



SEP 27 2012

SEP 28 2012

Robert J. Entringer
Commissioner

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Assistant Commissioner

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September 27, 2012

Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
600 East Blvd 2nd FL
Bismarck ND 58505-0360

Dear Mr. Walstad:

Enclosed is the "Notice Of Intent To Adopt, Amend And Repeal Administrative Rules Relating To: Collection Agency Definitions, Certificates, And Threats And Coercion Prohibited; Money Broker Loan Disclosure Statements And Annual Reports; Deferred Presentment Service Provider Definitions, Reports Of Commissioner, Required Records, Credit Practices, General Transaction Requirements, Written Agreements, Administration Of The Database, Database Transactions And Fees; Mortgage Loan Originator Fees; And Money Transmitter Definitions", along with a copy of the proposed rules as required by N.D.C.C. § 28-32-10(1).

Sincerely,

Aaron K. Webb
Assistant Commissioner

AKW:sr
Enclosures

NOTICE OF INTENT TO ADOPT, AMEND AND REPEAL
 ADMINISTRATIVE RULES RELATING TO: COLLECTION AGENCY DEFINITIONS,
 CERTIFICATES, AND THREATS AND COERCION PROHIBITED; MONEY BROKER
 LOAN DISCLOSURE STATEMENTS AND ANNUAL REPORTS; DEFERRED
 PRESENTMENT SERVICE PROVIDER DEFINITIONS, REPORTS OF
 COMMISSIONER, REQUIRED RECORDS, CREDIT PRACTICES, GENERAL
 TRANSACTION REQUIREMENTS, WRITTEN AGREEMENTS, ADMINISTRATION OF
 THE DATABASE, DATABASE TRANSACTIONS AND FEES; MORTGAGE LOAN
 ORIGINATOR FEES; AND MONEY TRANSMITTER DEFINITIONS.

TAKE NOTICE that the ND Department of Financial Institutions will hold a public hearing to address proposed changes to the N.D. Admin. Code at 10:00 a.m. on Tuesday, November 6, 2012 at the Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck N.D., 58501. The proposed new rules and amendments address the following:

| Chapter 13-04-02 – COLLECTION AGENCIES | | |
|---|--|--------------------------|
| Section | Description of Change | Reason for Change |
| 13-04-02-01 | Definitions – Adds definitions for “Debtor” and “Person”, and amends definition of “Debt collector”. | Administrative update |
| 13-04-02-02 | Prohibited advertising and communications – Replaces the term “claim” with “debt”. | Administrative update |
| 13-04-02-03 | Debt collectors - Approval - Certificate. – Amends title to remove the word “certificate” and removes provisions relating to the issuance of identification cards. | Administrative update |
| 13-04-02-04 | Prohibited practices – Replaces the term “claim” with “debt”. | Administrative update |
| 13-04-02-05 | Threats or coercion prohibited – Replaces the term “claim” and the phrase “money alleged to be due or owing” with “debt”. Replaces the term “consumer” with “debtor”. Expands on the prohibited activities relating to threats of legal action. | Administrative update |
| 13-04-02-06 | Harassment or abuse prohibited - Replaces the term “claim” with “debt”. | Administrative update |
| 13-04-02-07 | Unreasonable publication prohibited. – Replaces the term “consumer” with “debtor”. Replaces the term “claim” with “debt”. | Administrative update |

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| 13-04-02-08 | Fraudulent, deceptive, or misleading representations prohibited. – Replaces the term “consumer” with “debtor”. Replaces the term “claim” with “debt”. | Administrative update |
| 13-04-02-09 | Unfair or unconscionable means prohibited. – Replaces the term “consumer” with “debtor”. Replaces the term “claim” with “debt”. | Administrative update |
| 13-04-02-13 | Receipts for collection of currency and coin. – Replaces the term “claim” with “debt”. | Administrative update |
| Chapter 13-05-01 – MONEY BROKERS | | |
| Section | Description of Change | Reason for Change |
| 13-05-01-04 | Contents of loan disclosure statement. - Removes language outlining contents of disclosure and provides that money brokers must provide all loans disclosures as required under federal law. | Removes duplication of disclosures already required under federal law |
| 13-05-01-06 | Filing of annual reports. – Repeals section. | Removes duplication of disclosures already required under federal law |
| Chapter 13-06-01 – DEFERRED PRESENTMENT SERVICE PROVIDERS | | |
| Section | Description of Change | Reason for Change |
| 13-06-01-01 | Definitions. – Adds definitions of “Database”, “Database vendor”, “ Department”, “Recorded”, and “Registered”. | Administrative update |
| 13-06-01-07 | Reports of commissioner. – Removes requirement of annual transaction report. | Available to the Department through the Vendor Database |
| 13-06-01-10 | Required Records. – Replaces the term “account” with “transaction”. Removes references to “co-maker”. Removes requirement that a licensee retain all renewals as a separate record. Adds that erasures may not be made in the payment and charge sections of any written agreements in addition to account records. | Administrative update and consistency with database |

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| 13-06-01-12 | Credit practices. – Amends the section to provide that a licensee’s third party contract must include a notice of the twenty dollar maximum returned check charge collected <u>per transaction</u> , instead of the current language providing that the charge is collected on a per year per check maker basis. | Create consistency with current North Dakota Statute. |
| 13-06-01-13 | General. – Amends section to extend the period in which a deferred presentment service check must be presented, from forty-six days to sixty days. | Create consistency with current North Dakota Statute. |
| 13-06-01-14 | Written agreement. – Repeals section | Removes duplication of information already required under North Dakota Statute |
| 13-06-01-16.1 | Database. – Creates a new section addressing the operation and maintenance of a statewide deferred presentment service transactional database. | Created in accordance with N.D.C.C. § 13-08-12. |
| 13-06-01-16.2 | Database transaction requirements. – Creates a new section addressing database requirements and the procedures to be used by a licensee when engaging in a deferred presentment transaction. | Created in accordance with N.D.C.C. § 13-08-12. |
| 13-06-01-16.3 | Cancellation, modification or closing of transactions on database. – Creates a new section addressing database requirements and the procedures to be used by a licensee when changes to the deferred presentment transaction occur. | Created in accordance with N.D.C.C. § 13-08-12. |
| 13-06-01-16.4 | Database transaction fees. – Creates a new section addressing the payment of database fees. | Created in accordance with N.D.C.C. § 13-08-12. |
| Chapter 13-07-01 – MORTGAGE LOAN ORIGINATORS | | |
| Section | Description of Change | Reason for Change |
| 13-07-01-01 | Fees. – Creates a new section setting out the fee structure for mortgage loan originator licensing. | Created in accordance with N.D.C.C. § 13-10-10. |

Chapter 13-08-01 – MONEY TRANSMITTERS

| Section | Description of Change | Reason for Change |
|----------------|---|--------------------------|
| 13-08-01-01 | Definitions. – Creates new section providing for the definition of “Past due or doubtful of collection”. | Administrative update |

The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000.

The proposed rules may be reviewed at the below referenced address or by visiting our website at www.nd.gov/dfi. A copy of the proposed rules may be obtained by writing, calling, or emailing:

Department of Financial Institutions
2000 Schafer Street, Suite G, Bismarck, ND 58501-1204
Phone: 701-328-9933
Email: dfi@nd.gov.

Written or oral comments on the proposed rules may be entered at the hearing, or sent to the above address, telephone number, or email address. Written or oral comments must be received no later than 5:00 p.m. on Monday, November 19, 2012, to be considered. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Department of Financial Institutions at the above telephone number or address at least three days prior to the public hearing.

Dated this 27th day of September, 2012.

Department of Financial Institutions



Aaron K. Webb, Assistant Commissioner