



City of Milwaukee

Meeting Agenda

City Hall
200 East Wells Street
Milwaukee, WI 53202

CONVENIENT LENDING TASK FORCE

ALD. JOE DAVIS, Chair

**Ald. Terry Witkowski, Vice-Chair, Chris Callen, Kathryn Crumpton, Dorothy Dean,
Dimitri Jordan. Anna Ruzinski, Bethany Sanchez, Jim Walrath, Bobbie Webber Jr.**

Staff Assistant: Diana Morgan, 286-2231, Fax: 286-3456

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File Specialist: Charlotte Rodriguez, 286-8797

E-mail crodr@milwaukee.gov

Friday, February 3, 2006

9:00 AM

Room 301B, City Hall

- 1) **Approval of the minutes of the December 2, 2005 meeting**
- 2) **Review of Draft Recommendations**
- 3) **Public Comments**
- 4) **Next meeting date, time and agenda**



City of Milwaukee Meeting Minutes

City Hall
200 East Wells Street
Milwaukee, WI 53202

CONVENIENT LENDING TASK FORCE

ALD. JOE DAVIS, Chair

Ald. Terry Witkowski, Vice-Chair, Chris Callen, Kathryn Crumpton, Dorothy Dean, Dimitri Jordan, Anna Ruzinski, Bethany Sanchez, Jim Walrath, Bobbie Webber Jr.

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*File Specialist: Charlotte Rodriguez, 286-8797
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Friday, December 2, 2005

9:00 AM

Room 301-A, City Hall

Meeting Convened: 9:24 AM

Members Present: Ald. Davis, Ald. Witkowski, Ms. Dean, Deputy Inspector Ruzinski, Mr. Walrath and Ms. Crumpton.

Members Excused: Mr. Callen, Mr. Jordan, Ms. Sanchez and Mr. Webber Jr.

1) Review and approval of the minutes of the October 14, 2005 and November 10, 2005 meetings.

Motion by Ms. Dean to amend the minutes of the October 14, 2005 meeting.

Prevailed. 6-0

Motion by Deputy Inspector Ruzinski to approve the minutes of the October 14, 2005 as amended. Seconded by Ms. Dean.

Prevailed. 6-0

Motion by Mr. Walrath to approve the minutes of the November 10, 2005 meeting. Seconded by Ald. Witkowski.

Prevailed. 6-0

2) Discussion of proposed goals and objectives of the Convenient Lending Task Force.

Review of Objectives set forth by the Convenient Lending Task Force.

Jeff Osterman, Legislative Fiscal Analyst, Legislative Reference Bureau, recommended the following draft outline for the table of contents to be included in the final recommendations of the task force:

I. Introduction of the task force, summarizing its mission in accordance with the common council file that created the task force, also describing the issues the task

force was created to review with final report and recommendations.

II. Summary of Task Force recommendations. The beginning of this item would include a summary of the the overall report, with detailed recommendations at the end of the report.

III. Definitions of the types of businesses discussed in the report, which would be taken from the cities zoning code.

IV. Map showing the distribution of convenient lending businesses in the city.

V. More descriptive information about the convenient lending industry, such as business practices, ie. interest rates, loan terms and data on customer base, based upon the articles and reports submitted by task force members.

VI. Data on crime in the vicinity of convenient lending establishments, based upon maps and tables provided by Deputy Inspector Ruzinski.

VII. Review of existing regulations for convenient lending establishments, including unsuccessful past attempts to create legislation at the state and city levels. This would also include review of regulations of communities across the nation.

VIII. Review of City Attorney Opinions on proposed convenient lending legislation, to determine the constraints the task force faces as they make their recommendations for legislation.

The final section would include the recommendations as set forth by the task force, divided into three sections; city legislation, state legislation and non-legislative recommendations such as consumer education related to alternatives to payday lending.

Mr. Osterman informed members that supporting documentation would be referred to appendices or attachments which will be included in the final recommendations.

Ald. Davis advised members that one of the objectives is that the final recommendations should allow analyzation that would help determine whether legislation is warranted.

Based upon regulatory information received from M & I Bank, Deputy Inspector Ruzinski addressed members regarding safety regulations relative to convenient lending establishments. She advised members that convenient lending establishments are not required to have federal insurance and thus are not governed under safety regulations. This provided a clear explanation of why mainstream lenders are required to have certain security such as cameras and certain types of vaults, all based upon the federal insurance on their money.

She also recommend review city ordinance that govern particular regulations, such a recent city ordinance requiring retail establishments to purchase security cameras after approximately 3 robberies.

Ald. Davis followed up on this topic by expressing the reluctance of various business owners protect their interest by investing in security cameras. In addition many business owners will equipment their establishment with bullet proof glass, believing that the glass would provide the ultimate safety, with little consideration for the safety of their customers.

Deputy Inspector Ruzinski advised members that there is an ordinance that specifies that if an establishment has the bullet proof glass they are not required to have security cameras.

Ms. Dean addressed members regarding DFI regulations. In addition she wanted to clarify the difference between Legislation, regulations and ordinances. She advised members that based upon her research, there were various things that DFI could do within the existing charter and state laws, however those things are not being implemented. Ms. Dean continued that there may be many reasons for this. Members were also advised that during the course of the task force's research they may find regulations that are not being enforced, that don't require state legislation or city legislation, that may simply require someone ask why its not being done.

Mr. Walrath recommended that the draft copy of table of contents be setup to so that additional sections could be added between items VI and VII picking up the theme in item VI of public safety issues, with another section detailing other neighborhood impact issues related to convenient lending establishments.

He also suggested that under item VIII (b) relative to state legislation, there be two possible sub-categories. One that would allow possible consumer legislation containing proposed amendments to the Wisconsin consumer. The other enabling legislation by the state that would permit Milwaukee or other municipalities to get more involved in regulating convenient lending establishments.

Deputy Inspector Ruzinski recommended that an item VIII (c) be added under public safety to provided an analysis of the maps included in the final recommendation. She advised that she would be willing to work Mr. Osterman to develop this data.

Mr. Osterman advised members that has included a section in the table of contents to allow for analysis of the impacts of convenient lending establishments, however he has not found solid data to support this area.

Ms. Dean requested review of a specific convenient lending establishment located on Capitol and Humboldt on the southwest corner for the purpose of determining the number of automobile accidents that result due to inappropriate parking. She added that overall data relative accidents that occur around convenient lending establishments might also provide useful data.

Motion by Deputy Inspector Ruzinski to accept the recommend outline as amended.
Seconded by Ms. Dean.

Prevailed. 6-0.

A formulization of research by members for the next meeting is as follows:

- I. Completed (overview of how things are created).
- II. Table pending data
- III. Self explanatory (related to DFI).
- IV. Jeff Osterman/Deputy Inspector Ruzinski will provide data containing numbers.
- V. Crumpton
- VI. Deputy Inspector Ruzinski

- VI 1/2. Ms. Dean
- VII. Mr. Walrath
- VIII. City Legislation

Ald. Davis requested City Clerk staff contact Ms. Sanchez and Mr. Webber, Jr. regarding the impact of convenient lending establishments on home buyer credit.

Ms. Dean suggested that a map be included with census tract data in the final report.

Mr. Osterman will provide a citywide map.

All researched documentation should be submitted to Mr. Osterman by January 13, 2006.

Next meeting, January 27, 2006, Room 301-A, 9:00 A.M.

Meeting Adjourned: 10:40 A.M.

*Diana Morgan
Staff Assistant*

All documents researched by the task force may be reviewed by going to www.milwaukee.gov, under Common Council click on Council Files and enter file number 050489.

NOTE: a) Members of the Common Council, and members of its Standing Committees who are not members of this Committee, may attend this meeting to participate or to gather information. Therefore, notice is given that this meeting may constitute a meeting of the Common Council or any of its Standing Committees, and must be noticed as such, although they will not take any formal action at this meeting.

b) Upon reasonable notice, efforts will be made to accommodate the needs of persons with disabilities through sign language interpreters or auxiliary aids. For additional information or to request this service, contact the Council Services Division ADA Coordinator at 286-2998, (FAX)286-3456, (TDD)286-2025 or by writing to the Coordinator at Room 205, City Hall, 200 E. Wells Street, Milwaukee, WI 53202.

c) Limited parking for persons attending meetings in City Hall is available at reduced rates (5 hour limit) at the Milwaukee Center on the southwest corner of East Kilbourn and North Water Street. Parking tickets must be validated in Room 205, (City Clerk's Office) or the first floor Information Booth in City Hall.

d) Effective July 1, 2005, persons engaged in lobbying as defined in s. 305-43-4 of the Milwaukee Code of Ordinances are required to register with the City Clerk's Office License Division. More information is available at www.milwaukee.gov/lobby or by calling 414-286-2238.

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City Of Milwaukee

**CONVENIENT LENDING
TASK FORCE**

**FINAL REPORT AND
RECOMMENDATIONS**

Issued _____, 2006

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INTRODUCTION

The City of Milwaukee's Convenient Lending Task Force was created by Common Council File Number 041000, which was adopted on February 22, 2005 (Appendix A). This resolution directed the 10-member Task Force to "investigate the impacts of convenient cash businesses on surrounding neighborhoods, including but not limited to effects on public safety and community and economic development". It further directed the Task Force to develop a list of recommended public-policy solutions to problems it identifies and to present its findings and recommendations to the Common Council.

TASK FORCE MEMBERSHIP

The 10 members of the Convenient Lending Task Force are:

Ald. Joe Davis, Sr., chair (appointed by the Common Council President)
Ald. Terry Witkowski, vice-chair (Common Council President)
Chris Callen, Wisconsin Bankers Association (Common Council President)
Kathryn Crumpton, CCCS of Greater Milwaukee (Mayor)
Dorothy Dean, citizen at large (Common Council President)
Dimitri Jordan, Department of City Development (Commissioner of City Development's designee)
Deputy Inspector Anna Ruzinski, Milwaukee Police Department (Police Chief's designee)
Bethany Sanchez, Metropolitan Milwaukee Fair Housing Council (Common Council President)
Jim Walrath, Legal Aid Society of Milwaukee (Common Council President)
Bobbie Webber, Jr., Neighborhood Assistance Corporation of America (Common Council President)

MEETING DATES

The Convenient Lending Task Force convened on the following dates:

June 9, 2005
July 8, 2005
September 16, 2005
October 14, 2005
November 10, 2005
December 2, 2005
February 3, 2006

The agendas, minutes and exhibits from these meetings are found in Appendices C through I.

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DEFINITIONS

The resolution creating the Convenient Lending Task Force directed the Task Force to study the impacts of “convenient cash businesses”. This term refers to three types of businesses in particular: currency exchanges (i.e., check-cashing businesses), payday loan agencies and title loan agencies. In many cases, a particular business establishment functions as two of these types of businesses, most commonly a currency exchange combined with a payday loan agency. These establishments are also referred to as “convenient lending businesses”.

The City’s Zoning Code defines the three types of convenient cash businesses as follows:

CURRENCY EXCHANGE means, in accordance with s. 218.05, Wis. Stats., any person except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States and any credit union operating under ch. 186, Wis. Stats., which obtains a certificate of authority from the Wisconsin commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money. (s. 295-201-135)

PAYDAY LOAN AGENCY means an establishment providing loans to individuals in exchange for personal checks as collateral. (s. 295-201-445)

TITLE LOAN AGENCY means an establishment providing loans to individuals in exchange for receiving titles to the borrowers’ motor vehicles as collateral. (s. 295-201-661)

All three types of convenient cash businesses are licensed by the Wisconsin Department of Financial Institutions, Division of Banking – currency exchanges under s. 218.05, Wis. Stats. (community currency exchanges) and the other two types under s. 138.09, Wis. Stats. (precomputed loan law).

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NUMBER AND DISTRIBUTION OF CONVENIENT LENDING BUSINESSES

Appendix A shows the current distribution of convenient cash businesses in the city of Milwaukee. The number of establishments by aldermanic district is as follows:

Aldermanic District	No. of Convenient Cash Businesses, Jan., 2006
1	7
2	12
3	1
4	4
5	5
6	5
7	5
8	3
9	8
10	2
11	1
12	9
13	5
14	0
15	4
City Total	71

Both the map and the table indicate that the distribution of convenient cash businesses in Milwaukee is highly uneven. The 2nd Aldermanic District on the Northwest Side has the largest number of these establishments (over one-sixth of the city total), followed by the 12th District on the Near South Side and the 9th District on the Far Northwest Side. The concentrations along North 76th Street and West Capitol Drive are particularly notable. Central-city aldermanic districts tend to have an average number of convenient cash businesses (see Districts 4, 6, 7 and 15), as does the Far South Side (District 13). Convenient lending establishments are relatively rare on the East, Far West and Far Southwest Sides (Districts 3, 10 and 11), and there are none at all on the Southeast Side (District 14).

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Milwaukee is not the only Wisconsin community to experience a proliferation of convenient cash businesses. As the following table shows, Milwaukee actually has fewer such establishments per 10,000 residents than most other large municipalities in the state. Neighboring West Allis actually has twice as many convenient cash businesses “per capita” as Milwaukee, although Milwaukee’s second-largest suburb, Wauwatosa, has none. (Another suburb, Greenfield, has 10 convenient cash businesses, for a rate of 2.77 per 10,000 residents).

CONVENIENT CASH BUSINESSES IN 15 MOST POPULOUS WISCONSIN MUNICIPALITIES		
Municipality	No. of Licenses	No. of Licenses per 10,000 Residents (2004 pop. Est.)
1. Milwaukee	80	1.35
2. Madison	22	1.01
3. Green Bay	32	3.09
4. Kenosha	20	2.15
5. Racine	21	2.60
6. Appleton	19	2.64
7. Waukesha	7	1.05
8. Oshkosh	15	2.30
9. Eau Claire	16	2.50
10. Janesville	14	2.28
11. West Allis	16	2.64
12. La Crosse	12	2.33
13. Sheboygan	8	1.58
14. Wauwatosa	0	0
15. Fond du Lac	8	1.87

Note: This table shows the total number of currency exchange licenses and payday lender/title lender licenses in each municipality. Some establishments have both types of licenses; hence, Milwaukee has 80 licenses, but only 71 establishments (9 establishments hold both types of licenses).

OVERVIEW OF CONVENIENT LENDING INDUSTRY

As noted previously, the convenient lending industry is made up of payday lenders, title loan lenders and currency exchanges. The nature of this type of business is to appeal to a segment of the population that is either distrustful of traditional lending institutions or unable to use them because of credit issues.

Payday lending originated in the early 1990s, and its popularity continues to grow among certain segments of society. This has resulted in rapidly growing problems for some consumers and an increasing source of income for lenders. Payday loans are short-term loans of small amounts, generally less than \$500 with an annualized percentage rate that ranges from 391% to 572%. Typically, a consumer will write a check for \$345 and receive \$300 from the payday lender with the promise to hold the check for two weeks. The check will then be presented for payment.

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The cost of the loan is \$15 per \$100. If the consumer cannot afford to have the check clear his or her account in two weeks, the consumer returns to the payday lender, renegotiates the loan for another two weeks and pays another \$45. The average payday loan borrower pays \$800 to borrow \$325.

Title loans work much the same way, only with a lower interest rate, as the borrower will turn over the car title as collateral. The interest rate for these loans is about one-third the rate of traditional payday loans.

Currency exchange businesses market to persons who lack banking relationships and need a place to cash checks. The currency exchange business will charge a percentage of the check as a fee for cashing the check. The fee is generally 10% of the check amount.

Payday lending has grown in recent years. In 2004, 22,000 payday loan stores nationwide extended about \$40 billion in short-term loans. Fifty-two percent of the borrowers made between \$25,000 and \$50,000 annually, while 29% earned less than \$25,000 a year. Repeat borrowers account for 99% of payday loans. The average payday loan is “flipped” or “rolled over” 8 times by a single lender.

What is the appeal of a payday loan? It’s quick – all you need is a steady source of income and a checking account. Credit is no issue for those who may not qualify for a traditional loan or have a credit card. Payday loan amounts are small and generally intended to cover an emergency. A payday loan might be used for car repairs, to stop a utility disconnection, medical emergency or to cover a gambling debt. As a rule, banks and credit unions do not write loans for under \$1000. The payday loan is the type of loan that wouldn’t be needed if there were money in a savings account or a relative the borrower could ask to borrow money from. Borrowers say that payday loans are easy to understand, with a fee that is upfront and no hidden costs.

Those who have no relationship with a financial institution use currency exchange businesses. This may be because they don’t trust banks and credit unions or it may be because they have misused an account in the past and been denied access to the banking community. They may also be in this country illegally and not want to open an account because of their illegal status. For these consumers, it is easier to pay a fee to cash a check with no questions asked than to apply for an account at a traditional financial institution.

Relevant articles on this topic include:

“Banks Should Offer Alternatives to Payday Loans to Better Serve Low and Middle-Income Customers, Says New Report” (see exhibits from October 14 Task Force Meeting in Appendix F)

“The Debt Cycle: Using Payday Loans to Make Ends Meet” (see exhibits from September 16 Task Force meeting in Appendix E)

“Predatory Payday Lending Traps Borrowers” (see exhibits from October 14 Task Force meeting in Appendix F)

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PUBLIC SAFETY ISSUES

Maps showing the locations convenient lending institutions and robberies in the first 11 months of 2005, by police district, are found in the exhibits from the December 2 Task Force meeting (Appendix H). Also relevant to the issue of public safety are data on reported "Part 1" crimes (i.e., violent crimes) within 500-foot and 1,500-foot radii of convenient lending businesses and citywide in 2002, 2003 and 2004. These data are found in a table that is included in the exhibits from the November 10 Task Force meeting (Appendix G).

Based on the number of violent crimes (especially robberies) that have occurred in the vicinity of convenient cash businesses, as indicated by the crime maps and table, it appears that these establishments tend to set up in neighborhoods that have other socioeconomic issues. While the conclusion that these types of businesses increase crime in an area cannot be drawn, such establishments do increase the opportunity for crime to occur. Because convenient lending institutions do not fall under the same security guidelines as mainstream financial institutions, there are no sanctions for them not providing a safe environment in which to do business. For instance, they are not required to have security cameras or any specific types of lighting. This creates an atmosphere for crimes of opportunity, such as robberies and thefts. Criminals have easy access to victims, who are perceived to have large amounts of currency on them. Victims in the normal course of business are not always cognizant of their surroundings, especially since they may have money matters or "troubles" on their minds. Combine these two conditions with the lack of a requirement for any type of surveillance deterrent and it makes for an inviting atmosphere for criminals. We must be careful to not blame convenient lending institutions for a rise in crime in the surrounding area, but these establishments are a contributing factor to the overall perception of lack of security in the area, which drives crime.

APPENDIX A

Common Council File No. 041000, resolution creating the Task Force

..Number

041000

..Version

SUBSTITUTE 2

..Reference

..Sponsor

ALD. DAVIS

..Title

Substitute resolution creating a task force to study the impacts of "convenient cash businesses" on Milwaukee neighborhoods.

..Analysis

This resolution creates a 10-member City of Milwaukee "Task Force on the Impacts of Convenient Cash Institutions". It further directs the Task Force to investigate the impacts of convenient cash businesses on surrounding neighborhoods (including effects on public safety and community and economic development) and to develop a list of recommended public-policy solutions to any problems it identifies. The Task Force shall submit and present its findings and recommendations to the Common Council within one year of adoption of this resolution, and shall thereafter be dissolved.

..Body

Whereas, In recent years, the city of Milwaukee has witnessed a proliferation of payday loan agencies, check-cashing businesses and similar "convenient cash" establishments; and

Whereas, Convenient cash businesses, because of the frequency of cash transactions and the amounts of money exchanged, may be attractive to criminals seeking to commit robberies or similar crimes; and

Whereas, Convenient cash businesses may have secondary impacts on the communities in which they are located, including effects on public safety and on neighborhood economic development efforts; and

Whereas, In order to identify and document the community impacts of convenient cash businesses, and to devise any necessary public-policy strategies for addressing those impacts, the Common Council finds that the health, safety and welfare of Milwaukee residents could benefit from the creation of a public task force to carry out these duties; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the City of Milwaukee Task Force on the Impacts of Convenient Cash Institutions is created; and, be it

Further Resolved, That this Task Force shall consist of 10 members:

1. Two Common Council members (appointed by the Common Council President).
2. A representative of the Mayor's Office (appointed by the Mayor).
3. The Chief of Police or the Chief's designee.

4. A representative of the Wisconsin Bankers Association (appointed by the Common Council President).
5. A representative of the Metropolitan Milwaukee Fair Housing Council (appointed by the Common Council President).
6. A representative of the Legal Aid Society of Milwaukee (appointed by the Common Council President).
7. The Commissioner of City Development or the Commissioner's designee.
8. A representative of the Neighborhood Assistance Corporation of America (appointed by the Common Council President).
9. One citizen at large (appointed by the Common Council President).

; and, be it

Further Resolved, That the Common Council President shall designate one of the 2 Common Council members as the chair of the Task Force; and, be it

Further Resolved, That the Task Force is directed to investigate the impacts of convenient cash businesses on surrounding neighborhoods, including but not limited to effects on public safety and community and economic development; and, be it

Further Resolved, That the Task Force shall develop a list of recommended public-policy solutions to any issues or problems it identifies; and, be it

Further Resolved, That the Task Force shall submit and present its findings and recommendations to the Common Council within one year of adoption of this resolution, and shall thereafter be dissolved; and, be it

Further Resolved, That the City Clerk's Office shall provide staff support to the Task Force.

..Requestor

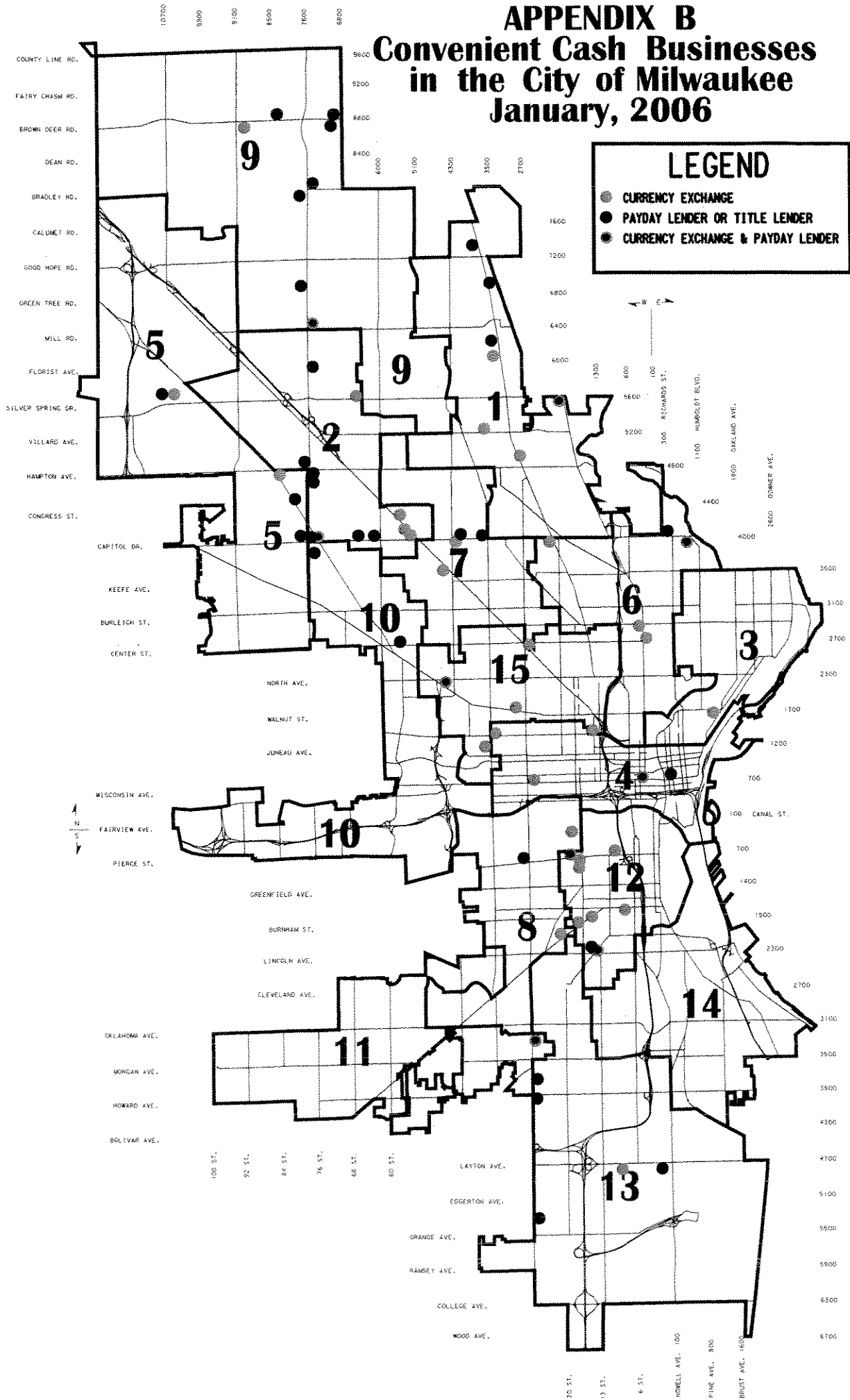
..Drafter

LRB04441-3

JDO

01/31/05

APPENDIX B Convenient Cash Businesses in the City of Milwaukee January, 2006



Prepared by the City of Milwaukee Legislative Reference Bureau (10/06)ep, JDO, 1/27/06
Data Source: Wisconsin Department of Financial Institutions website - Bureau Archives

APPENDIX C

Materials from June 9, 2005 Task Force Meeting

APPENDIX D

Materials from July 8, 2005 Task Force Meeting

APPENDIX E

Materials from September 16, 2005 Task Force Meeting

APPENDIX F

Materials from October 14, 2005 Task Force Meeting

APPENDIX G

Materials from November 10, 2005 Task Force Meeting

APPENDIX H

Materials from December 2, 2005 Task Force Meeting

APPENDIX I

Materials from February 3, 2006 Task Force Meeting

2005 ASSEMBLY BILL 914

January 17, 2006 – Introduced by Representatives SCHNEIDER, BOYLE, TRAVIS, MUSSER, ALBERS, HAHN and SHERIDAN, cosponsored by Senators JAUCH and MILLER. Referred to Committee on Financial Institutions.

1 AN ACT *to amend* 138.09 (1m) (a) and 422.201 (3); *to repeal and recreate*
2 138.09 (title); and *to create* 138.14 of the statutes; **relating to:** finance charges
3 for payday loans.

Analysis by the Legislative Reference Bureau

Under current law, a lender other than a bank, savings bank, savings and loan association, or credit union generally must obtain a license from the Division of Banking in the Department of Financial Institutions (division) in order to assess an finance charge greater than 18 percent per year. This type of lender is generally referred to as a “licensed lender.” With certain limited exceptions, current law provides no maximum finance charge for a loan entered into by a licensed lender.

Currently, a lender who makes payday loans is typically required to be a licensed lender. In a standard payday loan transaction, the lender accepts a personal check from the borrower, pays the borrower the amount of the check less any applicable finance charge, and agrees to wait a short time, such as two weeks, before depositing the check. Current law does not specifically regulate payday loan transactions.

This bill creates a maximum finance charge for payday loans. Under the bill, a lender, other than a bank, saving bank, savings and loan association, or credit union, who makes payday loans in the regular course of business, which the bill defines as a “payday loan provider,” may not assess a finance charge that exceeds 2 percent per month. In addition, a payday loan provider must obtain the license described above. Also, the bill requires the division to enforce the bill’s prohibition.

ASSEMBLY BILL 914

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 138.09 (title) of the statutes is repealed and recreated to read:

2 **138.09 (title) Licensed lenders.**

3 **SECTION 2.** 138.09 (1m) (a) of the statutes is amended to read:

4 **138.09 (1m) (a)** Before any person may do business under this section or charge
5 the interest authorized by sub. (7) and before any creditor other than a bank, savings
6 bank, savings and loan association or credit union may assess a finance charge on
7 a consumer loan in excess of 18% per year or assess a finance charge subject to s.
8 138.14, that person shall first obtain a license from the division. Applications for a
9 license shall be in writing and upon forms provided for this purpose by the division.
10 An applicant at the time of making an application shall pay to the division a
11 nonrefundable \$300 fee for investigating the application and a \$500 annual license
12 fee for the period terminating on the last day of the current calendar year. If the cost
13 of the investigation exceeds \$300, the applicant shall upon demand of the division
14 pay to the division the amount by which the cost of the investigation exceeds the
15 nonrefundable fee.

16 **SECTION 3.** 138.14 of the statutes is created to read:

17 **138.14 Payday loan providers. (1) DEFINITIONS.** In this section:

18 (a) “Check” has the meaning given in s. 403.104 (6).

19 (b) “Payday loan” means any of the following:

20 1. A transaction between a person and the issuer of a check in which the person
21 agrees to accept a check from the issuer, hold the check for a period of time before

ASSEMBLY BILL 914

1 negotiating or presenting the check for payment, and pay to the issuer, upon
2 accepting the check, the amount of the check less any finance charge.

3 2. A refinancing or consolidation of a transaction described in subd. 1.

4 (c) "Payday loan provider" means a person, other than a bank, savings bank,
5 savings and loan association, or credit union, who makes payday loans in the
6 ordinary course of business.

7 **(2) FINANCE CHARGES.** Notwithstanding ss. 138.09 and 422.201 (9), no payday
8 loan provider may assess a finance charge on a payday loan that exceeds 2 percent
9 per month. The division of banking shall enforce this subsection.

10 **SECTION 4.** 422.201 (3) of the statutes is amended to read:

11 422.201 (3) ~~For Notwithstanding sub. (2), for licensees under s. 138.09 and~~
12 ~~under ss. 218.0101 to 218.0163, the finance charge, calculated according to those~~
13 ~~sections, may not exceed the applicable maximums permitted in and calculated~~
14 ~~under ss. 138.09, 138.14, and 218.0101 to 218.0163, respectively.~~

15 **SECTION 5. Initial applicability.**

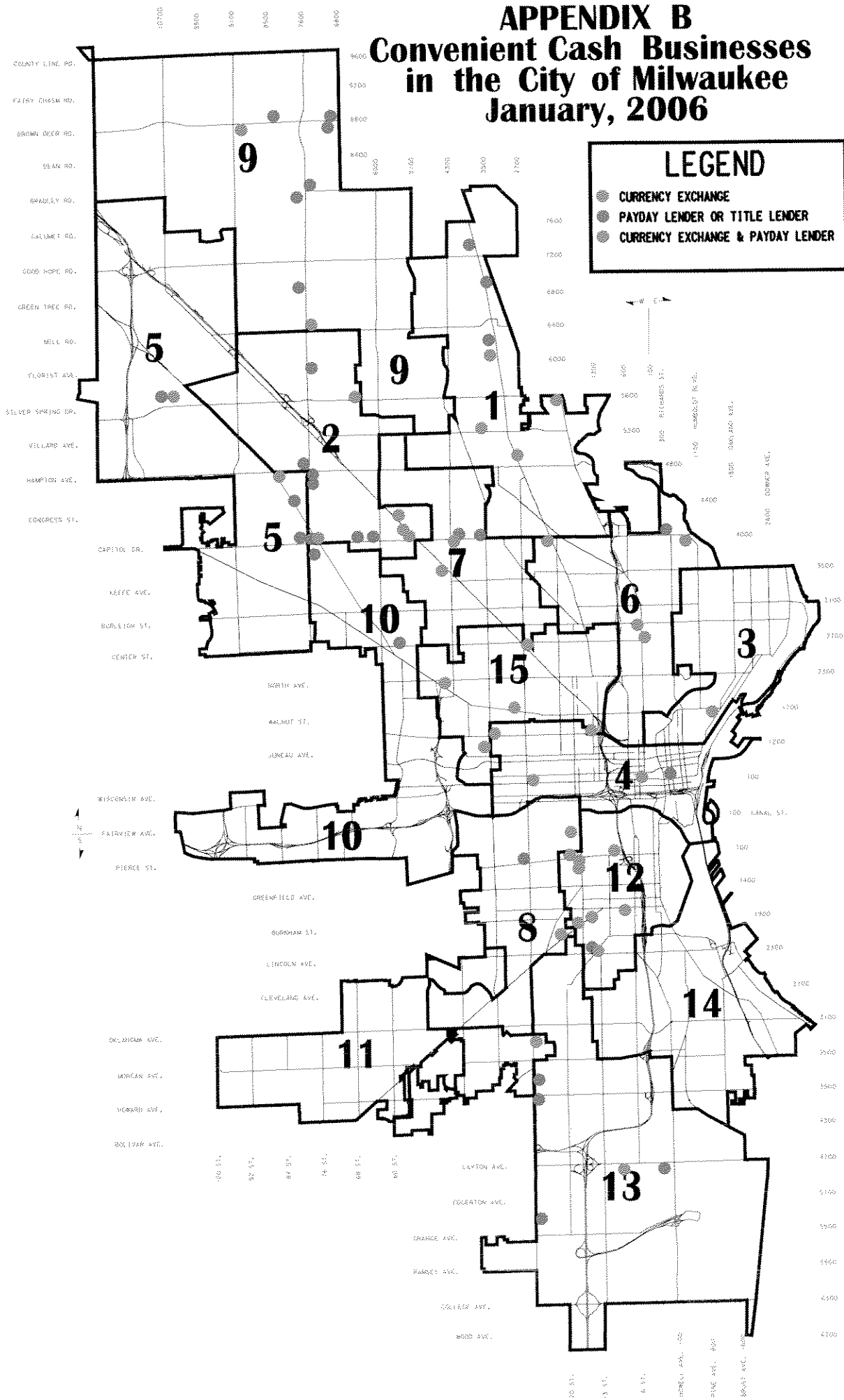
16 (1) This act first applies to payday loans made, refinanced, or consolidated on
17 the effective date of this subsection.

18 **SECTION 6. Effective date.**

19 (1) This act takes effect on the first day of the 6th month beginning after
20 publication.

21 (END)

APPENDIX B Convenient Cash Businesses in the City of Milwaukee January, 2006



Prepared for the City of Milwaukee Legislative Reference Bureau (6/26/04) JDO, 1-27-06
Data Source: Wisconsin Department of Financial Institutions website - Bureau database

Sent: 2/3/2006

The Wisconsin Consumer Act in chapters 421-427 is also directly applicable to consumer transactions including payday loans, etc. Also sections 100.18 and 100.20 relating to false advertising and deceptive practices, as well as federal consumer protection laws (e.g., TILA and FDCPA), which are mentioned in the draft section of the report I'm working on. Just so we're all on the same page.

Jim Walrath

REGULATION OF CONVENIENT LENDING BUSINESSES

The discussion of laws and regulations governing convenient lending businesses in this section of the task force report will concentrate mainly on payday loan and auto title loan businesses. There are, of course, other sources of convenient credit and check cashing services that are targeted to low-income consumers. Convenient credit businesses also include pawnbrokers, rent-to-own stores, income tax preparers that offer refund anticipation loans and and currency exchanges. But in the main it is the payday lenders and auto title lenders that have shown explosive growth in Milwaukee and around the State of Wisconsin. Surprisingly, this exceptional growth has not led to any significant change to the legal framework within which these convenient lending businesses operate. The laws and regulations are basically the same as they were more than ten years ago when payday lending and other short-term consumer loan enterprises first opened their doors.

This discussion will first describe the collection of various federal and state laws that are intended to protect consumers from misleading, abusive, or unconscionable practices that have been observed in convenient lending transactions in Wisconsin, particularly Milwaukee. Second, the discussion will explore the extent to which zoning regulations have been crafted in Wisconsin to counteract the perceived, deleterious effects of convenient lending operations on neighborhoods, or entire municipalities themselves.

I. Federal Controls

The primary federal consumer protection regulation affecting convenient lending in Wisconsin is the federal "Truth in Lending" Act, or TILA. As is the case with Wisconsin's own consumer protection laws, TILA is intended primarily to make consumer credit transactions, including consumer loans, uniform, transparent, and useful for comparison shopping purposes.

TILA was first enacted in 1968 to cut back on deceptive creditor practices, such as overly complex terminology, terms in fine-print, or even hidden, unstated terms and charges. It imposes disclosure requirements that should be complied with before any consumer transaction is finalized. Perhaps the most commonly noticed of these is the “federal box” section on loan documents in which lenders are to declare in conspicuous, bold print, certain basic information: the amount loaned, the amount of the finance charges, the total amount of the loan and charges owed and payable; and the “APR” or annual percentage rate, or annualized cost of credit. For enforcement purposes TILA allows consumers to file suit for violations of its disclosure requirements.

TILA, however, does not place restrictions on how much a lender can charge in loan interest, various fees (e.g., late fees), or other finance charges. Instead, TILA operates on the theory that ample disclosure of charges and terms will let consumers make informed, market-based decisions; that is, fully informed consumers will be able to distinguish a good loan deal from a bad one, with overpriced loan products and the lenders that market them inevitably losing business. The market, so goes the theory, will regulate itself and arguably arbitrary legislative or regulatory limits dictating how much lenders should charge, and what loan terms they can impose, will be unnecessary.

Another major source of federal consumer protection, the Fair Debt Collections Practices Act (“FDCPA”), prohibits various forms of abusive debt collection activities. This law was enacted primarily to protect consumers from unwarranted threats and harassment by bill collectors. Like TILA, the law gives consumers the right to claim in court that a creditor has engaged in prohibited, abusive conduct to collect a debt. But also like TILA, the FDCPA does not impose limits on how much a lender can charge borrowers, either as fees and interest in the

underlying loan transaction or as charges imposed as part of the debt collection process.

TILA and FDCPA have governed payday loan and auto title loan transactions in Wisconsin since they began doing business here. However, in most states other than Wisconsin, convenient lending businesses have argued that TILA and state small loan laws (typically usury statutes that place caps on interest rates) do not apply to their transactions at all. They have contended, for example, that their transactions are deferred check cashing arrangements (sometimes called “deferred presentments”) or other types of deals that fall outside TILA and state usury laws by claiming that the transactions involve a charge for a service (e.g., check cashing) instead of the extension of credit.

Why have these lenders openly promoted their products in Wisconsin as “loans,” and conceded in this State that they are subject to TILA disclosure rules? The answer is tied to the Wisconsin’s unique legislative stance on loan rate caps – caps that are usually found in state small loan laws or usury statutes. Wisconsin has no such caps; they were eliminated in 1984. Indeed, Wisconsin and New Mexico are the only states in the country that do not have rate ceilings on small loans. [Check with Jean Ann on new developments in New Mexico]. Accordingly, these states provide an exceedingly fertile environment for high cost, high rates loan deals. Payday lenders can charge over 1000% APR and auto title lenders can impose finance charges starting at 300% APR, just two reality-based examples, because Wisconsin does not control or limit the amount a consumer can be charged for a small loan.

As a corollary, these lenders have found that cash-desperate consumers in Wisconsin are willing to pay the incredibly high finance charges, even if they are fully and openly disclosed in compliance with TILA requirements. Thus far, market competition has not materialized; consumers in search of convenient, small loans clearly are showing a strong inclination to sign up

for loans at very high costs. Convenient lending businesses are booming despite TILA and the FDCPA.

The main source of consumer protection under federal law, i.e., TILA, as a result, has had little influence on loan product pricing by lenders, or comparison shopping by borrowers. Payday and auto title lenders have generally complied with TILA disclosure rules simply because they have learned that their astronomical APR rate disclosures are not discouraging potential customers from becoming borrowers. Moreover, there have been few FDCPA lawsuits against these lenders because, in general, they have not needed to send delinquent accounts to debt collectors. Apparently, there are so many high-cost loans in their portfolios, generating enough profits, that they need not pursue borrowers in default. Not surprisingly then, many lenders have avoided using debt collectors; and so there have been few occasions for FDCPA violations to occur.

II. State of Wisconsin Controls

In many respects Wisconsin's legislative strategy to control abuses by payday and title loan businesses is similar to the federal approach. Loan terms and rates must be adequately disclosed; debt collection abuses are prohibited. But, as noted above, there is no restriction on what a lender can set as an interest rate, or on the amount of interest a lender can charge. Disclosure requirements are imposed by provisions in Chapter 138 of the "precomputed loan law" ("PLL") and DFI is charged with taking action against lenders who fail to comply. The precomputed loan law provides in part that no lender shall:

advertise, print, display, publish, distribute or broadcast or cause to be printed, displayed, published, distributed or broadcast in any manner, any statement with regard to the rates, terms, or conditions for the lending of money, credit, goods or things in action which is false or calculated to deceive.

* * *

Further, every lender shall:

- a. Deliver to the borrower, at the time a loan is made, a statement in the English language showing in clear and distinct terms the amount and date of the note and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, the amount of interest, the proceeds of the loan after deducting such interest, a description of the payment schedule and the default charge. Disclosures made in accordance with the federal consumer credit protection act [TILA] and regulation Z shall also indicate that the borrower may prepay the borrower's loan in whole or in part and that if the loan is repaid in full the borrower will receive a refund of interest as provided by this section. The statement shall also indicate the percentage per year of interest charged in the transaction.
- b. Give to the borrower a plain and complete receipt for all cash payments made on account of any such loan at the time such payments are made.
- c. Permit payments of the loan in whole or in part prior to its maturity.
- d. Upon repayment of the loan in full mark indelibly every obligation, other than a security agreement, signed by the borrowers with the word "Paid" or "Canceled" and cancel and return any note. When there is no outstanding secured obligation such licensee shall restore any pledge, cancel and return any assignment, cancel and return any security agreement given to the licensee by the borrower and file a termination statement terminating any filed financing statement.
- e. Take no note, promise to pay, security nor any instrument in which blanks are left to be filled in after the loan has been made except that a detailed description or inventory of the security may be filled in, with the written consent of the borrower within 10 day thereafter.

Beyond the controls given to DFI under the precomputed loan law, Wisconsin Consumer Act ("WCA") protections against unfair loan terms in Chapter 422 and 425, and the protections against collection abuses set out in Chapter 427 are enforceable by consumers in private actions.

[Fill in examples and include the unconscionability provision in sec. 425.107]

[Describe the use of unconscionability claims as a basis for the \$2.4 million settlement against National Cash Advance]

Finally, the PLL and WCA contain a major regulatory mechanism for regulating consumer lending practices, not found in the federal approach: licensing requirements.

In order to do business, a payday lender or auto title lender needs to comply with section 138.09 and 426.201 of the Wisconsin Statutes. Section 138.09 of the PLL requires the business to be licensed by DFI. Application fees and surety bonds must be submitted. Background information forms must be completed to satisfy DFI that the corporate applicant and its officers meets standards of suitable character, general fitness, and financial responsibility. (Consumers, however, do not have a remedy against lenders who obtain their licenses by misrepresentation or fraud.) After a license is obtained the lender must file annual reports disclosing, among other things, consumer claims that have been filed against it, the general volume of its loan activities, the volume of its delinquent and bad debt accounts, and its "rollover" payday loan inventory. (While this information could tell Wisconsin consumers a lot about the profitability and volume of payday and title lending, DFI does not allow public review of these reports.)

While the PLL authorizes DFI to revoke or suspend lender licenses for misinformation in applications and reports, the task force is not aware of any occasion in which DFI has in fact revoked or suspended the license of a payday or title loan business for false, misleading, or incomplete reports; nor is the task force aware of any DFI action against a licensed lender for violations of the PLL or WCA.

In summary, Wisconsin consumer protection laws do provide more enforcement tools to combat abusive practices by payday and title lenders than are available under TILA or the FDCPA. Overall, however, these tools do little to curb the pricing of loan products or the abuses of loan "rollovers." Licensing requirements for lenders and DFI oversight of licensee activities have had virtually no impact on the proliferation of these businesses. Likewise, resort to private

enforcement tools has had negligible impact.

III. Local Zoning Regulations

[Discuss how state laws cannot control number of businesses, locations, hours, etc.]

[Zoning -a newly developing form of local control; state laws don't regulate number of businesses , locations, etc. but local laws can; on other hand, local laws can't enact consumer protection laws]

[Special use controls - number and location limits

[Hours, signage, lighting, security controls]

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an action against the lender or personal representative the amount of interest, principal and charges paid on such loan or forbearance but not more than \$2,000 of principal, if the action is brought within the time provided by s. 893.62.

(4) Any borrower to whom a lender or agent of a lender fails to provide the statement required in s. 138.05 (4) with respect to a loan or forbearance may by himself or herself or his or her personal representative recover in an action against the lender or the lender's personal representative an amount equal to all interest and charges paid upon such loan or forbearance but not less than \$50 plus reasonable attorney fees incurred in such action.

(5) Notwithstanding subs. (1) to (4), if any violation of s. 138.05, 138.051 or 138.052 is the result of an unintentional mistake which the lender or agent of the lender corrects upon demand, such unintentional violation shall not affect the enforceability of any provision of the loan contract as so corrected nor shall such violation subject the lender or the agent of the lender to any penalty or forfeiture specified in this section.

(6) In connection with a sale of goods or services on credit or any forbearance arising therefrom prior to October 9, 1970, there shall be no allowance of penalties under this section for violation of s. 138.05, except as to those transactions on which an action has been reduced to a final judgment as of May 12, 1972.

(7) Notwithstanding sub. (6), a seller shall, with respect to a transaction described in sub. (6), refund or credit the amount of interest, to the extent it exceeds the rate permitted by s. 138.05 (1) (a), which was charged in violation of s. 138.05 and paid by a buyer since October 8, 1968, upon individual written demand therefor made on or before March 1, 1973, and signed by such buyer. A seller who fails within a reasonable time after such demand to make such refund or credit of excess interest shall be liable in an individual action in an amount equal to 3 times the amount thereof, together with reasonable attorney fees.

(8) This section does not apply to a loan or forbearance made on or after November 1, 1981.

History: 1971 c. 308; 1979 c. 168 s. 21; 1979 c. 323, 355; 1981 c. 45 ss. 4, 51; 1993 a. 482, 490.

Sub. (7) is constitutional. *Wiener v. J. C. Penney Co.* 65 Wis. 2d 139, 222 N.W.2d 149 (1974).

Class actions for the recovery of usurious interest charged by revolving credit plans are not precluded by (3). *Mussallem v. Diners' Club, Inc.* 69 Wis. 2d 437, 230 N.W.2d 717 (1975).

Sub. (6) is constitutional. 60 Atty. Gen. 198.

138.09 Precomputed loan law. (1d) In this section, "division" means the division of banking.

(1m) (a) Before any person may do business under this section or charge the interest authorized by sub. (7) and before any creditor other than a bank, savings bank, savings and loan association or credit union may assess a finance charge on a consumer loan in excess of 18% per year, that person shall first obtain a license from the division. Applications for a license shall be in writing and upon forms provided for this purpose by the division. An applicant at the time of making an application shall pay to the division a nonrefundable \$300 fee for investigating the application and a \$500 annual license fee for the period terminating on the last day of the current calendar year. If the cost of the investigation exceeds \$300, the applicant shall upon demand of the division pay to the division the amount by which the cost of the investigation exceeds the nonrefundable fee.

(b) 1. Except as provided in par. (c), an application under par. (a) for a license shall contain the following:

a. If the applicant is an individual, the applicant's social security number.

b. If the applicant is not an individual, the applicant's federal employer identification number.

2. The division may not disclose any information received under subd. 1. to any person except as follows:

a. The division may disclose information under subd. 1. to the department of revenue for the sole purpose of requesting certifications under s. 73.0301.

b. The division may disclose information under subd. 1. a. to the department of workforce development in accordance with a memorandum of understanding under s. 49.857.

(c) 1. If an applicant who is an individual does not have a social security number, the applicant, as a condition of applying for or applying to renew a license, shall submit a statement made or subscribed under oath or affirmation to the division that the applicant does not have a social security number. The form of the statement shall be prescribed by the department of workforce development.

2. Notwithstanding sub. (3) (b), any license issued or renewed in reliance upon a false statement submitted by an applicant under subd. 1. is invalid.

(2) The division may also require the applicant to file with the division, and to maintain in force, a bond in which the applicant shall be the obligor, in a sum not to exceed \$5,000 with one or more corporate sureties licensed to do business in Wisconsin, whose liability as such sureties shall not exceed the sum of \$5,000 in the aggregate, to be approved by the division, and such bond shall run to the state of Wisconsin for the use of the state and of any person or persons who may have a cause of action against the obligor of the bond under the provisions of this section. Such bonds shall be conditioned that the obligor will conform to and abide by each and every provision of this section, and will pay to the state or to any person or persons any and all moneys that may become due or owing to the state or to such person or persons from the obligor under and by virtue of the provisions of this chapter.

(3) (a) Upon the filing of such application and the payment of such fee, the division shall investigate the relevant facts. Except as provided in par. (am), if the division shall find that the character and general fitness and the financial responsibility of the applicant, and the members thereof if the applicant is a partnership, limited liability company or association, and the officers and directors thereof if the applicant is a corporation, warrant the belief that the business will be operated in compliance with this section the division shall thereupon issue a license to said applicant to make loans in accordance with the provisions of this section. If the division shall not so find, the division shall deny such application.

(am) The division may not issue a license under this section to an applicant if any of the following applies:

1. The applicant fails to provide any information required under sub. (1m) (b).

2. The department of revenue certifies under s. 73.0301 that the applicant is liable for delinquent taxes.

3. The applicant fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of workforce development or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings.

4. The applicant is delinquent in making court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, as provided in a memorandum of understanding entered into under s. 49.857.

(b) Every license shall remain in force and effect until suspended or revoked in accordance with this section or surrendered by the licensee, and every licensee shall, on or before each December 10, pay to the division the annual license fee for the next succeeding calendar year.

(c) Such license shall not be assignable and shall permit operation under it only at or from the location specified in the license at which location all loans shall be consummated, but this provision shall not prevent the licensee from making loans under this section which are not initiated or consummated by face to face contact away from the licensed location if permitted by the division in writing or by rule or at an auction sale conducted or clerked by a licensee.

(d) A separate license shall be required for each place of business maintained by the licensee. Whenever a licensee shall change the address of its place of business to another location within the same city, village or town the licensee shall at once give

written notice thereof to the division, which shall replace the original license with an amended license showing the new address, provided the location meets with the requirements of par. (e). No change in the place of business of a licensee to a different city, village or town shall be permitted under the same license.

(e) 1. Except as provided in subd. 2., a licensee may conduct, and permit others to conduct, at the location specified in its license, any one or more of the following businesses not subject to this section:

a. A business engaged in making loans for business or agricultural purposes or exceeding \$25,000 in principal amount, except that all such loans having terms of 49 months or more are subject to sub. (7) (gm) 2. or 4.

b. A business engaged in making first lien real estate mortgage loans under ss. 138.051 to 138.06.

c. A loan, finance or discount business under ss. 218.0101 to 218.0163.

d. An insurance business.

e. A currency exchange under s. 218.05.

f. A seller of checks business under ch. 217.

2. A licensee may not sell merchandise or conduct other business at the location specified in the license unless written authorization is granted to the licensee by the division.

(f) Every licensee shall make an annual report to the division for each calendar year on or before March 15 of the following year. The report shall cover business transacted by the licensee under the provisions of this section and shall give all reasonable and relevant information that the division may require. The reports shall be made upon forms furnished by the division and shall be signed and verified by the oath or affirmation of the licensee if an individual, one of the partners if a partnership, a member or manager if a limited liability company or an officer of the corporation or association if a corporation or association. Any licensee operating under this section shall keep the records affecting loans made pursuant to this section separate and distinct from the records of any other business of the licensee.

(4) (a) The division for the purpose of discovering violations of this chapter may cause an investigation to be made of the business of the licensee transacted under this section, and shall cause an investigation to be made of convictions reported to the division by any district attorney for violation by a licensee of this chapter. The place of business, books of account, papers, records, safes and vaults of said licensee shall be open to inspection and examination by the division for the purpose of such investigation and the division may examine under oath all persons whose testimony the division may require relative to said investigation. The division may, upon notice to the licensee and reasonable opportunity to be heard, suspend or revoke such license after such hearing if:

1. The licensee has violated any provision of this chapter and if the division determines such violation justifies the suspension or revocation of the license;

2. Any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the division in refusing to issue such license; and

3. The licensee has failed to pay the annual licensee fee or to maintain in effect the bond, if any, required under sub. (2).

(b) The division shall restrict or suspend a license under this section if, in the case of a licensee who is an individual, the licensee fails to comply, after appropriate notice, with a subpoena or warrant issued by the department of workforce development or a county child support agency under s. 59.53 (5) and related to paternity or child support proceedings or is delinquent in making court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse, as provided in a memorandum of understanding entered into under s. 49.857. A licensee whose license is restricted or suspended under this paragraph is entitled to a notice and hearing only as provided in a memorandum of

understanding entered into under s. 49.857 and is not entitled to a hearing under par. (a).

(c) The division shall revoke a license under this section if the department of revenue certifies that the licensee is liable for delinquent taxes under s. 73.0301. A licensee whose license is revoked under this paragraph for delinquent taxes is entitled to a hearing under s. 73.0301 (5) (a) but is not entitled to a hearing under par. (a).

(5) No licensee shall advertise, print, display, publish, distribute or broadcast or cause to be printed, displayed, published, distributed or broadcast in any manner any statement with regard to the rates, terms or conditions for the lending of money, credit, goods or things in action which is false or calculated to deceive. With respect to matters specifically governed by s. 423.301, compliance with such section satisfies the requirements of this section.

(6) (a) Except as provided in par. (b), the licensee shall keep such books and records in the licensee's place of business as in the opinion of the division will enable the division to determine whether the provisions of this chapter are being observed. Every such licensee shall preserve the records of final entry used in such business, including cards used in the card system, if any, for a period of at least 2 years after the making of any loan recorded therein.

(b) A licensee may keep the books and records specified in par. (a) at a single location inside or outside of this state if the books and records are kept at a location licensed under this section. The licensee shall organize the books and records by the place of business where the records originated and shall keep the books and records separate from other records for business conducted at that location. Actual costs incurred by the division to examine books and records maintained outside of this state shall be paid by the licensee.

(7) (a) In this section:

1. "Precomputed loan" means a loan in which the debt is expressed as a sum comprising the principal and the amount of interest computed in advance.

2. "Principal" means the total of:

a. The amount paid to, received by or paid or payable for the account of the borrower; and

b. To the extent that payment is deferred: the amount actually paid or to be paid by the licensee for registration, certificate of title or license fees if not included in subd. 2. a.; and additional charges permitted under this section.

(b) A licensee may charge, contract for or receive a rate of interest for a loan or forbearance made prior to April 6, 1980, which does not exceed the greater of either of the following:

1. With respect to installment loans or forbearances which are repayable in substantially equal successive installments at approximately equal intervals, and where the principal does not exceed \$3,000 excluding any interest authorized under this section, and where the scheduled maturity of the loan contract is not more than 36 months and 15 days from the date of making, interest may be deducted in advance at a rate not in excess of \$9.50 per \$100 per year on that part of the loan not exceeding \$1,000 and \$8 per \$100 per year on any remainder. Interest shall be computed at the time the loan is made on the face amount of the contract for the full term of the contract, notwithstanding the requirement for installment repayments. The face amount of the loan contract or note may exceed \$3,000 by the amount of interest deducted in advance. On contracts which are one year or any number of whole years, the charge shall be computed proportionately on even calendar months.

2. With respect to any loan of any amount, at a rate not to exceed 18% per year computed on the declining unpaid principal balances of the loan from time to time outstanding, calculated according to the actuarial method, but this does not limit or restrict the manner of contracting for the interest, whether by way of

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add-on, discount or otherwise, so long as the rate of interest does not exceed that permitted by this paragraph.

(bm) A licensee may charge, contract for or receive a rate of interest for a loan or forbearance made on or after April 6, 1980 and prior to November 1, 1981, which does not exceed the greater of either of the following:

1. With respect to installment loans or forbearances which are repayable in substantially equal successive installments at approximately equal intervals, and where the principal does not exceed \$3,000 excluding any interest authorized under this section, and where the scheduled maturity of the loan contract is not more than 36 months and 15 days from the date of making, interest may be deducted in advance at a rate not in excess of \$9.50 per \$100 per year on that part of the loan not exceeding \$2,000 and \$8 per \$100 per year on any remainder. Interest shall be computed at the time the loan is made on the face amount of the contract for the full term of the contract, notwithstanding the requirement for installment repayments. The face amount of the loan contract or note may exceed \$3,000 by the amount of interest deducted in advance. On contracts which are one year or any number of whole years, the charge shall be computed proportionately on even calendar months.

2. With respect to any loan of any amount, at a rate not to exceed 19% per year computed on the declining unpaid principal balances of the loan from time to time outstanding, calculated according to the actuarial method, but this does not limit or restrict the manner of contracting for the interest, whether by way of add-on, discount or otherwise, so long as the rate of interest does not exceed that permitted by this paragraph.

(bn) 1. A licensee may charge, contract for or receive a rate of interest, calculated according to the actuarial method, which may not exceed the greater of the following for a loan or forbearance of less than \$3,000 entered into on or after November 1, 1981 and before November 1, 1984:

a. Twenty-three percent per year.

b. A rate of 6% in excess of the interest rate applicable to 2-year U.S. treasury notes as determined under subd. 3. a.

c. A rate of 6% in excess of the interest rate applicable to 6-month U.S. treasury bills as determined under subd. 3. b.

2. A licensee may charge, contract for or receive a rate of interest, calculated according to the actuarial method, which may not exceed the greater of the following for a loan or forbearance of \$3,000 or more entered into on or after November 1, 1981 and before November 1, 1984:

a. Twenty-one percent per year.

b. A rate of 6% in excess of the interest rate applicable to 2-year U.S. treasury notes as determined under subd. 3. a.

c. A rate of 6% in excess of the interest rate applicable to 6-month U.S. treasury bills as determined under subd. 3. b.

3. a. For purposes of subsd. 1. b. and 2. b., the interest rate applicable to 2-year U.S. treasury notes for any calendar year quarter is the average annual interest rate determined by the last auction of the notes in the preceding calendar year quarter, increased to the next multiple of 0.5% if the average annual interest rate includes a fractional amount.

b. For purposes of subsd. 1. c. and 2. c., the interest rate applicable to 6-month U.S. treasury bills for any month is the average annual discount interest rate determined by the last auction of the bills in the preceding month, increased to the next multiple of 0.5% if the average annual discount interest rate includes a fractional amount.

4. Information regarding the amount of the maximum finance charge under subsd. 1. and 2. for any month or calendar year quarter shall be available at the office of the division.

5. This paragraph does not restrict the manner of contracting for interest, whether by add-on, discount or otherwise, if the interest rate does not exceed the rate under this paragraph.

(bp) A loan, whether precomputed or based upon the actuarial method, made after October 31, 1984, is not subject to any maximum interest rate limit.

(c) 1. Where the interest is precomputed, the interest may be calculated on the assumption that all scheduled payments will be made when due and the effect of prepayment is governed by the provision on rebate upon prepayment. If a loan is prepaid out of the proceeds of a new loan made under this section, the principal of such new loan may include any unpaid charges on the prior loan which have accrued before the making of the new loan, unless the prior loan was precomputed in which event the principal of the new loan may include the balance remaining after making the required rebate plus any accrued charges.

2. For the purpose of computing interest under this section, whether at the maximum rate or less, a day shall be considered one-thirtieth of a month when such computation is made for a fraction of a month. Loan contracts providing for installments payable at monthly intervals may provide for a first period between the date of the contract and the first installment due date of not more than 45 days and not less than 15 days. Where the first period is greater or lesser than one month, interest may be charged only for each day in the first period, at a rate not to exceed one-thirtieth of the interest which would be applicable to a first installment period of one month, but such first period may be considered a monthly interval for purposes of determining rebates. Where the first period is greater than one month, any additional interest charge shall be earned and may be added to and collected at the time of the first installment payment.

3. In lieu of deducting the interest and charging the delinquency and deferral charges authorized in this section, a licensee may contract for and receive a rate of charge not exceeding that rate which, computed on scheduled unpaid balances of the proceeds of the loan contract, would produce an amount of charge equal to the total of the interest which may be deducted from such loan contract under this section, and such rate of charge may be computed on actual unpaid principal balances from time to time outstanding until the loan is fully paid. When such rate of charge is made in lieu of other charges, the provisions relating to refunds and delinquency charges shall not apply to such loans.

4. If 2 installments or parts thereof of a precomputed loan are not paid on or before the 10th day after their scheduled or deferred due dates, a licensee may elect to convert the loan from a precomputed loan to one in which the interest is computed on unpaid balances actually outstanding. In this event the licensee shall make a rebate pursuant to the provisions on rebate upon prepayment as of the due date of an unpaid installment, and thereafter may charge interest from the due date as provided in subd. 3. or by par. (b) 2. and no further delinquency or deferral charges shall be made. The rate of interest may equal but not exceed the annual percentage rate of finance charge which was disclosed to the borrower when the loan was made. The rate of interest shall be computed on actual unpaid balances of the contract as reduced by the rebate for the time that such balances are actually outstanding from the due date as of which the rebate was made until the contract is fully paid.

(d) 1. No loan of \$3,000 or less, excluding interest, scheduled to be repaid in substantially equal installments at equal periodic intervals shall provide for a scheduled repayment of principal more than 36 months and 15 days from the date of the contract if the principal exceeds \$700, nor more than 24 months and 15 days from the date of the contract if the principal is \$700 or less.

2. A licensee may make loans under a continuing loan agreement which provides for future or additional advances under the same instrument if at the time of each new advance of money, any existing unpaid balance is reduced by any required rebate and the resulting amount plus the additional money advanced plus interest, official fees and premiums or identifiable charges for insurance, if any, are combined, and for the purpose of the limitations

of subd. 1. only, the date of the loan contract shall be deemed the date of said advance.

(e) 1. With respect to a precomputed loan which is scheduled to be repaid in substantially equal installments, the parties may agree to a delinquency charge on any installment not paid in full on or before the 10th day after its scheduled or deferred due date, in an amount not to exceed 5% of the unpaid amount of the installment. The delinquency charge may be collected only once on any one installment but may be collected when due or at any time thereafter.

2. With respect to other loans the delinquency charge shall not exceed the rate allowed under par. (b), computed upon the unpaid principal balance exclusive of interest on the loan.

3. Notwithstanding subds. 1. and 2., delinquency charges on precomputed consumer loans shall be governed by s. 422.203.

(f) 1. Subject to subds. 2. and 3., with respect to a precomputed loan, the parties before or after default may agree in writing to a deferral of all or part of any unpaid installment, and the licensee may make and collect a charge computed in the same manner as the deferral charge computed in accordance with s. 422.204 (1) to (5) whether or not the loan under this section is a consumer loan.

2. In addition to the deferral charge, the licensee may make appropriate additional charges. The amount of such charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

3. The parties may agree in writing at any time, including at the time of a precomputed loan that if an installment is not paid within 30 days after its due date, the licensee may grant a deferral and make charges under this section, if a notice is sent to the customer advising the customer of the amount of the deferral charge, the period of deferral and that if the installment is prepaid before maturity that a proportionate refund of the deferral charge will be given. No deferral charge may be made for a period after the date that such a lender elects to accelerate the maturity of the agreement.

4. Notwithstanding subds. 1., 2. and 3., deferral charges on precomputed consumer loans shall be governed by s. 422.204.

(g) Except as provided in par. (gm), upon prepayment in full by cash, renewal, refinancing or otherwise, the borrower shall be entitled to a rebate of the unearned interest as provided in this paragraph. If the combined rebate of interest and credit insurance premiums otherwise required is less than \$1, no rebate need be made. The refunds shall be determined as follows:

1. On a loan where the interest is precomputed and which is repayable in substantially equal successive installments at approximately equal intervals, whether or not the precomputed loan is a consumer loan, the amount of rebate shall be computed under s. 422.209 (2) (a) except for any additional interest charge covered under subd. 3.

2. For any other loan, the amount of the rebate of interest shall not be less than the difference between the interest charged and the interest earned at the agreed rate computed upon the unpaid principal balances, exclusive of interest, of the transaction prior to payment in full.

3. If the first payment period is greater than one month and additional interest is charged as permitted under par. (c) 2., the additional interest charged for the extension of the first payment period is considered wholly earned on the first installment date and is not considered in computing rebates.

(gm) 1. Upon prepayment in full of a loan entered into on or after November 1, 1981 and before November 1, 1984, and which has a term of less than 49 months, by cash, renewal, refinancing or otherwise, the borrower shall be entitled to a rebate of the unearned interest as provided in this paragraph. If the combined rebate of interest and credit insurance premiums otherwise required is less than \$1, no rebate need be made. The refunds shall be determined as follows:

a. On a loan where the interest is precomputed and which is repayable in substantially equal successive installments at

approximately equal intervals, the amount of rebate shall be computed under s. 422.209 (2) (a) except for any additional interest charge under par. (c) 2.

b. For any other loan, the amount of the rebate of interest may not be less than the difference between the interest charged and the interest earned at the agreed rate, computed upon the unpaid principal balance.

c. If the first payment period is greater than one month and additional interest is charged under par. (c) 2., the additional interest is earned on the first installment date and may not be considered in computing rebates.

2. Upon prepayment in full of a loan for personal, family, household or agricultural purposes, of \$25,000 or less, entered into on or after November 1, 1981 and before August 1, 1987, and which has a term of 49 months or more and upon prepayment in full of any loan entered into on or after May 10, 1984 and before August 1, 1987, and which has a term of more than 49 months, by cash, renewal, refinancing or otherwise, the borrower shall be entitled to a rebate of the unearned interest under s. 422.209 (2) (b). If the combined rebate of interest and credit insurance premiums otherwise required is less than \$1, no rebate need be made. If the first payment period is greater than one month and additional interest is charged under par. (c) 2., the additional interest is earned on the first installment date and may not be considered in computing rebates.

3. Upon prepayment in full of a loan of less than \$5,000 which is entered into on or after August 1, 1987, and which has a term of less than 37 months, by cash, renewal, refinancing or otherwise, the borrower shall be entitled to a rebate of the unearned interest as provided in this subdivision. If the combined rebate of interest and credit insurance premiums otherwise required is less than \$1, no rebate need be made. The refunds shall be determined as follows:

a. On a loan where the interest is precomputed and which is repayable in substantially equal successive installments at approximately equal intervals, the amount of rebate shall be computed under s. 422.209 (2) (a) except for any additional interest charge under par. (c) 2.

b. For any other loan, the amount of the rebate of interest may not be less than the difference between the interest charged and the interest earned at the agreed rate, computed upon the unpaid principal balance.

c. If the first payment period is greater than one month and additional interest is charged under par. (c) 2., the additional interest is earned on the first installment date and may not be considered in computing rebates.

4. Upon prepayment in full of a loan of \$5,000 or more or a loan of less than \$5,000 if for a term of 37 months or more, entered into on or after August 1, 1987, by cash, renewal, refinancing or otherwise, the borrower shall be entitled to a rebate of the unearned interest computed under s. 422.209 (2) (b) 1. or 2. The licensee may determine whether the rebate is computed under s. 422.209 (2) (b) 1. or 2. If the combined rebate of interest and credit insurance premiums otherwise required is less than \$1, no rebate need be made. If the first payment period is greater than one month and additional interest is charged under par. (c) 2., the additional interest is earned on the first installment date and may not be considered in computing rebates.

(h) A licensee may require property insurance, and may accept, but shall not require, credit life insurance or credit accident and sickness insurance or both, if such insurance is issued in accordance with ch. 424, whether or not the loan is a consumer loan.

(i) In addition to interest, the licensee may charge:

1. The additional charges allowed in s. 422.202 whether or not the loan is a consumer loan;

2. An amount sufficient to cover the fee for filing the termination statement required by s. 409.513 on loans secured by mer-

138.09 MONEY AND RATES OF INTEREST

chandise other than a motor vehicle, a manufactured home, or a boat; and

3. On motor vehicle loans, the actual filing fee required for filing with the department of transportation under ch. 342 or, on boat loans, the filing fee required for filing with the department of natural resources under ch. 30.

(j) No licensee may divide or encourage a borrower to divide any loan for the purpose of obtaining a higher rate of finance charge than would otherwise be permitted under this section.

(jm) 1. Subject to subd. 2., a licensee may charge, in addition to interest, a loan administration fee on a consumer loan, including a refinancing or loan consolidation, if all of the following conditions are met:

a. The loan administration fee does not exceed 2% of the principal in the consumer loan, refinancing or consolidation.

b. The loan administration fee is charged for a consumer loan that is secured primarily by an interest in real property or in a mobile home, as defined in s. 138.056 (1) (bm).

2. Notwithstanding subd. 1., if a licensee charges a loan administration fee on a consumer loan that is prepaid from the proceeds of a new loan made by the same licensee within 6 months after the prior loan, then the licensee shall reduce any loan administration fee on the new loan by the amount of the loan administration fee on the prior loan.

3. A loan administration fee charged under this paragraph may be included in the amount financed in the consumer loan. The loan administration fee is earned by the licensee when charged and need not be refunded under par. (gm) 3. or 4. A licensee who charges a loan administration fee under this paragraph may not also retain a loan administration fee under s. 422.209 (1m) in connection with the same consumer loan transaction.

(k) All consumer loans as defined in s. 421.301 (12) shall be governed by chs. 421 to 427, but to the extent that chs. 421 to 427 are inconsistent with this section, this section shall govern.

(8) Every licensee shall:

(a) Deliver to the borrower, at the time a loan is made, a statement in the English language showing in clear and distinct terms the amount and date of the note and of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, the amount of interest, the proceeds of the loan after deducting such interest, a description of the payment schedule and the default charge. Disclosures made in accordance with the federal consumer credit protection act and regulation Z shall be deemed to comply with such disclosures. The statement shall also indicate that the borrower may prepay the borrower's loan in whole or in part and that if the loan is prepaid in full the borrower will receive a refund of interest as provided by this section. The statement shall also indicate the percentage per year of interest charged in the transaction.

(b) Give to the borrower a plain and complete receipt for all cash payments made on account of any such loan at the time such payments are made.

(c) Permit payments of the loan in whole or in part prior to its maturity.

(d) Upon repayment of the loan in full mark indelibly every obligation, other than a security agreement, signed by the borrower with the word "Paid" or "Canceled" and cancel and return any note. When there is no outstanding secured obligation such licensee shall restore any pledge, cancel and return any assignment, cancel and return any security agreement given to the licensee by the borrower and file a termination statement terminating any filed financing statement.

(e) Take no note, promise to pay, security nor any instrument in which blanks are left to be filled in after the loan has been made except that a detailed description or inventory of the security may be filled in, with the written consent of the borrower within 10 days thereafter.

(9) (a) No person, except as authorized by statutes, shall directly or indirectly charge, contract for or receive any interest or consideration greater than allowed in s. 138.05 upon the loan, use or forbearance of money, goods or things in action, or upon the loan, use or sale of credit. The foregoing prohibition shall apply to any person who as security for any such loan, use or forbearance of money, goods or things in action, or for any such loan, use or sale of credit, makes a pretended purchase of property from any person and permits the owner or pledgor to retain the possession thereof, or who by any device or pretense of charging for his or her services or otherwise seeks to obtain a greater compensation than is authorized by this section.

(b) No loan made under this section, for which a greater rate or amount of interest, than is allowed by this section, has been contracted for or received, wherever made, shall be enforced in this state, and every person in any wise participating therein in this state shall be subject to this section. If a licensee makes an excessive charge as the result of an unintentional mistake, but upon demand makes correction of such mistake, the loan shall be enforceable and treated as if no violation occurred at the agreed rate. Nothing in this paragraph shall limit any greater rights or remedies afforded in chs. 421 to 427 to a customer in a consumer credit transaction.

(10) Any person, partnership or corporation and the several officers and employees thereof who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$500 or imprisoned for not more than 6 months or both.

(11) The division may employ necessary examiners or other personnel from time to time and fix their compensation.

(12) No person, association, partnership or corporation doing business under the authority of any law of this state or of the United States relating to banks, savings banks, trust companies, savings or building and loan associations, or credit unions shall be eligible to become a licensee under this section.

History: 1971 c. 60, 125, 239, 307; 1973 c. 2, 243; 1975 c. 407; 1977 c. 29 s. 1654 (7) (b); 1977 c. 444; 1979 c. 110 s. 60 (13); 1979 c. 168; 1981 c. 45 ss. 11 to 16, 51; 1983 a. 36, 192, 385; 1985 a. 127; 1987 a. 27; 1989 a. 31; 1991 a. 39, 221; 1993 a. 112, 184, 368, 482, 490; 1995 a. 27, 225, 272; 1997 a. 27, 191, 237; 1999 a. 9, 31, 32, 53; 2001 a. 10, 107.

Installment sellers are not precluded by s. 138.09, 1973 stats., from charging pre-computed interest. *First National Bank of Wisconsin Rapids v. Dickinson*, 105 Wis. 2d 428, 308 N.W.2d 910 (Ct. App. 1981).

A municipal ordinance that dictates where a state-licensed payday loan operation may locate its business and what hours it may operate has nothing to do with the state's regulation of the loans themselves and its licensing of loan providers and is not preempted by state law. *The Payday Loan Store of Wisconsin, Inc. v. City of Madison*, 333 F. Supp. 2d (2004).

Wisconsin has compelling interest in applying statutory regulations to banking activities on Indian reservations. 80 Atty. Gen. 337.

138.10 Pawnbrokers. (1) DEFINITIONS. In this section:

(a) "Pawnbroker" includes any person who engages in the business of lending money on the deposit or pledge of personal property, other than choses in action, securities, or written evidences of indebtedness; or purchases personal property with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price.

(b) "Pawnbroking" means the business of a pawnbroker as defined in this section.

(c) "Pawn ticket" means the card, book, receipt or other record furnished to the pledgor at the time a loan is granted containing the terms of the contract for a loan.

(d) "Person" includes an individual, partnership, association, business corporation, nonprofit corporation, common law trust, joint-stock company or any group of individuals however organized.

(e) "Pledge" means an article or articles deposited with a pawnbroker as security for a loan in the course of the pawnbroker's business as defined in par. (a).

(f) "Pledgor" means the person who obtains a loan from a pawnbroker and delivers a pledge into the possession of a pawn-

Sent: February 2, 2006

A "Report of the Wisconsin Consumer Act Review Committee" with several appendices can be found on the DFI web site <http://www.wdfi.org/wca/>. However, the report was prepared in 1997-98 and reflects the market conditions for credit at that time. Hence, there is no mention of payday lenders or car title lenders in the report. This committee review, its appendices and the report on revolving credit (mentioned below) contain over 150 pages. Since they are so dated I would not recommend putting them on paper. (See attachments. I have included some of the appendices: "B" is a list of the committee members, "C" is the proposed changes to the WCA and related laws, "G" is Amendments and Clarifications of selected recommendations contained in "C", "H" is committee member comments on issues for which there were no recommendations and "I" is a set of compromise proposals). I include these for the sake of completeness. However, none of them refer to payday lenders or car title lenders.

DFI should prepare a new study to review the Consumer Act which takes current market conditions into account. The study on-line was done at a time when payday lenders and car title lenders were not ubiquitous as they are now.

The 1998 report, "The Revolving Credit Market", which was prepared by Paul D. Egide, the Director of the Wisconsin Consumer Act Section of the DFI, should be completely redone to include recent data and reflect current market conditions which include consumer use of payday lenders and car title lenders. That report was prepared by legislative direction according to section 15 of 1995 Wisconsin Act 328. It is possible that we might request that the governor request such a study now. Or, perhaps it might fit into the purview of the work the Lt. Governor is doing on Wisconsin women and prosperity.

Dorothy K Dean

Sent: 2/3/2006

The DFI (Department of Financial Institutions) has a report issued in October 1998 on-line in the Consumer Credit section of their web site. It is a problem that this report, by its placement, indicates that is the last examination of "The Revolving Credit Market". In that report there is no mention of payday lenders. What the report looks at is the revolving credit market of 1998 which is defined in the report as credit cards and home equity lines of credit.

Page 1 of the report contains statements that are no longer true in 2006. They may have been true in 1998 but even that is open to a different analysis. Simplistic economic theories are used to support the changes in Wisconsin state law (especially the elimination of the interest cap): "This has increased competition among lender and has assured a ready supply of credit at a fair price." The author notes that there has been an increase in the use of credit: ". . . increases of about 12% per year since 1993." The last paragraph states: "Increases in credit use have not brought about evidence of a serious rise in debt payment problems, especially in Wisconsin." The author uses bankruptcy filings in Wisconsin as an example of how prudently credit is used here. The situation, of course, has changed greatly since 1998 when the report was issued.

On page 7, the author states: "The forces of a competitive market generally prevent sellers (e.g., lenders) from charging unreasonable prices." Adam Smith never knew anything about credit cards or home equity lines of credit when he made that assertion. The following pages of the report show that most states had no cap on interest rates at that time and lack of a cap was seen as necessary to promoting Wisconsin's competitiveness. The increasing number of credit card issuers across the country offering credit cards to Wisconsin consumers is used as an example that Wisconsin's competitiveness has improved.

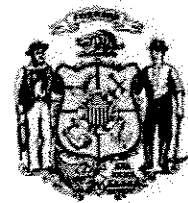
Even though (page 11) the author of the report notes that one study showed that: ". . . 70% of consumers who use credit cards have no idea what interest rate they are paying . . ." the author believes that consumers have access to sources of information upon which to make informed decisions. The sources of information referred to are limited to a telephone hotline to DFI, educational speakers and some educational materials. The author concludes that: ". . . many consumers feel the amount of interest they pay is not significant enough in amount to warrant 'shopping around' or the trouble of refinancing their credit balances." This statement neatly puts the blame implicitly on consumers who do not "shop around" for better interest rates. As we have seen in our meetings, decisions to use payday lenders do not follow Adam Smith's rules of the competition supposedly inherent in capitalism.

That this is the only report on revolving credit on the DFI web site shows there is a problem with Wisconsin's current policies on revolving credit. It is obvious that thinking on revolving credit must be updated to reflect the current market conditions. It is clear that payday lenders must now be put into the mix due to the size and seriousness of their economic impact on Wisconsin's consumers across the state.

Dorothy K Dean



STATE OF WISCONSIN
Department of Financial Institutions
Division of Banking



LOAN COMPANY LICENSE APPLICATION INSTRUCTIONS

Purpose: A completed Loan Company Application should be submitted to the Department of Financial Institutions – Division of Banking (“DFI”) for consideration of licensure. Upon the filing of such application the division shall investigate the relevant facts, and if the division finds that the character, general fitness and financial responsibility of the applicant, including key officers, members, partners or owners, warrant the belief that the business will be operated in compliance with Section 138.09, Wis. Stats., the division shall issue a license.

The sections and numbers below correspond to the sections and numbers on the application.

APPLICANT INFORMATION

1. Print or type the complete name of the Applicant. The “Applicant” is the corporation, limited liability company, limited partnership, partnership or sole proprietorship that is applying for the license. If your company uses a trade name or DBA (doing business as) name, include that as well.
2. Print or type the street address for the licensee’s headquarters. The “headquarters” is the location where all regulatory correspondence should be sent.
3. Print or type the mailing address for the headquarters.

LOAN COMPANY OFFICE

A separate “loan company office” application must be completed for each proposed licensed office location. Copies of the form may be made to accommodate additional locations.

4. Print or type the complete name, street address, and telephone number of each proposed loan company office location in the spaces provided.

5. List the other types of business conducted at each location.

Section 138.09(3)(e)(1), Wis. Stats., indicates the other types of business that a licensee may conduct, and permit others to conduct, at the location specified in its license. A copy of this statute is attached to this application packet or may be accessed from our website at www.wdfi.org.

If you are requesting authorization to share office quarters or to conduct other types of business at the licensed location, provide a detailed explanation of the proposed business and/or activities.

GENERAL INFORMATION

6. Print or type the name of the contact person to whom questions regarding the application should be directed.

7. List the state(s) in which the applicant currently holds a license to conduct business as a lender. For each state, identify the license number and the type of license issued by that state. If the applicant does not currently hold a

loan company license, complete this area to disclose "None."

8. Indicate with an "X" the type of organization of the applicant. If you checked "Other," identify the type of organization.

9. If the applicant is a corporation, limited liability company, or limited partnership, complete the application to indicate the date and state of incorporation or organization.

10. If the applicant is not an individual, provide the applicant's Federal Employer Identification Number (FEIN).

If the applicant is an individual, provide the applicant's social security number.

Note: Pursuant to Section 138.09 (1m)(b), Wis. Stats., this Department is required to obtain this information from all applicants. The information will be shared with other state agencies for the purpose of matching against tax information and outstanding child and family support data.

PERSONNEL INFORMATION

11. Print or type the information requested in the space provided and/or attach additional pages as necessary.

EDUCATION AND EXPERIENCE

12. Print or type the name and title of each key officer, member, partner or owner. For each person, provide a summary indicating any educational or employment experience related to the loan company industry or a loan company business. The summary should include the dates of experience, position held, name of company, and description of duties. Attach additional pages as necessary.

APPLICANT BACKGROUND INFORMATION QUESTIONNAIRE

13. Mark an "X" in the appropriate box. This questionnaire must be completed for the applicant listed on line 1 of the application. If the answer to any question is **yes**, use a separate sheet to explain the circumstances fully. Do not complete this questionnaire if you are a sole proprietor or general partnership.

Note: A key officer, member or partner must complete and sign this portion of the application.

Note: This Department may independently conduct checks into background, experience and related matters in conjunction with the filing of this application and representations therein. Failure to complete this application completely and accurately may result in denial or revocation of the license, and any other penalties as provided by law.

INDIVIDUAL BACKGROUND INFORMATION QUESTIONNAIRE

14. A separate "Individual Background Information Questionnaire" must be completed and signed by each key officer, member, partner or owner. Copies of the form may be made.

Mark an "X" in the appropriate box. If the answer to any question is **yes**, use a separate sheet to explain the circumstances fully.

Note: This Department may independently conduct checks into background, experience and related matters in conjunction with the filing of this application and representations therein. Failure to complete this application completely and accurately may result in denial or revocation of the license, and any other penalties as provided by law.

AUTHORIZATION FOR BACKGROUND INVESTIGATION

15. A separate "Authorization for Background Investigation" form must be completed and signed by each key officer, member, partner or owner. Copies of the form may be made.

ATTACHMENTS

16. The following items must be submitted with your completed "Loan Company Application" form.

- A) Surety Bond
- B) Financial Statement
- C) Fees
- D) Certificate of Good Standing (if applicable)

A) Surety Bond

The applicant must provide a surety bond in the amount of \$5,000 per proposed licensed location, or \$50,000, whichever is less.

The bond must be written on the form provided by this Department. The bond form is attached to the application packet or may be downloaded from our website at www.wdfl.org.

The surety bond must be completed to indicate the exact name of the Applicant (refer to #1 of the application.)

Because the bond covers the applicant at all licensed locations, the bond may not reference a street address.

The original surety bond and the original power of attorney must be submitted to this Department.

The bond must be signed and witnessed or sealed.

B) Financial Statement

Submit a balance sheet and income statement certified by a senior officer or financially responsible party and dated no more than 90 days prior to the date of this application. If your company is audited annually by an independent public accountant at the end of each fiscal year, also submit financial statements certified by said accountant for your latest fiscal year.

If the applicant is a sole proprietorship, provide a personal financial statement dated no more than 90 days prior to the date of this application.

If the applicant is a partnership, each partner must submit a financial statement dated no more than 90 days prior to the date of this application.

The financial statements must be prepared according to Generally Accepted Accounting Principles using accrual basis accounting.

The balance sheet must show a minimum net worth of \$50,000 and positive net working capital for the application to be considered.

If your company is presently involved in any lawsuit as a defendant that may materially affect the company's financial position, provide details including the name of the plaintiff(s), amount(s) sued for, basis for the litigation, and its current status.

When evaluating a financial statement, this Department typically discounts intangible assets, leasehold improvements, and loans/receivables from officers. This Department may also discount goodwill and loans/receivables from related parties.

Note: This Department takes all details provided into consideration when evaluating a financial statement. You should, therefore, provide the following information if it will assist us in determining the accurate financial position of the applicant.

- If the balance sheet includes an "Other Assets" category, provide a detailed list of these assets and their values.
- If cash accounts for a significant portion (over 20%) of the total assets, submit documentation of the cash balance listed.
- If your company's equity is at or near the minimum amounts required by this Department, explain how your company will maintain a net worth of \$50,000 once it begins to operate.

C) Fees

The fee is \$800 for each location where business as a loan company will be conducted. The \$800 fee consists of a \$500 license fee and a \$300 nonrefundable investigation fee.

- Make checks payable to the Department of Financial Institutions.

Calculate the fee due as follows:

a) # of locations to be licensed	# _____
b) Multiply by \$800	X \$800
c) Total Fee Due	\$ _____

D) Certificate of Good Standing (if applicable)

If the applicant is organized or incorporated in a state other than Wisconsin, provide this Department with a certificate of status/certificate of good standing from the state where the applicant is organized or incorporated. The status/certificate should be dated within the previous 90 days and reflect the correct name and the date of organization or incorporation.

AFFIDAVIT

17. A duly authorized representative for the applicant should complete and sign the affidavit.

Have a witness certify the signature of the person signing the affidavit.

**FOR YOUR INFORMATION
Wisconsin Consumer Act**

Enclosed is a Wisconsin Consumer Act registration form. It may also be downloaded from our web site at www.wdfi.org.

Under Section 426.201, Wis. Stats., a business that makes consumer credit transactions is required to register with the Wisconsin Consumer Act Section of the Department of Financial Institutions.

A registration must be filed, and a \$25.00 fee submitted, within 30 days of commencing business in Wisconsin.

The provisions of the consumer loan agreement used by your company must comply with the Wisconsin Consumer Act and Section 138.09 of the Wisconsin Statutes. Sections 421 through 427 of the Wisconsin Statutes are known as the Wisconsin Consumer Act (WCA). Although you are not required to submit your loan agreement in connection with your loan company application, you may forward an original form plus three copies to us and this Department will review it for compliance with the WCA.

Once the initial WCA registration has been filed with the \$25.00 fee, the service of reviewing your forms is free.

For more information regarding Wisconsin Consumer Act Registration contact:

Department of Financial Institutions
Division of Corporate and Consumer Services
(608) 264-7969

RETURN APPLICATION MATERIALS TO:

Department of Financial Institutions
Division of Banking


Mailing Address:

PO Box 7876
Madison, Wisconsin 53707-7876

Street Address:

345 West Washington Avenue, 4th Floor
Madison, Wisconsin 53703

HOW TO OBTAIN HELP AND ADDITIONAL FORMS:

 **INTERNET** - Access the Department of Financial Institutions Internet Web Site at:
www.wdfl.org to do the following:

- Download Applications, Instructions and Forms
- See Answers to Frequently Asked Questions
- See List of Loan Companies licensed under Section 138.09, Wisconsin Statutes

TELEPHONE

Licensed Financial Services Section (608) 267-1708

or:

Department of Financial Institutions
Division of Banking (608) 261-7578

TTY Phone Number (608) 266-8818

FAX

Division of Banking
(608) 267-6889

Section 138.09, Wis. Stats.

Courier Address:
345 W. Washington Ave.
4th Floor
Madison, WI 53703

www.wdfi.org

STATE OF WISCONSIN Department of Financial Institutions



LOAN COMPANY APPLICATION

Division of Banking

Mailing Address:
PO Box 7876
Madison, WI 53707-7876

Telephone: (608) 261-7578
Fax: (608) 267-6889
TTY: (608) 266- 8818

Please refer to the accompanying instructions while completing this application.

APPLICANT INFORMATION

Print or type the information requested in the spaces provided.

1. **Name of applicant** If your company uses a trade name or DBA (doing business as) name, include that as well.

--

2. **Address and phone number of applicant's headquarters office**

Street:			Telephone Number: ()
City:	State:	Zip:	FAX Number: ()

3. **Mailing address of applicant's headquarters office (if different than above)**

Street:		PO Box:
City:	State:	Zip:

GENERAL INFORMATION

6. Name, title, address, phone number and e-mail address of person to whom questions regarding this application should be addressed:

[Empty box for contact information]

7. List state(s) in which the applicant currently holds a license to conduct business as a lender. For each state, identify the license number and type of license issued by that state. Attach additional pages as necessary.

[Empty box for license information]

8. Indicate the type of organization with an "X."

Corporation

Partnership

Limited Liability Company

Sole Proprietorship

Limited Partnership

Other (Please Specify)

[Empty box for other organization type]

9. Provide the date and state of Incorporation/Organization.

Date:

[Empty box for date]

State:

[Empty box for state]

10. Provide the applicant's Federal Employer Identification Number:

[Empty box for FEIN]

If the applicant is an individual, provide Social Security Number (s):

[Empty box for SSN]

PERSONNEL INFORMATION

11. Provide information relevant to the applicant. Attach additional pages, if necessary.

Corporation: List all key officers and the percentage of common stock owned. In addition, list all other stockholders who own 10% or more of the outstanding shares. "Key Officers" include the chief executive officer, chief operating officer, president, executive or senior vice president, secretary and treasurer. If the corporation does not have an officer who holds one of the above positions, please indicate that fact below.

Limited Liability Company (LLC): List all key members and each member's interest. In addition, list all other members whose interest in the LLC is 10% or more.

Limited Partnership: List all general partners and each partner's interest. In addition, list all limited partners whose interest in the limited partnership is 10% or more.

Partnership: List all partners and indicate percentage of ownership.

Sole Proprietorship: List proprietor.

Name and Title	Residence Address	% Ownership

EDUCATION AND EXPERIENCE

12. For each key officer, member, partner or owner, provide a summary of any education and employment experience related to the loan company industry or a loan company business. Attach additional pages as necessary. "Key Officers" include the chief executive officer, chief operating officer, president, executive or senior vice president, secretary and treasurer.

Name and Title	Summary

INDIVIDUAL BACKGROUND INFORMATION QUESTIONNAIRE

14. This questionnaire must be completed by each key officer, member, partner or owner of the Applicant. "Key Officers" include the chief executive officer, chief operating officer, president, executive or senior vice president, secretary and treasurer. Mark an "X" in the appropriate box. If you answer "Yes" to any question, give all details on a separate sheet. Copies of this form may be made. If any event or action arises after completing these questions and before action is taken by the department on this application that would cause the individual to answer "Yes" to any question, the individual must immediately provide all details in writing to the department.

Yes No

 Have you ever been convicted of any misdemeanor or felony (other than minor traffic offenses) in this state or any other state? Provide details about the misdemeanor or felony, including but not limited to conviction, conviction date, penalty and court.

 Are there any felony or misdemeanor charges (other than minor traffic offenses) pending against you in this state or any other state? Provide details about the pending charges, including but not limited to charge, date and court.

 Have you ever been the subject of disciplinary action including, but not limited to, civil forfeitures, cease and desist orders, injunctions, license suspensions, denials, revocations, warnings, reprimands, enforcement actions, probation and limitations by any regulatory agency in this state or any other state? Provide details about the disciplinary action, including but not limited to date, regulatory agency and type of discipline.

 Is disciplinary action pending against you in this state or any other state? Provide details, including but not limited to action, regulatory agency and state.

 Have you ever surrendered, resigned, cancelled or been denied a professional license or other credential in this or any other state? Provide details, including but not limited to date, credential and state.

 Has your employment involuntarily been suspended or terminated in this state or any other state? Provide details about the suspension or termination, including but not limited to name and location of employer, reason and date.

 Have you been the subject of derogatory credit (bankruptcy, judgment, tax lien, collections, etc.) within the past 7 years? Provide details, including but not limited to date, circumstances and court or agency.

 Have you been denied credit within the past 7 years? Provide details, including but not limited to entity denying credit and date.

 Have you been the subject of any suit, claim, or other civil action in this state or any other state within the last five years that was settled, or included a ruling or decision not in your favor? Provide a description of the suit, claim, or other civil action, agency or court, date filed, and outcome.

Initials of individual signing this questionnaire: _____

Yes No

Is a suit, claim or other civil action pending in this state or any other state against you? Provide details, including but not limited to a description of the suit, claim, or other civil action, agency or court, date filed, and current status.

Have you been the key officer, member, partner or owner of any company that failed in business or filed bankruptcy while you were a key officer, member, partner or owner? Provide details, including company name(s), your position with the company, dates, and circumstances.

Have you been the key officer, member, partner or owner of any company that was the subject of disciplinary action including, but not limited to, civil forfeitures, cease and desist orders, injunctions, license suspensions, denials, revocations, warnings, reprimands, enforcement actions, probation and limitations by any regulatory agency in this state or any other state while you were a key officer, member, partner or owner? Provide details about the disciplinary action, including but not limited to company name, date, regulatory agency and type of discipline.

I,

(Print Name)

, the undersigned, being a key officer, member, partner or

owner of

(Name of Applicant)

hereby certify that each statement and

representation in the Individual Background Information Questionnaire is true and correct to the best of my knowledge.

(Signature)

(Title)

(Date)

AUTHORIZATION FOR BACKGROUND INVESTIGATION

15. A separate "Authorization For Background Investigation" form must be completed and signed by each key officer, member, partner or owner. "Key Officers" include the chief executive officer, chief operating officer, president, executive or senior vice president, secretary and treasurer. Copies of the form may be made.

By signing this Authorization, you are agreeing to allow the Department of Financial Institutions to conduct a criminal background investigation.

Applicant Company:

Full Name:

Social Security Number:	Birth Date:	Sex: Male <input type="checkbox"/> Female <input type="checkbox"/>
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Home Address:		
Street:		
City:	State:	Zip Code:

Signature:	Date:
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ATTACHMENTS

16. Attach the following to your application. Refer to the instructions for additional details.

- A) Surety Bond
- B) Financial Statement
- C) Fees
- D) Certificate of Good Standing (if applicable)

AFFIDAVIT

17. I, _____, the undersigned, being the duly authorized representative of
(Print Name)

_____ hereby certify that each statement and
(Name of Applicant)

representation in this application is true and correct to the best of my knowledge.

(Signature) (Title) (Date)

(Name of Witness) (Signature of Witness)

This form is required under Section 138.09, Wisconsin Statutes. Refusal to provide this information may result in the denial of a license. Personally identifiable information on this form may be matched against tax information, outstanding child and family support data and law enforcement agencies. Failure to complete this application completely and accurately may result in denial or revocation of license, and any other penalties as provided by law.

This document can be made available in alternate formats upon request to qualifying individuals with disabilities.