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Chapter Bkg 76

SALES FINANCE COMPANIES

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Note: Chapter Bkg 76 as it existed on May 31, 1980 was repealed and a new chapter Bkg 76 was created effective June 1, 1980.

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

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

Bkg 76.03 Delinquency and deferral charges. (1) In consumer credit transactions a retail seller may contract for and receive delinquency charges only in accordance with s. 422.203, Stats., and regulations issued by the commissioner thereunder.

(2) In all other transactions a retail seller may contract for and receive a delinquency charge on any installment not paid in full on or before the 10th day after its scheduled or deferred due date in an amount not to exceed 5% of the unpaid amount of the installment. No delinquency charge may be collected on an installment which is paid in full on or before the 10th day after its scheduled or deferred due date even though an earlier maturing installment or a delinquency charge on an earlier installment may not have been paid in full. For purposes of this subsection payments are applied first to current installments and then to delinquent installments. Interest after the final scheduled maturity date shall not exceed the greater of 12% per annum or an amount determined by applying the annual rate of finance charge assessed on that transaction to the unpaid balance until paid, but if such interest is charged no delinquency charge may be taken on the final scheduled installment.

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

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

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

(2) Upon prepayment in full of the unpaid balance of a retail installment contract by cash, refinancing, consolidation, or if the maturity of the obligation is accelerated for any reason and judgment is obtained,

the unearned portion of the finance charge shall be rebated to the retail buyer or credited to the outstanding balance of the buyer's account. If the total of all rebates, refunds and credits to be made to the retail buyer is less than $1, no rebate need be made.

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

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

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

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

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

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

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

Bkg 76.07 Consolidation. Upon consolidation of the unpaid balance of a retail installment contract for the purchase of a motor vehicle with the unpaid balance of any other transaction for the purchase of a motor vehicle, the customer shall receive a rebate of the unearned finance charge on each retail installment contract pursuant to the provisions of s. Bkg 76.04, except that for the purposes of computing that amount no minimum finance charge shall be allowed in consumer credit transactions. The rate of finance charge upon consolidation shall not exceed the maximum rate under s. 218.01 (6), Stats., applicable to the vehicle most recently purchased if the creditor is a licensed motor vehicle dealer. Otherwise the maximum rate shall not exceed the rate at which the creditor could loan the consolidated balance to the customer.

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

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

(a) A copy of each retail installment contract.

(b) Each credit disclosure statement.

(c) The name of the assignee to whom each contract is transferred.

(d) Where credit insurance is sold by the sales finance company or its representative:

1. A copy of the insurance policy or certificate of insurance.

2. The policy number.

3. The date of prepayment, if any.

4. Refunds of credit insurance premiums separately itemized.

5. Each notice of prepayment made by an assignee in accordance with s. Bkg 76.05.

6. The amount, date and check number of any credit insurance rebates.

(e) A copy of each notice of right to cure default sent by the licensee.

(f) Each document evidencing receipt of surrender or voluntary surrender of any vehicle recovered by the licensee.

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

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

(a) Open accounts.

1. Date of the transaction.

2. Account number.

3. Name and address of buyer and seller.

4. Cash price.

5. Down payment.

6. Amount and description of each additional charge.

7. The amount financed.

8. Finance charge expressed in dollars.

9. The total of payments.

10. The first installment due date.

11. The number, amount and periods of payment scheduled to repay the indebtedness.

12. The annual percentage rate.

13. Description and year model of motor vehicle, including whether the vehicle was new or used at the time of sale.

14. Date and amount of each payment.

15. Amount of any delinquency charges collected.

16. Amount of any deferral charges collected.

17. Name of each credit and property insurer.

18. Each insurance certificate or policy number.

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

1. Date account is paid in full.

2. Whether the acount balance or any payments were paid from credit insurance proceeds, the amount of such proceeds and, if paid from the proceeds of credit life insurance, the date of the customer's death.

3. The amount of the refund of unearned charges separately itemized.

4. The amount, date and check number of any overpayment or rebate for prepayment.

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

(4) The information required by this regulation shall be retained for a period of not less than 2 years after consummation of the transaction or one year after the last payment, whichever is later, and shall be assessable by reference to the name of the customer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Bkg 76.13 License fees. (1) The commissioner shall collect fees based on the statutory formulas described in s. 218.01 (2) (dm), Stats., and elsewhere, which is the number of years in a licensing period multiplied by the current annual fee of $50. If the dealer originates and carries or retains time sales contracts for more than 30 days in a total amount exceeding $100,000, a bill will be issued for additional business license fees due based upon the schedule of fees in s. 218.01 (2) (dr), Stats.

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

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

Bkg 76.14 Transition period. The commissioner may extend the expiration dates of business licenses issued during the calendar year 1990 to a date no later than June 30, 1991. The commissioner may than issue business licenses between January 1, 1991 and June 30, 1991 which are valid for periods that differ from those described in other sections of this chapter but may not be longer than 3 years nor less than 6 months. The commissioner may charge licensing fees as described in the following formula: the transition fees will equal the current annual fees, multiplied by the number of months the business licenses are valid, and divided by 12. This section shall not be in effect after June 30, 1991.

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