

New Law Prohibits Claims Based on Oral Credit Agreements

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Wisconsin has a new law protecting financial institutions against alleged oral credit agreements. This "New Law" began as Assembly Bill 23 and was signed by the Governor on December 16, 2015 as Act 120.

The financial institutions protected include banks, savings banks, savings and loan associations, credit unions and farm credit institutions. The New Law provides financial institutions and their affiliates with protection against claims that a putative borrower relied on oral offers, promises, agreements or commitments by the financial institution to the borrower's detriment. It also prohibits relief typically sought by borrowers in these types of cases under the doctrine of promissory estoppel.

The New Law provides that no action may be brought against a financial institution or its affiliate with regard to any offers, promises, agreements or commitments of the financial institution or its affiliate, **unless** the offer, promise, agreement or commitment:

1. is in writing,
2. sets forth relevant terms and conditions, and
3. is signed with an authorized signature by the financial institution or its affiliate and is delivered to the party seeking to enforce such offer, promise, agreement or commitment.

The types of offers, promises, agreements and commitments covered by the New Law are those:

- to lend money,
- to grant or extend credit,
- to renew, extend, modify or permit a delay in repayment or performance of a loan, extension of credit or other financial accommodation, and
- to make any other financial accommodation.

The New Law encourages discussions between financial institutions and borrowers by reducing the chilling effect that, in the past, could have resulted in lender liability lawsuits. It should significantly limit a putative borrower's ability to make such claims or counterclaims against a financial institution. Note, however, that while the New Law will prohibit such "contract" claims, it will not prohibit common law claims for fraudulent misrepresentation.

The New Law **does not** apply to any consumer credit transactions subject to Chapters 421 through 427 of the Wisconsin Consumer Act or to the issuance or use of a credit card.

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