



2005 ASSEMBLY BILL 496

June 14, 2005 - Introduced by Representatives FREESE, LAMB, HINES, HAHN, ZIEGELBAUER, LOTHIAN, ALBERS, BALLWEG, TOWNSEND, SUDER, VRAKAS, OTT, VOS, KRAWCZYK, KREIBICH and MOULTON, cosponsored by Senators OLSEN, LASSA, A. LASEE, ROESSLER, CARPENTER, BRESKE, BROWN and LEIBHAM. Referred to Committee on Financial Institutions.

1 **AN ACT** *to amend* 425.103 (2) (b) and 425.105 (2); and *to create* 425.103 (2) (bm)
2 and 425.105 (3m) of the statutes; **relating to:** defaults in consumer credit
3 transactions involving motor vehicle consumer leases or credit sales of motor
4 vehicles.

Analysis by the Legislative Reference Bureau

Under current law, a creditor's cause of action against a customer with respect to a consumer credit transaction accrues only upon default of the customer. "Default" is defined as failure to make payment under specified circumstances and breach of any other covenant of the transaction that materially impairs the condition, value, or protection of, or the creditor's rights in, any collateral securing the transaction or goods subject to a consumer lease or that materially impairs the customer's ability to pay amounts due under the transaction. If a creditor believes that a customer is in default, the creditor may give the customer written notice of the alleged default and the customer may, within a 15-day period after the notice, cure the default. If the customer cures the default, the customer's rights are restored as if no default occurred. The creditor may not accelerate the maturity of a consumer credit transaction, commence an action, or demand or take possession of collateral or goods subject to a consumer lease unless the creditor has given notice, the 15-day period after the notice has expired without the customer's curing of the default, and the creditor believes the customer is in default. However, the customer does not have a right to cure a default under certain circumstances where the customer has previously defaulted and then cured the default.

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This bill adds to the definition of "default" the making of a material false statement in a customer's credit application related to a motor vehicle consumer lease or consumer credit sale of a motor vehicle, and provides that the customer does not have a right to cure this type of default.

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

1 **SECTION 1.** 425.103 (2) (b) of the statutes is amended to read:

2 425.103 (2) (b) With respect to an open-end plan, failure to pay when due on
3 2 occasions within any 12-month period; or

4 **SECTION 2.** 425.103 (2) (bm) of the statutes is created to read:

5 425.103 (2) (bm) With respect to a motor vehicle consumer lease or a consumer
6 credit sale of a motor vehicle, making a material false statement in the customer's
7 credit application that precedes the consumer credit transaction; or

8 **SECTION 3.** 425.105 (2) of the statutes is amended to read:

9 425.105 (2) Except as provided in ~~sub.~~ subs. (3) and (3m), for 15 days after such
10 notice is given, a customer may cure a default under a consumer credit transaction
11 by tendering the amount of all unpaid installments due at the time of the tender,
12 without acceleration, plus any unpaid delinquency or deferral charges, and by
13 tendering performance necessary to cure any default other than nonpayment of
14 amounts due. The act of curing a default restores to the customer the customer's
15 rights under the agreement as though no default had occurred.

16 **SECTION 4.** 425.105 (3m) of the statutes is created to read:

17 425.105 (3m) A right to cure shall not exist with respect to a default specified
18 under s. 425.103 (2) (bm).

19 **(END)**