



2005 SENATE BILL 667

March 15, 2006 - Introduced by Senators MILLER, HANSEN, LASSA, RISSER and ERPENBACH, cosponsored by Representatives MUSSER, BERCEAU, POCAN, GRIGSBY and BOYLE. Referred to Committee on Job Creation, Economic Development and Consumer Affairs.

1 **AN ACT to amend** 422.202 (2m) (a), 422.203 (1), 422.203 (2) and 422.415 (2)
2 (intro.); and **to create** 422.202 (2m) (am) of the statutes; **relating to:** late
3 payment charges for consumer credit transactions.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin Consumer Act (WCA) regulates credit transactions that are entered into for personal, family, or household purposes and in which the amount financed is \$25,000 or less. Different requirements apply, depending on whether or not the transaction is an open-end credit plan. An "open-end credit plan" is defined as a plan that allows a customer to make purchases or obtain loans directly from the creditor, or indirectly by use of a credit card, check, or other device, and that meets other requirements. For an open-end credit plan, current law allows a creditor and customer to agree to any late payment charge. For a consumer credit transaction that is not an open-end credit plan, current law allows the creditor and customer to agree to a delinquency charge that applies if payment is not made in full before the tenth day after its scheduled or deferred due date.

For open-end credit plans, this bill allows a creditor to impose a late payment charge only under the following circumstances: if a creditor gives a customer a 14-day grace period, the creditor may impose a late payment charge only if the payment is not received on or before the 14th day after the payment is due: if a creditor does not give a customer a 14-day grace period, the creditor may impose a late payment charge only if the customer makes a payment after the payment's due date. For a payment that is made by mail, the postmark date constitutes the date

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the payment is made. Therefore, if a creditor does not give a 14-day grace period, and the customer's payment is postmarked on or before the due date, the creditor may not impose a late payment charge.

For a consumer credit transaction that is not an open-end credit plan, the bill changes current law to allow a creditor and customer to agree to a delinquency charge that applies if payment is not made in full before the 14th day after its scheduled or deferred due date.

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

1 **SECTION 1.** 422.202 (2m) (a) of the statutes is amended to read:

2 422.202 **(2m)** (a) A creditor may charge, collect, and receive other fees and
3 charges, in addition to the finance charge authorized under s. 422.201, that are
4 agreed upon by the creditor and the customer. These other fees and charges may
5 include periodic membership fees, cash advance fees, charges for exceeding a
6 designated credit limit, ~~charges for late payments~~, charges for providing copies of
7 documents ~~and~~, charges for the return of a dishonored check or other payment
8 instrument, ~~and, except as provided in par. (am), charges for late payments.~~

9 **SECTION 2.** 422.202 (2m) (am) of the statutes is created to read:

10 422.202 **(2m)** (am) If a creditor gives a customer a 14-day grace period for
11 payments received on or before the 14th day after a payment's due date, the creditor
12 may impose a late payment charge only if a payment is received after the 14th day
13 after the payment's due date. If a creditor does not give a customer such a grace
14 period, the creditor may impose a late payment charge only if a payment is made
15 after the payment's due date. If a payment is made by mail, the date of the postmark
16 constitutes the date that the payment is made.

17 **SECTION 3.** 422.203 (1) of the statutes is amended to read:

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1 422.203 (1) With respect to a consumer credit transaction other than one
2 pursuant to an open-end credit plan, the parties may agree to a delinquency charge
3 on any installment not paid in full on or before the ~~10th~~ 14th day after its scheduled
4 or deferred due date in an amount not to exceed \$10 or 5% of the unpaid amount of
5 the installment, whichever is less.

6 **SECTION 4.** 422.203 (2) of the statutes is amended to read:

7 422.203 (2) No delinquency charge may be collected on an installment which
8 is paid in full on or before the ~~10th~~ 14th day after its scheduled or deferred due date
9 even though an earlier maturing installment or a delinquency charge on an earlier
10 installment may not have been paid in full. For purposes of this subsection payments
11 are applied first to current installments and then to delinquent installments.

12 **SECTION 5.** 422.415 (2) (intro.) of the statutes is amended to read:

13 422.415 (2) (intro.) A change that is adverse to the interests of the customer
14 with respect to outstanding balances or that imposes or alters a charge permitted
15 under s. 422.202 (2m), except for a charge for late payment, may be made if any of
16 the following conditions is met:

17 **SECTION 6. Initial applicability.**

18 (1) This act first applies to consumer credit transactions that are entered into,
19 extended, modified, or renewed on the effective date of this subsection.

20

(END)