

1999 DRAFTING REQUEST

Bill

Received: **11/11/1998**

Received By: **hubliks**

Wanted: **Soon**

Identical to LRB:

For: **Donald Hasenohrl (608) 266-8366**

By/Representing: **Hanson**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Fin. Inst. - banking inst.**
Fin. Inst. - WCA

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Miscellaneous financing changes

Instructions:

Replace rule of 78 in chapter 138 with actuarial method; allow self-help repossession; eliminate 2% cap on loan administration fees.

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	1/3 Wlj 7/23	7/21	7/21	<END>			
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Wanted: Soon .

Identical to LRB:

For: Donald Hasenohrl (608) 26643366

By/Representing: Hanson

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By/Representing: **Hanson**

Tom
→ 256-5299

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Topic:

Miscellaneous financing changes

Instructions:

Eliminate rule of 78 in chapter 138 (use **acturial** method); allow self-help repossession -- no need for a writ of replevin, Look at the UCCC for a remedy in the case of wrongul repossession; eliminate 2% nonrefundable points.

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Eliminate rule of 78 in chapter 138; allow self-help repossession (use actuarial method) -- no need for a writ of replevin, provide remedy in the case of wrongful repossession; eliminate 2% nonrefundable points; LOOK AT UCCC -- on self-repossession.

help (P)

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State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0827/P1

RJM:/:...

SOON

wlj + jlg
Redraft
make sure

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NOTE

gen. cont.

1 AN ACT . . .; **relating to:** loan prepayment, loan administration fees in a consumer
2 credit transaction and repossession in a consumer credit transaction.

Analysis by the Legislative Reference Bureau

Under current law, a creditor may precompute the interest due on certain loans, expressing the total debt as the sum of the principal and the total amount of interest to be paid over the term of the loan. When a debtor prepays a precomputed loan, current law requires the creditor to rebate any unearned interest. In some circumstances, current law requires a creditor to calculate this amount of unearned interest using what is commonly referred to as the rule of 78. This computation method results in a greater proportion of the total interest being paid earlier in the loan term and, thus, results in a lower rebate of unearned interest upon prepayment. This bill requires a creditor, upon prepayment of a precomputed loan entered into on or after the effective date of the bill, to calculate unearned interest according to the actuarial method.

In addition, under current law, a creditor may generally retain a loan administration fee when a customer prepays a consumer credit transaction, refinancing or consolidation that is primarily secured by real property or a mobile home. Current law also allows a creditor to retain a loan administration fee when a customer prepays a residential mortgage loan. However, current law generally limits the loan administration fee to 2% of the amount financed in the consumer credit transaction or, in the case of a residential mortgage, 2% of the principal amount of any construction loan and 2% of the principal amount of any other loan. This bill removes these various caps on loan administration fees.

Current law also limits the authority of a creditor in a consumer credit transaction to repossess collateral and leased goods upon a consumer's default without first obtaining a court judgment. Under current law, a creditor may repossess this property without legal process if the consumer abandons or voluntarily surrenders the property. This bill authorizes a creditor to repossess collateral or leased goods without legal process upon default and after the consumer's right to cure expires, as long as the creditor does not enter the residence of the consumer and does not commit a breach of the peace.

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

1 SECTION 1. 138.052 (3) (c) [✓] of the statutes is amended to read:

2 138.052 (3) (c) A loan administration fee charged by a lender, including fees
3 paid to 3rd parties for loan administration services, ~~not exceeding 2% of the principal~~
4 ~~amount of any construction loan and 2% of the principal amount of any other loan~~

5 SECTION 2. 138.09 (3) (e) 1. a! of the statutes is amended to read:

6 138.09 (3) (e) 1. a. A business engaged in making loans for business or
7 agricultural purposes or exceeding \$25,000 in principal amount, except that all such
8 loans having terms of 49 months or more are subject to sub. (7) (gm) ~~2. or 4. 1. 2. or~~

9

5.[✓]

10 SECTION 3. 138.09 (7) (gm) [✓] of the statutes is repealed and recreated to read:

11 138.09 (7) (gm) Upon prepayment in full of a loan by cash, renewal, refinancing
12 or otherwise, the borrower shall receive a rebate of the unearned interest, unless the
13 combined rebate of interest and credit insurance premiums otherwise required is
14 less than \$1. [✓] If the first payment period of the loan is more than one month and the
15 licensee charges additional interest under par. [✓] (c) 2., [✓] the additional interest is earned
16 on the first instalment [✓] date and shall not be considered in computing the rebate of
17 unearned interest under this subsection. [✓] The amount of the rebate of unearned
18 interest shall be determined as follows:

1 1. For a loan of \$25,000 or less with a term of at least 49 months that was
2 entered into on or after November 1, 1981, and before August 1, 1987, for personal,
3 family, household or agricultural purposes, the licensee shall compute the rebate
4 under s. 422.209 (2) (b).[✓]

5 2. For a loan with a term of more than 49 months that was entered into on or
6 after May 10, 1984, and before August 1, 1987, the licensee shall compute the rebate
7 under s. 422.209 (2) (b).[✓]

8 3. For a loan of less than \$5,000[✓] that contains precomputed interest, is
9 repayable in substantially equal successive instalments at approximately equal
10 intervals, has a term of less than 37 months and was entered into on or after August
11 1, 1987, and before the effective date of this subdivision [revisor inserts date] the
12 licensee shall compute the rebate under s. 422.209 (2) (a).[✓]

13 4. For a loan of less than \$5,000[✓] with a term of less than 37 months that was
14 entered into on or after August 1, 1987, and before the effective date of this
15 subdivision [revisor inserts date], but that does not contain precomputed interest
16 or is not repayable in substantially equal successive instalments at approximately
17 equal intervals, the amount of the rebate shall be at least the difference between the
18 interest charged and the interest earned at the agreed rate, computed on the unpaid
19 principal balance.

20 5. For a loan entered into on or after August 1, 1987, that does not meet the
21 conditions of subd. 3[✓] or 4[✓] the licensee shall compute the rebate under s. 422.209 (2)
22 (b).[✓]

23 **SECTION 4.** 138.09 (7) (jm) 1.[✓] of the statutes is repealed and recreated to read:

24 138.09 (7) (jm) 1. Subject to subd. 2.[✓], a licensee may charge, in addition to
25 interest, a loan administration fee on a consumer loan, including a refinancing or

1 loan consolidation, only if the loan administration fee is for a consumer loan that is
 2 secured primarily by an interest in either real property or a mobile home, as defined
 3 in s. [✓]218.10 (2).[✓]

4 SECTION 5. 138.09 (7) (jm) 3.^J of the statutes is amended to read:

5 138.09 (7) (jm) 3. A loan administration fee charged under this paragraph may
 6 be included in the amount financed in the consumer loan. The loan administration
 7 fee is earned by the licensee when charged and need not be refunded under par. (gm)

8 ^{plain} 3. or ² 4. ~~or 5.~~ A licensee who charges a loan administration fee under this
 9 ^{plain} paragraph may not also retain a loan administration fee under s. 422.209 (1m)[✓] in
 10 connection with the same consumer loan transaction.

11 SECTION 6. 349.13 (3m)[✓] of the statutes is amended to read:

12 349.13 (3m) No vehicle involved in trespass parking on a private parking lot
 13 or facility shall be removed without the permission of the vehicle owner, except upon
 14 the issuance of a repossession judgment, upon repossession under s. [✓]425.206^J or upon
 15 formal complaint and a citation for illegal parking issued by a traffic or police officer.

16 SECTION 7. 422.209 (1m) (a)[✓] of the statutes is repealed and recreated to read:

17 422.209 (1m) (a) In the event of prepayment under sub. ^J(1),[✓] a merchant may
 18 retain a loan administration fee only if the loan administration fee is for a consumer
 19 loan that is secured primarily by an interest in either real property or a mobile home,
 20 as defined in s. [✓]218.10 (2).[✓]

21 SECTION 8. 422.209 (2) (a) 3.[✓] of the statutes is amended to read:

22 422.209 (2) (a) 3. Consumer credit transactions in which the amount financed
 23 is less than \$5,000, which have initial terms of less than 37 months and which are
 24 entered into on or after August 1, 1987, and before the effective date of this
 25 subdivision^J [revisor inserts date].

1 SECTION 9. 422.209 (2) (c) 2. of the statutes is amended to read:

2 422.209 (2) (c) 2. Consumer credit transactions in which the amount financed
3 is \$5,000 or more and which are entered into on or after August 1, 1987, and before
4 the effective date of this subdivision [revisor inserts date].

5 SECTION 10. 422.209 (2) (c) 3. of the statutes is amended to read:

6 422.209 (2) (c) 3. Consumer credit transactions in which the amount financed
7 is less than \$5,000, which have initial terms of 37 months or more and which are
8 entered into on or after August 1, 1987, and before the effective date of this
9 subdivision [revisor inserts date].

10 SECTION 11. 422.209 (2) (c) 4. of the statutes is created to read:

11 422.209 (2) (c) 4. Consumer credit transactions entered into on or after the
12 effective date of this subdivision [revisor inserts date].

13 SECTION 12. 425.206 (1) and (2) of the statutes are repealed and recreated to
14 read:

15 425.206 (1) At any time after default and the expiration of the period for cure
16 of default a merchant may take possession of collateral or goods subject to a consumer
17 lease without legal process only if the merchant satisfies all of the following :

delete extra space

18 (a) Takes possession without entering into a dwelling used by the customer as
19 a residence.

20 (b) Takes possession without committing a breach of the peace.

21 (2) This section shall not limit the authority of a merchant to take possession
22 of collateral or goods pursuant to a judgment in a proceeding under s. 425.205 or
23 425.203 (2), pursuant to s. 425.207 (2), or pursuant to the voluntary surrender of
24 collateral or goods by a customer.

25 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0827/P1dn

RJM: /:...

Wlj
*
jlg

1. **Self-help repossession and remedy.** Under s. 425.206 (3), if a creditor improperly repossesses property the customer may retain the goods, services or money received pursuant to the underlying transaction and recover anything paid to the creditor under the transaction. Also, s. 425.208 (1) allows a customer to redeem repossessed property within 15 days after repossession. If you intend to eliminate this right of redemption or if the remedy currently provided is otherwise not what you intended, please contact me and I will redraft the bill.

2. **Prepayment of certain loans.** In order to avoid impairment of contracts issues, this ~~draft~~^{bill} does not change the law with regard to existing loans. However, under this bill, creditors must use the actuarial method currently contained in s. 422.209 (2) (b) 1. or 2. to calculate the required interest rebate on any loan made after the effective date of the bill. please review the two versions of the actuarial method contained in s. 422.209 (2) (b) to ensure that both are consistent with your intent.

This draft would not apply to the early termination of a motor vehicle lease under s. 429.207. In addition, s. 424.205 (4) would allow the commissioner of insurance to promulgate a rule that varies from this ~~draft~~^{bill}, relating to prepayment of a consumer credit transaction by the proceeds of consumer credit insurance. Furthermore, this ~~draft~~^{bill} would not affect the prepayment of a premium finance agreement under s. 138.12 (9), if the premium finance company is not also a licensed lender under s. 138.09. Please review these statutes and contact me if you desire any changes.

This ~~draft~~^{bill} also recreates s. 138.09 (7) (gm) in order to remove obsolete material and make the statute more readable. Section 138.09 (7) (gm) in the ~~draft~~^{bill} is substantively the same as the existing s. 138.09 (7) (gm), except for eliminating the rule of 78 for all new loans and deleting the current s. 138.09 (7) (gm) 1. The existing s. 138.09 (7) (gm) 1. is obsolete because it governs loans entered into on or after November 1, 1981, and before November 1, 1984, that have a term of less than 49 months. Please let me know if you do not approve of recreating s. 138.09 (7) (gm).

Section 138.09 (3) (e) 1. a. is ambiguous and may be in conflict with the dictates of s. 138.09 (7) because it only subjects certain loans having terms of 49 months or more to s. 138.09 (7) (gm). Please let me know if you desire an amendment to make all loans made under s. 138.09 (3) (e) 1. subject to s. 138.09 (7) (gm).

After you have reviewed the above issues, please contact me with any questions or suggested changes. I will then redraft the bill in introducible format.

Robert J. Marchant
Legislative Attorney
261-4454

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

LRB-0827/P1dn
RJM:wlj&jlg:jf

February 12, 1999

1. ***Self-help repossession and remedy.*** Under s. 425.206 (3), if a creditor improperly repossesses property the customer may retain the goods, services or money received pursuant to the underlying transaction and recover anything paid to the creditor under the transaction. Also, s. 425.208 (1) allows a customer to redeem repossessed property within 15 days after repossession. If you intend to eliminate this right of redemption or if the remedy currently provided is otherwise not what you intended, please contact me and I will redraft the bill.

2. ***Prepayment of certain loans.*** In order to avoid impairment of contracts issues, this bill does not change the law with regard to existing loans. However, under this bill, creditors must use the actuarial method currently contained in s. 422.209 (2) (b) 1. or 2. to calculate the required interest rebate on any loan made after the effective date of the bill. Please review the two versions of the actuarial method contained in s. 422.209 (2) (b) to ensure that both are consistent with your intent.

This bill would not apply to the early termination of a motor vehicle lease under s. 429.207. In addition, s. 424.205 (4) would allow the commissioner of insurance to promulgate a rule that varies from this bill, relating to prepayment of a consumer credit transaction by the proceeds of consumer credit insurance. Furthermore, this bill would not affect the prepayment of a premium finance agreement under s. 138.12 (9), if the premium finance company is not also a licensed lender under s. 138.09. Please review these statutes and contact me if you desire any changes.

This bill also recreates s. 138.09 (7) (gm) in order to remove obsolete material and make the statute more readable. Section 138.09 (7) (gm) in the bill is substantively the same as the existing s. 138.09 (7) (gm), except for eliminating the rule of 78 for all new loans and deleting the current s. 138.09 (7) (gm) 1. The existing s. 138.09 (7) (gm) 1. is obsolete because it governs loans entered into on or after November 1, 1981 and before November 1, 1984, that have a term of less than 49 months. Please let me know if you do not approve of recreating s. 138.09 (7) (gm).

Section 138.09 (3) (e) 1. a. is ambiguous and may be in conflict with the dictates of s. 138.09 (7) because it only subjects certain loans having terms of 49 months or more to s. 138.09 (7) (gm). Please let me know if you desire an amendment to make all loans made under s. 138.09 (3) (e) 1. subject to s. 138.09 (7) (gm).

After you have reviewed the above issues, please contact me with any questions or suggested changes. I will then redraft the bill in introducible format.

Robert J. Marchant
Legislative Attorney
26 1-4454

Stewart Law Office

Walter R. Stewart Susan M. Fuller

Daniel P. Dunn
Of Counsel
FAX (608) 256-7909

330 East Wilson Street, Suite 100
Madison, Wisconsin 53703
(608) 256-7902
(e-mail) stewQitis.com

DATE 5-24-99

TO: Rob Marchant

RE: LRB0827

FROM: Walt Stewart

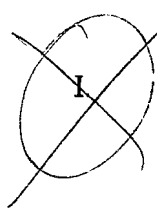
FOR:	<input type="checkbox"/>	Approval	<input checked="" type="checkbox"/>	Review
	<input type="checkbox"/>	Information	<input type="checkbox"/>	CI Reply
	<input type="checkbox"/>	Comment	<input type="checkbox"/>	Files
	<input type="checkbox"/>	Signature	<input type="checkbox"/>	_____

PLEASE:	<input type="checkbox"/>	Return	<input type="checkbox"/>	Forward
	<input type="checkbox"/>	Retain	<input checked="" type="checkbox"/>	<u>Incorporate</u>

REMARKS: Here are some requested
modifications to the bill. These
requests are from one of our
member companies. Please let me
know if you have any questions.

CTJ3/15/99

Wisconsin - Bill to Deregulate Points.

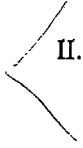


"Amount Financed" definition permits additional charges allowed by Sec. 422.202. No amendment needed.

Sec. 422.301.

(5) **"Amount financed"** in a consumer credit transaction means the total of the following items **from** which any **prepaid** finance charge or required deposit balance has been excluded:

- (a) In a consumer credit sale, the cash price of the real or personal property or services, less the amount of any down payment whether made in cash or in property traded in, or, in a consumer loan, the amount paid to, receivable by or paid or payable to the customer or to another person in ~~the~~ customer's behalf;
- (b) In a consumer credit sale, the amount actually paid or to be paid by the creditor pursuant to an agreement with the **customer** to discharge a security interest in or a lien on property traded in; and
- (c) To the extent not included in paragraph (a) or (b):
 1. Any applicable sales, use, excise or documentary stamp taxes;
 2. Amounts actually paid or to be paid by the creditor for registration, certificate of title or license fees; and
 3. **Additional charges permitted by § 422.202.**



II. **Amend "Precomputed" definition** so that a simple interest loan is **precomputed** only if prepaid finance charges exceed **half** of the total scheduled "finance charge,"

Sec. 421.30'1

(35) **"Precomputed"** with respect to a consumer credit transaction means a consumer credit transaction, other than a motor vehicle consumer lease, in which (a) the debt is expressed as a single sum comprised of the amount financed and the finance charge computed in advance on (b) the prepaid finance charge, when added to the scheduled finance charge, exceeds one-half of the total scheduled finance charge applicable to the consumer credit transaction.

ADDING ppfe to the scheduled finance charge

III. **Amend "Prepaid Finance Charge" definition** to exclude charges retained by the merchant under Sec. 422.202 from the definition of "prepaid finance charge" and **permit** such charges to be included in the Amount Financed, provided such charges do not exceed half of ~~the~~ total scheduled "finance charge."

Sec. 421.301

(36) **"Prepaid finance charge"** means any finance charge paid separately, in cash or **otherwise**, directly or indirectly to the creditor or with ~~the~~ creditor's knowledge to another person or withheld by the creditor from ~~the~~ proceeds of the credit **extended; provided,**

*include
to Finance Charge*

however, charges retained by the merchant shall not be prepaid finance charge and such charges may be included in the amount financed if such charges, when added to the scheduled finance charge, do not exceed one-half of the total scheduled finance charges applicable to the consumer credit transaction.

same
guidance

also add
loan admin
fee in P the
to new treatment of
209(1m)
Much broader
6 dollar
draft

IV. Amend Sec. 422.202(2m) to permit any other charges, as agreed, which are not refundable upon prepayment in full, unless they are prepaid finance charges as defined by Sec. 421.301(36).

With respect to any consumer credit transaction ~~an open end credit plan, regardless of when the plan was entered into:~~

any

(a) A creditor may charge, collect and receive other fees and charges, in addition to the finance charge authorized under § 422.201, that are agreed upon by the creditor and the customer. ~~These other fees and charges may include, but are not limited to, origination fees, periodic membership fees, cash advance fees, charges for exceeding a designated credit limit, charges for late payments, charges for providing copies of documents and charges for the return of a dishonored check or other payment instrument.~~ Charges allowed under this section shall be fully earned when the consumer credit transaction is made and shall not be refundable upon prepayment, unless such charges constitute prepaid finance charges, as defined by Sec. 421.301(36).

V. Amend Sec. 422.209(1m) to require refund of prepaid finance charges in a precomputed transaction, as defined by Secs. 42.301(35) and (36):

Can just add
this to (1)
for RP(1m)

(1m) (a) In the event of prepayment under sub. (1), a creditor shall include any prepaid finance charge, as defined by Sec. 421.301(36), in the finance charge subject to refund a merchant may retain a loan administration fee that meets all of the following conditions:

1. ~~The loan administration fee does not exceed 2% of the amount financed in the precomputed consumer credit transaction, refinancing or consolidation.~~
 2. ~~The loan administration fee is for a consumer loan that is secured primarily by an interest in real property or in a mobile home, as defined in §218.10(2).~~
- (b) ~~Notwithstanding par. (a), if a merchant retains any portion of a loan administration fee charged on a loan that is prepaid from the proceeds of a new loan made by the same merchant within 6 months after the prior loan, then the merchant shall reduce any loan administration fee on the new loan by the amount of the loan administration fee on the prior loan that was retained by the merchant.~~

6-4-99

Tel Rep. Hasenohr's office - O.K. to redraft per Walt Stewart's instructions.

Tel Walt Stewart

① What is the INTENT of proposed changes to s. 421.301 (35) + (36)?
Proposed language is confusing & probably unworkable
Need to clarify.

② Best to eliminate list in s. 422.202 (2m) +
just say any fee or charge is O.K. Presence of
list may limit application.

③ RP 422.209 (1m) altogether + put proposed language
in 422.209 (1). Proposal deletes all of (1m)
anyway so best to just RP it + put new concept
where it best fits.

Walt will call me back. Still hopeful of getting draft
in July.

Stewart Law Office**Walter R. Stewart Susan M. Fuller****Daniel P. Dunn**

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DATE; June 8.1999**TRANSMISSION TO:**

FAX NUMBER: **264-8522**

ATTENTION: **ROB MARCHANT**

SENDER: Walter R. Stewart

RE: **LRB 0827**

There **is/are** 4 page(s) following this cover sheet.Please dispatch any **return** faxes to (608) 256-7909. Please call (608) 256-7902 if all pages are not received.

**AMERICAN
| GENERAL**

601 N.W. 2nd St, PO Box 59, Evansville, IN 47701-0059

FAX TRANSMISSION

Message To

Individual: Walter R. Stewart
Company/Department: Stewart Law Office, Madison Wisconsin
Facsimile Number: 608/256-7909
Date: 7 June, 1999
Number of Pages (including cover): 4

Message From:

Individual: Chris Jones
Company/Department: American General Finance Law Department
Telephone Number: 812/468-5320
Facsimile Number: 812/468-5396

MESSAGE TO RECIPIENT

Cc: Tom Hanson 608/256-6222
Pat Essie 608/251-8192
Ed Heiser 414/223-5000
Gary Armstrong 972/652-4001
Phil Hitz

Walt and others -

Please review and let me know if the attached is OK.

Thanks.

The information transmitted by this facsimile is intended for the use of the individual or entity to which this message is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you should be aware that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the address above via the U.S. Postal Service. Thank you.

CTJ Draft 6/7/99

Wisconsin Points Bill - LRB 0827

The following replies to Rob Marchart's comments:

Sec. I. ~~Marchart~~ is correct that no amendment is required to See. 422.301(5). Sec. 422.301(5) provides that additional charges allowed by See. 422.202 are included in the WCA's "Amount Financed." Note that, since our amendment to Sec. 422.202 will include prepaid finance charges in the WCA "Amount Financed," this term will no longer be the same as the Federal Truth in Lending "Amount Financed." However, I do not believe that federal and state terminology need to be identical. It would take major changes to the WCA to make this amendment and use terminology throughout the WCA that would be consistent with Truth in Lending terminology. (See chart below.)

Sec. II. The amendment to the definition of "precomputed" in Sec. 42 1.30 1(15) is based on Sec. 5-3-107(2) of the Colorado Uniform Consumer Credit Code (U3C), which provides:

"A loan, refinancing, or consolidation is 'precomputed' only if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance or, if any portion of the loan finance charge is prepaid, the amount of that portion of the loan finance charge either computed in advance or prepaid constitutes more than one-half of the total loan finance charge applicable to the loan, refinancing, or consolidation." (emphasis added)

The WCA amended definition of "precomputed" is similar. A debt is "precomputed" if, first, the transaction is expressed as a "single sum" of amount financed and finance charge (rather than the "sum [of] principal and . . . loan finance charge" in the Colorado U3C). To contract for this single sum, the contract would, assuming no prepaid finance charge, provide: "I promise to pay the Total of Payments (the sum of Amount Financed and Finance Charge) plus other charges, subject to refund of unearned Finance Charges in the event of prepayment in full." In this case, the Finance Charge is computed on scheduled prepaid balances of Amount Financed.

In the Colorado U3C, Sec. 5-3-201(2) also provides:

"If the loan is precomputed,

- (a) The loan finance charge may be calculated on the assumption that all scheduled payments will be made when due, and
- (b) The effect of prepayment is governed by the provisions on rebate upon prepayment (section 5-3-210)."

Similar language could also be added to the WCA to provide that "Scheduled **finance** charges are those **that** would be earned is the **finance** charge is **calculated** on the **assumption** that **all** scheduled payments **will** be made when due." However, I believe that the meaning of "scheduled" in the consumer finance industry is clear enough that this amendment is not needed **when that term is used** .

Second, I believe my language is **clearer** than, but with the same result as, the **Colorado U3C language** regarding prepaid **finance** charge. A contract that provides for simple interest, rather **than precomputation, will** provide (using Truth in Lending **definitions**): "I agree to pay Principal (the sum of Amount Finance and Prepaid Finance Charges) plus interest computed on **actual** unpaid balances of Principal for the actual time **outstanding**."

However, under the Colorado and **WCA** approach, a simple interest contract would ^{still} be **considered "precomputed,"** if **the** prepaid finance charge more **than** half of the "total **scheduled" finance** charge. The Colorado language is **bolded** above. The "total scheduled" finance charge is the total of any prepaid finance charge and the **finance** charge (**interest**) that would be earned for payment on the scheduled due dates. Since "**scheduled**" makes clear that the determination is made based on scheduled **payments, this,** to me, seems clearer that **the** use of the word "applicable" in **the Colorado U3C.**

Sec. III. I agree with **Mr. Marchant** that the second sentence of Sec. **422.202(2m)** can be deleted. Note that I have defined, -the term "prepaid **finance** charge" to apply only to amounts **that** exceed the "more than **half**" test, **Thus,** the **effect** of the new language is that a charge **that does** not meet the "more **than half**" test is **not a** prepaid **finance** charge and, thus, is not **refundable** in a simple interest transaction or a precomputed transaction. Under the Colorado language, if a charge that does not meet the "more than half" test included in a precomputed transaction, **that** charge would be refundable.

Also note, that, **under** this language, a **charge earned** in advance may not be a "prepaid **finance** charge" under **the WCA, even though** it is a "prepaid finance **charge**" under Truth In Lending. However, again, it is not necessary that **state** and **federal** terminology correspond.

Sec. IV. I agree with **Mr. Marchant** that the language **in** Sec. **422.209(1m)**, as amended, could be included in **Sec.422.209(1)** and (1m) can be repealed.

Example.

Amount	WCA Term	TILA Term
\$10,000 cash proceeds	None	Amount Financed
Plus \$500 points	None (would be a prepaid finance charge only if exceeded \$5,000)	Prepaid Finance Charge
Equals \$10,500 Principal	Amount Financed	None
\$9,500 interest scheduled for the term of the loan	Finance Charge	None
\$10,000 (\$9,500 plus \$500)	None	Finance Charge
\$20,000 (Principal plus Interest)	None	Total of Payments

-Stewart Law Office**Walter R. Stewart Susan M. Fuller****Daniel P. Dunn**
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(e-mail) stew@itis.com**FAX COVER SHEET**

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DATE: June 28, 1999

TRANSMISSION TO:

FAX NUMBER: 264-852-
ATTENTION: ROB **MARCHANT**
SENDER: Walter R. Stewart
RE: **LRB 0827**

There is/are 1 page(s) following this cover sheet.

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Stewart Law Office**Walter R. Stewart Susan M. Fuller**Daniel P. **Dunn**
Of Counsel
FAX (608) 256-7909330 East Wilson Street, Suite 100
Madison, Wisconsin 53703
(608) 256-7902
(e-mail) **stew@itis.com****MEMORANDUM**DATE: June 28, 1999
TO: ROB MARCHANT
FROM: Walter R. Stewart
RE: **LRB** 0827

This memorandum follows our telephone conversation **on** June 10, 1999, concerning the legislation identified above.

Our conversation focused on Wisconsin Statute **§ 422.202(2m)**. The suggestion was to amend the section to permit any additional charges as the parties by contract may agree. You responded to this suggestion by questioning the need for the other provisions **in** Chapter 422 which permit additional charge-s. In other words, the additional charges specifically permitted in Chapter 422 would be deleted in favor of the amendment's unlimited permissible additional charges.

In order to keep this project **moving**, **I** request that we amend subsection 2m to include origination fees in **open-end** credit plans. I **understand** that this request would apply only to open-end plans.

I hope this memorandum **will** help to move the project along. Please call me if you have any questions.

cc: Tom Hanson



State of Wisconsin
1999 - 2000 LEGISLATURE

4

LRB-0827&&L

RJM:wlj&jlg:jf

July 15

stays RM NR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NOTE

✓
loan origination fees, prepaid finance charges and interest

1 AN ACT . . . relating to: loan prepayment, loan administration fees ~~to a consumer~~
upon default ✓
2 ~~credit transaction~~ and repossession in a consumer credit transaction,

✓
INTEGRAL ANALYSIS

Analysis by the Legislative Reference Bureau

Under current law, a creditor may precompute the interest due on certain loans, expressing the total debt as the sum of the principal and the total amount of interest to be paid over the term of the loan. When a debtor prepays a precomputed loan, current law requires the creditor to rebate any unearned interest. In some circumstances, current law requires a creditor to calculate this amount of unearned interest using what is commonly referred to as the rule of 78. This computation method results in a greater proportion of the total interest being paid earlier in the loan term and, thus, results in a lower rebate of unearned interest upon prepayment. This bill requires a creditor, upon prepayment of a precomputed loan entered into on or after the effective date of the bill, to calculate unearned interest according to the actuarial method.

In addition, under current law, a creditor may generally retain a loan administration fee when a customer prepays a consumer credit transaction, refinancing or consolidation that is primarily secured by real property or a mobile home. Current law also allows a creditor to retain a loan administration fee when a customer prepays a residential mortgage loan. However, current law generally limits the loan administration fee to 2% of the amount financed in the consumer credit transaction or, in the case of a residential mortgage, 2% of the principal amount of any construction loan and 2% of the principal amount of any other loan. This bill removes these various caps on loan administration fees.

This bill also generally allows any creditor to charge a

Current law also limits the authority of a creditor in a consumer credit transaction to repossess collateral and leased goods upon a consumer's default without first obtaining a court judgment. Under current law, a creditor may repossess this property without legal process if the consumer abandons or voluntarily surrenders the property. This bill authorizes a creditor to repossess collateral or leased goods without legal process upon default and after the consumer's right to cure expires, as long as the creditor does not enter the residence of the consumer and does not commit a breach of the peace

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

1 SECTION 1. 138.052 (3) (c) of the statutes is amended to read:

2 138.052 (3) (c) A loan administration fee charged by a lender, including fees
3 paid to 3rd parties for loan administration services
4 ~~amount of any construction loan and 2% of the principal amount of any other loan~~

5 SECTION 2. 138.09 (3) (e) 1. a. of the statutes is amended to read:

6 138.09 (3) (e) 1. a. A business engaged in making loans for business or
7 agricultural purposes or exceeding \$25,000 in principal amount, except that all such
8 loans having terms of 49 months or more are subject to sub. (7) (gm) ~~2. or 4. 1. 2. or~~
9 5.

INSER
138.09
2-5

10 SECTION 3. 138.09 (7) (gm) of the statutes is repealed and recreated to read:

11 138.09 (7) (gm) Upon prepayment in full of a loan by cash, renewal, refinancing
12 or otherwise, the borrower shall receive a rebate of the unearned interest, unless the
13 combined rebate of interest and credit insurance premiums otherwise required is
14 less than \$1. If the first payment period of the loan is more than one month and the
15 licensee charges additional interest under par. (c) 2., the additional interest is earned
16 on the first instalment date and shall not be considered in computing the rebate of
17 unearned interest under this subsection. The amount of the rebate of unearned
18 interest shall be determined as follows:

1 1. For a loan of \$25,000 or less with a term of at least 49 months that was
2 entered into on or after November 1, 1981, and before August 1, 1987, for personal,
3 family, household or agricultural purposes, the licensee shall compute the rebate
4 under s. 422.209 (2) (b).

5 2. For a loan with a term of more than 49 months that was entered into on or
6 after May 10, 1984, and before August 1, 1987, the licensee shall compute the rebate
7 under s. 422.209 (2) (b).

8 3. For a loan of less than \$5,000 that contains precomputed interest, is
9 repayable in substantially equal successive instalments at approximately equal
10 intervals, has a term of less than 37 months and was entered into on or after August
11 1, 1987, and before the effective date of this subdivision [revisor inserts date], the
12 licensee shall compute the rebate under s. 422.209 (2) (a).

13 4. For a loan of less than \$5,000 with a term of less than 37 months that was
14 entered into on or after August 1, 1987, and before the effective date of this
15 subdivision [revisor inserts date], but that does not contain precomputed interest
16 or is not repayable in substantially equal successive instalments at approximately
17 equal intervals, the amount of the rebate shall be at least the difference between the
18 interest charged and the interest earned at the agreed rate, computed on the unpaid
19 principal balance.

20 5. For a loan entered into on or after August 1, 1987, that does not meet the
21 conditions of subd. 3. or 4., the licensee shall compute the rebate under s. 422.209 (2)
22 (b).

Handwritten notes: A circle containing "235NT" with an arrow pointing to line 23. Another circle containing "22" with an arrow pointing to line 22.

23 ~~SECTION 4. 138.09 (7) (jm) 1 of the statutes is repealed and recreated to read:~~
24 ~~138.09 (7) (jm) 1. Subject to subd. 2., a licensee may charge, in addition to~~
25 ~~interest, a loan administration fee On a consumer loan, including a refinancing or~~

1 loan consolidation, only if the loan administration fee is for a consumer loan that is
2 secured primarily by an interest in either real property or a mobile home, as defined
3 in s. 218.10 (2).

4 SECTION 5. 138.09 (7) (jm) 3. of the statutes is amended to read:

5 138.09 (7) (jm) 3. A loan administration fee charged under this paragraph may
6 be included in the amount financed in the consumer loan. The loan administration
7 fee is earned by the licensee when charged and need not be refunded under par. (gm)
8 3. ~~or 4. or 5.~~ A licensee who charges a loan administration fee under this paragraph
9 may not also retain a loan administration fee under s. 422.209 (1m) in connection
10 with the same consumer loan transaction.

11 SECTION 6. 349.13 (3m) of the statutes is amended to read:

12 349.13 (3m) No vehicle involved in trespass parking on a private parking lot
13 or facility shall be removed without the permission of the vehicle owner, except upon
14 the issuance of a repossession judgment, upon repossession under s. 425.206 or upon
15 formal complaint and a citation for illegal parking issued by a traffic or police officer.

16 SECTION 7. 422.209 (1m) (a) of the statutes is repealed and recreated to read:

17 422.209 (1m) (a) In the event of prepayment under sub. (1), a merchant may
18 retain a loan administration fee only if the loan administration fee is for a consumer
19 loan that is secured primarily by an interest in either real property or a mobile home,
20 as defined in s. 218.10 (2).

21 SECTION 8. 422.209 (2) (a) 3. of the statutes is amended to read:

22 422.209 (2) (a) 3. Consumer credit transactions in which the amount financed
23 is less than \$5,000, which have initial terms of less than 37 months and which are
24 entered into on or after August 1, 1987, and before the effective date of this
25 subdivision [revisor inserts date].

INSERT
4-15
15

1 **SECTION 9.** 422.209 (2) (c) 2. of the statutes is amended to read:

2 422.209 (2) (c) 2. Consumer credit transactions in which the amount financed
3 is \$5,000 or more and which are entered into on or after August 1, 1987, and before
4 the effective date of this subdivision [revisor inserts date].

5 **SECTION 10.** 422.209 (2) (c) 3. of the statutes is amended to read:

6 422.209 (2) (c) 3. Consumer credit transactions in which the amount financed
7 is less than \$5,000, which have initial terms of 37 months or more and which are
8 entered into on or after August 1, 1987, and before the effective date of this
9 subdivision [revisor inserts date].

10 **SECTION 11.** 422.209 (2) (c) 4. of the statutes is created to read:

11 422.209 (2) (c) 4. Consumer credit transactions entered into on or after the
12 effective date of this subdivision [revisor inserts date].

13 **SECTION 12.** 425.206 (1) and (2) of the statutes are repealed and recreated to
14 read:

15 425.206 (1) At any time after default and the expiration of the period for cure
16 of default a merchant may take possession of collateral or goods subject to a consumer
17 lease without legal process only if the merchant satisfies all of the following:

18 (a) Takes possession without entering into a dwelling used by the customer as
19 a residence.

20 (b) Takes possession without committing a breach of the peace.

21 (2) This section shall not limit the authority of a merchant to take possession
22 of collateral or goods pursuant to a judgment in a proceeding under s. 425.205 or
23 425.203 (2), pursuant to s. 425.207 (2), or pursuant to the voluntary surrender of
24 collateral or goods by a customer.

25

(END)

INSERT ANALYSIS

WPO:
Proof this insert
with electronic version!
This one is the one I
need. - RSM

Currently, the Wisconsin consumer act (WCA) contains numerous provisions regulating credit transactions that are entered into for personal, family or household purposes and in which the amount financed is \$25,000 or less. Furthermore, the statutes governing certain lenders licensed by the division of banking in the department of financial institutions (licensed lender law) contain numerous provisions regulating loans made by lenders other than banks, credit unions, savings and loan associations and savings banks. This bill makes several changes to the WCA and the licensed lender law. These changes include:

Rebate due upon prepayment of a precomputed loan

Under both the WCA and the licensed lender law, a creditor may precompute the finance charges or interest due on certain transactions or loans. Under the WCA, with certain exceptions, a precomputed transaction is a transaction in which the debt is expressed as a single sum comprised of the amount financed and the finance charges computed in advance. A similar definition applies for loans made under the licensed lender law. Under both the WCA and the licensed lender law, when a borrower prepays a precomputed transaction or loan, the creditor must calculate and rebate any unearned finance charges or interest. This bill expands the definition of a precomputed transaction or loan under the WCA and the licensed lender law to include any transaction or loan in which a borrower prepays a finance charge or interest. By expanding this definition, this bill expands the circumstances under which a creditor must pay a rebate upon prepayment. However, this expansion is subject to the limitation of the definition of the term "prepaid finance charge" noted below.

In some circumstances, both the WCA and the licensed lender law require a creditor to calculate this rebate of unearned finance charges or interest using what is commonly referred to as the rule of 78. This computation method results in a greater proportion of the total finance charges or interest being paid earlier in the loan term and, thus, results in a lower rebate of unearned finance charges or interest upon prepayment. This bill eliminates the use of the rule of 78 for any precomputed transaction or loan entered into on or after the effective date of this bill and, thus, increases the likelihood of a borrower under the WCA and the licensed lender law receiving a larger rebate upon prepayment.

Additional charges; amount financed, rebate upon prepayment

Currently, the WCA and the licensed lender law permit certain creditors to charge various expressly authorized additional charges. These expressly authorized additional charges are included in the total amount financed for the purpose of calculating interest owed under these transactions or loans; however, these expressly authorized additional charges are not considered finance charges or interest. Thus, upon prepayment of a precomputed transaction or loan, these expressly authorized additional charges are not included in the rebate of unearned finance charges or interest.

Under the WCA, a creditor who extends open-end credit (typically, pursuant to a credit card or line of credit) may assess the following expressly authorized

on which this bill becomes law

Semicolon

additional charges: membership fees; cash advance fees; fees for exceeding a designated credit limit; late payment fees; fees for providing copies of documents and fees for the return of a dishonored check. The licensed lender law permits a creditor to assess these same additional charges. In addition, upon prepayment of a precomputed transaction or loan under the WCA or the licensed lender law, a creditor may charge a loan administration fee equal to not more than 2% of the total amount financed, if the transaction or loan is secured primarily by an interest in land or by an interest in a mobile home.

This bill adds loan origination fees to the list of expressly authorized additional charges under the WCA and the licensed lender law. Furthermore, this bill removes the cap on loan administration fees, includes loan administration fees as an expressly authorized additional charge and no longer limits loan administration fees to transactions or loans that are secured by an interest in land or an interest in a mobile home. In addition, by including loan administration fees and loan origination fees as expressly authorized additional charges, this bill expands the permissible charges that may be included in the total amount financed for the purpose of calculating interest owed. Also, by including loan origination fees as an expressly authorized additional charge, this bill expands the fees that a creditor may retain upon prepayment of the transaction or loan.

Definition of "Prepaid finance charge" and "Amount financed" under the WCA

Under the WCA, a creditor may require a borrower to prepay a finance charge. A prepaid finance charge is excluded from the total amount financed for the purpose of calculating interest owed under a loan. The WCA defines the term "prepaid finance charge" broadly as any finance charge paid separately to the creditor or, with the creditor's knowledge, to another person or any charge withheld by the creditor from the proceeds of the credit extended. The licensed lender law does not contain a similar provision.

Under this bill, a finance charge paid separately or withheld is only considered a prepaid finance charge under the WCA if the total of all finance charges paid separately or withheld is more than one-half of the total scheduled finance charge applicable to the transaction. Any finance charges paid separately or withheld that are less than this amount are included in the total amount financed for the purpose of calculating interest owed under the loan. In addition, this bill permits a creditor under the WCA, upon prepayment of a transaction, to retain any finance charges paid separately or withheld that are less than this amount. Furthermore, this bill permits a creditor under the licensed lender law, upon prepayment of a loan, to retain any interest paid separately or withheld, if the total of all interest paid separately or withheld is not more than one-half of the total scheduled interest for the loan. This bill also makes a conforming change to the statute governing residential mortgage loans, permitting a creditor to retain a similar amount of interest upon prepayment of a residential mortgage loan.

Repossession of collateral under the WCA

The WCA currently limits the authority of a creditor to repossess collateral and leased goods upon a consumer's default without first obtaining a court judgment.

Under current law, a creditor under the WCA may repossess this property without legal process if the consumer abandons or voluntarily surrenders the property. Currently, no specific provision governs the repossession of collateral securing obligations under the licensed lender law.

This bill authorizes a creditor under the WCA to repossess collateral or leased goods without legal process upon default and after the consumer's right to cure expires, as long as the creditor does not enter the residence of the consumer and does not commit a breach of the peace. This bill does not create any similar provisions in the licensed lender law.

INSERT 2-9

SECTION 1. 138.09 (7) (a) 1. of the statutes is renumbered^X 138.09 (7) (a) 1. (intro.) and amended to read:

138.09 (7) (a) 1. (intro.) **"Precomputed loan"** means a loan that satisfies any of the following:

a. Is a loan in which the debt is expressed as a sum comprising the principal and the amount of interest computed in advance.

SECTION # CR; 138.09 (7)(a) 1. b.

138.09 (7)(a) 1. b. Is a loan in which the debtor pays interest, separately, in cash or otherwise,

(B) →

person or in which the creditor withholds interest charged from the proceeds of the credit extended, if the amount of the interest paid or withheld is greater than one-half[✓] of the total scheduled interest applicable to the loan.

plain

INSERT 3-22

SECTION 2. 138.09 (7) (gt)^X of the statutes is created to read:

138.09 (7) (gt) Notwithstanding par. (gm) 1. to 5.,[✓] if a debtor prepays a loan in which the debtor has paid interest, separately, in cash or otherwise, directly or indirectly to the creditor or with the creditor's knowledge to another person or in which the creditor has withheld amounts from the proceeds of the credit extended for interest charged, the amount of interest that is paid separately and the amounts

that are withheld are fully earned at the time that the loan is made and need not be included in any rebate upon prepayment, if the total amount of all interest paid separately and' amounts withheld in the loan transaction is not greater than one-half of the total scheduled interest applicable to the loan. .

SECTION 3. 138.09 (7) (jm) 1. ^X of the statutes is repealed.

SECTION 4. 138.09 (7) (jm) 2. ^X of the statutes is amended to read:

138.09 (7) (jm) 2. Notwithstanding ~~subd. 1 par. (i)~~ ^{plain}, if a licensee charges a loan administration fee on a consumer loan that is prepaid from the proceeds of a new loan made by the same licensee within 6 months after the prior loan, then the licensee shall reduce any loan administration fee on the new loan by the amount of the loan administration fee on the prior loan.

SECTION 5. 138.09 (7) (jm) 3. ^X of the statutes is amended to read:

138.09 (7) (jm) 3. A loan administration fee charged under ~~this paragraph par. (i) 1.~~ [✓] may be included in the amount financed in the consumer loan. n administration fee is earned by the licensee when charged and need not be refunded under par. (gm) 3. ~~or, 4. or 5.~~ [✓] A licensee who charges a loan administration fee under ~~this paragraph par. (i) 1.~~ may not also retain a loan administration fee under s. ~~422.209 (1m) in connection with (s.)~~ [✓] 422.202 (2m) upon prepayment of the same consumer loan transaction.

INSERT 4-15

SECTION 6. 421.301 (5) (c) 4. ^X of the statutes is created to read:

421.301 (5) (c) 4. Any finance charge that is paid separately by the customer or withheld by the creditor as described in ~~subd. 1 par. (36)~~ ^{Sub.}, if the total amount of all

finance charges for the transaction that are paid separately or withheld is not greater than one-half of the total scheduled finance charge applicable to the transaction.

SECTION 7. 421.301 (29) of the statutes is amended to read:

421.301 (29) "Other than open-end credit" means consumer credit other than an open-end credit plan itself, or other than consumer credit transactions pursuant to an open-end credit plan, and includes **precomputed** transactions described in sub. (35) (a).

SECTION 8. 421.301 (35) of the statutes is renumbered 421.301 (35) (intro.) and amended to read:

421.301 (35) (intro.) "Precomputed" with respect to a consumer credit transaction means a consumer credit transaction, other than a motor vehicle consumer lease, that satisfies any of the following:

(a) Is a transaction in which debt is expressed as a single sum comprised of the amount financed and the finance charge computed in advance.

(b) Is a transaction in which a prepaid finance charge is assessed.

CRj

SECTION # 421.301 (35) (b)

421.301 (35)
B

SECTION 9. 421.301 (36) of the statutes is amended to read:

421.301 (36) "Prepaid finance charge" means any finance charge paid separately, in cash or otherwise, directly or indirectly to the creditor or with the creditor's knowledge to another person or withheld by the creditor from the proceeds of the credit extended, if the total amount of all finance charges for the transaction that are paid separately or withheld is greater than one-half of the total scheduled finance charge applicable to the transaction.

SECTION 10. 422.202 (2m) (a) of the statutes is amended to read:

422.202 (2m) (a) A creditor may charge, collect and receive other fees and charges, in addition to the finance charge authorized under s. 422.201, that are

agreed upon by the creditor and the customer. These other fees and charges may include loan origination fees, loan administration fees, ✓ periodic membership fees, cash advance fees, charges for exceeding a designated credit limit, charges for late payments, charges for providing copies of documents and charges for the return of a dishonored check or other payment instrument.

SECTION 11. 422.209 (1) ~~of~~ ✓ of the statutes is amended to read:

422.209 (1) ~~Except as provided in sub. (1m), upon~~ ✓ pon prepayment in full of the unpaid balance of a precomputed consumer credit transaction, refinancing or consolidation, an amount not less than the unearned portion of the finance charge calculated according to this section, together with any prepaid finance charge, shall be rebated to the customer. ~~If~~ Notwithstanding sub. (2), ✓ a finance charge that is paid separately by the customer or withheld by the creditor as described in s. 421.301 (36) is fully earned at the time that the consumer credit transaction is made and need not be included in any rebate upon ~~renayment.~~ ✓ if the total amount of all finance charges for the transaction that are paid separately or withheld is not greater than one-half of the total scheduled finance charge applicable to the transaction. In addition, if the total of all rebates, refunds and credits to be paid to the customer under chs. 421 to 427 is less than \$1, no rebate need be made.

SECTION 12. 422.209 (1m) (a) ~~of~~ ✓ of the statutes is repealed.

SECTION 13. 422.209 (1m) (b) ~~of~~ ✓ of the statutes is renumbered 422.209 (lg) and amended to read:

422.209 (lg) Notwithstanding ~~par. (a)~~ ✓ s. 422.202 (2m), if a merchant retains any portion of a loan administration fee charged on a loan that is prepaid from the proceeds of a new loan made by the same merchant within 6 months after the prior loan, then the merchant shall reduce any loan administration fee on the new loan by

the amount of the loan administration fee on the prior loan that was retained by the merchant.

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

LRB-0827/1dn

RJM:.....

JL

1. With the permission of your office, I completed the attached redraft upon the request of Walt Stewart. I received three faxes from Walt Stewart requesting various changes and additions to the original **draft** and I have attempted to incorporate the intent of those changes and additions into this draft. If this draft is not consistent with your intent, please let me know.

2. Walt Stewart requested an amendment to the definition of the term "**precomputed.**" This amendment resulted in a need to amend the definition of the phrase "other than open-end credit" in order to preserve the current meaning. Please review this change and let me know if it is not consistent with your intent. See proposed s. 421.301 (29). ✓

3. This bill makes changes to ch. 138 ✓ in order to maintain consistency between the consumer act and the licensed lender law. Please let me know if you do not intend to make these changes to ch. 138.

4. Under the proposed changes to the licensed lender law and the consumer act, certain amounts of prepaid interest or finance charges are not subject to the provisions requiring a rebate upon prepayment of a loan or transaction. See proposed s. 138.09 (7) (g-t) ✓, for example. Do you intend to make a similar change to s. 138.052 (3) regarding the prepayment of a residential mortgage loan? If so, please let me know. *ster*

5. Walt Stewart requested that s. 422.202 (2m) ✓, stats., be amended to specify that a fee collected under that subsection is not subject to rebate **upon** prepayment. However, this change is unnecessary and I did not include it. Section 422.209, stats., requires a rebate of unearned finance charges upon prepayment. The definition of the term "finance charge" in s. 421.301 ✓ already excludes charges under s. 422.202.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0827*
RJM:wlj&jlg:kjf

Friday, July 23

EMNF
DVOEE

1999 BILL

re-gen act.

1 **AN ACT to repeal** 138.09 (7) (jm) 1. and 422.209 (1m) (a); **to renumber and**
2 **amend** 138.09 (7) (a) 1., 421.301 (35) and 422.209 (1m) (b); **to amend** 138.052
3 (3) (c), 138.09 (3) (e) 1. a., 138.09 (7) (jm) 2., 138.09 (7) (jm) 3., 349.13 (3m),
4 421.301 (29), 421.301 (36), 422.202 (2m) (a), 422.209 (1), 422.209 (2) (a) 3.,
5 422.209 (2) (c) 2. and 422.209 (2) (c) 3.; **to repeal and recreate** 138.09 (7) (gm)
6 and 425.206 (1) and (2); and **to create** 138.09 (7) (a) 1. b., 138.09 (7) (gt), 421.301
7 (5) (c) 4., 421.301 (35) (b) and 422.209 (2) (c) 4. of the statutes; **relating to:** loan
8 prepayment, loan administration fees, loan origination fees, ^{and} prepaid finance
9 charges and interest ~~and~~ repossession upon default in a consumer credit
10 transaction ^{insert comma} _{Keep period here}

Analysis by the Legislative Reference Bureau

Currently, the Wisconsin consumer act (WCA) contains numerous provisions regulating credit transactions that are entered into for personal, family or household purposes and in which the amount financed is \$25,000 or less. Furthermore, the statutes governing certain lenders licensed by the division of banking in the department of financial institutions (licensed lender law) contain numerous

BILL

provisions regulating loans made by lenders other than banks, credit unions, savings and loan associations and savings banks. This bill makes several changes to the WCA and the licensed lender law. These changes include:

Rebate due upon prepayment of a precomputed loan

Under both the WCA and the licensed lender law, a creditor may precompute the finance charges or interest due on certain transactions or loans. Under the WCA, with certain exceptions, a precomputed transaction is a transaction in which the debt is expressed as a single sum comprised of the amount financed and the finance charges computed in advance. A similar definition applies for loans made under the licensed lender law. Under both the WCA and the licensed lender law, when a borrower prepays a precomputed transaction or loan, the creditor must calculate and rebate any unearned finance charges or interest. This bill expands the definition of a precomputed transaction or loan under the WCA and the licensed lender law to include any transaction or loan in which a borrower prepays a finance charge or interest. By expanding this definition, this bill expands the circumstances under which a creditor must pay a rebate upon prepayment. However, this expansion is subject to the limitation of the definition of the term "prepaid finance charge" noted below.

is greater than one-half of the total scheduled finance charge or interest applicable to the transaction or loan

also the amount of prepaid

In some circumstances, both the WCA and the licensed lender law require a creditor to calculate ^{the} this rebate of unearned finance charges or interest using what is commonly referred to as the rule of 78. This computation method results in a greater proportion of the total finance charges or interest being paid earlier in the loan term and, thus, results in a lower rebate of unearned finance charges or interest upon prepayment. This bill eliminates the use of the rule of 78 for any precomputed transaction or loan entered into on or after the date on which this bill becomes law and, thus, increases the likelihood of a borrower under the WCA and the licensed lender law receiving a larger rebate upon prepayment.

Additional charges, amount financed, and rebate upon prepayment

Currently, the WCA and the licensed lender law permit certain creditors to charge various expressly authorized additional charges. These expressly authorized additional charges are included in the total amount financed for the purpose of calculating interest owed under these transactions or loans; however, these expressly authorized additional charges are not considered finance charges or interest. Thus, upon prepayment of a precomputed transaction or loan, ~~these~~ expressly authorized additional charges are not included in the rebate of unearned finance charges or interest.

these expressly authorized additional charges are not included in interest rate disclosures and

or the principal

Under the WCA, a creditor who extends open-end credit (typically, pursuant to a credit card or line of credit) may assess the following expressly authorized additional charges: membership fees; cash advance fees; fees for exceeding a designated credit limit; late payment fees; fees for providing copies of documents; and fees for the return of a dishonored check. The licensed lender law permits a creditor to assess these same additional charges. In addition, upon prepayment of a precomputed transaction or loan under the WCA or the licensed lender law, a creditor may charge a loan administration fee equal to not more than 2% of the total

BILL

amount financed, if the transaction or loan is secured primarily by an interest in land or by an interest in a mobile home.

This bill adds loan origination fees to the list of expressly authorized additional charges under the WCA and the licensed lender law. Furthermore, this bill removes the cap on loan administration fees, includes loan administration fees as an expressly authorized additional charge and no longer limits loan administration fees to transactions or loans that are secured by an interest in land or an interest in a mobile home. In addition, by including loan administration fees and loan origination fees as expressly authorized additional charges, this bill expands the permissible charges that may be included in the total amount financed for the purpose of calculating interest owed. ~~Also, by including loan origination fees as an expressly authorized additional charge, this bill expands the fees that a creditor may retain upon prepayment of the transaction or loan.~~

~~Definition of "prepaid finance charge" and "amount financed" under the WCA~~

~~Under the WCA, a creditor may require a borrower to prepay a finance charge. A prepaid finance charge is excluded from the total amount financed for the purpose of calculating interest owed under a loan. The WCA defines the term "prepaid finance charge" broadly as any finance charge paid separately to the creditor or, with the creditor's knowledge, to another person or any charge withheld by the creditor from the proceeds of the credit extended. The licensed lender law does not contain a similar provision.~~

~~Under this bill, a finance charge paid separately or withheld is only considered a prepaid finance charge under the WCA if the total of all finance charges paid separately or withheld is more than one-half of the total scheduled finance charge applicable to the transaction. Any finance charges paid separately or withheld that are less than this amount are included in the total amount financed for the purpose of calculating interest owed under the loan. In addition, this bill permits a creditor under the WCA, upon prepayment of a transaction, to retain any finance charges paid separately or withheld that are less than this amount. Furthermore, this bill permits a creditor under the licensed lender law, upon prepayment of a loan, to retain any interest paid separately or withheld, if the total of all interest paid separately or withheld is not more than one-half of the total scheduled interest for the loan. This bill also makes a conforming change to the statute governing residential mortgage loans, permitting a creditor to retain a similar amount of interest upon prepayment of a residential mortgage loan.~~

Repossession of collateral under the WCA

The WCA currently limits the authority of a creditor to repossess collateral and leased goods upon a consumer's default without first obtaining a court judgment. Under current law, a creditor under the WCA may repossess this property without legal process if the consumer abandons or voluntarily surrenders the property. Currently, no specific provision governs the repossession of collateral securing obligations under the licensed lender law.

This bill authorizes a creditor under the WCA to repossess collateral or leased goods without legal process upon default and after the consumer's right to cure

However, under this bill, expressly authorized additional charges may only be included in the total amount financed or the principal if the total amount of these charges is not more than one-half of the total scheduled finance charge or interest applicable to the transaction or loan.

or the principal

INSERT ANALYSIS

BILL

expires, as long as the creditor does not enter the residence of the consumer and does not commit a breach of the peace. This bill does not create any similar provisions in the licensed lender law.

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

1 **SECTION 1.** 138.052 (3) (c) of the statutes is amended to read:

2 138.052 (3) (c) A loan administration fee charged by a lender, including fees
3 paid to 3rd parties for loan administration service:
4 ~~amount of any construction loan and 2% of the principal amount of any other loan.~~

5 **SECTION 2.** 138.09 (3) (e) 1. a. of the statutes is amended to read:

6 138.09 (3) (e) 1. a. A business engaged in making loans for business or
7 agricultural purposes or exceeding \$25,000 in principal amount, except that all such
8 loans having terms of 49 months or more are subject to sub. (7) (gm) 3 1, 2, or
9 5.

10 **SECTION 3. 138.09** (7) (a) 1. of the statutes is renumbered 138.09 (7) (a) 1.
11 (intro.) and amended to read:

12 **138.09** (7) (a) 1. (intro.) "Precomputed loan" means a loan that satisfies any of
13 the following:

14 a. Is a loan in which the debt is expressed as a sum comprising the principal
15 and the amount of interest computed in advance.

16 **SECTION 4.** 138.09 (7) (a) 1. b. of the statutes is created to read:

17 138.09 (7) (a) 1. b. Is a loan in which the ~~debtor pays interest, separately, in cash~~
18 ~~or otherwise, directly or indirectly to the creditor or with the creditor's knowledge to~~
19 ~~another person or in which the creditor withholds interest charged from the proceeds~~

BILL

SECTION 4

prepaid finance charge

that is

that portion of

Insert 5.2

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~~of the credit extended, if the amount of the interest paid or withheld is greater than~~

one-half of the total scheduled interest applicable to the loan.

SECTION 5. 138.09 (7) (gm) of the statutes is repealed and recreated to read:

138.09 (7) (gm) Upon prepayment in full of a loan by cash, renewal, refinancing or otherwise, the borrower shall receive a rebate of the unearned interest, unless the combined rebate of interest and credit insurance premiums otherwise required is less than \$1. If the first payment period of the loan is more than one month and the licensee charges additional interest under par. (c) 2., the additional interest is earned on the first instalment date and shall not be considered in computing the rebate of unearned interest under this subsection. The amount of the rebate of unearned interest shall be determined as follows:

1. For a loan of \$25,000 or less with a term of at least 49 months that was entered into on or after November 1, 1981, and before August 1, 1987, for personal, family, household or agricultural purposes, the licensee shall compute the rebate under s. 422.209 (2) (b).

2. For a loan with a term of more than 49 months that was entered into on or after May 10, 1984, and before August 1, 1987, the licensee shall compute the rebate under s. 422.209 (2) (b).

3. For a loan of less than \$5,000 that contains precomputed interest, is repayable in substantially equal successive instalments at approximately equal intervals, has a term of less than 37 months and was entered into on or after August 1, 1987, and before the effective date of this subdivision . . . [revisor inserts date], the licensee shall compute the rebate under s. 422.209 (2) (a).

4. For a loan of less than \$5,000 with a term of less than 37 months that was entered into on or after August 1, 1987, and before the effective date of this

to be added with any prepaid finance charge described in par. (a) Im. b. ✓

prepaid finance charges

BILL

1 subdivision . . . [revisor inserts date], but that does not contain precomputed interest
2 or is not repayable in substantially equal successive instalments at approximately
3 equal intervals, the amount of the rebate shall be at least the difference between the
4 interest charged and the interest earned at the agreed rate, computed on the unpaid
5 principal balance.

6 5. For a loan entered into on or after August 1, 1987, that does not meet the
7 conditions of subd. 3. or 4., the licensee shall compute the rebate under s. 422.209 (2)
8 (b).

9 **SECTION 6.** 138.09 (7) (gt) of the statutes is created to read:

10 138.09 (7) (gt) Notwithstanding par. (gm) 1. to 5., if a debtor prepays a loan in
11 which the debtor has paid interest, separately, in cash or otherwise, directly or
12 indirectly to the creditor or with the creditor's knowledge to another person or in
13 which the creditor has withheld amounts from the proceeds of the credit extended
14 for interest charged, the amount of interest that is paid separately and the amounts
15 that are withheld are fully earned at the time that the loan is made and need not be
16 included in any rebate upon prepayment, if the total amount of all interest paid
17 separately and amounts withheld in the loan transaction is not greater than
18 one-half of the total scheduled interest applicable to the loan.

19 **SECTION 7.** 138.09 (7) (jm) 1. of the statutes is repealed.

20 **SECTION 8.** 138.09 (7) (jm) 2. of the statutes is amended to read:

21 138.09 (7) (jm) 2. Notwithstanding ~~subd. par. (i) 1.~~, if a licensee charges a loan
22 administration fee on a consumer loan that is prepaid from the proceeds of a new loan
23 made by the same licensee within 6 months after the prior loan, then the licensee
24 shall reduce any loan administration fee on the new loan by the amount of the loan
25 administration fee on the prior loan.

BILL

SECTION 9

If the total amount of all charges assessed under par. (i) 1. for a consumer loan is not greater than one-half of the total scheduled finance charge applicable to the loan, a

1 **SECTION 9.** 138.09 (7) (jm) 3. of the statutes is amended to read:

2 138.09 (7) (jm) 3. ~~A~~ loan administration fee charged under this paragraph par.
3 (i) 1. may be included in the amount financed in the consumer loan. ~~The~~ loan
4 administration fee is earned by the licensee when charged and need not be refunded
5 under par. (gm) 3. or 4. ~~A~~ licensee who charges a loan administration fee under
6 this paragraph par. (i) 1. may not also retain a loan administration fee under s.
7 ~~422.209 (1m) in connection with~~ 422.202 (2m) upon prenavment of the same
8 consumer loan transaction.

9 **SECTION 10.** 349.13 (3m) of the statutes is amended to read:

10 349.13 (3m) No vehicle involved in trespass parking on a private parking lot
11 or facility shall be removed without the permission of the vehicle owner, except upon
12 the issuance of a repossession judgment, upon repossession under s. 425.206 or upon
13 formal complaint and a citation for illegal parking issued by a traffic or police officer.

14 **SECTION 11.** 421.301 (5) (c) ^{(3) 1} ~~4~~ of the statutes is ^(amended) ~~created~~ to read:

*INSECT
7-15*

15 421.301 (5) (c) ⁽³⁾ ~~4~~ (Any finance charge that is paid separately by the customer,
16 or withheld by the creditor as described in sub. (36), if the total amount of all finance
17 charges for the transaction that are paid separately or withheld is not greater than
18 one-half of the total scheduled finance charge applicable to the transaction.)

19 **SECTION 12.** 421.301 (29) of the statutes is amended to read:

20 421.301 (29) "Other than open-end credit" means consumer credit other than
21 an open-end credit plan itself, or other than consumer credit transactions pursuant
22 to an open-end credit plan, and includes precomputed transactions described in sub.
23 135) (a).

24 **SECTION 13.** 421.301 (35) of the statutes is renumbered 421.301 (35) (intro.) and
25 amended to read:

BILL

1 421.301 (35) (intro.) "Precomputed" with respect to a consumer credit
2 transaction means a consumer credit transaction, other than a motor vehicle
3 consumer lease, that satisfies any of the following:

4 (a) Is a transaction in which debt is expressed as a single sum comprised of the
5 amount financed and the finance charge computed in advance.

6 **SECTION 14.** 421.301 (35) (b) of the statutes is created to read:

7 421.301 (35) (b) ~~is a transaction in which a prepaid finance charge is assessed.~~

8 **SECTION 15.** 421.301 (36) of the statutes is amended to read:

9 421.301 ^(intro) (36) "Prepaid finance charge" means ~~any~~ ^{the total of all of the following: (a) Any} finance charge paid

10 separately, in cash or otherwise, directly or indirectly to the creditor or with the

11 creditor's knowledge to another person or withheld by the creditor from the proceeds

12 of the credit extended, ~~if the total amount of all finance charges for the transaction~~

13 ~~that are paid separately or withheld is greater than one-half of the total scheduled~~

14 ~~finance charge applicable to the transaction.~~

15 **SECTION 16.** 422.202 (2m) (a) of the statutes is amended to read:

16 422.202 (2m) (a) A creditor may charge, collect and receive other fees and

17 charges, in addition to the finance charge authorized under s. 422.201, that are

18 agreed upon by the creditor and the customer. These other fees and charges may

19 include loan origination fees. loan administration fees. periodic membership fees,

20 cash advance fees, charges for exceeding a designated credit limit, charges for late

21 payments, charges for providing copies of documents and charges for the return of

22 a dishonored check or other payment instrument.

23 **SECTION 17.** 422.209 (1) of the statutes is amended to read:

24 **422.209 (1)** ~~Except as provided in sub. (1m), upon~~ Upon prepayment in full of

25 the unpaid balance of a precomputed consumer credit transaction, refinancing or

Insert 8-7

Insert 8-8

Insert 8-14

BILL

that is described in s. 421.301 (3a) (b) ✓

1 consolidation, an amount not less than the unearned portion of the finance charge
2 calculated according to this section, ^{that portion of} together with any prepaid finance charge, shall

3 be rebated to the customer. ^{Plain text} ~~If Notwithstanding sub. (2), a finance charge that is paid~~

4 ~~separately by the customer or withheld by the creditor as described in s. 421.301 (3b)~~
5 ~~is fully earned at the time that the consumer credit transaction is made and need not~~
6 ~~be included in any rebate upon prepayment, if the total amount of all finance charges~~
7 ~~for the transaction that are paid separately or withheld is not greater than one-half~~
8 ~~of the total scheduled finance charge applicable to the transaction. In addition, of the~~

9 total of all rebates, refunds and credits to be paid to the customer under chs. 421 to
10 427 is less than \$1, no rebate need be made.

11 SECTION 18. 422.209 (1m) (a) of the statutes is repealed.

12 SECTION 19. 422.209 (1m) (b) of the statutes is renumbered 422.209 (lg) and
13 amended to read:

14 422.209 (lg) Notwithstanding ~~par. (a)~~ s. 422.202 (2m), if a merchant retains
15 any portion of a loan administration fee charged on a loan that is prepaid from the
16 proceeds of a new loan made by the same merchant within 6 months after the prior
17 loan, then the merchant shall reduce any loan administration fee on the new loan by
18 the amount of the loan administration fee on the prior loan that was retained by the
19 merchant.

20 SECTION 20. 422.209 (2) (a) 3. of the statutes is amended to read:

21 422.209 (2) (a) 3. Consumer credit transactions in which the amount financed
22 is less than \$5,000, which have initial terms of less than 37 months and which are
23 entered into on or after August 1, 1987, and before the effective date of this
24 subdivision. . . . [revisor inserts date].

25 SECTION 21. 422.209 (2) (c) 2. of the statutes is amended to read:

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1 422.209 (2) (c) 2. Consumer credit transactions in which the amount financed
 2 is \$5,000 or more and which are entered into on or after August 1, 1987, ~~and before~~
 3 ~~the effective date of this subdivision~~ [revisor inserts datel.

4 ~~SECTION 22.~~ 422.209 (2) (c) 3. of the statutes is amended to read:

5 422.209 (2) (c) 3. Consumer credit transactions in which the amount financed
 6 is less than \$5,000, which have initial terms of 37 months or more and which are
 7 entered into on or after August 1, 1987, ~~and before the effective date of this~~
 8 ~~subdivision~~ [revisor inserts datel.

9 ~~SECTION 23.~~ 422.209 (2) (c) 4. of the statutes is created to read:

10 422.209 (2) (c) 4. Consumer credit transactions entered into on or after the
 11 effective date of this subdivision [revisor inserts date].

12 ~~SECTION 24.~~ 425.206 (1) and (2) of the statutes are repealed and recreated to
 13 read:

14 425.206 (1) At any time after default and the expiration of the period for cure
 15 of default a merchant may take possession of collateral or goods subject to a consumer
 16 lease without legal process only if the merchant satisfies all of the following:

- 17 (a) Takes possession without entering into a dwelling used by the customer as
 18 a residence.
 19 (b) Takes possession without committing a breach of the peace.

20 (2) This section shall not limit the authority of a merchant to take possession
 21 of collateral or goods pursuant to a judgment in a proceeding under s. 425.205 or
 22 425.203 (2), pursuant to s. 425.207 (2), or pursuant to the voluntary surrender of
 23 collateral or goods by a customer.

**1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

**LRB-0827/2ins
RJM:.....**

INSERT ANALYSIS

This bill also expands the definition of "prepaid finance charge" to include any expressly authorized additional charge that is greater than one-half of the total scheduled finance charge or interest applicable to a transaction or loan. This bill specifies that, upon prepayment of a transaction or loan, the creditor must rebate any expressly authorized additional charge that qualifies as a prepaid finance charge.

*Read
had to
type et.*

5-2

¶ SEC # CR; 138.09 (7) (a) 1m.

¶ 138.09 (7) (a) 1m. "Prepaid finance charge" means the total of all of the following:

¶ a. Any interest paid separately, in cash or otherwise, directly or indirectly to the creditor or with the creditor's knowledge to another person or withheld by the creditor from the proceeds of the credit extended.

¶ b. Any charge permitted under par. (i) 1. that is paid separately, in cash or otherwise, directly or indirectly to the creditor or with the creditor's knowledge to another person or withheld by the creditor from the proceeds of the credit extended, if the total amount of all charges permitted under par. (i) 1. for the transaction is greater than one-half of the total scheduled interest applicable to the loan.

¶ SEC # AM; 138.09 (7) (a) 2. (intro.)

¶ 138.09 (7) (a) 2. (intro.) "Principal" Except as provided under par. (am), "principal" means the total of:

¶ SEC # CR; 138.09 (7) (am)

¶ 138.09 (7) (am) In this section, are only included in the principal charges permitted under par. (i) 1. if the total amount of all charges assessed under par. (i) 1. for a transaction is not greater than one-half of the total scheduled interest applicable to the loan.

(END OF INSERT 5-2)

7-15

Additional charges permitted by s. 422.202, if the
Total amount of all charges assessed under s. 422.202 ✓
for a transaction is not greater than one-half of the
total scheduled finance charge applicable to the
transaction.

No 64

8-7

charge

Is a transaction in which the prepaid finance is greater than one-half of the total scheduled finance charge applicable to the transaction.

8-8

SEC. #. RA; 421.301(36); 421.301(36) (intro.)!

8-14

SEC. #. CR, 421.301(36)(b)!

421.301(36)(b) Any charge permitted under s. 422.202 that is paid separately, in cash or otherwise, directly or indirectly to the creditor or with the creditor's knowledge to another person or withheld by the creditor from the proceeds of the credit extended, if the ~~total amount of all charges permitted under s. 422.202 for the transaction that are paid separately or withheld~~ is more than one-half of the total scheduled finance charge applicable to the transaction.

charge

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

2
LRB-08274dn
RJM:jlj:kjf
EWJ

July 8, 1999

Please review the draft carefully and let me know if the

1. With the permission of your office, I completed the attached redraft upon the request of Walt Stewart. I received three faxes from Walt Stewart requesting various changes and additions to the original draft and I have attempted to incorporate the intent of those changes and additions into this draft. ~~This~~ draft is not consistent with your intent, ~~please let me know.~~

2. Walt Stewart requested an amendment to the definition of the term "precomputed." This amendment resulted in a need to amend the definition of the phrase "other than open-end credit" in order to preserve the current meaning. Please review this change and let me know if it is not consistent with your intent. See proposed s. 421.301 (29).

3. This bill makes changes to ch. 138 in order to maintain consistency between the consumer act and the licensed lender law. Please let me know if you do not intend to make these changes to ch. 138.

~~4. Under the proposed changes to the licensed lender law and the consumer act, certain amounts of prepaid interest or finance charges are not subject to the provisions requiring a rebate upon prepayment of a loan or transaction. See proposed s. 138.09 (7) (gt), for example. Do you intend to make a similar change to s. 138.052 (3), regarding the prepayment of a residential mortgage loan? If so, please let me know.~~

jointly

5. Walt Stewart requested that s. 422.202 (2m), stats., be amended to specify that a fee collected under that subsection is not subject to rebate upon prepayment. However, this change is unnecessary and I did not include it. Section 422.209, stats., requires a rebate of unearned finance charges upon prepayment. The definition of the term "finance charge" in s. 421.301 already excludes charges under s. 422.202.

Furthermore, it is my understanding that this draft actually should require the rebate of certain charges assessed under s. 422.202 (2m). See proposed s. 422.209 (1).

Please let me know if I have misunderstood the instructions.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

5
I have provided a "1/2" draft because I used the "1" draft as a working copy. Thus, other than this draft, you should only have received a "1/1." Please let me know if you have any questions.