



2009 ASSEMBLY BILL 261

1 **AN ACT** *to create* 100.315 of the statutes; **relating to:** soliciting purchases of
2 goods or services using unsolicited checks or money orders and providing a
3 penalty.

Analysis by the Legislative Reference Bureau

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

4 **SECTION 1.** 100.315 of the statutes is created to read:

5 **100.315 Solicitation of contract using check or money order. (1)** In this
6 section, “check” has the meaning given in s. 217.02 (2).

7 **(2)** (a) Except as provided in par. (b), no person may solicit the purchase of goods
8 or services by delivering to a recipient in this state a document that is or appears to
9 be a check payable to the recipient, if the endorsement of the document purports to
10 bind the recipient to purchasing goods or services and the recipient did not request
11 the delivery of the document.

ASSEMBLY BILL 261**SECTION 1**

1 (b) A person may offer an extension of credit by delivering to a recipient in this
2 state a document described in par. (a) only if all of the following apply:

3 1. The document contains, on its face, both of the following:

4 a. In at least 24–point type, a statement in substantially the following form:
5 “THIS IS A SOLICITATION FOR A LOAN. READ THE ATTACHED
6 DISCLOSURES BEFORE SIGNING THIS AGREEMENT.”

7 b. In at least 10–point type, a statement in substantially the following form:
8 “By endorsing the back of this check, you accept our offer and agree to the terms of
9 your loan agreement contained in the disclosure statement attached to this check.”

10 2. Notification of the loan agreement being activated by endorsement is
11 conspicuously printed in at least 10–point type on the back of the check in
12 substantially the following form: “By endorsing this check, you agree to repay this
13 loan according to the terms of the attached loan agreement.”

14 3. The check is attached to a disclosure statement that is detachable and that
15 contains in at least 14–point boldface type a statement that is conspicuously placed
16 and is in substantially the following form: “This is a loan solicitation. If you cash this
17 check, you are agreeing to borrow the sum of \$ at the % rate of interest for a
18 period of months. Your monthly payments will be \$ for months. If you are
19 late with a payment, you will be charged the following fees in addition to your
20 monthly payment: (list fees). All other terms of this loan are clearly identified as loan
21 terms and appear on the back of the check or on this attachment. Read these terms
22 carefully before you cash this check. Cashing this check constitutes a loan
23 transaction. You may cancel this loan by returning the amount of the check to the
24 lender within 10 days of the date on which this check is cashed. You may prepay this

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1 loan agreement at anytime without penalty. READ THE AGREEMENT BEFORE
2 SIGNING.”

3 4. Within 3 business days after the date on which the check is processed by the
4 lender’s financial institution following negotiation of the check by the recipient, the
5 lender who issued the check verbally discloses to the recipient the terms and
6 conditions of the extension of credit and permits the recipient to return to the lender
7 the amount borrowed. If the recipient returns the amount borrowed within 5
8 business days after the check is processed by the lender’s financial institution
9 following negotiation of the check by the recipient, the lender may not assess the
10 recipient any penalty, finance charge, interest, or fee, and the lender may not take
11 any action on the basis of the return that would affect the recipient’s credit score.

12 **(2g)** In the event a check described under sub. (2) (b) is obtained by a person
13 other than the intended payee, and the check is cashed fraudulently or without
14 authorization from the payee, the lender who issued the check shall do all of the
15 following:

16 (a) Upon receipt of notification that intended payee did not negotiate the check,
17 promptly provide the intended payee with a statement or affidavit to be signed by
18 the intended payee confirming that the intended payee did not deposit or cash the
19 check or receive the proceeds of the check. The lender shall provide the intended
20 payee with the name and telephone number of a contact person designated by the
21 lender to provide assistance to intended payees who have been victimized by the
22 fraudulent negotiation of unsolicited checks and cease all collection activity against
23 the intended payee until the lender completes an investigation into the transaction.

24 (b) Direct the intended payee to complete and return the confirmation
25 statement to the lender or an affiliate of the lender.

