2001 ASSEMBLY BILL 532

October 8, 2001 – Introduced by Representatives SCHNEIDER, GRONEMUS, RYBA, J. LEHMAN and ALBERS. Referred to Committee on Financial Institutions.

1   AN ACT *to amend* 788.01; and *to create* 422.422 of the statutes; **relating to:**

2   arbitration of controversies arising out of open–end consumer credit plans.

Analysis by the Legislative Reference Bureau

Under current law, a transaction in which a consumer is granted credit in an amount of $25,000 or less and which is entered into for personal, family, or household purposes (consumer credit transaction) is generally subject to the Wisconsin Consumer Act. Among other things, the Wisconsin Consumer Act regulates the extension of consumer credit under open–end credit plans (typically, credit card plans). The Wisconsin Consumer Act provides obligations, remedies, and penalties that current law generally does not require for other transactions. Currently, the parties to any contract, including an open–end credit plan, generally may agree to settle by arbitration any controversy that arises out of the contract or out of the refusal to perform as required under the contract.

This bill limits the ability of a creditor and a consumer who are parties to an open–end credit plan to agree in advance to arbitrate a controversy that arises out of the open–end credit plan. Under the bill, no agreement between these parties may require them to arbitrate any controversy that arises out of the open–end plan, or out of a failure to perform as required under the open–end credit plan, and that arises after the date of the open–end credit plan. However, under the bill, these parties may

agree in writing to submit a controversy to arbitration, if they enter into the agreement after the date on which the controversy arises.

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

1   SECTION 1. 422.422 of the statutes is created to read:

2   **422.422 Arbitration of controversies under open–end credit plans. (1)**

3   PROHIBITED ARBITRATION AGREEMENTS. Except as provided in sub. (2), no agreement

4   between a creditor and a customer who are parties to an open–end credit plan and

5   no provision in an open–end credit plan entered into by a creditor and a customer

6   may require the creditor and the customer to submit to arbitration a controversy that

7   arises after the date on which they enter into the open–end credit plan and that

8   arises out of the open–end credit plan or out of a failure to perform as required under

9   the open–end credit plan.

10   **(2)** PERMISSIBLE ARBITRATION AGREEMENTS. Subsection (1) does not prohibit a

11   creditor and a customer who are parties to an open–end credit plan from agreeing

12   in writing to submit a controversy to arbitration, if the creditor and the customer

13   enter into the agreement after the date on which the controversy arises.

14   **(3)** REMEDY. If an agreement violates sub. (1), that portion of the agreement

15   that requires arbitration is void and unenforceable.

16   SECTION 2. 788.01 of the statutes is amended to read:

17   **788.01 Arbitration clauses in contracts enforceable.** ~~A~~ Except as

18   provided in s. 422.422, a provision in any written contract to settle by arbitration a

19   controversy thereafter arising out of the contract, or out of the refusal to perform the

20   whole or any part of the contract, or an agreement in writing between 2 or more

21   persons to submit to arbitration any controversy existing between them at the time

1   of the agreement to submit, shall be valid, irrevocable and enforceable except upon

2   such grounds as exist at law or in equity for the revocation of any contract. This

3   chapter shall not apply to contracts between employers and employees, or between

4   employers and associations of employees, except as provided in s. 111.10, nor to

5   agreements to arbitrate disputes under s. 101.143 (6s) or 230.44 (4) (bm).

6   **SECTION 3. Initial applicability.**

7   (1) This act first applies to agreements entered into on the effective date of this

8   subsection.

9   **(END)**