

2003 SENATE BILL 373

January 7, 2004 - Introduced by Senator PANZER, cosponsored by Representative GARD. Referred to Select Committee on Job Creation.

1 **AN ACT** *to create* 241.02 (3) of the statutes; **relating to:** credits agreements.

Analysis by the Legislative Reference Bureau

With certain exceptions, this bill prohibits any person from bringing a lawsuit against a bank, savings bank, savings and loan association, or any affiliate of such an institution (financial institution) based upon any of the following promises or commitments of the financial institution, unless the promise or commitment is in writing, sets forth relevant terms and conditions, and is signed by the financial institution: 1) a promise or commitment to lend money, grant or extend credit, or make any other financial accommodation; or 2) a promise or commitment to renew, extend, modify, or permit a delay in repayment or performance of a loan, extension of credit, or other financial accommodation. This prohibition does not apply to transactions that are subject to the Wisconsin Consumer Act (which generally regulates credit transactions of \$25,000 or less that are entered into for personal, family, or household purposes).

Currently, under the doctrine of promissory estoppel, the existence of an enforceable contract may be implied if a person makes a promise, the promise is one which the person should reasonably expect to induce action or forbearance of a definite and substantial character, the promise induces such action or forbearance, and injustice can be avoided only by enforcement of the promise. This bill provides that any promise or commitment described above may not be enforced under the

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doctrine of promissory estoppel. This prohibition does not apply to transactions that are subject to the Wisconsin Consumer Act.

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

1 **SECTION 1.** 241.02 (3) of the statutes is created to read:

2 241.02 (3) (a) In this subsection:

3 1. "Affiliate" of a bank, savings bank, or savings and loan association means
4 a business entity that controls, is controlled by, or is under common control with the
5 bank, savings bank, or savings and loan association.

6 2. "Financial institution" means a bank, savings bank, or savings and loan
7 association organized under the laws of this state, another state, or the United States
8 and any affiliate of such a bank, savings bank, or savings and loan association.

9 (b) Except as provided in par. (d), no action may be commenced against a
10 financial institution on or in connection with any of the following promises or
11 commitments of the financial institution unless the promise or commitment is in
12 writing, sets forth relevant terms and conditions, and is signed by the financial
13 institution:

14 1. A promise or commitment to lend money, grant or extend credit, or make any
15 other financial accommodation.

16 2. A promise or commitment to renew, extend, modify, or permit a delay in
17 repayment or performance of a loan, extension of credit, or other financial
18 accommodation.

19 (c) Except as provided in par. (d), a promise or commitment by a financial
20 institution described in par. (b) may not be enforced under the doctrine of promissory
21 estoppel.

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1 (d) Paragraphs (b) and (c) do not apply to credit transactions that are subject
2 to chs. 421 to 427.

3 **SECTION 2. Initial applicability.**

4 (1) LAWSUITS CONCERNING CREDIT AGREEMENTS AND RELATED DOCUMENTS. This act
5 first applies to actions commenced on the effective date of this subsection.

6 (END)