



1995 SENATE BILL 115

March 15, 1995 – Introduced by Senators BURKE, CHVALA, GEORGE and RISSER, cosponsored by Representatives R. POTTER, BALDWIN, BELL, BLACK, BOYLE, BOCK, LA FAVE, F. LASEE, R. YOUNG and L. YOUNG. Referred to Committee on Judiciary.

1 **AN ACT to amend** 427.103 (2), 427.104 (1) (intro.), 427.104 (2) and 427.105 (2) of
2 the statutes; **relating to:** expanding the coverage of the Wisconsin consumer
3 act to all consumer transactions in which a customer owes a debt to any person.

Analysis by the Legislative Reference Bureau

Under current law, the Wisconsin consumer act restricts the actions of a debt collector who is trying to collect on claims owed or allegedly owed a merchant by a customer, arising from a consumer credit transaction or a consumer transaction in which there is an agreement to defer payment. Among the restricted actions are prohibitions against threatening force or violence, threatening criminal prosecution or harassing the customer.

This bill expands the coverage of the restricted practices to include the actions of a debt collector who is trying to collect on claims owed or allegedly owed any person, not just a merchant, by a customer, arising from any consumer transaction, and not just consumer credit transactions or consumer transactions in which there is an agreement to defer payment.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

4 **SECTION 1.** 427.103 (2) of the statutes is amended to read:
5 427.103 (2) “Debt collection” means any action, conduct or practice of soliciting
6 claims for collection or in the collection of claims owed ~~or due~~ or alleged to be owed
7 ~~or due~~ a merchant by a customer.

1 **SECTION 2.** 427.104 (1) (intro.) of the statutes is amended to read:

2 427.104 (1) (intro.) In attempting to collect an alleged debt arising from a
3 ~~consumer credit transaction or other~~ consumer transaction ~~where there is an~~
4 ~~agreement to defer payment~~, a debt collector shall not:

5 **SECTION 3.** 427.104 (2) of the statutes is amended to read:

6 427.104 (2) If a debt collector is not otherwise in violation of sub. (1) (j) with
7 respect to a consumer ~~credit~~ transaction with a debtor, it is not a violation of this
8 section to send a billing statement or other notice of account to, or to collect the
9 amount due on the account from, the spouse of that debtor, if notice to the debtor's
10 spouse is provided under s. 766.56.

11 **SECTION 4.** 427.105 (2) of the statutes is amended to read:

12 427.105 (2) If a customer establishes that the customer was induced to
13 surrender collateral (s. 425.202) by conduct of the merchant or debt collector which
14 violates this chapter, the customer shall be entitled to a determination of the right
15 to possession of the collateral pursuant to s. 425.205 (1) (e) in any action brought
16 under this subchapter, and if the customer prevails on such issue, in addition to any
17 other damages under this subchapter, the customer shall be entitled to recover
18 possession of the collateral if still in the merchant's or debt collector's possession,
19 together with actual damages for the customer's loss of use of the collateral.

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(END)