



2013 ASSEMBLY BILL 277

August 7, 2013 – Introduced by Representatives CRAIG, HINTZ, BALLWEG, HUTTON, KAHL, LEMAHIEU, OHNSTAD, SANFELIPPO, SARGENT, STROEBEL, MARKLEIN, ZEPNICK and HONADEL, cosponsored by Senator GUDEX. Referred to Committee on Financial Institutions.

1 **AN ACT** *to amend* 13.92 (4) (c), 13.92 (4) (d), 13.92 (4) (e), 13.92 (4) (f), 35.93 (2)
2 (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e) (intro.), 35.93 (3) (e) 1., 227.01 (13)
3 (intro.), 227.11 (2) (intro.) and 227.27 (2); and **to create** 13.92 (4) (bm) and
4 227.265 of the statutes; **relating to:** rule-making procedures and modifying
5 and repealing various rules promulgated by the Department of Financial
6 Institutions.

Analysis by the Legislative Reference Bureau

STATUTORY TREATMENTS

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

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4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

TREATMENTS OF ADMINISTRATIVE RULES

This bill modifies and repeals various rules promulgated by the Department of Financial Institutions (DFI), as described below.

Remote terminals accessing financial institution accounts

Under current statutes, a bank, savings and loan association, savings bank, or credit union (collectively, financial institution) may acquire, place, and operate, or participate in the acquisition, placement, and operation of, at locations away from the financial institution, what is variously referred to as customer bank communications terminals, remote terminals, or remote service units (collectively remote terminals), in accordance with rules established by the Division of Banking (division) in DFI or the Office of Credit Unions (OCU) in DFI. A remote terminal is a terminal or other facility that is not located at a financial institution and through which customers and financial institutions may engage in electronic transactions that are incidental to the conduct of the business of financial institutions.

Under current rules of the division and OCU, when any sale of goods or services is paid directly through a remote terminal and involves an aggregate transfer of funds of \$50 or more from an account of a financial institution customer to the account of another person, the financial institution must reverse the transaction and recredit the customer's account upon receipt of notice by the customer within three business days after the date of the sale. This process is referred to as a chargeback. This bill repeals this chargeback provision from the rules of the division and OCU.

Under current rules of the division and OCU, the liability of a customer of a financial institution for the unauthorized use of a plastic card or other means providing the customer access to a remote terminal (access card) may not exceed the lesser of the following: 1) \$50; or 2) the amount of any money, property, or services obtained by its unauthorized use prior to the time the financial institution is notified, or becomes aware, of circumstances that lead to the belief that unauthorized access to the customer's account may be obtained.

This bill modifies this rule relating to limits on customer liability for the unauthorized use of a remote terminal access card. Under the bill, if the customer notifies the financial institution within two business days after learning of the

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unauthorized use or of loss or theft of the access card, the customer's liability may not exceed the lesser of \$50 or the amount of unauthorized transfers that occur before notice to the financial institution. If the customer fails to notify the financial institution within two business days after learning of the unauthorized use or of loss or theft of the access card, the customer's liability may not exceed the lesser of \$500 or the sum of all of the following: 1) \$50 or the amount of unauthorized transfers that occur within the two business days, whichever is less; and 2) the amount of unauthorized transfers that occur after two business days and before notice to the financial institution, if the financial institution establishes that these transfers would not have occurred had the customer notified the financial institution within that two-day period. To avoid liability for subsequent transfers, a customer must report an unauthorized transfer from the unauthorized use of a remote terminal access card that appears on a periodic statement within 60 days of the financial institution's transmittal of the statement. If the customer fails to do so, the customer's liability may not exceed the amount of the unauthorized transfers that occur after 60 days and before notice to the financial institution and that would not have occurred if the customer had notified the financial institution within this 60-day period. The customer may also be liable for the amounts specified in the paragraph directly above. If an agreement between the customer and the financial institution imposes less liability than is provided by rule, the customer's liability may not exceed the amount imposed under the agreement.

Under current rules of the division and OCU, every transfer of funds through a remote terminal made by a customer of a financial institution must be evidenced by a written document (receipt) that is made available to the customer at the time of the transaction and that contains specified information, such as the customer's account number, the amount transferred, and the date of the transaction. This bill modifies these rules to create an exception so that a receipt is not required to be made available if the amount of the transfer is \$15 or less.

Collection agencies

Under current statutes, a person may not operate as a collection agency unless the person is licensed as a collection agency by the division. A "collection agency" is, with certain exceptions, a person engaged in the business of collecting or receiving for payment for others of any account, bill, or other indebtedness.

Under current rules of the division, if a collection agency mentions its rates in advertising or on its forms, the collection agency's full rate or rates must be stated as a percentage or dollar amount. The collection agency also may not make, advertise, or display any statement or representation with regard to its rates that is false, misleading, or deceptive or that omits material information necessary to make the statement or representation not false, misleading, or deceptive. This bill repeals these provisions from the division's rules.

Under current rules of the division, with exceptions, a collection agency may not charge the debtor any fee or cost incurred in the collection of an account. Under one exception, a fee not exceeding the lesser of \$25 or 3 percent of the payment amount may be added to the debtor's account if the debtor makes payment using a credit card.

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However, this fee may be imposed only if the fee is first disclosed to the debtor and the debtor is not required to pay with a credit card.

This bill modifies these rules to allow, with the same restrictions, the same fee to be imposed when the debtor uses a debit card.

Adjustment service companies

Under current statutes, an “adjustment service company” is, with an exception, an individual or business entity engaged as principal in the business of prorating a debtor’s income to the debtor’s creditors or of assuming a debtor’s obligations to the debtor’s creditors in return for a service charge or other consideration. To engage in business as an adjustment service company, the individual or business entity must be licensed by the division. There are specified criteria for obtaining such a license and the division has regulatory authority over licensees. The division may make such rules and require such reports as the division deems necessary for the enforcement of the statutory provisions relating to adjustment service companies.

Under current rules of the division, a copy of the contract between an adjustment service company and the debtor must be given to the debtor at the time it is executed and the contract must contain certain provisions, including a statement that the debtor will be permitted to examine his or her accounts in the adjustment service company’s office during regular office hours.

This bill modifies the division’s rules so that the contract must still include a statement that the debtor will be permitted to examine his or her accounts but is not required to specify that the examination will be in the adjustment service company’s office during regular office hours.

Under current rules of the division, all contracts and forms used by an adjustment service company in conducting its business must be submitted in duplicate to the division for prior approval before use. In addition, an adjustment service company must maintain in its office a folder containing the file copy of all approved forms in the order in which the forms were approved.

This bill modifies these rules so that an adjustment service company is not required to submit duplicate copies of contracts and forms to the division and is not required to maintain a folder of approved forms in its office.

Under current rules of the division, each adjustment service company must, on September 15 of each year, submit a report as of July 1 to the division containing such information as the division requires. This bill repeals this rule requiring each adjustment service company to submit a report on September 15 of each year.

Mortgage bankers, mortgage brokers, and mortgage loan originators

Under the division’s current rules, a licensed mortgage banker, mortgage broker, or mortgage loan originator (licensee) may conduct business only under the name or names listed on the license and, before using any trade name, must obtain written approval from the division for the use of the trade name. A licensee may not use more than five trade names. This bill modifies the division’s rules so that approval of a trade name by the division is not required to be in writing.

Sales finance companies

Under current statutes, a “sales finance company” is a person engaged in the business of acquiring retail installment contracts from retail sellers and includes

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motor vehicle dealers that sell motor vehicles under installment contracts or that acquire retail installment contracts. A “retail installment contract” means a contract to sell a motor vehicle at retail in which the price of the motor vehicle is payable in at least one installment over a period of time and in which the seller has retained title to, or taken a security interest in, the vehicle. A “retail seller” is a person that sells motor vehicles under a retail installment contract to a buyer for the buyer’s personal use or consumption. Sales finance companies are licensed by the division. A retail installment sale made after October 31, 1984, is not subject to any maximum finance charge limit. Other credit transactions are also generally not subject to maximum finance charge limits or interest rate limits.

Under current rules of the division, upon refinancing a retail installment contract or consolidating retail installment contracts, the customer is entitled to a rebate of unearned finance charges. The division’s rules also specify that the rate of finance charge upon refinancing or consolidation may not exceed the maximum rate applicable by statute if the creditor is a licensed motor vehicle dealer or, if not, the maximum rate at which the creditor could make a loan to the customer.

This bill modifies these rules to eliminate the provisions referencing a maximum rate when a retail installment contract is refinanced or consolidated.

Review procedure

Under the division’s current rules, any interested person aggrieved by any act, order, or determination of the division related to banking may file with the division an original and eight copies of a notice of appeal seeking review by the Banking Review Board. This bill eliminates the requirement that eight copies of the notice of appeal be filed.

Technical corrections

The bill makes other minor, clarifying, technical, or nonsubstantive changes to the division’s rules, including changes that conform the division’s rules to current statutory provisions.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 13.92 (4) (bm) of the statutes is created to read:
- 2 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
- 3 227.265 affect the same unit of the Wisconsin administrative code without taking
- 4 cognizance of the effect thereon of the other rules and if the legislative reference
- 5 bureau finds that there is no mutual inconsistency in the changes made by each such

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1 rule, the legislative reference bureau shall incorporate the changes made by each
2 rule into the text of the unit and document the incorporation in a note to the unit.
3 For each such incorporation, the legislative reference bureau shall include in a
4 correction bill a provision formally validating the incorporation. Section 227.27 (2)
5 is not affected by printing decisions made by the legislative reference bureau under
6 this paragraph.

7 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:

8 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
9 administrative code a note explaining any change made under par. (b) or (bm).

10 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

11 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
12 apply to any change made by the legislative reference bureau under par. (b) or (bm).

13 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

14 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
15 record of each change made under par. (b) or (bm).

16 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

17 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
18 of each change made under par. (b) or (bm).

19 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
20 is amended to read:

21 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
22 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
23 preceding register, including emergency rules filed under s. 227.24 (3).

24 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
25 is amended to read:

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1 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
2 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
3 modified under s. 227.265, in accordance with sub. (3) (e) 1.

4 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

5 35.93 (3) The legislative reference bureau shall compile and deliver to the
6 department for printing copy for a register which shall contain all the rules filed
7 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
8 preceding issue of the register was made and those executive orders which are to be
9 in effect for more than 90 days or an informative summary thereof. The complete
10 register shall be compiled and published before the first day of each month and a
11 notice section of the register shall be compiled and published before the 15th day of
12 each month. Each issue of the register shall contain a title page with the name
13 “Wisconsin administrative register”, the number and date of the register, and a table
14 of contents. Each page of the register shall also contain the date and number of the
15 register of which it is a part in addition to the other necessary code titles and page
16 numbers. The legislative reference bureau may include in the register such
17 instructions or information as in the bureau’s judgment will help the user to correctly
18 make insertions and deletions in the code and to keep the code current.

19 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
20 Act 20, is amended to read:

21 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
22 appropriate chapters of the Wisconsin administrative code each permanent rule filed
23 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
24 and, for each chapter of the administrative code affected by a rule, do all of the
25 following:

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1 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
2 20, is amended to read:

3 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
4 in accordance with the filing deadline for publication established in the rules
5 procedures manual published under s. 227.15 (7) or, in an end-of-month register
6 agreed to by the submitting agency and the legislative reference bureau, or, in the
7 case of a rule modified under s. 227.265, in the end-of-month register for the month
8 in which the bill modifying the rule is enacted.

9 **SECTION 11.** 227.01 (13) (intro.) of the statutes is amended to read:

10 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,
11 or general order of general application which has the effect of law and which is issued
12 by an agency to implement, interpret, or make specific legislation enforced or
13 administered by the agency or to govern the organization or procedure of the agency.
14 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and
15 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
16 otherwise meet the definition under this subsection, which:

17 **SECTION 12.** 227.11 (2) (intro.) of the statutes is amended to read:

18 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
19 as follows:

20 **SECTION 13.** 227.265 of the statutes is created to read:

21 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
22 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
23 Instead, the legislative reference bureau shall publish the repeal or modification in
24 the Wisconsin administrative code and register as required under s. 35.93, and the
25 repeal or modification shall take effect as provided in s. 227.22.

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1 **SECTION 14.** 227.27 (2) of the statutes is amended to read:

2 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
3 as provided by s. 889.01, but this does not preclude reference to or, in case of a
4 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
5 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
6 of a rule shall also and in the same degree be prima facie evidence in all courts and
7 proceedings.

8 **SECTION 15.** DFI-Bkg 10.03 of the administrative code is amended to read:

9 DFI-Bkg 10.03 **Notice of appeal.** Any interested person aggrieved by any act,
10 order, or determination of the administrator of the division of banking under chs.
11 220, 221, and 223, Stats., may file with the administrator of the division of banking
12 within 10 days after the act, order, or determination to be reviewed ~~an original and~~
13 ~~8 copies of~~ a Notice of Appeal in the manner prescribed by s. DFI-Bkg 10.05 in the
14 following form:

15 To the Wisconsin Banking Review Board:

16 The undersigned hereby appeals from the order of the administrator of the
17 division of banking dated _____, 20__, whereby it was ordered that (here set
18 forth the substance of the order).

19 The nature of petitioner's interest is: (Here set forth the nature of petitioner's
20 interest).

21 The grounds of appeal are the following: (Here set forth the exceptions or
22 objections relied on, and if no answer has been filed, then also an answer to the
23 findings of fact in the order, in the manner prescribed by s. DFI-Bkg 11.11, rules of
24 Procedure for proceedings and hearings had before the administrator of the division
25 of banking).

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1 Dated _____, 20__.

2 **SECTION 16.** DFI-Bkg 14.07 (2) (a) (intro.) of the administrative code is
3 amended to read:

4 DFI-Bkg 14.07 (2) (a) (intro.) The liability of a customer of a bank for the
5 unauthorized use of a plastic card or other means ~~providing the customer access~~
6 device to a customer bank communications terminal ~~may not exceed the lesser of the~~
7 following shall be determined as follows:

8 **SECTION 17.** DFI-Bkg 14.07 (2) (a) 1. and 2. of the administrative code are
9 repealed.

10 **SECTION 18.** DFI-Bkg 14.07 (2) (a) 3., 4., 5., 6., 7. and 8. of the administrative
11 code are created to read:

12 DFI-Bkg 14.07 (2) (a) 3. If the customer notifies the bank within 2 business
13 days after learning of the unauthorized use or of loss or theft of the plastic card or
14 other access device, the customer's liability may not exceed the lesser of \$50 or the
15 amount of unauthorized transfers that occur before notice to the bank.

16 4. If the customer fails to notify the bank within 2 business days after learning
17 of the unauthorized use or of loss or theft of the plastic card or other access device,
18 the customer's liability may not exceed the lesser of \$500 or the sum of all of the
19 following:

20 a. \$50 or the amount of unauthorized transfers that occur within the 2 business
21 days, whichever is less.

22 b. The amount of unauthorized transfers that occur after the close of 2 business
23 days and before notice to the bank, if the bank establishes that these transfers would
24 not have occurred had the customer notified the bank within that 2-day period.

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1 5. A customer must report an unauthorized transfer from the unauthorized use
2 of a plastic card or other access device to a customer bank communications terminal
3 that appears on a periodic statement within 60 days of the bank's transmittal of the
4 statement to avoid liability for subsequent transfers. If the customer fails to do so,
5 the customer's liability may not exceed the amount of the unauthorized transfers
6 that occur after the close of the 60 days and before notice to the bank and that the
7 bank establishes would not have occurred had the customer notified the bank within
8 the 60-day period. When a plastic card or other access device is involved in the
9 unauthorized transfer, the customer may be liable for other amounts set forth in
10 subd. 3. or 4., as applicable.

11 6. If the customer's delay in notifying the bank as provided in subd. 5. was due
12 to extenuating circumstances, the bank shall extend the time specified in subd. 5. to
13 a reasonable period.

14 7. a. Notice to a bank is given when a customer takes steps reasonably
15 necessary to provide the bank with the pertinent information, whether or not a
16 particular employee or agent of the bank actually receives the information.

17 b. A customer may notify the bank in person, by telephone, or in writing.

18 c. Written notice is considered given at the time the customer mails the notice
19 or delivers it for transmission to the bank by any other usual means. Notice may be
20 considered constructively given when the bank becomes aware of circumstances
21 leading to the reasonable belief that an unauthorized transfer to or from the
22 customer's account has been or may be made.

23 8. If an agreement between the customer and the bank imposes less liability
24 than is provided by this section, the customer's liability may not exceed the amount
25 imposed under the agreement.

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1 **SECTION 19.** DFI-Bkg 14.07 (2) (b) of the administrative code is amended to
2 read:

3 DFI-Bkg 14.07 (2) (b) A customer furnishing another person with a plastic card
4 or other means of access device to the customer's account through a customer bank
5 communications terminal shall be deemed to authorize all transactions that may be
6 accomplished by that means, until the customer has given actual notice to the bank
7 that further transactions are unauthorized.

8 **SECTION 20.** DFI-Bkg 14.08 (2) (intro.) of the administrative code is amended
9 to read:

10 DFI-Bkg 14.08 (2) TRANSACTION DOCUMENTATION. (intro.) ~~Every~~ Except as
11 provided in sub. (4), every transfer of funds through a customer bank
12 communications terminal made by a customer of a bank shall be evidenced by a
13 written document made available to the customer at the time of the transaction. The
14 document shall indicate with reasonable specificity the identity of any third party
15 to whom funds are electronically transferred, the identity of the customer's account,
16 the amount of funds transferred, the type of transaction, and the date of the
17 transaction. A customer may be required to re-enter an access device, such as a card,
18 at a terminal in order to receive transaction documentation if all of the following
19 conditions are met:

20 **SECTION 21.** DFI-Bkg 14.08 (4) of the administrative code is created to read:

21 DFI-Bkg 14.08 (4) EXCEPTION FOR WRITTEN DOCUMENT IN SMALL-VALUE
22 TRANSFERS. A bank is not subject to the requirement to make available a written
23 document under sub. (2) if the amount of the transfer is \$15 or less.

24 **SECTION 22.** DFI-Bkg 14.09 of the administrative code is repealed.

25 **SECTION 23.** DFI-Bkg 40.04 (2) of the administrative code is amended to read:

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1 DFI-Bkg 40.04 (2) Before using any trade name or d/b/a designation, the
2 licensee shall obtain ~~written~~ approval from the division for the use of such trade
3 name or d/b/a designation.

4 **SECTION 24.** DFI-Bkg 41.05 (intro.) of the administrative code is amended to
5 read:

6 DFI-Bkg 41.05 **License renewals.** (intro.) For all licenses ~~expiring on or~~
7 ~~after December 31, 2010~~ under subch. III of ch. 224, Stats., all of the following apply:

8 **SECTION 25.** DFI-Bkg 46.01 (3) of the administrative code is renumbered
9 DFI-Bkg 46.01 (3) (am) and DFI-Bkg 46.01 (3) (am) (intro.), as renumbered, is
10 amended to read:

11 DFI-Bkg 46.01 (3) (am) (intro.) “Points Except as provided in par. (bm), “points
12 and fees” means any of the following:

13 **SECTION 26.** DFI-Bkg 46.01 (3) (bm) of the administrative code is created to
14 read:

15 DFI-Bkg 46.01 (3) (bm) “Points and fees” does not include reasonable fees paid
16 to affiliates or nonaffiliates of the lender for bona fide services listed in 12 CFR 226.4
17 (c) (7).

18 **SECTION 27.** DFI-Bkg 73.02 (2) (e) of the administrative code is amended to
19 read:

20 DFI-Bkg 73.02 (2) (e) A statement to the effect that the debtor will be
21 permitted to examine his or her accounts ~~in the office of the licensee during regular~~
22 ~~office hours.~~

23 **SECTION 28.** DFI-Bkg 73.03 (1) of the administrative code is amended to read:

24 DFI-Bkg 73.03 (1) (a) *Shared office space.* The office of an adjustment service
25 company shall not be shared or have a common waiting room with a practicing

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1 attorney, collection agency, justice of the peace, loan or finance company. Before any
2 other business is conducted in the same office with the licensee, prior approval must
3 be granted by the ~~office of administrator of the~~ division of banking. The office shall
4 not be located in a private residence unless the adjustment service office is used
5 solely for business purposes, has an outside entrance and can be isolated from the
6 remainder of the residence. If other approved business is conducted in the same
7 office, the accounting records of such other business shall be kept separate from the
8 account records of the adjustment service company.

9 (b) *Office hours.* Every licensee shall maintain regular office hours on
10 designated business days from Monday through Friday and must be open for
11 business at least 4 hours each designated business day. Whenever an office is not
12 open for business at least 6 hours a day, or if the licensee maintains irregular office
13 hours, a written notice must be filed with the ~~office of the administrator of the~~
14 division of banking setting forth the schedule of minimum office hours.

15 **SECTION 29.** DFI-Bkg 73.03 (2) of the administrative code is amended to read:

16 DFI-Bkg 73.03 (2) FORMS TO BE APPROVED. All agreements, contracts, form
17 letters or any other form whatsoever to be used by licensee in conducting its business
18 shall be submitted ~~in duplicate to the administrator of the~~ division of banking for
19 approval, and no such form or agreement shall be used until approved. ~~A folder~~
20 ~~containing the file copy of all approved forms including the approved schedule of~~
21 ~~irregular office hours, if any, must be maintained in the licensed office in the order~~
22 ~~in which the forms were approved.~~

23 **SECTION 30.** DFI-Bkg 73.03 (7) of the administrative code is repealed.

24 **SECTION 31.** DFI-Bkg 73.05 (4) and (5) of the administrative code are amended
25 to read:

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1 DFI-Bkg 73.05 (4) Licensee's trust and operating bank accounts for creditor
2 disbursements should be reconciled monthly with the canceled check together with
3 voided or unused checks filed in numerical order after the monthly statement has
4 been reconciled. The numerically numbered check stubs corresponding with all trust
5 account and operating account checks shall be maintained in the office of licensee.
6 All accounts shall be made available for reviewing ~~in the office of administrator of~~
7 by the division of banking.

8 (5) It is not intended that the information required to be furnished in sub. (1)
9 be retained in the same chronological order. The records of licensees may vary in the
10 event that data processing procedures are adopted which will prevent the licensee
11 from maintaining certain records required above. ~~The office of administrator of the~~
12 ~~division of banking may approve of the records to be maintained as long as adequate~~
13 information is available for examination purposes.

14 **SECTION 32.** DFI-Bkg 74.07 (1) (b) and (c) of the administrative code are
15 amended to read:

16 DFI-Bkg 74.07 (1) (b) A ~~ledger~~ record consisting of asset and liability accounts
17 including a continuous record of all physical assets such as furniture, fixtures and
18 office equipment.

19 (c) A ~~ledger~~ record of income and expenses.

20 **SECTION 33.** DFI-Bkg 74.08 of the administrative code is repealed.

21 **SECTION 34.** DFI-Bkg 74.11 (2) (d) of the administrative code is amended to
22 read:

23 DFI-Bkg 74.11 (2) (d) A fee not to exceed the lesser of \$25 or 3% of the payment
24 amount, not including the fee, may be added to the account of the debtor when the
25 debtor makes a payment using a credit card or debit card.

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1 **SECTION 35.** DFI-Bkg 74.13 (1) of the administrative code is amended to read:

2 DFI-Bkg 74.13 (1) Unless the initial communication is written and contains
3 the following notice or the debtor has paid the debt, a licensee shall send the debtor
4 the following notice within 5 days after the initial communication with a debtor:
5 “This collection agency is licensed by the Division of Banking, ~~P.O. Box 7876,~~
6 ~~Madison, Wisconsin 53707~~ in the Wisconsin Department of Financial Institutions,
7 www.wdfi.org.” This notice shall be in at least 8 point type and shall be typed or
8 printed on either a collection notice or on the validation of any debt directed to the
9 debtor by the licensee pursuant to Section 809 of the Federal Fair Debt Collection
10 Practices Act.

11 **SECTION 36.** DFI-Bkg 76.03 of the administrative code is amended to read:

12 DFI-Bkg 76.03 **Delinquency and deferral charges.** (1) In consumer credit
13 transactions a retail seller may contract for and receive delinquency charges only in
14 accordance with s. 422.203, Stats., and regulations issued by the ~~administrator of the~~
15 division of banking thereunder.

16 (3) A retail seller may contract for and assess deferral charges only in
17 accordance with s. 422.204, Stats., and regulations issued by the ~~administrator of the~~
18 division of banking thereunder.

19 **SECTION 37.** DFI-Bkg 76.06 of the administrative code is amended to read:

20 DFI-Bkg 76.06 **Refinancing.** Upon refinancing a retail installment contract
21 prior to its maturity the customer shall receive as of the date of the refinancing a
22 rebate of the unearned finance charge pursuant to the provisions of s. DFI-Bkg
23 76.04, except that for the purposes of computing this amount no minimum finance
24 charge shall be allowed in consumer credit transactions. ~~The rate of finance charge~~
25 ~~upon refinancing shall not exceed the maximum rate applicable to the vehicle under~~

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1 s. 218.0142, Stats., at the time it was originally financed if the creditor is a licensed
2 motor vehicle dealer. Otherwise, the maximum rate shall not exceed the rate at
3 which the creditor could loan the refinanced balance to the customer.

4 **SECTION 38.** DFI-Bkg 76.07 of the administrative code is amended to read:

5 DFI-Bkg 76.07 **Consolidation.** Upon consolidation of the unpaid balance of
6 a retail installment contract for the purchase of a motor vehicle with the unpaid
7 balance of any other transaction for the purchase of a motor vehicle, the customer
8 shall receive a rebate of the unearned finance charge on each retail installment
9 contract pursuant to the provisions of s. DFI-Bkg 76.04, except that for the purposes
10 of computing that amount no minimum finance charge shall be allowed in consumer
11 credit transactions. ~~The rate of finance charge upon consolidation shall not exceed~~
12 ~~the maximum rate under s. 218.0142, Stats., applicable to the vehicle most recently~~
13 ~~purchased if the creditor is a licensed motor vehicle dealer. Otherwise the maximum~~
14 ~~rate shall not exceed the rate at which the creditor could loan the consolidated~~
15 ~~balance to the customer.~~

16 **SECTION 39.** DFI-Bkg 76.09 (2) (intro.) and (b) (intro.) of the administrative
17 code are amended to read:

18 DFI-Bkg 76.09 (2) (intro.) Each motor vehicle sales finance company shall in
19 connection with each transaction evidenced by a retail installment contract retained
20 by such sales finance company for a period of more than 30 days, maintain a written
21 ledger card or record which shall include the following:

22 (b) (intro.) Paid accounts. In addition to the information required above the
23 written ledger record or ledger card shall include:

24 **SECTION 40.** DFI-Bkg 76.11 (1) of the administrative code is amended to read:

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1 DFI-Bkg 76.11 (1) "Business license" means a license issued by the
2 administrator of the division of banking under ch. 218, Stats., to a motor vehicle
3 dealer.

4 **SECTION 41.** DFI-Bkg 76.11 (2) of the administrative code is repealed.

5 **SECTION 42.** DFI-Bkg 76.12 (1) (a) (intro.) and (b) (intro.) of the administrative
6 code are amended to read:

7 DFI-Bkg 76.12 (1) (a) *General licensing period and expiration dates.* (intro.)
8 The license period for business licenses is 2 years. The administrator of the division
9 of banking shall issue business licenses that start and expire on the following dates:

10 (b) *Initial licenses.* (intro.) The administrator of the division of banking may
11 issue initial licenses that go into effect on dates other than the first day of an
12 even-numbered month. The licenses may expire before the end of 2 years, and their
13 expiration dates may be assigned as follows:

14 **SECTION 43.** DFI-Bkg 76.12 (2) of the administrative code is amended to read:

15 DFI-Bkg 76.12 (2) LICENSES RUN CONCURRENTLY. A motor vehicle or mobile
16 home license to operate as a sales finance company will be issued to run concurrently
17 with the department of transportation dealer licenses.

18 **SECTION 44.** DFI-Bkg 76.13 of the administrative code is amended to read:

19 DFI-Bkg 76.13 **License fees. (1)** The administrator of the division of banking
20 shall collect fees based on the statutory formulas described in s. 218.0114 (15), Stats.,
21 and elsewhere, which is the number of years in a licensing period multiplied by the
22 current annual fee of \$50. If the dealer originates and carries or retains time sales
23 contracts for more than 30 days in a total amount exceeding \$100,000, a bill will be
24 issued for additional business license fees due based upon the schedule of fees in s.
25 218.0114 (16), Stats.

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1 (2) When the administrator of the division of banking issues an initial license
2 for a period less than 2 years, it may reduce the business license fees by the same
3 proportion as the reduction in the business license period.

4 **SECTION 45.** DFI-CU 63.07 (2) (a) (intro.) of the administrative code is
5 amended to read:

6 DFI-CU 63.07 (2) (a) (intro.) The liability of a customer of a credit union for
7 the unauthorized use of a plastic card or other means providing the customer access
8 device to a remote terminal ~~may not exceed the lesser of the following~~ shall be
9 determined as follows:

10 **SECTION 46.** DFI-CU 63.07 (2) (a) 1. and 2. of the administrative code are
11 repealed.

12 **SECTION 47.** DFI-CU 63.07 (2) (a) 3., 4., 5., 6., 7. and 8. of the administrative
13 code are created to read:

14 DFI-CU 63.07 (2) (a) 3. If the customer notifies the credit union within 2
15 business days after learning of the unauthorized use or of loss or theft of the plastic
16 card or other access device, the customer's liability may not exceed the lesser of \$50
17 or the amount of unauthorized transfers that occur before notice to the credit union.

18 4. If the customer fails to notify the credit union within 2 business days after
19 learning of the unauthorized use or of loss or theft of the plastic card or other access
20 device, the customer's liability may not exceed the lesser of \$500 or the sum of all of
21 the following:

22 a. \$50 or the amount of unauthorized transfers that occur within the 2 business
23 days, whichever is less.

24 b. The amount of unauthorized transfers that occur after the close of 2 business
25 days and before notice to the credit union, if the credit union establishes that these

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1 transfers would not have occurred had the customer notified the credit union within
2 that 2-day period.

3 5. A customer must report an unauthorized transfer from the unauthorized use
4 of a plastic card or other access device to a remote terminal that appears on a periodic
5 statement within 60 days of the credit union's transmittal of the statement to avoid
6 liability for subsequent transfers. If the customer fails to do so, the customer's
7 liability may not exceed the amount of the unauthorized transfers that occur after
8 the close of the 60 days and before notice to the credit union and that the credit union
9 establishes would not have occurred had the customer notified the credit union
10 within the 60-day period. When a plastic card or other access device is involved in
11 the unauthorized transfer, the customer may be liable for other amounts set forth in
12 subd. 3. or 4., as applicable.

13 6. If the customer's delay in notifying the credit union as provided in subd. 5.
14 was due to extenuating circumstances, the credit union shall extend the time
15 specified in subd. 5. to a reasonable period.

16 7. a. Notice to a credit union is given when a customer takes steps reasonably
17 necessary to provide the credit union with the pertinent information, whether or not
18 a particular employee or agent of the credit union actually receives the information.

19 b. A customer may notify the credit union in person, by telephone, or in writing.

20 c. Written notice is considered given at the time the customer mails the notice
21 or delivers it for transmission to the credit union by any other usual means. Notice
22 may be considered constructively given when the credit union becomes aware of
23 circumstances leading to the reasonable belief that an unauthorized transfer to or
24 from the customer's account has been or may be made.

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1 8. If an agreement between the customer and the credit union imposes less
2 liability than is provided by this section, the customer's liability may not exceed the
3 amount imposed under the agreement.

4 **SECTION 48.** DFI-CU 63.07 (2) (b) of the administrative code is amended to
5 read:

6 DFI-CU 63.07 (2) (b) A customer furnishing another person with a plastic card
7 or other ~~means of access~~ device to the customer's account through a remote terminal
8 shall be deemed to authorize all transactions that may be accomplished by that
9 means, until the customer has given actual notice to the credit union that further
10 transactions are unauthorized.

11 **SECTION 49.** DFI-CU 63.08 (2) (intro.) of the administrative code is amended
12 to read:

13 DFI-CU 63.08 (2) TRANSACTION DOCUMENTATION. (intro.) ~~Every~~ Except as
14 provided in sub. (4), every transfer of funds through a remote terminal made by a
15 customer of a credit union shall be evidenced by a written document made available
16 to the customer at the time of the transaction. The document shall indicate with
17 reasonable specificity the identity of any third party to whom funds are electronically
18 transferred, the identity of the customer's account, the amount of funds transferred,
19 the type of transaction, and the date of the transaction. A customer may be required
20 to reenter an access device, such as a card, at a terminal in order to receive
21 transaction documentation if all of the following conditions are met:

22 **SECTION 50.** DFI-CU 63.08 (4) of the administrative code is created to read:

23 DFI-CU 63.08 (4) EXCEPTION FOR WRITTEN DOCUMENT IN SMALL-VALUE TRANSFERS.
24 A credit union is not subject to the requirement to make available a written
25 document under sub. (2) if the amount of the transfer is \$15 or less.

ASSEMBLY BILL 277**SECTION 51**

1 **SECTION 51.** DFI-CU 63.09 of the administrative code is repealed.

2 **SECTION 52.** DFI-SB 12.07 (2) (a) (intro.) of the administrative code is amended
3 to read:

4 DFI-SB 12.07 (2) (a) (intro.) The liability of a customer of a savings bank for
5 the unauthorized use of a plastic card or other means ~~providing the customer~~ access
6 device to a remote service unit ~~may not exceed the lesser of the following~~ shall be
7 determined as follows:

8 **SECTION 53.** DFI-SB 12.07 (2) (a) 1. and 2. of the administrative code are
9 repealed.

10 **SECTION 54.** DFI-SB 12.07 (2) (a) 3., 4., 5., 6., 7. and 8. of the administrative
11 code are created to read:

12 DFI-SB 12.07 (2) (a) 3. If the customer notifies the savings bank within 2
13 business days after learning of the unauthorized use or of loss or theft of the plastic
14 card or other access device, the customer's liability may not exceed the lesser of \$50
15 or the amount of unauthorized transfers that occur before notice to the savings bank.

16 4. If the customer fails to notify the savings bank within 2 business days after
17 learning of the unauthorized use or of loss or theft of the plastic card or other access
18 device, the customer's liability may not exceed the lesser of \$500 or the sum of all of
19 the following:

20 a. \$50 or the amount of unauthorized transfers that occur within the 2 business
21 days, whichever is less.

22 b. The amount of unauthorized transfers that occur after the close of 2 business
23 days and before notice to the savings bank, if the savings bank establishes that these
24 transfers would not have occurred had the customer notified the savings bank within
25 that 2-day period.

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1 5. A customer must report an unauthorized transfer from the unauthorized use
2 of a plastic card or other access device to a remote service unit that appears on a
3 periodic statement within 60 days of the savings bank's transmittal of the statement
4 to avoid liability for subsequent transfers. If the customer fails to do so, the
5 customer's liability may not exceed the amount of the unauthorized transfers that
6 occur after the close of the 60 days and before notice to the savings bank and that the
7 savings bank establishes would not have occurred had the customer notified the
8 savings bank within the 60-day period. When a plastic card or other access device
9 is involved in the unauthorized transfer, the customer may be liable for other
10 amounts set forth in subd. 3. or 4., as applicable.

11 6. If the customer's delay in notifying the savings bank as provided in subd. 5.
12 was due to extenuating circumstances, the savings bank shall extend the time
13 specified in subd. 5. to a reasonable period.

14 7. a. Notice to a savings bank is given when a customer takes steps reasonably
15 necessary to provide the savings bank with the pertinent information, whether or not
16 a particular employee or agent of the savings bank actually receives the information.

17 b. A customer may notify the savings bank in person, by telephone, or in
18 writing.

19 c. Written notice is considered given at the time the customer mails the notice
20 or delivers it for transmission to the savings bank by any other usual means. Notice
21 may be considered constructively given when the savings bank becomes aware of
22 circumstances leading to the reasonable belief that an unauthorized transfer to or
23 from the customer's account has been or may be made.

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1 8. If an agreement between the customer and the savings bank imposes less
2 liability than is provided by this section, the customer's liability may not exceed the
3 amount imposed under the agreement.

4 **SECTION 55.** DFI-SB 12.07 (2) (b) of the administrative code is amended to
5 read:

6 DFI-SB 12.07 (2) (b) A customer furnishing another person with the plastic
7 card or other means ~~providing~~ access device to the customer's account through a
8 remote service unit shall be deemed to authorize all transactions that may be
9 accomplished by that means until the customer has given actual notice to the savings
10 bank that further transactions are unauthorized.

11 **SECTION 56.** DFI-SB 12.08 (2) (intro.) of the administrative code is amended
12 to read:

13 DFI-SB 12.08 (2) TRANSACTION DOCUMENTATION. (intro.) ~~Every~~ Except as
14 provided in sub. (4), every transfer of funds made through a remote service unit by
15 a customer of a savings bank shall be evidenced by a written document made
16 available to the customer at the time of the transaction. The document shall indicate
17 with reasonable specificity the identity of any third party to whom funds are
18 electronically transferred, the identity of the customer's account, the amount of
19 funds transferred, the type of transaction and the date of the transaction. A customer
20 may be required to reenter an access device, such as a card, at a terminal in order
21 to receive transaction documentation if all the following conditions are met:

22 **SECTION 57.** DFI-SB 12.08 (4) of the administrative code is created to read:

23 DFI-SB 12.08 (4) EXCEPTION FOR WRITTEN DOCUMENT IN SMALL-VALUE TRANSFERS.
24 A savings bank is not subject to the requirement to make available a written
25 document under sub. (2) if the amount of the transfer is \$15 or less.

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1 **SECTION 58.** DFI-SB 12.09 of the administrative code is repealed.

2 **SECTION 59.** DFI-SL 12.07 (2) (a) (intro.) of the administrative code is amended
3 to read:

4 DFI-SL 12.07 **(2)** (a) (intro.) The liability of a customer of an association for the
5 unauthorized use of a plastic card or other means ~~providing the customer access~~
6 device to a remote service unit ~~may not exceed the lesser of the following~~ shall be
7 determined as follows:

8 **SECTION 60.** DFI-SL 12.07 (2) (a) 1. and 2. of the administrative code are
9 repealed.

10 **SECTION 61.** DFI-SL 12.07 (2) (a) 3., 4., 5., 6., 7. and 8. of the administrative
11 code are created to read:

12 DFI-SL 12.07 **(2)** (a) 3. If the customer notifies the association within 2
13 business days after learning of the unauthorized use or of loss or theft of the plastic
14 card or other access device, the customer's liability may not exceed the lesser of \$50
15 or the amount of unauthorized transfers that occur before notice to the association.

16 4. If the customer fails to notify the association within 2 business days after
17 learning of the unauthorized use or of loss or theft of the plastic card or other access
18 device, the customer's liability may not exceed the lesser of \$500 or the sum of all of
19 the following:

20 a. \$50 or the amount of unauthorized transfers that occur within the 2 business
21 days, whichever is less.

22 b. The amount of unauthorized transfers that occur after the close of 2 business
23 days and before notice to the association, if the association establishes that these
24 transfers would not have occurred had the customer notified the association within
25 that 2-day period.

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1 5. A customer must report an unauthorized transfer from the unauthorized use
2 of a plastic card or other access device to a remote service unit that appears on a
3 periodic statement within 60 days of the association's transmittal of the statement
4 to avoid liability for subsequent transfers. If the customer fails to do so, the
5 customer's liability may not exceed the amount of the unauthorized transfers that
6 occur after the close of the 60 days and before notice to the association and that the
7 association establishes would not have occurred had the customer notified the
8 association within the 60-day period. When a plastic card or other access device is
9 involved in the unauthorized transfer, the customer may be liable for other amounts
10 set forth in subd. 3. or 4., as applicable.

11 6. If the customer's delay in notifying the association as provided in subd. 5.
12 was due to extenuating circumstances, the association shall extend the time
13 specified in subd. 5. to a reasonable period.

14 7. a. Notice to an association is given when a customer takes steps reasonably
15 necessary to provide the association with the pertinent information, whether or not
16 a particular employee or agent of the association actually receives the information.

17 b. A customer may notify the association in person, by telephone, or in writing.

18 c. Written notice is considered given at the time the customer mails the notice
19 or delivers it for transmission to the association by any other usual means. Notice
20 may be considered constructively given when the association becomes aware of
21 circumstances leading to the reasonable belief that an unauthorized transfer to or
22 from the customer's account has been or may be made.

23 8. If an agreement between the customer and the association imposes less
24 liability than is provided by this section, the customer's liability may not exceed the
25 amount imposed under the agreement.

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1 **SECTION 62.** DFI-SL 12.07 (2) (b) of the administrative code is amended to read:

2 DFI-SL 12.07 (2) (b) A customer furnishing another person with the plastic
3 card or other means ~~providing access~~ device to the customer's account through a
4 remote service unit shall be deemed to authorize all transactions that may be
5 accomplished by that means until the customer has given actual notice to the
6 association that further transactions are unauthorized.

7 **SECTION 63.** DFI-SL 12.08 (2) (intro.) of the administrative code is amended
8 to read:

9 DFI-SL 12.08 (2) TRANSACTION DOCUMENTATION. (intro.) ~~Every~~ Except as
10 provided in sub. (4), every transfer of funds made through a remote service unit by
11 a customer of an association shall be evidenced by a written document made
12 available to the customer at the time of the transaction. The document shall indicate
13 with reasonable specificity the identity of any third party to whom funds are
14 electronically transferred, the identity of the customer's account, the amount of
15 funds transferred, the type of transaction and the date of the transaction. A
16 customer may be required to reenter an access device, such as a card, at a terminal
17 in order to receive transaction documentation if all the following conditions are met:

18 **SECTION 64.** DFI-SL 12.08 (4) of the administrative code is created to read:

19 DFI-SL 12.08 (4) EXCEPTION FOR WRITTEN DOCUMENT IN SMALL-VALUE TRANSFERS.
20 An association is not subject to the requirement to make available a written
21 document under sub. (2) if the amount of the transfer is \$15 or less.

22 **SECTION 65.** DFI-SL 12.09 of the administrative code is repealed.

23 **SECTION 66. Effective dates.** This act takes effect on the day after publication,
24 except as follows:

