



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 155
[2015 Assembly Bill 117]

**Pleading Requirements Under the
Wisconsin Consumer Act**

Under **current law**, consumer credit transactions are generally regulated under the Wisconsin Consumer Act (WCA). The WCA includes specific pleading requirements for a complaint filed by a creditor who is seeking to enforce his or her rights under the WCA.

2015 Wisconsin Act 155 modifies the current pleading requirements for certain WCA cases. First, the Act applies the pleading requirements to a merchant, rather than a creditor under current law. That change makes assignees or successors to the original creditor subject to the pleading requirements established by the Act.

Second, the Act alters how a merchant may plead the amount owed by a customer. If the claim is not pursuant to an open-end credit plan¹, 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

¹ "Open-end credit plan" means consumer credit extended on an account pursuant to a plan under which: (1) the creditor may permit the customer to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check, or other device, as the plan may provide; (2) the customer has the privilege of paying the balance in full or in installments; (3) a finance charge may be computed by the creditor from time to time on an outstanding unpaid balance; and (4) the creditor has treated the transaction as open-end consumer credit for purposes of any disclosures required under the federal Consumer Credit Protection Act.

The term does not include negotiated advances under an open-end real estate mortgage or a letter of credit or if the creditor treats a transaction as other than open-end credit for each extension of credit for purposes of any disclosures required under the federal Consumer Credit Protection Act. [See s. 421.301 (27), Stats.]

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

all charges, interest, and payments, including any amount received from the sale of any collateral, occurring after the date certain.

Third, the Act provides that a merchant may satisfy a requirement to provide copies of materials evidencing the customer's obligation to the customer at his or her request 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 also satisfy this requirement by attaching copies of the billing statement to the complaint.

Fourth, the Act 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 Act 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.

Effective date: July 1, 2016

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