

Chapter DFI-Bkg 76

SALES FINANCE COMPANIES

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Note: Chapter Bkg 76 as it existed on May 31, 1980 was repealed and a new chapter Bkg 76 was created effective June 1, 1980. Chapter Bkg 76 was renumbered Chapter DFI-Bkg 76 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498, eff. 7-1-97.

DFI-Bkg 76.01 Finance charge, definition, disclosure. (1) A retail seller may in addition to the finance charge bargain for and receive, in accordance with the requirements of ss. 422.202 (1) and 424.301, Stats., only those additional charges described therein. To the extent that any charge qualifies as an additional charge under this regulation it may be excluded from the finance charge.

(2) With the exception of s. DFI-Bkg 76.05, this chapter shall apply solely to consumer credit transactions as defined under s. 421.301 (10), Stats.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80; renum. to be (1) and am. and cr. (2), Register, November, 1996, No. 491, eff. 12-1-96.

DFI-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 s. 422.203, Stats., and regulations issued by the administrator of the division of banking thereunder.

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

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80; am. (2), Register, July, 1983, No. 331, eff. 8-1-83; r. (2), Register, November, 1996, No. 491, eff. 12-1-96.

DFI-Bkg 76.04 Refund for prepayment. (1) Subject to sub. (2), a retail buyer may prepay in full or in any part at any time without penalty the unpaid balance of any retail instalment contract.

(2) Upon prepayment in full of the unpaid balance of a retail instalment 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 instalment contracts repayable in substantially equal successive instalments at approximately equal intervals shall be computed in accordance with s. 422.209 (2), Stats. With respect to all other retail instalment contracts the unearned portion of the finance charge shall be computed in accordance with s. 138.05 (2) (b), Stats.

(4) Notwithstanding subs. (2) and (3), a retail seller may contract for and retain a minimum finance charge as provided in s. 422.201 (9), Stats.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80; am. (4), Register, November, 1996, No. 491, eff. 12-1-96.

DFI-Bkg 76.05 Insurance premiums, rebates. Upon prepayment in full of any retail instalment 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.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80.

DFI-Bkg 76.06 Refinancing. Upon refinancing a retail instalment 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 s. DFI-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 s. 218.0142, 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.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80; correction made under s. 13.93 (2m) (b) 7., Stats., Register June 2004 No. 582.

DFI-Bkg 76.07 Consolidation. Upon consolidation of the unpaid balance of a retail instalment 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 instalment contract pursuant to the provisions of s. DFI-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 s. 218.0142, 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.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80; correction made under s. 13.93 (2m) (b) 7., Stats., Register June 2004 No. 582.

DFI-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 instalment contract:

- (a) A copy of each retail instalment 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 s. DFI-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 instalment 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 instalment due date.
 - 11. The number, amount and periods of payment 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 2 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.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80.

DFI-Bkg 76.10 Violation of rules, 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.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80.

DFI-Bkg 76.11 Definitions. Words and phrases used in this chapter have the same meaning as found in ch. 218, Stats., unless additional interpretations are specified. In this chapter:

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

(2) "Commissioner" means the office of commissioner of banking.

(3) "Initial license" means a license issued to a person or business who does not have such a license at the time of application.

(4) "Renewal license" means a license issued to a person or business who has such a license at the time of application.

Note: 1995 Wis. Act 27 replaced the commissioner of banking with the division of banking in the department of financial institutions.

History: Cr. Register, March, 1980, No. 291, eff. 6-1-80; emerg. r. and recr. eff. 1-1-91; r and recr. Register, June, 1991, No. 426, eff. 7-1-91.

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

Month When Business License is Issued:	Month When Business License Expires:	
February 1	January 31	All expiration
April 1	March 31	dates are in the
June 1	May 31	second year after
August 1	July 31	the date when
October 1	September 30	the license was
December 1	November 30	issued.

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

Day License Is Issued:	Day License Expires:
December or January	Last November 30 before the end of 2 years
February or March	Last January 31 before the end of 2 years
April or May	Last March 31 before the end of 2 years
June or July	Last May 31 before the end of 2 years
August or September	Last July 31 before the end of 2 years
October or November	Last September 30 before the end of 2 years

Example: A motor vehicle dealer whose license is first issued on October 8, 1992 would receive a license valid through September 30, 1994.

(2) A motor vehicle or mobile home license to operate as a sales finance company will be issued to run concurrently with the department of transportation dealer licenses.

History: Emerg. cr. eff. 1-1-91; cr. Register, June, 1991, No. 426, eff. 7-1-91.

DFI-Bkg 76.13 License fees. (1) The administrator of the division of banking shall collect fees based on the statutory formulas described in s. 218.0114 (15), Stats., and elsewhere, which is the number of years in a licensing period multiplied by

the current annual fee of \$50. If the dealer originates and carries or retains time sales contracts for more than 30 days in a total amount exceeding \$100,000, a bill will be issued for additional business license fees due based upon the schedule of fees in s. 218.0114 (16), Stats.

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

History: Emerg. cr. eff. 1-1-91; cr. Register, June, 1991, No. 426, eff. 7-1-91; **corrections in (1) made under s. 13.93 (2m) (b) 7., Stats., Register June 2004 No. 582.**