

2005 DRAFTING REQUEST

Bill

Received: 02/11/2005

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Stephen Freese (608) 266-7502

By/Representing: Kurt Simatic (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: Transportation - motor vehicles
Transportation - miscellaneous

Extra Copies: PJH, MDK

Submit via email: YES

Requester's email: Rep.Freese@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

default arising from credit application relating to motor vehicle consumer lease

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	agary 03/03/2005	kfollett 03/04/2005	pgreensl 03/04/2005	_____	mbarman 03/04/2005		
/1	agary 03/28/2005	lkunkel 03/28/2005	rschluet 03/28/2005	_____	lnorthro 03/28/2005	lnorthro 04/04/2005	

FE Sent For:

↳ ~~Not~~ Not Needed

<END>

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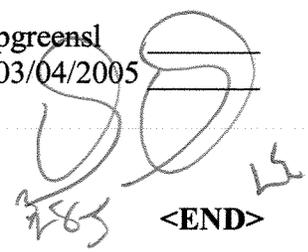
See Attached

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FE Sent For:

1/mk3/28


7/8/5
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1/?	agary	1/11/05 3/4	3/4 pg	3/4 slw			

FE Sent For: **<END>**

Gary, Aaron

From: Simatic, Kurt
Sent: Tuesday, February 08, 2005 2:55 PM
To: Gary, Aaron
Subject: drafting requests

Aaron:

Not sure if you would be the one to draft bills relating to auto dealers, but we have a request for 3 separate bills for the following:

1. In 342.22(1) eliminate the first 3 words "within one month". So the statute would begin "within 10 days".

This change is necessary because lien releases are being unnecessarily delayed and holding up business.

2. We request a change to section 422.207(1) that would allow a creditor, who discovers that a customer has failed to insure collateral or leased goods against property damage and loss as required by the credit sale or lease agreement, to obtain the insurance, without being first required to give the customer notice and another opportunity to insure the vehicle.

3. Frequently, dealers have signed credit sales contracts with customers with the intent of assigning the contract to a lender, only to have the lender reject the contract because it has discovered a false statement on the credit application. We are requesting a change to Wis Stat. 425.103, which would include a materially false statement in the customer's credit application as part of the "default" definition. We also request a change in Wis.Stat.425.105 removing the 15 day right to cure in these situations.

Let me know if you have any questions.

Thanks.

Kurt Simatic

Legislative Assistant

Speaker Pro Tempore Stephen Freese

115 West State Capitol

(608) 266-7502

(888) 534-0051

kurt.simatic@legis.state.wi.us

500m

in 3/3

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

Gen

- 1 AN ACT ...; relating to: defaults in consumer credit transactions involving motor
- 2 vehicle consumer leases.

Analysis by the Legislative Reference Bureau

X

Under current law, a creditor's cause of action against a customer with respect to a consumer credit transaction accrues only upon default of the customer. "Default" is defined as failure to make payment under specified circumstances and breach of any other covenant of the transaction that materially impairs the condition, value, or protection of, or the creditor's rights in, any collateral securing the transaction or goods subject to a consumer lease or that materially impairs the customer's ability to pay amounts due under the transaction. If a creditor believes that a customer is in default, the creditor may give the customer written notice of the alleged default and the customer may, within a 15-day period after the notice, cure the default. If the customer cures the default, the customer's rights are restored as if no default occurred. The creditor may not accelerate the maturity of a consumer credit transaction, commence an action, or demand or take possession of collateral or goods subject to a consumer lease unless the creditor has given notice, the 15-day period after the notice has expired without the customer's curing of the default, and the creditor believes the customer is in default. However, the customer does not have a right to cure a default under certain circumstances where the customer has previously defaulted and then cured the default.

This bill adds to the definition of "default" the making of a material false statement in a customer's credit application related to a motor vehicle consumer

lease, and provides that the customer does not have a right to cure this type of default.

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

1 **SECTION 1.** 425.103 (2) (b) of the statutes is amended to read:

2 425.103 (2) (b) With respect to an open-end plan, failure to pay when due on
3 2 occasions within any 12-month period; ~~or~~

4 History: 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10; 1995 a. 225; 1997 a. 302.

4 **SECTION 2.** 425.103 (2) (bm) of the statutes is created to read:

5 425.103 (2) (bm) With respect to a motor vehicle consumer lease, making a
6 material false statement in the customer's credit application that precedes the
7 consumer credit transaction; or

8 **SECTION 3.** 425.105 (2) of the statutes is amended to read:

9 425.105 (2) Except as provided in ~~sub.~~ subs. (3) and (3m), for 15 days after such
10 notice is given, a customer may cure a default under a consumer credit transaction
11 by tendering the amount of all unpaid installments due at the time of the tender,
12 without acceleration, plus any unpaid delinquency or deferral charges, and by
13 tendering performance necessary to cure any default other than nonpayment of
14 amounts due. The act of curing a default restores to the customer the customer's
15 rights under the agreement as though no default had occurred.

16 History: 1971 c. 239; 1975 c. 407, 421; 1991 a. 316; 2001 a. 10.

16 **SECTION 4.** 425.105 (3m) of the statutes is created to read:

17 425.105 (3m) A right to cure shall not exist with respect to a default specified
18 under s. 425.103 (2) (bm).

19

(END)

D-McTe

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2080/P1dn

ARG: *[Signature]*

Date

ATTN: Kurt Simatic

Please review the attached draft carefully to ensure that it is consistent with your intent. I have interpreted the drafting instructions to request a narrowly drafted provision that applies only to motor vehicle consumer leases, not all credit applications for any consumer credit transaction. Please advise if I am mistaken in my interpretation.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2080/P1dn
ARG:kjf:pg

March 4, 2005

ATTN: Kurt Simatic

Please review the attached draft carefully to ensure that it is consistent with your intent. I have interpreted the drafting instructions to request a narrowly drafted provision that applies only to motor vehicle consumer leases, not all credit applications for any consumer credit transaction. Please advise if I am mistaken in my interpretation.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

Gary, Aaron

From: Richard, Rob
Sent: Monday, March 07, 2005 10:07 AM
To: Gary, Aaron
Subject: Bill drafts LRB-2079 and LRB-2080

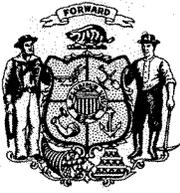
Aaron:

In the drafter's notes for LRB-2079 and LRB-2080, you asked if your interpretation of our request was mistaken. Yes, slightly.

We meant for it to apply to both the lease and purchase of motor vehicles. Can you please make this correction?

Thank you!

Rob Richard, Legislative Aide
Office of Rep. Steve Freese



State of Wisconsin
2005 - 2006 LEGISLATURE

Wanted
by 3/31

LRB-2080/P1

ARG:kjf:pg

in 3/28

keep m n

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Reegen

1 AN ACT *to amend* 425.103 (2) (b) and 425.105 (2); and *to create* 425.103 (2) (bm)
2 and 425.105 (3m) of the statutes; **relating to:** defaults in consumer credit
3 transactions involving motor vehicle consumer leases *or credit sales of motor vehicles*

Analysis by the Legislative Reference Bureau

Under current law, a creditor's cause of action against a customer with respect to a consumer credit transaction accrues only upon default of the customer. "Default" is defined as failure to make payment under specified circumstances and breach of any other covenant of the transaction that materially impairs the condition, value, or protection of, or the creditor's rights in, any collateral securing the transaction or goods subject to a consumer lease or that materially impairs the customer's ability to pay amounts due under the transaction. If a creditor believes that a customer is in default, the creditor may give the customer written notice of the alleged default and the customer may, within a 15-day period after the notice, cure the default. If the customer cures the default, the customer's rights are restored as if no default occurred. The creditor may not accelerate the maturity of a consumer credit transaction, commence an action, or demand or take possession of collateral or goods subject to a consumer lease unless the creditor has given notice, the 15-day period after the notice has expired without the customer's curing of the default, and the creditor believes the customer is in default. However, the customer does not have a right to cure a default under certain circumstances where the customer has previously defaulted and then cured the default.

This bill adds to the definition of "default" the making of a material false statement in a customer's credit application related to a motor vehicle consumer

or consumer credit sale of a motor vehicle

lease and provides that the customer does not have a right to cure this type of default.

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

SECTION 1. 425.103 (2) (b) of the statutes is amended to read:

425.103 (2) (b) With respect to an open-end plan, failure to pay when due on 2 occasions within any 12-month period; or

SECTION 2. 425.103 (2) (bm) of the statutes is created to read:

425.103 (2) (bm) With respect to a motor vehicle consumer lease, making a material false statement in the customer's credit application that precedes the consumer credit transaction; or

SECTION 3. 425.105 (2) of the statutes is amended to read:

425.105 (2) Except as provided in ~~sub. subs.~~ (3) and (3m), for 15 days after such notice is given, a customer may cure a default under a consumer credit transaction by tendering the amount of all unpaid installments due at the time of the tender, without acceleration, plus any unpaid delinquency or deferral charges, and by tendering performance necessary to cure any default other than nonpayment of amounts due. The act of curing a default restores to the customer the customer's rights under the agreement as though no default had occurred.

SECTION 4. 425.105 (3m) of the statutes is created to read:

425.105 (3m) A right to cure shall not exist with respect to a default specified under s. 425.103 (2) (bm).

(END)

or a consumer credit sale of a motor vehicle

Northrop, Lori

From: Simatic, Kurt
Sent: Monday, April 04, 2005 2:26 PM
To: LRB.Legal
Subject: Draft review: LRB 05-2080/1 Topic: default arising from credit application relating to motor vehicle consumer lease

It has been requested by <Simatic, Kurt> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2080/1 Topic: default arising from credit application relating to motor vehicle consumer lease