

1979 Assembly Bill 588

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CHAPTER 144, Laws of 1979

AN ACT to create 893.213 and 943.25 (5) of the statutes, relating to establishing a 2-year statute of limitations for actions by a secured party to recover or for damages for certain sales of livestock and establishing a presumption of intent to defraud if secured livestock is transferred.

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

SECTION 1. 893.213 of the statutes is created to read:

893.213 Within 2 years; secured livestock. (1) Within 2 years after the date of sale of the livestock, an action by a secured party to recover damages or property, based upon the sale of livestock which when sold is the secured party's collateral, against the market agency which in the ordinary course of business conducts the auction of the livestock, or against a buyer in ordinary course of business if:

(a) The debtor signs or endorses any writing arising from the transaction, including a check or draft, which states that the sale of the livestock is permitted by the secured party; and

(b) The secured party does not commence an action, within 2 years after the date of sale of the livestock against the debtor for purposes of enforcing rights under the security agreement or an obligation secured by the security agreement.

(2) This section does not apply to actions based upon a sale of livestock occurring prior to the effective date of this act (1979) nor to an action by a secured party against its debtor. Section 893.19 applies to any action described in sub. (1) if the limitation described in sub. (1) is not applicable.

(3) In this section:

(a) "Buyer in ordinary course of business" has the meaning provided by s. 401.201 (9).

(b) "Collateral" has the meaning provided by s. 409.105 (1) (c).

(c) "Debtor" has the meaning provided by s. 409.105 (1) (d).

(d) "Market agency" means a person regularly engaged in the business of receiving, buying or selling livestock whether on a commission basis or otherwise.

(e) "Secured party" has the meaning provided by s. 409.105 (1) (m).

(f) "Security agreement" has the meaning provided by s. 409.105 (1) (L).

SECTION 2. 943.25 (5) of the statutes is created to read:

943.25 (5) In prosecutions for violation of sub. (2) arising out of transfers of livestock subject to a security agreement in violation of the terms of the security agreement, evidence that the debtor who transferred the livestock signed or endorsed any writing arising from the transaction, including a check or draft, which states that the transfer of the

livestock is permitted by the secured party establishes a rebuttable presumption of intent to defraud.
