March 18, 2020

EMERGENCY GUIDANCE ON CHARACTER AND FITNESS REQUIREMENTS FOR PAYDAY AND LICENSED LENDERS

To All Licensed Lenders and Payday Lenders Doing Business in this State:

COVID-19 and the efforts to contain it have upended people’s lives across the globe. Events, travel, projects, and other economic activities have been cancelled or postponed. Income that many were counting on a week ago is now uncertain or delayed. People are going to need small loans to get through these hardships, and many will be turning to you for help.

Wisconsin needs you to be a part of the solution for struggling families. Before this Department first granted you a license to operate in this State, we were required by law to assess the character and fitness of your business and its officers and directors.¹ This crisis will put your character and fitness to the test.

Businesses with character recognize that this is a time for shared sacrifice, not financial exploitation. We recognize that the statutes that govern your businesses set no maximum limit on the interest you can charge, even when many are facing sudden financial distress.² But fundamental human decency does. Therefore, effective immediately, this Department shall deem it an essential failure of your character and fitness if you increase your customary interest rates, fees, or any costs of borrowing in response to this crisis. We further urge you to reduce your rates and fees as low as operational expenses and sound lending practices allow.

How you treat desperate people during this crisis will determine the long-term future of your industry and the status of your license to do business in this State. Engaging in any opportunistic and exploitative conduct will be deemed proof of your company’s underlying lack of character and general fitness—a fact that would’ve caused us to deny your license in the first place, had it been revealed at the time you applied for one. Willfully engage in such behavior, and your license to operate in this State will be suspended or revoked.³

This is a time of uncertainty and financial strain for many in this state, and you’re in a position to help. We know you’ll act with the character and ingenuity this crisis demands.

³ Wis. Stat. §§ 138.09(4)(a)2 (license may be suspended or revoked when “[a]ny 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 the license”), 138.14(9)(a)3 (same).
CERTIFICATION

I have reviewed this guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

/s/ Matthew R. Lynch
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