



No. B010

SUBJECT: Open-End Credit Application Disclosure

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INTRODUCTION

This release applies to all Wisconsin credit unions, state and federal. It explains a disclosure which must be included in all Wisconsin Consumer Act open-end credit applications, except for credit card applications.

EXECUTIVE SUMMARY

An Open-End Credit Application Addendum (#82083A) is designed to implement this disclosure requirement and is available from The League.

DISCLOSURE PROVIDED WITH APPLICATION

The disclosure must be contained within every application for open-end credit (such as Kwik-Cash, overdraft protection agreements, R.E.A.P.[®], or open-end Loanliner[®]) subject to the Wisconsin Consumer Act, including application forms which are part of an advertisement. A check box has been added to The League's Credit Union Loan Application form (#82083) which, when checked, indicates that the addendum is incorporated therein.

The disclosure must also be provided to any member (or "customer" under the Wisconsin Consumer Act) who is offered an open-end credit plan without completing an application. In that situation, the disclosure must be given prior to the member entering into the plan. Credit cards are no longer subject to the requirement; they are usually subject to the Fair Credit and Charge Card Disclosure Act as described in *ii Release No. B004*.

Please note that this state disclosure is required in addition to the open-end credit agreement and the Truth in Lending account-opening disclosures. The content, timing, and format of the state and federal disclosures are different, so compliance with one disclosure law does not fulfill the requirements for the other.

CONTENTS OF DISCLOSURE

The statute provides that the application shall be appropriately divided and captioned by its various sections and shall set forth all of the following:

- The annual percentage rate. If the rate may vary, the credit union must state that it may do so and state the circumstances under which the rate may increase, any limitations on the increase, and the effects of the increase.

Note: The League's Open-End Credit Application Addendum form invites credit unions using a variable rate to comply by inserting the text of the variable rate clause. If this is done, be sure that the variable rate clause meets the requirements of Wis. Stats. § 422.421 and Truth in Lending.

- The date or occasion upon which the finance charge begins to accrue on a transaction.
- Whether any annual fee is charged and the amount of the fee.
- Whether any other charges or fees may be charged, what they may be charged for, and the amounts of the charges or fees. Wis. Stats. § 422.308(1)

PENALTY FOR NON-COMPLIANCE

A violation of the requirement is subject to penalty, unless the violation is the result of an unintentional good faith error. The violator will be liable to the member for the greater of (1) twice the amount of the finance charge, but no less

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than \$100 and no greater than \$1,000, or (2) actual damages sustained by the member, including incidental and consequential damages.

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League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that The League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local; or (800) 242-0833. For specific legal advice, please consult your credit union's attorney

Legal Affairs Department

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