

Sample WCA Notice of Non-Performance

(Failure to insure collateral; used before force-placing insurance)

RESPA Reg. X may apply with additional notice requirements for real estate loans. See ii Release No. B075. Most security agreements (including the League's security agreement – WCUL #82005) obligate the borrower to preserve and insure collateral. If the borrower fails to do so, the Wisconsin Consumer Act (§422.207) says that the credit union may, "if authorized by the agreement, pay for the performance of such duties on behalf of the customer." The Act requires that a notice of non-performance be sent to the borrower(s) with a reasonable opportunity to act before insurance is force-placed. Wisconsin banking regulations say that the notice can be provided by regular mail and that 10 days (not counting the date the notice is mailed) is presumed to be a reasonable time for the borrower to obtain insurance. (DFI-Bkg. 80.30.) Notice should be provided to all borrowers.

If the credit union instead wishes to declare the loan to be in default because of the borrower's failure to insure the collateral, and not force-place insurance, use the League's Notice of Right to Cure Default (#82040).

This notice is intended as a "sample" or "guide" to help credit unions develop their own customized or individual notices. However, a notice that works well for one credit union may not be appropriate for another. Therefore, each credit union should make revisions by deleting or adding language to accommodate their own particular situation regarding technology, personnel, products and services, facilities, and other relevant factors. The credit union's notices should be reviewed for compliance with applicable rules and regulations from time to time. The League cannot guarantee that a sample notice is in compliance with the law. The notice is not intended as legal advice.

[Credit Union Letterhead] NOTICE OF NON-PERFORMANCE

DATE: _____

TO: [Insert names of all borrowers]

LOAN NO.: _____

You have failed to comply with the terms of your credit union loan. In your loan documents you agreed to maintain satisfactory insurance on the vehicle securing the loan, and to provide proof of insurance to the credit union.

If you do not provide proof of insurance satisfactory to the credit union within 10 days after the effective date of this notice, we may purchase such insurance. We will then either:

- Bill you for reimbursement of the premium(s); or
- Revise the payment schedule on your loan to include the cost of the premium(s).

In either case, the advance shall accrue interest at the rate provided for in your agreement.

**TO AVOID THIS ACTION, PLEASE ACT PROMPTLY TO PROVIDE
PROOF OF INSURANCE TO THE CREDIT UNION.**

The Wisconsin Credit Union League

N25 W23131 Paul Road, Pewaukee, WI 53072-5779 Phone: (262) 549-0200 (800) 242-0833 Fax: (262) 549-7722 Web: www.theleague.coop