



State of Wisconsin
Department of Financial Institutions

Jim Doyle, **Governor**

Lorrie Keating Heinemann, **Secretary**

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN That pursuant to ss. 426.104 (1) (e) and 227.11 (2), Stats., and interpreting s. 425.206(1)(d), Stats., the Department of Financial Institutions, Office of Consumer Affairs will hold a public hearing at the Department of Financial Institutions, 345 W. Washington Avenue in the city of Madison, Wisconsin, on the 13th day of December, 2006, at 10:00 a.m. to consider a rule to amend s. DFI—Bkg 80.68 relating to nonjudicial enforcement and surrender of collateral.

Analysis Prepared by the Department of Financial Institutions, Office of Consumer Affairs

The objective of the rule is to amend s. DFI—Bkg 80.86. The purpose of this rule is to bring s. DFI—Bkg 80.68 into conformity with newly created s. 425.206(1)(d), Stats. Under the current s. DFI—Bkg 80.68, where a merchant request or demands the return of collateral, after providing the customer with notice of default and opportunity to cure as required by s. 425.105, Stats., a release of the collateral by the customer is not a surrender under ss. 425.204(3) and 425.206(1), Stats., if the merchant fails to provide a notice to the customer which clearly informs the customer of the right to a hearing on the issue of default before any repossession. 2005 Wisconsin Act 255, s. 8 created s. 425.206(1)(d), Stats. This statute section provides that notwithstanding any other provision of law, no merchant may take possession of collateral or goods subject to a consumer lease in this state except when, for motor vehicle collateral or goods subject to a motor vehicle consumer lease, the customer has not made a demand as specified in s. 425.205(1g)(a)3., Stats., and, no sooner than 15 days after the merchant gives the notice specified in s. 425.205(1g)(a), Stats., the merchant has taken possession of the collateral or goods in accordance with s. 425.206 (2), Stats. The rule amends s. DFI—Bkg 80.68 to incorporate the provisions of s. 425.206(1)(d), Stats. The rule provides that where a merchant requests or demands the return of collateral, after providing the customer with notice of default and opportunity to cure as required by s. 425.105, Stats., a release of the collateral by the customer is not a surrender under ss. 425.204(3) and 425.206(1), Stats., if the merchant fails to provide a notice to the customer which clearly informs the customer of the right to a hearing on the issue of default before any repossession unless the creditor has perfected its right to repossession under s. 425.206(1)(d), Stats.

Fiscal Estimate

The rule places no additional duties or burdens on state or local government, and hence has no affect on costs to either.

Contact Person

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency's internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial

Office of the Secretary

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Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708-8861, tel. (608) 267-1705. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution's website, www.wdfi.org. Written comments regarding the proposed rule may also be submitted via the department's website contact page, e-mail the secretary. Written comments must be received by the conclusion of the department's hearing regarding the proposed rule.

For substantive questions on the rule, contact Paul Egide, Director, Department of Financial Institutions, Office of Consumer Affairs, P.O. Box 8041, Madison, WI 53708-8041, tel. (608) 267-3518.