

**Notice of Hearing  
Financial Institutions  
CR 1\_ - \_\_**

NOTICE IS HEREBY GIVEN that the Wisconsin Department of Financial Institutions will hold a public hearing on a proposed rule to amend ss. DFI—Bkg 75.01(3), 75.02(intro), 75.03(3) and (3)(c), 75.05(4), 75.06(2), 75.07(a), 75.08(4) and (4)(b), and 75.09(3)(a)3.; create ss. 75.01(9), 75.03(5), (6) and (7), 75.06(5) and 75.08(d); repeal ss. 75.02(1) and (2), and 75.10(6); and repeal and recreate s. 75.08(1) relating to payday lending.

**Hearing Information**

Date: October 1, 2012  
Time: 10:00 a.m.  
Location: Department of Financial Institutions  
345 W. Washington Avenue, 5<sup>th</sup> Floor  
Madison, WI 53703

**Accessibility**

If you need accommodations because of a disability, or need an interpreter or translator, at least one week prior to the hearing contact Eric Knight, Department of Financial Institutions, Office of the Secretary, 345 W. Washington Avenue, Madison, WI 53703, tel. (608) 267-1718, e-mail [eric.knight@wisconsin.gov](mailto:eric.knight@wisconsin.gov). Alternately hearing impaired callers may contact the DFI TTY at (608) 266-8818. The hearing facility is handicap accessible.

**Copies of the Rule and Fiscal Estimate**

A copy of the rule, fiscal estimate and related rule documents may be obtained at no charge from the department's website, [www.wdfi.org](http://www.wdfi.org); the Wisconsin Administrative Rules Website, <http://adminrules.wisconsin.gov>; or by contacting Eric Knight, Department of Financial Institutions, Office of the Secretary, 345 W. Washington Avenue, Madison, WI 53703, tel. (608) 267-1718, e-mail [eric.knight@wisconsin.gov](mailto:eric.knight@wisconsin.gov).

**Submitting Comments on the Rule**

Written comments on the rule should be submitted to Eric Knight, Department of Financial Institutions, Office of the Secretary, 345 W. Washington Avenue, Madison, WI 53703, e-mail [eric.knight@wisconsin.gov](mailto:eric.knight@wisconsin.gov). Comments may also be submitted through the Wisconsin Administrative Rule Website, <http://adminrules.wisconsin.gov>. The deadline for submitting comments is 4:30 p.m. on the 14<sup>th</sup> day after the date for the hearing.

**Analysis Prepared by the  
Department of Financial Institutions, Division of Banking**

**Statutes interpreted**

Section 138.14, Stats.

## **Statutory authority and explanation of statutory authority**

The statutory authorities for the rule are the following:

Section 138.14(8)(b), Stats., which states that “[t]he division may promulgate such rules as it considers necessary for the administration of this section, including rules establishing database transaction fees under sub. (14)(h) and other fees considered reasonable and necessary by the division,” and

Section 138.14(14)(h), Stats., which states that “[t]he division shall, by order or rule, specify a database transaction fee of no more than \$1 that the database provider shall charge to licensees to cover the costs of developing and implementing the database, and accessing the database to verify that a customer does not have any payday loans with the licensee or others that in combination with a new transaction will create a violation of this section.”

### **Related statutes or rules**

Section 138.09, Stats.

### **Plain language analysis**

As a result of the passage of 2011 Wisconsin Act 32, changes to the existing payday lending rule are necessary to address conflicts that may exist between the current law and the existing rule.

A further objective is to provide clarity and direction for lenders making payday loans, as well as create clear guidance for the Department of Financial Institutions (“DFI”), which is charged with enforcing s. 138.14, Stats.

### **Summary of and comparison with existing or proposed federal regulations**

DFI is aware that the Consumer Financial Protection Bureau intends to focus some of its resources on payday lending, but is unaware of any currently proposed regulation or rule.

### **Comparison with rules in adjacent states**

An internet-based search of payday lending regulations for the states of Illinois, Iowa, Michigan and Minnesota found the following:

All four states now regulate payday lending.

Illinois has an extensive number of payday lending rules including rules covering topics such as: loan terms, a certified database method of verification and gross monthly income verification.

Iowa has no applicable rules at this time.

Michigan has a limited number of payday lending rules. An internet search of rules for Michigan finds their rules focus on definitions in regards to a database.

Minnesota has a limited number of rules regarding licensed regulated lenders, which may include payday lenders. Their rules cover the following topics: licensed office, maximum loan applies to multiple offices, licensees to be responsible for acts of assignees, management and control, transferred accounts, and computing date and time.

### **Summary of factual data and analytical methodologies**

In developing these rules, the department reviewed payday lending laws in states across the country. The department is engaged in outreach with payday lenders and consumer organizations to gather input. Because the department regulates licensed financial services for the state, the division could rely on extensive staff expertise and experience in drafting regulations for these entities.

### **Analysis and supporting documents used to determine effect on small business**

The division anticipates that any economic impact of implementing the rule would be minimal. The rule provides clarity to the payday lending industry with clear definitions and requirements which now must be made as the result of 2011 Wisconsin Act 32. Overall the requirements of this rule are straight-forward for ease in compliance.

### **Effect on small business**

The proposed rule may require payday lenders to make minor changes to websites and/or forms. The agency's experience in making similar changes to DFI's website or forms indicates that the cost of making such changes is minimal.

### **Summary of Fiscal Estimate and Economic Impact Analysis**

The division of banking anticipates that any economic impact of implementing the rule would be minimal. The proposed rule may require payday lenders to make minor changes to websites and/or forms. The agency's experience in making similar changes to the Department's website or forms indicates that the cost of making such changes is minimal.

### **Small Business Regulatory Coordinator**

The agency's small business regulatory coordinator is Eric Knight, tel. (608) 267-1718, e-mail [eric.knight@wisconsin.gov](mailto:eric.knight@wisconsin.gov).