



2011 SENATE BILL 390

January 19, 2012 – Introduced by Senator GROTHMAN, cosponsored by Representative KRAMER. Referred to Committee on Financial Institutions and Rural Issues.

1 **AN ACT** *to repeal* 218.04 (7) (c); and *to amend* 137.01 (1) (a) and 218.05 (6) of
2 the statutes; **relating to:** appointment of notaries public, collection agencies,
3 and community currency exchanges.

Analysis by the Legislative Reference Bureau

Under current law, a person may file an application with the Department of Financial Institutions (DFI) to be a notary public. If the applicant is an attorney licensed in this state, the secretary of financial institutions (secretary) must issue to the applicant a certificate of appointment as a notary public and the applicant's commission is permanent. If the applicant is not an attorney, the secretary must satisfy himself or herself that the applicant meets certain qualifications. If the applicant does, the governor appoints the applicant as a notary public and a certificate of appointment as a notary public, for a term of four years, is issued to the applicant.

Under this bill, the secretary, rather than the governor, appoints notaries public who are not attorneys.

Under current law, a person may not operate as a collection agency unless the person is licensed as a collection agency by the Division of Banking (division) in 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 and certain other financial institutions, health care billing companies, insurers, and real estate brokers and salespersons. A collection agency is subject to regulation by the

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division and to certain laws regulating its operations. The division has certain powers and duties with respect to the collection of accounts, including: 1) to issue general and special orders to protect the public from certain practices of licensed collection agencies; 2) to investigate potential violations by licensed collection agencies, including examination of the books and records of collection agencies and the taking of testimony; and 3) to appoint advisers from the collection agency industry to consult and assist the division in the execution of the division's duties, which advisers receive no compensation but may be reimbursed for their traveling expenses.

This bill repeals the power and duty described as item 3), above.

Under current law, a person may not engage in the business of a community currency exchange unless the person has been issued a license by the division. A "community currency exchange" is defined as any person, except certain financial institutions, engaged in the business of cashing checks, money orders, and other evidences of money for a fee, service charge, or other consideration. A community currency exchange may not accept money for deposit. After an application for a community currency exchange license has been approved, the applicant must submit to the division for approval, in a principal sum determined by the division, a policy or policies of insurance that insures the licensee against loss by burglary, larceny, robbery, forgery, or embezzlement. With respect to forgery, the policy may carry a condition that the community currency exchange assumes the first \$50 of each claim under the policy.

Under this bill, the policy or policies of insurance must be filed with, and approved by, the division before the division may issue the community currency exchange license or, thereafter, renew the community currency exchange license. Also under the bill, rather than specify that the policy may carry a condition that the community currency exchange assumes the first \$50 of each forgery claim, the division has the authority to determine not only the principal sum under such a policy, but deductibles as well.

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.** 137.01 (1) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
2 is amended to read:
3 137.01 (1) (a) The ~~governor~~ secretary of financial institutions shall appoint
4 notaries public who shall be United States residents and at least 18 years of age.

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1 Applicants who are not attorneys shall file an application with the department of
2 financial institutions and pay a \$20 fee.

3 **SECTION 2.** 218.04 (7) (c) of the statutes is repealed.

4 **SECTION 3.** 218.05 (6) of the statutes is amended to read:

5 218.05 (6) INSURANCE. ~~Every applicant for a license under this section shall,~~
6 ~~after the application for a license has been approved, submit~~ Before any license is
7 issued to a community currency exchange or renewed for a community currency
8 exchange, the applicant shall file with, and have approved by, the division a policy
9 or policies of insurance ~~to be approved by the division,~~ which shall be issued by an
10 insurer authorized to do business in this state, ~~which insures~~ and shall insure the
11 applicant against loss by burglary, larceny, robbery, forgery or embezzlement in a
12 principal sum, and with such deductibles, as determined by the division. ~~Any such~~
13 ~~policy, with respect to forgery, may carry a condition that the community currency~~
14 ~~exchange assumes the first \$50 of each claim thereunder.~~

15 **SECTION 4. Initial applicability.**

16 (1) The treatment of section 137.01 (1) (a) of the statutes first applies to
17 appointments made on the effective date of this subsection.

18 (2) The treatment of section 218.05 (6) of the statutes first applies to
19 applications for initial issuance or renewal of a license received by the division of
20 banking on the effective date of this subsection.

21 **SECTION 5. Effective date.**

22 (1) This act takes effect on the first day of the 3rd month beginning after
23 publication.

24

(END)