

## 2007 DRAFTING REQUEST

### Bill

Received: **11/28/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact: **Leg. Council**

Addl. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **dan.schmidt@legis.wisconsin.gov**

Carbon copy (CC:) to: **mary.matthias@legis.wisconsin.gov**

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### Pre Topic:

No specific pre topic given

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### Topic:

Uniform Debt Management Services Act

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### Instructions:

Add 05-5042 to file

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 01/26/2007	lkunkel 01/26/2007		_____			State
/P1		lkunkel 02/02/2007	nmatzke 01/26/2007	_____	mbarman 02/05/2007		State
			nmatzke 02/05/2007	_____	mbarman 02/06/2007		
/1	mkunkel 02/11/2007	wjackson 02/12/2007	jfrantze 02/13/2007	_____	sbasford 02/13/2007	lparisi 03/20/2007	

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For: @ intra.  
3-27-2007

<END>

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/P1		lkunkel 02/02/2007	nmatzke 01/26/2007	_____	mbarman 02/05/2007		State
			nmatzke 02/05/2007	_____	mbarman 02/06/2007		
/1	mkunkel 02/11/2007	wjackson 02/12/2007	jfrantze 02/13/2007	_____	sbasford 02/13/2007		

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 11/28/2006

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Steve Wieckert (608) 266-3070

By/Representing: Scott Becher

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact: Leg. Council

Addl. Drafters:

Subject: Fin. Inst. - int. rates/loans

Extra Copies: ARG

Submit via email: YES

Requester's email: Rep.Wieckert@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Uniform Debt Management Services Act

Instructions:

Add 05-5042 to file

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P1		lkunkel 02/02/2007	natzke 01/26/2007	_____	mbarman 02/05/2007		
			natzke 02/05/2007	_____	mbarman 02/06/2007		

1/WLJ 2/12  
 [Signature] 2/13  
 [Signature] 2/13

e-mail only  
 - requested  
 by Scott

FE Sent For:

## 2007 DRAFTING REQUEST

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Wanted: **As time permits**

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For: **Steve Wieckert (608) 266-3070**

By/Representing: **Scott Becher**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact: **Leg. Council**

Addl. Drafters:

Subject: **Fin. Inst. - int. rates/loans**

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Rep.Wieckert@legis.wisconsin.gov**

Carbon copy (CC:) to:

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### Pre Topic:

No specific pre topic given

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### Topic:

Uniform Debt Management Services Act

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### Instructions:

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 01/26/2007	lkunkel 01/26/2007		_____			State
/P1		lkunkel 02/02/2007	nmatzke 01/26/2007	_____	mbarman 02/05/2007		
			nmatzke 02/05/2007	_____			

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/?	mkunkel	<i>pl/mk 2/2</i>	<i>nwn 2/2</i>	<i>nwn/rs 2/5</i>			

FE Sent For:

<END>

## Kunkel, Mark

---

**From:** Matthias, Mary  
**Sent:** Wednesday, November 22, 2006 3:55 PM  
**To:** Kunkel, Mark  
**Subject:** FW: U Debt memo.doc

**Attachments:** U Debt memo.doc

mark- fyi. please let me know if I missed anything...thanks--Mary

---

**From:** Matthias, Mary  
**Sent:** Wednesday, November 22, 2006 3:50 PM  
**To:** Templeton, Carrie  
**Cc:** Schmidt, Dan  
**Subject:** U Debt memo.doc

Carrie-

Here is the list of the proposed changes that I came up with. These are in the same order as your 11/1 memo. If I didn't include an item there is an explanation or question in italics.

For the Committee memo, I will add a brief explanatory note after each item, based on your 11/1 memo and our discussion. I will work on that early next week and send it to you in rough form asap. I might call you for clarifications along the way.

I don't have to have the memo finalized until the end of the day Thursday (11/30) so there's plenty of time for you to clarify or change any of the items in here if you want to.

Please call or e-mail me if anything in here isn't right or if there is some particular explanatory info you want me to include that wasn't in your 11/1 memo. My phone number is 6-0932.

Thanks for your help--  
have a happy thanksgiving!

Mary



U Debt memo.doc  
(45 KB)



1. Repeal s.218.02, stats., (with the exception of the criminal penalty provisions in s. 218.02 (9) and (10)) and replace it with the provisions of the bill regulating providers of debt management services. ✓ Eliminate the repeal of subch. V of ch. 422, stats. These changes will replace the current law regulating "adjustment service companies" with the new provisions regulating providers of debt management services and will retain the current law regulating credit services organizations. ✓

*Carrie- Do you want all of the material in current s. 218.02(9) to be included in the draft? Your memo mentioned only criminal penalty provisions, but I am thinking you also want the powers granted by the cross-references to ch 217 that are in current s. 218.02(9).*

✓ 2. Modify the cross reference in s. 220.02(2)(b), stats., as appropriate, to authorize DFI to enforce the newly-created provisions regulating providers of debt management services.

✓ 3. Throughout the draft, replace references to "registration" to "licensure".

4. Eliminate the option for a provider to submit alternatives to a surety bond. The draft allows a provider to submit any of the following in lieu of a surety bond: [page 20-21]

- A certificate of insurance issued by an insurance company authorized to do business in Wisconsin and rated at least "a", with no deductible.
- An irrevocable letter of credit issued or confirmed by a bank (if approved by DFI)
- Bonds or other obligations of the United States, the State of Wisconsin, or a political subdivision of the State of Wisconsin (if approved by DFI)

✓ *Carrie- My notes indicate we are not putting any comment regarding privacy protection in the memo. If you have developed any proposed language that you want me to look at, let me know. Also, we will review the Acts of the other 3 states that enacted the Model Act to see if they have any privacy language in them that we could use.*

5. Amend the language on pg. 12, lines 22-25, to clarify that a criminal records check must be conducted on all of the following:

(a) Every officer of the applicant;

✓ (b) Every employee or agent of the applicant who is authorized to have access to the trust account required to be held by the applicant.

✓ 6. Amend the language on pg. 11, lines 18-19, to require an application for licensure to include the following:

(a) The title of each officer of the applicant;

(b) A statement of the percentage of ownership that each officer has in the applicant, including those officers, if any, whose ownership percentage is less than 10%.

---

7. Replace the material on page 14, lines 5-6, as follows:

✓ (a) ~~The application contains information that is materially erroneous or incomplete is incomplete or contains erroneous information.~~

---

✓ 8. Add language as needed to clarify that DFI may deny a license application or revoke, suspend or deny renewal of a license due to delinquency in child support payments or taxes. [Pages 14 and 46]

---

✓ 9. Amend the bill to authorize DFI to revoke, suspend or deny renewal of a license if the licensee has failed to pay required license fees or has failed to maintain in effect the required bond (or insurance, if insurance is allowed in lieu of bond).

---

10. Require a license applicant to provide, along with their application, a "certificate of good standing" from the state in which the business is incorporated.

✓ *Carrie-My notes indicate we all agreed to leave the "resides in this state" language as is.*

---

✓ 11. Delete the language on pg. 7, lines 5-15. Add a new par. (e) on p. 9, after line 23, to specify that the provisions of the draft do not apply to an attorney providing legal services or an accountant providing accounting services. Add, to sub. (3) intro, after "profession" (pg. 7, line 15):

"unless the person or the employee acts with the intent of evading the provisions of this subchapter."

→ see  
new  
instruction

---

✓ 12. Eliminate all references to financial planners.

---

13. On pg. 9, line 12, after "creditors", insert:

✓ "unless the services are provided free of charge with the intent of evading the provisions of this subchapter."

*Carrie- According to my notes, we decided not to cover "bill payer" issues in this memo, and you are going to gather more information. Let me know if that's not what you expected, and if you have any new proposals/thoughts on this topic.*

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✓ 14. On page 11, line 25, delete both occurrences of "material".

---

✓ 15. On page 43, line 12, replace "expenses" with "costs".

16. Delete the definition of "bank" on page 6, lines 14-17, and replace it with a definition of "financial institution". Do not include credit unions in the definition of financial institution.

*Carrie- the next item on your list has to do with the requirement that DFI approve training programs or certifying organizations that certify individuals as counselors. My notes say we were going to look into whether there is any national certification standards related to the new Bankruptcy Act requirements that DFI could piggyback; I found this info, which seems to be what we were looking for: After you open the link, click on National Foundation for Credit Counseling Applauds US Trustees for Setting High Standards in Approval Process. <http://www.nfcc.org/bankruptcy/index.cfm>*

17. On page 33, replace lines 24 to 24 with the following:

✓ "A trust account must at all times have a cash balance equal to or greater than the sum of the positive balances of each individual's account."

*Carrie- my notes say we decided that no change to s. 220.06(1m) is needed because the regulatory provisions of the draft will be placed in ch. 218, which is already referenced in s. 220.06. Also, in reading 220.06(1m), it appears that section applies only to information obtained in the course of an examination. Ch. 220 doesn't provide for examinations of adjustment service companies, nor does the draft provide for examinations of providers of debt management services. So I don't think we need to worry about anything in s. 220.06.*

*As for the info that is exempt from Open Records requirements (Pg. 13. lines 20-23)-- it isn't necessary to add cross-references to ch. 19. Chapter 19's provisions requiring disclosure of records contain the caveat "except as otherwise provided by law" which is sufficient. Other statutes that exempt record from disclosure don't mention ch. 19, so leaving as is is consistent with the rest of the statutes. For example, see s. 146.82, relating to patient health care records.*



WISCONSIN LEGISLATIVE COUNCIL  
STAFF MEMORANDUM

Memo No. 2

TO: MEMBERS OF THE SPECIAL COMMITTEE ON UNIFORM DEBT MANAGEMENT SERVICES

FROM: Mary Mathias, Senior Staff Attorney and Dan Schmidt, Senior Analyst

RE: Proposed Changes to LRB-5042/1, Relating to Adopting the Uniform Act on Debt Management Services, Requested by the Department of Financial Institutions

DATE: November 30, 2006

This memo sets forth proposed changes to LRB-5042/1 that have been requested by the Department of Financial Institutions (DFI), along with a brief explanation of why each change was requested. Representatives from DFI will address the committee at the December 8 meeting to explain and discuss these suggested changes.

1. Repeal s. 218.02 (1) to (8), Stats. Replace those provisions with the provisions of LRB-5042/1 regulating providers of debt management services, renumbered as appropriate. This change will replace the current law regulating "adjustment service companies," in s. 218.02, Stats., with the provisions of the draft creating a new system of regulation of providers of debt management services.
2. Eliminate the repeal of subch. V of ch. 422, Stats. This statutory subchapter regulates credit services organizations. Since the draft does not regulate credit services organizations, the current law regulating those entities should remain intact.
3. Amend the cross-reference in s. 220.02 (2) (b), Stats., to authorize DFI to enforce the newly created provisions regulating providers of debt management services.
4. Throughout the draft, replace references to "registration" to "licensure." Other financial entities regulated by DFI are required to be "licensed" rather than "registered."
5. Eliminate the option for a provider to submit alternatives to a surety bond [page 20, line 15 to page 21, line 9]. DFI has stated that the alternatives permitted under the draft do not guarantee the same level of protection for consumers as a bond.

The draft allows a provider to submit any of the following in lieu of a surety bond:

- A certificate of insurance issued by an insurance company authorized to do business in Wisconsin and rated at least "A," with no deductible.
- An irrevocable letter of credit issued or confirmed by a bank (if approved by DFI).
- ✓ - Bonds or other obligations of the United States, the State of Wisconsin, or a political subdivision of the State of Wisconsin (if approved by DFI).

---

6. Amend the language on page 12, lines 22-25, to clarify that a criminal records check must be conducted on all of the following:

- (a) Every officer of the applicant; and
- (b) Every employee or agent of the applicant who is authorized to have access to the trust account required to be held by the applicant.

✓ DFI is concerned that the language in the draft could be interpreted to mean that the only officers for whom a background check must be conducted are those who have access to the trust account.

---

7. The draft requires an application for registration to include "the name and home address of each officer and director of the applicant and each person that owns at least 10% of the applicant" [page 10, lines 18 and 19]. Require, in addition, submission of the following:

- (a) The title of each officer and director of the applicant; and
- ✓ (b) A statement of the percentage of ownership that each officer and director has in the applicant.

DFI has stated that they currently require this information to be included in an application under the current law regulating adjustment service companies.

---

8. Amend the material on page 14, lines 5-6, as follows:

- ✓ (a) The application contains information that is materially erroneous or incomplete is incomplete or contains erroneous information.

DFI has stated that the current language is unclear and that requiring DFI to prove that erroneous information provided in an application is "materially" erroneous will hamper its enforcement of the law.

✓ 9. Add language as needed to clarify that DFI may deny a license application or revoke, suspend, or deny renewal of a license due to delinquency in child support payments or taxes. DFI has this authority under the current law regulating adjustment service companies and the draft was intended to include this authority. Due to a drafting error, additional language is needed to clarify that DFI has this authority.

---

10. Amend the bill to specifically authorize DFI to revoke, suspend, or deny renewal of a license if the licensee has failed to pay required license fees or has failed to maintain in effect the required bond (or bond alternative, if one is allowed).

DFI has this authority under the current law regulating adjustment service companies. The draft provides this authority in the provision that authorizes DFI to suspend, revoke, or deny renewal of a registration if "a fact or condition exists that, if it had existed when the registrant applied for registration as a provider, would have been a reason for denying registration." However, DFI has stated that adding a specific provision will facilitate enforcement of the bond and fee requirements.

11. Require a license applicant to provide, along with their application, a "certificate of good standing" from the state in which the business is incorporated. *→ corps & Limited liab cos*

12. Delete the language on page 7, lines 5-15. Create new pars. (e) and (f) on page 9, after line 23, to specify that the provisions of the draft do not apply to the following:

(e) An attorney licensed or otherwise authorized to practice law in this state providing legal services in an attorney-client relationship; or

(f) A certified public accountant licensed to provide accounting services in this state providing accounting services in an accountant-client relationship.

These changes will move material identifying practices that are exempt from regulation under the Act from their current location within the definition of "debt-management services" and place it more appropriately in the section of the draft entitled "Exempt agreements and persons."

This change also deletes the reference to financial planners on page 7, lines 9-15. Under the draft, financial planners who are licensed by the state are exempt from regulation as providers of debt management services. DFI has stated that financial planners are not licensed under Wisconsin law, nor is the term "financial planner" defined in the statutes. Therefore, this exemption has no effect in Wisconsin and could create confusion.

13. Add, to sub. (3) (intro.), after "profession" (page 9, line 15), insert:

"unless the person or the employee acts with the intent of evading the provisions of this subchapter."

This language addresses DFI's concern that the exemptions for persons engaged in certain professions are too broad. This language clarifies that the exemption does not apply if a person acts with the intention of avoiding regulation under the Act.

14. On page 9, line 12, after "creditors," insert:

"unless the services are provided free of charge with the intent of evading the provisions of this subchapter."

*add incorporated  
debt mgmt  
add to  
(d), (e), (f)*

*applies only to (d) (e) (f) NOT TO other paragraphs*

This language addresses DFI's concern that a person might attempt to avoid regulation by providing debt management services for "free" while charging a correspondingly higher fee for another related service.

15. On page 11, line 25, delete both occurrences of "material."

The draft requires an applicant for licensure to provide a statement describing any "material" civil or criminal judgment or litigation and any "material" administrative or enforcement action against the applicant, any of its officers, directors, owners, or agents, or any person who is authorized to have access to the trust account.

As written, the draft allows the applicant to determine whether a civil or criminal judgment or litigation or an administrative or enforcement action against it is "material." If the applicant believes it is not material, the applicant does not have to provide information about that judgment or litigation or administrative or enforcement action to DFI. Removing "material" will require an applicant to provide information on all civil or criminal judgments or litigation and all administrative or enforcement action against the applicant, any of its officers, directors, owners, or agents, or any person who is authorized to have access to the trust account.

16. On page 43, line 12, replace "expenses" with "costs."

The term "costs" rather than "expenses" is used in other statutes administered by DFI. This change will provide consistency with those statutes.

17. Delete the term "bank" on page 6, lines 14-17, and replace it with the term "financial institution." The term "bank" is generally used more narrowly in the statutes, and defining it in this broad manner could cause confusion.

18. On page 33, replace lines 24 to 25 with the following:

"A trust account must at all times have a cash balance equal to or greater than the sum of the positive balances of each individual's account."

DFI is concerned that if negative balances are allowed to be counted with positive balances, the trust account could be underfunded. This language ensures that only positive balances may be counted.

MM:DWS:wu

**Kunkel, Mark**

---

**From:** Templeton, Carrie E - DFI  
**Sent:** Monday, December 18, 2006 12:51 PM  
**To:** Matthias, Mary; Green, Chris N - DFI; Templeton, Carrie E - DFI  
**Cc:** Schmidt, Dan; Kunkel, Mark  
**Subject:** RE: "material" language

Hi Mary-

We prefer your suggested language with one small addition. We currently ask questions about relevant pending charges, actions, and suits/claims-we would like to be able to continue to ask regarding those pending cases as well.

Thank you.

Carrie

*Carrie Templeton*

*Department of Financial Institutions*

*(608) 264-7800*

*carrie.templeton@dfi.state.wi.us*

-----Original Message-----

**From:** Matthias, Mary [mailto:Mary.Matthias@legis.wisconsin.gov]  
**Sent:** Friday, December 15, 2006 9:35 AM  
**To:** Green, Chris N - DFI; Templeton, Carrie E - DFI  
**Cc:** Schmidt, Dan; Kunkel, Mark  
**Subject:** "material" language

Chris and Carrie:

We met with Mark Kunkel (the drafter) this week and want to clarify the language that will be added on page 11, in lieu of deleting the two occurrences of "material".

Dan's notes indicate that he suggested the following language during the meeting:

Pg. 11, line 25, delete the material beginning with "any" and ending with "agency" on pg. 12, line 1 and insert the following:

"all convictions, all actions by a licensing agency and all judgments relevant to the provision of debt management services"

Please let me know if this language is ok. I think it might be little vague in some respects. For example, Dan thought you wanted info on all criminal convictions, not just those convictions that are relevant to the provision of debt management

12/19/2006



services. I think it's unclear as drafted above whether the final clause modifies the language on convictions or just the language on judgments. I think it might be better to draft with the following format and then you can let us know how you want each item modified or otherwise changed:

(6) A statement describing, to the extent it is known or should be known by the applicant, with respect to the applicant, any of its officers, directors, owners or agents, or any person who is authorized to have access to the trust account required by s. 422.522, all of the following:

- (a) all criminal convictions
- (b) all actions by a licensing agency
- (c) all judgments relevant to the provision of debt management services

Thanks--

Mary

ASC - shd be replaced  
CSOs - shd be maintained



State of Wisconsin  
Department of Financial Institutions

Jim Doyle, Governor

Lorrie Keating Heinemann, Secretary

November 1, 2006

To: Dan Schmidt and Mary Matthias, Legislative Council  
Mark Kunkel, Legislative Reference Bureau

From: Carrie Templeton, Executive Assistant

Thank you for giving the Department of Financial Institutions (DFI) the opportunity to provide information on technical changes we believe should be made to draft LRB-5042 before it is redrafted and approved by the Legislative Council Study Committee on Uniform Debt Management Services.

These technical amendment suggestions are based on DFI's experience regulating and enforcing our current statutes related to "adjustment service companies", which these entities are titled under current law. DFI's Division of Banking, Licensed Financial Services Bureau, enforces these statutes.

The changes we request below fall into these categories: consistency of terms used and placement within current statutes, licensure requirements, potential loophole elimination, enforcement issues, and general clarifications.

**(A) Consistency of terms used and placement within current statutes**

- ① Debt management services regulation should be placed in *Wisconsin State Statute* Chapter 218, with cross-references for enforcement in Chapter 220, rather than in Chapter 422, the Wisconsin Consumer Act. The new legislation would replace the current adjustment service company statutes, which are found in Chapter 218 and enforced by the Division of Banking with the authority granted to the Division by Chapter 220.
- ② Retain the current provisions of Chapter 422 of the Wisconsin Consumer Act, including the credit service organization statute, which is repealed in the draft.
- ③ Replace references to "registration" requirements with "licensure" requirements to ensure consistency across Banking statutes and to more accurately reflect that a license will be obtained in order to conduct this business in our state.
- ④ Require all applicants to submit a bond rather than provide the option of a certificate of insurance. (Page 20) We have found that an insurance policy can be difficult to obtain in these amounts for other licensees and does not guarantee the same level of protection for consumers as a bond. Also, it is unclear to us what a "certificate of insurance" is and how it is different from the "evidence of insurance" required on page 10.
- ⑤ Language providing for the privacy protection of sensitive consumer financial information should be considered. Current law and the draft do not address how the personal information of the consumer should be handled, shared or stored.

**(B) Licensure requirements**

- ① Rework language found on page 12, lines 22-25 to state that a check should be performed on all employees who have access to the trust account and officers of the company. This will provide for a check on all officers, not just those who have access to the trust account. Would a drafter's note be sufficient to show intent?
- ② In addition to requiring the name and home address of each officer and director of the applicant, DFI would like the title of each and percentage of ownership in the company. We request this information under current law. (Page 11, lines 18-19)
- ③ Clarify the language regarding denial of license application due to the submission of an incomplete application or an application with erroneous information. (Page 14, lines 5-6) We would suggest alternate language: "The application is incomplete or contains information that is erroneous or incomplete."

Cover it less than 10%

Office of the Secretary

Mail: PO Box 8861 Madison, WI 53708-8861

Voice: (608) 264-7800

Fax: (608) 261-4DFI

Courier: 345 W. Washington Ave. 5<sup>th</sup> Floor Madison, WI 53703

TTY: (608) 266-8818

Internet: www.wdfi.org

See p. 9.2  
218.04 (3) (4) (am) 2.5

- 4. On pages 14 and 46 add language that the application can be denied or license revoked if the applicant or licensee has any outstanding child support debt due to DWD or taxes due to DOR. This provision is in current law.
- 5. Also on page 46 add language that a license can be revoked, suspended or denied if the bond/insurance is cancelled.
- 6. Require a certificate of good standing from the business' home state. (Page 11, lines 3-4)

See 218.02 (b)(a) 1. - fees & bond

**C Potential loophole elimination**

- 1. Remove language "resides in this state" (Page 9, Lines 3-10). Licensee has information to know where customer resides. There is a UDMSA comment (p 15) which says "Section 19(1)(3) requires the agreement between a provider and an individual to state the individual's address. If the individual supplies an address outside this state, the provider may have no reason to know that the individual is residing in this state at the time of the agreement." This UDMSA language would be acceptable to us.
- 2. Clarify in the bill that debt management services must be incidental to the listed services (legal, accounting, and financial planning) in order for those respective providers to be exempt from licensure. Otherwise, the exemption is blanket.
- 3. Financial planners (Page 7, Lines 9-15). The exemption for financial planners should be removed or a definition of financial planners would have to be created as they are not regulated by the state. Entities could attempt to escape regulation by claiming they are "financial planners".
- 4. Remove lines 11-12 on page 9 because an entity could avoid regulation by providing debt management services for free, but charging high fees for another related service. Perhaps some type of "engaged in the business of" language could replace this section to avoid including a person who is "helping a relative for free" in the definition of a debt management provider.
- 5. Remove bill payer exemption (Page 9, Lines 21-23) for same reasons as two above points.
- 6. Bill payers would also be exempt from regulation based on language found on Page 6, Line 24 because they do not reduce the terms of the debt for the consumer. DFI believes bill payers should be licensed under this statute to ensure ethical individuals are handling personal financial information responsibly.

**D Enforcement issues**

- 1. Remove the word "material" found twice on page 11, line 25.
- 2. Restore criminal penalty provisions currently found in Chapter 218 by recreating the cross references to ss. 218.02(9) and (10).
- 3. To assist us in recouping costs associated with an investigation of a licensee, replace the word "expenses" with "costs", which is what is in current law. (Page 43, line 12)

does WI law general have a "material" limit -

**E General clarifications**

- 1. Create a "financial institution" definition rather than a "bank definition". Under the current draft a bank is defined to include a credit union. (Page 6, Lines 14-17)
- 2. DFI is required under the draft to approve training programs and/or certifying organizations for credit counselors. DFI does not have the knowledge necessary to implement this provision. (Page 6, Lines 20-23)
- 3. On page 33, lines 24 and 25, suggest clarifying by substituting "A trust account must at all times have a cash balance equal to or greater than the sum of the positive balances of each individual's account." If "negative balances" are allowed to be counted with positive balances, the trust account could be underfunded.
- 4. Open records issues.
  - o If applicant information is to be exempt from open records requirements, should the statutes explicitly state this by providing a reference to Chapter 19? (Page 13, Lines 20-23)
  - o Clarification as to what is to be disclosed should be added to ss. 220.06 (1) (m).

NO problem if move to ch. 218

# RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: MDK) (Date: 11 / 28 / 06)



Please transfer the drafting file for

2005 LRB -5042 to the drafting file

for 2007 LRB -0917

The final version of the 2005 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2005 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

For research purposes, because the 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

**-- OR --**

Please copy the drafting file for

2007 LRB / one (include the version) and place it in the

drafting file for 2007 LRB

For research purposes, because the original 2007 draft was incorporated into another 2007 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

The original drafting file will then be returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.