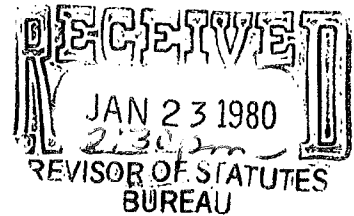


Bkg 76

STATE OF WISCONSIN)
OFFICE OF COMMISSIONER OF BANKING) SS

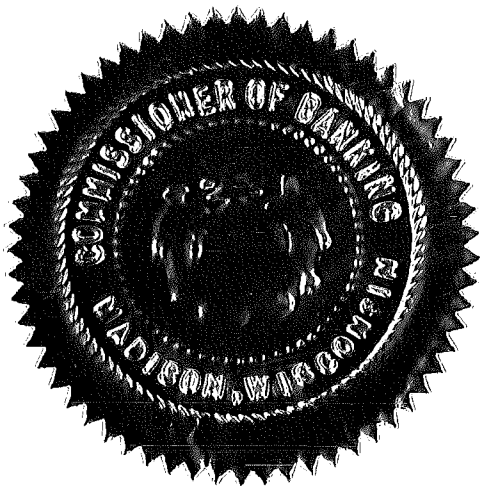


TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Erich Mildenberg, Commissioner of Banking, and custodian of the official records of said office, do hereby certify that the annexed rule, relating to Motor Vehicle Sales Finance Companies, was duly approved and adopted by this office on the 22nd day of January, 1980.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Office of Commissioner of Banking in the City of Madison, this 23rd day of January A.D. 1980.



Erich Mildenberg

Erich Mildenberg
Commissioner of Banking
Administrator

ORDER OF THE OFFICE OF THE COMMISSIONER OF BANKING
ADOPTING, AMENDING AND REPEALING RULES

Relating to rules concerning motor vehicle sales finance companies

Analysis by the Office of Commissioner of Banking

These regulations are created in order to clarify the relationship between the law governing the installment sale of motor vehicles (S. 218.01, Wis. Stats.) and the Wisconsin Consumer Act (Chs. 421-427, Wis. Stats.) and to incorporate amendments to S. 218.01, Wis. Stats., passed since the existing regulations were promulgated.

1. Bkg 76.01 provides that a motor vehicle sales finance company may exclude from the finance charge only those additional charges enumerated in S. 422.202(1), Wis. Stats. in consumer credit transactions. In other transactions the creditor may also contract for the charges authorized by S. 409.504, Wis. Stats.

2. Bkg 76.03 provides that delinquency charges on extensions of consumer credit shall be calculated according to the requirements of the Wisconsin Consumer Act. On all other transactions a delinquency charge of 3% of the unpaid amount of the installment may be assessed. Calculation of the charge in these cases parallels the Wisconsin Consumer Act. Interest after maturity on the unpaid balance in nonconsumer transactions is limited to the greater of 12% per annum or the annual rate of finance charge assessed on the transaction. The procedure for assessing and contracting for deferral charges in consumer and nonconsumer transactions is identical.

3. Bkg 76.04 provides that a buyer may prepay any motor vehicle installment purchase contract and receive a rebate of the unearned finance charge. If the transaction is an extension of consumer credit the rebate will be calculated as required by the Wisconsin Consumer Act. Otherwise S. 138.05(2)(b), Wis. Stats. will govern this calculation. In extensions of consumer credit a creditor may contract for and retain a minimum finance charge of up to \$7.50 which is not subject to rebate. In all other transactions the minimum finance charge is \$15.

4. Bkg 76.05 provides that it is the duty of the creditor to refund unearned insurance premiums in the event of prepayment if the creditor sold the insurance. Otherwise the creditor has the duty to notify the selling agent of the date of prepayment directing that any refund be made to the appropriate party.

5. Bkg 76.06 provides that in the event a retail installment contract is refinanced the customer shall receive a rebate for prepayment and the rate of finance charge assessed by any holder on the refinanced balance shall not exceed the maximum rate which could have been charged by the retail seller at the time of the original contract. For example, if a new vehicle were financed at an annual rate of 10% the maximum rate upon refinancing would be 12.75% per year for 71 months and 11.7% per year if the term of the refinancing were 72 months or more.

6. Bkg 76.07 provides that in the event a retail seller consolidates the unpaid balance of one retail installment contract with the balance on a subsequent retail installment contract the rate of finance charge on the combined balance shall not exceed the maximum rate applicable to the vehicle most recently purchased. For example, if the outstanding balance on a contract for a Class 2 vehicle were consolidated with the balance on a contract for a Class 1 vehicle, the maximum rate on the combined balance would be the Class 1 rate if that vehicle was the one most recently purchased by the customer.

Pursuant to the authority vested in the Office of Commissioner of Banking by section 218.01(5), Wis. Stats., the Office of Commissioner of Banking hereby repeals and adopts the following rules interpreting section 218.01, Wis. Stats., as follows:

Bkg 76.01 through 76.99 are repealed.

Bkg 76.01 is recreated to read:

Bkg 76.01. FINANCE CHARGE, DEFINITION, DISCLOSURE. A retail seller may in addition to the finance charge bargain for and receive, in accordance with the requirements of Sec. 422.202(1), and Sec. 424.301, Stats., only those additional charges described therein and in transactions other than extensions of consumer credit, the costs of collection authorized by Sec. 409.504, Stats. To the extent that any charge qualifies as an additional charge under this regulation it may be excluded from the finance charge.

Bkg 76.03 is recreated to read:

Bkg 76.03. DELINQUENCY AND DEFERRAL CHARGES. (1) In consumer credit transactions a retail seller may contract for and receive delinquency charges only in accordance with Sec. 422.203, Stats., and regulations issued by the Commissioner thereunder.

(2) In all other transactions a retail seller may contract for and receive a delinquency charge on any installment not paid in full on or before the 10th day after its scheduled or deferred due date in an amount not to exceed 3% of the unpaid amount of the installment. No delinquency charge may be collected on an installment which is paid in full on or before the 10th day after its scheduled or deferred due date even though an earlier matur-

been paid in full. For purposes of this subsection payments are applied first to current installments and then to delinquent installments. Interest after the final scheduled maturity date shall not exceed the greater of 12% per annum or an amount determined by applying the annual rate of finance charge assessed on that transaction to the unpaid balance until paid, but if such interest is charged no delinquency charge may be taken on the final scheduled installment.

(3) A retail seller may contract for and assess deferral charges only in accordance with Sec. 422.204, Wis. Stats., and regulations issued by the Commissioner thereunder.

Bkg 76.04 is recreated to read:

Bkg 76.04. REFUND FOR PREPAYMENT. (1) Subject to subsection (2), a retail buyer may prepay in full or in any part at any time without penalty the unpaid balance of any retail installment contract.

(2) Upon prepayment in full of the unpaid balance of a retail installment contract by cash, refinancing, consolidation, or if the maturity of the obligation is accelerated for any reason and judgment is obtained, the unearned portion of the finance charge shall be rebated to the retail buyer or credited to the outstanding balance of the buyer's account. If the total of all rebates, refunds and credits to be made to the retail buyer is less than \$1, no rebate need be made.

(3) The unearned portion of the precomputed finance charge on retail installment contracts repayable in substantially equal successive installments at approximately equal intervals shall be computed in accordance with Sec. 422.209(2), Stats. With respect to all other retail installment contracts the unearned portion of the finance charge shall be computed in accordance with Sec. 138.05(2)(b), Wis. Stats.

(4) Notwithstanding subsection (2) and (3), a retail seller may contract for and retain a minimum finance charge as provided in Sec. 422.201(9), Stats. in all consumer credit transactions or a minimum finance charge of \$15 as provided for in Sec. 218.01(6)(b)7, Stats., in all other retail installment contracts.

Bkg 76.05 is created to read:

Bkg 76.05. INSURANCE PREMIUMS, REBATES. Upon prepayment in full of any retail installment contract by the proceeds of credit insurance or otherwise the sales finance company shall, if its representative sold the credit insurance, refund to the customer or to the customer's estate the amount of any unearned insurance premium or, if its representative did not sell the insurance, notify the insurance agent of the date of prepayment directing that payment be made to the customer or to the customer's estate.

Bkg 76.06 is created to read:

Bkg 76.06. REFINANCING. Upon refinancing a retail installment contract prior to its maturity the customer shall receive as of the date of the refinancing a rebate of the unearned finance charge pursuant to the provisions of Bkg 76.04, except that for the purposes of computing this amount no minimum finance charge shall be allowed in consumer credit transactions. The rate of finance charge upon refinancing shall not exceed the maximum rate applicable to the vehicle under Sec. 218.01(6), Wis. Stats., at the time it was originally financed if the creditor is a licensed motor vehicle dealer. Otherwise, the maximum rate shall not exceed the rate at which the creditor could loan the refinanced balance to the customer.

Bkg 76.07 is created to read:

Bkg 76.07. CONSOLIDATION. Upon consolidation of the unpaid balance of a retail installment contract for the purchase of a motor vehicle with the unpaid balance of any other transaction for the purchase of a motor vehicle, the customer shall receive a rebate of the unearned finance charge on each

retail installment contract pursuant to the provisions of Bkg 76.04, except that for the purposes of computing that amount no minimum finance charge shall be allowed in consumer credit transactions. The rate of finance charge upon consolidation shall not exceed the maximum rate under Sec. 218.01(6), Stats., applicable to the vehicle most recently purchased if the creditor is a licensed motor vehicle dealer. Otherwise the maximum rate shall not exceed the rate at which the creditor could loan the consolidated balance to the customer.

Bkg 76.09 is created to read:

Bkg 76.09. RECORD RETENTION. (1) Each motor vehicle sales finance company shall retain the following records in connection with each transaction evidenced by a retail installment contract:

- (a) A copy of each retail installment contract
- (b) Each credit disclosure statement.
- (c) The name of the assignee to whom each contract is transferred.
- (d) Where credit insurance is sold by the sales finance company or its representative:
 - 1. A copy of the insurance policy or certificate of insurance.
 - 2. The policy number.
 - 3. The date of prepayment, if any.
 - 4. Refunds of credit insurance premiums separately itemized.
 - 5. Each notice of prepayment made by an assignee in accordance with Bkg 76.05.
 - 6. The amount, date and check number of any credit insurance rebates.
- (e) A copy of each notice of right to cure default sent by the licensee.
- (f) Each document evidencing receipt of surrender or voluntary surrender of any vehicle recovered by the licensee.

(g) Each licensee who disposes of any vehicle recovered by replevin, surrender or voluntary surrender shall retain or record each oral or written bid received, except oral bids at a public sale, as well as the date of sale, the amount received and the identity of the buyer.

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

(a) Open accounts.

1. Date of the transaction
2. Account number.
3. Name and address of Buyer and Seller.
4. Cash Price.
5. Down Payment.
6. Amount and description of each additional charge.
7. The Amount Financed.
8. Finance Charge expressed in dollars.
9. The Total of Payments.
10. The first installment due date.
11. The number, amount and periods of payments scheduled to repay the indebtedness.
12. The Annual Percentage Rate.
13. Description and year model of motor vehicle, including whether the vehicle was new or used at the time of sale.
14. Date and amount of each payment.
15. Amount of any delinquency charges collected.
16. Amount of any deferral charges collected.
17. Name of each credit and property insurer.

18. Each insurance certificate or policy number.

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

1. Date account is paid in full.
2. Whether the account balance or any payments were paid from credit insurance proceeds, the amount of such proceeds and, if paid from the proceeds of credit life insurance, the date of the customer's death.
3. The amount of the refund of unearned charges separately itemized.
4. The amount, date and check number of any overpayment or rebate for prepayment.

(3) In transactions where the finance charge is to be calculated on the declining unpaid balance from time to time outstanding, payments shall be posted as of the date upon which payments are received at any office to which the buyer is directed to make the payment regardless of the date on which posting actually occurs unless the document evidencing the customer's obligation to pay provides that payment received after a particular hour shall be posted as of the following business day.

(4) The information required by this regulation shall be retained for a period of not less than two years after consummation of the transaction or one year after the last payment, whichever is later, and shall be assessable by reference to the name of the customer.

Bkg 76.10 is created to read:

Bkg 76.10. VIOLATION OF REGULATIONS, PENALTY. Failure to comply with the foregoing rules and regulations shall constitute an unfair trade practice and proof of unfitness which shall be grounds for license revocation.

76.11. EFFECTIVE DATE. These regulations shall take effect 60 days

from the date of publication.

The rules and repeals contained in this order shall take effect
60 days from the date of publication.

Dated: January 22, 1980

Erich Mildenberg

Erich Mildenberg, Commissioner





State of Wisconsin \

OFFICE OF COMMISSIONER OF BANKING

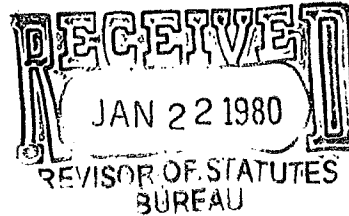
January 22, 1980

ERICH MILDENBERG
COMMISSIONER

WILLIAM G. NOBLE
ADMINISTRATOR

DIVISION OF CONSUMER CREDIT
30 WEST MIFFLIN STREET
MADISON, WISCONSIN 53703

Mr. Gary Poulson
Revisor of Statutes Bureau
Room 411 W. State Capitol
Madison, WI



Re: Rules Issued Pursuant to Sec. 218.01(5), Wis. Stats.

Dear Gary:

Enclosed please find rules recently issued by this Office under Sec. 218.01, Wis. Stats., amending Chapter Bkg. 76 of the Wisconsin Administrative Code. These regulations are filed with your office pursuant to Sec. 227.023, Wis. Stats., for publication in the next issue of the Register.

These rules were filed with the Senate and Assembly on November 26, 1979, and neither of the Standing Committees to which these regulations were referred requested a hearing.

I appreciate your assistance in this matter.

Very truly yours,

Robert A. Patrick
Attorney

RAP:dm
Enc.