

Chapter Bkg 80

WISCONSIN CONSUMER ACT RULES

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Bkg 80.01 Wisconsin consumer act rules; organization. In order to facilitate the organization of rules promulgated under the

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Wisconsin consumer act and to assist interested persons in relating the rules to the act, each rule shall refer to specific sections of the act. The rules shall be published so as to retain the numerical order of the sections of the act to which they refer. However, each statutory reference does not constitute the sole statutory authority for any particular rule.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.05 General definitions; consumer credit transactions. Acquisition of a leasehold interest in real property by a customer from a merchant is not a consumer lease within the meaning of section 421.301 (11) Wis. Stats. For laws governing the leasing of real estate see chapter 704, Wis. Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.06 General definitions; customer. A person seeks or acquires real or personal property, services, money or credit for personal, family, household or agricultural purposes within the meaning of section 421.301 (17) Wis. Stats. when such real or personal property, services, money or credit is to be used primarily, that is 50% or more, for one or more of these purposes.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.07 General definitions; finance charge. A delinquency or default charge is not a finance charge within the meaning of section 421.301 (20), Wis. Stats. if imposed for actual unanticipated late payment, delinquency, default or other such occurrence. However, when a merchant's billings are not paid in full within a stipulated time period and under such circumstances the merchant does not, in fact, regard such accounts in default (For example, by customarily failing to institute collection activity or by continuing to extend credit) and imposes charges periodically for delaying payment of such accounts from time to time until paid, the charge so imposed comes within the definition of a finance charge and the credit so extended comes within the definition of open-end credit.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.08 General definitions; official fees. Official fees within the meaning of section 421.301 (26) (a), Wis. Stats., shall include any fee charged by a register of deeds or the secretary of state for the filing or recording of any instrument of conveyance or other document for the purpose of perfecting a security interest for which the parties have contracted. See also Wis. Adm. code section 80.352.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.09 General definitions; required deposit balance. The definition of "required deposit balance" in section 421.301 (38), Wis. Stats., together with the definition of "amount financed" requires that the required deposit balance be deducted from the amount financed for the purpose of calculating the finance charge and making disclosures. The purpose is to accurately disclose to the customer the amount of funds or credit of which he will have actual use, and thus the creditor is required to deduct from the funds advanced any compensating balance the creditor requires to be maintained with him. Consequently, the term does not apply to a deposit balance or deposit investment maintained by the customer with a financial

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institution other than the creditor, which is taken by the creditor as collateral for the advance made. The reference to "any investment" refers to deposit-type investments such as "share accounts" maintained with savings and loan associations, credit unions or mutual savings banks. The term "investment" in section 421.301 (38), Wis. Stats., does not include investment securities of the type defined in chapter 408, Wis. Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.201 Finance charge for consumer credit transactions; per diem charge. Charges under section 422.201, Wis. Stats., on consumer transactions other than those pursuant to an open-end plan where the finance charge is computed on the declining unpaid principal balance from time to time outstanding may be computed on actual unpaid balances at 1/360th of the annual rate for the actual number of days outstanding provided the use of this method shall be disclosed conspicuously together with all other disclosures required by subchapter III of chapter 422, Wis. Stats., and provided the finance charge obtained by the application of this method does not exceed the maximum charge permissible under the act.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.210 Finance charge for consumer credit transactions; maximum rates under section 422.201 (3), Wis. Stats. The maximum discount rate on loans in which the principal (exclusive of interest) does not exceed \$3,000 is 9½% per year on that part of the face amount of the note (total of payments) not exceeding \$1,000 and 8% per year on any remainder of the face amount. Discount loans may be made for any number of whole months (excluding any irregular first instalment period) up to the maximum maturity, e.g. loans of 6, 17, 24, etc. months are permitted. On contracts for periods which are less or greater than one year, or which are not a multiple of one year, the discount rate shall be computed proportionately (½ of the annual discount rate) for each month. See section 138.09 (7) (b) 1, Wis. Stats. Example: Total of payments = \$1345.20 (24 x \$56.05); Interest (Finance Charge) = \$245.23 (9½% x 2 yrs. x \$1,000 plus 8% x 2 yrs. x \$345.20); Amount Financed = \$1,099.97 (\$1345.20 — \$245.23).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.22 Finance charge for consumer credit transaction; credit cards and coupon books. With respect to a consumer credit transaction involving the receipt or acceptance by a customer of any credit card, plate, merchandise certificate, letter of credit, coupon book or other like credit device, except gift certificates purchased by a customer for use by a person other than the customer, the unpaid balance in such transaction within the meaning of section 422.201, Wis. Stats., shall include only the cash value of any money, property, labor or services, not including the credit device itself, acquired by the actual use or redemption of such credit device together with authorized additional charges. For example, where a customer receives a coupon book or several merchandise certificates in the amount of \$200 and subsequently redeems one coupon or certificate in the amount of \$25, the customer's unpaid balance upon which a finance charge may be assessed is limited to the \$25 cash value of the goods or services which the customer has actually received. This rule shall not

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apply to merchandise certificates acquired by a customer pursuant to an open-end plan if:

- (1) Acquisition of certificates is not a condition of the extension of credit to the customer,
- (2) Unused certificates may be returned at any time for full credit to the customer's account,
- (3) The acquisition cost is not billed to the customer for at least one month, and does not bear a finance charge for a minimum period of 2 months, after the certificate is acquired, and
- (4) The customer is given notice, at least 15 days prior to the imposition of a finance charge, of the date by which any unused certificates must be returned to avoid imposition of finance charges on the price thereof.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.221 Finance charge for consumer credit transactions; actuarial method-compounding. The term "actuarial method" as used in section 422.201, Wis. Stats., shall mean the method by which that portion of each payment not applicable to an escrow account is applied first to any finance charge or permitted additional charge accrued from the time of any prior payment or from the time credit is extended and the remainder, if any, is applied to the unpaid amount financed. With the exception of the calculation of delinquency charges, amounts remitted may be applied to interest and charges and then to principal on the most delinquent instalment due and then to interest and charges on the next instalment proceeding to more current installments until the amount remitted is exhausted. For purposes of computing the finance charge under subsection 422.201 (9), a merchant may calculate the finance charge on an unpaid balance which includes unpaid finance charges.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.23 Maximum charges; precision and rounding. When preparing charts and tables, programming electronic devices or performing numerical calculations in connection with sections 422.201, 422.204, and 422.209, Wis. Stats., any number of decimal places may be used to express the multiplying factor, provided that such factor shall be carried out at least to the nearest ten-thousandth or if expressed as a per cent to the nearest one-hundredth of a percent. Where the number of decimal places used exceeds the minimum, the final digit may be rounded. In any case, the same multiplier must be used consistently with regard to all calculations in the transaction, including computation of interest, deferrals or rebates. Where the multiplier complies with this rule, the final product may be rounded to the nearest cent provided that products of 5 mills and over shall be rounded upward.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.231 Finance charge for consumer credit transactions; rate for licensees. Section 422.201 (3), Wis. Stats., refers to sections 138.09 and 218.01, Wis. Stats., for the determination of finance charges under the Wisconsin consumer act receivable by licensees. The language of sections 138.09 (7) and 218.01 (6) with respect to finance charges receivable by licensees is both comprehensive and

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preemptive. Therefore, although these sections provide for finance charges which, in various situations, are less than or greater than those permitted by section 422.201 (2), licensees under section 218.01 with respect to the sale of motor vehicles, and licensees under section 138.09 with respect to any loan are limited in each case by section 422.201 (3) to that finance charge receivable according to the applicable provisions of the appropriate licensing act, except as the election to receive a minimum finance charge is limited by section 422.201 (8).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.24 Finance charge for consumer credit transactions; rate on sale of farm equipment. Section 422.201 (4), Wis. Stats., refers to the class 2 rate for motor vehicles, as specified in section 218.01 (6) for determination of the maximum finance charges in consumer credit transactions other than those pursuant to an open-end plan receivable by sellers of farm equipment, farm implements and farm tractors, other than section 218.01 licensees, under the Wisconsin consumer act. As section 422.201 (4) contemplates finance charges which, in various situations, are less than or greater than those permitted by section 422.201 (2), sellers within section 422.201 (4) are limited in the sale of farm equipment, farm implements and farm tractors to the finance charge receivable according to the class 2 rate in section 218.01 (6). See section 422.201 (8) for election to receive a minimum finance charge. On sales of other goods and services by such sellers the rates described in section 422.201 (2) or (3) will apply, as appropriate. Licensees under section 218.01 shall apply the rates set out in section 218.01 (6) to the sale of all motor vehicles, but shall be limited to the class 2 rate in section 218.01 (6) as to the sale of all other farm equipment and implements.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.241 Finance charges for consumer credit transactions; minimum finance charge. Section 422.201 (8) provides for the election of a minimum finance charge by any merchant, including licensees under section 218.01, who are limited to the election provided by this section notwithstanding the minimum time price differential provisions of section 218.01 (6) (a) 6.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.26 Additional charges; cost of insurance. Disclosure of the cost of insurance as required by section 422.202 (1) (c) must include written notice to the customer of the term of such insurance and the dollar charge for such term. Where the term of the insurance is the same as the term of the transaction a disclosure of that fact shall be an adequate disclosure of the term of such insurance.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.261 Additional charges; equivalent security interest. The term "equivalent security interest" as used in section 422.202 (2) (b) shall include a seller's interest under a land contract or a first lien deed of trust, and a second mortgage where there are no intervening liens and the mortgagee holds the first mortgage on the subject property. For cross reference application of this definition, see also

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sections 422.303 (4), 422.306 (2), 422.408 (6), 422.409 (2) and 422.411 (2), Wis. Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.262 Additional charges; title examinations. Title examinations within the meaning of section 422.202 (2) (b) 1 of the act shall include the fee for a written title opinion prepared by an attorney upon examination of the abstract of title to the real property which is the subject of the consumer credit transaction on which the charge is assessed.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.27 Additional charges; substantial improvement of real property. The term "substantial improvement of real property" as used in section 422.202 (2) (b) shall mean any improvement to real property, the cash price of which shall be at least \$1,400.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.271 Delinquency charges; deferred instalment. Where the parties have agreed to a delinquency charge in accordance with section 422.203 and instalments have subsequently been deferred, the merchant may collect a delinquency charge on any deferred installment which is not paid in full on or before the 10th day after its deferred due date unless such instalment is again deferred.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.28 Deferral charges; unilateral deferral at no cost. Notwithstanding section 422.204, Wis. Stats., any number of instalments may be deferred unilaterally by the creditor without the notice that would otherwise be required provided there is no charge for such deferral.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.281 Deferral charges; alternative computation. The methods for computing deferral charges described in sub. 422.204 (1) (a) and (b), Wis. Stats., are alternatives and a creditor may elect to use either method to the extent that he can apply it to the particular transaction. However, if the transaction is not one to which sub. (1) (a) could apply, for example, because of irregular payments, then the creditor must compute the deferral pursuant to sub. (1) (b).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.29 Deferral charges; "Rule of 78". The portion of the precomputed finance charge attributable to the final instalment of the original schedule of payments as used in section 422.204 (1) (a), Wis. Stats., shall mean the pre-payment rebate calculated according to the Rule of 78 if the contract were prepaid in full on the payment date immediately preceding final originally scheduled maturity.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.30 Advances to perform agreement of customer; notice. Written notice of non-performance by a customer pursuant to section 422.207 shall be by personal delivery of such notice to the customer or by mailing such notice by regular, registered or certified mail to the customer's last known address. Where notice is by mail, notice shall

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be deemed given on the day of mailing. Unless otherwise demonstrated by either party a period of 10 days exclusive of the date on which notice is deemed given shall be presumptively a reasonable time within which to perform.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.301 Rebate on prepayment; irregular instalment amounts and/or due dates. The unearned portion of the precomputed finance charge on consumer credit transactions described in section 422.209 (3) shall be computed in accordance with the provisions of section 138.05 (2) (b), Wis. Stats.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.311 General requirements and provisions; consummation. For the purpose of disclosing all information required by subchapter III of chapter 422, Wis. Stats., a transaction shall be considered consummated at the time a contractual relationship is created between a merchant and a customer irrespective of the time of performance of either party.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.32 Disclosure customer copies. For purposes of section 422.302 (3), Wis. Stats., documents which evidence the customer's obligation shall include documents which evidence an obligation to pay as well as those which evidence an obligation to perform including, but not limited to, a mortgage and a security agreement.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.321 Form requirements other than open-end—set off. As a condition to the exercise of a right of set off a merchant shall in accordance with section 422.302 conspicuously disclose his right to apply any amounts owed by the merchant to the customer against any amounts owed by the customer to the merchant. No merchant shall exercise a right to set off prior to giving the customer notice of his right to cure any default, if applicable, and waiting the appropriate number of days in accordance with section 425.105 of the act.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.331 Form requirements other than open-end—microfilm copies. A creditor may retain copies of documents as required by section 422.303 (5) by microfilm or other similar photographic process provided such creditor is able to reproduce individual permanent photo copies which retain substantially the same print size as the original document.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.34 Prohibition of blank writings. Blanks relating to price, charges or terms of payment which are inapplicable to a transaction must be filled in a manner which reveals their inapplicability. Pursuant to section 422.304 a general clause or statement in a contract to the effect that spaces which are not filled in are inapplicable to the particular transactions does not satisfy the requirement of this section and may not be relied upon by the creditor.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

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Bkg 80.341 Notice to co-signers. In addition to the language required by section 422.305 (1) a merchant may include within the explanation of co-signer obligation a form number, the date of execution, instructions for completion, a union printing label and an acknowledgement for execution by the co-signer that he has received a copy of the form.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.35 Notice to co-signers; open-end accounts. In cases where a co-signer assumes liability on an open-end credit account, sub. (a) of the Explanation of Co-Signer Obligation under section 422.305 shall be modified to include, in addition to the information set forth in the Act, in lieu of the current dollar amount of the transaction, "an amount not exceeding \$_____". Sub (b) of the Explanation must contain a statement that if the co-signer wishes to terminate the guarantee with respect to any future transactions on the account, the co-signer must give written notice to the creditor. An explanation of the form described in this rule will satisfy the requirements of section 422.305 and no further notice or Explanation of Co-Signer Obligation need be given the co-signer with respect to subsequent individual purchases or loans under the account. However, in case of any subsequent change in the terms of the account which could increase or extend the contingent liability of the cosigner, whether the merchant was authorized to make unilateral changes from time to time under the original terms of the account, an explanation of such change must be given to the co-signer together with a new Explanation of Co-Signer Obligation which must be executed by the co-signer.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.351 Notice to co-signer; co-signer copies. For purposes of section 422.305 (3), Wis. Stats., a co-signer shall be furnished with a copy of each document signed by the co-signer, a copy of each document evidencing the customer's obligation to pay and the Explanation of Co-Signer Obligation.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.352 Receipts; accounting; evidence of payment; release of any security interest. The creditor may satisfy his obligation to release any security interest under section 422.306 (4) by either (1) recording the necessary instrument and forwarding the same to the customer or his designee by mail or by return on the instrument or (2) by delivering the necessary instrument fully completed and executed to the customer's designee, but in no instance to the customer, for recording. The recording or filing fee may be treated as an official fee within the meaning of section 421.301 (26) of the act. Where the transaction is secured by a lien on a motor vehicle and the title is not in the possession of the creditor, the creditor may satisfy the requirements of this subsection by mailing a completed release of lien to the customer together with an envelope addressed to the Department of Motor Vehicles, Bureau of Vehicle Registration, postage prepaid, and a letter of instruction advising the customer to forward the release and title to the department to obtain release of the secured party's interest.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

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Bkg 80.36 Receipts; accounting; evidence of payment; customer inquiries. Should a customer or his representative question in writing any bill or statement of a merchant, or of an assignee where notice of assignment pursuant to section 422.409 has been given, such merchant or assignee shall in accordance with section 422.306 respond to the specific question or dispute raised by the customer within 30 days of such inquiry, provided such inquiry is not made on an instrument of payment or the returnable portion of the statement if the creditor conspicuously discloses this requirement on the instrument or statement. A reasonably disputed debt under section 427.104 (1) (f) shall include an indebtedness questioned under this rule from the due date of the merchant's response to the date such response is made.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.361 Assignment of earnings prohibited; revocation. In any case where a merchant takes an assignment of earnings subject to section 422.404 for payment or as security for payment of an obligation the assignment shall contain on its face a statement in substantially the following language: "THE CUSTOMER MAY TERMINATE THIS ASSIGNMENT AT ANY TIME WITHOUT PENALTY."

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.37 Notice of assignment; joint obligor customers. Where a consumer credit transaction involves joint obligor customers, one copy of a Notice of Assignment as described in section 422.409 may be forwarded to all such customers who reside at the same last known address at the time the notice is given, if addressed to all such joint obligor customers. In all other cases a separate notice must be sent to each joint obligor customer. The same procedure shall be observed with respect to giving the following notices under the act: Notice of unilateral deferral, section 422.204 (8); Notice of non-performance, section 422.207 (1); Notice of right to cancel, section 423.203; Notice to cancel property insurance, section 424.303 (1); Notice of right to cure default, section 425.104 (1).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.371 Notice of assignment; address of customer. The notification of assignment under section 422.409 shall be addressed to the last address furnished by any customer to the assignor if such address is different from the address contained in the contract. The same procedure shall be observed with respect to giving the following notices under the act: Notice of unilateral deferral, section 422.204 (8); Notice of nonperformance, section 422.207 (1); Notice of right to cancel, section 423.203; Notice to cancel property insurance, section 424.303 (1); Notice of right to cure default, section 425.104 (1).

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.38 Restriction on liability in consumer lease. A reasonable charge for excess mileage in the case of a motor vehicle lease as established by reasonable standards of the industry as observed in the relevant market area with respect to the mileage and the rate per mile shall be considered a charge for damages to the leased property within the meaning of section 422.412, Wis. Stats.,

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provided that the mileage allowance and the charge per excess mile shall be conspicuously stated in the original lease agreement.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.391 Restrictions on security interest; proceeds. A security interest with respect to a consumer credit sale as described in section 422.417 (1), Wis. Stats., may include repair or replacement parts in the property sold as well as proceeds of the property subject to section 409.306, Wis. Stats., regarding proceeds.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.392 Waivers prohibited; dwelling. For the purposes of section 422.419 (1) (a), Wis. Stats., the term "dwelling" shall include, any garage, shed, barn or other building on the premises whether attached or unattached.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.44 Consumer approval transaction; duty of customer. In any case where a customer given notice of cancellation and the merchant fails to perform his obligation pursuant to section 423.204 of the act, the duty of the customer under section 425.205 to take reasonable care of the goods in his possession shall cease 40 days after notice of cancellation is given.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.60 Accrual of cause of actions; "default". For the purposes of section 425.103 (2) (a), Wis. Stats., the term "default" with respect to the first or last instalment of a transaction other than one pursuant to an open-end plan shall mean to have outstanding such scheduled payment for more than 40 days after its original or deferred due date.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.61 Cure of default; commencing legal action. The phrase "commence any action" as used in section 425.105 (1), Wis. Stats., refers only to the commencement of legal proceedings in a court of law.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.62 Cure of default; date of notice and tender. For the purposes of section 425.105 (2) notice of the customer's right to cure a default is deemed given on the date of mailing and the date of tender of performance shall be the date of mailing or personally delivering the amount of all unpaid instalments, deferral and delinquency charges which are due and unpaid.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.63 Exempt property; garnishee summons. In order to assist each employer in determining and applying the applicable wage exemption standard, in the case of any garnishment involving a consumer credit transaction governed by section 425.106, Wis. Stats., the garnishee summons should bear the legend "Consumer Credit Transaction Garnishee Summons" placed opposite the identification of parties in the legend and the last paragraph of the form set forth in

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section 267.04 (2), Wis. Stats., should be modified to conform with the requirements of section 425.106 (1) (a) of the act.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.64 Exempt property; medical services. For the purposes of section 425.106, Wis. Stats., the term "medical services" shall include the cost of hospital accommodations.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.65 Exempt property; wages. Where an employee's pay period is one calendar week or less, the exempt wage under section 425.106 (1) (a) 2 of the act shall be equal to the exemption for an employee with the same number of exemptions paid on a calendar week basis as determined by the formula in this subsection regardless of the number of hours actually worked by the employee during such pay period. Where the employees pay period is a multiple of whole calendar weeks (for example where the pay period is every 2 weeks, 3 weeks, or 4 weeks) the exempt wage is equal to the weekly rate determined by the formula in this subsection times the number of calendar weeks in such pay period. Where an employee's pay period is greater than one calendar week and is other than a multiple of whole calendar weeks (for example where the pay period is every 10 days, 15 days, or semi-monthly) the exempt wage is equal to the sum of the exemption for each calendar week plus an amount equal to one-seventh of the weekly rate for such employee for each additional day in such pay period.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.66 Body attachments. The term "warrant" as used in section 425.113, Wis. Stats., refers to warrants issued pursuant to section 273.05, Wis. Stats., and does not limit or effect the power of a court to issue an order or attachment pursuant to section 295.04, Wis. Stats., where a person has failed to appear at a supplemental examination.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.67 Voluntary surrender of collateral. Pursuant to section 425.204 a creditor may notify a customer of his right to voluntarily surrender the collateral. Such a notice will not be considered a request or demand pursuant to sub. (3) of this section.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.68 Nonjudicial enforcement limited; surrender of collateral. A customer will not be deemed to have surrendered the collateral under sections 425.204 (3), and 425.206 (1) (a), Wis. Stats., where such surrender is not a voluntary surrender, if the merchant:

(1) Fails to provide a notice to the customer which clearly informs the customer of his right to a hearing on the issue of default before any repossession; (2) The merchant misrepresents any material fact or state of the law to the customer; or (3) The merchant violates any provision of chapter 427, Wis. Stats. The notice contained in subsection (1) of this rule is not required if the collateral has been abandoned by the customer.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.69 Restrictions on deficiency judgments; amount owing. The phrase "amount owing at the time of default" as used in section 425.209, Wis. Stats., shall mean the unpaid balance of the account excluding any unearned finance or additional charges but including any unpaid deferral or deficiency charges.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.70 Restrictions on deficiency judgments; repossession. For purposes of section 425.209 the term "repossession" shall include action to recover collateral pursuant to section 425.205 and possession of the collateral as a result of a surrender of the collateral as described in sections 425.204 (3), and 425.206 (1) (a), Wis. Stats., where such surrender is not a voluntary surrender.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.71 Restrictions on deficiency judgments; renouncing rights in collateral. Prior to obtaining the statement of a customer renouncing rights in the collateral pursuant to section 425.209 (2), Wis. Stats., the merchant shall notify the customer by written notice that by signing the statement the customer waives all rights to recover any surplus that may result from the sale of the collateral.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.80 Investigatory powers; merchant's records. Merchants shall maintain copies of records of all consumer transactions subject to the act and all advertisements, printings, displays, publications or distributions the terms of which relate to the extension of consumer credit in order to permit an investigation pursuant to section 426.106, Wis. Stats., for a period not less than that during which a customer may bring an action with respect to such transaction or advertisement as limited by section 425.307.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.81 Powers of administrator; penalty. The term "penalty" as used in section 426.104 (4) (a) is limited to those statutory penalties referred to in sections 425.302 (1) (a); 425.303 (1); 425.304 (1); 425.305 (1); and 426.301, Wis. Stats., and does not preclude a customer from obtaining judgement for actual damages sustained.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.82 Powers of administrator; submission for approval. Acts, practices or procedures submitted to the administrator pursuant to section 426.104 (4) (b), Wis. Stats., shall be typed or mechanically reproduced. An original and 3 copies shall be submitted by either personal delivery, registered mail or certified mail, return receipt requested.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73.

Bkg 80.85 Discrimination on the basis of sex or marital status unconscionable conduct. (1) **DECLARATION OF POLICY.** It is the declared policy of the state of Wisconsin that no person shall be discriminated against in the granting or extension of any form of credit, or in the capacity or privilege of obtaining any form of credit, on the basis of the applicant's sex or marital status. Such discrimination is hereby declared by the commissioner of banking to be unconscionable conduct under authority of section 426.108, Wis.

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Stats. The purpose of this rule is to eliminate discrimination in the granting of consumer credit on the basis of sex or marital status and to outline steps by which merchants can avoid such unlawful conduct. This regulation shall not apply to merchants chartered by any Wisconsin administrative agency which issues a regulation prohibiting discrimination in the granting of consumer credit on the basis of sex or marital status.

(2) UNCONSCIONABLE CONDUCT. Discrimination in the extension of consumer credit by a merchant to a customer on the basis of the sex or marital status of the customer shall be an unconscionable credit practice prohibited pursuant to section 426.108, Wis. Stats. Discrimination in the extension of consumer credit on the basis of the customer's sex or marital status shall mean any denial of credit, increase in the charge for credit, restriction on the amount or use of credit, a different application procedure or the application of different credit criteria based on the customer's sex or marital status and shall include, but not be limited to:

(a) The application of different credit criteria resulting in less favorable treatment in the granting of credit to women,

(b) A requirement that a customer who is contractually liable reapply for credit upon a change in name or marital status or a termination of credit to a customer who is contractually liable following a change in the customer's name or marital status without evidence of an unfavorable change in the customer's credit worthiness,

(c) A refusal to grant credit to a qualified customer in that person's birth-given first name and surname or a birth-given first name and a combined surname,

(d) A requirement that a spouse co-sign the credit application, debt instrument, or other document signed by the applicant spouse unless such signature is required by statute or such requirement is imposed without regard to sex or marital status on all similarly qualified customers who apply for a similar type and amount of credit except that with respect to secured credit the signature of a spouse on a document necessary to create a valid lien, convey clear title or waive inchoate or survivorship rights to property, may be required where the merchant's standards of credit worthiness require without regard to the applicant's sex or marital status security or collateral as a condition of the extension of credit in the amount requested,

(e) To evaluate any source of income including maintenance, alimony and child support on any basis other than its amount, its regularity and the period of receipt as of the date of the application together with any particular factors affecting the likelihood of continued payment, and

(f) Requesting information about birth control practices or child bearing intentions or capability of any customer or customer's spouse.

(3) WRITTEN CREDIT POLICY. The management of each financial organization as defined in section 71.07(2)(d)1, Wisconsin Statutes, each person or organization licensed under section 138.09, Wisconsin Statutes, and each credit card issuer shall adopt a detailed statement of its policy of nondiscrimination in extending consumer credit including its commitment to avoid the specific prohibited practices set

forth in this regulation. This statement of policy shall be available to any customer upon request at each office where extensions of credit are made, except that in the case of credit card issuers, the statement shall be furnished upon request of an applicant directed to any office from which such cards are issued. A copy of such policy statement shall be filed with the office of the commissioner of banking upon request by that office. Such written policy shall be applied impartially to each person seeking credit.

(4) NOTICE OF ACTION AND RETENTION OF RECORDS. Each merchant shall within a reasonable time after receiving a credit application notify the customer of action taken on the application and shall upon request provide a customer whose application has been denied with the reasons for such denial, including the fact that information supplied by the customer cannot be verified if that is the case. A record of all reasons for denial or a record of the denial form number and each alternative therein applied to the customer along with the credit application and all other related documentation shall be retained by the merchant in reasonable order accessible by reference to the name of the customer, for a period of 15 months from the date of notice of action on each credit application.

History: Cr. Register, January, 1976, No. 241, eff. 2-1-76.