



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2427/1
ARG:wlj

2023 ASSEMBLY BILL 617

November 2, 2023 - Introduced by Representatives O'CONNOR, MURPHY and MACCO, cosponsored by Senators KNODL and WANGGAARD. Referred to Committee on Financial Institutions.

1 **AN ACT** *to repeal* 138.09 (7) (b), (bm) and (bn), 138.09 (7) (e) 2., 138.09 (7) (gm)
2 1. and 2., 138.12 (14), 218.04 (3) (c), 218.04 (8), 224.72 (7) (bm), 224.725 (5) (a)
3 1. and 2. and 224.725 (5) (b); **to renumber** 138.09 (1a) and 218.0161; **to**
4 **renumber and amend** 138.09 (1d), 138.09 (1m) (a), 218.0114 (4), 218.0114
5 (17), 218.04 (1) (b), 218.04 (13), 224.72 (7) (am), 224.725 (5) (a) (intro.), 224.728
6 (title), 224.728 (1), 224.728 (2), 224.728 (3), 224.728 (4) and 224.728 (5); **to**
7 **amend** 49.857 (1) (d) 12., 73.0301 (1) (d) 6., 100.315 (1), 108.227 (1) (e) 6., 138.09
8 (1m) (b) 1. (intro.), 138.09 (2), 138.09 (3) (c), 138.09 (3) (d), 138.09 (3) (e) 1. a. and
9 f., 138.09 (3) (f), 138.09 (6), 138.09 (7) (c) 2. and 4., 138.09 (7) (e) 3., 138.09 (7)
10 (g) (intro.), 138.09 (7) (k), 138.12 (3) (b), 138.12 (4) (am) 1., 138.12 (5) (b), 138.14
11 (4) (a) 1. (intro.), 138.14 (6) (a), 138.14 (6) (b) 1. b., 138.14 (7) (d), 138.14 (8) (c),
12 138.14 (9) (a) 4., 138.14 (14) (c) 1., 138.14 (14) (m), 138.14 (15) (title), 186.113
13 (22) (title), 214.04 (20), 215.13 (41) (title), 218.0111 (2), 218.0114 (5) (b),
14 218.0114 (13) (a), 218.0114 (20) (c), 218.0116 (1) (am), 218.0161 (title), 218.0162,

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1 218.02 (2) (a) 1. (intro.), 218.02 (5) (a) and (b), 218.02 (6) (a) (intro.), 218.02 (6)
2 (a) 1., 218.02 (9) (title), 218.02 (9) (a) (intro.), 218.02 (9) (c), 218.04 (1) (a), 218.04
3 (2) (a) and (b), 218.04 (3) (a) 1. (intro.), 218.04 (3) (b), 218.04 (4) (a), 218.04 (4)
4 (am) 1., 218.04 (5) (a) (intro.), 1., 2., 3. and 4., 218.04 (5) (c), 218.04 (6) (title),
5 218.04 (6) (b), 218.04 (6) (c) (intro.) and 2., 218.04 (7) (title), 218.04 (7) (a), 218.04
6 (9g) (c), 218.04 (9m) (e), 218.04 (10) (b), 218.04 (13) (title), 218.05 (3) (a) 2.,
7 218.05 (3) (c), 218.05 (10) (a) and (c), 218.05 (11) (intro.), 218.05 (12) (title),
8 218.05 (12) (a) 1., 220.02 (2) (c), 220.02 (3), 220.06 (1m), 224.71 (7), 224.71 (13g)
9 (b), 224.71 (18), 224.72 (2) (am), 224.72 (7) (title), 224.725 (1), 224.725 (1r) (a)
10 5., 224.725 (1r) (c) 1., 224.725 (1r) (c) 2. d., 224.725 (2) (a), 224.725 (2) (c) (intro.)
11 and 2. (intro.), 224.725 (5) (title), 224.74 (1) (a), 224.74 (2) (b), 224.755 (3) (a),
12 (c) and (d), 224.755 (4) (b) 1., 224.77 (1) (a), 224.77 (9), 321.60 (1) (a) 12., 422.202
13 (3) (c) and 946.79 (1) (a); **to repeal and recreate** 138.09 (3) (b), 138.12 (3) (c),
14 138.12 (5) (a) 2., 138.14 (5) (c), chapter 217, 218.02 (5) (c), 218.04 (6) (a), 218.04
15 (10) (a) and 218.05 (14) (a); and **to create** 138.09 (1c) (a) 3., 4., 5. and 6., 138.09
16 (1c) (b), 138.09 (1g) (a), (b), (d), (e), (f), (g), (h) and (i), 138.09 (1m) (b) 2. c., 138.09
17 (1m) (d) and (e), 138.09 (3) (cm), 138.09 (3) (e) 3., 138.09 (3) (g), 138.09 (4) (a)
18 4., 138.09 (4) (e), 138.12 (1) (cm) and (dm), 138.12 (3) (d) 2. c., 138.12 (3) (f), (g)
19 and (h), 138.12 (5r), 138.14 (1) (br), (jm) and (m), 138.14 (4) (a) 1g., 1m. and 1r.,
20 138.14 (4) (a) 2. c., 138.14 (15) (c), 218.0101 (24m) and (37m), 218.0114 (4g) and
21 (4m), 218.0114 (17) (b), 218.0114 (21g) (b) 3., 218.0114 (25), 218.0161 (2), 218.02
22 (1) (e) and (f), 218.02 (2) (a) 2. c., 218.02 (2) (d), (e) and (f), 218.02 (6) (a) 5., 218.02
23 (9) (d), 218.04 (1) (b) 2. and 3., 218.04 (1) (em) and (h), 218.04 (3) (a) 1g., 1m. and
24 1r., 218.04 (3) (a) 2. c., 218.04 (4) (ap) and (c), 218.04 (5) (a) 6., 218.04 (9), 218.04
25 (13) (b), 218.05 (1) (e) and (f), 218.05 (3) (am) 2. c., 218.05 (3) (d), (e) and (f),

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1 218.05 (12) (a) 4., 218.05 (12) (f), 224.35 (1g), 224.35 (1m) (bm), 224.35 (1r), (6),
2 (7) and (8), 224.72 (2) (c) 2. c. and 224.725 (2) (b) 1. c. of the statutes; **relating**
3 **to:** the licensing and regulation by the Department of Financial Institutions of
4 consumer lenders, payday lenders, money transmitters, sales finance
5 companies, collection agencies, mortgage bankers and mortgage brokers,
6 adjustment service companies, community currency exchanges, and insurance
7 premium finance companies; the Nationwide Multistate Licensing System and
8 Registry; modifying and repealing rules promulgated by the Department of
9 Financial Institutions; and granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill makes changes related to the Department of Financial Institutions' regulation of collection agencies, consumer lenders, and sellers of checks and standardizes certain DFI administrative procedures related to these and other licensed financial services providers.

Nationwide Multistate Licensing System and Registry

The bill authorizes DFI to utilize the Nationwide Multistate Licensing System and Registry to administer its licensing functions, and standardizes certain administrative procedures, with respect to the following: consumer lenders; payday lenders; collection agencies; sales finance companies; money transmitters (currently known as sellers of checks); mortgage bankers and mortgage brokers; adjustment service companies; community currency exchanges; and insurance premium finance companies (collectively, licensed financial services providers). The NMLSR is a multistate system developed and operated for the licensing and registration of persons in financial services industries.

Under current law, DFI participates in the NMLSR (formerly known as the Nationwide Mortgage Licensing System and Registry) only with respect to the licensing of mortgage loan originators and certain other functions related to mortgage loan originators, mortgage bankers, and mortgage brokers. Current law allows DFI to establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to collect and maintain records and process transaction or other fees related to mortgage loan originators, mortgage bankers, and mortgage brokers. With respect to licensing mortgage loan originators, DFI may require that an applicant submit any form, fee, or other information directly to the NMLSR and may authorize the NMLSR to perform functions related to the licensing of mortgage loan originators. DFI may also provide to the NMLSR information relating to mortgage loan originator licensing or responsibilities. DFI may also rely on the

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NMLSR to establish application or reporting deadlines for mortgage loan originators and other requirements related to mortgage loan originators. DFI may also use the NMLSR as an agent for requesting and distributing information, including to other governmental agencies. In general, information that is confidential or privileged when it is provided to the NMLSR remains confidential or privileged.

The bill expands DFI's participation in the NMLSR and requires DFI to utilize the NMLSR with respect to the licensing and regulation of licensed financial services providers, including requiring applicants and licensees to provide information directly to the NMLSR and to comply with application and reporting deadlines established by the NMLSR. These applicants and licensees must register with, and maintain a unique identifier issued by, the NMLSR. The bill provides DFI with authority relating to the NMLSR that is additional to the NMLSR authority described above. DFI may require an applicant or licensee to submit identity information, a credit report, an investigative background report, fingerprints for identity verification or a criminal history check, or other personal or professional history information. DFI may report to the NMLSR enforcement actions against or violations by licensed financial services providers, which generally must be kept confidential.

The bill standardizes the license renewal process and renewal period for licensed financial services providers and specifies that the renewal application and related materials or information must be submitted through the NMLSR or as directed by DFI. The bill specifies reasons for which DFI may deny renewal of a license and allows an expired license to be reinstated within two months after the license expires.

The bill requires licensed financial services providers to keep current and accurate all material information on file with DFI and the NMLSR. If the information changes in any material respect, the licensed financial services provider must notify DFI and the NMLSR of the change within 10 days after the change. The bill also requires most licensed financial services providers to submit annual reports and financial statements through the NMLSR or as directed by DFI.

Collection agencies

The bill makes various changes relating to DFI's licensing and regulation of collection agencies and their employees.

Under current law, a person may not operate as a collection agency unless the person is licensed as a collection agency by DFI. A "collection agency" is defined as a person engaging in the business of collecting or receiving for payment for others of any account, bill, or other indebtedness, but the definition also contains specific exceptions, including those for attorneys, banks, express companies, health care billing companies, insurers, and real estate brokers and salespersons. A collection agency is subject to regulation by DFI and to certain laws regulating its operations.

Also under current law, a "collector" or "solicitor" is defined as a person employed by a collection agency to collect or receive payment, or to solicit the receiving or collecting of payment, for others of any account, bill, or other indebtedness outside of the collection agency office or the person's home. A collector or solicitor must hold a separate license as a collector or solicitor, which must state

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the name of the collector's or solicitor's employer. The collector or solicitor must carry this license as a means of identification whenever the collector or solicitor is engaged in business.

The bill makes numerous statutory changes related to the licensing and regulation of collection agencies and their employees, including the following:

1. The bill eliminates the requirement that a collector or solicitor hold a license separate from the license of the collection agency that employs the collector or solicitor. The bill also changes the definition of collector or solicitor to any person who, on behalf of a licensed collection agency, does any of the following: 1) collects, or attempts to collect, for others any account, bill, or other indebtedness; 2) receives payment for others of any account, bill, or other indebtedness; or 3) solicits any account, bill, or other indebtedness for collection by the collection agency. In addition, the bill specifies that a collection agency is responsible for, and must supervise the acts of, its collectors and solicitors and any other person who acts on its behalf.

2. The bill changes the definition of a collection agency by adding exceptions for mortgage bankers licensed by DFI and credit unions and by deleting the exception for express companies. Accordingly, under the bill, licensed mortgage bankers and credit unions are not regulated as collection agencies.

3. The bill specifies that a separate collection agency license is required for each place of business maintained by the collection agency from which the collection agency or its collectors or solicitors engage in the business of collecting or receiving payments for others of any account, bill, or other indebtedness of a person located in this state. The bill also specifies that, if an employee of a licensed collection agency works from the employee's residence, a collection agency license is not required for the employee's residence, but the employee's resident address may not be presented to the public as a location or office of the collection agency and collection agency records may not be maintained at the employee's residence.

4. As described above, the bill requires DFI to use the NMLSR in the licensing and regulation of collection agencies. The bill also modifies license renewal and reporting procedures for collection agencies to conform to the standardized procedures applicable to all licensed financial services providers that use the NMLSR. This change includes changing the collection agency licensing year to a calendar year.

5. The bill specifies that the annual license fee applies for each place of business that is required to be separately licensed. The bill also specifies that if an applicant for an initial collection agency license fails to complete the application within 60 days after DFI provides written notice that it is incomplete, the application is considered abandoned, although the applicant may submit a new application.

6. The bill expands the reasons that DFI may suspend or revoke a collection agency license to include the following: the collection agency has violated DFI's rules related to collection agencies; and the collection agency has made a material misstatement, or knowingly omitted a material fact, in an application for a license or in information furnished to DFI or the NMLSR.

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7. The bill specifies that a collection agency must deposit and maintain in its trust account money due to a claimant or forwarder within 48 hours after collection, while current law requires the money to be deposited promptly.

8. The bill specifies that a collection agency may forward printed collection notices to a debtor that are unsigned.

9. The bill creates statutory provisions relating to collectors or solicitors that are similar to provisions that currently appear in DFI's rules. A collector or solicitor may use an alias in oral or written communications with a debtor, but the alias must include a first and last name and the collector or solicitor may not have more than one alias. A collector or solicitor may only change an alias for good cause and if DFI is first notified of the change.

10. The bill modifies current law provisions relating to a collection agency's change of business location. The bill requires a collection agency to give written notice to DFI at least 30 days prior to changing its business location, but deletes the requirement that the collection agency obtain approval from DFI.

11. The bill gives DFI discretion to determine whether to report to the district attorney for prosecution violations of law relating to a collection agency.

The bill also modifies and repeals various DFI rules related to collection agencies, including the following:

1. The bill prohibits, with an exception, a licensed collection agency from contracting for or assessing a fee, commission, or other charge to a creditor for returning any account to the creditor that is not in the actual process of collection.

2. The bill requires a licensed collection agency's trust checking account to be identified as a "trust account." For the purpose of determining that funds are maintained in a trust account sufficient to pay creditors or forwarders, amounts collected by a third party, but not yet deposited into the trust account, are not considered trust funds. Third-party payment processors may not be given authority to withdraw funds from a collection agency's trust account.

3. The bill requires a licensed collection agency, in the records that it must keep at its office, to maintain a list of all collectors and solicitors employed by the collection agency that includes specified information about each collector or solicitor.

4. The bill includes the following requirements related to a licensed collection agency's use of a trade name (commonly referred to as a "doing business as" or "d/b/a" designation): 1) a licensed collection agency may not conduct business under a name other than a name listed on its license; 2) before using a trade name, the collection agency must obtain approval of the use of the trade name from DFI; and 3) the trade name may not include a corporate identifier.

5. The bill specifies that, in attempting to collect an alleged account, bill, or other indebtedness, a licensed collection agency may not violate any federal or state statute, rule, or regulation that relates to practice as a collection agency.

6. The bill defines "terminated," for purposes related to the termination of a collection agency license, to include a license that is surrendered, revoked, or expired.

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7. The bill specifies that a collection agency must enter into a written agreement with the creditor not only before accepting accounts for collection from the creditor but also before earning or collecting a fee or commission.

8. The bill includes restrictions on the ability of a collection agency and its client to modify the meaning of the defined term “actual process of collection” for purposes of a collection agency’s duty upon receiving a written request from a creditor or forwarder for the return of an account not in the actual process of collection.

9. The bill changes the date by which a licensed collection agency must provide a remittance statement and remit money due to creditors or forwarders, establishing the deadline as the last day of the month following the close of the month during which the collection was effected instead of 30 days from the close of the month during which the collection was effected.

10. The bill repeals a rule relating to the use of an alias by a collector or solicitor, but incorporates similar provisions into the statutes.

11. The bill makes other changes to DFI’s rules to retain consistency with the statutory changes in the bill.

Licensed lenders

The bill makes various changes relating to DFI’s licensing and regulation of certain consumer lenders.

Under current law, a lender other than a bank, savings bank, savings and loan association, credit union, or any of its affiliates (financial institution) generally must obtain a license from DFI to assess a finance charge for a consumer loan that is greater than 18 percent per year. This type of lender is generally referred to as a “licensed lender.” A “consumer loan” is not defined in provisions governing licensed lenders, but the Wisconsin Consumer Act (WCA) defines a consumer loan as a loan made to an individual for personal, family, or household purposes that is payable in installments or for which a finance charge may be imposed and includes most transactions under an open-end credit plan such as most credit card debt.

The bill makes numerous changes related to the licensing and regulation of licensed lenders, including the following:

1. The bill creates a definition of consumer loan for purposes of licensed lenders that is similar to the WCA definition of consumer loan.

2. The bill specifies that provisions governing licensed lenders apply to any person who takes an assignment for sale, in whole or in part, of a consumer loan with a finance charge in excess of 18 percent per year, without regard to whether the loan was originally made by a financial institution. The bill also specifies that provisions governing licensed lenders do not apply to collection agencies, payment processors, and certain persons involved in investment or financing transactions.

3. The bill specifies that the following activities are doing business that require a person to be licensed as a licensed lender: a) making a consumer loan that has a finance charge in excess of 18 percent per year; b) taking an assignment of a consumer loan in which a customer is assessed a finance charge in excess of 18 percent per year; or c) directly collecting payments from or enforcing rights against a customer relating to a consumer loan in which a customer is assessed a finance charge in excess of 18 percent per year.

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4. The bill specifies that a licensed lender may contract with a person that is not a licensed lender to service a consumer loan on behalf of the licensed lender, but the licensed lender generally is responsible for violations of law committed by the contracted party with respect to the servicing of the consumer loan. "Service" is defined to include collecting or receiving payments of principal, interest, and other amounts on consumer loans and undertaking other tasks related to the administration of consumer loans under the direction and control of the licensed lender.

5. As described above, the bill requires DFI to use the NMLSR in the licensing and regulation of licensed lenders. The bill also modifies license renewal and reporting procedures for licensed lenders to conform to the standardized procedures applicable to all licensed financial services providers that use the NMLSR.

6. The bill provides as an additional basis for DFI to suspend or revoke a license that the licensed lender has made a material misstatement, or knowingly omitted a material fact, in an application for a license or in information furnished to DFI or the NMLSR.

7. The bill eliminates provisions related to consumer loan interest rates that apply to certain loans entered into before specified dates, the latest being August 1, 1987.

8. The bill removes a provision of current law that, subject to exceptions, all loans must be consummated at the licensed location, but does not change the requirement that a licensed lender operate only from its licensed location.

9. The bill requires a licensed lender to keep its loan records separate and distinct from the records of any other business of the licensed lender. The bill also requires a licensed lender, upon DFI's request, to promptly deliver books and records located outside Wisconsin to a location within Wisconsin specified by DFI.

Sellers of checks and money transmitters

The bill repeals provisions of current law governing the licensing and regulation of sellers of checks, which are persons engaged in the business of selling and issuing checks, transmitting money, or receiving money for transmission. The bill replaces these provisions with provisions governing the licensing and regulation of money transmitters, titled the Model Money Transmission Modernization Law.

The bill generally requires that a person be licensed by DFI in order to engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission (money transmitter). However, certain persons and transactions are exempt from this license requirement, including federally insured financial institutions, government agencies, registered securities broker-dealers, agents of a payee that collect and process payments on behalf of the payee if certain conditions are satisfied, electronic funds transfers of governmental benefits by government contractors, employees and authorized delegates of licensed money transmitters if certain conditions are satisfied, and any other person exempted by DFI, as long as the exempt person does not engage in money transmission outside the scope of the exemption. "Money transmission" means 1) selling or issuing payment instruments to a person located in this state; 2) selling or issuing stored value to a person located in this state; or 3) receiving money for transmission from

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a person located in this state. “Money transmission” includes payroll processing services. A “payment instrument” is, with specified exceptions such as stored value, a written or electronic check, money order, traveler’s check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable. “Stored value” means monetary value representing a claim against the issuer that is evidenced by an electronic or digital record and is intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services.

Under the bill, an application for a money transmitter license must be made to DFI through the NMLSR. The application must include specified information and be accompanied by an application fee. DFI must promptly notify an applicant when its application is complete and must then investigate the applicant’s financial condition and responsibility, financial and business experience, character, and general fitness. DFI must issue a money transmitter license to the applicant, valid for a calendar year, if the applicant satisfies certain requirements, including requirements related to the applicant’s financial security and that the applicant’s financial condition and responsibility, financial and business experience, competence, character, and general fitness, and the competence, experience, character, and general fitness of persons in control of the applicant, indicate that it is in the interest of the public to permit the applicant to engage in money transmission. DFI must approve or deny an application within 120 days after the date the application is complete, unless DFI for good cause extends the review period. DFI may deny a license application for the same reasons it may suspend a license (discussed below). If DFI denies an application, DFI must provide specific reasons for the denial in a written notice. An issued license may be renewed annually, upon payment of the applicable renewal fee, in accordance with the standardized renewal procedures under the bill for all licensed financial services providers.

The bill allows DFI, after complaint, notice, and hearing, to suspend, revoke, or refuse renewal of a license for specified reasons, including that the licensee no longer meets a requirement for initial granting of the license; the licensee made a material misstatement, or knowingly omitted a material fact, in the application for the license or in information furnished to DFI or the NMLSR; the licensee has engaged in unsafe or unsound practices in connection with, or fraudulent or deceptive conduct or gross negligence relating to, the business of money transmission; or the licensee has violated a law or DFI order applicable to money transmission.

Under the bill, a person or group seeking to acquire control of a licensed money transmitter must apply to DFI, in cooperation with the licensed money transmitter, and obtain DFI’s written approval before acquiring control. “Control” means, among other powers, the power to vote at least 25 percent of the outstanding shares of the licensed money transmitter, to elect a majority of its officers, or to exercise controlling influence over its management or policies. The process and criteria for DFI’s approval to acquire control of a licensed money transmitter are mostly similar to that for issuance of a money transmitter license. The bill specifies various circumstances under which DFI’s approval is not required, although notice may be required to DFI

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after the acquisition of control. A licensed money transmitter, upon adding or replacing a key individual, must also provide notice of the change to DFI along with certain information. A “key individual” is an individual ultimately responsible for establishing or directing policies and procedures of the licensed money transmitter, such as an officer. DFI may issue a notice of disapproval of a key individual if DFI finds that the competence, experience, character, or integrity of the individual indicates that it is not in the interest of the public or the customers of the licensed money transmitter to permit the individual to be a key individual of the licensed money transmitter.

The bill allows a licensed money transmitter to conduct business through an authorized delegate. An “authorized delegate” is defined as a person designated by a licensed money transmitter to engage in money transmission on behalf of the licensed money transmitter. An authorized delegate of a licensed money transmitter is not required to hold a money transmitter license if the delegate acts within the scope of authority conferred by a written contract with the licensed money transmitter. Before a licensed money transmitter may conduct business through an authorized delegate or allow a person to act as an authorized delegate, the licensed money transmitter must 1) adopt written policies and procedures reasonably designed to ensure that its authorized delegate complies with applicable state and federal law; 2) conduct a reasonable risk-based background investigation sufficient for the licensed money transmitter to determine whether the authorized delegate will likely comply with applicable state and federal law; and 3) enter into a written agreement with the authorized delegate containing specified terms, including appointing the authorized delegate with the authority to conduct money transmission on behalf of the licensed money transmitter; requiring the authorized delegate to fully comply with applicable law pertaining to money transmission; and establishing certain requirements pertaining to the relationship between the licensed money transmitter and the authorized delegate and the duties of the authorized delegate. An application for a money transmitter license must include a list of the applicant’s proposed authorized delegates and a sample contract for these authorized delegates. An authorized delegate of a licensed money transmitter holds in trust for the benefit of the licensed money transmitter all money net of fees received from money transmission. An authorized delegate may not use a subdelegate to conduct money transmission on behalf of a licensed money transmitter. DFI may suspend or revoke the designation of an authorized delegate under specified circumstances.

The bill imposes various other requirements on licensed money transmitters, including requiring a licensed money transmitter to 1) forward all money received for transmission in accordance with the terms of the agreement between the licensed money transmitter and the sender, subject to limited exceptions; 2) refund to the sender any money received for transmission within 10 days of receipt of the sender’s written request for a refund unless the money was forwarded within 10 days of the date on which the money was received for transmission or unless various other circumstances apply; 3) provide the sender a receipt, for money received for transmission, containing specified information, subject to certain exceptions; 4)

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submit a quarterly report of condition; 5) submit annually audited financial information that contains specified information and meet certain standards; 6) submit a quarterly report of authorized delegates; 7) report certain events to DFI, including the filing of a bankruptcy petition, a proceeding to suspend or revoke its license in another state, or that the licensed money transmitter, a key individual, or an authorized delegate has been charged with or convicted of a felony; 8) maintain specified records for at least three years and make these records available to DFI upon written request; 9) maintain a tangible net worth of more than \$100,000 or an amount determined by formula, whichever is greater, although DFI may exempt a licensed money transmitter from this requirement; 10) maintain a surety bond or other form of security acceptable to DFI in a minimum amount of \$100,000 or an amount determined by formula, whichever is greater; and 11) maintain a certain minimum value of permissible investments, specified by investment category, which, if certain events occur such as the filing of a petition for bankruptcy, are held in trust for the benefit of those whose money is outstanding.

The bill provides DFI with various powers relating to the regulation of money transmitters, including investigatory and enforcement powers. Among these powers, DFI may investigate the business of a licensed money transmitter and examine its books, accounts, or records and those of its authorized delegates, and the cost of the examination must be paid by the licensed money transmitter. DFI may issue subpoenas and take testimony. DFI may also accept an audit report made by a third-party for a licensed money transmitter and incorporate the audit report in any report of examination or investigation. DFI may also take possession of an insolvent licensed money transmitter under specified circumstances.

Payday lenders

The bill makes changes relating to DFI's licensing and regulation of payday lenders. As described above, the bill requires DFI to use the NMLSR in the licensing and regulation of payday lenders. The bill also modifies license renewal and reporting procedures for payday lenders to conform to the standardized procedures applicable to all licensed financial services providers that use the NMLSR. The bill also modifies as a basis for DFI to suspend or revoke a license, in addition to a material misstatement, that the payday lender knowingly omitted a material fact in an application or information furnished to DFI or the NMLSR.

Sales finance companies

The bill makes changes relating to DFI's licensing and regulation of sales finance companies, which are companies that acquire motor vehicle installment sales contracts or consumer leases originated by a motor vehicle dealer. As described above, the bill requires DFI to use the NMLSR in the licensing and regulation of sales finance companies. The bill also modifies license renewal procedures and creates reporting procedures for sales finance companies to conform to the standardized procedures applicable to all licensed financial services providers that use the NMLSR. The bill modifies as a basis for DFI to suspend or revoke a license, in addition to a material misstatement, that the sales finance company knowingly omitted a material fact in an application or information furnished to DFI or the

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NMLSR. The bill requires a sales finance company to give DFI notice within 10 days of a change of location.

Adjustment service companies

The bill makes changes relating to DFI's licensing and regulation of adjustment service companies, which are companies that, for a fee, assist debtors in prorating the income of the debtor to the debtor's creditors or assume the debtor's obligations by purchasing the accounts of the debtor. As described above, the bill requires DFI to use the NMLSR in the licensing and regulation of adjustment service companies. The bill also modifies license renewal and reporting procedures for adjustment service companies to conform to the standardized procedures applicable to all licensed financial services providers that use the NMLSR. The bill provides as an additional basis for DFI to revoke a license that the adjustment service company has made a material misstatement, or knowingly omitted a material fact, in an application for a license or in information furnished to DFI or the NMLSR.

Community currency exchanges

The bill makes changes relating to DFI's licensing and regulation of community currency exchanges, also called check cashers, which cash checks for individuals for a fee. As described above, the bill requires DFI to use the NMLSR in the licensing and regulation of community currency exchanges. The bill also modifies license renewal and reporting procedures for community currency exchanges to conform to the standardized procedures applicable to all licensed financial services providers that use the NMLSR. The bill provides as an additional basis for DFI to revoke a license that the community currency exchange has made a material misstatement, or knowingly omitted a material fact, in an application for a license or in information furnished to DFI or the NMLSR. The bill eliminates a requirement that a community currency exchange's license be conspicuously posted at its place of business.

Insurance premium finance companies

The bill makes changes relating to DFI's licensing and regulation of insurance premium finance companies, which are companies that loan money to an insured to finance the payment of insurance premiums. As described above, the bill requires DFI to use the NMLSR in the licensing and regulation of insurance premium finance companies. The bill also modifies license renewal procedures and creates reporting procedures for insurance premium finance companies to conform to the standardized procedures applicable to all licensed financial services providers that use the NMLSR. The bill also provides as an additional basis for DFI to suspend or revoke a license that the insurance premium finance company has made a material misstatement, or knowingly omitted a material fact, in an application for a license or in information furnished to DFI or the NMLSR.

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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.** 49.857 (1) (d) 12. of the statutes is amended to read:

2 49.857 (1) (d) 12. A license or certificate of registration issued under ss. 138.09,
3 138.12, 138.14, ~~217.06~~ 217.05, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72,
4 224.725, 224.93 or subch. IV of ch. 551.

5 **SECTION 2.** 73.0301 (1) (d) 6. of the statutes is amended to read:

6 73.0301 (1) (d) 6. A license or certificate of registration issued by the
7 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
8 138.14, 202.12 to 202.14, 202.22, ~~217.06~~ 217.05, 218.0101 to 218.0163, 218.02,
9 218.04, 218.05, 224.72, 224.725, 224.93 or under subch. IV of ch. 551.

10 **SECTION 3.** 100.315 (1) of the statutes is amended to read:

11 100.315 (1) In this section, “check” ~~has the meaning given in s. 217.02 (2)~~ means
12 any check, draft, money order, traveler’s check, personal money order, or other
13 instrument for the transmission or payment of money.

14 **SECTION 4.** 108.227 (1) (e) 6. of the statutes is amended to read:

15 108.227 (1) (e) 6. A license or certificate of registration issued by the
16 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
17 138.14, 202.12 to 202.14, 202.22, ~~217.06~~ 217.05, 218.0101 to 218.0163, 218.02,
18 218.04, 218.05, 224.72, 224.725, 224.93 or under subch. IV of ch. 551.

19 **SECTION 5.** 138.09 (1a) of the statutes is renumbered 138.09 (1c) (a).

20 **SECTION 6.** 138.09 (1c) (a) 3., 4., 5. and 6. of the statutes are created to read:

ASSEMBLY BILL 617**SECTION 6**

1 138.09 (1c) (a) 3. An individual or entity who, in connection with a
2 securitization, private placement, collateral financing, or other type of investment
3 or financing transaction, lends against or purchases consumer loans or any portion
4 of the outstanding balances of consumer loans, if the following apply:

5 a. The consumer loans are serviced by a licensee under this section, either
6 directly or through a contracted party.

7 b. The books and records for the consumer loans are maintained by a licensee
8 under this section.

9 4. Special purpose vehicles.

10 5. Collection agencies licensed under s. 218.04.

11 6. Payment processors.

12 **SECTION 7.** 138.09 (1c) (b) of the statutes is created to read:

13 138.09 (1c) (b) This section applies to any person who takes an assignment for
14 sale, in whole or in part, of a consumer loan with a finance charge in excess of 18
15 percent per year, without regard to whether the loan was originally made by an
16 entity listed under par. (a) 1.

17 **SECTION 8.** 138.09 (1d) of the statutes is renumbered 138.09 (1g) (intro.) and
18 amended to read:

19 138.09 (1g) (intro.) In this section, ~~“division”~~:

20 (c) “Division” means the division of banking.

21 **SECTION 9.** 138.09 (1g) (a), (b), (d), (e), (f), (g), (h) and (i) of the statutes are
22 created to read:

23 138.09 (1g) (a) “Business” includes any of the following activities:

ASSEMBLY BILL 617

1 1. To make a consumer loan that has a finance charge in excess of 18 percent
2 per year. A person makes a consumer loan within the meaning of this section if the
3 person is named as the lender in the consumer loan agreement.

4 2. To take an assignment, in whole or in part, of a consumer loan in which a
5 customer is being assessed a finance charge in excess of 18 percent per year.

6 3. Except as provided in sub. (3) (cm), to directly collect payments from, or
7 enforce rights against, a customer relating to a consumer loan in which a customer
8 is being assessed a finance charge in excess of 18 percent per year.

9 (b) “Consumer loan” means a loan made by any person to a customer that is
10 payable in installments or for which a finance charge is or may be imposed, and
11 includes transactions pursuant to an open-end credit plan, as defined in s. 421.301
12 (27), other than a seller credit card, as defined in s. 421.301 (41).

13 (d) “Licensee,” except in sub. (3) (e) 1. g., means a person licensed under this
14 section.

15 (e) “Nationwide multistate licensing system and registry” has the meaning
16 given in s. 224.35 (1g) (b).

17 (f) “Payment processor” means a person who facilitates the purchase of, or
18 payment of a bill for, a good or service through a clearance and settlement system by
19 agreement with the licensee. Payment processor does not include a collection agency,
20 as defined in s. 218.04 (1) (a), a debt collector, as defined in s. 427.103 (3), or any
21 person who directly performs any of the activities set forth in par. (a).

22 (g) Except in sub. (9) (a), “service” or “servicing” means collecting or receiving
23 payments of principal, interest, and other amounts on consumer loans and
24 undertaking other tasks related to the administration of consumer loans, including

ASSEMBLY BILL 617**SECTION 9**

1 negotiating a modification or extension of consumer loans, under the direction and
2 control of the licensee.

3 (h) "Special purpose vehicle" means an entity that, in connection with a
4 securitization, private placement, collateral financing, or other type of investment
5 or financing transaction, is administered by a duly chartered financial institution
6 under a management agreement for the purpose of purchasing, making loans
7 against, or pooling receivables, general intangibles, and other financial assets,
8 including consumer loans or the outstanding balances of consumer loans.

9 (i) "Unique identifier" has the meaning given in s. 224.35 (1g) (e).

10 **SECTION 10.** 138.09 (1m) (a) of the statutes is renumbered 138.09 (1m) (a) 1.
11 and amended to read:

12 138.09 (1m) (a) 1. Before any person may do business under this section, ~~charge~~
13 ~~the interest authorized by sub. (7), or assess a finance charge on a consumer loan in~~
14 ~~excess of 18 percent per year,~~ that person shall first obtain a license from the division.

15 2. Applications for a license shall be in writing and ~~upon forms provided for this~~
16 ~~purpose~~ made in the form and manner prescribed by the division.

17 3. An applicant at the time of making an application shall pay to the division
18 a nonrefundable \$300 fee for investigating the application and a \$500 annual license
19 fee for the period terminating on the last day of the current calendar year. If the cost
20 of the investigation exceeds \$300, the applicant shall upon demand of the division
21 pay to the division the amount by which the cost of the investigation exceeds the
22 nonrefundable fee.

23 **SECTION 11.** 138.09 (1m) (b) 1. (intro.) of the statutes is amended to read:

24 138.09 (1m) (b) 1. (intro.) Except as provided in par. (c), an application under
25 par. (a) 2. for a license shall contain the following:

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1 **SECTION 12.** 138.09 (1m) (b) 2. c. of the statutes is created to read:

2 138.09 **(1m)** (b) 2. c. The division may disclose information to the nationwide
3 multistate licensing system and registry as provided in s. 224.35.

4 **SECTION 13.** 138.09 (1m) (d) and (e) of the statutes are created to read:

5 138.09 **(1m)** (d) The division shall utilize the nationwide multistate licensing
6 system and registry, and the provisions of s. 224.35 shall apply, with respect to
7 applicants and licensees under this section.

8 (e) An applicant or licensee under this section shall register with, and maintain
9 a valid unique identifier issued by, the nationwide multistate licensing system and
10 registry.

11 **SECTION 14.** 138.09 (2) of the statutes is amended to read:

12 138.09 **(2)** The division may also require the applicant to file with the division,
13 and to maintain in force, a bond in which the applicant shall be the obligor, in a sum
14 not to exceed \$5,000 with one or more corporate sureties licensed to do business in
15 Wisconsin, whose liability as such sureties shall not exceed the sum of \$5,000 in the
16 aggregate, to be approved by the division and filed in a form and manner acceptable
17 to the division, and such bond shall run to the state of Wisconsin for the use of the
18 state and of any person or persons who may have a cause of action against the obligor
19 of the bond under the provisions of this section. Such bonds shall be conditioned that
20 the obligor will conform to and abide by each and every provision of this section, and
21 will pay to the state or to any person or persons any and all moneys that may become
22 due or owing to the state or to such person or persons from the obligor under and by
23 virtue of the provisions of this chapter.

24 **SECTION 15.** 138.09 (3) (b) of the statutes is repealed and recreated to read:

ASSEMBLY BILL 617**SECTION 15**

1 138.09 (3) (b) A license may be renewed or reinstated as provided in s. 224.35
2 (7). A license that is not renewed or reinstated by the end of the reinstatement period
3 provided in s. 224.35 (7) shall be deemed to have expired on December 31 of the year
4 immediately preceding the reinstatement period, unless the initial license date is
5 between November 1 and December 31, in which instance the initial license term
6 shall run through December 31 of the following year.

7 **SECTION 16.** 138.09 (3) (c) of the statutes is amended to read:

8 138.09 (3) (c) ~~Such~~ A license shall not be assignable and shall permit operation
9 under it only at or from the location specified in the license ~~at which location all loans~~
10 ~~shall be consummated~~, but this provision shall not prevent the licensee from making
11 loans under this section which are not initiated or consummated by face to face
12 contact away from the licensed location if permitted by the division in writing or by
13 rule or at an auction sale conducted or clerked by a licensee.

14 **SECTION 17.** 138.09 (3) (cm) of the statutes is created to read:

15 138.09 (3) (cm) Notwithstanding par. (c), a licensee may contract with a person
16 that is not licensed under this section to service a consumer loan on behalf of the
17 licensee. The licensee is responsible for violations of this section committed by the
18 contracted party with respect to the servicing of that loan, except where the
19 contracted party holds a license issued by the division that would subject it to
20 regulatory discipline for violations of this section. The licensee's responsibility for
21 the contracted party, as set forth in this paragraph, does not create a private right
22 of action against the licensee.

23 **SECTION 18.** 138.09 (3) (d) of the statutes is amended to read:

24 138.09 (3) (d) A separate license shall be required for each place of business
25 maintained by the licensee. Whenever a licensee shall change the address of its place

ASSEMBLY BILL 617**SECTION 18**

1 of business to another location within the same city, village or town the licensee shall
2 at once give written notice thereof to the division, ~~which shall replace the original~~
3 ~~license with an amended license showing the new address, provided the location~~
4 ~~meets with the requirements of par. (e) or to the nationwide multistate licensing~~
5 ~~system and registry, as directed by the division, in a form and manner acceptable to~~
6 ~~the division.~~ No change in the place of business of a licensee to a different city, village
7 or town shall be permitted under the same license.

8 **SECTION 19.** 138.09 (3) (e) 1. a. and f. of the statutes are amended to read:

9 138.09 (3) (e) 1. a. A business engaged in making loans for business or
10 agricultural purposes or exceeding \$25,000 in principal amount, except that all such
11 loans having terms of 49 months or more are subject to sub. (7) (gm) ~~2. or 4.~~

12 f. A seller of checks money transmitter business under ch. 217.

13 **SECTION 20.** 138.09 (3) (e) 3. of the statutes is created to read:

14 138.09 (3) (e) 3. Any licensee operating under this section shall keep the records
15 affecting loans made pursuant to this section separate and distinct from the records
16 of any other business of the licensee.

17 **SECTION 21.** 138.09 (3) (f) of the statutes is amended to read:

18 138.09 (3) (f) ~~Every~~ Each licensee shall make an annual report ~~to the division~~
19 ~~for each calendar year on or before March 15 of the following year.~~ The report shall
20 ~~include business transacted by the licensee under the provisions of this section and~~
21 ~~shall give all reasonable and relevant information that the division may require.~~ The
22 ~~reports shall be made in the form and manner prescribed by the division.~~ Any
23 ~~licensee operating under this section shall keep the records affecting loans made~~
24 ~~pursuant to this section separate and distinct from the records of any other business~~
25 ~~of the licensee and submit financial statements as provided in s. 224.35 (8).~~

ASSEMBLY BILL 617**SECTION 22**

1 **SECTION 22.** 138.09 (3) (g) of the statutes is created to read:

2 138.09 (3) (g) Each licensee shall keep current and accurate all material
3 information on file with the division and the nationwide multistate licensing system
4 and registry as provided in s. 224.35 (6).

5 **SECTION 23.** 138.09 (4) (a) 4. of the statutes is created to read:

6 138.09 (4) (a) 4. The licensee has made a material misstatement, or knowingly
7 omitted a material fact, in an application for a license or in information furnished to
8 the division or the nationwide multistate licensing system and registry.

9 **SECTION 24.** 138.09 (4) (e) of the statutes is created to read:

10 138.09 (4) (e) The division may report any enforcement action, any violation
11 of this section or of an administrative rule or order, or other relevant information to
12 the nationwide multistate licensing system and registry. Except as provided in s.
13 224.35 (4) (b) and (c), these reports to the nationwide multistate licensing system and
14 registry shall be confidential and are not subject to public copying or inspection
15 under s. 19.35 (1).

16 **SECTION 25.** 138.09 (6) of the statutes is amended to read:

17 138.09 (6) (a) ~~Except as provided in par. (b), the~~ The licensee shall keep such
18 books and records ~~in the licensee's place of business at a licensed location, or~~
19 accessible from a licensed location, as in the opinion of the division will enable the
20 division to determine whether the provisions of this chapter are being observed.
21 Every ~~such~~ licensee shall preserve the records of final entry used in such business,
22 ~~including cards used in the card system, if any,~~ for a period of at least 2 years after
23 the making of any loan recorded therein.

24 (b) ~~A licensee may keep the books and records specified in par. (a) at a single~~
25 ~~location inside or outside of this state if the books and records are kept at a location~~

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1 ~~licensed under this section.~~ If any books and records are not located within this state,
2 the licensee, upon request of the division, shall promptly deliver such information
3 to any location within this state specified by the division. The licensee shall organize
4 the books and records by the ~~place of business~~ licensed location where the records
5 originated and shall keep the books and records separate from other records for
6 business conducted at that location. Actual costs incurred by the division to examine
7 books and records maintained outside of this state shall be paid by the licensee.

8 **SECTION 26.** 138.09 (7) (b), (bm) and (bn) of the statutes are repealed.

9 **SECTION 27.** 138.09 (7) (c) 2. and 4. of the statutes are amended to read:

10 138.09 (7) (c) 2. For the purpose of computing interest under this section,
11 ~~whether at the maximum rate or less,~~ a day shall be considered one-thirtieth of a
12 month when such computation is made for a fraction of a month. Loan contracts
13 providing for installments payable at monthly intervals may provide for a first period
14 between the date of the contract and the first installment due date of not more than
15 45 days and not less than 15 days. Where the first period is greater or lesser than
16 one month, interest may be charged only for each day in the first period, at a rate not
17 to exceed one-thirtieth of the interest which would be applicable to a first
18 installment period of one month, but such first period may be considered a monthly
19 interval for purposes of determining rebates. Where the first period is greater than
20 one month, any additional interest charge shall be earned and may be added to and
21 collected at the time of the first installment payment.

22 4. If 2 installments or parts thereof of a precomputed loan are not paid on or
23 before the 10th day after their scheduled or deferred due dates, a licensee may elect
24 to convert the loan from a precomputed loan to one in which the interest is computed
25 on unpaid balances actually outstanding. In this event the licensee shall make a

ASSEMBLY BILL 617**SECTION 27**

1 rebate pursuant to the provisions on rebate upon prepayment as of the due date of
2 an unpaid installment, and thereafter may charge interest from the due date as
3 provided in subd. 3. ~~or by par. (b) 2.~~ and no further delinquency or deferral charges
4 shall be made. The rate of interest may equal but not exceed the annual percentage
5 rate of finance charge which was disclosed to the borrower when the loan was made.
6 The rate of interest shall be computed on actual unpaid balances of the contract as
7 reduced by the rebate for the time that such balances are actually outstanding from
8 the due date as of which the rebate was made until the contract is fully paid.

9 **SECTION 28.** 138.09 (7) (e) 2. of the statutes is repealed.

10 **SECTION 29.** 138.09 (7) (e) 3. of the statutes is amended to read:

11 138.09 (7) (e) 3. Notwithstanding ~~subds. subd. 1. and 2.,~~ delinquency charges
12 on precomputed consumer loans shall be governed by s. 422.203.

13 **SECTION 30.** 138.09 (7) (g) (intro.) of the statutes is amended to read:

14 138.09 (7) (g) (intro.) ~~Except as provided in par. (gm), upon~~ Upon prepayment
15 in full by cash, renewal, refinancing or otherwise, the borrower shall be entitled to
16 a rebate of the unearned interest as provided in this paragraph. If the combined
17 rebate of interest and credit insurance premiums otherwise required is less than \$1,
18 no rebate need be made. The refunds shall be determined as follows:

19 **SECTION 31.** 138.09 (7) (gm) 1. and 2. of the statutes are repealed.

20 **SECTION 32.** 138.09 (7) (k) of the statutes is amended to read:

21 138.09 (7) (k) All consumer loans ~~as defined in s. 421.301 (12)~~ shall be governed
22 by chs. 421 to 427, but to the extent that chs. 421 to 427 are inconsistent with this
23 section, this section shall govern.

24 **SECTION 33.** 138.12 (1) (cm) and (dm) of the statutes are created to read:

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1 138.12 (1) (cm) “Nationwide multistate licensing system and registry” has the
2 meaning given in s. 224.35 (1g) (b).

3 (dm) “Unique identifier” has the meaning given in s. 224.35 (1g) (e).

4 **SECTION 34.** 138.12 (3) (b) of the statutes is amended to read:

5 138.12 (3) (b) A license issued under this section expires on December 31 of the
6 calendar year in which the initial license term began, unless the initial license date
7 is between November 1 and December 31, in which instance the initial license term
8 shall run through December 31 of the following year. The annual license fee is \$500
9 and shall be paid to the division in a form and manner acceptable to the division.
10 Licenses may be renewed May 1 of each year upon payment of the annual fee or
11 reinstated as provided in s. 224.35 (7).

12 **SECTION 35.** 138.12 (3) (c) of the statutes is repealed and recreated to read:

13 138.12 (3) (c) A licensee shall make an annual report and submit financial
14 statements as provided in s. 224.35 (8).

15 **SECTION 36.** 138.12 (3) (d) 2. c. of the statutes is created to read:

16 138.12 (3) (d) 2. c. The division may disclose information to the nationwide
17 multistate licensing system and registry as provided in s. 224.35.

18 **SECTION 37.** 138.12 (3) (f), (g) and (h) of the statutes are created to read:

19 138.12 (3) (f) The division shall utilize the nationwide multistate licensing
20 system and registry, and the provisions of s. 224.35 shall apply, with respect to
21 applicants and licensees under this section.

22 (g) An applicant or licensee under this section shall register with, and maintain
23 a valid unique identifier issued by, the nationwide multistate licensing system and
24 registry.

ASSEMBLY BILL 617**SECTION 37**

1 (h) Each licensee shall keep current and accurate all material information on
2 file with the division and the nationwide multistate licensing system and registry as
3 provided in s. 224.35 (6).

4 **SECTION 38.** 138.12 (4) (am) 1. of the statutes is amended to read:

5 138.12 (4) (am) 1. An applicant shall pay to the division a nonrefundable \$300
6 license investigation fee and a \$500 annual license fee for the period ending on the
7 next ~~April 30~~ December 31.

8 **SECTION 39.** 138.12 (5) (a) 2. of the statutes is repealed and recreated to read:

9 138.12 (5) (a) 2. The licensee made a material misstatement, or knowingly
10 omitted a material fact, in an application for a license or in information furnished to
11 the division or the nationwide multistate licensing system and registry.

12 **SECTION 40.** 138.12 (5) (b) of the statutes is amended to read:

13 138.12 (5) (b) Before the division revokes, suspends or refuses to renew the
14 license of any premium finance company on any ground other than failure to timely
15 renew or reinstate the license as provided in s. 224.35 (7), the division shall give the
16 company an opportunity to be fully heard and to introduce evidence in the company's
17 behalf. In lieu of revoking or suspending the license for any of the causes enumerated
18 in this subsection, after hearing, the division may subject the premium finance
19 company to a penalty of not more than \$200 for each offense when in the division's
20 judgment the division finds that the public interest would not be harmed by the
21 continued operation of such company. The amount of any penalty under this
22 paragraph shall be paid by the company to the division for the use of the state. At
23 any hearing under this subsection, the division may administer oaths to witnesses.
24 Anyone testifying falsely, after having been administered the oath, shall be subject
25 to the penalty of perjury.

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1 **SECTION 41.** 138.12 (5r) of the statutes is created to read:

2 138.12 **(5r)** REPORTING VIOLATIONS. The division may report any enforcement
3 action, any violation of this section or of an administrative rule or order, or other
4 relevant information to the nationwide multistate licensing system and registry.
5 Except as provided in s. 224.35 (4) (b) and (c), these reports to the nationwide
6 multistate licensing system and registry shall be confidential and are not subject to
7 public copying or inspection under s. 19.35 (1).

8 **SECTION 42.** 138.12 (14) of the statutes is repealed.

9 **SECTION 43.** 138.14 (1) (br), (jm) and (m) of the statutes are created to read:

10 138.14 **(1)** (br) “Customer identification number” means a unique number
11 assigned to a customer in a manner specified by the division, or by the database
12 provider acting at the direction of the division.

13 (jm) “Nationwide multistate licensing system and registry” has the meaning
14 given in s. 224.35 (1g) (b).

15 (m) “Unique identifier” has the meaning given in s. 224.35 (1g) (e).

16 **SECTION 44.** 138.14 (4) (a) 1. (intro.) of the statutes is amended to read:

17 138.14 **(4)** (a) 1. (intro.) ~~Application~~ Subject to subd. 1g., application for licenses
18 under sub. (5) shall be made to the division in writing in the form and manner
19 prescribed by the division and shall include all of the following:

20 **SECTION 45.** 138.14 (4) (a) 1g., 1m. and 1r. of the statutes are created to read:

21 138.14 **(4)** (a) 1g. The division shall utilize the nationwide multistate licensing
22 system and registry, and the provisions of s. 224.35 shall apply, with respect to
23 applicants and licensees under this section.

ASSEMBLY BILL 617**SECTION 45**

1 1m. An applicant or licensee under this section shall register with, and
2 maintain a valid unique identifier issued by, the nationwide multistate licensing
3 system and registry.

4 1r. Each licensee shall keep current and accurate all material information on
5 file with the division and the nationwide multistate licensing system and registry as
6 provided in s. 224.35 (6).

7 **SECTION 46.** 138.14 (4) (a) 2. c. of the statutes is created to read:

8 138.14 (4) (a) 2. c. The division may disclose information to the nationwide
9 multistate licensing system and registry as provided in s. 224.35.

10 **SECTION 47.** 138.14 (5) (c) of the statutes is repealed and recreated to read:

11 138.14 (5) (c) A license may be renewed or reinstated as provided in s. 224.35
12 (7). A license that is not renewed or reinstated by the end of the reinstatement period
13 provided in s. 224.35 (7) shall be deemed to have expired on December 31 of the year
14 immediately preceding the reinstatement period, unless the initial license date is
15 between November 1 and December 31, in which instance the initial license term
16 shall run through December 31 of the following year.

17 **SECTION 48.** 138.14 (6) (a) of the statutes is amended to read:

18 138.14 (6) (a) Whenever a licensee changes the address of its place of business
19 to another location within the same city, village, or town, the licensee shall give
20 written notice thereof, in a form and manner prescribed by the division, to the
21 division within 10 business days of the relocation and the division shall replace the
22 original license with an amended license showing the new address. If so directed by
23 the division, the licensee shall provide any notice required under this subsection to
24 the nationwide multistate licensing system and registry as provided in s. 224.35. No

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1 change in the place of business of a licensee to a different city, village, or town is
2 permitted under the same license.

3 **SECTION 49.** 138.14 (6) (b) 1. b. of the statutes is amended to read:

4 138.14 (6) (b) 1. b. A ~~seller of checks~~ money transmitter business under ch. 217.

5 **SECTION 50.** 138.14 (7) (d) of the statutes is amended to read:

6 138.14 (7) (d) A licensee shall make an annual report ~~to the division for each~~
7 ~~calendar year on or before March 15 of the following year.~~ The report shall include
8 business transacted by the licensee under this section and shall give all reasonable
9 and relevant information that the division may require, including the information
10 required for the division's reports under par. (e). ~~The reports shall be made in the~~
11 ~~form and manner prescribed by the division~~ and submit financial statements as
12 provided in s. 224.35 (8).

13 **SECTION 51.** 138.14 (8) (c) of the statutes is amended to read:

14 138.14 (8) (c) The division shall have the same ~~power to conduct hearings, take~~
15 ~~testimony, and secure evidence as is provided in ss. 217.17 and 217.18~~ powers
16 granted under s. 217.11.

17 **SECTION 52.** 138.14 (9) (a) 4. of the statutes is amended to read:

18 138.14 (9) (a) 4. That the licensee made a material misstatement, or knowingly
19 omitted a material fact, in an application for a license or in information furnished to
20 the division or the nationwide multistate licensing system and registry.

21 **SECTION 53.** 138.14 (14) (c) 1. of the statutes is amended to read:

22 138.14 (14) (c) 1. Allow a licensee accessing the database to check a customer's
23 unique identification number that is assigned to the customer in a manner specified
24 by the division customer identification number. A customer's unique customer
25 identification number may not be based on the customer's social security number.

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1 **SECTION 54.** 138.14 (14) (m) of the statutes is amended to read:

2 138.14 (14) (m) Before entering into a payday loan, a licensee shall submit to
3 the database provider the customer's name; ~~unique~~ customer identification number
4 ~~that is assigned in a manner specified by the division~~; address; driver license number
5 or other method of state identification; the amount of the transaction; the customer's
6 check number, if applicable; the date of the transaction; the maturity date of the loan;
7 and any other information reasonably required by the division, in a format approved
8 by the division.

9 **SECTION 55.** 138.14 (15) (title) of the statutes is amended to read:

10 138.14 (15) (title) ~~PENALTIES; REPORTING VIOLATIONS.~~

11 **SECTION 56.** 138.14 (15) (c) of the statutes is created to read:

12 138.14 (15) (c) The division may report any enforcement action, any violation
13 of this section or of an administrative rule or order, or other relevant information to
14 the nationwide multistate licensing system and registry. Except as provided in s.
15 224.35 (4) (b) and (c), these reports to the nationwide multistate licensing system and
16 registry shall be confidential and are not subject to public copying or inspection
17 under s. 19.35 (1).

18 **SECTION 57.** 186.113 (22) (title) of the statutes is amended to read:

19 186.113 (22) (title) ~~COMMUNITY CURRENCY EXCHANGE AND SELLER OF CHECKS~~
20 MONEY TRANSMITTER.

21 **SECTION 58.** 214.04 (20) of the statutes is amended to read:

22 214.04 (20) Upon receiving approval from the division, to act as an authorized
23 agent for its customers in the business and functions under ch. 217. A savings bank
24 that applies to function as a ~~seller of checks~~ money transmitter shall meet the
25 application requirements under ch. 217. The division may not charge a license or

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1 investigation fee for an application under this subsection. The ~~seller of checks~~ money
2 transmitter function of a savings bank shall be under the jurisdiction and
3 supervision of the division. The division shall enforce ch. 217 as it applies to savings
4 banks. The division shall determine what records shall be maintained and shall
5 require the segregation of funds that are necessary for a savings bank to operate as
6 a ~~seller of checks~~ money transmitter under this subsection and ch. 217.

7 **SECTION 59.** 215.13 (41) (title) of the statutes is amended to read:

8 215.13 (41) (title) ~~SELLER OF CHECKS~~ MONEY TRANSMITTER.

9 **SECTION 60.** Chapter 217 of the statutes is repealed and recreated to read:

10 **CHAPTER 217**

11 **MONEY TRANSMITTERS**

12 **217.01 Short title.** This chapter may be cited as the “Model Money
13 Transmission Modernization Law.”

14 **217.02 Definitions.** In this chapter:

15 (1) “Acting in concert” means persons knowingly acting together with a
16 common goal of jointly acquiring control of a licensee, whether or not pursuant to an
17 express agreement.

18 (2) “Authorized delegate” means a person a licensee designates to engage in
19 money transmission on behalf of the licensee.

20 (3) “Average daily money transmission liability” means the amount of a
21 licensee’s outstanding money transmission obligations at the end of each day in a
22 given period of time, added together, and divided by the total number of days in the
23 given period of time. For purposes of calculating average daily money transmission
24 liability under this chapter for any licensee required to do so, the given period of time
25 shall be the quarters ending March 31, June 30, September 30, and December 31.

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1 (4) “Bank Secrecy Act” means the Bank Secrecy Act, 31 USC 5311 et seq., and
2 its implementing regulations.

3 (5) “Closed loop stored value” means stored value that is redeemable by the
4 issuer only for goods or services provided by the issuer or its affiliate or franchisees
5 of the issuer or its affiliate, except to the extent required by applicable law to be
6 redeemable in cash for its cash value.

7 (6) (a) “Control” means any of the following:

8 1. The power to vote, directly or indirectly, at least 25 percent of the outstanding
9 voting shares or voting interests of a licensee or person in control of a licensee.

10 2. The power to elect or appoint a majority of key individuals or executive
11 officers, managers, directors, trustees, or other persons exercising managerial
12 authority of a licensee or person in control of a licensee.

13 3. The power to exercise, directly or indirectly, a controlling influence over the
14 management or policies of a licensee or person in control of a licensee.

15 (b) A person is presumed to exercise a controlling influence within the meaning
16 of par. (a) 3. if the person holds the power to vote, directly or indirectly, at least 10
17 percent of the outstanding voting shares or voting interests of a licensee or person
18 in control of a licensee. A person presumed to exercise a controlling influence under
19 this paragraph may rebut the presumption of control by showing that the person is
20 a passive investor.

21 (c) For purposes of determining the percentage of a person controlled by any
22 other person, the person’s interest shall be aggregated with the interest of any other
23 immediate family member, including the person’s spouse, parents, children, siblings,
24 mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law,
25 sisters-in-law, and any other person who shares the person’s home.

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1 **(7)** “Division” means the division of banking.

2 **(8)** “Eligible rating” means a credit rating of any of the 3 highest rating
3 categories provided by an eligible rating service, whereby each category may include
4 rating category modifiers such as “plus” or “minus” for S&P, or the equivalent for any
5 other eligible rating service. Long-term credit ratings are deemed eligible if the
6 rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating
7 service. Short-term credit ratings are deemed eligible if the rating is equal to or
8 higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating
9 service. If ratings differ among eligible rating services, the highest rating applies
10 when determining whether a security bears an eligible rating.

11 **(9)** “Eligible rating service” means any nationally recognized statistical rating
12 organization as defined by the U.S. Securities and Exchange Commission, and any
13 other organization designated by the division.

14 **(10)** “Federally insured depository financial institution” means a bank, credit
15 union, savings and loan association, trust company, savings association, savings
16 bank, industrial bank, or industrial loan company organized under the laws of the
17 United States or any state of the United States, when such bank, credit union,
18 savings and loan association, trust company, savings association, savings bank,
19 industrial bank, or industrial loan company has federally insured deposits.

20 **(11)** “In this state” includes, with respect to a money transmission transaction,
21 all of the following:

22 (a) A transaction requested in person at a physical location within the
23 geographic boundaries of this state.

24 (b) A transaction requested by telephone or electronic means by a resident of
25 this state, if information provided by the person requesting the transaction, or other

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1 records of the provider of money transmission, indicate that the person's physical
2 address or principal place of business is located within the geographic boundaries of
3 this state.

4 (12) "Key individual" means any individual ultimately responsible for
5 establishing or directing policies and procedures of a licensee, such as an executive
6 officer, manager, director, or trustee.

7 (13) "Licensee" means a person licensed under this chapter.

8 (14) "Material litigation" means litigation that, according to U.S. generally
9 accepted accounting principles, is significant to a person's financial health and would
10 be required to be disclosed in the person's annual audited financial statements,
11 report to shareholders, or similar records.

12 (15) "Monetary value" means a medium of exchange, whether or not
13 redeemable in money.

14 (16) "Money" means a medium of exchange that is authorized or adopted by the
15 United States or a foreign government. "Money" includes a monetary unit of account
16 established by an intergovernmental organization or by agreement between 2 or
17 more governments.

18 (17) (a) "Money transmission" means any of the following:

- 19 1. Selling or issuing payment instruments to a person located in this state.
- 20 2. Selling or issuing stored value to a person located in this state.
- 21 3. Receiving money for transmission from a person located in this state.

22 (b) "Money transmission" includes payroll processing services.

23 (18) "MSB-accredited state" means a state that has an agency that is
24 accredited by the Conference of State Bank Supervisors and Money Transmitter
25 Regulators Association for money transmission licensing and supervision.

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1 **(19)** “Multistate licensing process” means any agreement among state
2 regulators relating to coordinated processing of applications for money transmission
3 licenses, applications for the acquisition of control of a licensee, control
4 determinations, or notice and information requirements for a change of key
5 individuals.

6 **(20)** “Nationwide multistate licensing system and registry” has the meaning
7 given in s. 224.35 (1g) (b).

8 **(21)** (a) “Outstanding money transmission obligations” includes all of the
9 following:

10 1. Any payment instrument or stored value issued or sold by a licensee to a
11 person located in the United States or reported as sold by an authorized delegate of
12 the licensee to a person that is located in the United States that has not yet been paid
13 or refunded by or for the licensee, or reported and delivered to the secretary of
14 revenue as provided under ch. 177.

15 2. Any money received for transmission by a licensee or an authorized delegate
16 in the United States from a person located in the United States that has not been
17 received by the payee or refunded to the sender, or escheated in accordance with
18 applicable abandoned property laws.

19 (b) For purposes of this subsection, “in the United States” includes any state,
20 territory, or possession of the United States, any U.S. military installation that is
21 located in a foreign country, the District of Columbia, and the Commonwealth of
22 Puerto Rico.

23 **(22)** (a) “Passive investor” means a person who meets all of the following
24 criteria:

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1 1. The person does not have the power to elect a majority of key individuals or
2 executive officers, managers, directors, trustees, or other persons exercising
3 managerial authority of a person in control of a licensee.

4 2. The person is not employed by, and does not have any managerial duties of,
5 a licensee or a person in control of a licensee.

6 3. The person does not have the power to exercise, either directly or indirectly,
7 a controlling influence over the management or policies of a licensee or person in
8 control of a licensee.

9 (b) A passive investor may demonstrate satisfaction of the criteria of par. (a)
10 by completing an attestation or other document, in a form and manner prescribed by
11 the division, confirming that each of those criteria is met.

12 **(23)** “Payment instrument” means a written or electronic check, draft, money
13 order, traveler’s check, or other written or electronic instrument for the transmission
14 or payment of money or monetary value, whether or not negotiable. “Payment
15 instrument” does not include stored value or any instrument that is redeemable by
16 the issuer only for goods or services provided by the issuer or its affiliate or
17 franchisees of the issuer or its affiliate, except to the extent required by applicable
18 law to be redeemable in cash for its cash value. “Payment instrument” also does not
19 include any instrument that is not sold to the public and is issued and distributed
20 as part of a loyalty, rewards, or promotional program.

21 **(24)** “Payroll processing services” means receiving money for transmission
22 pursuant to a contract with a person to deliver wages or salaries, make payment of
23 payroll taxes to state and federal agencies, make payments relating to employee
24 benefit plans, or make distributions of other authorized deductions from wages or
25 salaries. “Payroll processing services” does not include an employer performing

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1 payroll processing services on its own behalf or on behalf of its affiliate, or a
2 professional employer organization subject to regulation under ch. 202.

3 (25) "Person" includes individuals, general partnerships, limited
4 partnerships, limited liability companies, corporations, trusts, associations, joint
5 stock corporations, and other bodies politic or corporate.

6 (26) "Receiving money for transmission" or "money received for transmission"
7 means receiving money or monetary value in the United States for transmission
8 within or outside the United States by electronic or other means.

9 (27) "Stored value" means monetary value representing a claim against the
10 issuer evidenced by an electronic or digital record, and that is intended and accepted
11 for use as a means of redemption for money or monetary value or payment for goods
12 or services. "Stored value" includes prepaid access, as defined in 31 CFR 1010.100.
13 Notwithstanding the foregoing, "stored value" does not include a payment
14 instrument or closed loop stored value, or stored value not sold to the public but
15 issued and distributed as part of a loyalty, rewards, or promotional program.

16 (28) "Tangible net worth" means the aggregate assets of a licensee excluding
17 all intangible assets, less liabilities, as determined in accordance with U.S. generally
18 accepted accounting principles.

19 (29) "Unique identifier" has the meaning given in s. 224.35 (1g) (e).

20 **217.03 Exemptions. (1)** This chapter does not apply to any of the following:

21 (a) An operator of a payment system to the extent that it provides processing,
22 clearing, or settlement services, between or among persons exempted by this section
23 or licensees, in connection with wire transfers, credit card transactions, debit card
24 transactions, stored-value transactions, automated clearing house transfers, or
25 similar funds transfers.

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1 (b) A person appointed as an agent of a payee to collect and process a payment
2 from a payor to the payee for goods or services, other than money transmission itself,
3 provided to the payor by the payee, if all the following are true:

4 1. There exists a written agreement between the payee and the agent directing
5 the agent to collect and process payments from payors on the payee's behalf.

6 2. The payee holds the agent out to the public as accepting payments for goods
7 or services on the payee's behalf.

8 3. Payment for the goods and services is treated as received by the payee upon
9 receipt by the agent, so that the payor's obligation is extinguished and there is no risk
10 of loss to the payor if the agent fails to remit the funds to the payee.

11 (c) A person who acts as an intermediary by processing payments between an
12 entity that has directly incurred an outstanding money transmission obligation to
13 a sender and the sender's designated recipient, if all the following are true:

14 1. The entity is licensed, or is exempt from licensing requirements, under this
15 chapter.

16 2. The entity provides a receipt, electronic record, or other written confirmation
17 to the sender identifying the entity as the provider of money transmission in the
18 transaction.

19 3. The entity bears sole responsibility to satisfy the outstanding money
20 transmission obligation to the sender, including the obligation to make the sender
21 whole in connection with any failure to transmit the funds to the sender's designated
22 recipient.

23 (d) The United States or a department, agency, or instrumentality thereof, or
24 its agent.

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- 1 (e) Money transmission by the U.S. postal service or an agent of the U.S. postal
2 service.
- 3 (f) A state, county, city, or any other governmental agency or governmental
4 subdivision or instrumentality of a state, or its agent.
- 5 (g) A federally insured depository financial institution, bank holding company,
6 office of an international banking corporation, foreign bank that establishes a
7 federal branch pursuant to the International Bank Act, 12 USC 3102, corporation
8 organized pursuant to the Bank Service Corporation Act, 12 USC 1861 to 1867, or
9 corporation organized under the Edge Act, 12 USC 611 to 633.
- 10 (h) Electronic funds transfer of governmental benefits for a federal, state,
11 county, or governmental agency by a contractor on behalf of the United States or a
12 department, agency, or instrumentality thereof, or on behalf of a state or
13 governmental subdivision, agency, or instrumentality thereof.
- 14 (i) A board of trade designated as a contract market under the federal
15 Commodity Exchange Act, 7 USC 1 to 25, or a person that, in the ordinary course of
16 business, provides clearance and settlement services for a board of trade to the extent
17 of its operation as or for such a board.
- 18 (j) A registered futures commission merchant under the federal commodities
19 laws to the extent of its operation as such a merchant.
- 20 (k) A person registered as a securities broker-dealer under federal or state
21 securities laws to the extent of its operation as such a broker-dealer.
- 22 (L) An individual employed by a licensee, authorized delegate, or any person
23 exempted from the licensing requirements of this chapter when acting within the
24 scope of employment and under the supervision of the licensee, authorized delegate,
25 or exempted person as an employee and not as an independent contractor.

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1 (m) A person expressly appointed as a 3rd-party service provider to or agent
2 of an entity exempt under par. (g), solely to the extent that all of the following are
3 true:

4 1. The service provider or agent is engaging in money transmission on behalf
5 of and pursuant to a written agreement with the exempt entity that sets forth the
6 specific functions that the service provider or agent is to perform.

7 2. The exempt entity assumes all risk of loss and all legal responsibility for
8 satisfying the outstanding money transmission obligations owed to a purchaser or
9 holder of the outstanding money transmission obligations upon receipt of the
10 purchaser's or holder's money or monetary value by the service provider or agent.

11 (n) A person exempted by written determination of the division, if the division
12 finds the exemption to be in the public interest and that the regulation of the person
13 is not necessary for the purposes of this chapter.

14 (2) The division may require that any person claiming to be exempt from
15 licensing requirements under this chapter provide information and documentation
16 to the division demonstrating that the person qualifies for any claimed exemption.

17 **217.04 Participation in the nationwide multistate licensing system and**
18 **registry; networked supervision; confidentiality. (1) PARTICIPATION IN THE**
19 **NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY.** The division shall utilize the
20 nationwide multistate licensing system and registry, and the provisions of s. 224.35
21 shall apply, with respect to applicants and licensees under this chapter. An applicant
22 or licensee under this chapter shall register with, and maintain a valid unique
23 identifier issued by, the nationwide multistate licensing system and registry.

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1 (2) NETWORKED SUPERVISION. To efficiently and effectively administer and
2 enforce this chapter and to minimize regulatory burden, the division may do any of
3 the following:

4 (a) Participate in multistate supervisory processes established between states
5 and coordinated through the Conference of State Bank Supervisors, Money
6 Transmitter Regulators Association, and affiliates and successors thereof for all
7 licensees that hold licenses in this state and other states.

8 (b) Enter into agreements or relationships with other government officials or
9 federal and state regulatory agencies and regulatory associations, including
10 organizations the membership of which is made up of state or federal governmental
11 agencies, to standardize methods or procedures or share resources, records or related
12 information obtained under this chapter.

13 (c) Enter into agreements or relationships with the nationwide multistate
14 licensing system and registry, or other entities designated by the nationwide
15 multistate licensing system and registry, to collect and maintain records, coordinate
16 multistate licensing processes and supervision processes, process fees, and facilitate
17 communication with licensees or other persons subject to this chapter.

18 (d) Utilize nationwide multistate licensing system and registry forms,
19 processes, and functionalities in accordance with this chapter.

20 (e) Waive or modify any requirement, and establish new requirements by rule
21 or order, as reasonably necessary to participate in the nationwide multistate
22 licensing system and registry.

23 (f) Accept a licensing, examination, or investigation report made by another
24 state or federal government agency or official, or a report prepared by an
25 independent accounting firm.

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1 (g) Accept the investigation results or control determination of another state,
2 if the other state has sufficient staffing and expertise and meets minimum
3 standards.

4 (h) Conduct examinations in conjunction with examinations conducted by
5 representatives of other state agencies or agencies of another state or of the federal
6 government.

7 (i) Utilize multistate record production standards and examination procedures
8 when such standards and procedures will reasonably achieve the purposes of this
9 chapter.

10 (j) Participate in nationwide protocols for licensing cooperation and
11 coordination among state regulators if these protocols are consistent with this
12 chapter.

13 (k) Implement this chapter in a manner that facilitates uniformity with respect
14 to licensing, supervision, reporting, and regulation of licensees that are licensed in
15 multiple jurisdictions.

16 **(3) CONFIDENTIALITY.** (a) Section 220.06 applies to this chapter.

17 (b) The division may not disclose information received under s. 217.05 (3) (b)
18 2. to any person except as follows:

19 1. The division may disclose the applicant's social security number or federal
20 employer identification number to the department of revenue for the sole purpose of
21 requesting certifications under s. 73.0301 and to the department of workforce
22 development for the sole purpose of requesting certifications under s. 108.227.

23 2. The division may disclose the applicant's social security number to the
24 department of children and families in accordance with a memorandum of
25 understanding under s. 49.857.

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1 3. The division may disclose information to the nationwide multistate licensing
2 system and registry as provided in s. 224.35.

3 **217.05 License requirements. (1) LICENSE REQUIRED.** A person may not
4 engage in the business of money transmission or advertise, solicit, or hold itself out
5 as providing money transmission unless the person is licensed under this chapter.
6 This subsection does not apply to an authorized delegate of a person licensed under
7 this chapter acting within the scope of authority conferred by a written contract with
8 the licensee, or to a person who is exempt pursuant to s. 217.03 and does not engage
9 in money transmission outside the scope of the exemption.

10 **(2) LICENSE NOT TRANSFERABLE.** A license issued under this section is not
11 transferable or assignable.

12 **(3) APPLICATION FOR LICENSE.** (a) An applicant for a license shall apply in a form
13 and manner prescribed by the division and submit a \$1,000 nonrefundable
14 application fee.

15 (b) The applicant shall provide all of the following information to the division:

16 1. The legal name and residential and business addresses of the applicant and
17 any fictitious or trade name used by the applicant in conducting its business.

18 2. The applicant's federal employer identification number or social security
19 number, as applicable. If an applicant who is an individual does not have a social
20 security number, the applicant, as a condition of applying for or applying to renew
21 a license, shall submit a statement made or subscribed under oath or affirmation to
22 the division that the applicant does not have a social security number. The form of
23 the statement shall be prescribed by the department of children and families.

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1 3. A list of any criminal convictions of the applicant and any material litigation
2 in which the applicant has been involved in the 10-year period next preceding the
3 submission of the application.

4 4. A description of any money transmission previously provided by the
5 applicant and the money transmission that the applicant seeks to provide in this
6 state.

7 5. A list of the applicant's proposed authorized delegates and the locations in
8 this state where the applicant and its authorized delegates propose to engage in
9 money transmission.

10 6. A list of other states in which the applicant is licensed to engage in money
11 transmission and any license revocations, suspensions, or other disciplinary action
12 taken against the applicant in another state.

13 7. Information concerning any bankruptcy or receivership proceedings
14 affecting the applicant or a person in control of the applicant.

15 8. A sample form of contract for authorized delegates, if applicable.

16 9. A sample form of each payment instrument or stored value, as applicable.

17 10. The name and address of any federally insured depository financial
18 institution through which the applicant plans to conduct money transmission.

19 11. A copy of audited financial statements of the applicant for the most recent
20 fiscal year and for the 2-year period next preceding the submission of the application
21 or, if acceptable to the division, certified unaudited financial statements for the most
22 recent fiscal year or another period acceptable to the division.

23 12. A certified copy of unaudited financial statements of the applicant for the
24 most recent fiscal quarter.

25 13. A copy of the surety bond or other form of security required by s. 217.10 (2).

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1 14. Any other information the division or the nationwide multistate licensing
2 system and registry reasonably requires with respect to the applicant.

3 (c) If the applicant is a corporation, limited liability company, partnership, or
4 other legal entity, the applicant shall provide all of the following information to the
5 division, in addition to the information required under par. (b):

6 1. The date of the applicant's incorporation or formation and state or country
7 of incorporation or formation.

8 2. A certificate of good standing from the state or country in which the applicant
9 is incorporated or formed, if applicable.

10 3. A brief description of the structure or organization of the applicant, including
11 each parent or subsidiary of the applicant and whether each parent or subsidiary is
12 publicly traded.

13 4. The legal name, any fictitious or trade name, all business and residential
14 addresses, and the employment, as applicable, in the 10-year period next preceding
15 the submission of the application, of each key individual and person in control of the
16 applicant.

17 5. A list of any criminal convictions and material litigation in which a person
18 in control of the applicant that is not an individual has been involved in the 10-year
19 period next preceding the submission of the application.

20 6. If the applicant is a publicly traded corporation, a copy of the most recent
21 report filed with the U.S. Securities and Exchange Commission under section 13 of
22 the Securities Exchange Act of 1934, 15 USC 78m.

23 7. If the applicant is a wholly owned subsidiary of a publicly traded corporation,
24 one of the following as applicable:

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1 a. If the parent corporation is publicly traded in the United States, a copy of
2 the parent corporation's audited financial statements for the most recent fiscal year
3 or a copy of the parent corporation's most recent report filed under section 13 of the
4 Securities Exchange Act of 1934, 15 USC 78m.

5 b. If the parent corporation is publicly traded outside the United States, a copy
6 of similar documentation filed with the regulator of the parent corporation's domicile
7 outside the United States.

8 8. The name and address of the applicant's registered agent in this state.

9 (d) The division may waive one or more requirements of par. (b) or (c) or permit
10 an applicant to submit other information in lieu of the required information.

11 **(4) INFORMATION REQUIREMENTS FOR CERTAIN INDIVIDUALS.** (a) Any individual in
12 control of a licensee or applicant, any individual that seeks to acquire control of a
13 licensee, and each key individual shall provide all of the following items to the
14 division through the nationwide multistate licensing system and registry as
15 provided in s. 224.35 (2):

16 1. The individual's fingerprints for submission to the federal bureau of
17 investigation and the division for purposes of a national criminal history background
18 check unless the person currently resides outside of the United States and has
19 resided outside the United States for the last 10 years.

20 2. Personal history and experience in a form and manner prescribed by the
21 division, to include all of the following:

22 a. An independent credit report from a consumer reporting agency. This
23 requirement shall be waived if the individual does not have a social security number.

24 b. Information related to any criminal convictions or pending charges.

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1 c. Information related to any regulatory or administrative action and any civil
2 litigation involving claims of fraud, misrepresentation, conversion, mismanagement
3 of funds, breach of fiduciary duty, or breach of contract.

4 3. Any other information the division or the nationwide multistate licensing
5 system and registry reasonably requires with respect to the individual.

6 (b) If the individual has resided outside the United States at any time in the
7 last 10 years, the individual shall also provide an investigative background report
8 prepared by an independent search firm that meets all of the following requirements:

9 1. The search firm has sufficient knowledge and resources and employs
10 accepted and reasonable methodologies in conducting its research for the
11 background report.

12 2. The search firm is not affiliated with, and does not have an interest with, the
13 individual it is researching.

14 3. The background report is written in the English language and contains, at
15 a minimum, all of the following information:

16 a. If available in the individual's current jurisdiction of residency, a
17 comprehensive credit report, or any equivalent information obtained or generated
18 by the independent search firm to accomplish such report, including a search of the
19 court data in the countries, provinces, states, cities, towns, and contiguous areas
20 where the individual resided and worked.

21 b. Criminal records information for the past 10 years, including felonies,
22 misdemeanors, or similar convictions for violations of law in the countries, provinces,
23 states, cities, towns, and contiguous areas where the individual resided and worked.

24 c. Employment history.

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1 d. Media history, including an electronic search of national and local
2 publications, wire services, and business applications.

3 e. Financial services-related regulatory history, including money
4 transmission, securities, banking, insurance, and mortgage-related industries.

5 **(5) ISSUANCE OF LICENSE.** (a) When an application for an original license under
6 this section appears to include all the items and address all the matters that are
7 required, the application is complete. The division shall promptly notify the
8 applicant in a record of the date on which the application is determined to be
9 complete.

10 (b) If an applicant fails to complete the application for a new license or for a
11 change in control of a license within 60 days after the division provides written notice
12 that the application is incomplete, the application is deemed abandoned and the
13 application fee shall not be refunded. An applicant whose application is deemed
14 abandoned under this paragraph may reapply as provided in this section.

15 (c) A determination by the division that an application is complete and is
16 accepted for processing means only that the application, on its face, appears to
17 include all of the items, including the criminal background check response from the
18 federal bureau of investigation, and address all of the matters that are required, and
19 is not an assessment of the substance of the application or of the sufficiency of the
20 information provided.

21 (d) When an application is filed and considered complete under this section, the
22 division shall investigate the applicant's financial condition and responsibility,
23 financial and business experience, character, and general fitness. The division may
24 conduct an on-site investigation of the applicant, the reasonable cost of which the

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1 applicant shall pay. If the applicant utilizes a multistate licensing process, the
2 division may accept the investigation results of another state.

3 (e) The division shall issue a license to an applicant under this section if the
4 division finds all of the following:

5 1. The applicant has satisfied all applicable requirements of this section.

6 2. The applicant's financial statements demonstrate a sufficient net worth to
7 meet the requirements of s. 217.10 (1).

8 3. The applicant has submitted a surety bond or other permitted form of
9 security that meets the requirements s. 217.10 (2).

10 4. The financial condition and responsibility, financial and business
11 experience, competence, character, and general fitness of the applicant, and the
12 competence, experience, character, and general fitness of the key individuals and
13 persons in control of the applicant, indicate that it is in the interest of the public to
14 permit the applicant to engage in money transmission.

15 5. The applicant has not been certified under s. 73.0301 by the department of
16 revenue to be liable for delinquent taxes.

17 6. The applicant has not been certified under s. 108.227 by the department of
18 workforce development to be liable for delinquent unemployment insurance
19 contributions.

20 7. If the applicant is an individual, the applicant has not failed to comply, after
21 appropriate notice, with a subpoena or warrant issued by the department of children
22 and families or a county child support agency under s. 59.53 (5) and related to
23 paternity or child support proceedings and is not delinquent in making
24 court-ordered payments of child or family support, maintenance, birth expenses,

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1 medical expenses or other expenses related to the support of a child or former spouse,
2 as provided in a memorandum of understanding entered into under s. 49.857.

3 (f) The division shall approve or deny an application within 120 days after the
4 application's completion date. The division may for good cause extend the review
5 period. Unless the review period has been extended, an application that is not
6 approved or denied within 120 days after the completion date is deemed approved.

7 (g) The division shall issue a formal written notice of the denial of a license
8 application within 30 days of the decision to deny the application. The division shall
9 set forth in the notice of denial the specific reasons for the denial of the application.
10 An applicant whose application is denied by the division under this section may
11 request a hearing under s. 227.44 within 30 days after the date of denial. The
12 division may appoint a hearing examiner under s. 227.46 to conduct the hearing.

13 (h) The initial license term shall begin on the day the application is approved.
14 The license shall expire on December 31 of the year in which the license term began,
15 unless the initial license date is between November 1 and December 31, in which
16 instance the initial license term shall run through December 31 of the following year.

17 **(6) RENEWAL OF LICENSE AND ANNUAL FEE.** (a) A license may be renewed or
18 reinstated as provided in s. 224.35 (7).

19 (b) No more than 60 days before license expiration, a licensee shall pay an
20 annual renewal fee on the basis of its volume of money transmission in this state, as
21 follows:

22 1. For a volume of \$10,000,000 or less of money transmitted in the prior
23 calendar year, \$500.

24 2. For a volume of \$10,000,001 to \$100,000,000 of money transmitted in the
25 prior calendar year, \$1,000.

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1 3. For a volume of \$100,000,001 to \$1,000,000,000 of money transmitted in the
2 prior calendar year, \$2,000.

3 4. For a volume greater than \$1,000,000,000 of money transmitted in the prior
4 calendar year, \$4,000.

5 **(7) REVOCATION, SUSPENSION, OR REFUSAL TO RENEW A LICENSE.** (a) The division
6 may, after a complaint, notice, and hearing, deny an application or suspend, revoke,
7 or refuse to renew a license issued under this section if the division finds any of the
8 following:

9 1. The applicant or licensee failed to comply with an order of the division, any
10 provision of this chapter or rule promulgated under this chapter, or any other state
11 or federal law applicable to money transmission.

12 2. The applicant or licensee failed to cooperate with an investigation,
13 examination, or other request for information by the division.

14 3. The applicant or licensee engaged in unsafe or unsound practices in
15 connection with the business of money transmission.

16 4. The applicant or licensee made a material misstatement, or knowingly
17 omitted a material fact, in an application for a license or in information furnished to
18 the division or the nationwide multistate licensing system and registry.

19 5. The applicant or licensee engaged in any fraudulent or deceptive conduct or
20 gross negligence relating to the business of money transmission.

21 6. A federal or state administrative order has been entered against the
22 applicant or licensee for violation of any rule or regulation applicable to the conduct
23 of the person's money transmission business.

24 7. The licensee no longer meets a requirement for initial granting of a license.

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1 8. The licensee is financially unable to perform the licensee's obligations or has
2 willfully failed without reasonable cause to provide for payment of obligations.

3 9. The licensee failed to employ reasonable measures to ensure that an
4 authorized delegate complies with all orders of the division, this chapter, and all
5 rules promulgated under this chapter, and all other applicable state or federal law.

6 10. The financial responsibility, character, reputation, experience, and general
7 fitness of the applicant or licensee, or a key individual or person in control thereof,
8 indicate that it is not in the public interest to permit the applicant or licensee to
9 provide money transmission in this state.

10 11. The licensee failed to remove an authorized delegate after receiving notice
11 from the division that the authorized delegate has failed to comply with an order of
12 the division, any provision of this chapter, any rule promulgated under this chapter,
13 or any other applicable state or federal law.

14 (b) The division shall restrict or suspend a license issued to an individual if the
15 individual fails to comply, after appropriate notice, with a subpoena or warrant
16 issued by the department of children and families or a county child support agency
17 under s. 59.53 (5) and related to paternity or child support proceedings or is
18 delinquent in making court-ordered payments of child or family support,
19 maintenance, birth expenses, medical expenses, or other expenses related to the
20 support of a child or former spouse, as provided in a memorandum of understanding
21 entered into under s. 49.857. A licensee whose license is restricted or suspended
22 under this paragraph is entitled to a notice and hearing only as provided in a
23 memorandum of understanding entered into under s. 49.857 and is not entitled to
24 any other notice or hearing under this chapter.

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1 (c) The division shall revoke any license issued under this section if the
2 department of revenue certifies under s. 73.0301 that the licensee is liable for
3 delinquent taxes. A licensee whose license is revoked under this paragraph for
4 delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and hearing under
5 s. 73.0301 (5) (a) but is not entitled to any other notice or hearing under this chapter.

6 (d) The division shall revoke any license issued under this section if the
7 department of workforce development certifies under s. 108.227 that the licensee is
8 liable for delinquent unemployment insurance contributions. A licensee whose
9 license is revoked under this paragraph for delinquent unemployment insurance
10 contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and hearing under
11 s. 108.227 (5) (a) but is not entitled to any other notice or hearing under this chapter.

12 **217.06 Acquisition of control; change of key individual. (1) ACQUISITION**
13 **OF CONTROL.** (a) Any person, or group of persons acting in concert, seeking to acquire
14 control of a licensee shall obtain the written approval of the division prior to
15 acquiring control. An individual is not deemed to acquire control of a licensee and
16 is not subject to the requirements under this subsection when that individual
17 becomes a key individual in the ordinary course of business.

18 (b) A person, or group of persons acting in concert, seeking to acquire control
19 of a licensee shall, in cooperation with the licensee, submit an application in a form
20 and manner prescribed by the division. The application shall include the
21 information required by s. 217.05 (4) for any new key individuals who have not
22 previously completed the requirements of s. 217.05 (4) for a licensee. Upon request,
23 the division may permit an applicant under this section to submit information
24 required in the application without using the nationwide multistate licensing
25 system and registry.

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1 (c) When an application under this subsection appears to include all the items
2 and address all the matters that are required, the application is complete. The
3 division shall promptly notify the applicant in a record of the date on which the
4 application is determined to be complete.

5 (d) A determination by the division that an application is complete and is
6 accepted for processing means only that the application, on its face, appears to
7 include all the items and address all the matters that are required, and is not an
8 assessment of the substance of the application or of the sufficiency of the information
9 provided.

10 (e) When an application is filed and considered complete under this subsection,
11 the division shall investigate the financial condition and responsibility, financial and
12 business experience, character, and general fitness of the person, or group of persons
13 acting in concert, seeking to acquire control. If the applicant utilizes a multistate
14 licensing process, the division may accept the investigation results of another state.

15 (f) The division shall approve an acquisition of control under this subsection
16 if the division finds all of the following:

- 17 1. The applicant has satisfied all applicable requirements of this subsection.
- 18 2. The financial condition and responsibility, financial and business
19 experience, competence, character, and general fitness of the person, or group of
20 persons acting in concert, seeking to acquire control, and the competence,
21 experience, character, and general fitness of the key individuals and persons who
22 would be in control of the licensee after the acquisition of control, indicate that it is
23 in the interest of the public to permit the person, or group of persons acting in concert,
24 to control the licensee.

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1 (g) The division shall approve or deny the application within 60 days after the
2 completion date. The division may for good cause extend the review period. Unless
3 the review period has been extended, an application that is not approved or denied
4 within 60 days after the completion date is deemed approved.

5 (h) The division shall issue a formal written notice of the denial of a license
6 application within 30 days of the decision to deny the application. The division shall
7 set forth in the notice of denial the specific reasons for the denial of the application.
8 An applicant whose application is denied by the division under this section may
9 request a hearing under s. 227.44 within 30 days after the date of denial. The
10 division may appoint a hearing examiner under s. 227.46 to conduct the hearing.

11 (i) The requirements of pars. (a) and (b) do not apply to any of the following:

12 1. A person who acts as a proxy for the sole purpose of voting at a designated
13 meeting of the shareholders or holders of voting shares or voting interests of a
14 licensee or a person in control of a licensee.

15 2. A person who acquires control of a licensee by devise or descent.

16 3. A person who acquires control of a licensee as a personal representative,
17 custodian, guardian, conservator, or trustee, or as an officer appointed by a court of
18 competent jurisdiction or by operation of law.

19 4. A person who is exempt under s. 217.03 (1) (g).

20 5. A person exempted from the requirements of this section by written
21 determination of the division, if the division finds this exemption to be in the public
22 interest.

23 6. A public offering of securities of a licensee or a person in control of a licensee.

24 7. An internal reorganization of a person in control of the licensee if the
25 ultimate person in control of the licensee remains the same.

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1 8. A person who has complied with and received approval to engage in money
2 transmission under this chapter or was identified as a person in control in a prior
3 application filed with and approved by the division or by an MSB-accredited state
4 pursuant to a multistate licensing process, if all the following conditions are
5 satisfied:

6 a. The person has not had a license revoked or suspended, and has not
7 controlled a licensee that has had a license revoked or suspended while the person
8 was in control of the licensee, within the previous 5 years.

9 b. If the person is a licensee, the person is well-managed and received at least
10 a satisfactory rating for compliance at its most recent examination by an
11 MSB-accredited state, if a rating was given.

12 c. The licensee to be acquired and the person acquiring control, if the person
13 acquiring control is a licensee, are each projected to meet the requirements of s.
14 217.10 after the acquisition of control is completed.

15 d. The licensee to be acquired and the person acquiring control, if the person
16 acquiring control is a licensee, will not implement any material changes to their
17 respective business plans as a result of the acquisition of control.

18 e. The person acquiring control, in cooperation with the licensee, provides
19 notice of the acquisition and attests to the conditions of subd. 8. a. to d. in a form and
20 manner prescribed by the division. If the notice is not disapproved within 30 days
21 after the date on which the notice was determined by the division to be complete, the
22 notice is deemed approved.

23 (j) A person who is exempt from the requirements of pars. (a) and (b) pursuant
24 to par. (i) 2., 3., 4., 6., or 7. shall, in cooperation with the licensee, notify the division
25 within 15 days after the acquisition of control. Notice shall be provided by updating

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1 the licensee's record through the nationwide multistate licensing system and
2 registry or in any other manner acceptable to the division.

3 (k) Before filing an application for approval to acquire control of a licensee, a
4 person may request in writing a determination from the division as to whether the
5 person would be considered a person in control of a licensee upon consummation of
6 a proposed transaction. If the division determines that the person would not be a
7 person in control of a licensee, the person is not subject to the requirements of pars.
8 (a) and (b).

9 **(2) CHANGE OF KEY INDIVIDUALS.** (a) Upon adding or replacing any key
10 individual, a licensee shall do all of the following:

11 1. No later than 15 days after the effective date of the key individual's
12 appointment, provide notice of the change in a manner acceptable to the division.

13 2. No later than 45 days after the effective date of the individual's appointment,
14 provide the information required by s. 217.05 (4).

15 (b) The division may issue a notice of disapproval of a key individual if it finds
16 that the competence, experience, character, or integrity of the individual indicates
17 that it is not in the interest of the public or the customers of the licensee to permit
18 the individual to be a key individual of the licensee. The notice of disapproval shall
19 contain a statement of the basis for disapproval. An applicant whose application is
20 denied by the division under this subsection may request a hearing under s. 227.44
21 within 30 days after the date of denial. The division may appoint a hearing examiner
22 under s. 227.46 to conduct the hearing.

23 (c) If the notice of the change is not disapproved within 90 days after the date
24 on which the requirements of par. (a) were determined to be complete, the key
25 individual is deemed approved.

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1 **217.07 Reporting and records. (1) REPORT OF CONDITION.** Each licensee shall
2 submit a report of condition no later than 45 days after the end of each calendar
3 quarter, unless a longer period is authorized by the division. The report of condition
4 shall include all of the following:

5 (a) Financial information at the licensee level.

6 (b) Nationwide and state-specific money transmission transaction information
7 in every jurisdiction in the United States in which the licensee is licensed to engage
8 in money transmission.

9 (c) A permissible investments report.

10 (d) Transaction destination country reporting for money received for
11 transmission, if applicable. This requirement applies only to a report of condition
12 submitted within 45 days of the end of the 4th calendar quarter.

13 (e) Any other information the division reasonably requires with respect to the
14 licensee.

15 **(2) AUDITED FINANCIALS.** (a) Each licensee shall submit audited financial
16 information no later than 90 days after the end of each fiscal year, unless a longer
17 period is authorized by the division. The submission shall include an audited
18 financial statement of the licensee for the fiscal year prepared in accordance with
19 U.S. generally accepted accounting principles, together with any other information
20 the division may reasonably require with respect to the licensee.

21 (b) The audited financial statement shall be prepared by an independent
22 certified public accountant or independent public accountant satisfactory to the
23 division and shall be accompanied by a certificate of opinion that is satisfactory to
24 the division. If the certificate of opinion is qualified, the division may order the
25 licensee to take any action the division finds necessary to enable the independent

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1 certified public accountant or independent public accountant to remove the
2 qualification.

3 **(3) REPORT OF AUTHORIZED DELEGATES.** Each licensee shall submit a report of
4 authorized delegates no later than 45 days after the end of each calendar quarter,
5 unless a longer period is authorized by the division. The report of authorized
6 delegates shall include all of the following, if applicable:

7 (a) Contact information for each authorized delegate of the licensee, including
8 each authorized delegate's legal name, any fictitious or trade name, employer
9 identification number, principal provider identifier, physical address, mailing
10 address, primary contact person, telephone number, email address, start date as the
11 licensee's authorized delegate, and end date, if any.

12 (b) Information concerning each authorized delegate's business in other states,
13 including whether any court or regulatory authority has prohibited the authorized
14 delegate from acting as an authorized delegate in any jurisdiction.

15 (c) Any other information the division reasonably requires with respect to the
16 licensee's authorized delegates.

17 **(4) REPORTS OF CERTAIN EVENTS.** (a) A licensee shall file a report with the division
18 within one business day after the licensee has reason to know of the occurrence of any
19 of the following events:

20 1. The filing of a petition by or against the licensee under the U.S. Bankruptcy
21 Code, 11 USC 101 to 110, for bankruptcy or reorganization.

22 2. The filing of a petition by or against the licensee for receivership, the
23 commencement of any other judicial or administrative proceeding for its dissolution
24 or reorganization, or the making of a general assignment for the benefit of its
25 creditors.

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1 3. The commencement of a proceeding to revoke or suspend its license in a state
2 or country in which the licensee engages in business or is licensed.

3 (b) A licensee shall file a report with the division within 3 business days after
4 the licensee has reason to know that the licensee or a key individual, person in
5 control, or authorized delegate of the licensee has been charged with or convicted of
6 a felony.

7 **(5) BANK SECRECY ACT REPORTS.** A licensee and an authorized delegate shall
8 comply with all federal currency reporting, record keeping, and suspicious activity
9 reporting requirements as set forth in the Bank Secrecy Act and other federal and
10 state laws pertaining to money laundering.

11 **(6) RECORDS.** (a) A licensee shall maintain all of the following records for at least
12 3 years:

13 1. A record of each outstanding money transmission obligation sold.

14 2. A general ledger posted at least monthly containing all asset, liability,
15 capital, income, and expense accounts.

16 3. Bank statements and bank reconciliation records.

17 4. Records of outstanding money transmission obligations.

18 5. Records of each money transmission obligation paid within the 3-year
19 period.

20 6. A list of the last-known names and addresses of all the licensee's authorized
21 delegates.

22 7. Any other records the division requires to be maintained by order or rule.

23 (b) Upon written request of the division to inspect any record specified in par.
24 (a), the licensee shall promptly make the record available to the division. A licensee
25 shall maintain the records specified in par. (a) in a location and manner that ensures

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1 the licensee can make the records available to the division no later than 7 business
2 days after the division's written request.

3 **217.08 Authorized delegates. (1)** Before a licensee is authorized to conduct
4 business through an authorized delegate or allows a person to act as the licensee's
5 authorized delegate, the licensee shall do all of the following:

6 (a) Adopt, and update as necessary, written policies and procedures reasonably
7 designed to ensure that the licensee's authorized delegates comply with applicable
8 state and federal law.

9 (b) Conduct a reasonable risk-based background investigation sufficient for
10 the licensee to determine whether the authorized delegate has complied and will
11 likely comply with applicable state and federal law.

12 (c) Enter into a signed written agreement that does all of the following:

13 1. Appoints the authorized delegate for the licensee with the authority to
14 conduct money transmission on behalf of the licensee.

15 2. Sets forth the nature and scope of the relationship between the licensee and
16 the authorized delegate and the respective rights and responsibilities of the parties.

17 3. Requires the authorized delegate to fully comply with all applicable state and
18 federal laws, rules, and regulations pertaining to money transmission, including
19 relevant provisions of the Bank Secrecy Act and federal and state laws pertaining
20 to money laundering.

21 4. Requires the authorized delegate to remit and handle money and monetary
22 value in accordance with the terms of the agreement.

23 5. Imposes a trust for the benefit of the licensee on money and monetary value
24 net of fees received for money transmission.

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1 6. Requires the authorized delegate to prepare and maintain records as
2 required by this chapter and applicable rules.

3 7. States the authorized delegate's consent to examination or investigation by
4 the division.

5 8. States that the licensee is subject to regulation by the division, and that, as
6 part of that regulation, the division may suspend or revoke an authorized delegate
7 designation or require the licensee to terminate an authorized delegate designation.

8 9. Acknowledges the authorized delegate's receipt of the written policies and
9 procedures required under par. (a).

10 **(2)** An authorized delegate of a licensee holds in trust for the benefit of the
11 licensee all money net of fees received from money transmission. If any authorized
12 delegate commingles any funds received from money transmission with any other
13 funds or property owned or controlled by the authorized delegate, all commingled
14 funds and other property shall be considered held in trust in favor of the licensee in
15 an amount equal to the amount of money net of fees received from money
16 transmission.

17 **(3)** An authorized delegate may not use a subdelegate to conduct money
18 transmission on behalf of a licensee.

19 **(4)** A person shall not engage in the business of money transmission on behalf
20 of a person not licensed under this chapter or not exempt pursuant to s. 217.03. A
21 person violating this subsection shall be jointly and severally liable with the
22 unlicensed and nonexempt person for engaging in the business of money
23 transmission without a license.

24 **(5)** If a licensee's license is suspended, revoked, surrendered, or expired, the
25 licensee shall, within 5 business days, provide documentation to the division that the

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1 licensee has notified all applicable authorized delegates of the licensee of the
2 suspension, revocation, surrender, or expiration of the license. Upon receiving notice
3 of the suspension, revocation, surrender, or expiration of a license, an authorized
4 delegate shall immediately cease to provide money transmission as an authorized
5 delegate of the applicable licensee.

6 (6) The division may, by written order, suspend or revoke the designation of an
7 authorized delegate if the division finds any of the following:

8 (a) The authorized delegate failed to comply with an order of the division, any
9 provision of this chapter, any rule promulgated under this chapter, or any other state
10 or federal law applicable to money transmission.

11 (b) The authorized delegate failed to cooperate with an investigation,
12 examination, or other request for information by the division.

13 (c) The authorized delegate engaged in unsafe or unsound practices in
14 connection with the business of money transmission.

15 (d) The authorized delegate made a material misstatement, or knowingly
16 omitted a material fact, in an application for a license or in information furnished to
17 the division or the nationwide multistate licensing system and registry.

18 (e) The authorized delegate engaged in any fraudulent or deceptive conduct or
19 gross negligence relating to the business of money transmission.

20 (f) A federal or state administrative order has been entered against the
21 authorized delegate for violation of any rule or regulation applicable to the conduct
22 of the person's money transmission business.

23 (g) The financial responsibility, character, reputation, experience, and general
24 fitness of the authorized delegate indicate that it is not in the public interest to
25 permit the applicant or licensee to provide money transmission in this state.

ASSEMBLY BILL 617**SECTION 60****1 217.09 Timely transmission; refunds; receipts and other disclosures.**

2 **(1) TIMELY TRANSMISSION.** A licensee shall forward all money received for
3 transmission in accordance with the terms of the agreement between the licensee
4 and the sender, unless the licensee has a reasonable belief, or a reasonable basis to
5 believe, that the sender is a victim of fraud or that the transaction relates to a crime
6 or violation of law, rule, or regulation. If a licensee fails to forward money received
7 for transmission in accordance with this subsection, the licensee shall state the
8 reason for the failure in response to any inquiries by the sender unless providing the
9 response would violate applicable state or federal law.

10 **(2) REFUNDS.** (a) Except as provided in par. (b), a licensee shall refund to the
11 sender any money received for transmission within 10 days of receipt of the sender's
12 written request for a refund.

13 (b) Paragraph (a) does not apply if any of the following circumstances exist:

14 1. The money was forwarded within 10 days of the date on which the money
15 was received for transmission.

16 2. Instructions were given committing an equivalent amount of money to the
17 person designated by the sender within 10 days of the date on which the money was
18 received for transmission.

19 3. The agreement between the licensee and the sender instructs the licensee
20 to forward the money at a time that is beyond 10 days of the date on which the money
21 was received for transmission. If funds have not yet been forwarded in accordance
22 with the terms of the agreement between the licensee and the sender, the licensee
23 shall issue a refund in accordance with the other provisions of this section.

24 4. The refund request concerns a transaction that the licensee has not
25 completed because the licensee has a reasonable belief, or a reasonable basis to

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1 believe, that the sender is a victim of fraud or that the transaction relates to a crime
2 or violation of law, rule, or regulation.

3 5. The refund request does not include sufficient information to enable the
4 licensee to identify the sender or, in the event the sender has multiple transactions
5 outstanding, the particular transaction to be refunded.

6 6. The money received for transmission is subject to the federal remittance rule,
7 12 CFR 1005, subpart B.

8 7. The money was received for transmission pursuant to a written agreement
9 between the licensee and payee to process payments for goods or services provided
10 by the payee.

11 **(3) RECEIPTS.** (a) Except as provided in par. (b), a licensee or its authorized
12 delegate shall provide the sender a receipt for money received for transmission. The
13 receipt shall be in English and in the language principally used by the licensee or
14 authorized delegate to advertise, solicit, or negotiate transactions conducted in
15 person, electronically, or by phone, if other than English, and shall include all the
16 following information, as applicable:

17 1. The name of the sender.

18 2. The name of the designated recipient.

19 3. The date of the transaction.

20 4. The unique transaction or identification number.

21 5. The licensee's name, business address, and customer service telephone
22 number.

23 6. The amount of the transaction in U.S. dollars.

24 7. Any fee charged by the licensee to the sender for the transaction.

25 8. Any taxes collected by the licensee from the sender for the transaction.

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1 (b) Paragraph (a) does not apply if any of the following circumstances exist:

2 1. The money received for transmission is subject to the federal remittance rule,
3 12 CFR 1005, subpart B.

4 2. The money received for transmission is not primarily for personal, family,
5 or household purposes.

6 3. The money is received for transmission pursuant to a written agreement
7 between the licensee and payee to process payments for goods or services provided
8 by the payee.

9 4. The money is received for transmission in the performance of payroll
10 processing services.

11 (4) DISCLOSURES FOR PAYROLL PROCESSING SERVICES. A licensee that provides
12 payroll processing services shall make paystubs or equivalent documentation
13 available to employees and shall issue reports to clients detailing client payroll
14 obligations in advance of the payroll funds being deducted from an account. These
15 requirements do not apply if the licensee's client designates the intended recipients
16 to the licensee and is responsible for providing the disclosures required by this
17 paragraph.

18 **217.10 Prudential standards. (1) NET WORTH.** A licensee shall maintain at
19 all times a tangible net worth in excess of the greater of \$100,000 or the sum of the
20 following: 3 percent of the licensee's first \$100,000,000 in total assets, plus 2 percent
21 of any additional assets up to \$1,000,000,000, plus 0.5 percent of any additional
22 assets over \$1,000,000,000. The division may exempt an applicant or licensee from
23 this requirement, in whole or in part, if the division finds the exemption to be in the
24 public interest.

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1 **(2) SURETY BOND.** A licensee shall at all times maintain a surety bond or other
2 form of security acceptable to the division. The minimum required amount of the
3 security shall be the greater of \$100,000 or an amount equal to 100 percent of the
4 licensee’s average daily money transmission liability in this state calculated for the
5 most recently completed 3-month period, up to \$500,000. A licensee that maintains
6 security of at least \$500,000 is not required to calculate its average daily money
7 transmission liability in this state.

8 **(3) PERMISSIBLE INVESTMENTS.** (a) A licensee shall maintain at all times
9 permissible investments that have a market value computed in accordance with U.S.
10 generally accepted accounting principles of not less than the aggregate amount of all
11 of the licensee’s outstanding money transmission obligations.

12 (b) The following are permissible investments for purposes of par. (a):

13 1. Cash, including demand deposits, savings deposits, and funds in such
14 accounts held for the benefit of the licensee’s customers, maintained in a federally
15 insured depository financial institution.

16 2. Cash equivalents, including automated clearing house items in transit to the
17 licensee, automated clearing house items or international wires in transit to a payee,
18 cash in transit via armored car, cash in smart safes, cash in licensee-owned
19 locations, debit card or credit card-funded transmission receivables owed by any
20 bank, and money market mutual funds rated “AAA” by S&P, or the equivalent from
21 any eligible rating service.

22 3. Certificates of deposit or senior debt obligations of a federally insured
23 depository financial institution.

24 4. An obligation of the United States or a commission, agency, or
25 instrumentality thereof.

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1 5. An obligation of a state or a governmental subdivision, agency, or
2 instrumentality thereof.

3 6. An obligation that is guaranteed fully as to principal and interest by the
4 United States.

5 7. The amount of the security provided under sub. (2) that exceeds the average
6 daily money transmission liability in this state.

7 8. The full drawable amount of a standby letter of credit that meets all the
8 following requirements:

9 a. It is irrevocable, unconditional, and unqualified.

10 b. It is issued by a federally insured depository financial institution; a foreign
11 bank authorized under federal law to maintain a federal agency or federal branch
12 office in a state; or a foreign bank that is authorized under the law of a state to
13 maintain a branch that is regulated, supervised, and examined by federal or state
14 authorities having regulatory authority over banks, credit unions, and trust
15 companies if the foreign bank or its parent company bears an eligible rating.

16 c. It identifies the division or its agent as the stated beneficiary.

17 d. It states an issue date and expiration date.

18 e. It automatically extends for one year, without a written amendment, upon
19 each expiration date unless the issuer of the letter of credit notifies the division at
20 least 60 days prior to any expiration date that the irrevocable letter of credit will not
21 be extended. Notice shall be provided by certified or registered mail or courier mail
22 or other receipted means.

23 f. It provides that the issuer of the letter of credit will honor, at sight, a
24 presentation made by the beneficiary to the issuer of the original letter of credit and
25 any amendments thereto.

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1 g. It provides that the issuer of the letter of credit will honor, at sight, a written
2 statement by the beneficiary that a petition for bankruptcy, reorganization,
3 receivership, or dissolution has been filed by or against the licensee; the licensee's
4 assets have been seized pursuant to an emergency order issued on the ground that
5 the licensee is, or is at risk of becoming, insolvent; or the beneficiary has received
6 notice of expiration or nonextension of a letter of credit and the licensee failed to
7 demonstrate to the satisfaction of the beneficiary that the licensee will maintain the
8 minimum permissible investments required in par. (a) upon the expiration or
9 nonextension of the letter of credit.

10 h. It stipulates that the beneficiary may obtain funds up to the amount of the
11 letter of credit no later than 7 days after presenting a written statement by the
12 beneficiary that any of the events specified in subd. 8. g. has occurred.

13 i. It does not reference other agreements or provide for any security interest in
14 the licensee.

15 9. Receivables payable to a licensee from its authorized delegates in the
16 ordinary course of business that are less than 7 days old, subject to the following
17 limitations:

18 a. Receivables payable to a licensee from its authorized delegates may not
19 exceed 50 percent of the aggregate value of the licensee's total permissible
20 investments.

21 b. Receivables payable to a licensee from a single authorized delegate may not
22 exceed 10 percent of the aggregate value of the licensee's total permissible
23 investments.

24 10. a. Subject to the limitations in subd. 10. b., a short-term investment of 6
25 months or less that bears an eligible rating; commercial paper that bears an eligible

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1 rating; a bill, note, bond, or debenture that bears an eligible rating; a U.S. tri-party
2 repurchase agreement collateralized at 100 percent or more with federal government
3 or agency securities, municipal bonds, or other securities that bear an eligible rating;
4 a money market mutual fund rated less than “AAA” and equal to or higher than “A-”
5 by S&P, or the equivalent from any other eligible rating service; or a mutual fund or
6 other investment fund composed exclusively of the investments listed in subds. 1. to
7 6.

8 b. The investments specified in subd. 10. a. may not in the aggregate exceed 50
9 percent of the aggregate value of the licensee’s total permissible investments. No
10 single category of investment under subd. 10. a. may exceed 20 percent of the
11 aggregate value of the licensee’s total permissible investments. The division may
12 limit the extent to which a specific investment maintained by a licensee within a
13 class of permissible investments may be considered a permissible investment.

14 11. Cash, including demand deposits, savings deposits, and funds in such
15 accounts held for the benefit of the licensee’s customers, maintained at a foreign
16 depository institution, subject to the following limitations:

17 a. The licensee must have obtained at least a satisfactory rating in its most
18 recent examination under this chapter.

19 b. The foreign depository institution must bear an eligible rating, be registered
20 under the Foreign Account Tax Compliance Act, and not be located in a country that
21 is subject to sanctions from the office of foreign assets control in the U.S. treasury
22 department or designated a high-risk or noncooperative jurisdiction by the
23 Financial Action Task Force established at the G7 summit in Paris on July 14, 1989.

24 c. Cash maintained at a foreign depository institution may not exceed 10
25 percent of the aggregate value of the licensee’s total permissible investments.

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1 12. Any other investment authorized as a permissible investment by rule or
2 written determination of the division.

3 (c) Permissible investments, even if commingled with other assets of the
4 licensee, are held in trust for the benefit of the purchasers and holders of the
5 licensee's outstanding money transmission obligations on an equitable basis in the
6 event of insolvency, the filing of a petition by or against the licensee for bankruptcy
7 or reorganization, the filing of a petition by or against the licensee for receivership,
8 the commencement of any other judicial or administrative proceeding for the
9 licensee's dissolution or reorganization, or an action by a creditor against the licensee
10 who is not a beneficiary of the trust. Permissible investments held in trust pursuant
11 to this section are not subject to attachment, levy of execution, or sequestration,
12 except for a beneficiary of the trust. Any statutory trust established hereunder shall
13 be terminated upon extinguishment of all the licensee's outstanding money
14 transmission obligations.

15 (d) Following the issuance of a notice of expiration or nonextension of a letter
16 of credit under par. (b) 8. e., and no later than 15 days prior to the expiration date
17 of the letter of credit, the licensee shall demonstrate to the satisfaction of the division
18 that the licensee will continue to comply with sub. (1) after the letter of credit expires.
19 If the licensee fails to do so, the division may draw on the letter of credit up to an
20 amount necessary to meet the licensee's requirements under sub. (1), which shall be
21 offset against the licensee's outstanding money transmission obligations. The drawn
22 funds shall be held in trust by the division or its agent for the benefit of the
23 purchasers and holders of the licensee's outstanding money transmission
24 obligations.

ASSEMBLY BILL 617**SECTION 60**

1 **217.11 Powers of the division.** In addition to the powers granted in other
2 sections of this chapter or other applicable law, the division may do any of the
3 following:

4 (1) Investigate, at any time, the business and examine the books, accounts,
5 records, and files used in the business of every licensee or authorized delegate of a
6 licensee. The cost of each examination shall be paid by each licensee so examined
7 within 30 days after demand by the division.

8 (2) Issue subpoenas and take testimony of any person in relation to any matter
9 within the division's powers and require the person to produce records regarding any
10 matter related to the condition or business of a person engaged in activity regulated
11 under this chapter.

12 (3) Require any person to provide written reports or answers to questions, in
13 a form and manner acceptable to the division, concerning any matter related to the
14 condition or business of a person engaged in activity regulated under this chapter.

15 (4) Use, contract for, or employ analytical systems, methods, or software to
16 examine or investigate any person subject to this chapter.

17 (5) Accept an audit report made by an independent certified public accountant
18 or other qualified 3rd-party auditor for an applicant or licensee and incorporate the
19 audit report in any report of examination or investigation.

20 (6) Promulgate rules or issue orders to administer, enforce, or carry out the
21 purposes of this chapter, including such rules or orders as may be necessary to protect
22 the public from oppressive or deceptive practices of licensees and to prevent evasions
23 of this chapter.

24 (7) Take possession of any insolvent licensee under the circumstances and
25 utilizing the procedures prescribed in s. 218.04 (9m), so far as applicable.

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1 **(8)** Enter into a consent order at any time with a person to resolve a matter
2 arising under this chapter or any rule promulgated under this chapter.

3 **SECTION 61.** 218.0101 (24m) and (37m) of the statutes are created to read:

4 218.0101 **(24m)** “Nationwide multistate licensing system and registry” has the
5 meaning given in s. 224.35 (1g) (b).

6 **(37m)** “Unique identifier” has the meaning given in s. 224.35 (1g) (e).

7 **SECTION 62.** 218.0111 (2) of the statutes is amended to read:

8 218.0111 **(2)** Either licensor under sub. (1) shall, upon request, furnish the
9 other licensor with any information it may have, including such information as may
10 be available to the division of banking through the nationwide multistate licensing
11 system and registry, in respect to any licensee or applicant for license or any
12 transaction in which such a licensee or applicant may be a party or be interested.
13 No license shall be issued under s. 218.0114 (14) (a) and (g) until both licensors have
14 approved the application. The suspension or revocation of either the license issued
15 under s. 218.0114 (14) (a) or (g) shall automatically suspend or revoke the other
16 license. Any suspension or revocation shall be certified by the licensor ordering it to
17 the other licensor.

18 **SECTION 63.** 218.0114 (4) of the statutes is renumbered 218.0114 (4) (a) and
19 amended to read:

20 218.0114 **(4)** (a) Application for a license under this section shall be made to
21 the licensor, at such time, in such form and with such information as the licensor
22 shall require and shall be accompanied by the required fees. The division of banking
23 shall utilize the nationwide multistate licensing system and registry, and the
24 provisions of s. 224.35 shall apply, with respect to sales finance company applicants
25 and licensees, other than motor vehicle dealers.

ASSEMBLY BILL 617**SECTION 63**

1 **(b)** An applicant for a sales finance company license, other than a motor vehicle
2 dealer, shall pay to the division of banking a nonrefundable \$300 investigation fee
3 in addition to the license fee under sub. (16). If the cost of an investigation exceeds
4 \$300, the applicant shall, upon demand of the division of banking, pay the amount
5 by which the cost of the investigation exceeds the nonrefundable fee. A licensee is
6 not required to pay an investigation fee for the renewal of a license.

7 **(c)** The licensor may require the applicant to provide information relating to
8 any pertinent matter that is commensurate with the safeguarding of the public
9 interest in the locality in which the applicant proposes to engage in business, except
10 that information relating to the applicant's solvency and financial standing may not
11 be required for motor vehicle dealers except as provided in sub. (20) (a). The
12 information provided may be considered by the licensor in determining the fitness
13 of the applicant to engage in business as set forth in ss. 218.0101 to 218.0163.

14 **SECTION 64.** 218.0114 (4g) and (4m) of the statutes are created to read:

15 **218.0114 (4g)** A sales finance company, other than a motor vehicle dealer, shall
16 keep current and accurate all material information on file with the division of
17 banking and the nationwide multistate licensing system and registry as provided in
18 s. 224.35 (6).

19 **(4m)** A sales finance company, other than a motor vehicle dealer, shall submit
20 financial statements as provided in s. 224.35 (8).

21 **SECTION 65.** 218.0114 (5) (b) of the statutes is amended to read:

22 **218.0114 (5) (b)** A sales finance company or an applicant for a sales finance
23 company license shall provide and maintain in force a bond or irrevocable letter of
24 credit ~~of~~ in a form acceptable to the division of banking in an amount that is not less
25 than \$25,000 issued by a surety company licensed to do business in this state ~~or a~~

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1 ~~federally insured financial institution, as defined in s. 705.01 (3).~~ The bond or letter
2 of credit shall be payable to the state of Wisconsin for the use of the state and of any
3 person who sustains a loss because of an act of a sales finance company that
4 constitutes grounds for the suspension or revocation of a license under ss. 218.0101
5 to 218.0163.

6 **SECTION 66.** 218.0114 (13) (a) of the statutes is amended to read:

7 218.0114 **(13)** (a) ~~Licenses~~ A license described in sub. (16) ~~expire~~ expires on
8 December 31 of the calendar year ~~for which the licenses are granted~~ in which the
9 initial license term began, unless the initial license date is between November 1 and
10 December 31, in which instance the initial license term shall run through December
11 31 of the following year. A license may be renewed or reinstated as provided in s.
12 224.35 (7).

13 **SECTION 67.** 218.0114 (17) of the statutes is renumbered 218.0114 (17) (a) and
14 amended to read:

15 218.0114 **(17)** (a) The licenses of dealers, manufacturers, factory branches,
16 distributors, and distributor branches ~~and sales finance companies~~ shall specify the
17 location of the office or branch and must be conspicuously displayed at that location.
18 In case the location of the office or branch is changed, the licensor shall endorse the
19 change of location on the license, without charge, if the new location is within the
20 same municipality as the previous location. A change of location to another
21 municipality shall require a new license, ~~except for sales finance companies.~~

22 **SECTION 68.** 218.0114 (17) (b) of the statutes is created to read:

23 218.0114 **(17)** (b) A sales finance company, other than a motor vehicle dealer,
24 shall give written notice to the division of banking, in a form and manner acceptable

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1 to the division of banking, within 10 days of any change of location of the office or
2 branch specified in the license.

3 **SECTION 69.** 218.0114 (20) (c) of the statutes is amended to read:

4 218.0114 **(20)** (c) An applicant or licensee furnishing information under par. (a)
5 may designate the information as a trade secret, as defined in s. 134.90 (1) (c), or as
6 confidential business information. The licensor shall notify the applicant or licensee
7 providing the information 15 days before any information designated as a trade
8 secret or as confidential business information is disclosed to the legislature, a state
9 agency, as defined in s. 13.62 (2), a local governmental unit, as defined in s. 605.01
10 (1), or any other person. The applicant or licensee furnishing the information may
11 seek a court order limiting or prohibiting the disclosure, in which case the court shall
12 weigh the need for confidentiality of the information against the public interest in
13 the disclosure. A designation under this paragraph does not prohibit the disclosure
14 of a person's name or address, of the name or address of a person's employer or of
15 financial information that relates to a person when requested under s. 49.22 (2m) by
16 the department of children and families or a county child support agency under s.
17 59.53 (5). A designation under this paragraph does not prohibit the disclosure of
18 sales finance company application information to the nationwide multistate
19 licensing system and registry, but, except as provided in s. 224.35 (4) (b) and (c), this
20 information shall remain confidential and is not subject to public copying or
21 inspection under s. 19.35 (1).

22 **SECTION 70.** 218.0114 (21g) (b) 3. of the statutes is created to read:

23 218.0114 **(21g)** (b) 3. The division of banking may disclose information to the
24 nationwide multistate licensing system and registry as provided in s. 224.35.

25 **SECTION 71.** 218.0114 (25) of the statutes is created to read:

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1 218.0114 **(25)** A sales finance company, other than a motor vehicle dealer, shall
2 register with, and maintain a valid unique identifier issued by, the nationwide
3 multistate licensing system and registry.

4 **SECTION 72.** 218.0116 (1) (am) of the statutes is amended to read:

5 218.0116 **(1)** (am) Material Making a material misstatement, or knowingly
6 omitting a material fact, in an application for a license or, in the case of a sales finance
7 company other than a motor vehicle dealer, in information furnished to the
8 nationwide multistate licensing system and registry.

9 **SECTION 73.** 218.0161 (title) of the statutes is amended to read:

10 **218.0161** (title) **Penalties; reporting violations.**

11 **SECTION 74.** 218.0161 of the statutes is renumbered 218.0161 (1).

12 **SECTION 75.** 218.0161 (2) of the statutes is created to read:

13 218.0161 **(2)** The division of banking may report any enforcement action, any
14 violation of this chapter or of an administrative rule or order, or other relevant
15 information to the nationwide multistate licensing system and registry. Except as
16 provided in s. 224.35 (4) (b) and (c), these reports to the nationwide multistate
17 licensing system and registry shall be confidential and are not subject to public
18 copying or inspection under s. 19.35 (1).

19 **SECTION 76.** 218.0162 of the statutes is amended to read:

20 **218.0162 Commencement of action.** Upon the request of the licensor, the
21 department of justice or the district attorney may commence an action in the name
22 of the state to recover a forfeiture under s. 218.0161. An action under s. 218.0161 (1)
23 shall be commenced within 3 years after the occurrence of the unlawful act or
24 practice which is the subject of the action.

25 **SECTION 77.** 218.02 (1) (e) and (f) of the statutes are created to read:

ASSEMBLY BILL 617**SECTION 77**

1 218.02 (1) (e) “Nationwide multistate licensing system and registry” has the
2 meaning given in s. 224.35 (1g) (b).

3 (f) “Unique identifier” has the meaning given in s. 224.35 (1g) (e).

4 **SECTION 78.** 218.02 (2) (a) 1. (intro.) of the statutes is amended to read:

5 218.02 (2) (a) 1. (intro.) Each adjustment service company shall apply to the
6 division for a license to engage in such business. Application for a separate license
7 for each office of a company to be operated under this section shall be made to the
8 ~~division in writing, under oath, in a form to be prescribed by~~ and manner acceptable
9 to the division. The division may issue more than one license to the same licensee.
10 Except as provided in subd. 3., an application for a license under this section shall
11 include the following:

12 **SECTION 79.** 218.02 (2) (a) 2. c. of the statutes is created to read:

13 218.02 (2) (a) 2. c. The division may disclose information to the nationwide
14 multistate licensing system and registry as provided in s. 224.35.

15 **SECTION 80.** 218.02 (2) (d), (e) and (f) of the statutes are created to read:

16 218.02 (2) (d) The division shall utilize the nationwide multistate licensing
17 system and registry, and the provisions of s. 224.35 shall apply, with respect to
18 applicants and licensees under this section.

19 (e) An applicant or licensee under this section shall register with, and maintain
20 a valid unique identifier issued by, the nationwide multistate licensing system and
21 registry.

22 (f) Each licensee shall keep current and accurate all material information on
23 file with the division and the nationwide multistate licensing system and registry as
24 provided in s. 224.35 (6).

25 **SECTION 81.** 218.02 (5) (a) and (b) of the statutes are amended to read:

ASSEMBLY BILL 617**SECTION 81**

1 218.02 (5) (a) ~~Every A license issued shall state the address of the office at~~
2 ~~which the business is to be conducted, the name of the licensee, and if the licensee~~
3 ~~is a partnership, limited liability company or association, the names of the members~~
4 ~~thereof, and if a corporation the date and place of its incorporation. Such license shall~~
5 ~~be kept conspicuously posted in the office of the licensee and under this section shall~~
6 ~~not be transferable or assignable.~~

7 (b) Whenever a licensee shall contemplate a change of the licensee's place of
8 business to another location within the same city, village, or town, the licensee shall
9 give written notice thereof to the division, in a form and manner acceptable to the
10 division, which shall attach to the license the division's authorization of such
11 removal, specifying the date thereof and the new location. Such authorization shall
12 be authority for the operation of such business under the same license at the specified
13 new location. No change in the place of business of a licensee to a location outside
14 of the original city, village, or town shall be permitted under the same license. If so
15 directed by the division, the licensee shall provide any notice required under this
16 subsection to the nationwide multistate licensing system and registry as provided in
17 s. 224.35.

18 **SECTION 82.** 218.02 (5) (c) of the statutes is repealed and recreated to read:

19 218.02 (5) (c) A license issued under this section expires on December 31 of the
20 calendar year in which the initial license term began, unless the initial license date
21 is between November 1 and December 31, in which instance the initial license term
22 shall run through December 31 of the following year. A license may be renewed or
23 reinstated as provided in s. 224.35 (7).

24 **SECTION 83.** 218.02 (6) (a) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 617**SECTION 83**

1 218.02 (6) (a) (intro.) The division, after complaint, notice and ~~hearings as~~
2 provided in ~~s. 217.19~~ hearing, shall revoke any license in the following cases:

3 **SECTION 84.** 218.02 (6) (a) 1. of the statutes is amended to read:

4 218.02 (6) (a) 1. If the licensee has failed to pay the annual license fee or to
5 maintain in effect the bond required under the provisions of this section;

6 **SECTION 85.** 218.02 (6) (a) 5. of the statutes is created to read:

7 218.02 (6) (a) 5. If the licensee made a material misstatement, or knowingly
8 omitted a material fact, in an application for a license or in information furnished to
9 the division or the nationwide multistate licensing system and registry.

10 **SECTION 86.** 218.02 (9) (title) of the statutes is amended to read:

11 218.02 (9) (title) ~~RULES AND REPORTS; FEES; ENFORCEMENT; REPORTING VIOLATIONS.~~

12 **SECTION 87.** 218.02 (9) (a) (intro.) of the statutes is amended to read:

13 218.02 (9) (a) (intro.) A licensee shall make an annual report and submit
14 financial statements as provided in s. 224.35 (8). The division may make such rules
15 and require such further reports as the division deems necessary for the enforcement
16 of this section. ~~Sections 217.17, 217.18 and 217.21 (1) and (2)~~ The licensee shall keep
17 such books and records as will enable the division to determine whether licensees are
18 in compliance with this section and any rules or orders issued thereunder. The
19 powers granted under s. 217.11 apply to and are available for the purposes of this
20 section. This paragraph does not apply to any of the following:

21 **SECTION 88.** 218.02 (9) (c) of the statutes is amended to read:

22 218.02 (9) (c) The division shall investigate, ascertain and determine whether
23 this chapter or the lawful orders issued hereunder are being violated and for such
24 purposes the division shall have all of the powers ~~conferred by ss. 217.17 and 217.18~~

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1 granted under s. 217.11. The division shall report all violations to the district
2 attorney of the proper county for prosecution.

3 **SECTION 89.** 218.02 (9) (d) of the statutes is created to read:

4 218.02 (9) (d) The division may report any enforcement action, any violation
5 of this section or of an administrative rule or order, or other relevant information to
6 the nationwide multistate licensing system and registry. Except as provided in s.
7 224.35 (4) (b) and (c), these reports to the nationwide multistate licensing system and
8 registry shall be confidential and are not subject to public copying or inspection
9 under s. 19.35 (1).

10 **SECTION 90.** 218.04 (1) (a) of the statutes is amended to read:

11 218.04 (1) (a) “Collection agency” means any person engaging in the business
12 of collecting or receiving for payment for others of any account, bill, or other
13 indebtedness. “Collection agency” does not include attorneys at law authorized to
14 practice in this state and resident herein, banks, ~~express companies,~~ credit unions,
15 health care billing companies, state savings banks, state savings and loan
16 associations, insurers and their agents, trust companies, mortgage bankers licensed
17 and operating under subch. III of ch. 224, district attorneys acting under s. 971.41,
18 persons contracting with district attorneys under s. 971.41 (5), real estate brokers,
19 and real estate salespersons.

20 **SECTION 91.** 218.04 (1) (b) of the statutes is renumbered 218.04 (1) (b) (intro.)
21 and amended to read:

22 218.04 (1) (b) (intro.) “Collector” or “solicitor” means any person ~~employed by~~
23 ~~a collection agency to collect or receive payment or to solicit the receiving or collecting~~
24 ~~of payment~~ who, on behalf of a collection agency licensed under this section, does any
25 of the following:

ASSEMBLY BILL 617**SECTION 91**

1 1. Collects, or attempts to collect, for others of any account, bill, or other
2 indebtedness ~~outside of the office or the person's home.~~

3 **SECTION 92.** 218.04 (1) (b) 2. and 3. of the statutes are created to read:

4 218.04 (1) (b) 2. Receives payment for others of any account, bill, or other
5 indebtedness.

6 3. Solicits any account, bill, or other indebtedness for collection by the collection
7 agency.

8 **SECTION 93.** 218.04 (1) (em) and (h) of the statutes are created to read:

9 218.04 (1) (em) "Nationwide multistate licensing system and registry" has the
10 meaning given in s. 224.35 (1g) (b).

11 (h) "Unique identifier" has the meaning given in s. 224.35 (1g) (e).

12 **SECTION 94.** 218.04 (2) (a) and (b) of the statutes are amended to read:

13 218.04 (2) (a) Except as provided in par. (b), a person may not operate as a
14 collection agency ~~or as a collector or solicitor~~ in this state without first having
15 obtained a license as required by this section.

16 (b) A nonresident of this state is not required to obtain a collection agency
17 license if that person conducts collection ~~business~~ agency activity with state
18 residents solely by means of interstate telecommunications or interstate mail.

19 **SECTION 95.** 218.04 (3) (a) 1. (intro.) of the statutes is amended to read:

20 218.04 (3) (a) 1. (intro.) Application for licenses under the provisions of this
21 section shall be made to the division in writing, under oath, ~~on a form to be prescribed~~
22 by in a form and manner acceptable to the division. ~~All licenses shall expire on June~~
23 ~~30 next following their date of issue.~~ Except as provided in subd. 3., an application
24 for a license under this section shall include the following:

25 **SECTION 96.** 218.04 (3) (a) 1g., 1m. and 1r. of the statutes are created to read:

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1 218.04 (3) (a) 1g. The division shall utilize the nationwide multistate licensing
2 system and registry, and the provisions of s. 224.35 shall apply, with respect to
3 applicants and licensees under this section.

4 1m. An applicant or licensee under this section shall register with, and
5 maintain a valid unique identifier issued by, the nationwide multistate licensing
6 system and registry.

7 1r. Each licensee shall keep current and accurate all material information on
8 file with the division and the nationwide multistate licensing system and registry as
9 provided in s. 224.35 (6).

10 **SECTION 97.** 218.04 (3) (a) 2. c. of the statutes is created to read:

11 218.04 (3) (a) 2. c. The division may disclose information to the nationwide
12 multistate licensing system and registry as provided in s. 224.35.

13 **SECTION 98.** 218.04 (3) (b) of the statutes is amended to read:

14 218.04 (3) (b) At the time of making application, every applicant for a collection
15 agency license shall pay a nonrefundable fee of \$1,000 to the division for
16 investigating the application, unless the applicant is already licensed under this
17 section, and the sum of \$200 as an annual license fee for each place of business that
18 is required to be separately licensed under sub. (4) (a). If the cost of investigation
19 exceeds \$1,000, the applicant shall, upon demand of the division, pay the excess cost.
20 No investigation fee is required on the renewal of a license.

21 **SECTION 99.** 218.04 (3) (c) of the statutes is repealed.

22 **SECTION 100.** 218.04 (4) (a) of the statutes is amended to read:

23 218.04 (4) (a) Except as provided in par. (am), upon the filing of ~~such~~ a license
24 application and the payment of ~~such fee~~ the applicable fees, the division shall make
25 an investigation, and if the division finds that the character and general fitness and

ASSEMBLY BILL 617**SECTION 100**

1 the financial responsibility of the applicant, and the members thereof if the applicant
2 is a partnership, limited liability company or association, and the officers and
3 directors thereof if the applicant is a corporation, warrant the belief that the business
4 will be operated in compliance with this section the division shall thereupon issue
5 a license to said the applicant. Such A license is not assignable and, except as
6 provided in par. (ap), shall permit operation under it only at or from the location
7 specified in the license, ~~except that an employee of a licensed collection agency may~~
8 ~~work from the employee's home if the employee complies with all of the same~~
9 ~~requirements under this section and the division's rules that would apply if the~~
10 ~~employee were working within the licensed office and except that a licensed collector~~
11 ~~or solicitor may work outside the licensed office of a collection agency. A nonresident~~
12 ~~of this state may, upon complying with all other provisions of this section, secure a~~
13 ~~collection agency license provided the nonresident maintains an active office in this~~
14 ~~state. Except as provided in par. (ap), a separate license is required for each place~~
15 ~~of business maintained by the licensee from which the licensee or its collectors or~~
16 ~~solicitors engage in the business of collecting or receiving payments for others of any~~
17 ~~account, bill, or other indebtedness of a person located in this state.~~

18 **SECTION 101.** 218.04 (4) (am) 1. of the statutes is amended to read:

19 218.04 (4) (am) 1. The applicant fails to provide any application information
20 required ~~under sub. (3) (a) 1.~~ by the division.

21 **SECTION 102.** 218.04 (4) (ap) and (c) of the statutes are created to read:

22 218.04 (4) (ap) An employee of a licensed collection agency may work from the
23 employee's residence. An employee's resident address may not be presented to the
24 public as a location or office of the collection agency, through advertising or other
25 means of communication. No physical records of the collection agency may be

ASSEMBLY BILL 617**SECTION 102**

1 maintained at an employee's residence. A separate license under par. (4) (a) is not
2 required for a residence that meets the requirements of this paragraph.

3 (c) If an applicant fails to complete the application for an initial license within
4 60 days after the division provides written notice of the incomplete application, the
5 application is considered abandoned and the investigation fee shall not be refunded.
6 An applicant whose application is abandoned under this paragraph may reapply to
7 obtain a new license.

8 **SECTION 103.** 218.04 (5) (a) (intro.), 1., 2., 3. and 4. of the statutes are amended
9 to read:

10 218.04 (5) (a) (intro.) The division may suspend or revoke any license issued
11 under this section if the division finds that any of the following applies:

12 1. The licensee has violated any of the provisions of this section, rules
13 promulgated under this section, or any lawful order of the division made ~~thereunder~~;
14 under this section.

15 2. Any fact or condition exists which, if it had existed at the time of the original
16 application for such the license, would have warranted the division in refusing to
17 issue such the license;

18 3. The licensee has failed to pay ~~the annual license fee or to maintain in effect~~
19 ~~the bond required under sub. (3) (d)~~;

20 4. The licensee has failed to remit money due to any and all claimants or
21 forwarders ~~within 30 days from~~ on or before the last day of the month following the
22 close of the month during which the collection was effected; ~~or~~;

23 **SECTION 104.** 218.04 (5) (a) 6. of the statutes is created to read:

ASSEMBLY BILL 617**SECTION 104**

1 218.04 (5) (a) 6. The licensee has made a material misstatement, or knowingly
2 omitted a material fact, in an application for a license or in information furnished to
3 the division or the nationwide multistate licensing system and registry.

4 **SECTION 105.** 218.04 (5) (c) of the statutes is amended to read:

5 218.04 (5) (c) In the event of the death of a licensee, ~~if the licensee is an~~
6 ~~individual, or of the partners, if the licensee is a partnership~~ who is a sole proprietor,
7 the license of the agency shall terminate as of the date of death of said ~~the~~ licensee,
8 except the division may reinstate a license if the estate of the former licensee signifies
9 to the division within 45 days its intention to continue the business of the agency.

10 **SECTION 106.** 218.04 (6) (title) of the statutes is amended to read:

11 218.04 (6) (title) LICENSES; POSTING; ~~CHANGES OF LOCATION;~~ RENEWAL;
12 DISCONTINUED OPERATIONS.

13 **SECTION 107.** 218.04 (6) (a) of the statutes is repealed and recreated to read:

14 218.04 (6) (a) If a licensee intends to change the address of its place of business
15 to another location, the licensee shall give written notice of the change, in a form and
16 manner prescribed by the division, at least 30 days prior to the relocation.

17 **SECTION 108.** 218.04 (6) (b) of the statutes is amended to read:

18 218.04 (6) (b) Every licensee applying for a renewal of a license shall, ~~on or~~
19 ~~before the first day of June,~~ pay in advance to the division the annual license fee. A
20 license may be renewed or reinstated as provided in s. 224.35 (7). A license that is
21 not renewed or reinstated by the end of the reinstatement period provided in s.
22 224.35 (7) shall be deemed to have expired on December 31 of the year immediately
23 preceding the reinstatement period, unless the initial license date is between
24 November 1 and December 31, in which instance the initial license term shall run
25 through December 31 of the following year.

ASSEMBLY BILL 617**SECTION 109**

1 **SECTION 109.** 218.04 (6) (c) (intro.) and 2. of the statutes are amended to read:

2 218.04 **(6)** (c) (intro.) Before discontinuing operating as a collection agency
3 under the provisions of this section, every licensee shall furnish the division with
4 proof in a form to be determined by the division and ~~approved by the advisory~~
5 ~~committee~~ that all of the following are satisfied:

6 2. All Wisconsin client accounts have been returned to the claimants or
7 forwarders.

8 **SECTION 110.** 218.04 (7) (title) of the statutes is amended to read:

9 218.04 **(7)** (title) POWERS OF DIVISION; ~~ADVISORY COMMITTEES.~~

10 **SECTION 111.** 218.04 (7) (a) of the statutes is amended to read:

11 218.04 **(7)** (a) To issue any general or special order in execution of or
12 supplementary to this chapter, including such orders as may be necessary to protect
13 the public from oppressive or deceptive practices of licensees and to prevent evasions
14 of this chapter.

15 **SECTION 112.** 218.04 (8) of the statutes is repealed.

16 **SECTION 113.** 218.04 (9) of the statutes is created to read:

17 218.04 **(9)** COLLECTORS AND SOLICITORS; ALIASES; UNSIGNED NOTICES. (a) A
18 collection agency is responsible for, and shall supervise the acts of, its collectors and
19 solicitors and any other person who otherwise acts on behalf of the collection agency.

20 (b) In any oral or written communication with a debtor, any collector or solicitor
21 may use a separate alias. This alias shall include a first and last name. No collector
22 or solicitor may have more than one alias. A collector or solicitor may not change an
23 alias unless for good cause and the division is first notified of the change. Collectors
24 or solicitors employed by a licensee may not use the same alias.

ASSEMBLY BILL 617**SECTION 113**

1 (c) A licensee may forward printed collection notices to a debtor that are
2 unsigned.

3 **SECTION 114.** 218.04 (9g) (c) of the statutes is amended to read:

4 218.04 **(9g)** (c) ~~Promptly~~ Within 48 hours after collection, a licensee shall
5 deposit and maintain in the trust account sufficient funds to pay all money due any
6 claimant or forwarder. A licensee may not use the trust account for any other
7 purpose.

8 **SECTION 115.** 218.04 (9m) (e) of the statutes is amended to read:

9 218.04 **(9m)** (e) The division shall cause notice to be given by publication of a
10 class 3 notice, under ch. 985, if no action has been commenced under par. (f), calling
11 on all persons who may have claims against such licensee, to present the same to the
12 division, and make legal proof thereof at a place and within a time, to be therein
13 specified. The division may mail a similar notice to all persons whose names appear
14 as claimants or forwarders upon the books and records of the licensee or as may
15 appear in the records of the division on the ~~sworn~~ reports required to be furnished
16 the division according to the provisions of sub. (10). Any claimant or forwarder whose
17 portion of the collection or collections has not been properly remitted shall file a claim
18 which shall be considered as a preferred claim for the amount actually due the
19 claimant or forwarder after deducting any commission or fee that may be due and
20 owing the licensee. If the division doubts the justice and validity of any claim, the
21 division may reject the same and serve notice of such rejection upon the claimant
22 either by mail or personally. An affidavit of the service of such notice, which shall
23 be prima facie evidence thereof, shall be filed with the division. An action upon a
24 claim so rejected must be brought in the circuit court for the county wherein the
25 licensee is located within 30 days after such service of such notice of rejection of claim

ASSEMBLY BILL 617**SECTION 115**

1 has been filed. Claims presented after the expiration of the time fixed in the notice
2 to the claimants or forwarders shall be entitled to receive only liquidating dividends
3 declared after presentation, unless otherwise ordered by the court. The court may
4 fix a date after which all claims shall be barred.

5 **SECTION 116.** 218.04 (10) (a) of the statutes is repealed and recreated to read:

6 218.04 (10) (a) A licensee shall make an annual report and submit financial
7 statements as provided in s. 224.35 (8).

8 **SECTION 117.** 218.04 (10) (b) of the statutes is amended to read:

9 218.04 (10) (b) The division shall require the licensee to keep such books and
10 records in the licensee's place of business as will enable the division to determine
11 whether the provisions of this section are being complied with. Every such licensee
12 shall preserve the records of ~~final entry~~ used in such business for a period of at least
13 6 years ~~after final remittance is made on any account placed with the licensee for~~
14 ~~collection or after any account has been returned to the claimant on which one or~~
15 ~~more payments have been paid.~~

16 **SECTION 118.** 218.04 (13) (title) of the statutes is amended to read:

17 218.04 (13) (title) ENFORCEMENT; REPORTING VIOLATIONS.

18 **SECTION 119.** 218.04 (13) of the statutes is renumbered 218.04 (13) (a) and
19 amended to read:

20 218.04 (13) (a) The division shall have the duty, power, jurisdiction and
21 authority to investigate, ascertain and determine whether this section or the lawful
22 orders issued hereunder are being violated and for such purposes the division shall
23 have all the powers conferred by subs. (4) and (5). The If warranted, the division shall
24 report all violations to the district attorney of the proper county for prosecution.

25 **SECTION 120.** 218.04 (13) (b) of the statutes is created to read:

ASSEMBLY BILL 617**SECTION 120**

1 218.04 (13) (b) The division may report any enforcement action, any violation
2 of this section or of an administrative rule or order, or other relevant information to
3 the nationwide multistate licensing system and registry. Except as provided in s.
4 224.35 (4) (b) and (c), these reports to the nationwide multistate licensing system and
5 registry shall be confidential and are not subject to public copying or inspection
6 under s. 19.35 (1).

7 **SECTION 121.** 218.05 (1) (e) and (f) of the statutes are created to read:

8 218.05 (1) (e) “Nationwide multistate licensing system and registry” has the
9 meaning given in s. 224.35 (1g) (b).

10 (f) “Unique identifier” has the meaning given in s. 224.35 (1g) (e).

11 **SECTION 122.** 218.05 (3) (a) 2. of the statutes is amended to read:

12 218.05 (3) (a) 2. The ~~county~~ and municipality, with street and number, if any,
13 where the community currency exchange is to be conducted; and

14 **SECTION 123.** 218.05 (3) (am) 2. c. of the statutes is created to read:

15 218.05 (3) (am) 2. c. The division may disclose information to the nationwide
16 multistate licensing system and registry as provided in s. 224.35.

17 **SECTION 124.** 218.05 (3) (c) of the statutes is amended to read:

18 218.05 (3) (c) Before any license is issued to a community currency exchange
19 the applicant shall file annually with and have approved by the division a surety
20 bond in a form acceptable to the division in the principal sum of \$5,000, issued by an
21 insurer authorized to do business in this state. The bond shall run to the state of
22 Wisconsin and shall be for the benefit of any creditors of the community currency
23 exchange for any liability incurred for any sum due to any payee of any check, draft
24 or money order left with the community currency exchange for collection, and also
25 for any penalties that may be imposed under this section. If the division finds at any

ASSEMBLY BILL 617**SECTION 124**

1 time the bond is insecure or exhausted or otherwise doubtful, an additional bond in
2 like amount to be approved by the division shall be filed by the licensee within 30
3 days after written demand by the division.

4 **SECTION 125.** 218.05 (3) (d), (e) and (f) of the statutes are created to read:

5 218.05 (3) (d) The division shall utilize the nationwide multistate licensing
6 system and registry, and the provisions of s. 224.35 shall apply, with respect to
7 applicants and licensees under this section.

8 (e) An applicant or licensee under this section shall register with, and maintain
9 a valid unique identifier issued by, the nationwide multistate licensing system and
10 registry.

11 (f) Each licensee shall keep current and accurate all material information on
12 file with the division and the nationwide multistate licensing system and registry as
13 provided in s. 224.35 (6).

14 **SECTION 126.** 218.05 (10) (a) and (c) of the statutes are amended to read:

15 218.05 (10) (a) ~~Such~~ The license shall state the name of the licensee and the
16 address at which the business is to be conducted. ~~Such~~ The license shall be kept
17 conspicuously posted in the place of business of the licensee and shall not be
18 transferable or assignable.

19 (c) Whenever a licensee shall wish to change the licensee's place of business to
20 ~~any location other than that originally set forth in the license~~, the licensee shall give
21 written notice thereof to the division and if the change is approved the division shall
22 attach to the license, in writing, a rider stating the new address or location of the
23 community currency exchange in a form and manner acceptable to the division. If
24 so directed by the division, the licensee shall provide any notice required under this

ASSEMBLY BILL 617**SECTION 126**

1 subsection to the nationwide multistate licensing system and registry as provided in
2 s. 224.35.

3 **SECTION 127.** 218.05 (11) (intro.) of the statutes is amended to read:

4 218.05 (11) ~~RENEWAL~~ LICENSE EXPIRATION; RENEWAL; REINSTATEMENT. (intro.)

5 ~~Every licensee shall, on or before December 20, pay to the division the sum of \$300~~
6 ~~as an~~ A license expires annually on December 31 of the calendar year in which the
7 initial license term began, unless the initial license date is between November 1 and
8 December 31, in which instance the initial license term shall run through December
9 31 of the following year. The annual license fee for the next succeeding calendar year
10 ~~and, at the same time, shall file with the division~~ is \$300 and shall be paid to the
11 division in a form and manner acceptable to the division, together with the annual
12 bond and insurance policy or policies in the same amount and of the same character
13 as required by subs. (3) (c) and (6). Licenses may be renewed and reinstated as
14 provided in s. 224.35 (7). The division may not renew a license under this section if
15 any of the following applies:

16 **SECTION 128.** 218.05 (12) (title) of the statutes is amended to read:

17 218.05 (12) (title) ~~REVOCATION; RESTRICTION AND SUSPENSION;~~ REPORTING
18 VIOLATIONS.

19 **SECTION 129.** 218.05 (12) (a) 1. of the statutes is amended to read:

20 218.05 (12) (a) 1. The licensee has failed to ~~pay the annual license fee or to~~
21 ~~maintain in effect the required bond or insurance policy or policies or to comply with~~
22 ~~any order, decision or finding of the division made pursuant to this section.~~

23 **SECTION 130.** 218.05 (12) (a) 4. of the statutes is created to read:

ASSEMBLY BILL 617**SECTION 130**

1 218.05 (12) (a) 4. The licensee made a material misstatement, or knowingly
2 omitted a material fact, in an application for a license or in information furnished to
3 the division or the nationwide multistate licensing system and registry.

4 **SECTION 131.** 218.05 (12) (f) of the statutes is created to read:

5 218.05 (12) (f) The division may report any enforcement action, any violation
6 of this section or of an administrative rule or order, or other relevant information to
7 the nationwide multistate licensing system and registry. Except as provided in s.
8 224.35 (4) (b) and (c), these reports to the nationwide multistate licensing system and
9 registry shall be confidential and are not subject to public copying or inspection
10 under s. 19.35 (1).

11 **SECTION 132.** 218.05 (14) (a) of the statutes is repealed and recreated to read:

12 218.05 (14) (a) A licensee shall make an annual report and submit financial
13 statements as provided in s. 224.35 (8).

14 **SECTION 133.** 220.02 (2) (c) of the statutes is amended to read:

15 220.02 (2) (c) ~~Sellers of checks~~ Money transmitters under ch. 217.

16 **SECTION 134.** 220.02 (3) of the statutes is amended to read:

17 220.02 (3) It is the intent of sub. (2) to give the division jurisdiction to enforce
18 and carry out all laws relating to banks or banking in this state, including those
19 relating to state banks, savings banks, savings and loan associations, and trust
20 company banks, and also all laws relating to small loan companies or other loan
21 companies or agencies, finance companies, insurance premium finance companies,
22 motor vehicle dealers, adjustment service companies, community currency
23 exchanges, mortgage bankers, mortgage loan originators, mortgage brokers, and
24 collection agencies and those relating to ~~sellers of checks~~ money transmitters under

ASSEMBLY BILL 617**SECTION 134**

1 ch. 217, whether doing business as corporations, individuals, or otherwise, but to
2 exclude laws relating to credit unions.

3 **SECTION 135.** 220.06 (1m) of the statutes is amended to read:

4 220.06 (1m) No division employee may examine a bank or licensee in which
5 that person is interested as a stockholder, officer, or employee. No division employee
6 may examine a bank or licensee located in the same village, city, or county with any
7 bank or licensee in which that person is so interested. Employees in the division, and
8 each member and employee of the banking institutions review board, shall keep
9 secret all facts and information obtained in the course of examinations or from
10 reports not under s. 221.1002 (1) filed by a bank or licensee with the division, except
11 so far as the public duty of the person requires reporting upon or taking special action
12 regarding the affairs of any bank or licensee, and except when called as a witness in
13 any criminal proceeding or trial in a court of justice. The division may furnish to the
14 federal deposit insurance corporation, to a federal home loan bank, or to any
15 regulatory authority for state or federal financial institutions, insurance, or
16 securities, or to any organization the membership of which is made up of regulatory
17 authorities for state or federal financial institutions, insurance, or securities, a copy
18 of any examination made of any such bank or licensee or of any report made by such
19 bank or licensee and may give access to and disclose to the corporation ~~or~~, to any
20 regulatory authority for state or federal financial institutions, insurance, or
21 securities, or to any organization the membership of which is made up of regulatory
22 authorities for state or federal financial institutions, insurance, or securities, any
23 information possessed by the division, or to a federal home loan bank any
24 information created by the division, with reference to the conditions or affairs of any
25 such insured bank or licensee if the regulatory authority agrees to treat all

ASSEMBLY BILL 617**SECTION 135**

1 information received with the same degree of confidentiality as applies to reports of
2 examination that are in the custody of the division.

3 **SECTION 136.** 224.35 (1g) of the statutes is created to read:

4 224.35 (1g) DEFINITIONS. In this section:

5 (a) "Division" means the division of banking.

6 (b) "Nationwide multistate licensing system and registry" means the
7 multistate system developed by the Conference of State Bank Supervisors and the
8 American Association of Residential Mortgage Regulators and owned and operated
9 by the State Regulatory Registry, LLC, or any successor or affiliate entity, for the
10 licensing and registration of persons in financial services industries.

11 (c) "Reinstatement period" means the period beginning on the first day of
12 January and ending on the last day of February of the year following the expiration
13 of a license, or such other period prescribed by the division.

14 (d) "Renewal period" means the period beginning on November 1 and ending
15 on December 31, or such other period prescribed by the division.

16 (e) "Unique identifier" means a number or other identifier assigned by
17 protocols established by the nationwide multistate licensing system and registry.

18 **SECTION 137.** 224.35 (1m) (bm) of the statutes is created to read:

19 224.35 (1m) (bm) The division may require an applicant or licensee, or an
20 individual with the power to direct the management or policies of the applicant or
21 licensee, to submit an independent credit report from a consumer reporting agency,
22 an investigative background report prepared by an independent search firm,
23 fingerprints, or any other personal or professional history information deemed
24 necessary by the division. The division may require fingerprints for the purposes of
25 identifying the individual and to determine whether the individual has a record of

ASSEMBLY BILL 617**SECTION 137**

1 warrants, arrests, or convictions in any jurisdiction. Fingerprints may be submitted,
2 directly or as provided in s. 224.35 (2), to the federal bureau of investigation and any
3 government agency or entity authorized to receive this information for a state and
4 national criminal history record check.

5 **SECTION 138.** 224.35 (1r), (6), (7) and (8) of the statutes are created to read:

6 224.35 (1r) APPLICABLE LICENSED ACTIVITIES. The division shall utilize the
7 nationwide multistate licensing system and registry, as provided in this section, with
8 respect to applicants and licensees under ss. 138.09, 138.12, 138.14, 217.05, 218.0114
9 except for motor vehicle dealers within the meaning of s. 218.0101 (23), 218.02,
10 218.04, 218.05, 224.72, and 224.725 and with respect to applicants and registrants
11 under s. 224.722.

12 (6) CHANGES TO INFORMATION. A licensee shall keep current and accurate all
13 material information on file with the division and the nationwide multistate
14 licensing system and registry. If the information changes in any material respect,
15 the licensee must notify the division and the nationwide multistate licensing system
16 of the change within 10 days after the change.

17 (7) LICENSE RENEWAL AND REINSTATEMENT. (a) During the renewal period, a
18 licensee may renew a license by submitting all of the following through the
19 nationwide multistate licensing system and registry or in such other manner as
20 directed by the division:

21 1. A renewal application, in a form and manner acceptable to the division.

22 2. The annual fee required to maintain the license, if applicable.

23 3. The bond or insurance information required to maintain the license, if
24 applicable.

ASSEMBLY BILL 617**SECTION 138**

1 4. Certification of the completion of continuing education courses required to
2 maintain the license, if applicable.

3 (b) During the reinstatement period, a licensee may reinstate a license by
4 submitting all the items in par. (a) 1. to 4., plus an additional nonrefundable fee of
5 \$100, through the nationwide multistate licensing system and registry or in such
6 other manner as directed by the division.

7 (c) After the reinstatement period, an expired license may not be reinstated.

8 (d) The division may deny an application to renew a license if any fact or
9 condition exists that would warrant revocation or suspension of the license.

10 (e) The renewal term is for a period of one year, beginning January 1 of each
11 year after the initial term.

12 **(8) ANNUAL REPORTS AND FINANCIAL STATEMENTS.** (a) *Applicability.* Paragraphs
13 (b) and (c) apply to licensees under ss. 138.09, 138.12, 138.14, 218.02, 218.04, and
14 218.05. Licensees under s. 218.0114, except for motor vehicle dealers within the
15 meaning of s. 218.0101 (23), must submit financial statements under par. (c), but
16 they are not required to submit annual reports under par. (b).

17 (b) *Annual reports.* Each licensee shall annually, on or before March 31, submit
18 through the nationwide multistate licensing system and registry or in such other
19 manner as directed by the division, a report giving such reasonable and relevant
20 information as the division may require concerning the business transacted by the
21 licensee. This report shall be made in the form and manner prescribed by the
22 division.

23 (c) *Financial statements.* Each licensee shall annually, no later than 90 days
24 following the end of its most recently completed fiscal year, submit through the
25 nationwide multistate licensing system and registry or in such other manner as

ASSEMBLY BILL 617**SECTION 138**

1 directed by the division, a copy of the licensee's financial statements for that fiscal
2 year. The financial statements shall include a balance sheet and income statement
3 and shall be prepared in accordance with generally accepted accounting principles.

4 **SECTION 139.** 224.71 (7) of the statutes is amended to read:

5 224.71 (7) "Nationwide mortgage multistate licensing system and registry"
6 ~~means the licensing and registration system developed and maintained by the~~
7 ~~Conference of State Bank Supervisors and the American Association of Residential~~
8 ~~Mortgage Regulators for licensed mortgage loan originators and mortgage loan~~
9 ~~originators exempt from licensing under s. 224.725 (1m) or, if this system is no longer~~
10 ~~maintained, any system established by the secretary of the federal department of~~
11 ~~housing and urban development under P.L. 110-289, Title V, section 1509 has the~~
12 ~~meaning given in s. 224.35 (1g) (b).~~

13 **SECTION 140.** 224.71 (13g) (b) of the statutes is amended to read:

14 224.71 (13g) (b) Registered with, and who maintains a unique identifier
15 through, the nationwide mortgage multistate licensing system and registry.

16 **SECTION 141.** 224.71 (18) of the statutes is amended to read:

17 224.71 (18) "Unique identifier" ~~means a number or other identifier assigned~~
18 ~~by protocols established by the nationwide mortgage licensing system and registry~~
19 ~~has the meaning given in s. 224.35 (1g) (e).~~

20 **SECTION 142.** 224.72 (2) (am) of the statutes is amended to read:

21 224.72 (2) (am) Applicants for a mortgage banker or mortgage broker license
22 shall apply to the division, on forms and in the manner prescribed by the division,
23 and shall pay the fee specified in rules promulgated under sub. (8). The division shall
24 utilize the nationwide multistate licensing system and registry, and the provisions
25 of s. 224.35 shall apply, with respect to mortgage bankers and mortgage brokers.

ASSEMBLY BILL 617**SECTION 142**

1 Forms prescribed by the division under this paragraph may contain any content or
2 requirement that the division, in its discretion, determines necessary and these
3 forms may be modified or updated as necessary by the division to carry out the
4 purposes of this subchapter.

5 **SECTION 143.** 224.72 (2) (c) 2. c. of the statutes is created to read:

6 224.72 (2) (c) 2. c. The division may disclose information to the nationwide
7 multistate licensing system and registry as provided in s. 224.35.

8 **SECTION 144.** 224.72 (7) (title) of the statutes is amended to read:

9 224.72 (7) (title) LICENSE RENEWAL AND REINSTATEMENT.

10 **SECTION 145.** 224.72 (7) (am) of the statutes is renumbered 224.72 (7) and
11 amended to read:

12 224.72 (7) A mortgage broker or mortgage banker may apply to renew or
13 reinstate a license issued under this section by ~~timely submitting, on forms and in~~
14 ~~the manner prescribed by the division, a completed renewal application and all~~
15 ~~required renewal fees. The division may not renew a license issued under this section~~
16 ~~unless the division finds that the mortgage broker or mortgage banker continues to~~
17 ~~meet the minimum standards for license issuance under this section~~ as provided in
18 s. 224.35 (7).

19 **SECTION 146.** 224.72 (7) (bm) of the statutes is repealed.

20 **SECTION 147.** 224.725 (1) of the statutes is amended to read:

21 224.725 (1) LICENSE REQUIRED. Except as provided in subs. (1m) and (1r), an
22 individual may not regularly engage in the business of a mortgage loan originator
23 with respect to a residential mortgage loan, or use the title “mortgage loan
24 originator,” advertise, or otherwise portray himself or herself as a mortgage loan
25 originator in this state, unless the individual has been issued by the division, and

ASSEMBLY BILL 617**SECTION 147**

1 thereafter maintains, a license under this section. Each licensed mortgage loan
2 originator shall register with, and maintain a valid unique identifier issued by, the
3 nationwide ~~mortgage~~ multistate licensing system and registry.

4 **SECTION 148.** 224.725 (1r) (a) 5. of the statutes is amended to read:

5 224.725 (1r) (a) 5. The individual was registered with the nationwide ~~mortgage~~
6 multistate licensing system and registry as a loan originator during the one-year
7 period immediately preceding the date on which the individual furnished the
8 information required under sub. (2) (c).

9 **SECTION 149.** 224.725 (1r) (c) 1. of the statutes is amended to read:

10 224.725 (1r) (c) 1. The period during which an individual described in par. (a)
11 or (b) is considered to have temporary authority to act as a mortgage loan originator
12 under this subchapter shall begin on the date on which the individual furnishes to
13 the nationwide ~~mortgage~~ multistate licensing system and registry the information
14 required under sub. (2) (c) in connection with the application for a mortgage loan
15 originator license under this subchapter.

16 **SECTION 150.** 224.725 (1r) (c) 2. d. of the statutes is amended to read:

17 224.725 (1r) (c) 2. d. If the individual's application is listed on the nationwide
18 ~~mortgage~~ multistate licensing system and registry as incomplete, the date that is 120
19 days after the date on which the individual applied for a mortgage loan originator
20 license.

21 **SECTION 151.** 224.725 (2) (a) of the statutes is amended to read:

22 224.725 (2) (a) Applicants for a mortgage loan originator license shall apply to
23 the division, on forms and in the manner prescribed by the division, and shall pay
24 the fee specified in rules promulgated under sub. (8). The division shall require
25 utilize the nationwide multistate licensing system and registry, and the provisions

ASSEMBLY BILL 617**SECTION 151**

1 ~~of s. 224.35 shall apply, with respect to mortgage loan originators to be licensed and~~
2 ~~registered through the nationwide mortgage licensing system and registry.~~ Forms
3 prescribed by the division under this paragraph may contain any content or
4 requirement that the division, in its discretion, determines necessary and these
5 forms may be modified or updated as necessary by the division to carry out the
6 purposes of this subchapter.

7 **SECTION 152.** 224.725 (2) (b) 1. c. of the statutes is created to read:

8 224.725 (2) (b) 1. c. The division may disclose information to the nationwide
9 multistate licensing system and registry as provided in s. 224.35.

10 **SECTION 153.** 224.725 (2) (c) (intro.) and 2. (intro.) of the statutes are amended
11 to read:

12 224.725 (2) (c) (intro.) Any applicant for a license under this section shall
13 furnish to the nationwide ~~mortgage~~ multistate licensing system and registry
14 information concerning the applicant's identity, including all of the following:

15 2. (intro.) Personal history and experience in a form prescribed by the
16 nationwide ~~mortgage~~ multistate licensing system and registry, including the
17 submission of authorization for the nationwide ~~mortgage~~ multistate licensing
18 system and registry and the division to obtain all of the following:

19 **SECTION 154.** 224.725 (5) (title) of the statutes is amended to read:

20 224.725 (5) (title) LICENSE RENEWAL AND REINSTATEMENT.

21 **SECTION 155.** 224.725 (5) (a) (intro.) of the statutes is renumbered 224.725 (5)
22 and amended to read:

23 224.725 (5) A mortgage loan originator may apply to renew or reinstate a
24 license issued under this section ~~by timely submitting, on forms and in the manner~~
25 ~~prescribed by the division, a completed renewal application and all required renewal~~

ASSEMBLY BILL 617**SECTION 155**

1 ~~fees. The division may not renew a license issued under this section unless the~~
2 ~~division finds that all of the following apply: as provided in s. 224.35 (7).~~

3 **SECTION 156.** 224.725 (5) (a) 1. and 2. of the statutes are repealed.

4 **SECTION 157.** 224.725 (5) (b) of the statutes is repealed.

5 **SECTION 158.** 224.728 (title) of the statutes is renumbered 224.35 (title) and
6 amended to read:

7 **224.35** (title) **Nationwide mortgage multistate licensing system and**
8 **registry and cooperative arrangements.**

9 **SECTION 159.** 224.728 (1) of the statutes is renumbered 224.35 (1m) and
10 amended to read:

11 224.35 (1m) PARTICIPATION. (a) The division shall participate in the nationwide
12 mortgage multistate licensing system and registry. The division may establish
13 relationships or contracts with the nationwide mortgage multistate licensing system
14 and registry or other entities designated by the nationwide mortgage multistate
15 licensing system and registry to collect and maintain records and process transaction
16 fees or other fees related to ~~licensees under this subchapter~~ persons holding licenses
17 identified in sub. (1r). With respect to any form, fee, or other information related to
18 the initial issuance, transition, or renewal of a mortgage loan originator license
19 ~~under this subchapter~~ license identified in sub. (1r), the division may require that
20 any applicant submit such form, fee, or other information directly to the nationwide
21 mortgage multistate licensing system and registry and may authorize the
22 nationwide mortgage multistate licensing system and registry to perform any
23 function under ~~this subchapter~~ subch. III or s. 138.09, 138.12, 138.14, 218.0101 to
24 218.0163, 218.02, 218.04, 218.05, or ch. 217 related to the licensing of mortgage loan
25 ~~originators in this state~~ any person with respect to a license identified in sub. (1r).

ASSEMBLY BILL 617**SECTION 159**

1 (b) The division may require an applicant or licensee to provide, and may
2 provide to the nationwide ~~mortgage~~ multistate licensing system and registry, any
3 information relating to an applicant for initial issuance or renewal of a ~~mortgage loan~~
4 ~~originator~~ license identified in sub. (1r) that the division and the nationwide
5 ~~mortgage~~ multistate licensing system and registry determine to be relevant to the
6 application or to any ~~mortgage loan originator~~ responsibility administered or
7 conducted through the nationwide ~~mortgage~~ multistate licensing system and
8 registry related to the licensed activity.

9 (c) The division may rely on the nationwide ~~mortgage~~ multistate licensing
10 system and registry to establish any dates relating to application or reporting
11 deadlines for ~~mortgage loan originators~~ persons holding or applying for licenses
12 identified in sub. (1r), to establish requirements for amending or surrendering
13 ~~mortgage loan originator~~ licenses identified in sub. (1r), or to establish any other
14 requirements applicable to ~~mortgage loan originators licensed under this~~
15 ~~subchapter~~ persons holding licenses identified in sub. (1r) to the extent the
16 requirements are a condition of the state's participation in the nationwide ~~mortgage~~
17 multistate licensing system and registry.

18 **SECTION 160.** 224.728 (2) of the statutes is renumbered 224.35 (2) and amended
19 to read:

20 224.35 (2) CHANNELING INFORMATION. To reduce the points of contact that the
21 division may have to maintain, and to facilitate compliance with the requirements
22 under s. 224.725 (2) (c) any requirement that an applicant provide identity
23 information, including a social security number or federal employer identification
24 number, fingerprints, credit reports, or other personal history, the division may use
25 the nationwide ~~mortgage~~ multistate licensing system and registry as a channeling

ASSEMBLY BILL 617**SECTION 160**

1 agent for requesting and distributing information to and from any source so directed
2 by the division, including the federal bureau of investigation, any state or federal
3 department of justice, or any other governmental agency.

4 **SECTION 161.** 224.728 (3) of the statutes is renumbered 224.35 (3) and amended
5 to read:

6 224.35 (3) CHALLENGE PROCESS. The division shall establish a process whereby
7 ~~mortgage loan originators~~ persons holding licenses identified in sub. (1r) may
8 challenge information maintained by the nationwide ~~mortgage~~ multistate licensing
9 system and registry on behalf of the division.

10 **SECTION 162.** 224.728 (4) of the statutes is renumbered 224.35 (4), and 224.35
11 (4) (a) (intro.), (b) and (c), as renumbered, are amended to read:

12 224.35 (4) (a) (intro.) If any information or material is considered confidential
13 or privileged under federal or state law before it is provided or disclosed to the
14 nationwide ~~mortgage~~ multistate licensing system and registry, it shall continue to
15 be confidential or privileged after it is provided or disclosed to, and while maintained
16 by, the nationwide ~~mortgage~~ multistate licensing system and registry, except to the
17 extent federal or state law expressly provides otherwise and except as provided in
18 par. (c). Confidential or privileged information or material under this paragraph is
19 not subject to any of the following:

20 (b) Confidential or privileged information or material under par. (a) may be
21 shared with any state or federal regulatory agency having supervisory authority
22 over ~~mortgage lending~~ activities to which licenses identified in sub. (1r) apply
23 without losing any right or protection of confidentiality or privilege under federal or
24 state law.

ASSEMBLY BILL 617**SECTION 162**

1 (c) This subsection does not prohibit the nationwide ~~mortgage~~ multistate
2 licensing system and registry from providing public access to information or material
3 relating to the employment history of, and publicly adjudicated disciplinary and
4 enforcement actions against, ~~mortgage loan originators~~ persons holding licenses
5 identified in sub. (1r).

6 **SECTION 163.** 224.728 (5) of the statutes is renumbered 224.35 (5) and amended
7 to read:

8 224.35 (5) COOPERATIVE ARRANGEMENTS. The division may enter into
9 cooperative, coordinating, or information-sharing arrangements or agreements
10 with other governmental agencies or with associations representing other
11 governmental agencies, including the Conference of State Bank Supervisors and the
12 American Association of Residential Mortgage Regulators.

13 **SECTION 164.** 224.74 (1) (a) of the statutes is amended to read:

14 224.74 (1) (a) *Mortgage call report.* Each mortgage banker, mortgage broker,
15 and mortgage loan originator licensed under this subchapter, and each registered
16 entity, shall submit to the nationwide ~~mortgage~~ multistate licensing system and
17 registry reports of condition, which shall be in such form and contain such
18 information as the nationwide ~~mortgage~~ multistate licensing system and registry
19 may require.

20 **SECTION 165.** 224.74 (2) (b) of the statutes is amended to read:

21 224.74 (2) (b) The division shall prepare a report for each investigation or
22 examination conducted under this subsection. These reports, and correspondence
23 regarding these reports, are confidential, except that the division may release these
24 reports and correspondence in connection with a disciplinary proceeding conducted
25 by the division, a liquidation proceeding, or a criminal investigation or proceeding.

ASSEMBLY BILL 617**SECTION 165**

1 In addition, any information from these reports or correspondence may be provided
2 to the nationwide mortgage multistate licensing system and registry and is not
3 confidential to the extent specified in s. ~~224.728~~ 224.35 (4) (b) and (c).

4 **SECTION 166.** 224.755 (3) (a), (c) and (d) of the statutes are amended to read:

5 224.755 (3) (a) No education course may count toward the requirement under
6 sub. (1) or (2) unless the course has been reviewed and approved by the nationwide
7 mortgage multistate licensing system and registry based upon reasonable
8 standards, including review and approval of the course provider.

9 (c) ~~Subject to any rule promulgated under s. 224.72 (7) (bm) or 224.725 (5) (b),~~
10 ~~if~~ If an individual was previously registered as a loan originator under s. 224.72, 2007
11 stats., or previously licensed as a mortgage loan originator under s. 224.725, the
12 division may not issue or renew a mortgage loan originator license for the individual
13 under s. 224.725 unless the individual satisfies the requirements under sub. (1) or
14 (2) or demonstrates to the division's satisfaction that the individual has completed
15 all education requirements applicable to the individual in the last year in which the
16 individual's license or registration was valid.

17 (d) ~~Except as provided in any rule promulgated under s. 224.72 (7) (bm)~~ Unless
18 expressly authorized by the division, a licensed mortgage loan originator may receive
19 credit for a continuing education course only in the year in which the course is taken
20 and may not take the same approved course in the same or successive years to meet
21 the requirements under sub. (2).

22 **SECTION 167.** 224.755 (4) (b) 1. of the statutes is amended to read:

23 224.755 (4) (b) 1. No test may satisfy the requirement under par. (a) unless the
24 test is developed by the nationwide mortgage multistate licensing system and

ASSEMBLY BILL 617**SECTION 167**

1 registry and administered by a test provider approved by the nationwide mortgage
2 multistate licensing system and registry based upon reasonable standards.

3 **SECTION 168.** 224.77 (1) (a) of the statutes is amended to read:

4 224.77 (1) (a) Make a material misstatement, or knowingly omit a material
5 fact, in a license application or in other information or reports furnished to the
6 division, to the nationwide mortgage multistate licensing system and registry, or to
7 any other governmental agency, including failing to disclose a criminal conviction or
8 any disciplinary action taken by a state or federal regulatory agency.

9 **SECTION 169.** 224.77 (9) of the statutes is amended to read:

10 224.77 (9) REPORTING VIOLATIONS. The division shall report regularly violations
11 of this subchapter or of rules promulgated under this subchapter, as well as
12 enforcement actions and other relevant information, to the nationwide mortgage
13 multistate licensing system and registry. Except as provided in s. ~~224.728~~ 224.35 (4)
14 (b) and (c), these reports shall be confidential and are not subject to public copying
15 or inspection under s. 19.35 (1).

16 **SECTION 170.** 321.60 (1) (a) 12. of the statutes is amended to read:

17 321.60 (1) (a) 12. A license or certificate of registration issued by the
18 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
19 138.14, 202.13, 202.14, ~~217.06~~ 217.05, 218.0101 to 218.0163, 218.02, 218.04, 218.05,
20 224.72, 224.725, or 224.93 or subch. IV of ch. 551.

21 **SECTION 171.** 422.202 (3) (c) of the statutes is amended to read:

22 422.202 (3) (c) A merchant may not, in the same transaction, be subject to the
23 penalty in s. 138.09 (9) (b), 218.0161 (1), or 425.305 and the penalty in s. 425.304,
24 based on the assessment of the same additional charges.

25 **SECTION 172.** 946.79 (1) (a) of the statutes is amended to read:

ASSEMBLY BILL 617**SECTION 172**

1 946.79 (1) (a) “Financial institution” means a bank, savings bank, savings and
2 loan association, credit union, loan company, sales finance company, insurance
3 premium finance company, community currency exchange, ~~seller of checks~~ money
4 transmitter, insurance company, trust company, securities broker-dealer, as defined
5 in s. 551.102 (4), mortgage banker, mortgage broker, pawnbroker, as defined in s.
6 134.71 (1) (e), telegraph company, or dealer in precious metals, stones, or jewels.

7 **SECTION 173.** DFI-Bkg 74.01 (1) of the administrative code is amended to read:

8 DFI-Bkg 74.01 (1) “Actual process of collection” means regularly receiving
9 payments at periodic intervals, or debtor contacted within last 30 days and promise
10 of payment received, or an account referred for legal actions where the collection
11 agency has advanced legal costs. A collection agency and its client may by written
12 contract agree to a different actual process of collection, but this different actual
13 process of collection must require more effort on the part of the collection agency than
14 merely listing the account, inputting the account into its database, writing one letter
15 or making one call, or similar levels of effort. This subsection first applies to
16 contractual relationships entered into between a collection agency and its client after
17 March 1, 1993.

18 **SECTION 174.** DFI-Bkg 74.01 (2) of the administrative code is repealed.

19 **SECTION 175.** DFI-Bkg 74.01 (5m) of the administrative code is created to read:

20 DFI-Bkg 74.01 (5m) “Licensee” means a person licensed under s. 218.04,
21 Stats.

22 **SECTION 176.** DFI-Bkg 74.03 (title) of the administrative code is amended to
23 read:

24 DFI-Bkg 74.03 (title) **~~Office relocations and other~~ Other changes.**

25 **SECTION 177.** DFI-Bkg 74.03 (1) of the administrative code is repealed.

ASSEMBLY BILL 617**SECTION 178**

1 **SECTION 178.** DFI-Bkg 74.03 (2) of the administrative code is amended to read:

2 DFI-Bkg 74.03 (2) OTHER CHANGES. ~~A licensee shall notify the division of any~~
3 ~~change to the information provided in the licensee's renewal license application or~~
4 ~~provided in a previous notice of change filed by the licensee with the division under~~
5 ~~this section. The notice shall be in writing and, except in the case of a relocation, be~~
6 ~~received by the division within 10 days after the change. Each licensee shall keep~~
7 ~~current and accurate all material information on file with the division and the~~
8 ~~nationwide multistate licensing system and registry as provided in s. 224.35 (6),~~
9 ~~Stats.~~ The licensee shall provide any additional information, data, and records
10 regarding ~~the a~~ change to the division within 20 days after the division requests the
11 information, data, or records. Any change that is subject to the notice requirement
12 shall be subject to the approval of the division. In reviewing the change ~~or relocation,~~
13 the division shall apply the same criteria as the criteria for approval of an original
14 license application. Except in the case of a relocation, the division shall determine
15 the cost of investigating and processing the change. The licensee shall pay the
16 division's cost within 30 days after the division demands payment. If so directed by
17 the division, the licensee shall provide any notice required under this subsection to
18 the nationwide multistate licensing system and registry as provided in s. 224.35,
19 Stats.

20 **SECTION 179.** DFI-Bkg 74.04 (1) (intro.) of the administrative code is amended
21 to read:

22 DFI-Bkg 74.04 (1) AGREEMENT WITH CREDITOR. (intro.) Prior to accepting
23 accounts for collection from a creditor or earning or collecting a fee or commission,
24 the licensee shall enter into a written agreement with the creditor. The agreement
25 shall do all of the following:

ASSEMBLY BILL 617**SECTION 180**

1 **SECTION 180.** DFI-Bkg 74.05 (1) (intro.) of the administrative code is amended
2 to read:

3 DFI-Bkg 74.05 **(1)** REMITTANCE STATEMENT TO BE FURNISHED EACH CREDITOR.
4 (intro.) Licensee shall provide a remittance statement and remit any and all money
5 due to any and all creditors or forwarders ~~within 30 days from~~ on or before the last
6 day of the month following the close of the month during which the collection was
7 effected as provided in s. 218.04 (5) (a) 4., Stats. The remittance statement shall set
8 forth all of the following:

9 **SECTION 181.** DFI-Bkg 74.06 of the administrative code is renumbered
10 DFI-Bkg 74.06 (2) and amended to read:

11 DFI-Bkg 74.06 **(2)** ~~Each licensee shall deposit in a trust fund account in any~~
12 ~~approved financial institution promptly after collection, sufficient funds to pay all~~
13 ~~moneys due or owing all creditors or forwarders. The trust fund account shall be used~~
14 ~~only for this purpose.~~ A licensee may maintain trust funds in an interest bearing
15 savings account or instrument provided it is identified as a “trust ~~account~~” account.”

16 **(3)** Sufficient funds shall be maintained in the trust account or trust accounts
17 to pay all moneys due or owing all creditors or forwarders. For the purpose of
18 determining sufficient funds, amounts collected by a 3rd party, but not yet deposited
19 into the licensee’s trust account, are not considered trust funds.

20 **(4)** Sufficient funds shall be maintained in ~~or made available to~~ the trust
21 checking account on which remittance checks or electronic debits are drawn or made
22 to pay all checks and debits when presented.

23 **(5)** The licensee shall have sufficient documentation from the trust account or
24 trust accounts available to make an adequate examination.

25 **SECTION 182.** DFI-Bkg 74.06 (1) of the administrative code is created to read:

ASSEMBLY BILL 617**SECTION 182**

1 DFI-Bkg 74.06 (1) A licensee's trust checking account shall be identified as a
2 "trust account."

3 **SECTION 183.** DFI-Bkg 74.06 (6) of the administrative code is created to read:

4 DFI-Bkg 74.06 (6) Third party payment processors shall not be given authority
5 to withdraw funds from the licensee's trust account or accounts.

6 **SECTION 184.** DFI-Bkg 74.07 (1) (j) of the administrative code is created to
7 read:

8 DFI-Bkg 74.07 (1) (j) A roster of all collectors and solicitors employed by the
9 licensee. The list shall be updated and accurate at all times and set forth all of the
10 following:

11 1. The individual's first and last name, home address, and indication of
12 whether the individual works from the individual's residence.

13 2. The first and last name of any alias that is used by the individual, the date
14 the individual started to use the alias, and, if applicable, the date the individual
15 stopped using the alias.

16 3. The date the individual was hired by the licensee.

17 4. The date the individual's employment with the licensee was terminated, if
18 applicable.

19 **SECTION 185.** DFI-Bkg 74.10 (1) (c) of the administrative code is created to
20 read:

21 DFI-Bkg 74.10 (1) (c) A licensee may not contract for or assess a fee,
22 commission, or any other charge to a creditor for returning any account to the
23 creditor that is not in the actual process of collection, other than a contracted fee for
24 reasonable costs incurred by the licensee for each account placed in error by the
25 creditor.

ASSEMBLY BILL 617**SECTION 186**

1 **SECTION 186.** DFI-Bkg 74.10 (2) of the administrative code is renumbered
2 DFI-Bkg 74.10 (2) (b).

3 **SECTION 187.** DFI-Bkg 74.10 (2) (a) of the administrative code is created to
4 read:

5 DFI-Bkg 74.10 **(2)** (a) In this subsection, “terminated,” with respect to a
6 license, includes a license that is surrendered, revoked, or expired.

7 **SECTION 188.** DFI-Bkg 74.11 (10) of the administrative code is created to read:

8 DFI-Bkg 74.11 **(10)** TRADE NAMES. (a) A licensee may not conduct business in
9 this state under any name or names other than the name or names listed on the
10 license.

11 (b) Before using any trade name, a licensee shall obtain approval from the
12 division for the use of the trade name.

13 (c) A licensee may not conduct business in this state using a trade name that
14 includes a corporate identifier.

15 **SECTION 189.** DFI-Bkg 74.12 of the administrative code is repealed.

16 **SECTION 190.** DFI-Bkg 74.14 of the administrative code is repealed.

17 **SECTION 191.** DFI-Bkg 74.16 (9) of the administrative code is amended to read:

18 DFI-Bkg 74.16 **(9)** Engage in other conduct which ~~that~~ can reasonably be
19 expected to threaten or harass the debtor or a person related to the debtor ~~including~~
20 ~~conduct which violates.~~

21 **(9g)** Violate the Federal Fair Debt Collection Practices Act.

22 **SECTION 192.** DFI-Bkg 74.16 (9m) of the administrative code is created to read:

23 DFI-Bkg 74.16 **(9m)** Violate any federal or state statute, rule, or regulation
24 that relates to practice as a collection agency.

25 **SECTION 193.** DFI-Bkg 75.01 (1m) of the administrative code is created to read:

ASSEMBLY BILL 617**SECTION 193**

1 DFI-Bkg 75.01 (1m) “Customer identification number” has the meaning given
2 in s. 138.14 (1) (br), Stats.

3 **SECTION 194.** DFI-Bkg 75.08 (1) (c) 3. of the administrative code is amended
4 to read:

5 DFI-Bkg 75.08 (1) (c) 3. Identify the name, address, telephone number, and
6 ~~unique identification number of the customer~~ identification number.

7 **SECTION 195.** DFI-Bkg 75.08 (2) (a) 4. of the administrative code is amended
8 to read:

9 DFI-Bkg 75.08 (2) (a) 4. Identify the name, address, telephone number, and
10 ~~unique identification number of the customer~~ identification number.

11 **SECTION 196. Nonstatutory provisions.**

12 (1) TRANSITION OF LICENSE INFORMATION.

13 (a) In this subsection:

14 1. “Division” means the division of banking in the Department of Financial
15 Institutions.

16 2. “Nationwide multistate licensing system and registry” has the meaning
17 given in s. 224.35 (1g) (b).

18 (b) All persons holding a license under s. 138.09, 138.14, or 218.02 shall
19 transition their license information onto the nationwide multistate licensing system
20 and registry before January 31 of the year in which this paragraph takes effect. The
21 division may suspend the license of any licensee subject to this paragraph that has
22 not transitioned its license information onto the nationwide multistate licensing
23 system and registry by March 31 of the year in which this paragraph takes effect.

24 (c) All persons holding a license under ch. 217 shall transition their license
25 information onto the nationwide multistate licensing system and registry before

ASSEMBLY BILL 617**SECTION 196**

1 March 31 of the year in which this paragraph takes effect. The division may suspend
2 the license of any licensee under ch. 217 that has not transitioned its license
3 information onto the nationwide multistate licensing system and registry by March
4 31 of the year in which this paragraph takes effect.

5 (d) All persons holding a license under s. 138.12 shall transition their license
6 information onto the nationwide multistate licensing system and registry between
7 January 2 of the year in which this paragraph takes effect and March 31 of the year
8 in which this paragraph takes effect. The license of any licensee under s. 138.12 that
9 has not transitioned its license information onto the nationwide multistate licensing
10 system and registry by March 31 of the year in which this paragraph takes effect will
11 expire on April 30 of the year in which this paragraph takes effect, and such licensee
12 will be required to apply for and receive a new license to continue operating as an
13 insurance premium finance company in this state.

14 (e) All persons holding a license under s. 218.04 shall transition their license
15 information onto the nationwide multistate licensing system and registry between
16 March 1 of the year in which this paragraph takes effect and May 31 of the year in
17 which this paragraph takes effect. The license of any licensee under s. 218.04 that
18 has not transitioned its license information onto the nationwide multistate licensing
19 system and registry by May 31 of the year in which this paragraph takes effect will
20 expire on June 30 of the year in which this paragraph takes effect, and such licensee
21 will be required to apply for and receive a new license to continue operating as a
22 collection agency in this state.

23 (f) All persons holding a license under s. 218.0114, except for motor vehicle
24 dealers within the meaning of s. 218.0101 (23), or s. 218.05 shall transition their
25 license information onto the nationwide multistate licensing system and registry

ASSEMBLY BILL 617**SECTION 196**

1 before September 30 of the year in which this paragraph takes effect. The division
2 may suspend the license of any licensee under s. 218.0114, except for motor vehicle
3 dealers within the meaning of s. 218.0101 (23), or s. 218.05 that has not transitioned
4 its license information onto the nationwide multistate licensing system and registry
5 by September 30 of the year in which this paragraph takes effect.

6 (2) TRANSITION OF RENEWAL FEE DATES.

7 (a) In this subsection, “department” means the Department of Financial
8 Institutions.

9 (b) With regard to a license under s. 138.12 that expires on April 30 of the year
10 in which this paragraph takes effect, the licensee shall pay to the department no later
11 than March 31 of that year a license fee equal to two-thirds of the annual license fee
12 specified under s. 138.12 (3) (b), to cover the period of May 1 through the new
13 December 31 license expiration date.

14 (c) With regard to a license under s. 218.04 that expires on June 30 of the year
15 in which this paragraph takes effect, the licensee shall pay to the department no later
16 than June 1 of that year a license fee equal to one-half of the annual license fee
17 specified under s. 218.04 (3) (b) to cover the period of July 1 through the new
18 December 31 license expiration date.

19 **SECTION 197. Effective date.**

20 (1) Notwithstanding s. 227.265, this act takes effect on the first January 1
21 occurring at least 90 days after publication.

22 (END)