be suspended pursuant to the provisions of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws, until such time as additional cash or unencumbered securities have been provided to the commission.

History: 1988 AACS.

R 436.2015 Cash or unencumbered securities; request for return.

Rule 15. (1) Cash or unencumbered securities provided to the commission as proof of financial responsibility shall not be returned to the retail licensee unless either of the following conditions applies:

(a) Two years have transpired since the date the license was transferred, revoked, cancelled, suspended, or placed in escrow with the commission.

(b) Two years have transpired since the date the licensee provided another acceptable form of proof of financial responsibility.

(2) Notwithstanding subrule (1) of this rule, the commission shall not return cash or unencumbered securities provided by a retail licensee as proof of financial responsibility during the pendency of any civil suit against the licensee alleging liability pursuant to section 801 of 1998 P.A. 58, MCL

436.1801, if the alleged liability occurred after April 1, 1988, but during the period in which the licensee had provided the cash or unencumbered securities as proof of financial responsibility.

(3) The commission shall not return, to any retail licensee, cash or unencumbered securities provided as proof of financial responsibility unless the retail licensee first certifies to the commission, in writing, that a civil suit is not pending against the licensee alleging liability pursuant to section 801 of 1998 P.A. 58, MCL 436.1801, during the period in which the licensee had provided the cash or unencumbered securities as proof of financial responsibility.

History: 1988 AACS; 2003 AACS.

R 436.2017 Failure to provide proof of financial responsibility.

Rule 17. If at any time a retail licensee fails to maintain proof of financial responsibility as required by section 803 of 1998 P.A. 58, MCL 436.1803, the license shall be immediately suspended pursuant to the provisions of 1969 P.A. 306, MCL24.201 et seq., until such time as the licensee provides to the commission proof of financial responsibility as required by section 803 of 1998 P.A. 58, MCL 436.1803.

History: 1988 AACS; 2003 AACS.

R 436.2019 Constant value bond; requirements.

Rule 19. (1) A retail licensee who provides a constant value bond as proof of financial responsibility shall not cancel such bond, except upon 30 days' prior written notice to the commission. Unless new proof of financial responsibility is obtained by the retail licensee and delivered to the commission before the expiration of the 30-day period, the license of that licensee shall be suspended until such time as another acceptable proof of financial responsibility is provided to the commission.

(2) A surety company which has issued a constant value bond of not less than \$50,000.00 as proof of financial responsibility shall notify the commission, in writing, not less than 30 days before termination or cancellation of the bond.

History: 1988 AACS.

R 436.2021 Failure to provide proof of financial responsibility; hearings; revocation.

Rule 21. A retail license shall not be revoked or suspended without due process for failure to provide proof of financial responsibility, including an expedited hearing pursuant to the provisions of Act No. 306 of the Public Acts of 1969, as amended, being S24.201 et seq. of the Michigan Compiled Laws. A retail license shall not be revoked or suspended because of the licensee's failure to provide proof of financial responsibility, if the proof had been subsequently provided before the commission's final revocation or suspension order.

History: 1988 AACS.