

**THINGS YOU SHOULD KNOW  
BEFORE CONDUCTING LOAN COMPANY  
BUSINESS IN WISCONSIN**

The Wisconsin Department of Financial Institutions, Division of Banking (“DOB”) wants to help you ensure that your new Wisconsin loan business will be operated in compliance with Wisconsin rules and regulations. To start you off on the right foot, we’ve developed the following checklist so you can make sure your operations will be compliant before you start conducting business.

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## ADMINISTRATIVE TASKS

**Place a checkmark in the box after completing each of the noted items.**

- ☐ Wisconsin Consumer Act  
**A Wisconsin Consumer Act Registration form has been filed.**

Information about registration can be found on the Department of Financial Institutions' [website](#) and the registration form can be found [here](#).

- ☐ Filing Due Dates  
**The following filing due dates have been added to our calendar:**

Filing	Due	Notes
Loan Company Annual Report	3/15	DOB emails licensees a link to this report in January
Loan Company License Renewal	12/10	<ul style="list-style-type: none"><li>If licensed through NMLS, renew your license through the NMLS website.</li><li>If not licensed through NMLS, complete the renewal form DOB mails you in October</li></ul>
Title Lender Certificate of Authorization Renewal (if applicable)	12/10	DOB mails this form to licensees in October
Wisconsin Consumer Act Registration	2/28	The Bureau of Consumer Affairs mails this form in January
Domestic Corporation/LLC Annual Report (if applicable)	Varies	The Division of Corporate and Consumer Services mails registrants a reminder postcard. This report is due at the end of the quarter in which the licensee originally filed their registration.
Foreign Corporation/LLC Annual Report (if applicable)	3/31	The Division of Corporate and Consumer Services mails registrants a reminder postcard.

- ☐ Net Worth & Working Capital  
**Procedures have been implemented to monitor our tangible net worth and working capital.**

Important considerations:

- Pursuant to s. 138.09(3)(a), Wis. Stats., a loan company shall maintain required character, general fitness, and financial responsibility. For the division to find that a loan company is financially responsible, the loan company must maintain tangible net worth of at least \$50,000 and positive working capital.
- When calculating the tangible net worth, the DOB starts with the total equity disclosed on the balance sheet and then subtracts intangible assets; receivables from officers, stockholders, and other related parties; employee advances; receivables over 120 days past due and any other assets of questionable value.
- The DOB will not accept a parent company's financials in lieu of the licensed entity's financials.
- All financial statements submitted to the DOB must be prepared according to generally accepted accounting principles on an accrual basis.



## Surety Bonds

**A reminder has been set to pay the premium on our Wisconsin loan company surety bond annually.**

Important items to know about loan company bonds:

- Each time a licensee applies for an additional loan company office license, the licensee shall submit a surety bond rider increasing the amount of the surety bond by \$5,000 for each additional office, except that if the loan company bond is at \$50,000, no additional bonding or rider is needed.
- A surety bond rider must be mailed to the DOB when the bond amount is increased/decreased or when the name or d/b/a of the licensee is changed.
- The original bond is continuous until cancelled; therefore, a licensee does not need to submit a bond continuation certificate to the DOB on an annual basis.



## Record Retention

**Our Policies and Procedures manual has been updated to include the following record retention guidelines.**

Section 138.09(6)(a), Wis. Stats., requires records be maintained at a licensed location for at least two years after the loan is paid. The statute also allows the DOB to establish record requirements that enable it to determine whether the provisions of Chapter 138 are being observed. As such, the DOB requires records to be maintained beyond the two years and as far back as the date of the most recent examination conducted by the DOB. If more than five years has passed since the most recent examination, records need only be maintained for five years after the loan is paid.

## APPLICATIONS & LOAN AGREEMENTS



### Notice to Married Applicants

**The following notice has been added to our written applications for credit as required by s.766.56(2)(b), Wis. Stats.**

NOTICE TO MARRIED APPLICANTS: No provision of a marital property agreement, a unilateral statement under s. 766.59 or a court decree under s. 766.70 adversely affects the interest of the creditor unless the creditor, prior to the time credit is granted, is furnished a copy of the agreement, statement or decree or has actual knowledge of the adverse provision when the obligation to the creditor is incurred.



### Notice to Non-Applicant Spouse

**Procedures have been implemented to ensure that a non-applicant spouse is mailed a written notice informing them of the extension of credit to the applicant spouse.**

Section 766.56(3)(b), Wis. Stats., states that the notice requirement may be satisfied by providing a copy of the loan agreement to the non-applicant spouse or by sending the non-applicant spouse a separate writing briefly describing the nature of the credit extended. Please note, the DOB interprets this to mean that the notice must be sent via regular mail, not email.

To comply with the requirements of s. 766.56(3)(b), lenders must ask an applicant what their marital status is, and if married, the name and address of the non-applicant spouse. Many lenders include the following language in their credit application or loan agreement.

For Wisconsin Residents Only: You are ☐ married ☐ unmarried ☐ legally separated. If you are married and your spouse is not signing below, the name of your spouse is \_\_\_\_\_ and your spouse resides at ☐ the address shown above ☐ or at \_\_\_\_\_

- ☐ **E-Sign Consent**  
**If originating loans via the internet, our loan process requires borrowers to sign an E-Sign Consent form before they are presented with the loan agreement. The E-Sign consent form indicates that the borrower does not need to pay a fee to get paper copies of documents.**

Please refer to the Electronic Signatures in Global and National Commerce Act ([E-Sign Act](#)) for details about the requirements of the E-Sign Act and to s. 422.202, Wis. Stats., for information about permitted additional charges.

- ☐ **Loan Administration Fees**  
**Our loan management system is programmed to assess a loan administration fee only on a consumer loan that is secured primarily by an interest in real property, a mobile home, or a manufactured home and that the fee is limited to 2% of the principal as required by s. 138.09(7)(jm), Wis. Stats.**

The loan administration fee does not have to be refunded upon prepayment as long as it complies with the provisions of s. 138.09(7)(jm), Wis. Stats. Additional information about loan administration fees can be found in the guidance document found [here](#) on the Department of Financial Institutions' website.

- ☐ **Returned Item Fees**  
**Our loan management system is programmed to limit returned item fees to \$15.**

Also verify that your loan management system is programmed to:

- 1) Assess a returned item fee only on a returned check or ACH.
- 2) Assess a returned item fee only when the borrower:
  - a) Does not have an account with the drawee,
  - b) Does not have sufficient funds in their bank account, or
  - c) Does not have sufficient credit with the drawee.

Please see s. 422.202(1), Wis. Stats., for additional information about returned item fees and the "NSF Fees Arising from ACH Transactions" interpretive opinion letter found [here](#) on the Department's website.

- ☐ **Late Charges**  
**Our loan management system is programmed to assess late charges in accordance with s. 422.203, Wis. Stats.**

For informational purposes, the most common late charge errors the DOB cites in exams are:

- a) Late charges not being limited to the lesser of \$10 or 5% of the unpaid installment amount.
- b) Late charges being assessed on the 10<sup>th</sup> day after a scheduled payment due date rather than on the 11<sup>th</sup> day.
- c) *For late charge purposes only*, payments not being applied first to the current installment and then to delinquent installments.
- d) *For late charge purposes only*, if a payment exceeded the required amount and there were no previous unpaid installments/returned item fees/late charges, the additional amount not being applied to the next payment due (thereby reducing the amount of the late fee on the next installment if the next installment is late).
- e) Late charges being assessed on the final installment on loans where interest was assessed after maturity.

- ☐ **Loans with Total of Payments of \$1,500 or Less**  
**Our loan management system is programmed to permit only biweekly or monthly payments on loans that have a total of payments of \$1,500 or less.**

Rule DFI-Bkg 75.03(3)(a), requires that no licensee under s. 138.09 make a loan of \$1,500 or less that requires payments to be made on any schedule other than substantially equal biweekly installments or substantially equal monthly installments, except as provided in s. 138.09(7)(c)2., Wis. Stats.

- ☐ **First Due Date**  
**Our loan management system is programmed to limit the first scheduled payment on loans with monthly payment schedules to be no less than 15 days and no more than 45 days after the contract date, as required by s. 138.09(7)(c)2, Wis. Stats.**
- ☐ **Maximum Loan Terms**  
**Our loan management system is programmed to provide for a maximum loan term of:**  
a) 24 months and 15 days if the principal on an installment loan is \$700 or less.  
b) 36 months and 15 days if the principal on an installment loan is greater than \$700, but no more than \$3,000.  
See s. 138.09(7)(d), Wis. Stats.
- ☐ **Notice Regarding Prepayment**  
**As required by s. 138.09(8)(c), Wis. Stats., our Wisconsin loan agreement includes a statement that the borrower may prepay their loan in whole or in part prior to maturity.**
- ☐ **Notice to Customer**  
**Our Wisconsin loan agreement includes the following "Notice to Customer" as required by s. 422.303(3), Wis. Stats., and that notice is located immediately above or adjacent to the customer's signature.**  
  
NOTICE TO CUSTOMER  
A. DO NOT SIGN THIS BEFORE YOU READ THE WRITING ON THE REVERSE SIDE, EVEN IF OTHERWISE ADVISED.  
B. DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.  
C. YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN.  
D. YOU HAVE THE RIGHT AT ANY TIME TO PAY IN ADVANCE THE UNPAID BALANCE DUE UNDER THIS AGREEMENT AND YOU MAY BE ENTITLED TO A PARTIAL REFUND OF THE FINANCE CHARGE.
- ☐ **Disclosed Interest Rates**  
**If the APR and the contract rate will be different on our Wisconsin loans, the contract rate is disclosed in our loan agreements.**
- ☐ **Application of Partial Prepayment**  
**If our loan management system is programed to automatically apply a customer's excess payment to principal, our loan agreement includes the wording set forth in the DOB's "Application of Partial Prepayment" interpretive opinion letter.**  
  
The interpretive opinion letter is found [here](#) on the Department's website. Please note, borrowers must have the option to apply excess payments to future installments.
- ☐ **Additional Charges**  
**Any additional charges we intend to assess Wisconsin customers are permitted by s. 422.202, Wis. Stats., and, if s. 139.08(7)(jm), Wis. Stats., is applicable, such charges are consistent with that statute.**

## PAYMENTS & COLLECTIONS

- ☐ **Returning Paid Loan Agreements**  
**When a loan is paid in full, our procedures dictate that the loan agreement will be stamped "Paid" or "Cancelled" and that the original agreement will be returned to the borrower in accordance with s. 138.09(8)(d), Wis. Stats.**

For informational purposes, if a lender originates loans online, there are several ways they can return the paid agreement to a customer that would comply with s. 138.09(8)(d), Wis. Stats. The lender could email the “paid” agreement to the customer, they could send the customer an email notifying them that they can find their “paid” agreement in their online portal, or they could mail the “paid” loan agreement to the customer.

#### ☐ Deferral Agreements

**If we permit borrowers to defer payments on precomputed loans, our procedures require that the borrower sign a deferral agreement that complies with the requirements of s. 422.204(7)(am), Wis. Stats.**

#### ☐ Calling References

**Our collection policy notifies our employees that calling a debtor’s references is prohibited if the debtor’s contact information is already known.**

This practice is prohibited under Chapter 427 of the Wisconsin Statutes. Please refer to the April 13, 2020 Interpretive Opinion document titled “Calls to a Debtor’s Friends, Family, and Other Third Parties” that is found [here](#) on the Department’s website.

#### ☐ Notices of Right to Cure Default

**If we will be sending a Notice of Right to Cure Default (“RTC”) to borrowers with loans that are in default, our RTC form and procedures comply with the provisions of ss. 425.103, 425.104, 425.105, 425.205(1g), Wis. Stats.**

Please note, the most common RTC errors the DOB cites in exams are:

- The RTC is mailed before the customer’s loan has defaulted.
- The RTC does not identify the correct amount needed to cure the default.
- The RTC does not include an itemization of the past due installments and past due amounts.
- The RTC does not provide the customer with enough time to cure the default.
- For vehicle secured loans, the RTC does not include all of the statements required by s. 425.205(1g)(a), Wis. Stats.

If you would like to review a sample RTC developed by the DOB, please email a request to [DFI\\_LFS@dfi.wisconsin.gov](mailto:DFI_LFS@dfi.wisconsin.gov).

#### ☐ Notice of Our Plan to Sell Property

**If we offer loans that are secured by motor vehicles, our repossession procedures indicate that the Notice of Our Plan to Sell Property that is sent to borrowers will comply with the requirements of s. 409.614, Wis. Stats. Our procedures also indicate that the notice must comply with s. 425.208, Wis. Stats., if we mail the notice fewer than 16 days after the vehicle is repossessed.**

Pursuant to s. 425.208, Wis. Stats., for a period of 15-days after repossession, a debtor may be able to redeem their vehicle by paying a) the total of all unpaid amounts, **without acceleration**; plus b) any performance necessary to cure any default other than nonpayment of amounts due; plus c) any court related costs and filing/service fees; plus d) expenses allowed under s. 422.413(2g)(a) and (b); plus e) a performance deposit equal to 3 installments or 1/3 of the total obligation remaining unpaid (whichever is less).

If a lender chooses to send a Notice of Our Plan to Sell Property within 15 days after repossession (as opposed to waiting until the 16<sup>th</sup> day), the amount the customer needs to pay to redeem the vehicle must be the amount required by s. 425.208, Wis. Stats., if it is less than the full amount owed.