

State of Wisconsin



2015 Assembly Bill 117

Date of enactment: **February 29, 2016**

Date of publication*: **March 1, 2016**

2015 WISCONSIN ACT 155

AN ACT *to renumber and amend* 425.109 (1) (d); *to amend* 425.109 (1) (intro.), 425.109 (1) (b), 425.109 (1) (f), 425.109 (1) (h), 425.109 (2), 425.109 (3) and 425.205 (4); and *to create* 425.1025, 425.109 (1) (d) 2. and 425.109 (4) of the statutes; **relating to:** pleading requirements under the Wisconsin Consumer Act.

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

SECTION 1. 425.1025 of the statutes is created to read:

425.1025 Definition. In this subchapter, "billing statement" means a statement issued pursuant to [15 USC 1637](#) (b).

SECTION 2. 425.109 (1) (intro.) of the statutes is amended to read:

425.109 (1) (intro.) A complaint by a ~~creditor~~ merchant to enforce any cause of action arising from a consumer credit transaction shall include all of the following:

SECTION 3. 425.109 (1) (b) of the statutes is amended to read:

425.109 (1) (b) A description of the collateral or leased goods, if any, which the ~~creditor~~ merchant seeks to recover or has recovered.

SECTION 4. 425.109 (1) (d) of the statutes is renumbered 425.109 (1) (d) 1. and amended to read:

425.109 (1) (d) 1. ~~The~~ If the consumer credit transaction is pursuant to an open-end credit plan, the actual or estimated amount of U.S. dollars or of a named foreign currency that the ~~creditor~~ merchant alleges he or she is entitled to recover and the figures necessary for computation of the amount, ~~including any amount received from the sale of any collateral~~ alleged to be due to the merchant

on a date certain after the customer's default. Figures necessary for computation shall mean the amount reflected on a billing statement addressed to the customer and a breakdown of all charges, interest, and payments, including any amount received from the sale of any collateral, occurring after this date certain. This paragraph does not require a specific itemization, but the breakdown shall identify separately the amount due on a date certain, the total of all charges occurring after this date certain, the total of all interest occurring after this date certain, and the total of all payments occurring after this date certain.

SECTION 5. 425.109 (1) (d) 2. of the statutes is created to read:

425.109 (1) (d) 2. If the consumer credit transaction is other than one pursuant to an open-end credit plan, the actual or estimated amount of U.S. dollars or of a named foreign currency alleged to be due to the merchant on a date certain after the customer's default, and a breakdown of all charges, interest, and payments, including any amount received from the sale of any collateral, occurring after this date certain. This paragraph does not require a specific itemization, but the breakdown shall identify separately the amount due on a date certain, the total of all charges occurring after this date certain, the total of all interest occurring after this date certain, and the total of all payments occurring after this date certain.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

SECTION 6. 425.109 (1) (f) of the statutes is amended to read:

425.109 (1) (f) Except in an action to recover goods subject to a consumer lease, the estimated amount of U.S. dollars or of a named foreign currency of any deficiency claim which may be available to the creditor merchant following the disposition of any collateral recovered subject to the limitations of s. 425.209 or which the creditor merchant seeks to recover and which the creditor merchant intends to assert subject to the limitations of s. 425.210 if the customer fails to redeem the collateral.

SECTION 7. 425.109 (1) (h) of the statutes is amended to read:

425.109 (1) (h) ~~An~~ Subject to sub. (2) and s. 425.205 (4), an accurate copy of the writings, if any, evidencing the transaction, except that with respect to claims arising under open-end credit plans, a statement that the creditor merchant will submit accurate copies of the writings evidencing the customer's obligation to the court and the customer upon receipt of the customer's written request therefor on or before the return date or the date on which the customer's answer is due.

SECTION 8. 425.109 (2) of the statutes is amended to read:

425.109 (2) Upon the written request of the customer under sub. (1) (h), the creditor merchant shall submit accurate copies to the court and the customer of writings evidencing ~~any transaction~~ the customer's obligation pursuant to an open-end credit plan upon which the ~~creditor's merchant's~~ claim is made and default judgment may not be entered for the creditor merchant unless the creditor merchant does so. The writings requirement under this subsection is satisfied if the merchant provides the customer with a copy of the billing statement referenced in sub. (1) (d) 1. addressed to the customer reflecting the total outstanding balance on the customer's account at the time this billing statement was issued. If this billing statement is attached to the complaint, then

the statement under sub. (1) (h) is not required to be included in the complaint.

SECTION 9. 425.109 (3) of the statutes is amended to read:

425.109 (3) A default judgment may not be entered upon a complaint which fails to comply with this section.

SECTION 10. 425.109 (4) of the statutes is created to read:

425.109 (4) For purposes of subchs. III and IV, a complaint that fails to comply with this section does not constitute a violation of chs. 421 to 427, and shall not give rise to recovery of attorney fees under s. 425.308, unless the customer establishes by a preponderance of the evidence that the failure to comply was willful or intentional.

SECTION 11. 425.205 (4) of the statutes is amended to read:

425.205 (4) Upon the written request of the customer under s. 425.109 (2), the merchant shall produce an accurate copy of writings evidencing ~~any transactions~~ the customer's obligation pursuant to an open-end credit plan upon which the merchant's claim is made, and default judgment shall not be entered for the merchant ~~until~~ unless the merchant does so. The writings requirement under this subsection is satisfied if the merchant provides the customer with a copy of the billing statement referenced in s. 425.109 (1) (d) 1. addressed to the customer reflecting the total outstanding balance on the customer's account at the time this billing statement was issued. If this billing statement is attached to the complaint, then the statement under s. 425.109 (1) (h) is not required to be included in the complaint.

SECTION 12. Initial applicability.

(1) This act first applies to complaints filed on the effective date of this subsection.

SECTION 13. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.