



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2015 Senate Bill 92

Senate Amendment 1

Memo published: December 18, 2015

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2015 SENATE BILL 92

The bill modifies the current pleading requirements for certain Wisconsin Consumer Act (WCA) cases. First, the bill applies the pleading requirements to a merchant, rather than a creditor, under current law. This permits assignees or successors to the original creditor to utilize the pleading requirements.

Second, the bill alters how a merchant may plead the amount owed by a customer. If the claim is not pursuant to an open-end credit plan, the merchant must identify the amount due on a date certain after the customer's default and provide a breakdown of all charges, interest and payments, including any amount received from the sale of any collateral, occurring after the date certain. If the complaint is pursuant to an open-end credit plan, the merchant must identify the amount alleged to be due on a date certain after the default as reflected on a billing statement addressed to the customer. In addition, the complaint must include a breakdown of all charges, interest, and payments, including any amount received from the sale of any collateral, occurring after the date certain.

Third, the bill provides that the merchant's requirement to provide copies of materials evidencing the customer's obligation to the customer at his or her request may be satisfied by providing the customer and the court with a copy of the billing statement reflecting the total outstanding balance for the account. The merchant may similarly satisfy this requirement by attaching copies of the billing statement to the complaint.

Fourth, the bill prohibits the court from entering a default judgement upon a complaint that does not comply with the aforementioned pleading provisions.

Finally, a complaint that fails to comply with the provisions of the bill does not constitute a violation of the WCA and does not permit the recovery of attorney's fees unless the customer

establishes by a preponderance of the evidence that the failure to comply was willful or intentional.

SENATE AMENDMENT 1

Senate Amendment 1 alters the wording of the bill to preserve the current statutory term “figures necessary,” which was deleted by the bill.

BILL HISTORY

Senator Stroebel offered Senate Amendment 1 on October 28, 2015. On December 15, 2015, the Senate Committee on Revenue, Financial Institutions, and Rural Issues recommended adoption of Senate Amendment 1 on a vote of Ayes, 5; Noes 0. On the same day, the committee recommended passage of the bill, as amended, on a vote of Ayes, 3; Noes 2.

ZR:jal