

1999 SENATE BILL 170

May 20, 1999 – Introduced by Senator BURKE, cosponsored by Representative MUSSER. Referred to Committee on Judiciary and Consumer Affairs.

1 **AN ACT to renumber and amend** 138.052 (9), 411.103 (1) (e), 421.202 (6) and
 2 429.104 (9); **to amend** 138.09 (3) (e) 1. a. and 428.101 (3); and **to create** 138.052
 3 (9) (b), 411.103 (1) (e) 1., 411.103 (1) (e) 2., 421.202 (6) (b), 428.101 (4), 429.104
 4 (9) (a) 1., 429.104 (9) (a) 2. and 429.104 (9) (b) of the statutes; **relating to:**
 5 transactions excluded from the Wisconsin Consumer Act, authority of licensed
 6 lenders and consumer leases under the uniform commercial code.

Analysis by the Legislative Reference Bureau

Wisconsin Consumer Act

Under current law, a transaction that is in an amount of \$25,000 or less and that is entered into for personal, family or household purposes is generally subject to the Wisconsin Consumer Act (consumer act). The consumer act provides obligations, remedies and penalties that current law generally does not require for other transactions. In addition to other exceptions, the consumer act does not apply to certain transactions relating to a first lien residential mortgage that originally had a principal amount in excess of \$25,000. Thus, if the original principal amount of a mortgage was greater than \$25,000, a refinancing of the mortgage would not be subject to the consumer act, even if the mortgage has a current balance of \$25,000 or less.

This bill expands current law by increasing the coverage of the consumer act to include a personal, family or household transaction that is in an amount of \$50,000

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or less. In addition, this bill narrows the mortgage refinancing exception to the consumer act to exclude certain transactions relating to a first lien residential mortgage with an original principal amount in excess of \$50,000.

Uniform commercial code

Wisconsin's version of the uniform commercial code treats the parties to a commercial lease differently from the parties to a consumer lease that is in the amount of \$25,000 or less. For example, a lessee under a consumer lease may recover attorneys fees if a court holds that a portion of the lease resulted from the unconscionable conduct of the lessor. This bill expands the applicability of these uniform commercial code provisions to cover a consumer lease that is in the amount of \$50,000 or less.

Licensed lenders

This bill makes conforming changes to the licensed lender law in order to maintain existing consistency with the consumer act.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 138.052 (9) of the statutes is renumbered 138.052 (9) (a) and
2 amended to read:

3 138.052 **(9)** (a) Chapters 421 to 428 do not apply to the refinancing,
4 modification, extension, renewal or assumption of a loan which had an original
5 principal balance in excess of \$25,000 if the unpaid principal balance of the loan has
6 been reduced to \$25,000 or less and the refinancing, modification, extension, renewal
7 or assumption takes place before the effective date of this paragraph [revisor
8 inserts date].

9 **SECTION 2.** 138.052 (9) (b) of the statutes is created to read:

10 138.052 **(9)** (b) Chapters 421 to 428 do not apply to the refinancing,
11 modification, extension, renewal or assumption of a loan which had an original
12 principal balance in excess of \$50,000 if the unpaid principal balance of the loan has
13 been reduced to \$50,000 or less and the refinancing, modification, extension, renewal

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1 or assumption takes place on or after the effective date of this paragraph [revisor
2 inserts date].

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

4 138.09 **(3)** (e) 1. a. A business engaged in making loans for business or
5 agricultural purposes ~~or loans before the effective date of this subdivision 1. a.~~
6 [revisor inserts date], exceeding \$25,000 in principal amount, or loans on or after the
7 effective date of this subdivision 1. a. [revisor inserts date], exceeding \$50,000 in
8 principal amount, except that all such loans having terms of 49 months or more are
9 subject to sub. (7) (gm) 2. or 4.

10 **SECTION 4.** 411.103 (1) (e) of the statutes is renumbered 411.103 (1) (e) (intro)
11 and amended to read:

12 411.103 **(1)** (e) (intro.) “Consumer lease” means a lease that a lessor regularly
13 engaged in the business of leasing or selling makes to a lessee who is an individual
14 and who takes under the lease primarily for a personal, family, or household purpose,
15 if the total payments to be made under the lease contract, excluding payments for
16 options to renew or buy, do not exceed ~~\$25,000.~~ the following:

17 **SECTION 5.** 411.103 (1) (e) 1. of the statutes is created to read:

18 411.103 **(1)** (e) 1. For a lease entered into before the effective date of this
19 subdivision [revisor inserts date], \$25,000.

20 **SECTION 6.** 411.103 (1) (e) 2. of the statutes is created to read:

21 411.103 **(1)** (e) 2. For a lease entered into on or after the effective date of this
22 subdivision [revisor inserts date], \$50,000.

23 **SECTION 7.** 421.202 (6) of the statutes is renumbered 421.202 (6) (a) and
24 amended to read:

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1 421.202 **(6)** (a) Consumer credit transactions in which the amount financed
2 exceeds \$25,000, motor vehicle consumer leases in which the total lease obligation
3 exceeds \$25,000 or other consumer transactions in which the cash price exceeds
4 \$25,000, if the consumer credit transaction, motor vehicle consumer lease or other
5 consumer transaction was entered into before the effective date of this paragraph
6 [revisor inserts date];

7 **SECTION 8.** 421.202 (6) (b) of the statutes is created to read:

8 421.202 **(6)** (b) Consumer credit transactions in which the amount financed
9 exceeds \$50,000, motor vehicle consumer leases in which the total lease obligation
10 exceeds \$50,000 or other consumer transactions in which the cash price exceeds
11 \$50,000, if the consumer credit transaction, motor vehicle consumer lease or other
12 consumer transaction was entered into on or after the effective date of this paragraph
13 [revisor inserts date];

14 **SECTION 9.** 428.101 (3) of the statutes is amended to read:

15 428.101 **(3)** Loans made on or after November 1, 1981, and before the effective
16 date of this subsection [revisor inserts date], by a creditor to a customer and which
17 are secured by a first lien real estate mortgage or equivalent security interest if the
18 amount financed is \$25,000 or less.

19 **SECTION 10.** 428.101 (4) of the statutes is created to read:

20 428.101 **(4)** Loans made on or after the effective date of this subsection
21 [revisor inserts date], by a creditor to a customer and which are secured by a first lien
22 real estate mortgage or equivalent security interest if the amount financed is
23 \$50,000 or less.

24 **SECTION 11.** 429.104 (9) of the statutes is renumbered 429.104 (9) (a) (intro) and
25 amended to read:

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1 429.104 **(9)** (a) (intro.) “Consumer lease” or “lease” means a lease entered into
2 in this state that transfers the right of possession and use by a natural person of a
3 motor vehicle primarily for a personal, family, household or agricultural purpose, for
4 a period of time exceeding 4 months, if the total lease obligation, excluding any option
5 to purchase or otherwise become owner of the motor vehicle at the expiration of the
6 consumer lease, does not exceed \$25,000. ~~The term does not include a credit sale, as
7 defined under 12 CFR 226.2 (a) (16).~~ the following:

8 **SECTION 12.** 429.104 (9) (a) 1. of the statutes is created to read:

9 429.104 **(9)** (a) 1. For a lease entered into before the effective date of this
10 subdivision [revisor inserts date], \$25,000.

11 **SECTION 13.** 429.104 (9) (a) 2. of the statutes is created to read:

12 429.104 **(9)** (a) 2. For a lease entered into on or after the effective date of this
13 subdivision [revisor inserts date], \$50,000.

14 **SECTION 14.** 429.104 (9) (b) of the statutes is created to read:

15 429.104 **(9)** (b) “Consumer lease” or “lease” does not include a credit sale, as
16 defined under 12 CFR 226.2 (a) (16).

17 **SECTION 15. Initial applicability.**

18 (1) This act first applies to transactions entered into on the effective date of this
19 subsection.

20 **SECTION 16. Effective date.**

21 (1) This act takes effect on the first day of the 6th month beginning after
22 publication.

23 **(END)**