

## Chapter DFI-Bkg 74

### COLLECTION AGENCIES

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**Note:** Chapter Bkg 74 as it existed on December 31, 1965 was repealed and a new chapter Bkg 74 was created effective January 1, 1966. Chapter Bkg 74 was renumbered Chapter DFI-Bkg 74 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498, eff. 7-1-97. Chapter DFI-Bkg 74 as it existed on September 30, 2006 was repealed and a new chapter DFI-Bkg 74 was created, Register September 2006 No. 609, effective 10-1-06.

#### DFI-Bkg 74.01 Definitions. In this chapter:

(1) “Actual process of collection” means regularly receiving payments at periodic intervals, or debtor contacted within last 30 days and promise of payment received, or an account referred for legal actions where the collection agency has advanced legal costs. A collection agency and its client may by written contract agree to a different actual process of collection, but this different actual process of collection must require more effort on the part of the collection agency than merely listing the account, inputting the account into its database, writing one letter or making one call, or similar levels of effort.

(3) “Division” means the division of banking.

(4) “Health care billing companies” in s. 218.04 (1) (a), Stats., means a person under contract with a health care provider to collect or attempt to collect an account, which is not in default when forwarded from the health care provider, using only the health care provider’s name, and directing all payments to the health care provider or depositing all monies received directly into the health care provider’s account at a financial institution.

(5) “Health care provider” means any of the following:

- (a) An ambulatory surgery center as defined in 42 CFR 416.2.
- (b) A health care provider as defined in s. 146.81 (1), Stats.
- (c) An outpatient diagnostic facility as defined in 21 CFR 803.3.
- (d) A person designated as a health care provider in writing by the division.

(5m) “Licensee” means a person licensed under s. 218.04, Stats.

(6) “Merger” means the business combination of 2 or more collection agencies under s. 180.1101 or 183.1021, Stats., or other applicable law.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 10-097: renum. (4) to be (6), cr. (4), (5) Register December 2010 No. 660, eff. 1-1-11; CR 23-039: am. (1), r. (2) (c), am. (2) (d), cr. (5m), am. (6) Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: am. (1), r. (2), cr. (5m) Register April 2024 No. 820, eff. 1-1-25; merger of (1), (5m) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., Register April 2024 No. 820.

**DFI-Bkg 74.02 Office requirements.** (1) SHARED OFFICE SPACE. (a) Except as set forth in par. (b), the licensed office of a collection agency may not be shared or have a common waiting room with a practicing attorney or a loan company or be located in a private residence. If other approved business is conducted in the same office as provided for in s. 218.04 (4) (b), Stats., the books and records of such other business shall be kept separate from the books and records of the collection agency.

(b) A collection agency may share its licensed office with a practicing attorney if the attorney is an employee of the collection agency. This chapter and s. 218.04, Stats., apply to an attorney who shares office space under this paragraph.

(2) OFFICE HOURS. Every licensee shall maintain regular office hours on business days from Monday through Friday and shall be open for business at least 3 hours each day between the hours of 9:00 a.m. and 5:00 p.m. Whenever an office is not open for business at least 6 hours a day between the hours of 9:00 a.m. and 5:00 p.m., a written notice shall be filed with the division setting forth the schedule of office hours.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 23-039: renum. (1) (a) (title) to (1) (title), am. (1) (a) Register March 2024 No. 819, eff. 4-1-24.

**DFI-Bkg 74.03 Other changes.** Each licensee shall keep current and accurate all material information on file with the division and the nationwide multistate licensing system and registry as provided in s. 224.35 (6), Stats. The licensee shall provide any additional information, data, and records regarding a change to the division within 20 days after the division requests the information, data, or records. Any change that is subject to the notice requirement shall be subject to the approval of the division. In reviewing the change, the division shall apply the same criteria as the criteria for approval of an original license application. Except in the case of a relocation, the division shall determine the cost of investigating and processing the change. The licensee shall pay the division’s cost within 30 days after the division demands payment. If so directed by the division, the licensee shall provide any notice required under this subsection to the nationwide multistate licensing system and registry as provided in s. 224.35, Stats.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; 2023 Wis. Act 267: am. (title), r. (1), am. (2) Register April 2024 No. 820, eff. 1-1-25; (2) (title) repealed under s. 13.92 (4) (b) 2., Stats., and renumber (2) under s. 13.92 (4) (b) 1., Stats., Register April 2024 No. 820.

#### DFI-Bkg 74.04 Agreements and acknowledgments.

(1) AGREEMENT WITH CREDITOR. Prior to accepting accounts for collection from a creditor or earning or collecting a fee or commission, the licensee shall enter into a written agreement with the creditor. The agreement shall do all of the following:

- (a) Be executed and dated by both parties.
- (b) Indicate whether the licensee is authorized to add interest, collection charges, or fees to the accounts listed for collection and identify the interest rate, charge, or fee amount.
- (c) Identify the licensee’s rate of commission. The licensee may not charge a higher commission rate on interest or other charges and fees collected than is charged on the principal amount unless the agreement authorizes a higher commission rate. Licensee may not retain the higher rate of charge until the principal amount listed as owing has been collected in full.

(d) List any other fees that the creditor may be charged.

**(1m) PROHIBITIONS.** Except as provided in s. DFI-Bkg 74.10 (1) (c), an agreement described under sub. (1) may not permit a collection agency to charge the creditor for returning any account to the creditor.

**(2) ACKNOWLEDGMENT.** Upon receipt of any account for collection, the licensee shall furnish the creditor or forwarder with an acknowledgment, a duplicate or copy of which shall be kept in the office of the licensee. The acknowledgment shall list the accounts by name of debtor, date the account was listed, and principal amount and other charges to be collected.

**(3) WRITTEN STATEMENT.** An acknowledgement containing the information required by sub. (2) need not be sent to the creditor or forwarder for each listing if the creditor or forwarder provides a written statement indicating their desire not to receive the acknowledgment.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 23-039: am. (1) (intro.), renum. (1) (e) to (1m) and am. Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: am. (1) (intro.) Register April 2024 No. 820, eff. 1-1-25; merger of (1) (intro.) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., Register April 2024 No. 820.

**DFI-Bkg 74.05 Remittance statement. (1) REMITTANCE STATEMENT TO BE FURNISHED EACH CREDITOR.** A licensee shall provide a remittance statement and remit any money due to a creditor or forwarder on or before the last day of the month following the close of the month during which the collection was effected as provided in s. 218.04 (5) (a) 4., Stats. The remittance statement shall set forth all of the following:

(a) Date of remittance.

(b) Debtor's name.

(c) Date of collection and amount collected from each debtor which shall include interest and other charges. Attorney fees, court costs or suit fees if paid by or charged to the creditor and non-sufficient fund fees assessed by the creditor shall be included as other charges. Fees permitted and collected pursuant to s. DFI-Bkg 74.11 (2) (b) to (d) may not be included as other charges.

(d) Distribution of money collected from each debtor including interest and non-sufficient fund fees assessed by the creditor, if any, showing the amount due the licensee as commission and the amount due the creditor or forwarder.

**(2) DUPLICATE COPY OF REMITTANCE STATEMENT TO BE RETAINED BY LICENSEE.** A duplicate copy of each remittance statement furnished a creditor or forwarder shall be available in the office of the licensee and shall be filed by the month in which it was issued either alphabetically or by claimant number.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 23-039: am. (1) (intro.), (c) Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: am. (1) (intro.) Register April 2024 No. 820, eff. 1-1-25; merger of (1) (intro.) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., Register April 2024 No. 820.

**DFI-Bkg 74.06 Trust fund account. (1)** A licensee's trust checking account shall be identified as a "trust account."

**(2)** A licensee may maintain trust funds in an interest-bearing savings account or instrument provided it is identified as a "trust account."

**(3)** Sufficient funds shall be maintained in the trust account or trust accounts to pay all moneys due or owing all creditors or forwarders. For the purpose of determining sufficient funds, amounts collected by a 3rd party, but not yet deposited into the licensee's trust account, are not considered trust funds.

**(4)** Sufficient funds shall be maintained in the trust checking account on which remittance checks or electronic debits are drawn or made to pay all checks and debits when presented.

**(5)** The licensee shall have sufficient documentation from the trust account or trust accounts available to make an adequate examination.

**(6)** Third party payment processors shall not be given authority to withdraw funds from the licensee's trust account or accounts.

**Note:** Sub. (6) was created by 2023 Wis. Act 267. A similar provision with the same numbering was created by CR 23-039. Sub. (6) is shown as created by 2023 Wis. Act 267. As created by CR 23-039, it reads:

**(6) Third party payment processors may not be given authority to withdraw funds from the licensee's trust account.**

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 23-039: renum. DFI-Bkg 74.06 to (2) to (5) and, as renumbered, am. (2) to (4), cr. (1), (6) Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: renum. DFI-Bkg 74.06 to (2) to (5) and, as renumbered, am. (2) to (4), cr. (1), (6) Register April 2024 No. 820, eff. 1-1-25; merger of (1) to (5) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., and Register April 2024 No. 820.

**DFI-Bkg 74.07 Books and records. (1) RECORDS TO BE MAINTAINED.** Every licensee shall maintain in the principal licensed office adequate records which shall include all of the following:

(a) A daily collection record or cash receipt journal in which all collections are recorded and allocated as to total collections, setting forth all of the following:

1. The amount credited to principal, interest, and other charges, such other charges to include non-sufficient fund fees assessed by the creditor, any fees permitted and collected pursuant to s. DFI-Bkg 74.11 (2) (b) to (d), attorney's fees and court costs.

2. The amount due creditors or forwarders.

3. The amount retained as commission or commission paid to forwardees.

4. Paid directs reported and paid direct commissions received.

5. The debtor's name.

6. The date of collection.

7. The creditor's name or a code that identifies the creditor.

(b) A record consisting of asset and liability accounts including a continuous record of all physical assets such as furniture, fixtures and office equipment.

(c) A record of income and expenses.

(d) A record of each debtor's account shall be maintained consisting of all of the following:

1. The name and address of the debtor, creditor, forwarder and forwarder if the account has been forwarded.

2. The original amount listed, the principal amount owing and, if available, the date of the last credit or debit.

3. The amount of interest, cost of legal action instituted, or other charges, if any, and a description thereof.

4. The amount and date of each payment made by the debtor allocating moneys paid to the amount owing, interest, costs and other charges.

5. The current balance due.

(e) Check stubs or transaction registers that disclose all debits to the trust and operating accounts. These stubs or transaction registers shall include all of the following:

1. The date of the check or electronic debit.

2. The name of the payee.

3. The amount of the check or electronic debit.

4. The check number, reference number or indication that there is no check number because remittance was made electronically.

(f) A list of all outstanding trust accounts checks, sorted by account and the date the check was written. The list shall include

the date the check was written, the check number, the amount of the check, and the payee.

(g) A master alphabetical listing by name and address of every creditor or forwarder with whom the licensee engages in the business of collecting accounts.

(h) A record of all unused prepaid collection transmittals or listing forms sold, setting forth all of the following:

1. Name and address of the client or purchaser.
2. Date, number or quantity and price of transmittals or listing forms sold each client or purchaser.
3. Number and date client or purchaser used transmittals or listing forms.

(i) After the bank statement has been reconciled each month, cancelled checks together with voided or unused checks, adequately explained, shall be filed in numerical order. The division may approve records and procedures which vary from these requirements if adequate information is available for examination purposes.

(j) A roster of all collectors and solicitors employed by the licensee. The list shall be updated and accurate at all times and set forth all of the following:

1. The individual's first and last name, home address, and indication of whether the individual works from the individual's residence.
2. The first and last name of any alias that is used by the individual, the date the individual started to use the alias, and, if applicable, the date the individual stopped using the alias.
3. The date the individual was hired by the licensee.
4. The date the individual's employment with the licensee was terminated, if applicable.

**(2) RECEIPT REQUIREMENT.** (a) Whenever a payment is received from a debtor, forwarder or other person, a receipt showing the date the payment was received shall be prepared and furnished to the debtor except when other positive evidence of a receipt is available.

(b) All manually prepared receipts shall be prepared at least in duplicate, be prenumbered by the printer, be used in consecutive numerical order and be retained in numerical sequence in the office.

(c) All receipts shall show the name and address of the licensee, the amount and date paid, the name of the creditor or creditors, and the name or initials of the collector or person accepting the payment.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; 2013 Wis. Act 136: am. (1) (b), (c) Register March 2014 No. 699, eff. 4-1-14; CR 23-039: am. (1) (intro.), cr. (1) (j) Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: cr. (1) (j) Register April 2024 No. 820, eff. 1-1-25; merger of (1) (j) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., Register April 2024 No. 820.

**DFI-Bkg 74.09 Licensee shall furnish report to creditor on written request.** Every licensee shall furnish within 30 days after written request from the creditor or forwarder, a written report upon accounts received from such creditor or forwarder. The report shall include for each account the name of the debtor, the account number, the original amount of the account placed for collection, the uncollected balance due and the date of last payment by the debtor.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06.

**DFI-Bkg 74.10 Procedure for return or cancellation of accounts.** **(1) CREDITOR MAY REQUEST RETURN OF ACCOUNTS.** (a) The written request of a creditor or forwarder for the return of any account not in the actual process of collection shall be complied with by the licensee in writing within a reasonable length of time, but not in any event to exceed 30 days; the

cancellation and return shall consist of listing the account by name of debtor, the original amount of the account placed for collection, the uncollected balance due and the date of last payment by the debtor. In addition, all valuable papers furnished by the creditor or forwarder in connection with the account shall be returned.

(b) A creditor may waive its right to have returned to it the valuable papers that were furnished to the licensee when the account was listed. Such waiver must be in writing, be dated on or after the date the creditor requests the return of its accounts under par. (a), and must be maintained in the office of the agency.

(c) A licensee may not contract for or assess a fee, commission, or any other charge to a creditor for returning any account to the creditor that is not in the actual process of collection, other than a contracted fee for reasonable costs incurred by the licensee for each account placed in error by the creditor.

**(2) CANCELLATION AND RETURN OF ACCOUNTS AND VALUABLE PAPERS UPON TERMINATION OF LICENSE.** (a) In this subsection, "terminated," with respect to a license, includes a license that is surrendered, revoked, or expired.

(b) Whenever the license of a collection agency is terminated, all accounts and any valuable papers which have been given to the agency in connection with any accounts placed with it for collection shall be returned to the person placing the account for collection within 5 days of the termination of the license unless upon written application an extension of time is granted by the division. All agreements between the collection agency and the creditor or forwarder are automatically cancelled as of the date on which the license is terminated. All debtor payments received after the date on which the license is terminated shall be immediately forwarded in full to the applicable creditor without the collection agency retaining any fee or commission. If any of the accounts that have been placed for collection are in the hands of attorneys at the time of the termination of the license, such attorneys shall immediately be notified by the collection agency to thereafter correspond, remit and be solely responsible to the person placing the accounts with the collection agency unless the creditor has authorized a successor or other licensee to continue to collect the accounts. In the case of death of the sole owner or a partner, all accounts shall be returned within a reasonable period of time, but in any event not to exceed 120 days.

**(3) PROCEDURE FOR CANCELING AND RETURNING ACCOUNTS WHEN LICENSE IS TERMINATED.** Section 218.04 (6) (c), Stats., sets forth the procedure to be followed before discontinuing business. An affidavit shall be furnished to the division that s. 218.04 (6) (c) 1., 2. and 3., Stats., have been complied with. In addition to the affidavit, it is necessary within 10 days to furnish the division with a copy of the letter to each creditor, forwarder or forwarder showing the name of the debtor, the original amount of the account placed with the agency for collection, the present uncollected balance, the date of last payment and if a remittance is due, the number and the amount of the remittance check. Approved forms and procedures to be followed are to be obtained from the division before the license is terminated.

**(4) WAIVER OF CANCELLATION AND RETURN OF ACCOUNTS.** (a) *Waiver.* The division may waive the requirements of subs. (2) and (3) under any of the following circumstances:

1. Two or more collection agencies licensed under s. 218.04, Stats., merge into one collection agency under the license of one of those agencies, and the licenses of the nonsurviving agencies are terminated on the effective date of the merger.

2. An agency licensed under s. 218.04, Stats., for at least the 3 years prior to the purchase purchases 100% of the listed accounts from another collection agency licensed under s. 218.04,

Stats., and the agency from which the accounts are purchased terminates its license on the date of the purchase.

(b) *Procedure for waiver.* Waiver under this section shall be effective only upon completion of all of the following:

1. The request for waiver is submitted in writing to the division in a form prescribed by the division accompanied by a fee prescribed by the division.

2. The request for waiver is received by the division at least 45 days before the effective date of the merger or purchase of assets under par. (a).

3. Written notice of approval of the request for waiver is issued by the division.

(c) *Notice.* At least 30 days prior to the merger or purchase of assets under par. (a), the collection agencies whose licenses are being terminated shall notify, in a form approved by the division, all persons who have listed accounts with those agencies of the merger or purchase of assets. The division may rescind any waiver under this section for failure to give the notice. Notice is not required if the merger or purchase of assets is pursuant to an order issued by the division pursuant to s. 218.04 (8) or (9m), or s. 220.04 (9), Stats.

(d) *Discontinuing operations.* Collection agencies merging or purchasing assets and receiving the waiver under this section shall not be considered to be discontinuing operations under s. 218.04 (6) (c), Stats.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 23-039: cr. (1) (c), renum. (2) to (2) (b), cr. (2) (a) Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: cr. (1) (c), renum. (2) to (2) (b), cr. (2) (a) Register April 2024 No. 820, eff. 1-1-25; merger of (2) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., Register April 2024 No. 820.

**DFI-Bkg 74.11 General. (1) COMPUTATION OF INTEREST AND OTHER CHARGES.** Interest computed by the licensee on accounts where there is no definite amount contracted for should be limited to the amount permitted under ss. 138.04 and 138.05, Stats.

**(2) FEES.** (a) Except as set forth in pars. (b) to (e) and s. DFI-Bkg 74.11 (8), a licensee may not charge the debtor any fee, handling charge, mileage costs or other out-of-pocket expenses incurred in the collection of an account. In no case may a licensee divide a debtor's payment to increase the fees. The fees permitted under par. (d) may only be assessed if the fee is disclosed to the debtor prior to the transaction being processed and the debtor is not required to make payment via the method described therein.

(b) Actual charges assessed by a financial institution on a check returned to the licensee for any reason may be added to the account of the debtor provided the charge is not the result of a licensee prematurely depositing a post-dated check.

(c) Actual charges assessed by a financial institution on an Automated Clearing House transaction reversed for any reason may be added to the account of the debtor provided the charge is not the result of a licensee debiting the debtor's account prematurely, for an incorrect amount, or without proper authorization.

(d) A fee not to exceed the lesser of \$25 or 3% of the payment amount, not including the fee, may be added to the account of the debtor when the debtor makes a payment using a credit card or debit card.

(e) A licensee may serve process on a debtor and may assess a charge for service of process costs not exceeding those assessed by the sheriff of the county in which process is served.

**(3) EVIDENCES OF INDEBTEDNESS SIGNED BY DEBTOR.** Any note, mortgage or other instrument which the licensee may have the debtor sign shall be payable to the order of the creditor or jointly to the order of the creditor and the collection agency. All such instruments shall be completely filled in as to terms and

conditions at the time the instrument is signed. If the instrument is made payable only to the order of the licensee, the licensee shall then remit on the account to the creditor the same as if it had been paid in full.

**(4) APPLICATION OF FUNDS WHERE THERE IS A DEBTOR-CREDITOR RELATIONSHIP.** If a creditor has a debtor-creditor relationship with a licensee where the person as a creditor has listed accounts with the licensee for collection and where the person also has accounts listed with the licensee by other creditors against the person for collection, collections effected for the person as a creditor may not be applied on accounts that the person owes unless the licensee has a written authorization on file setting forth how the moneys collected are to be applied. A receipt and a remittance statement shall be issued in connection with debtor-creditor accounts so that the person as the debtor has a complete record of how moneys collected on the person's behalf as a creditor have been applied.

**(5) AUTHORIZATION TO CONSOLIDATE.** An authorization to consolidate under s. 218.04 (9j), Stats., shall be in writing and shall include all of the following:

(a) The authorization of the creditor.

(b) The name of the licensee.

(c) The name of the debtor.

(d) The amount of the account the licensee proposes to consolidate.

(e) If the creditor has listed with the licensee more than one account for the debtor, an account number, date of service or other brief description of the account.

(f) A statement as to how the amount of each payment received for a combined account will be apportioned to the creditors.

(g) If payments will be apportioned pursuant to the discretion of either the licensee or the attorney of record, a statement indicating the discretion to apportion.

**(6) COLLECTION NOTICES.** (a) Except as provided in pars. (b) and (c), every collection notice mailed or delivered by a licensee shall contain the collection agency's licensed name, mailing address, and telephone number, both as part of the letterhead and on the portion of the collection notice designed to be returned to the agency with the debtor's communication or payment.

(b) A collection notice mailed in the creditor's name does not need to disclose the collection agency's licensed name, mailing address or telephone number.

(c) A collection notice mailed in the collection agency's name does not need to disclose the collection agency's telephone number if the collection notice includes the creditor's telephone number and directs the debtor to contact the creditor at the creditor's telephone number.

**(7) PAID OR SETTLED IN FULL RECEIPTS.** After a debt has been paid or settled in full, and upon written request by the debtor, a collection agency shall provide to the debtor a written statement or receipt that the debt has been paid or settled in full. Such statement shall be provided within ten business days after request by the debtor and shall be provided free of charge.

**(8) PAYMENT HISTORIES.** For any account that has not been paid or settled in full and for any account that has been paid or settled in full within 24 months of the request, a collection agency shall provide the debtor with a written statement of the debtor's payments for as long as the collection agency has had the account. The statement shall be provided to the debtor within ten business days after the debtor makes a written request. The statement shall include the debtor's name, the creditor's name, the amounts paid, the dates on which payments were received, the al-

location of money to principal, interest, court costs, attorney fees, and other fee or costs, if applicable, and the current balance due. Account statements shall be provided upon request without charge once during any twelve (12) month period. If additional statements are requested, they shall be provided upon payment of a fee not to exceed \$5.00 per statement.

**(9) OVERPAYMENTS BY CONSUMERS.** If a consumer's account is overpaid, and there are no other accounts for that consumer listed with the collection agency, the collection agency is not required to issue a refund of the overpayment to the consumer if the amount of the overpayment is \$5 or less. If there is another account for that consumer listed with the collection agency, the collection agency shall, regardless of the amount, either refund the overpayment to the consumer or apply the overpayment to the other account. If a refund is required, it shall be made within 30 days from the close of the month during which the payment was received.

**(10) TRADE NAMES.** (a) A licensee may not conduct business in this state under any name or names other than the name or names listed on the license.

(b) Before using any trade name, a licensee shall obtain approval from the division for the use of the trade name.

(c) A licensee may not conduct business in this state using a trade name that includes a corporate identifier.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; 2013 Wis. Act 136: am. (2) (d) Register March 2014 No. 699, eff. 4-1-14; CR 23-039: cr. (10) Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: cr. (10) Register April 2024 No. 820, eff. 1-1-25; merger of (10) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., Register April 2024 No. 820.

#### **DFI-Bkg 74.13 Fair collection practice notice. (1)**

Unless the initial communication is written and contains the following notice or the debtor has paid the debt, a licensee shall send the debtor the following notice within 5 days after the initial communication with a debtor: "This collection agency is licensed by the Division of Banking in the Wisconsin Department of Financial Institutions, [www.dfi.wi.gov](http://www.dfi.wi.gov)." This notice shall be in at least 8 point type and shall be typed or printed on either a collection notice or on the validation of any debt directed to the debtor by the licensee pursuant to Section 809 of the Federal Fair Debt Collection Practices Act.

**(2)** Where the notice required by sub. (1) is printed on the reverse side of any collection notice or validation sent by the licensee, the front of such notice shall bear the following statement in not less than 8 point type: "Notice: See Reverse Side for Important Information."

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; 2013 Wis. Act 136: am. (1) Register March 2014 No. 699, eff. 4-1-14; CR 23-039: am. (1) Register March 2024 No. 819, eff. 4-1-24.

#### **DFI-Bkg 74.15 Unauthorized practice of law.**

Except for an attorney employed by a licensee, no collector or other employee of the licensee may, in attempting to collect an account, engage in the practice of law. This includes the preparation of a summons or complaint or the appearance on behalf of any creditor, except when called as a witness by the plaintiff's attorney in open court, before any court including the clerk of any small claims court in an action on the debt or in garnishment proceedings. It is not considered the practice of law for an employee of a licensee to prepare a summons or complaint under the direction of an attorney which will subsequently be signed and filed by the plaintiff's attorney. This section does not prohibit the appearance of an owner or officer of a licensed collection agency in court for the purpose of obtaining judgment on a debt owed to the licensee directly.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 23-039: renun. (1) to DFI-Bkg 74.15 and am., r. (2) Register March 2024 No. 819, eff. 4-1-24.

**DFI-Bkg 74.16 Oppressive and deceptive practices prohibited.** A licensee may not engage in any oppressive or deceptive practices. In attempting to collect an alleged account, bill, or other indebtedness, a licensee may not do any of the following:

**(1)** Use or threaten force or violence to cause physical harm to the person, dependents or property of a debtor.

**(2)** Threaten criminal prosecution.

**(3)** Disclose or threaten to disclose information adversely affecting the debtor's reputation for credit worthiness with knowledge or reason to know that the information is false.

**(4)** Initiate or threaten to initiate communication with the debtor's employer prior to obtaining final judgment against the debtor, except as permitted by statute. This subsection does not prohibit a debt collector from communicating with the debtor's employer solely to verify employment status or earnings or where an employer has an established debt counseling service or procedure.

**(5)** Contact a debtor by telephone following a request or demand by the debtor that such collection efforts cease.

**(6)** Disclose or threaten to disclose to a person other than the debtor or the debtor's spouse information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information.

**(7)** Disclose or threaten to disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing the fact that the debtor disputes the debt.

**(8)** Communicate with the debtor or a person related to the debtor with such frequency or at such unusual hours or in such a manner as can reasonably be expected to threaten or harass the debtor.

**(9)** Engage in other conduct that can reasonably be expected to threaten or harass the debtor or a person related to the debtor.

**(9g)** Violate the Federal Fair Debt Collection Practices Act.

**(9m)** Violate any federal or state statute, rule, or regulation that relates to practice as a collection agency.

**(10)** Use obscene, profane or threatening language in communicating with the debtor or a person related to the debtor.

**(11)** Claim or attempt to threaten to enforce a right with knowledge or reason to know that the right does not exist.

**(12)** Use a communication which simulates legal or judicial process or which gives the appearance of being authorized, issued or approved by a government, governmental agency or attorney-at-law when it is not or any bogus letter ostensibly addressed to any governmental authority or attorney.

**(13)** Threaten action against the debtor unless like action is taken in regular course or is intended with respect to the particular debt.

**(14)** Mutilate any check or other writing tendered by a debtor before forwarding it or returning it to the customer.

**(15)** Enlist the aid of a neighbor or other third party to request that the debtor contact the licensee except a person who resides with the debtor or a third party with whom the debtor has authorized the licensee to place such requests. This subsection does not apply to a call back message left at the debtor's place of employment which is limited to the licensee's telephone number and the collector's name.

**(16)** Make collect telephone calls to debtors.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06; CR 23-039: am. (intro.), (9), cr. (9m) Register March 2024 No. 819, eff. 4-1-24; 2023 Wis. Act 267: am. (9), cr. (9m) Register April 2024 No. 820, eff. 1-1-25; merger of (9),

(9m) treatments by 2023 Wis. Act 267 and CR 23-039 made under s. 13.92 (4) (bm), Stats., Register April 2024 No. 820.

**DFI-Bkg 74.17 Use of data processing.** (1) SYSTEMS APPROVAL. The division may approve data processing records and procedures which vary from the requirements of this chapter if adequate information is available for examination purposes.

(2) SYSTEMS BACK-UP. Back-up of data entries is to be made on a daily basis and back-up of all records on the system is to be made once each week. All systems back-up tapes or disks are to be stored for safe keeping at a site away from the office of the licensee. The records being maintained shall be verifiable at time of examination.

**History:** CR 06-045: cr. Register September 2006 No. 609, eff. 10-1-06.