

1973 Assembly Bill 355

Date published:
February 28, 1973

CHAPTER 2, Laws of 1973

AN ACT to amend 138.09 (7) (b) 2 and (c) 4, 206.63 (2) (c), 422.201 (2) (a), 422.406 (3), 422.409 (1), 422.413 (1), 425.106 (1) (intro.), 425.111 (2), 425.209 (1), (4) and (6) (intro.) and 425.305 (1) of the statutes, relating to various changes in the Wisconsin consumer act.

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

CHAPTER 2

SECTION 1. 138.09 (7) (b) 2 of the statutes, effective March 1, 1973, is amended to read:

138.09 (7) (b) 2. With respect to any loan, including a loan exceeding \$3,000, ~~with respect to any loan interest~~ at a rate not to exceed 18% per year computed on the declining unpaid principal balances of the loan from time to time outstanding, calculated according to the actuarial method, but this does not limit or restrict the manner of contracting for the interest, whether by way of add-on, discount or otherwise, so long as the rate of interest does not exceed that permitted by this paragraph.

SECTION 2. 138.09 (7) (c) 4 of the statutes, effective March 1, 1973, is amended to read:

138.09 (7) (c) 4. If 2 instalments or parts thereof of a precomputed loan are not paid on or before the 10th day after their scheduled or deferred due dates, a licensee may elect to convert the loan from a precomputed loan to one in which the interest is computed on unpaid balances actually outstanding. In this event the licensee shall make a rebate pursuant to the provisions on rebate upon prepayment as of the due date of an unpaid instalment, and thereafter may charge interest from the due date as provided in subd. 3 or by ~~s. 138.09 (7) par.~~ (b) 2 and no further ~~default~~ delinquency or deferral charges shall be made. The rate of interest may equal but not exceed the annual percentage rate of finance charge which was disclosed to the borrower when the loan was made. The rate of interest shall be computed on actual unpaid balances of the contract as reduced by the rebate for the time that such balances are actually outstanding from the due date as of which the rebate was made until the contract is fully paid.

SECTION 3. 206.63 (2) (c) of the statutes is amended to read:

206.63 (2) (c) This section shall not be construed to authorize licensees under s. 138.09 to require or accept insurance not permitted under s. 138.09 (7) ~~(f)~~ (h).

SECTION 4. 422.201 (2) (a) of the statutes, effective March 1, 1973, is amended to read:

422.201 (2) (a) Eighteen per cent per year on that part of the unpaid balance of the amount financed which is \$500 or less; and

SECTION 5. 422.406 (3) of the statutes, effective March 1, 1973, is amended to read:

422.406 (3) The holder to whom an instrument issued in violation of this section is negotiated, notwithstanding that he may otherwise be a holder in due course of such instrument, is subject to all claims and defenses of the customer against the payee, subject to ~~the extent provided in sub. (4).~~

SECTION 6. 422.409 (1) of the statutes, effective March 1, 1973, is amended to read:

422.409 (1) The customer is authorized to pay the assignor until the customer receives notification of assignment of the rights to payment pursuant to a consumer credit transaction and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the

customer, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the customer may pay the ~~original creditor~~ assignor.

SECTION 7. 422.413 (1) of the statutes, effective March 1, 1973, is amended to read:

422.413 (1) Except for reasonable expenses incurred in disposition of collateral, no term of a writing evidencing a consumer credit transaction may provide for any charges as a result of default by the ~~buyer~~ customer other than those authorized by this act.

SECTION 8. 425.106 (1) (intro.) of the statutes, effective March 1, 1973, is amended to read:

425.106 (1) (intro.) Except to the extent that the merchant has a valid security interest which is permitted by this act or has a lien under ch. 289 in such property, or where the transaction is for medical or legal services and there has been no finance charge actually imposed, the following property of the customer shall be exempt from levy, execution, sale, and other similar process in satisfaction of a judgment for an obligation arising from a consumer credit transaction:

SECTION 9. 425.111 (2) of the statutes, effective March 1, 1973, is amended to read:

425.111 (2) With respect to property of the customer other than that described in sub. (1), process may issue in accordance with ch. 266 to establish a lien ~~upon such property~~, except that such process shall not be effective to take, or to divest the customer of possession of, the property until final judgment is entered.

SECTION 10. 425.209 (1), (4) and (6) (intro.) of the statutes, effective March 1, 1973, are amended to read:

425.209 (1) This section applies to a deficiency on a consumer credit sale of goods or services and on a consumer loan in which the lender is subject to defenses arising from sales (s. ~~422.208~~ 422.408); a customer is not liable for a deficiency unless the merchant has disposed of the goods in good faith and in a commercially reasonable manner.

(4) If the lender takes possession or accepts voluntary surrender of goods in which he has a security interest to secure a debt arising from a consumer loan in which the lender is subject to defenses arising from sales (s. ~~422.208~~ 422.408) and the amount owing at the time of default of the loan paid to or for the benefit of the customer were \$1,000 or less, the customer is not personally liable to the lender for the unpaid balance of the debt arising from the loan and the lender's duty to dispose of the collateral is governed by the provisions on disposition of collateral under chs. 401 to 409.

(6) (intro.) If the merchant elects to bring an action against the customer for a debt arising from a consumer credit sale of goods or services or from a consumer loan in which the lender is subject to defenses arising from sales (s. ~~422.208~~ 422.408), when under this section he would not be entitled to a deficiency judgment if he took possession of the collateral, and obtains judgment:

SECTION 11. 425.305 (1) of the statutes, effective March 1, 1973, is amended to read:

425.305 (1) In a transaction to which this section applies, the customer shall be entitled to retain the goods, services or money received pursuant to the transaction without obligation to pay any ~~part of the transaction total~~ amount.

SECTION 12. Effective date. This act shall take effect on March 1, 1973, or on the day after publication, whichever is later.
