

Report From Agency

STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS

RULE REPORT TO THE LEGISLATURE
Clearinghouse Rule 23-039

Relating to authorizing the use of mobile and intermittent branches by state banks, eliminating obsolete provisions, correcting cross-references, eliminating rules that conflict with statutes, correcting errors, modifying the structure of existing rules in non-substantive ways, and clarifying rules governing collection agencies chs. DFI- Bkg 1-78, DFI-SL 1-22, DFI-SB 1-22, and DFI-WCA 1 of Wisconsin Administrative Code.

Attached: Proposed rule, fiscal estimate and economic impact analysis, and Clearinghouse report to agency.

Governor's approval: The governor approved this rule on October 26, 2023.

Basis and purpose of the proposed rule: The Department of Financial Institutions, Division of Banking, proposes an order to revise chs. DFI-Bkg 1-78, DFI-SL 1-22, DFI-SB 1-22, and DFI-WCA 1.

The proposed rule order seeks to amend rules administered by the Division in 3 primary respects: 1) by modifying DFI-Bkg 8.01 (1) to allow state banks to offer services through attended mobile or intermittent branches, subject to the approval of the Division; 2) by updating certain rules governing collection agencies, which are licensed by the Division, to reflect changes in industry practices during the 16 years since the existing rules were enacted; and 3) by making non-substantive revisions to rules administered by the Division to keep up to date with current law and drafting practices.

To accomplish the modifications listed above, the proposed rule would make a number of changes, including the following:

- 1) Regarding the first item, allowing state banks to offer services to attended mobile or intermittent branches will enable banks to extend services to Wisconsinites in areas that may be underbanked and whose residents may be underserved, and to areas where permanent branches may not be feasible. Authorizing such branches also helps state banks maintain parity with national banks (which are authorized to operate mobile and intermittent branches), and state savings banks, state savings and loan associations, and state credit unions (which are not subject to rules limiting their branches to "permanent" locations).

- 2) Regarding the second item, the proposed rules would clarify the meaning of the term “actual process of collection;” specify that a “terminated license” includes any license that has expired or been surrendered or revoked; clarify that a licensee’s trust checking account must be identified as a “trust account;” restrict third-party payment processors from withdrawing funds from a trust account; clarify that a collection agency may charge a contracted fee for reasonable costs incurred for each account placed in error by the creditor that is returned to the creditor.
- 3) Regarding the non-substantive changes, the proposed modifications include the following:
 - a. Eliminating obsolete rules identified by staff or in the rules report required under WIS. STAT., s. 227.29 (1) (c), or rules that conflict with other state or federal rules or statutes as provided under WIS. STAT. s. 227.29 (1) (d).
 - b. Correcting erroneous cross-references to other state or federal rules or statutes.
 - c. Modifying the structure of existing rules in non-substantive ways to ensure that the rules are drafted to be substantially in the form and style used by the legislative reference bureau, and consistent with the manual prepared by the bureau and the legislative council staff, as provided in WIS. STAT., ss. 227.14 (1) and 227.15 (7).

Summary of comments, agency’s response, and explanation of any modifications as a result of comments or testimony:

The Department received one written comment, which was electronic. The DFI received written comments from the Wisconsin Bankers Association (WBA) in support of the Scope Statement, SS 082-22. WBA wrote that it is the largest financial trade association in Wisconsin, representing nearly 200 state and nationally chartered banks, and expressed its support of DFI updating a number of administrative rules provisions, including Wis. Admin. Code DFI-Bkg 8 to allow mobile and intermittent branches, DFI-Bkg 11 to accommodate the filing of papers electronically for procedures before the Administrator of the Division, and DFI-Bkg 14 to permit a customer to decline to receive a written document from a customer bank communications terminal. The WBA concluded that the "proposed rule provides necessary changes to accommodate changes in technology and industry practices since the rule were first enacted, without harming consumers", and provides parity with other bank and credit union charters to serve rural and underserved areas where a permanent branch is not viable.

The agency appreciates the WBA’s support for the rule.

Persons appearing or registering for or against the rule at hearing:

No persons registered for or against the rule at the hearing, and no member of the public appeared at the (Microsoft Teams) public hearing.

Changes to analysis or fiscal estimate: None.

Response to legislative council recommendations: Nearly all of the non-substantive recommendations were adopted and other questions or concerns raised by the Council were either addressed in the draft or by staff verifying that the concern raised by the Council was not an issue.

Final regulatory flexibility analysis, changes to energy impact report, housing impact analysis, and response to any report prepared by the SBRRB: Not applicable.