



2011 SENATE BILL 327

December 8, 2011 – Introduced by Senators TAYLOR, LASSA, RISSER and S. COGGS, cosponsored by Representatives HEBL, BEWLEY, C. TAYLOR, ZAMARRIPA, WYNN, RINGHAND, HINTZ, GRIGSBY, ROYS and SINICKI. Referred to Committee on Financial Institutions and Rural Issues.

1 **AN ACT to amend** 425.109 (1) (intro.), (b), (d), (f) and (h) and (2) of the statutes;
2 **relating to:** pleading requirements for assignees of creditors under the
3 Wisconsin Consumer Act.

Analysis by the Legislative Reference Bureau

Under current law, a consumer credit transaction in which the amount financed is \$25,000 or less, and which is entered into for personal, family, or household purposes, is generally subject to the Wisconsin Consumer Act (WCA). The WCA includes requirements for a creditor to satisfy to enforce rights arising from a consumer credit transaction that is subject to the WCA, including pleading requirements for a complaint filed by a creditor to enforce such rights. In *Rsidue, L.L.C. v. Michaud*, 2006 WI App 164, 295 Wis. 2d 585, 721 N.W. 2d 718, the Wisconsin Court of Appeals held that, because the WCA does not refer to an assignee of a creditor, the pleading requirements do not apply to an assignee. This bill amends the WCA to specify that the pleading requirements do apply to an assignee of a creditor.

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

4 **SECTION 1.** 425.109 (1) (intro.), (b), (d), (f) and (h) and (2) of the statutes are
5 amended to read:

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1 425.109 (1) (intro.) A complaint by a creditor or its assignee to enforce any
2 cause of action arising from a consumer credit transaction shall include all of the
3 following:

4 (b) A description of the collateral or leased goods, if any, which the creditor or
5 assignee seeks to recover or has recovered.

6 (d) The actual or estimated amount of U.S. dollars or of a named foreign
7 currency that the creditor or assignee alleges he or she is entitled to recover and the
8 figures necessary for computation of the amount, including any amount received
9 from the sale of any collateral.

10 (f) Except in an action to recover goods subject to a consumer lease, the
11 estimated amount of U.S. dollars or of a named foreign currency of any deficiency
12 claim which may be available to the creditor or assignee following the disposition of
13 any collateral recovered subject to the limitations of s. 425.209 or which the creditor
14 or assignee seeks to recover and which the creditor or assignee intends to assert
15 subject to the limitations of s. 425.210 if the customer fails to redeem the collateral.

16 (h) An accurate copy of the writings, if any, evidencing the transaction, except
17 that with respect to claims arising under open-end credit plans, a statement that the
18 creditor or assignee will submit accurate copies of the writings evidencing the
19 customer's obligation to the court and the customer upon receipt of the customer's
20 written request therefor on or before the return date or the date on which the
21 customer's answer is due.

22 (2) Upon the written request of the customer, the creditor or its assignee shall
23 submit accurate copies to the court and the customer of writings evidencing any
24 transaction pursuant to an open-end credit plan upon which the creditor's claim, or

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1 the claim of the creditor's assignee, is made and judgment may not be entered for the
2 creditor or assignee unless the creditor or assignee does so.

3 (END)