

## Chapter DFI-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**Note:** Chapter Bkg 76 as it existed on May 31, 1980 was repealed and a new chapter Bkg 76 was created effective June 1, 1980. Chapter Bkg 76 was renumbered Chapter DFI-Bkg 76 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498, eff. 7-1-97.

**DFI-Bkg 76.001 Definitions.** In this chapter:

- (1) "Applicant" means an applicant for a license as a sales finance company under s. 218.0114, Stats., other than a motor vehicle dealer within the meaning of s. 218.0101 (23), Stats.
- (2) "Business license" means a license issued by the division of banking under ch. 218, Stats., to a motor vehicle dealer.
- (3) "Division" means the division of banking.
- (4) "Initial license" means a license issued to a person or business who does not have such a license at the time of application.
- (5) "Licensee" means a holder of a sales finance company license issued under s. 218.0114, Stats., other than a motor vehicle dealer within the meaning of s. 218.0101 (23), Stats.
- (6) "Nationwide multistate licensing system and registry" or "NMLS" means the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the State Regulatory Registry, LLC or any successor or affiliate entity, for the licensing and registration of persons in financial services industries.
- (7) "Reinstatement period" means the period beginning January 1 and ending on the last day of February, or such other period prescribed by the division.
- (8) "Renewal license" means a license issued to a person or business who has such license at the time of application.
- (9) "Renewal period" means the period beginning November 1 and ending December 31, or such other period prescribed by the division.
- (10) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLS.

**History:** CR 22-020: cr. Register May 2023 No. 809, eff. 9-1-23.

**DFI-Bkg 76.01 Finance charge, definition, disclosure.** (1) 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. To the extent that any charge qualifies as an additional charge under this regulation it may be excluded from the finance charge.

(2) With the exception of s. DFI-Bkg 76.05, this chapter shall apply solely to consumer credit transactions as defined under s. 421.301 (10), Stats.

**History:** Cr. Register, March, 1980, No. 291, eff. 6-1-80; renum. to be (1) and am. and cr. (2), Register, November, 1996, No. 491, eff. 12-1-96.

**DFI-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 division of banking thereunder.

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

**History:** Cr. Register, March, 1980, No. 291, eff. 6-1-80; am. (2), Register, July, 1983, No. 331, eff. 8-1-83; r. (2), Register, November, 1996, No. 491, eff. 12-1-96; 2013 Wis. Act 136: am. Register March 2014 No. 699, eff. 4-1-14.

**DFI-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.

**History:** Cr. Register, March, 1980, No. 291, eff. 6-1-80; am. (4), Register, November, 1996, No. 491, eff. 12-1-96.

**DFI-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.

**DFI-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 provisions of s. DFI-Bkg 76.04, except that for the purposes of computing this amount no minimum finance charge shall be allowed in consumer credit transactions.

**History:** Cr. Register, March, 1980, No. 291, eff. 6-1-80; correction made under s. 13.93 (2m) (b) 7., Stats., Register June 2004 No. 582; 2013 Wis. Act 136: am. Register March 2014 No. 699, eff. 4-1-14.

**DFI-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. DFI-Bkg 76.04, except that for the purposes of computing that amount no minimum finance charge shall be allowed in consumer credit transactions.

**History:** Cr. Register, March, 1980, No. 291, eff. 6-1-80; correction made under s. 13.93 (2m) (b) 7., Stats., Register June 2004 No. 582; 2013 Wis. Act 136: am. Register March 2014 No. 699, eff. 4-1-14.

**DFI-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. DFI-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 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 record shall include:

- 1. Date account is paid in full.
- 2. Whether the account 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; 2013 Wis. Act 136: am. (2) (intro.), (b) (intro.) Register March 2014 No. 699, eff. 4-1-14.

**DFI-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.

**DFI-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 division of banking 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
April 1	March 31	dates are in the
June 1	May 31	second year after
August 1	July 31	the date when
October 1	September 30	the license was
December 1	November 30	issued.

(b) *Initial licenses.* The division of banking may issue initial 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 2 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) LICENSES RUN CONCURRENTLY. A motor vehicle 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; 2013 Wis. Act 136: am. (1) (a) (intro.), (b) (intro.), (2) Register March 2014 No. 699, eff. 4-1-14.

**DFI-Bkg 76.13 License fees.** (1) The division of banking shall collect fees based on the statutory formulas described in s. 218.0114 (15), 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. 218.0114 (16), Stats.

(2) When the division of banking 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; corrections in (1) made under s. 13.93 (2m) (b) 7., Stats., Register June 2004 No. 582; 2013 Wis. Act 136: am. Register March 2014 No. 699, eff. 4-1-14.

**DFI-Bkg 76.14 Nationwide Multistate Licensing System and Registry.** (1) PARTICIPATION. (a) The division shall utilize the NMLS with respect to applicants and licensees. The division may establish relationships or contracts with the NMLS or other entities designated by the NMLS to collect and maintain records and process transaction fees or other fees. With respect to any form, fee, or other information required to be submitted to the division by an applicant or licensee, the division may require the applicant or licensee to submit such form, fee, or other information directly to the NMLS.

(b) Each applicant and licensee shall register with, and maintain a valid unique identifier issued by, the NMLS.

(c) The division may require an applicant or licensee to provide to the NMLS any information that the division determines to be relevant to the application or to any responsibility administered or conducted through the NMLS that is related to the licensed activity.

(d) The division may require an applicant or licensee, or an individual with the power to direct the management or policies of the applicant or licensee, to submit an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, fingerprints, or any other personal or professional history information deemed necessary by the division. The division may require fingerprints for the purposes of identifying the individual and to determine whether the individual has a record of warrants, arrests, or convictions in any jurisdiction. Fingerprints may be submitted, directly or as provided in sub. (2), to the federal bureau of investigation and any government agency or entity authorized to receive this information for a state and national criminal history record check.

(e) The division may rely on the NMLS to establish any dates relating to application or reporting deadlines for applicants and licensees, to establish requirements for amending or surrendering licenses, or to establish any other requirements applicable to

applicants and licensees to the extent the requirements are a condition of the state's participation in the NMLS.

(f) Applicants and licensees are responsible for any service, access, or other fees charged by the NMLS for use of the system. Whenever the division requires fingerprinting, an independent credit report from a consumer reporting agency, an investigative background report prepared by an independent search firm, or any other information in connection with an application or other filing, any associated costs shall be paid by the applicant or the parties to the application.

(2) CHANNELING INFORMATION. To reduce the points of contact that the division may have to maintain, and to facilitate compliance with any requirement that an applicant provide identity information, including social security number or federal employer identification number, fingerprints, credit reports, or other personal history, the division may use the NMLS as a channeling agent for requesting and distributing information to and from any source so directed by the division, including the federal bureau of investigation, any state or federal department of justice, or any other governmental agency.

(3) CONFIDENTIAL INFORMATION. (a) If any information or material is considered confidential or privileged under federal or state law before it is provided or disclosed to the NMLS, it shall continue to be confidential or privileged after it is provided or disclosed to, and while maintained by, the NMLS, except to the extent federal or state law expressly provides otherwise and except as provided in par. (c). Confidential or privileged information or material under this paragraph is not subject to any of the following:

1. Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of federal or state government.

2. Subpoena or discovery, or admission into evidence, in any private civil action or administrative proceeding, unless the person to whom the information or material pertains waives any right or protection of confidentiality or privilege in the information or material.

(b) Confidential or privileged information or material under par. (a) may be shared with any state or federal regulatory agency having supervisory authority over activities governed by ch. 218, subch. I, Stats., without losing any right or protection of confidentiality or privilege under federal or state law.

(c) This subsection does not prohibit the NMLS from providing public access to information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, licensees.

(4) COOPERATIVE ARRANGEMENTS. The division may enter into cooperative, coordinating, or information-sharing arrangements or agreements with other governmental agencies or with associations representing other governmental agencies, including the Conference of State Bank Supervisors, subject to the requirements of s. 220.06, Stats.

History: CR 22-020: cr. Register May 2023 No. 809, eff. 9-1-23.

**DFI-Bkg 76.15 Changes to information.** A licensee shall keep current and accurate all material information on file with the division and the NMLS. If the information changes in any material respect, the licensee shall notify the division and the NMLS of the change within 10 days after the change.

History: CR 22-020: cr. Register May 2023 No. 809, eff. 9-1-23.

**DFI-Bkg 76.16 License renewal and reinstatement.** (1) During the renewal period, a licensee may seek to renew a license by submitting all fees owed to the division or the NMLS, along with any additional documentation required by the division or applicable law, through the NMLS or in such other manner as directed by the division.

(2) During the reinstatement period, a licensee may reinstate a license by submitting all the items in sub. (1), plus an additional non-refundable fee of \$100, through the NMLS or in such other manner as directed by the division.

**History:** CR 22-020: cr. Register May 2023 No. 809, eff. 9-1-23.