

CR 91-109

STATE OF WISCONSIN)
)
OFFICE OF COMMISSIONER OF BANKING)

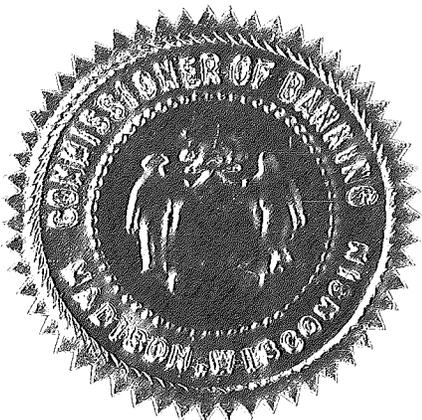
TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Richard L. Dean, Deputy Commissioner of Banking and custodian of the official records of said office, do hereby certify that the annexed rule relating to adjustment service companies was duly approved and adopted by this office on the 31st day of October, 1991.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Office of Commissioner of Banking in the City of Madison this 31st day of October, 1991.


Richard L. Dean
Deputy Commissioner of Banking



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The Wisconsin Office of Commissioner of Banking proposes an order to repeal and recreate Bkg 73.01 and 73.04(9) and to amend Bkg 73.03(1)(b), Bkg 73.03(4) and Bkg 73.04(2) relating to adjustment service companies.

Analysis by the Wisconsin Office of Commissioner of Banking

STATUTORY AUTHORITY: s. 218.02(9), Stats.

STATUTES INTERPRETED: s. 218.02, Stats.

Summary of Proposed Rule

Section (1)

The proposed rule repeals and recreates Bkg 73.01. The recreated rule provides for a one time set up fee. The set up fee is structured to provide compensation to the licensee when the only service performed is to establish a budget which the debtor can follow without further involvement by the licensee. It provides for a lesser set up fee if the licensee is to subsequently provide service pursuant to an adjustment service plan.

It further provides for increased fees for the distribution of debtor funds. The fee structure is designed to provide reasonable compensation for servicing debtors with limited funds available for distribution. At the same time it is designed to compensate the licensee for serving those individuals that have unlimited funds and use the service as a "bill paying service".

Thirdly, the rule allows an alternative fee arrangement to accommodate "Non-Profit" licensees. It allows for acceptance of a voluntary fee or contribution paid by the creditor. It is conditioned upon the distribution of funds to all creditors pursuant to an established budget.

Section (2)

The proposed rule will allow certain adjustment service companies to license business locations to service outlying areas that cannot support a full-time, staffed operation.

Section (3)

The proposed rule amends Bkg 73.03(4). This amendment will permit the licensee to hold funds in escrow at the written request of the debtor for a period not to exceed 180 days.

Section (4)

The proposed rule is deemed necessary as collection agencies no longer operate locally. Rather they now tend to operate statewide and nationally. Also, collection agencies operating solely outside the State of Wisconsin are not licensed by Wisconsin. This prohibition makes it impossible for

the licensee to profit from two sources as a result of disbursing funds to an affiliated collection agency.

Section (5)

The proposed rule repeals and recreates Bkg 73.04(9). The rule will allow the licensee to receive compensation from a creditor or creditors in the form of fees, contributions, discounts, or reductions on the accounts of the debtor. Such compensation is limited to 15% of the individual account balances. Any amounts received in excess of 15% of each account shall be for the benefit of the debtor as a reduction of the obligation owed the creditor.

Initial Regulatory Flexibility Analysis. This proposed rule is expected to help small and non-profit adjustment service companies as well as large adjustment service companies whether they are for profit or non-profit in receiving compensation to provide their services. The additional compensation received voluntarily from creditors should assist in the successful operation of their business.

Initial Fiscal Estimate. This rule should have no impact upon the workload or operations of the Office of Commissioner of Banking.

Contact Person. Questions about this rule may be addressed to Holly Sherman, Legal Division, P.O. Box 7876, Madison, Wisconsin 53707-7876, (608) 266-1621

TEXT OF PROPOSED RULE

Under the authority vested in the Wisconsin Office of Commissioner of Banking by s. 218.02(9), Stats., the Office of Commissioner of Banking proposes to repeal and recreate Bkg 73.01 and 73.04(9) and to amend Bkg 73.03(1)(b), Bkg 73.03(4) and Bkg 73.04(2) Wis. Adm. Code.

SECTION 1. Bkg 73.01 is repealed and recreated to read:

BKG 73.01 FEES OF LICENSEES. The fees permitted in this section are the only fees that may be assessed the debtor and include all charges of any kind or nature whatsoever. The fees shall be agreed upon in advance and stated in the contract or agreement established between the licensee and debtor. The fees for distributing funds may not be assessed the debtor

SECTION 2. Bkg 73.03(1)(b) is amended to read:

BKG 73.03(1)(b) Office Hours. Every licensee shall maintain regular office hours on designated business days from Monday through Friday and must be open for business at least 3 4 hours each designated business day. Whenever an office is not open for business at least 6 hours a day, or if the license maintains irregular office hours, a written notice must be filed with the banking department commissioner's office setting forth the schedule of minimum office hours.

SECTION 3. Bkg 73.03(4) is amended to read:

BKG 73.03(4) (title) REMITTANCES. ~~REMITTANCES~~ Remittances shall be made to the creditors within 15 days after receipt of said remittance funds from debtor unless debtor requests in writing that funds be held in escrow for specific purposes for a period of not to exceed 45 180 days.

SECTION 4. Bkg 73.04(2) is amended to read:

BKG 73.04 No licensee shall:

- (2) Have a direct or indirect interest in a ~~licensed~~ collection agency either as owner, partner or as a stockholder ~~within a 50-mile radius of the office of the licensee.~~

SECTION 5. Bkg 73.04(9) is repealed and recreated to read:

BKG 73.04(9) Accept any fee, voluntary contribution, discount or reduction on an account of the debtor in excess of 15% of the amount owed unless the full amount received in excess of the 15% is for the benefit of the debtor as a reduction of the obligation owed the creditor.

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2) (intro.), Stats.

(END OF RULE TEXT)

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Tommy G. Thompson
Governor



Toby E. Sherry
Commissioner
Richard L. Dean
Deputy Commissioner

State of Wisconsin
Office of Commissioner of Banking

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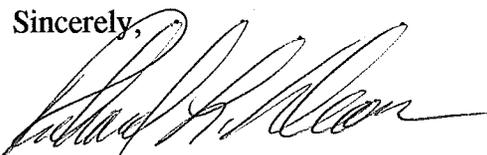
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Mr. Gary Poulson
Revisor of Statutes Office
119 Martin Luther King, Jr. Blvd., 2nd Floor
Madison, WI 53703

Re: Clearinghouse Rule 91-109

Dear Mr. Poulson:

Enclosed please find a certified copy and one additional copy of the Rule for publication in the Administrative Code. The Rule was submitted to the Senate and Assembly in final draft form on September 17, 1991. Neither the Senate Committee on Aging, Banking, Commercial Credit and Taxation nor the Assembly Committee on Financial Institutions and Insurance took any action with respect to the Rule within 30 days of referral.

Sincerely,

Richard L. Dean
Deputy Commissioner

RLD/hs
Enclosure