

425.204 (3) and 425.206 (1) (a), Stats., where such surrender is not a voluntary surrender.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.71 Restrictions on deficiency judgments; renouncing rights in collateral. Prior to obtaining the statement of a customer renouncing rights in the collateral pursuant to s. 425.209 (2), Stats., the merchant shall notify the customer by written notice that by signing the statement the customer waives all rights to recover any surplus that may result from the sale of the collateral.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.80 Investigatory powers; merchant's records. Merchants shall maintain copies of records of all consumer transactions subject to the act and all advertisements, printings, displays, publications or distributions the terms of which relate to the extension of consumer credit in order to permit an investigation pursuant to s. 426.106, Stats., for a period not less than that during which a customer may bring an action with respect to such transaction or advertisement as limited by s. 425.307, Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.81 Powers of administrator; penalty. The term "penalty" as used in s. 426.104 (4) (a), Stats., is limited to those statutory penalties referred to in ss. 425.302 (1) (a); 425.303 (1); 425.304 (1); 425.305 (1); and 426.301, Stats., and does not preclude a customer from obtaining judgment for actual damages sustained.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.82 Powers of administrator; submission for approval. Acts, practices or procedures provided to the administrator pursuant to s. 426.104 (4) (b), Stats., shall be submitted as follows:

(1) The submission shall be typed or mechanically reproduced.

(2) The submission shall include an original and 3 copies submitted by personal delivery, registered mail or certified mail return receipt requested;

(3) The submission of a form to replace a previously submitted form shall denote all changes from the previously submitted form to be approved by underlining or setting forth in a conspicuous manner those changes on the submitted forms;

(4) The submitted form shall be accompanied by a cover letter explaining the purpose for the form and any changes from a previously submitted form to be approved.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73; r. and recr. Register, July, 1994, No. 463, eff. 8-1-94.

Bkg 80.85 Discrimination on the basis of sex or marital status; unconscionable conduct. (1) **DECLARATION OF POLICY.** It is the declared policy of the state of Wisconsin that no person shall be discriminated against in the granting or extension of any form of credit, or in the capacity or privilege of obtaining any form of credit, on the basis of the applicant's sex or marital status. Such discrimination is hereby declared by the commissioner of banking to be unconscionable conduct under authority of s. 426.108, Stats. The purpose of this rule is to eliminate discrimination in the granting of consumer credit on the basis of sex

or marital status and to outline steps by which merchants can avoid such unlawful conduct. This regulation shall not apply to merchants chartered by any Wisconsin administrative agency which issues a regulation prohibiting discrimination in the granting of consumer credit on the basis of sex or marital status.

(2) **UNCONSCIONABLE CONDUCT.** Discrimination in the extension of consumer credit by a merchant to a customer on the basis of the sex or marital status of the customer shall be an unconscionable credit practice prohibited pursuant to s. 426.108, Stats. Discrimination in the extension of consumer credit on the basis of the customer's sex or marital status shall mean any denial of credit, increase in the charge for credit, restriction on the amount or use of credit, a different application procedure or the application of different credit criteria based on the customer's sex or marital status and shall include, but not be limited to:

(a) The application of different credit criteria resulting in less favorable treatment in the granting of credit to women,

(b) A requirement that a customer who is contractually liable reapply for credit upon a change in name or marital status or a termination of credit to a customer who is contractually liable following a change in the customer's name or marital status without evidence of an unfavorable change in the customer's credit worthiness,

(c) A refusal to grant credit to a qualified customer in that person's birth-given first name and surname or a birth-given first name and a combined surname,

(d) A requirement that a spouse co-sign the credit application, debt instrument, or other document signed by the applicant spouse unless such signature is required by statute or such requirement is imposed without regard to sex or marital status on all similarly qualified customers who apply for a similar type and amount of credit except that with respect to secured credit the signature of a spouse on a document necessary to create a valid lien, convey clear title or waive inchoate or survivorship rights to property, may be required where the merchant's standards of credit worthiness require without regard to the applicant's sex or marital status security or collateral as a condition of the extension of credit in the amount requested,

(e) To evaluate any source of income including maintenance, alimony and child support on any basis other than its amount, its regularity and the period of receipt as of the date of the application together with any particular factors affecting the likelihood of continued payment, and

(f) Requesting information about birth control practices or child bearing intentions or capability of any customer or customer's spouse.

(3) **WRITTEN CREDIT POLICY.** The management of each financial organization as defined in s. 71.04 (8) (a), Stats., each person or organization licensed under s. 138.09, Stats., and each credit card issuer shall adopt a detailed statement of its policy of nondiscrimination in extending consumer credit including its commitment to avoid the specific prohibited practices set forth in this regulation. This statement of policy shall be available to any customer upon request at each office where extensions of credit are made, except that in the case of credit card

Bkg 80.85

issuers, the statement shall be furnished upon request of an applicant directed to any office from which such cards are issued. A copy of such policy statement shall be filed with the office of the commissioner of banking upon request by that office. Such written policy shall be applied impartially to each person seeking credit.

(4) NOTICE OF ACTION AND RETENTION OF RECORDS. Each merchant shall within a reasonable time after receiving a credit application notify the customer of action taken on the application and shall upon request provide a customer whose application has been denied with the reasons for such denial, including the fact that information supplied by the customer cannot be verified if that is the case. A record of all reasons for denial or a record of the denial form number and each alternative therein applied to the customer along with the credit application and all other related documentation shall be retained by the merchant in reasonable order accessible by reference to the name of the customer, for a period of 15 months from the date of notice of action on each credit application.

History: Cr. Register, January, 1976, No. 241, eff. 2-1-76; correction made under s. 13.93 (2m) (b) 7, Stats., Register, May, 1993, No. 449.

Bkg 80.86 Unsolicited credit cards; unconscionable conduct. It is an unconscionable credit practice, pursuant to s.

426.108, Stats., for any credit grantor to issue a credit card in the name of any person under terms which purport to create the contractual liability of that person in any manner inconsistent with s. Bkg 80.351 unless the person to be held liable personally requested the creditor to issue the card and open the account.

History: Cr. Register, October, 1980, No. 298, eff. 11-1-80.

Bkg 80.87 Sale of credit card numbers; unconscionable conduct. It is an unconscionable credit practice, pursuant to s. 426.108, Stats., for any person to sell the credit card account numbers of any other person to another for any purpose.

History: Cr. Register, February, 1993, No. 446, eff. 3-1-93.

Bkg 80.88 Auto brokering. Pursuant to s. 426.108, Stats., it is an unconscionable credit practice for any person, who is not a party or assignee of a party to the lease contract, instalment sales agreement or other security agreement, to assist in, cause, arrange or otherwise engage in an actual or purported transfer or assignment of a motor vehicle, where such transaction is not permitted under the terms of the lease contract, instalment sales agreement or other security agreement.

History: Cr. Register, February, 1993, No. 446, eff. 3-1-93.