

SUBJECT: Voluntary Surrender of Collateral; Right to Redeem

Executive Summary 1

Right to redeem collateral 2

INTRODUCTION

This release applies to all credit unions, both state and federal. It describes the steps the credit union must take regarding a voluntary surrender of collateral securing a Wisconsin Consumer Act Loan.¹

EXECUTIVE SUMMARY

The customer has the right at any time to voluntarily surrender all of their rights and interest in the collateral to the credit union.² Although a voluntary surrender would more commonly be made after delinquency or default, it could be made at any time.

The surrender of collateral is not voluntary if it is made pursuant to a request or demand. Nor, is it voluntary if the surrender is made because of a threat, statement or notice that the credit union intends to take possession of the collateral.³ The credit union may notify a customer of their right to voluntarily surrender the collateral. However, it must take care that the communication does not rise to the level of a request or demand.⁴

The credit union may send a Notice of Right to Cure Default/Take Possession where it has a right to recover a *motor vehicle* that is collateral for a consumer loan or goods under a motor vehicle consumer lease. Under the Wisconsin Consumer Act, a surrender of a vehicle is still “voluntary” even if it the consumer does it in response to receiving a notice from the credit union that it intends to take possession of the vehicle.

For more information, see ii Release No. B066.

If the customer voluntarily surrenders the collateral, the credit union does not need to commence an action for replevin of the collateral.⁵ It may sell the collateral in a commercially reasonable manner, taking care to comply with the Uniform Commercial Code.

The credit union should complete The League form #82052 when the customer requests a voluntary surrender. Each owner must sign the form. The purpose of the form is twofold. The borrower acknowledges:

- That the surrender is voluntary, and
- Having received notice of their legal right to a judicial hearing on the issue of default.

Before disposing of any abandoned collateral, the credit union must either obtain a voluntary surrender or a court order awarding possession of the collateral.⁶

¹ Wisconsin Consumer Act loans are generally those loans granted primarily for a personal, family, household or agricultural purpose to one or more individual persons with an amount financed of \$25,000 (increased to \$50,000 as of Jan. 1, 2027) or less, unless secured by a first mortgage lien or equivalent security interest.

² Wis. Stats. § 425.204(1)

³ Wis. Stats. § 425.204(3)

⁴ Bkg. § 80.67

⁵ Wis. Stats. § 425.206(1)(a)

⁶ Wis. Stats. § 425.207(2)

After the form is otherwise completed and the collateral received, the credit union representative should sign the form and return copies to the customer as a receipt.

RIGHT TO REDEEM COLLATERAL

Wisconsin Statute § 425.208 requires the credit union to give the borrower fifteen days (following surrender of collateral, self-help repossession for a motor vehicle, or issuance of process) to redeem the collateral. The credit union may require the borrower to tender any or all of the following before returning the collateral to the customer:

- The total of all delinquent installments, including any unpaid delinquency or deferral charges due at the time of tender, without acceleration,
- Performance necessary to cure any default other than nonpayment of amounts due,
- Any court costs, filing and service fees, bond premiums incurred by the credit union,
- Certain permitted expenses incurred in recovering the collateral, and
- A performance deposit, in the amount of three scheduled installments (or minimum payments in the case of an open-end credit plan), or one-third of the total obligation remaining unpaid with respect to the consumer credit transaction, whichever is less.

The League form #82052 "Receipt and Acknowledgement of Voluntary Surrender" contains a notice of the customer's right to redeem the collateral for fifteen days.

If the customer chooses to redeem the collateral, the borrower's rights under the credit agreement are restored as though all payments and performance had been made as scheduled. Upon redemption, any legal process under which the collateral has been held must be vacated and any pending action must be dismissed and the collateral returned to the customer.

The performance deposit must be held by the credit union and may be applied at any time to the remaining obligations of the borrower under the agreement. The existence of the deposit does not cure any subsequent default of the borrower. The deposit does not need to be credited to the borrower's account until the remaining unpaid balance of the transaction becomes equal to the deposit.

The credit union cannot dispose of the collateral until the expiration of the period for redemption. Disposition of the collateral is subject to Wis. Stat. § 409.504, § 409.505 and § 409.506. The borrower may also be liable for the deficiency balance subject to Wis. Stat. § 425.209. If the outstanding balance is \$1,000 or less at the time of default, on an interlocking loan or a consumer credit sale, then the borrower is not personally liable for the remaining debt.

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Legal Affairs Department

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