

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2682/1dn
MDK:lmc:ch

April 14, 2005

Rep. Hundertmark:

Please note the following about this bill:

1. Unless I am mistaken, consumer leases are not subject to ch. 409. Therefore, except for the changes to s. 425.207 (2), I made changes to the requested language that limit the bill to repossession of collateral subject to a security interest under ch. 409.
2. It isn't necessary to delete "by means other than legal process in accordance with this subchapter" in s. 425.206 (1) (intro.) because new s. 425.206 (1) (d) provides an exception to this requirement.
3. I made the 15-day notice period more specific by tying it to the customer's receipt of the notice. Is that okay?
4. What if a merchant is not able to provide the notice specified in proposed s. 425.204 (1g) (a)? For example, what if a notice is returned as undeliverable? As drafted, if the customer does not receive the notice, the merchant is not able to take possession under the UCC. Is that okay?
5. I drafted the notice so that it provides that the merchant "may" have the right to possession. I made this change because the merchant's right to possession under the UCC is contingent on not breaching the peace. See s. 409.609 (2) (b), stats.
6. The bill does not have a delayed effective date? Do you want to include one?
7. It is not clear to me why the changes to s. 425.207 (2) are necessary. Also, will the bill create confusion by not specifying how perfection should be accomplished?

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