



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0402/1

RAC: *[Signature]*

Mon. 8:00 a.m.

SENATE SUBSTITUTE AMENDMENT,
TO 2003 SENATE BILL 486

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AN ACT ...; relating to: regulation of rental-purchase agreements under the
Wisconsin consumer act.

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

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SECTION 1. 220.02 (2) (b) of the statutes is amended to read:

220.02 (2) (b) The lending of money under s. 138.09 or those relating to finance companies, motor vehicle dealers, adjustment service companies, community currency exchanges, rental-purchase companies registered under s. 426.201, and collection agencies under ch. 218.

SECTION 2. 220.02 (3) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

220.02 (3) It is the intent of sub. (2) to give the division jurisdiction to enforce and carry out all laws relating to banks or banking in this state, including those relating to state banks, savings banks, savings and loan associations, and trust

1 company banks, and also all laws relating to small loan companies or other loan
2 companies or agencies, finance companies, motor vehicle dealers, adjustment service
3 companies, community currency exchanges, rental-purchase companies registered
4 under s. 426.201, and collection agencies and those relating to sellers of checks under
5 ch. 217, whether doing business as corporations, individuals, or otherwise, but to
6 exclude laws relating to credit unions.

7 **SECTION 3.** 409.109 (4) (n) of the statutes is created to read:

8 409.109 (4) (n) The transfer of an interest under a rental-purchase agreement,
9 as defined in ~~s. 421~~ ^{301 (37v) e u}

10 **SECTION 4.** 421.201 (11) of the statutes is created to read:

11 421.201 (11) (a) A rental-purchase agreement is entered into in this state if any
12 of the following applies:

13 1. A writing signed by a lessee and evidencing the obligation under the rental-
14 purchase agreement or an offer of a lessee is received by a rental-purchase company
15 in this state.

16 2. The rental-purchase company induces a lessee who is a resident of this state
17 to enter into the rental-purchase agreement by face-to-face solicitation or by mail
18 or telephone solicitation directed to the particular lessee in this state.

19 (b) If a rental-purchase agreement is made or modified in another state with
20 a lessee who is a resident of this state at the time that the agreement or modification
21 is made, the following apply as though the agreement or modification occurred in this
22 state:

23 1. A rental-purchase company, or an assignee of its rights, may collect through
24 actions or other proceedings charges only to the extent permitted under this chapter.

1 2. A rental-purchase company may not enforce any right against a lessee if the
2 enforcement of that right would violate s. 422.604.

3 (c) Except as provided in pars. (a) and (b), a rental-purchase agreement made
4 or modified in another state with an individual who was not a resident of this state
5 at the time that the agreement or modification was made, is valid and enforceable
6 under the laws of the state applicable to the transaction.

7 (d) For purposes of rental-purchase agreements, the residence of a lessee is the
8 address given by the lessee as his or her residence in any writing signed by the lessee
9 in connection with a rental-purchase agreement. The given address is presumed to
10 be unchanged until the rental-purchase company knows or has reason to know of a
11 new or different address.

12 **SECTION 5.** 421.301 (7) (intro.) of the statutes is amended to read:

13 421.301 (7) (intro.) "Cash price" means in chs. 421 to 427, other than subch.
14 VI of ch. 422, the price at which property or services are offered, in the ordinary
15 course of business, for sale for cash, and may include:

16 **History:** 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

16 **SECTION 6.** 421.301 (9) of the statutes is amended to read:

17 421.301 (9) "Consumer credit sale" means a sale of goods, services or an
18 interest in land to a customer on credit where the debt is payable in installments or
19 a finance charge is imposed and includes any agreement in the form of a bailment
20 of goods or lease of goods or real property if the bailee or lessee pays or agrees to pay
21 as compensation for use a sum substantially equivalent to or in excess of the
22 aggregate value of the goods or real property involved and it is agreed that the bailee
23 or lessee will become, or for no other or a nominal consideration has the option to
24 become, the owner of the goods or real property upon full compliance with the terms

1 of the agreement. “Consumer credit sale” does not include a rental-purchase
2 agreement.

3 SECTION 7. 421.301 (10) of the statutes is amended to read:

4 421.301 (10) “Consumer credit transaction” means a consumer transaction
5 between a merchant and a customer in which real or personal property, services or
6 money is acquired on credit and the customer’s obligation is payable in installments
7 or for which credit a finance charge is or may be imposed, whether such transaction
8 is pursuant to an open-end credit plan or is a transaction involving other than
9 open-end credit. The term includes consumer credit sales, consumer loans,
10 consumer leases and transactions pursuant to open-end credit plans. “Consumer
11 credit transaction” does not include a rental-purchase agreement.

History: 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

12 SECTION 8. 421.301 (11) of the statutes is amended to read:

13 421.301 (11) “Consumer lease” means a lease of goods which a merchant makes
14 to a customer for a term exceeding 4 months, but does not include a rental-purchase
15 agreement.

16 Cross Reference: Cross Reference: Cross Reference: See also s. DFI-Bkg 80.05, Wis. adm. code. Cross Reference:
History: 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

17 SECTION 9. 421.301 (11) of the statutes is amended to read:

18 421.301 (11) “Consumer lease” means a lease of goods which a merchant makes
19 to a customer for a term exceeding 4 months. “Consumer lease” does not include a
20 rental-purchase agreement.

21 SECTION 10. 421.301 (12) of the statutes is amended to read:

22 421.301 (12) “Consumer loan” means a loan made by a lender to a customer
23 which is payable in installments or for which a finance charge is or may be imposed,
24 and includes transactions pursuant to an open-end credit plan other than a seller

1 credit card, but does not include a transaction relating to a rental-purchase
2 agreement.

3 History: 1971 c. 239; 1973 c. 3; 1973 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

3 ~~SECTION 11.~~ 421.301 (13) of the statutes is amended to read:

4 421.301 (13) "Consumer transaction" means a transaction in which one or
5 more of the parties is a customer for purposes of that transaction, but does not
6 include a transaction relating to a rental-purchase agreement.

7 History: 1971 c. 239; 1973 c. 3; 1973 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

7 ~~SECTION 12.~~ 421.301 (17) of the statutes is amended to read:

8 421.301 (17) "Customer" means a person other than an organization (s.
9 421.301 (28)) who seeks or acquires real or personal property, services, money or
10 credit for personal, family or household purposes or, for purposes of ch. 427 only, for
11 agricultural purposes, but does not include^a lessee to a rental-purchase agreement.

12 A person other than a customer may agree to be governed by chs. 421 to 427 with
13 respect to all aspects of a transaction and in such event such person shall be deemed
14 a customer for all purposes of chs. 421 to 427 with respect to such transaction.

15 Cross Reference: Cross Reference: Cross Reference: See also s. DFI-Bkg 80.06, Wis. adm. code. Cross Reference:

16 History: 1971 c. 239; 1973 c. 3; 1973 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

16 ~~SECTION 13.~~ 421.301 (20) (intro.) of the statutes is amended to read:

17 421.301 (20) ~~(intro.)~~^{AD} "Finance charge" means the sum of all charges, payable
18 directly or indirectly by the customer as an incident to or as a condition of the
19 extension of credit, whether paid or payable by the customer, the creditor or any other
20 person on behalf of the customer to the creditor or to a 3rd party unless the creditor
21 had no notice or knowledge of the charges paid or payable to the 3rd party. The term
22 does not include any charge with respect to a motor vehicle consumer lease or to a
23 rental-purchase agreement. The term includes the following types of charges to the

1 extent they are not permitted additional charges under s. 422.202, delinquency
2 charges under s. 422.203 or deferral charges under s. 422.204:

3 **Cross Reference:** **Cross Reference:** **Cross Reference:** See also s. DFI-Bkg 80.07, Wis. adm. code. **Cross Reference:**

4 **History:** 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

4 ~~SECTION 14.~~ 421.301 (21) of the statutes is amended to read:

5 421.301 (21) "Goods" has the meaning given in s. 409.102 (1) (ks) and includes
6 goods not in existence at the time the transaction is entered into and goods which are
7 or are to become fixtures, but does not include any goods under a rental-purchase
8 agreement.

9 **History:** 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

9 ~~SECTION 15.~~ 421.301 (25) of the statutes is amended to read:

10 421.301 (25) "Merchant" means a person who regularly advertises, distributes,
11 offers, supplies or deals in real or personal property, services, money or credit in a
12 manner which directly or indirectly results in or is intended or designed to result in,
13 lead to or induce a consumer transaction. The term includes but is not limited to a
14 seller, lessor, manufacturer, creditor, arranger of credit and any assignee of or
15 successor to such person. The term also includes a person who by his or her
16 occupation holds himself or herself out as having knowledge or skill peculiar to such
17 practices or to whom such knowledge or skill may be attributed by his or her
18 employment as an agent, broker or other intermediary. "Merchant" does not include
19 a rental-purchase company.

20 **History:** 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

20 ~~SECTION 16.~~ 421.301 (34) of the statutes is amended to read:

21 421.301 (34) "Personal property" includes but is not limited to goods, but does
22 not include rental property.

23 **History:** 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

23 ~~SECTION 17.~~ 421.301 (37t) of the statutes is created to read:

1 421.301 (37t) "Rental property" means property rented under a
2 rental-purchase agreement.

3 ~~SECTION 18.~~ 421.301 (37v) of the statutes is created to read:

4 421.301 (37^{uv}) "Rental-purchase company" means a person engaged in the
5 business of entering into rental-purchase agreements in this state or acquiring or
6 servicing rental-purchase agreements that are entered into in this state.

7 ~~SECTION 19.~~ 421.301 (37^{uv}) of the statutes is created to read:

8 421.301 (37^{uv}) "Rental-purchase agreement" means an agreement between a
9 rental-purchase company and a lessee for the use of rental property if all of the
10 following apply:

11 (a) The rental property is to be used primarily for personal, family, or household
12 purposes.

13 (b) The agreement has an initial term of 4 months or less and is automatically
14 renewable with each payment after the initial term.

15 (c) The agreement does not obligate or require the lessee to renew the
16 agreement beyond the initial term.

17 (d) The agreement permits, but does not obligate, the lessee to acquire
18 ownership of the rental property.

19 ~~SECTION 20.~~ 421.301 (39) of the statutes is amended to read:

20 421.301 (39) "Sale of services" means furnishing or agreeing to furnish services
21 and includes arranging to have services furnished by another, but does not include
22 any services relating to a rental-purchase agreement.

History: 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

23 ~~SECTION 21.~~ 421.301 (40) of the statutes is amended to read:

1 421.301 (40) "Security interest" means a real property mortgage, deed of trust,
2 seller's interest in real estate under a land contract, any interest in property which
3 secures payment or performance of an obligation under ch. 409 or any other
4 consensual or confessed lien whether or not recorded, but does not include an interest
5 in any property relating to a rental-purchase agreement.

6 History: 1971 c. 239; 1973 c. 3; 1975 c. 407; 1979 c. 10, 89; 1983 a. 7; 1991 a. 148, 316; 1993 a. 111, 112; 1995 a. 329; 1997 a. 302; 1999 a. 162; 2001 a. 10.

SECTION 22. 422.102 of the statutes is repealed and recreated to read:

422.102 Scope. (1) Subchapters I to V apply to consumer credit transactions.

SECTION 23. Subchapter VI of chapter 422 of the statutes [precedes 422.601]

is created to read:

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CHAPTER 422

CONSUMER CREDIT TRANSACTIONS

SUBCHAPTER VI

RENTAL-PURCHASE AGREEMENTS

422.601 Scope. This subchapter applies only to rental-purchase agreements.

422.602 General requirements of disclosure. (1) FORM, LOCATION, SIZE, AND
TIME OF DISCLOSURE. The information that is required to be disclosed under s. 422.603
shall satisfy all of the following:

- (a) The information shall be clearly and conspicuously disclosed.
- (b) The information shall be disclosed in writing.
- (c) The information shall be disclosed on the face of the rental-purchase agreement above the line for the lessee's signature.
- (d) The information shall be disclosed in not less than 8-point standard type.
- (e) The information shall be disclosed before the time that the lessee becomes legally obligated under the rental-purchase agreement.

1 (f) The disclosures required by s. 422.603 (2), (3), (4), and (5) shall be printed
2 in at least 10-point boldface type, and shall be grouped together in a box, in the form
3 and order prescribed by the division.

4 (2) ACCURACY OF DISCLOSURE. The information required under s. 422.603 must
5 be accurate as of the time that it is disclosed to the lessee. If any information
6 subsequently becomes inaccurate as a result of any act, occurrence, or agreement by
7 the lessee, the resulting inaccuracy is not a violation of this chapter.

8 (3) COPY OF RENTAL-PURCHASE AGREEMENT. The rental-purchase company shall
9 provide the lessee with a copy of the completed rental-purchase agreement signed
10 by the lessee. If more than one lessee is legally obligated under the same
11 rental-purchase agreement, delivery of a copy of the completed rental-purchase
12 agreement to one of the lessees shall satisfy this subsection.

13 (4) SINGLE INSTRUMENT. In a rental-purchase agreement, the lessee's rental
14 payment obligations shall be evidenced by a single instrument, which shall include
15 the signature of the rental-purchase company, the signature of the lessee, and the
16 date on which the instrument is signed.

17 **422.603 Required provisions of rental-purchase agreement.** A
18 rental-purchase company shall include all of the following information, to the extent
19 applicable, in every rental-purchase agreement:

20 (1) DESCRIPTION. A brief description of the rental property, sufficient to identify
21 the rental property to the lessee and the rental-purchase company, including any
22 identification number, and a statement indicating whether the rental property is
23 new or used.

24 (2) CASH PRICE. The price at which the rental-purchase company would sell the
25 rental property to the lessee if the lessee were to pay for the rental property in full

1 on the date on which the rental–purchase agreement is executed, along with a
2 statement that, if the lessee intends to acquire ownership of the rental property and
3 is able to pay for the property in full or is able to obtain credit to finance the purchase,
4 the lessee may be able to purchase similar property from a retailer at a lower cost.

5 (3) RENTAL PAYMENTS TO ACQUIRE OWNERSHIP. The total number, total dollar
6 amount, and timing of all rental payments necessary to acquire ownership of the
7 rental property.

8 (4) COST OF RENTAL SERVICES. The difference between the total dollar amount
9 of payments necessary to acquire ownership of the rental property disclosed under
10 sub. (3), and the cash price of the property disclosed under sub. (2). The
11 rental–purchase company shall also include a statement substantially similar to the
12 following: “The cost of rental services is the amount you will pay in addition to the
13 cash price if you acquire ownership of the rented goods by making all payments
14 necessary to acquire ownership.”

15 (5) RENTAL PAYMENT. The rental payment for the rental property.

16 (6) UP-FRONT PAYMENT. Any payment required of the lessee at the time that the
17 agreement is executed or the rental property is delivered, including the initial rental
18 payment, any application or processing charge, any delivery fee, and any charge for
19 a liability damage waiver or for other optional services agreed to by the lessee.

20 (7) OTHER CHARGES AND FEES TO ACQUIRE OWNERSHIP. The dollar amount, both
21 itemized and in total, of all taxes, liability damage waiver fees, fees for optional
22 services, processing fees, application fees, and delivery charges that the lessee would
23 incur if the lessee were to rent the rental property until the lessee acquires
24 ownership, assuming that the lessee does not add or decline the liability damage
25 waiver or optional services after signing the rental–purchase agreement.

1 **(8) TOTAL PAYMENTS TO ACQUIRE OWNERSHIP.** The total of all charges to be paid
2 by the lessee to acquire ownership of the rental property, which shall consist of the
3 total dollar amount of all rental payments disclosed under sub. (3), and the total
4 dollar amount of all other charges and fees disclosed under sub. (7), along with a
5 statement that this is the amount a lessee will pay to acquire ownership of the rental
6 property if the tax rates do not change and if the lessee does not add or decline the
7 liability damage waiver or optional services after signing the rental-purchase
8 agreement. The information required under this subsection shall be printed in at
9 least 10-point boldface type.

10 **(9) OTHER CHARGES.** An itemized description of any other charges or fees that
11 the rental-purchase company may charge the lessee that are not otherwise disclosed
12 in the rental-purchase agreement.

13 **(10) SUMMARY OF EARLY-PURCHASE OPTION.** A statement summarizing the terms
14 of the lessee's options to acquire ownership of the rental property as provided in s.
15 422.606 (2).

16 **(11) RESPONSIBILITY FOR THEFT OR DAMAGE.** A statement that, unless otherwise
17 agreed, the lessee is responsible for the fair market value of the rental property,
18 determined according to the early-purchase option formula under sub. (10), if the
19 rental property is stolen, damaged, or destroyed while in the possession of or subject
20 to the control of the lessee. The statement shall indicate that the fair market value
21 will be determined as of the date on which the rental property is stolen, damaged,
22 or destroyed.

23 **(12) SERVICE AND WARRANTY.** A statement that during the term of the rental-
24 purchase agreement, the rental-purchase company is required to service the rental
25 property and maintain it in good working condition, as long as no other person has

1 serviced the rental property. In lieu of servicing the rental property, the
2 rental-purchase company may, at its option, replace the rental property. The
3 rental-purchase company's obligation to provide service is limited to defects in the
4 property not caused by improper use or neglect by the lessee or harmful conditions
5 outside the control of the rental-purchase company or manufacturer.

6 (13) TERMINATION AT OPTION OF LESSEE. A statement that the lessee may
7 terminate the agreement at any time without penalty by voluntarily surrendering
8 or returning the rental property in good repair.

9 (14) RIGHT TO REINSTATE. A brief explanation of the lessee's right to reinstate
10 a rental-purchase agreement under s. 422.15.

11 (15) RENTAL, NOT PURCHASE. A statement that the lessee will not own the rental
12 property until the lessee has made all payments necessary to acquire ownership or
13 has exercised the lessee's early-purchase option. The rental-purchase company
14 shall also include a notice reading substantially as follows: "You are renting this
15 property. You will not own the property until you make all payments necessary to
16 acquire ownership or until you exercise your early-purchase option. If you do not
17 make your payments as scheduled or exercise your early-purchase option, the
18 rental-purchase company may repossess the property."

19 (16) INFORMATION ABOUT RENTAL-PURCHASE COMPANY AND LESSEE. The names of
20 the rental-purchase company and the lessee, the rental-purchase company's
21 business address and telephone number, the lessee's address, and the date on which
22 the rental-purchase agreement is executed.

23 (17) OPTIONAL SERVICES. Space for a specific, separately signed, affirmative
24 written indication of the lessee's desire for any optional service for which a charge
25 is assessed. The lessee's request must be obtained after a written disclosure of the

1 cost of the optional service is made, and the cost and term of such service must be
2 listed at or near the signature space.

3 **422.604 Prohibited provisions of rental-purchase agreements.** A
4 rental-purchase agreement may not contain any of the following:

5 (1) CONFESION. A confession of judgment.

6 (2) SECURITY. A provision granting the rental-purchase company a security
7 interest in any property, except rental property delivered by the rental-purchase
8 company under the rental-purchase agreement.

9 (3) REPOSSESSION. A provision authorizing a rental-purchase company, or an
10 agent of the rental-purchase company, to enter the lessee's premises without the
11 lessee's contemporaneous permission, or to commit a breach of the peace in the
12 repossession of rental property provided by the rental-purchase company under the
13 rental-purchase agreement.

14 (4) WAIVER. A waiver of a defense or counterclaim, a waiver of any right to
15 assert any claim that the lessee may have against the rental-purchase company or
16 an agent of the rental-purchase company, or a waiver of any provision of this
17 subchapter.

18 (5) OVERPAYMENT. A provision requiring rental payments totaling more than
19 the total dollar amount of all rental payments necessary to acquire ownership, as
20 disclosed in the rental-purchase agreement.

21 (6) INSURANCE. A provision requiring the lessee to purchase insurance from the
22 rental-purchase company to insure the rental property.

23 (7) ATTORNEY FEES. A provision requiring the lessee to pay any attorney fees.

24 **422.605 Liability waiver.** A rental-purchase company may offer a liability
25 waiver to the lessee. The terms of the waiver must be provided to the lessee in

1 writing, incorporated into the rental-purchase agreement or on a separate
2 document. The face of the writing shall clearly disclose that the lessee is not required
3 to purchase the waiver. The fee for the waiver may not exceed 10 percent of the rental
4 payment due under the rental-purchase agreement. The lessee shall be entitled to
5 cancel the waiver at the end of any rental term.

6 **422.606 Lessee's right to acquire ownership. (1) LIMITS ON COST OF RENTAL**
7 **SERVICES.** The total amount charged by the rental-purchase company for the cost of
8 rental services in a rental-purchase transaction shall not exceed the cash price of the
9 property.

10 **(2) ACQUISITION OF OWNERSHIP.** At any time after the initial rental period, a
11 lessee may acquire ownership of the property that is the subject of the
12 rental-purchase agreement by tendering an amount equal to the original cash price
13 of the rented property, minus at least 50 percent of all rental payments made by the
14 lessee. A rental-purchase company may also require the lessee to pay any accrued
15 unpaid rental payments and fees.

16 **422.607 Unconscionable conduct.** The administrator of the division of
17 banking in the department of financial institutions shall promulgate rules declaring
18 specific conduct in rental-purchase agreements and the collection of accounts and
19 property arising therefrom to be unconscionable and prohibiting the use thereof. In
20 promulgating such rules, the administrator shall consider, among other things:

21 **(1)** That the practice unfairly takes advantage of the lack of knowledge, ability,
22 experience, or capacity of lessees.

23 **(2)** That those engaging in the practice know of the inability of lessees to receive
24 benefits properly anticipated from the goods or services involved.

1 (3) The fact that the practice may enable rental–purchase companies to take
2 advantage of the inability of lessees reasonably to protect their interests by reason
3 of physical or mental infirmities, illiteracy, or inability to understand the language
4 of the agreement, ignorance or lack of education, or similar factors.

5 (4) That the terms of the transaction require lessees to waive legal rights.

6 (5) That the terms of the transaction require lessees to unreasonably
7 jeopardize money or property beyond the money or property immediately at issue in
8 the transaction.

9 (6) That the natural effect of the practice is to cause or aid in causing lessees
10 to misunderstand the true nature of the transaction or their rights and duties
11 thereunder.

12 (7) That the writing purporting to evidence the obligation of the lessees in the
13 transaction contains terms or provisions or authorizes practices prohibited by law.

14 (8) Definitions of unconscionability in statutes, rules, rulings and decisions of
15 legislative, administrative, or judicial bodies.

16 **422.608 Receipts and statements.** (1) RECEIPTS. A rental–purchase
17 company shall provide a written receipt to the lessee for any payment made by the
18 lessee in cash or, upon the request of the lessee, for any other type of payment.

19 (2) STATEMENT DUE TO LESSEE. Subject to sub. (4), upon the request of a lessee,
20 a rental–purchase company shall provide a written statement to the lessee showing
21 the lessee’s payment history on each rental–purchase agreement between the lessee
22 and the rental–purchase company. A rental–purchase company is not required to
23 provide a statement covering any rental–purchase agreement that was terminated
24 more than one year prior to the date of the lessee’s request. A rental–purchase
25 company may provide a single statement covering all rental–purchase agreements

1 or separate statements for each rental–purchase agreement, at the rental–purchase
2 company’s option.

3 (3) STATEMENT DUE TO OTHER PARTIES. Subject to sub. (4), upon the written
4 request of a lessee, made during the term of or no later than one year after the
5 termination of a rental–purchase agreement, a rental–purchase company shall
6 provide a written statement to any person designated by the lessee, showing the
7 lessee’s payment history under the rental–purchase agreement.

8 (4) FEE FOR STATEMENT. A lessee or, if appropriate, a lessee’s designee, is entitled
9 to receive one statement under subs. (2) and (3) without charge once every 12
10 months. A rental–purchase company shall provide an additional statement if the
11 lessee pays the rental–purchase company’s reasonable costs of preparing and
12 furnishing the statement.

13 **422.610 Advertising.** (1) DISCLOSURE REQUIRED. Except as provided under
14 sub. (2), if an advertisement for a rental–purchase agreement refers to or states the
15 amount of a payment for a specific item of property, the advertisement shall also
16 clearly and conspicuously state all of the following:

17 (a) That the transaction advertised is a rental–purchase agreement.

18 (b) The total number and total dollar amount of all rental payments necessary
19 to acquire ownership of the property.

20 (c) That the lessee does not acquire ownership of the property if the lessee fails
21 to make all rental payments or other payments necessary to acquire ownership of the
22 property.

23 (2) EXCEPTION. Subsection (1) does not apply to any in–store display or any
24 advertisement that is published in the yellow pages of a telephone directory or in any
25 similar directory of businesses.

1 **422.611 Price cards displayed.** (1) PRICE CARDS GENERALLY. Except as
2 provided in sub. (2), a card or tag that clearly and conspicuously states all of the
3 following shall be displayed on or next to any property displayed or offered by a
4 rental–purchase company for rent under a rental–purchase agreement:

5 (a) The cash price that a lessee would pay to purchase the property.

6 (b) The amount and timing of the rental payments.

7 (c) The total number and total amount of all rental payments necessary to
8 acquire ownership of the property under a rental–purchase agreement.

9 (d) The cost of rental services under a rental–purchase agreement.

10 (e) Whether the property is new or used.

11 (2) EXCEPTIONS. If property is offered for rent under a rental–purchase
12 agreement through a catalog, or if the size of the property is such that displaying a
13 card or tag on or next to the property would be impractical, a rental–purchase
14 company may make the disclosures required under sub. (1) in a catalog or list, if the
15 catalog or list is readily available to prospective lessees.

16 **422.612 Referral transactions.** (1) PROHIBITED REFERRAL TRANSACTIONS. No
17 rental–purchase company may induce any individual to enter into a rental–purchase
18 agreement by giving or offering to give a rebate or discount to the individual in
19 consideration of the individual’s giving to the rental–purchase company the names
20 of prospective lessees if the earning of the rebate or discount is contingent upon the
21 occurrence of any event that takes place after the time that the individual enters into
22 the rental–purchase agreement.

23 (2) AUTHORIZED REFERRAL TRANSACTIONS. After entering into a rental–purchase
24 agreement, a rental–purchase company may give or offer to give a rebate or discount
25 to a lessee under the rental–purchase agreement in consideration of the lessee’s

1 giving to the rental-purchase company the names of prospective lessees. A rebate
2 or discount under this subsection may be contingent upon the occurrence of any event
3 that takes place after the time that the names are given to the rental-purchase
4 company.

5 **422.613 Termination of rental-purchase agreement.** The termination
6 date of a rental-purchase agreement is the earlier of the following:

7 (1) The day specified in the rental-purchase agreement as the day on which
8 the rental term ends, unless a different day has been established under the
9 rental-purchase agreement.

10 (2) The date on which the lessee voluntarily surrenders the rental property.

11 **422.614 Late payment, grace period, and late fees.** (1) LATE FEE
12 GENERALLY. If a lessee fails to make any payment when due under a rental-purchase
13 agreement or if, at the end of any rental term, the lessee fails to return the rental
14 property or to renew the rental-purchase agreement for an additional term, the
15 rental-purchase company may require the lessee to pay a late fee. Except as
16 provided in sub. (4), this subsection does not apply if the lessee's failure to return
17 rental property or failure to renew the rental-purchase agreement at the end of the
18 rental term is due to the lessee's exercise of an early-purchase option under the
19 rental-purchase agreement or is due to the lessee's making all payments necessary
20 to acquire ownership of the rental property.

21 (2) GRACE PERIODS. The following grace periods shall apply to rental payments
22 made with respect to a rental-purchase agreement:

23 (a) For an agreement that is renewed on a weekly basis, no late fee may be
24 assessed for a payment that is made within 2 days after the date on which the
25 scheduled payment is due.

1 (b) For an agreement that is renewed for a term that is longer than one week,
2 no late fee may be assessed for a payment that is made within 7 days after the date
3 on which the scheduled payment is due.

4 **(3) COLLECTION, APPLICATION, AND LIMITATION OF LATE FEES.** Late fees are subject
5 to all of the following:

6 (a) A late fee may not exceed \$5 for each past-due rental payment.

7 (b) A late fee may be collected only once on each rental payment due, regardless
8 of how long the payment remains past due.

9 (c) Payments received shall be applied first to the payment of any rent that is
10 due and then to late fees and any other charges.

11 (d) A late fee may be collected at the time that the late fee accrues or at any time
12 afterward.

13 **(4) EFFECT OF OUTSTANDING LATE FEE ON TRANSFER OF OWNERSHIP.** A
14 rental-purchase company may require payment of any outstanding late fees before
15 transferring ownership of rental property to a lessee.

16 **422.615 Reinstatement of terminated rental-purchase agreement. (1)**
17 **REINSTATEMENT GENERALLY.** A lessee may reinstate a terminated rental-purchase
18 agreement without losing any rights or options previously acquired if all of the
19 following apply:

20 (a) The lessee returned or surrendered the rental property within 7 days after
21 the termination of the rental-purchase agreement.

22 (b) Not more than 60 days have passed after the date on which the rental
23 property was returned to the rental-purchase company or, if the lessee has paid
24 two-thirds or more of the total number of rental payments necessary to acquire

1 ownership of the rental property, not more than 120 days have passed since the date
2 on which the rental property was returned to the rental-purchase company.

3 (2) AUTHORIZED CONDITIONS ON REINSTATEMENT. As a condition of reinstatement
4 under this section, the rental-purchase company may require the payment of all
5 past-due rental charges, any applicable late fees, a reinstatement fee not to exceed
6 \$5, and the rental payment for the next term.

7 (3) EFFECT OF REPOSSESSION ON REINSTATEMENT. Nothing in this section prohibits
8 a rental-purchase company from attempting to repossess rental property upon
9 termination of a rental-purchase agreement, but such efforts do not affect the
10 lessee's right to reinstate as long as the rental property is repossessed, voluntarily
11 returned, or surrendered within 7 days after the termination of the rental-purchase
12 agreement.

13 (4) PROPERTY AVAILABLE UPON REINSTATEMENT. Upon reinstatement, the
14 rental-purchase company shall provide the lessee with the same rental property, if
15 the property is available and is in the same condition as when it was returned to the
16 rental-purchase company, or with substitute property of comparable quality and
17 condition.

18 **422.616 Default and right to cure.** (1) DEFAULT GENERALLY. A lessee is in
19 default under a rental-purchase agreement if any of the following applies:

20 (a) The lessee fails to return rental property within 7 days after the date on
21 which the last rental term for which a rental payment was made expires, unless the
22 lessee has exercised an early-purchase option or has made all rental payments
23 necessary to acquire ownership of the rental property.

24 (b) The lessee materially breaches any other provision of the rental-purchase
25 agreement.

1 **(2) DEFAULT; NECESSARY FOR LESSEE LIABILITY.** No cause of action shall accrue
2 against a lessee with respect to the lessee's obligations under a rental-purchase
3 agreement except upon default and the expiration of any applicable period of time
4 allowed for cure of the default.

5 **(3) NOTICE OF DEFAULT; GENERAL REQUIREMENT.** Except as provided in sub. (4),
6 as a condition precedent to bringing an action against a lessee arising out of the
7 lessee's default, a rental-purchase company shall provide a written notice of the
8 default and of the right to cure the default to the lessee. The notice shall specify the
9 default and the action required to cure the default and shall inform the lessee that
10 if the default is not cured within 15 days after the notice is given the rental-purchase
11 company may bring an action against the lessee.

12 **(4) NOTICE OF DEFAULT; EXCEPTION.** A rental-purchase company is not required
13 to provide a notice of default and right to cure as a condition precedent to bringing
14 an action against a lessee if the lessee breaches the agreement and, in so doing, may
15 or does materially impair the condition, value or protection of the rental property, or
16 otherwise if each of the following occurred twice during the 12 months before the date
17 of the current default with respect to the same rental-purchase agreement:

18 (a) The lessee was in default.

19 (b) The rental-purchase company gave the lessee written notice of the default
20 and of the lessee's right to cure under sub. (3).

21 (c) The lessee cured the default.

22 **(5) REQUEST FOR VOLUNTARY SURRENDER OF PROPERTY.** A rental-purchase
23 company may request the voluntary return or surrender of rental property prior to
24 the declaration of a default and the sending of written notice of default and right to
25 cure. A request under this subsection is subject to s. 427.104.

mark to p. 8

1 (2) Subchapter VI applies to rental-purchase agreements.

2 SECTION 24. 423.102 of the statutes is amended to read:

3 423.102 Scope. This chapter applies to all consumer transactions, except that
4 subch. II does not apply to cemetery preneed sales under s. 440.92, and subch. III
5 applies to rental-purchase agreements.

History: 1971 c. 239; 1989 a. 307.

6 SECTION 25. 423.301 of the statutes is amended to read:

7 423.301 False, misleading or deceptive advertising. No merchant or
8 rental-purchase company shall advertise, print, display, publish, distribute or
9 broadcast or cause to be advertised, printed, displayed, published, distributed or
10 broadcast, in any manner any statement or representation with regard to the
11 extension of consumer credit including the rates, terms or conditions for the
12 extension of such credit, which is false, misleading, or deceptive, or which omits to
13 state material information with respect to the extension of credit that is necessary
14 to make the statements therein not false, misleading or deceptive. With respect to
15 matters specifically governed by the federal consumer credit protection act,
16 compliance with such act satisfies the requirements of this section.

History: 1971 c. 239.

17 SECTION 26. 423.302 of the statutes is amended to read:

18 423.302 Remedies and penalty. In addition to any other remedy provided
19 by law, a customer who has been induced to consummate a consumer credit
20 transaction or a lessee who has been induced to consummate a rental-purchase
21 agreement as a result of advertising in violation of s. 423.301 shall be entitled to a
22 recovery from the merchant in accordance with s. 425.305.

History: 1971 c. 239.

23 SECTION 27. 425.305 of the statutes is amended to read:

1 **425.305 Transactions which are void.** (1) In a transaction to which this
 2 section applies, the customer or lessee to a rental-purchase agreement shall be
 3 entitled to retain the goods, services or money received pursuant to the transaction
 4 without obligation to pay any amount.

5 (2) In addition, the customer or lessee to a rental-purchase agreement shall
 6 be entitled to recover any sums paid to the merchant pursuant to the transaction.

7 History: 1971 c. 239; 1973 c. 2.

8 **SECTION 28.** Subchapter V of chapter 425 of the statutes [precedes 425.501] is
 created to read:

9 **CHAPTER 425** *esc =*
 10 **CONSUMER TRANSACTIONS** *em dash* **REMEDIES AND PENALTIES**

11 **SUBCHAPTER V**

12 **PENALTIES, CIVIL ACTIONS, LIMITATIONS, AND VENUE RELATING TO** *A fix*
 13 **RENTAL-PURCHASE AGREEMENTS**

14 **425.501 Scope.** This subchapter applies only to rental-purchase agreements.

15 **425.502 Civil actions and defenses.** (1) **LIABILITY GENERALLY.** Except as
 16 provided under subs. (2) to (8), a rental-purchase company that violates any
 17 provision of this chapter is liable to a lessee that is damaged as a result of that
 18 violation for the costs of the action and, notwithstanding s. 814.04 (1), for reasonable
 19 attorney fees as determined by the court, plus an amount equal to the sum of the
 20 following:

21 (a) The actual damages, including any incidental and consequential damages,
 22 sustained by the lessee as a result of the violation.

23 (b) An amount equal to 25 percent of the total amount of payments necessary
 24 to acquire ownership of the rental property under the lessee's rental-purchase

1 agreement, except that liability under this paragraph may not be less than \$100 nor
2 more than \$1,000.

3 (2) TEMPORARY RELIEF; INJUNCTIONS. The administrator may bring a civil action
4 to restrain, by temporary or permanent injunction, a merchant from violating any
5 provision of this chapter, or from engaging in false, misleading, deceptive, or
6 unconscionable conduct, in rental-purchase transactions.

7 (3) LIABILITY; CERTAIN VIOLATIONS. Except as provided in subs. (4) and (5), if a
8 rental-purchase agreement violates s. 422.604, the lessee may retain the rental
9 property under the rental-purchase agreement without obligation to pay any
10 amount and may recover any amounts paid to the rental-purchase company under
11 the rental-purchase agreement.

12 (4) CLASS ACTION. (a) In the case of a class action, a rental-purchase company
13 that violates this chapter is liable to the members of the class in an amount equal to
14 the actual damages incurred by the class. The total statutory damages for all lessees
15 whose recovery is computed under sub. (1) (b) relating to statutory damages may not
16 exceed \$500,000 plus the costs of the action and, notwithstanding s. 814.04 (1),
17 reasonable attorneys' fees as determined by the court. In determining the amount
18 to award under sub. (1) (b), the court shall consider, among other relevant factors,
19 the amount of actual damages sustained by the members of the class, the frequency
20 and persistence of the violations by the rental-purchase company, the resources of
21 the rental-purchase company, the number of persons damaged by the violation, the
22 presence or absence of good faith on the part of the rental-purchase company, and
23 the extent to which the violation was intentional.

24 (b) Notwithstanding par. (a), no class action may be maintained for conduct
25 proscribed in s. 422.607, 423.301, or 427.104 (1) (h) unless the conduct has been found

1 to violate s. 422.607, 423.301, or 427.104 (1) (h) at least 30 days prior to the
2 occurrence of the conduct involved in the class action by an appellate court of this
3 state or by a rule promulgated by the division, specifying with particularity the act
4 or practice in question.

5 (c) At least 30 days before commencing a class action for damages, a party must
6 do all of the following:

7 1. Notify the rental–purchase company against whom an alleged cause of
8 action is asserted of the alleged claim or violation.

9 2. Demand that the rental–purchase company correct, or otherwise remedy, the
10 basis for the alleged claim.

11 (d) The notice required in par. (c) shall be in writing, and shall be sent by
12 certified or registered mail, return receipt requested, to the rental–purchase
13 company at the place where the transaction occurred, the company’s principal place
14 of business within the state, or, if neither will effect actual notice, the department
15 of financial institutions.

16 (e) Except as provided in par. (g), no action for damages may be maintained
17 under this section if an appropriate remedy, which shall include actual damages and
18 may include penalties, is given, or agreed to be given within a reasonable time, to
19 such party within 30 days after receipt of such notice.

20 (f) Except as provided in par. (g), no action for damages may be maintained
21 under this section upon a showing by a rental–purchase company against whom the
22 alleged claim or violation is asserted that all of the following exist:

23 1. All lessees similarly situated have been identified, or a reasonable effort to
24 identify such other lessees has been made.

1 2. All lessees identified under subd. 1. have been notified that, upon their
2 request, the rental–purchase company shall make the appropriate remedy.

3 3. The remedy requested by the lessees has been or in a reasonable time will
4 be given.

5 4. The rental–purchase company has ceased from engaging, or if immediate
6 cessation is impossible under the circumstances, the rental–purchase company will,
7 within a reasonable time, cease to engage in any acts on which the alleged claim is
8 based.

9 (g) An action for injunctive relief may be commenced without compliance with
10 par. (c). Not less than 30 days after the commencement of an action for injunctive
11 relief, and after compliance with par. (c), the lessee may amend his or her complaint
12 without leave of court to include a request for damages. Paragraphs (e) and (f) shall
13 apply if the complaint for injunctive relief is amended to request damages.

14 (h) As soon as practicable after the commencement of an action brought as a
15 class action, the court shall determine by order whether it is to be so maintained. An
16 order may be conditional, and may be altered or amended before the decision on the
17 merits. If the court determines that the action may not be maintained as a class
18 action, it shall allow the action to proceed on behalf of the parties appearing in the
19 action.

20 (i) In any class action, the court shall direct to the members of the class the best
21 notice practicable under the circumstances, including individual notice to all
22 members who can be identified through reasonable effort. The notice shall inform
23 each class member that:

24 1. The court will exclude him or her from the class if he or she so requests by
25 a specified date.

1 2. The judgment, whether favorable or not, will include all members who do not
2 request exclusion.

3 3. Any member who does not request exclusion may enter an appearance
4 through his or her counsel.

5 (j) The judgment in an action maintained as a class action under this section,
6 whether or not favorable to the class, shall include and describe those whom the court
7 finds to be members of the class. The judgment in an action maintained as a class
8 action, whether or not favorable to the class, shall include and specify or describe
9 those to whom the notice provided in par. (i) was directed, and who have not
10 requested exclusion, and whom the court finds to be members of the class.

11 (k) When appropriate, an action may be brought or maintained as a class action
12 with respect to particular issues, or a class may be divided into subclasses and each
13 subclass treated as a class.

14 (L) If judgment is for a class of plaintiffs, the court shall render judgment in
15 favor of the administrator and against the defendants for all costs of notice incurred
16 by the administrator in such action.

17 (m) In the conduct of actions to which this section applies, the court may make,
18 alter, or amend orders that do any of the following:

19 1. Determine the course of proceedings or prescribing measures to prevent
20 undue repetition or complication in the presentation of evidence or argument.

21 2. Require, for the protection of the members of the class or otherwise for the
22 fair conduct of the action, that notice be given in such manner as the court may direct
23 to some or all of the members of any step in the action, or of the proposed extent of
24 the judgment, or of the opportunity of members to signify whether they consider the

1 representation fair and adequate, to intervene and present claims or defenses, or
2 otherwise to come into the action.

3 3. Impose conditions on the representative parties or on intervenors.

4 4. Require that the pleadings be amended to eliminate therefrom allegations
5 as to representation of absent persons, and that the action proceed accordingly.

6 5. Deal with similar procedural matters.

7 (n) Once certified by the court under this section, a class action shall not be
8 dismissed or compromised without the approval of the court, and notice of the
9 proposed dismissal or compromise shall be given to all members of the class in such
10 manner as the court directs.

11 (o) A rental-purchase company shall not be liable in a class action for statutory
12 damages computed under sub. (1) (b) relating to statutory damages, unless it is
13 shown by a preponderance of the evidence that the violation was a willful and
14 knowing violation of this chapter.

15 (p) Reasonable attorneys' fees in a class action shall be determined by the value
16 of the time reasonably expended by the attorney rather than by the amount of
17 recovery on behalf of the class. A legal aid society or legal services program that
18 represents a class shall be awarded a reasonable service fee in lieu of reasonable
19 attorneys' fees, equal in amount to the amount of the attorneys' fees as measured by
20 this subsection.

21 (q) The administrator, whether or not a party to an action, shall bear the costs
22 of notice except that he or she may recover such costs from the defendant as provided
23 in par. (L).

24 (5) DEFENSE; BONA FIDE ERROR. Notwithstanding any other section of this
25 chapter, no customer shall be entitled, in an individual or class action, to recover any

1 penalties provided under sub. (1) (b), if the rental–purchase company violating this
2 chapter shows by a preponderance of the evidence that the violation was not
3 intentional, and that the violation resulted from a bona fide error notwithstanding
4 the maintenance of procedures reasonably adapted to avoid these errors.

5 (6) **DOUBLE LIABILITY LIMITED.** The liability of a rental–purchase company under
6 this chapter is in lieu of any liability under the federal Consumer Credit Protection
7 Act and s. 138.09. An action by a person alleging a violation under this chapter may
8 not be maintained if a final judgment has been rendered for or against that person
9 with respect to the same violation under the federal Consumer Credit Protection Act
10 or s. 138.09. If a final judgment is entered against any rental–purchase company
11 under this chapter and the federal Consumer Credit Protection Act or s. 138.09 for
12 the same violation, the merchant has a cause of action for appropriate relief to the
13 extent necessary to avoid double liability.

14 (7) **NECESSARY PARTIES.** If more than one lessee is a party to the same
15 rental–purchase agreement, all of the lessees that are parties to the rental–purchase
16 agreement shall be joined as plaintiffs in any action under sub. (1), and the lessees
17 are entitled to only a single recovery under sub. (1).

18 **425.503 Limitation on actions.** An action brought by a lessee under this
19 chapter shall be commenced within one year after the date on which the alleged
20 violation occurred, 2 years after the date on which the rental–purchase agreement
21 was entered into, or one year after the date on which the last payment was made
22 under the rental–purchase agreement, whichever is later.

23 **425.504 Venue.** (1) **GENERALLY.** The venue for a claim arising out of a
24 rental–purchase agreement is any of the following counties:

25 (a) Where the lessee resides or is personally served.

1 (b) Where the rental property is located.

2 (c) Where the lessee sought or acquired the rental property or signed the
3 document evidencing his or her obligation under the terms of the rental-purchase
4 agreement.

5 (2) CHANGE IN VENUE. When it appears from the return of service of a summons
6 or otherwise that the county in which an action is pending under sub. (1) is not a
7 proper place of trial for the action, unless the defendant appears and waives the
8 improper venue, the court shall transfer the action to any county that is a proper
9 place of trial.

10 (3) MULTIPLE DEFENDANTS. If there are several defendants in an action arising
11 out of a rental-purchase agreement, and if venue is based on residence, venue may
12 be in the county of residence of any of the defendants.

13 SECTION 29. 426.102 (intro.) of the statutes is renumbered 426.102 (1) (intro.).

14 SECTION 30. 426.102 (2) of the statutes is created to read:

15 426.102 (2) This chapter, except for ss. 426.108, 426.109, and 426.110, applies
16 to rental-purchase agreements.

17 SECTION 31. 426.104 (2) (intro.) of the statutes is amended to read:

18 426.104 (2) (intro.) The administrator shall report annually on practices in
19 consumer transactions, on the use of consumer credit in the state, on problems
20 attending the collection of debts, on the problems of persons of limited means in
21 consumer transactions, on rental-purchase agreements, and on the operation of chs.
22 421 to 427 and 429. For the purpose of making the report, the administrator may
23 conduct research and make appropriate studies. The report shall be given to the

1 division of banking for inclusion in the report of the division of banking under s.
2 220.14 and shall include:

3 **History:** 1971 c. 239; 1977 c. 196 s. 131; 1979 c. 89; 1983 a. 524; 1985 a. 256; 1991 a. 316; 1995 a. 27, 216, 329; 1997 a. 35.

3 **SECTION 32.** 426.201 (1) (c) of the statutes is created to read:

4 426.201 (1) (c) Make or solicit rental-purchase agreements.

5 **SECTION 33.** 426.201 (2) (fm) of the statutes is amended to read:

6 426.201 (2) (fm) The year-end balance of all rental-purchase agreements or
7 consumer credit transactions held by the person. In this paragraph, “year-end
8 balance” has the meaning given under s. 426.202 (1m) (a).

9 **History:** 1971 c. 239; 1975 c. 407; 1979 c. 10 s. 24; 1979 c. 89; 1979 c. 162 s. 38 (3); 1979 c. 168 s. 21; 1979 c. 341 s. 12 (2); 1989 a. 303; 1995 a. 27, 328, 329; 2001 a.

9 **SECTION 34.** 426.202 (1m) (a) 3. of the statutes is amended to read:

10 426.202 (1m) (a) 3. “Year-end balance” means, for any reporting period, the
11 outstanding balance of all rental-purchase agreements or consumer credit
12 transactions that a person has entered into or has obtained by assignment, and that
13 originated in this state, as of December 31 preceding the annual registration filing
14 date under s. 426.201 (2m) (a).

15 **History:** 1971 c. 239; 1973 c. 116 s. 6; 1975 c. 407; 1979 c. 168 s. 21; 1991 a. 316; 1995 a. 27, 329; 2001 a. 16.

15 **SECTION 35.** 426.301 (3) of the statutes is created to read:

16 426.301 (3) This section shall not apply to violation of a provision of chs. 421
17 to 427, relating to rental-purchase agreements.

18 **SECTION 36.** 427.102 of the statutes is amended to read:

19 **427.102 Scope.** This chapter applies to conduct and practices in connection
20 with the collection of obligations arising from consumer transactions, including
21 transactions that are primarily for an agricultural purpose, and to transactions in
22 connection with rental-purchase agreements.

23 **History:** 1971 c. 239; 1997 a. 302.

23 **SECTION 37.** 427.103 (intro.) of the statutes is created to read:

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is this right?
(intro.) ← *plain*
AA

X

1 **427.103** In this subchapter:

2 **SECTION 38.** 427.103 (1e) of the statutes is created to read:

3 427.103 (1e) "Consumer transaction" has the meaning given in s. 421.301 (13),
4 but does include a transaction in connection with a rental-purchase agreement.

5 **SECTION 39.** 427.103 (1r) of the statutes is created to read:

6 427.103 (1r) "Customer" has the meaning given in s. 421.301 (17), but does
7 include a lessee to a rental-purchase agreement.

8 **SECTION 40.** 427.103 (4) of the statutes is created to read:

9 427.103 (4) "Merchant" has the meaning given in s. 421.301 (25), but does
10 include a rental-purchase company.

11 **SECTION 41. Initial applicability.**

12 (1) This act first applies to rental-purchase agreements, and conduct pursuant
13 to those agreements, that are entered into on the effective date of this subsection.

14 **SECTION 42. Effective date.**

15 (1) This act takes effect on the 90th day after publication.

16 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0402/1dn

RAC: *[Signature]*

Date

Senator Brown:

Per your instructions, this substitute amendment incorporates the rental-purchase provisions in proposed ch. 430[✓] from 2003 Senate Bill 486 into the Wisconsin Consumer Act (WCA). Because of end-of-session time constraints, this draft was prepared in a highly expedited manner and should be carefully reviewed by those with an interest in this subject. In reviewing the substitute amendment, please note the following:

1. I created s. 421.201 (11)[✓], relating to territorial application. Because rental-purchase agreements were excluded from the ~~the~~ definition of certain applicable terms in that section, there was no provision in the WCA governing rental-purchase agreements. X

2. In s. 421.301, I placed the necessary definitions that apply to rental-purchase agreements and excluded certain terms from definitions that would otherwise apply under the WCA. Please review. X

3. Please note that "rental property" is now a defined term under s. 421.301 (37t)[✓] and that "personal property" is now defined under the WCA to not include "rental property" under a rental-purchase agreement. In this way, all WCA provisions that apply to "personal property" will not apply to "rental property" as defined in s. 421.301 (37t). In this regard, in s. 421.301 (37v), I change ~~the~~ all of the refer^{ences} to "personal property" to "rental property"[✓]. *leu d*

4. Note my treatment of s. 422.102[✓], relating to the scope of ch. 422.

5. Subch. VI[✓] of ch. 422 contains all of the material from subchs. V, VI, and VII of ch. 430 in 2003 Senate Bill 486.

6. In s. 422.616 (5), please note the new cross-reference to s. 427.104[✓].

7. Note my treatment of s. 423.102[✓], relating to the scope of ch. 423.

8. Subch. V[✓] of ch. 425 contains all of the material from subchs. IX of ch. 430 in 2003 Senate Bill 486, except for s. 430.901.

9. Note the deletion of material in s. 425.502 (5)[✓] that appeared in s. 430.902 (5)[✓] in 2003 Senate Bill 486.

10. Note my treatment of the provisions in ch. 427[✓] to have this chapter apply to rental-purchase agreements.

RAC

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0402/1dn
RAC:kjf:kjf

March 1, 2004

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1. I created s. 421.201 (11), relating to territorial application. Because rental-purchase agreements were excluded from the definition of certain applicable terms in that section, there was no provision in the WCA governing rental-purchase agreements.
2. In s. 421.301, I placed the necessary definitions that apply to rental-purchase agreements and excluded certain terms from definitions that would otherwise apply under the WCA. Please review.
3. Please note that "rental property" is now a defined term under s. 421.301 (37t) and that "personal property" is now defined under the WCA to not include "rental property" under a rental-purchase agreement. In this way, all WCA provisions that apply to "personal property" will not apply to "rental property" as defined in s. 421.301 (37t). In this regard, in s. 421.301 (37u), I changed all of the references to "personal property" to "rental property."
4. Note my treatment of s. 422.102, relating to the scope of ch. 422.
5. Subchapter VI of ch. 422 contains all of the material from subchs. V, VI, and VII of ch. 430 in 2003 Senate Bill 486.
6. In s. 422.616 (5), please note the new cross-reference to s. 427.104.
7. Note my treatment of s. 423.102, relating to the scope of ch. 423.
8. Subchapter V of ch. 425 contains all of the material from subch. IX of ch. 430 in 2003 Senate Bill 486, except for s. 430.901.
9. Note the deletion of material in s. 425.502 (5) that appeared in s. 430.902 (5) in 2003 Senate Bill 486.

10. Note my treatment of the provisions in ch. 427 to have this chapter apply to rental-purchase agreements.

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- ① Incorporate subch IV of ch. 430 in bill
- ② 422.606 (1) Cash price cap
& (3) language on ownership cost cap
(see next page)
- ③ New self-help provision in
s. 423.616(6)
- ④ Discussed whether ss. 220.02(5) &
220.035(1) apply to decisions
of the administrator / division relating to
rental purchase agreement. Our
conclusion is that the right of
appeal does apply & that
there is no need to specifically
specify this. It is
current law.

Per Bran's office

" NOT to exceed an
amt. equal to the cash price
of the rental prop. X

by a fraction that has

NUMERATOR = # of periodic
payments remaining under

RPA

DENOMINATOR = # of periodic
rental payments

(a) Notwithstanding any other provision of law, no rental-purchase company may take or attempt to take possession of rental property subject to a rental-purchase agreement by means other than legal process in accordance with this subchapter until ~~72~~ ⁴⁸ hours has transpired after the rental-purchase company has made a reasonable effort to contact the lessee and request the return or voluntary surrender of the rental property.

(b) For purposes of this subsection, reasonable effort is defined as any of the following:

- (1) Written notice sent to the last known address of the lessee by certified mail;
- (2) Actual telephonic conversation with the lessee; or
- (3) At least ~~three~~ ^{two} separate attempts over ~~three~~ ^{two} consecutive days following the previous rental payment due date to have telephonic conversation with the lessee. Such attempts shall be made to the last known telephone number of the addressee, and the second and third attempts need not be made and the ~~72~~ ⁴⁸-hour period in paragraph (a) does not apply if the lessee's last known telephone number has been disconnected.

*must be
actual
conversations
ASC will
find appropriate
language*

(c) The rental-purchase company shall maintain records to verify compliance with this subsection.

To: Rick Champagne

4-6948

From: Katie Annuk

Champagne, Rick

From: Champagne, Rick
Sent: Monday, March 01, 2004 1:13 PM
To: Mnuk, Katie

Katie:

A couple of quick comments on the proposed language:

1. Joint Rule 52 (6) generally prohibits the LRB from drafting phrases such as "Notwithstanding any other provision of law,..." Instead, the joint rule provides that if a specific provision of law is to be superseded, we need to identify it. Such "notwithstanding" phrases were generally incorporated in the Wisconsin Statutes before the adoption of this rule.
2. The language refers to "legal process in accordance with this subchapter." What legal process is being referred to in subch. VI of ch. 422. Is it s. 422.616?
3. Section 422.604 (3) prohibits a rental-purchase agreement from containing language authorizing a rental-purchase company or its agent from entering a lessee's premises without his or her contemporaneous permission. How is proposed s. 422.616 (6) to be harmonized with this?
4. Doesn't s. 422.615 (5) already allow what proposed s. 422.616 (a) wishes to allow?

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To: Rick Champagne

4-6948

From: Katie Mruk

422.616 (6) (new, would have been added to the end of 430.704):

"Notwithstanding any other provision of law, no rental-purchase company may take or attempt to take possession of rental property subject to a rental-purchase agreement by means other than legal process in accordance with this subchapter, except when:

- (a) The lessee terminates the rental-purchase agreement and returns or voluntarily surrenders the rental property without request by the rental-purchase company;**
- (b) The rental-purchase company has made a reasonable effort to contact the lessee and request the return or voluntary surrender of the rental property. Reasonable effort is defined as any of the following:**

- I. Written notice sent to the last known address of the lessee by certified mail;**
- II. Actual telephonic conversation with the lessee;**
- III. At least two (2) separate attempts over two (2) consecutive days following the previous rental payment due date to have telephonic conversation with the lessee. Such attempts shall be made to the last known telephone number of the lessee; or**

- (c) If the lessee's last known telephone number has been disconnected.**

The rental-purchase company shall maintain records to verify compliance with this subsection."

deadline: org

highlight

To: Rick Champagne

4-6984B

Page 1 of 3

From: KATH E MNUK

New 422.606(1):

purchase price

LIMITS ON CASH PRICES. The cash price for rental property may not exceed twice the documented actual cost of the rental property, including any applicable freight charges, ^{paid} purchased by the rental-purchase company from a manufacturer or wholesaler. (u)

Thereafter, renumber current 422.606(1) and (2) to (2) and (3) accordingly.

purchase price

paid

to

Proposed Methodology for Incorporating the Rental-Purchase Agreement legislation into the Wisconsin Consumer Act:

1. Keep current sections 1, 2 and 3 of the Senate Bill.
2. Delete section 4 of the Senate Bill.
3. WCA Sections to be amended to specifically exclude rental-purchase agreements:
 - a. Subs. 421.301 (7), (9) through (12), (17), (20), (21), (25), (34), (39) and (40);
 - b. Subs. 423.201 (2);
 - c. Subs. 426.108, 109 and 110.
4. WCA Sections to be amended to specifically govern or include rental-purchase agreements:
 - a. Subs. 423.301;
 - b. Subs. 426.102; and
 - c. Subs. 426.201 (a).

426.301 (As an alternative to the exclusion of rental-purchase from Subs. 426.108, 426.109 and 426.110, and the inclusion of rental-purchase agreements within the scope of Subs. 426.102 and Subs. 426.201 (a), an additional Subsection 426.204 could be added to Subchapter II of Chapter 426, to include the following:

Subchs III or IV **426.204 (1) Scope. Notwithstanding any other provision of this Chapter, this subsection and Subchapter III of this Chapter shall exclusively govern the administration of rental-purchase companies and rental-purchase agreements.**

426.204 (2) through (9): {430.401 through 430.408} from Senate Bill.

5. New Subchapter VI to be added to Chapter 422 of the WCA:
 - a. Amend the title of WCA Chapter 422 to read: "Consumer Credit Transactions and Rental-Purchase Agreements";
 - b. Establish a new Subchapter VI of WCA Chapter 422, to be titled "Rental-Purchase Agreements"; and
 - c. Add the following new subsections to new subchapter VI of WCA Chapter 422:

422.601. Scope. This subchapter applies to rental-purchase agreements. Any provision of Chapters 421 to 427 that conflicts or is in any way inconsistent with a provision of this subchapter shall not apply to rental-purchase agreements, and this subchapter exclusively governs the matters regulated hereunder.

422.602: {430.301} from Senate Bill.

422.603 through 422.609: {430.501 through 430.507} from the Senate Bill.

422.610 through 422.612: {430.601 through 430.603} from the Senate Bill.

422.613 through 422.616: {430.701 through 430.704} from the Senate Bill.

6. New Subchapter V, titled "Rental-Purchase Remedies", to be added to Chapter 425:

425.501. Scope. This subchapter provides the exclusive remedies in actions or other proceedings brought by lessees to enforce rights arising from rental-purchase agreements.

425.502 through 425.505: {430.901 through 430.904} from the Senate Bill.

7. Keep Sections 10, 11 and 12 of the Senate Bill.