

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **10/01/1999**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Russell**

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Fin. Inst. - banking inst.**

Extra Copies:

Pre Topic:

LFB:.....Russell -

Topic:

Nondepository lenders

Instructions:

See Attached. Change definition of nondepository lender currently in senate super amendment regarding nondepository lenders that was adopted by conference committee.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 10/01/1999	jgeller 10/01/1999		_____			
/1			mclark 10/02/1999	_____	lrb_docadmin 10/02/1999		

FE Sent For:

<END>

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LFB:.....Russell - Nondepository 1

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Instructions:

See Attached. Change definition of nondepository lender currently in senate super amendment regarding nondepository lenders that was adopted by conference committee.

(LRBb0884)

Drafting History:

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1/?	rmarchan	1 10/1 JG	MRC 10/1	MRC/LS 10/2			

FE Sent For:

<END>

Change LRBb 0884

designated under s. 560.797, any person may claim as a credit against taxes the following amounts:

s. 71.47 (1dx) (b) *Credit*. Except as provided in s. 73.03 (35) and subject to s. 560.785, for any taxable year for which the person is certified under s. 560.765 (3), designated under s. 560.795, or designated under s. 560.797, any person may claim as a credit against taxes the following amounts:

3. Kenosha Development Zone

Effective January 1, 2000, establish a development opportunity zone in the city of Kenosha. The exact location of the zone will be determined by the Department of Commerce. Limit the total tax credits in the zone to \$7 million and allow businesses to claim existing credits related to job creation and environmental remediation. In addition, reinstate the development zone investment credit to allow it to be claimed in the development opportunity zone.

4. CAPCO

Include the provisions in LRBb1739/2 to enable out-of-state insurance companies to reduce their tax liability by the amount of the credits received under the state's certified capital company program.

FINANCIAL INSTITUTIONS

Regulation of Nondepository Small Business Lenders

Provide a more narrow definition of "Nondepository lender" than is contained in the Senate provision to prevent the inclusion of entities the state has no desire to include under any small business lenders regulatory efforts, as follows:

? What entities?
Current definition seems to be the same as requested one, only clearer.

(4) "Nondepository lender" means a ~~commercial small business~~ lender that participates in the ~~small business~~ loan guaranty program of the small business administration, that provides financial assistance to small business entities that ~~could~~ qualify for financial assistance pursuant to section 7(a) of the Federal ~~small business act of 1953, as amended~~, 15 USC Sec. 636(a), ~~that is not~~ *and* *small business*

- (a) bank
- (b) credit union
- (c) savings and loan association, or
- (d) savings bank.

+ Define: "small business loan guaranty program" means the *general* business loan program described under 13 CFR 120.2(a).

HEALTH AND FAMILY SERVICES

1. Family Care

A. The word "non-profit" should be deleted from s. 46.284(2) (b) 3. Although non-county/tribal Resource Centers are required to be non-profit organizations, the same is not true of Care Management Organizations. Inclusion of this word was a technical drafting error, not an intentional change to the policy proposed by the Governor.

Marchant, Robert

From: Russell, Faith
Sent: Friday, October 01, 1999 12:43 PM
To: Marchant, Robert
Cc: Reinhardt, Rob
Subject: RE: Nondepository lender

Rob -

The language you recommend is fine. Thanks -

Faith

-----Original Message-----

From: Marchant, Robert
Sent: Friday, October 01, 1999 11:58 AM
To: Russell, Faith
Subject: Nondepository lender

Faith--

In my opinion, the major difficulty with the proposed definition is that it references "the 7(a) loan guaranty program." Due to the common language reference, it takes some digging to find out what this program is and what federal statutes and regulations it is administered under. In addition, it is confusing to use "7(a)" in a context other than a statutory cross-reference. I strongly recommend against placing this reference in the statutes.

However, I understand that there may be a need to tighten-up the definition. With that in mind, I recommend the following definition:

"Nondepository lender" means a commercial small business lender that participates in the loan guaranty program of the U.S. small business administration described in 13 CFR 120.2 (a) and that provides financial assistance to small businesses that qualify for financial assistance pursuant to 15 USC 636 (a). "Nondepository lender" does not include a bank, credit union, savings and loan association or savings bank."

This definition is more precise because it cross-references the federal regulation that describes 7(a) loans. Although it is generally preferable to avoid cross-references to federal regulations and statutes because they change over time, here the cross-reference may be necessary in order to narrowly define "Nondepository lender".

Let me know how I should proceed.

Robert J. Marchant
Legislative Attorney
State of Wisconsin Legislative Reference Bureau
robert.marchant@legis.state.wi.us

+

DEPARTMENT OF FINANCIAL INSTITUTIONS

Small Business Capital Corporations

CN 1503

Motion:

Move to adopt the attached language that would permit the Department to conduct safety and soundness examinations of an entity operating in the state pursuant to Section 7(a) of the Small Business Act.

From LRB 60884

yes

SDC

Agency: Financial Institutions

caucus number 1503

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: LRB b0651/1. Permit DFI to conduct safety and soundness examinations of an entity operating in the state pursuant to Section 7(a) of the Small Business Act.

other notes

drafting instructions: LRB b0651/1. See above.
more instructions:

caucus number 1728

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Authorize DFI to spend up to \$120,000 of annual program revenue funds for its Financial Education Program.

other notes

drafting instructions: See above.
more instructions:

caucus number 2763

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft # 3126/P2dn	LRB P-draft:

description: Insert the provisions of LRB 3126/P2dn including minor changes previously mentioned to the drafter, re: credit union membership, powers and investments, interstate operations of CU, powers of CU service organizations, and others (see attached for details)

other notes

drafting instructions: See attached.
more instructions:

caucus number 2768

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number: AB 131	
LRB draft #	LRB P-draft:

description: Adopt AB 131 relating to prohibiting ATM fees.

other notes

drafting instructions: Adopt AB 131. See above.
more instructions:

Agency: Financial Institutions

Number of Amendments: 4



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb088419

1
CSM.....
cmf

50010

RMK

DATE

SDC:.....Walter - # 1503, Nondepository small business lenders

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1055
1

1 At the locations indicated, amend the substitute amendment as follows:

2 (END)



**ASSEMBLY AMENDMENT,
TO 1999 ASSEMBLY BILL 133**

INSERT 1-1

1 ~~At the locations indicated, amend the bill as follows:~~

2 1. Page ⁷³⁴~~730~~, line ²³~~20~~: after that line insert:

3 "SECTION 1488m. 49.857 (1) (d) 12. of the statutes is amended to read:
4 49.857 (1) (d) 12. A license or certificate of registration issued under s. 138.09,
5 138.12, 217.06, 218.01, 218.02, 218.04, 218.05 or, 224.72, 224.93 or subch. III of ch.
6 551."

7 2. Page ¹¹⁵~~902~~, line ²~~14~~: after that line insert:

8 "SECTION 1800m. 73.0301 (1) (d) 6. of the statutes is amended to read:
9 73.0301 (1) (d) 6. A license or certificate of registration issued by the
10 department of financial institutions, or a division of it, under s. 138.09, 138.12,
11 217.06, 218.01, 218.02, 218.04, 218.05 or, 224.72, 224.93 or under subch. III of ch.
12 551."

13 3. Page ¹¹⁴³~~1079~~, line ³~~18~~: after that line insert:

1 “SECTION 2343d. 220.06 (1) of the statutes is amended to read:

2 220.06 (1) In this section, “licensee” means a person licensed by the division
3 under ch. 138, 217 or 218 or under s. 224.92.”

4 4. Page ~~1102~~¹¹⁹³, line ~~13~~¹⁹: after that line insert:

5 “SECTION 2353d. Subchapter IV of Chapter 224 [precedes 224.90] of the
6 statutes is created to read:

7 **CHAPTER 224**

8 **SUBCHAPTER IV**

9 **NONDEPOSITORY SMALL**

10 **BUSINESS LENDERS**

11 **224.90 Definitions.** In this subchapter:

12 (1) “Division” means the division of banking.

13 (2) “In control” means any of the following:

14 (a) Owning 10% or more of the outstanding voting stock of a nondepository
15 lender.

16 (b) Possessing, directly or indirectly, alone or in concert with others, the power
17 to control or vote 10% or more of the outstanding voting stock of a nondepository
18 lender or to elect or control the election of a majority of the board of directors of a
19 nondepository lender.

20 (3) “Licensee” means a lender licensed under this subchapter.

21 (4) “Nondepository lender” means a lender that, in the ordinary course of
22 business, provides loans that are guaranteed by the U.S. small business
23 administration under 15 USC 636 (a) to small businesses. “Nondepository lender”
24 does not include a bank, credit union, savings and loan association or savings bank.

1 **224.92 License required.** No person may engage in business as a
2 nondepository lender in this state without a license issued under this subchapter.

3 **224.923 License application.** An application for a license under this
4 subchapter shall be made to the division in writing on a form to be prescribed by the
5 division. An application for a license under this subchapter shall state the full name
6 and business address of the applicant and each officer, director and person in control
7 of the applicant. The application also shall contain the applicant's federal employer
8 identification number. In addition, the application shall contain the applicant's
9 business plan, 3 years of detailed financial projections and other relevant
10 information, all as prescribed by the division.

11 **224.927 Disclosure of certain application information.** The division may
12 not disclose an applicant's federal employer identification number received under s.
13 224.923, except as follows:

14 (1) The division may disclose the information to the department of revenue for
15 the sole purpose of requesting certification under s. 73.0301.

16 (2) The division may disclose the information to the department of workforce
17 development in accordance with a memorandum of understanding under s. 49.857.

18 **224.93 License Approval.** After a review of information regarding the
19 directors, officers and controlling persons of the applicant for a license, a review of
20 the applicant's business plan, including at least three years of detailed financial
21 projections and other information considered relevant by the division, the division
22 may approve an application for a license if the division determines that all of the
23 following conditions are met:

24 (1) The applicant has at least \$500,000 in capital and the amount of capital is
25 adequate for the applicant to transact business as a nondepository lender.

1 (2) Each director, officer and person in control of the applicant is of good
2 character and sound financial standing; the directors and officers of the applicant are
3 competent to perform their functions with respect to the applicant and the directors
4 and officers of the applicant are collectively adequate to manage the business of the
5 applicant as a nondepository lender.

6 (3) The business plan of the applicant will be honestly and efficiently conducted
7 in accordance with the intent and purpose of this subchapter.

8 (4) The proposed activity of the applicant possesses a reasonable prospect for
9 success.

10 (5) The applicant has paid to the division the application fee prescribed by the
11 division, together with the actual cost incurred by the division in investigating the
12 application.

13 **224.935 Expiration of license.** (1) **GENERALLY.** Except as provided under
14 sub. (2), a license issued under this subchapter expires on the June 30 following the
15 date on which the license was issued.

16 (2) **CHANGE IN CONTROL OF LICENSEE.** A change in the identity or number of
17 individuals that are in control of a licensee terminates the licensee's license under
18 this subchapter, unless the licensee applies to the division for and receives a renewal
19 of the license no later than 15 days after the change in control.

20 **224.94 Renewal of license.** Except as provided under s. 224.935 (2), a
21 licensee shall renew its license by submitting to the division a renewal application
22 and the renewal fee as prescribed by the division not less than 60 days before the date
23 on which the license expires. A renewal application is subject to the same criteria
24 as the criteria for approval of an original license.

1 **224.95 Denial of or disciplinary action relating to license. (1)**

2 **MANDATORY DENIAL.** The division shall deny an application for issuance or renewal
3 of a license under this subchapter if any of the following applies:

4 (a) The applicant has failed to provide its federal employer identification
5 number under s. 224.923.

6 (b) The department of revenue has certified under s. 73.0301 that the applicant
7 is liable for delinquent taxes. An applicant whose application for issuance or renewal
8 of a license is denied under this paragraph is entitled to a notice under s. 73.0301 (2)
9 (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is not entitled to a notice or hearing
10 under sub. (4).

11 (c) The applicant is an individual who has failed to comply, after appropriate
12 notice, with a subpoena or warrant issued by the department of workforce
13 development or a county child support agency under s. 59.53 (5) and related to
14 paternity or child support proceedings or who is delinquent in making court-ordered
15 payments of child or family support, maintenance, birth expenses, medical expenses
16 or other expenses related to the support of a child or former spouse, as provided in
17 a memorandum of understanding entered into under s. 49.857. An applicant whose
18 application for issuance or renewal of a license is denied under this paragraph is
19 entitled to a notice and a hearing under s. 49.857 but is not entitled to a notice or
20 hearing under sub. (4).

21 **(2) DISCRETIONARY DENIAL OR DISCIPLINARY ACTION.** The division may deny an
22 application for issuance or renewal of a license under this subchapter or may revoke,
23 suspend or limit a license issued under this subchapter if the division finds that the
24 applicant or nondepository lender did any of the following:

1 (a) Made a material misstatement in an application for issuance or renewal of
2 a license issued under this subchapter or in information provided to the division.

3 (b) Demonstrated a lack of competency to act as a nondepository lender.


4 (c) Violated any provision of this subchapter or any rule of the division.

5 (3) DISCIPLINARY ORDERS. The division may issue general or special orders
6 necessary to prevent or correct actions by a nondepository lender that constitute
7 cause under this section for revoking, suspending or limiting a license.

8 (4) APPEAL OF DENIAL OR DISCIPLINARY ACTION. A person whose application for
9 issuance or renewal of a license under this subchapter has been denied or whose
10 license has been revoked, suspended or limited under this section may request a
11 hearing under s. 227.42 within 30 days after the date of denial, revocation,
12 suspension or limitation. Failure of a person to request a hearing within the time
13 provided under this ^{SUB}section is a waiver of the person's right to a hearing on the denial,
14 revocation, suspension or limitation.

15 **224.96 Required loan loss reserve.** Each licensee shall provide for a loan
16 loss reserve sufficient to cover projected loan losses that are not guaranteed by the
17 U.S. government or any agency of the U.S. government.

18 **224.97 Division review of nondepository lender operations.** The
19 division may, at any reasonable time, examine the books of account, records,
20 condition and affairs of a nondepository lender licensed under this subchapter. The
21 division shall examine the books of account, records, condition and affairs of every
22 nondepository lender licensed under this subchapter at least once during every 12
23 month period. The division shall prepare a report of each examination conducted
24 under this section. As part of an examination under this section or as part of the
25 preparation of an examination report, the division may examine under oath any



1 person in control, officer, director, agent, employe or customer of the nondepository
2 lender. The division may require a nondepository lender that is examined under this
3 section to pay to the division a reasonable fee for the costs of conducting the
4 examination.

5 **224.98 Powers of licensee.** A licensee may do any of the following:

6 (1) Participate in the loan guaranty program under 15 USC 636 (a).

7 (2) Participate in any other government program for which the licensee is
8 eligible and which has as its function the provision or facilitation of financing or
9 management assistance to business firms.

10 **224.985 Required records and reports.** (1) RECORD KEEPING. A licensee
11 shall keep books, accounts, and other records in such a form and manner as required
12 by rule of the division. These records shall be kept at a location and shall be
13 preserved for a length of time as prescribed by rule of the division.

14 (2) ANNUAL REPORT. Not more than ninety days after the close of a licensee's
15 fiscal year or upon request of the division, every licensee shall file with the division
16 a report containing all of the following:

17 (a) Financial statements, including the balance sheet, the statement of income
18 or loss, the statement of changes in capital accounts and the statement of changes
19 in financial position of the licensee. The licensee shall ensure that the financial
20 statements have been audited by an independent certified public account and
21 prepared in accordance with generally accepted account principles.

22 (b) Other relevant information requested by the division.

23 **224.99 Rulemaking.** The division may promulgate rules for the efficient
24 administration of this subchapter.".

1587
14

1

5. Page ~~1481~~, line ~~3~~: after that line insert:

2
inserted
app.

"(1g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV of chapter 224 [precedes 224.90] of the statutes first applies to nondepository small business lenders on the effective date of this subsection."

4

1608
19

5
eff. date
date

6. Page ~~1482~~, line ~~3~~: after that line insert:

6

"(2g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV of chapter 224 [precedes 224.90] of the statutes and the treatment of SECTION 9319 (1g) of this act take effect on the first day of the 6th month beginning after publication."

7

8

9

10

END

(END OF INSERT)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0884/1dn

RJM:.....

cm

Attached is the amendment you requested that authorizes the department of financial institutions to regulate nondepository small business lenders. Please let me know if the amendment is not consistent with your intent. Thanks.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0884/1dn
RJM:cmh:ksh

June 26, 1999

Attached is the amendment you requested that authorizes the department of financial institutions to regulate nondepository small business lenders. Please let me know if the amendment is not consistent with your intent. Thanks.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0884/1
RJM:cmh:ksh

SDC:.....Walter - # 1503, Nondepository small business lenders

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 739, line 23: after that line insert:

3 “SECTION 1488m. 49.857 (1) (d) 12. of the statutes is amended to read:

4 49.857 (1) (d) 12. A license or certificate of registration issued under s. 138.09,

5 138.12, 217.06, 218.01, 218.02, 218.04, 218.05 ~~or~~, 224.72, 224.93 or subch. III of ch.

6 551.”.

7 **2.** Page 950, line 21: after that line insert:

8 “SECTION 1800m. 73.0301 (1) (d) 6. of the statutes is amended to read:

9 73.0301 (1) (d) 6. A license or certificate of registration issued by the

10 department of financial institutions, or a division of it, under s. 138.09, 138.12,

1 217.06, 218.01, 218.02, 218.04, 218.05 ~~or~~, 224.72, 224.93 or under subch. III of ch.
2 551.”.

3 **3.** Page 1193, line 3: after that line insert:

4 “SECTION 2343d. 220.06 (1) of the statutes is amended to read:

5 220.06 (1) In this section, “licensee” means a person licensed by the division
6 under ch. 138, 217 or 218 or under s. 224.92.”.

7 **4.** Page 1193, line 19: after that line insert:

8 “SECTION 2353d. Subchapter IV of Chapter 224 [precedes 224.90] of the
9 statutes is created to read:

10 **CHAPTER 224**

11 **SUBCHAPTER IV**

12 **NONDEPOSITORY SMALL**

13 **BUSINESS LENDERS**

14 **224.90 Definitions.** In this subchapter:

15 (1) “Division” means the division of banking.

16 (2) “In control” means any of the following:

17 (a) Owning 10% or more of the outstanding voting stock of a nondepository
18 lender.

19 (b) Possessing, directly or indirectly, alone or in concert with others, the power
20 to control or vote 10% or more of the outstanding voting stock of a nondepository
21 lender or to elect or control the election of a majority of the board of directors of a
22 nondepository lender.

23 (3) “Licensee” means a lender licensed under this subchapter.

1 (4) “Nondepository lender” means a lender that, in the ordinary course of
2 business, provides loans that are guaranteed by the U.S. small business
3 administration under 15 USC 636 (a) to small businesses. “Nondepository lender”
4 does not include a bank, credit union, savings and loan association or savings bank.

5 **224.92 License required.** No person may engage in business as a
6 nondepository lender in this state without a license issued under this subchapter.

7 **224.923 License application.** An application for a license under this
8 subchapter shall be made to the division in writing on a form to be prescribed by the
9 division. An application for a license under this subchapter shall state the full name
10 and business address of the applicant and each officer, director and person in control
11 of the applicant. The application also shall contain the applicant’s federal employer
12 identification number. In addition, the application shall contain the applicant’s
13 business plan, 3 years of detailed financial projections and other relevant
14 information, all as prescribed by the division.

15 **224.927 Disclosure of certain application information.** The division may
16 not disclose an applicant’s federal employer identification number received under s.
17 224.923, except as follows:

18 (1) The division may disclose the information to the department of revenue for
19 the sole purpose of requesting certification under s. 73.0301.

20 (2) The division may disclose the information to the department of workforce
21 development in accordance with a memorandum of understanding under s. 49.857.

22 **224.93 License Approval.** After a review of information regarding the
23 directors, officers and controlling persons of the applicant for a license, a review of
24 the applicant’s business plan, including at least three years of detailed financial
25 projections and other information considered relevant by the division, the division

1 may approve an application for a license if the division determines that all of the
2 following conditions are met:

3 (1) The applicant has at least \$500,000 in capital and the amount of capital is
4 adequate for the applicant to transact business as a nondepository lender.

5 (2) Each director, officer and person in control of the applicant is of good
6 character and sound financial standing; the directors and officers of the applicant are
7 competent to perform their functions with respect to the applicant and the directors
8 and officers of the applicant are collectively adequate to manage the business of the
9 applicant as a nondepository lender.

10 (3) The business plan of the applicant will be honestly and efficiently conducted
11 in accordance with the intent and purpose of this subchapter.

12 (4) The proposed activity of the applicant possesses a reasonable prospect for
13 success.

14 (5) The applicant has paid to the division the application fee prescribed by the
15 division, together with the actual cost incurred by the division in investigating the
16 application.

17 **224.935 Expiration of license.** (1) **GENERALLY.** Except as provided under
18 sub. (2), a license issued under this subchapter expires on the June 30 following the
19 date on which the license was issued.

20 (2) **CHANGE IN CONTROL OF LICENSEE.** A change in the identity or number of
21 individuals that are in control of a licensee terminates the licensee's license under
22 this subchapter, unless the licensee applies to the division for and receives a renewal
23 of the license no later than 15 days after the change in control.

24 **224.94 Renewal of license.** Except as provided under s. 224.935 (2), a
25 licensee shall renew its license by submitting to the division a renewal application

1 and the renewal fee as prescribed by the division not less than 60 days before the date
2 on which the license expires. A renewal application is subject to the same criteria
3 as the criteria for approval of an original license.

4 **224.95 Denial of or disciplinary action relating to license. (1)**

5 **MANDATORY DENIAL.** The division shall deny an application for issuance or renewal
6 of a license under this subchapter if any of the following applies:

7 (a) The applicant has failed to provide its federal employer identification
8 number under s. 224.923.

9 (b) The department of revenue has certified under s. 73.0301 that the applicant
10 is liable for delinquent taxes. An applicant whose application for issuance or renewal
11 of a license is denied under this paragraph is entitled to a notice under s. 73.0301 (2)
12 (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is not entitled to a notice or hearing
13 under sub. (4).

14 (c) The applicant is an individual who has failed to comply, after appropriate
15 notice, with a subpoena or warrant issued by the department of workforce
16 development or a county child support agency under s. 59.53 (5) and related to
17 paternity or child support proceedings or who is delinquent in making court-ordered
18 payments of child or family support, maintenance, birth expenses, medical expenses
19 or other expenses related to the support of a child or former spouse, as provided in
20 a memorandum of understanding entered into under s. 49.857. An applicant whose
21 application for issuance or renewal of a license is denied under this paragraph is
22 entitled to a notice and a hearing under s. 49.857 but is not entitled to a notice or
23 hearing under sub. (4).

24 **(2) DISCRETIONARY DENIAL OR DISCIPLINARY ACTION.** The division may deny an
25 application for issuance or renewal of a license under this subchapter or may revoke,

1 suspend or limit a license issued under this subchapter if the division finds that the
2 applicant or nondepository lender did any of the following:

3 (a) Made a material misstatement in an application for issuance or renewal of
4 a license issued under this subchapter or in information provided to the division.

5 (b) Demonstrated a lack of competency to act as a nondepository lender.

6 (c) Violated any provision of this subchapter or any rule of the division.

7 (3) DISCIPLINARY ORDERS. The division may issue general or special orders
8 necessary to prevent or correct actions by a nondepository lender that constitute
9 cause under this section for revoking, suspending or limiting a license.

10 (4) APPEAL OF DENIAL OR DISCIPLINARY ACTION. A person whose application for
11 issuance or renewal of a license under this subchapter has been denied or whose
12 license has been revoked, suspended or limited under this section may request a
13 hearing under s. 227.42 within 30 days after the date of denial, revocation,
14 suspension or limitation. Failure of a person to request a hearing within the time
15 provided under this subsection is a waiver of the person's right to a hearing on the
16 denial, revocation, suspension or limitation.

17 **224.96 Required loan loss reserve.** Each licensee shall provide for a loan
18 loss reserve sufficient to cover projected loan losses that are not guaranteed by the
19 U.S. government or any agency of the U.S. government.

20 **224.97 Division review of nondepository lender operations.** The
21 division may, at any reasonable time, examine the books of account, records,
22 condition and affairs of a nondepository lender licensed under this subchapter. The
23 division shall examine the books of account, records, condition and affairs of every
24 nondepository lender licensed under this subchapter at least once during every 12
25 month period. The division shall prepare a report of each examination conducted

1 under this section. As part of an examination under this section or as part of the
2 preparation of an examination report, the division may examine under oath any
3 person in control, officer, director, agent, employe or customer of the nondepository
4 lender. The division may require a nondepository lender that is examined under this
5 section to pay to the division a reasonable fee for the costs of conducting the
6 examination.

7 **224.98 Powers of licensee.** A licensee may do any of the following:

8 (1) Participate in the loan guaranty program under 15 USC 636 (a).

9 (2) Participate in any other government program for which the licensee is
10 eligible and which has as its function the provision or facilitation of financing or
11 management assistance to business firms.

12 **224.985 Required records and reports.** (1) RECORD KEEPING. A licensee
13 shall keep books, accounts, and other records in such a form and manner as required
14 by rule of the division. These records shall be kept at a location and shall be
15 preserved for a length of time as prescribed by rule of the division.

16 (2) ANNUAL REPORT. Not more than ninety days after the close of a licensee's
17 fiscal year or upon request of the division, every licensee shall file with the division
18 a report containing all of the following:

19 (a) Financial statements, including the balance sheet, the statement of income
20 or loss, the statement of changes in capital accounts and the statement of changes
21 in financial position of the licensee. The licensee shall ensure that the financial
22 statements have been audited by an independent certified public account and
23 prepared in accordance with generally accepted account principles.

24 (b) Other relevant information requested by the division.

1 **224.99 Rulemaking.** The division may promulgate rules for the efficient
2 administration of this subchapter.”

3 **5.** Page 1589, line 14: after that line insert:

4 “(1g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV
5 of chapter 224 [precedes 224.90] of the statutes first applies to nondepository small
6 business lenders on the effective date of this subsection.”

7 **6.** Page 1608, line 19: after that line insert:

8 “(2g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV
9 of chapter 224 [precedes 224.90] of the statutes and the treatment of SECTION 9319
10 (1g) of this act take effect on the first day of the 6th month beginning after
11 publication.”

12

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

Sejan TODAY

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LRBb18934
Rom...
Jlg + cmh
FWR
ALOTE

LFB:.....Russell – Nondepository lenders

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

INSERT
1-1
1
2

At the locations indicated, amend the substitute amendment as follows:

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0884/1
RJM:cmh:ksh

SDC:..... Walter - # 1503, Nondepository small business lenders
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION
CAUCUS AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 133

INSERT
1-1

1 ~~At the locations indicated, amend the substitute amendment as follows:~~

2 1. Page 739, line 23: after that line insert:

3 "SECTION 1488m. 49.857 (1) (d) 12. of the statutes is amended to read:

4 49.857 (1) (d) 12. A license or certificate of registration issued under s. 138.09,
5 138.12, 217.06, 218.01, 218.02, 218.04, 218.05 or, 224.72, 224.93 or subch. III of ch.
6 551."

7 2. Page 950, line 21: after that line insert:

8 "SECTION 1800m. 73.0301 (1) (d) 6. of the statutes is amended to read:

9 73.0301 (1) (d) 6. A license or certificate of registration issued by the
10 department of financial institutions, or a division of it, under s. 138.09, 138.12,



INS 1-1 cont

1 217.06, 218.01, 218.02, 218.04, 218.05 ~~or~~, 224.72, 224.93 or under subch. III of ch.
2 551.”.

3 **3.** Page 1193, line 3: after that line insert:

4 “SECTION 2343d. 220.06 (1) of the statutes is amended to read:

5 220.06 (1) In this section, “licensee” means a person licensed by the division
6 under ch. 138, 217 or 218 or under s. 224.92.”.

7 **4.** Page 1193, line 19: after that line insert:

8 “SECTION 2353d. Subchapter IV of Chapter 224 [precedes 224.90] of the
9 statutes is created to read:

10 **CHAPTER 224**

11 **SUBCHAPTER IV**

12 **NONDEPOSITORY SMALL**

13 **BUSINESS LENDERS**

14 **224.90 Definitions.** In this subchapter:

15 (1) “Division” means the division of banking.

16 (2) “In control” means any of the following:

17 (a) Owning 10% or more of the outstanding voting stock of a nondepository
18 lender.

19 (b) Possessing, directly or indirectly, alone or in concert with others, the power
20 to control or vote 10% or more of the outstanding voting stock of a nondepository
21 lender or to elect or control the election of a majority of the board of directors of a
22 nondepository lender.

23 (3) “Licensee” means a lender licensed under this subchapter.



Commercial small business

participates in the loan guarantee program of

1 (4) "Nondepository lender" means a lender that, in the ordinary course of
 2 business, provides loans that are guaranteed by the U.S. small business
 3 administration under 15 CFR 120.2(a) and that provides financial assistance
 4 to small businesses. "Nondepository lender" does not include a bank, credit union, savings and loan association or savings bank.

5 **224.92 License required.** No person may engage in business as a
 6 nondepository lender in this state without a license issued under this subchapter.

7 **224.923 License application.** An application for a license under this
 8 subchapter shall be made to the division in writing on a form to be prescribed by the
 9 division. An application for a license under this subchapter shall state the full name
 10 and business address of the applicant and each officer, director and person in control
 11 of the applicant. The application also shall contain the applicant's federal employer
 12 identification number. In addition, the application shall contain the applicant's
 13 business plan, 3 years of detailed financial projections and other relevant
 14 information, all as prescribed by the division.

15 **224.927 Disclosure of certain application information.** The division may
 16 not disclose an applicant's federal employer identification number received under s.
 17 224.923, except as follows:

18 (1) The division may disclose the information to the department of revenue for
 19 the sole purpose of requesting certification under s. 73.0301.

20 (2) The division may disclose the information to the department of workforce
 21 development in accordance with a memorandum of understanding under s. 49.857.

22 **224.93 License approval.** After a review of information regarding the
 23 directors, officers and controlling persons of the applicant for a license, a review of
 24 the applicant's business plan, including at least three years of detailed financial
 25 projections and other information considered relevant by the division, the division



1 may approve an application for a license if the division determines that all of the
2 following conditions are met:

3 (1) The applicant has at least \$500,000 in capital and the amount of capital is
4 adequate for the applicant to transact business as a nondepository lender.

5 (2) Each director, officer and person in control of the applicant is of good
6 character and sound financial standing; the directors and officers of the applicant are
7 competent to perform their functions with respect to the applicant and the directors
8 and officers of the applicant are collectively adequate to manage the business of the
9 applicant as a nondepository lender.

10 (3) The business plan of the applicant will be honestly and efficiently conducted
11 in accordance with the intent and purpose of this subchapter.

12 (4) The proposed activity of the applicant possesses a reasonable prospect for
13 success.

14 (5) The applicant has paid to the division the application fee prescribed by the
15 division, together with the actual cost incurred by the division in investigating the
16 application.

17 **224.935 Expiration of license.** (1) **GENERALLY.** Except as provided under
18 sub. (2), a license issued under this subchapter expires on the June 30 following the
19 date on which the license was issued.

20 (2) **CHANGE IN CONTROL OF LICENSEE.** A change in the identity or number of
21 individuals that are in control of a licensee terminates the licensee's license under
22 this subchapter, unless the licensee applies to the division for and receives a renewal
23 of the license no later than 15 days after the change in control.

24 **224.94 Renewal of license.** Except as provided under s. 224.935 (2), a
25 licensee shall renew its license by submitting to the division a renewal application



1 and the renewal fee as prescribed by the division not less than 60 days before the date
2 on which the license expires. A renewal application is subject to the same criteria
3 as the criteria for approval of an original license.

4 **224.95 Denial of or disciplinary action relating to license. (1)**


5 **MANDATORY DENIAL.** The division shall deny an application for issuance or renewal
6 of a license under this subchapter if any of the following applies:

7 (a) The applicant has failed to provide its federal employer identification
8 number under s. 224.923.

9 (b) The department of revenue has certified under s. 73.0301 that the applicant
10 is liable for delinquent taxes. An applicant whose application for issuance or renewal
11 of a license is denied under this paragraph is entitled to a notice under s. 73.0301 (2)
12 (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is not entitled to a notice or hearing
13 under sub. (4).

14 (c) The applicant is an individual who has failed to comply, after appropriate
15 notice, with a subpoena or warrant issued by the department of workforce
16 development or a county child support agency under s. 59.53 (5) and related to
17 paternity or child support proceedings or who is delinquent in making court-ordered
18 payments of child or family support, maintenance, birth expenses, medical expenses
19 or other expenses related to the support of a child or former spouse, as provided in
20 a memorandum of understanding entered into under s. 49.857. An applicant whose
21 application for issuance or renewal of a license is denied under this paragraph is
22 entitled to a notice and a hearing under s. 49.857 but is not entitled to a notice or
23 hearing under sub. (4).

24 **(2) DISCRETIONARY DENIAL OR DISCIPLINARY ACTION.** The division may deny an
25 application for issuance or renewal of a license under this subchapter or may revoke,



1 suspend or limit a license issued under this subchapter if the division finds that the
2 applicant or nondepository lender did any of the following:

3 (a) Made a material misstatement in an application for issuance or renewal of
4 a license issued under this subchapter or in information provided to the division.

5 (b) Demonstrated a lack of competency to act as a nondepository lender.


6 (c) Violated any provision of this subchapter or any rule of the division.

7 **(3) DISCIPLINARY ORDERS.** The division may issue general or special orders
8 necessary to prevent or correct actions by a nondepository lender that constitute
9 cause under this section for revoking, suspending or limiting a license.

10 **(4) APPEAL OF DENIAL OR DISCIPLINARY ACTION.** A person whose application for
11 issuance or renewal of a license under this subchapter has been denied or whose
12 license has been revoked, suspended or limited under this section may request a
13 hearing under s. 227.42 within 30 days after the date of denial, revocation,
14 suspension or limitation. Failure of a person to request a hearing within the time
15 provided under this subsection is a waiver of the person's right to a hearing on the
16 denial, revocation, suspension or limitation.

17 **224.96 Required loan loss reserve.** Each licensee shall provide for a loan
18 loss reserve sufficient to cover projected loan losses that are not guaranteed by the
19 U.S. government or any agency of the U.S. government.

20 **224.97 Division review of nondepository lender operations.** The
21 division may, at any reasonable time, examine the books of account, records,
22 condition and affairs of a nondepository lender licensed under this subchapter. The
23 division shall examine the books of account, records, condition and affairs of every
24 nondepository lender licensed under this subchapter at least once during every 12
25 month period. The division shall prepare a report of each examination conducted



1 under this section. As part of an examination under this section or as part of the
2 preparation of an examination report, the division may examine under oath any
3 person in control, officer, director, agent, employe or customer of the nondepository
4 lender. The division may require a nondepository lender that is examined under this
5 section to pay to the division a reasonable fee for the costs of conducting the
6 examination.

7 **224.98 Powers of licensee.** A licensee may do any of the following:

8 (1) Participate in the loan guaranty program under 15 USC 636 (a).


9 (2) Participate in any other government program for which the licensee is
10 eligible and which has as its function the provision or facilitation of financing or
11 management assistance to business firms.

12 **224.985 Required records and reports.** (1) RECORD KEEPING. A licensee
13 shall keep books, accounts, and other records in such a form and manner as required
14 by rule of the division. These records shall be kept at a location and shall be
15 preserved for a length of time as prescribed by rule of the division.

16 (2) ANNUAL REPORT. Not more than ninety days after the close of a licensee's
17 fiscal year or upon request of the division, every licensee shall file with the division
18 a report containing all of the following:

19 (a) Financial statements, including the balance sheet, the statement of income
20 or loss, the statement of changes in capital accounts and the statement of changes
21 in financial position of the licensee. The licensee shall ensure that the financial
22 statements have been audited by an independent certified public account and
23 prepared in accordance with generally accepted account principles:

24 (b) Other relevant information requested by the division.



INS 1-1
cont

1

224.99 Rulemaking. The division may promulgate rules for the efficient administration of this subchapter.”.

3

5. Page 1589, line 14: after that line insert:

4

“(1g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV of chapter 224 [precedes 224.90] of the statutes first applies to nondepository small business lenders on the effective date of this subsection.”.

6

7

6. Page 1608, line 19: after that line insert:

8

“(2g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV of chapter 224 [precedes 224.90] of the statutes and the treatment of SECTION 9319 (1g) of this act take effect on the first day of the 6th month beginning after publication.”.

9

10

11

12

~~END~~ (end of insert)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

1893/dm
LRBb1886/rdm
RJM:jjf

jlg + wlj

October 1, 1999

Faith Russell

~~Mr. Montgomery~~

redraft

The attached draft changes the definition of "nondepository lender" as it applies in proposed subch. IV of ch. 224. For purposes of eventually incorporating this change into the conference committee amendment, it was necessary to ~~include~~ the entire underlying budget draft from the senate super amendment. However, the only change is to the definition of "nondepository lender."

as a new amendment

If any of these changes and clarifications to this definition are not consistent with your intent, please let me know.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb1893/1dn
RJM:jlg&wlj:mrc

October 1, 1999

Faith Russell:

The attached draft changes the definition of "nondepository lender" as it applies in proposed subch. IV of ch. 224. For purposes of eventually incorporating this change into the conference committee amendment, it was necessary to redraft the entire underlying budget draft from the senate super amendment as a new amendment. However, the only change is to the definition of "nondepository lender."

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: Robert.Marchant@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1893/1
RJM:jlg&cmh:mrc

LFB:.....Russell – Nondepository lenders

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 739, line 23: after that line insert:

3 “SECTION 1488m. 49.857 (1) (d) 12. of the statutes is amended to read:

4 49.857 (1) (d) 12. A license or certificate of registration issued under s. 138.09,

5 138.12, 217.06, 218.01, 218.02, 218.04, 218.05 or, 224.72, 224.93 or subch. III of ch.

6 551.”.

7 **2.** Page 950, line 21: after that line insert:

8 “SECTION 1800m. 73.0301 (1) (d) 6. of the statutes is amended to read:

9 73.0301 (1) (d) 6. A license or certificate of registration issued by the

10 department of financial institutions, or a division of it, under s. 138.09, 138.12,

1 217.06, 218.01, 218.02, 218.04, 218.05 or, ~~224.72, 224.93~~ or under subch. III of ch.
2 551.”.

3 **3.** Page 1193, line 3: after that line insert:

4 “**SECTION 2343d.** 220.06 (1) of the statutes is amended to read:

5 220.06 (1) In this section, “licensee” means a person licensed by the division
6 under ch. 138, 217 or 218 or under s. 224.92.”.

7 **4.** Page 1193, line 19: after that line insert:

8 “**SECTION 2353d.** Subchapter IV of Chapter 224 [precedes 224.90] of the
9 statutes is created to read:

10 **CHAPTER 224**

11 **SUBCHAPTER IV**

12 **NONDEPOSITORY SMALL**

13 **BUSINESS LENDERS**

14 **224.90 Definitions.** In this subchapter:

15 (1) “Division” means the division of banking.

16 (2) “In control” means any of the following:

17 (a) Owning 10% or more of the outstanding voting stock of a nondepository
18 lender.

19 (b) Possessing, directly or indirectly, alone or in concert with others, the power
20 to control or vote 10% or more of the outstanding voting stock of a nondepository
21 lender or to elect or control the election of a majority of the board of directors of a
22 nondepository lender.

23 (3) “Licensee” means a lender licensed under this subchapter.

1 (4) “Nondepository lender” means a commercial small business lender that
2 participates in the loan guarantee program of the U.S. small business
3 administration described in 13 CFR 120.2 (a) and that provides financial assistance
4 to small businesses that qualify for financial assistance pursuant to 15 USC 636 (a).
5 “Nondepository lender” does not include a bank, credit union, savings and loan
6 association or savings bank.

7 **224.92 License required.** No person may engage in business as a
8 nondepository lender in this state without a license issued under this subchapter.

9 **224.923 License application.** An application for a license under this
10 subchapter shall be made to the division in writing on a form to be prescribed by the
11 division. An application for a license under this subchapter shall state the full name
12 and business address of the applicant and each officer, director and person in control
13 of the applicant. The application also shall contain the applicant’s federal employer
14 identification number. In addition, the application shall contain the applicant’s
15 business plan, 3 years of detailed financial projections and other relevant
16 information, all as prescribed by the division.

17 **224.927 Disclosure of certain application information.** The division may
18 not disclose an applicant’s federal employer identification number received under s.
19 224.923, except as follows:

20 (1) The division may disclose the information to the department of revenue for
21 the sole purpose of requesting certification under s. 73.0301.

22 (2) The division may disclose the information to the department of workforce
23 development in accordance with a memorandum of understanding under s. 49.857.

24 **224.93 License approval.** After a review of information regarding the
25 directors, officers and controlling persons of the applicant for a license, a review of

1 the applicant's business plan, including at least three years of detailed financial
2 projections and other information considered relevant by the division, the division
3 may approve an application for a license if the division determines that all of the
4 following conditions are met:

5 (1) The applicant has at least \$500,000 in capital and the amount of capital is
6 adequate for the applicant to transact business as a nondepository lender.

7 (2) Each director, officer and person in control of the applicant is of good
8 character and sound financial standing; the directors and officers of the applicant are
9 competent to perform their functions with respect to the applicant and the directors
10 and officers of the applicant are collectively adequate to manage the business of the
11 applicant as a nondepository lender.

12 (3) The business plan of the applicant will be honestly and efficiently conducted
13 in accordance with the intent and purpose of this subchapter.

14 (4) The proposed activity of the applicant possesses a reasonable prospect for
15 success.

16 (5) The applicant has paid to the division the application fee prescribed by the
17 division, together with the actual cost incurred by the division in investigating the
18 application.

19 **224.935 Expiration of license.** (1) **GENERALLY.** Except as provided under
20 sub. (2), a license issued under this subchapter expires on the June 30 following the
21 date on which the license was issued.

22 (2) **CHANGE IN CONTROL OF LICENSEE.** A change in the identity or number of
23 individuals that are in control of a licensee terminates the licensee's license under
24 this subchapter, unless the licensee applies to the division for and receives a renewal
25 of the license no later than 15 days after the change in control.

1 **224.94 Renewal of license.** Except as provided under s. 224.935 (2), a
2 licensee shall renew its license by submitting to the division a renewal application
3 and the renewal fee as prescribed by the division not less than 60 days before the date
4 on which the license expires. A renewal application is subject to the same criteria
5 as the criteria for approval of an original license.

6 **224.95 Denial of or disciplinary action relating to license. (1)**
7 **MANDATORY DENIAL.** The division shall deny an application for issuance or renewal
8 of a license under this subchapter if any of the following applies:

9 (a) The applicant has failed to provide its federal employer identification
10 number under s. 224.923.

11 (b) The department of revenue has certified under s. 73.0301 that the applicant
12 is liable for delinquent taxes. An applicant whose application for issuance or renewal
13 of a license is denied under this paragraph is entitled to a notice under s. 73.0301 (2)
14 (b) 1. b. and a hearing under s. 73.0301 (5)(a) but is not entitled to a notice or hearing
15 under sub. (4).

16 (c) The applicant is an individual who has failed to comply, after appropriate
17 notice, with a subpoena or warrant issued by the department of workforce
18 development or a county child support agency under s. 59.53 (5) and related to
19 paternity or child support proceedings or who is delinquent in making court-ordered
20 payments of child or family support, maintenance, birth expenses, medical expenses
21 or other expenses related to the support of a child or former spouse, as provided in
22 a memorandum of understanding entered into under s. 49.857. An applicant whose
23 application for issuance or renewal of a license is denied under this paragraph is
24 entitled to a notice and a hearing under s. 49.857 but is not entitled to a notice or
25 hearing under sub. (4).

1 (2) DISCRETIONARY DENIAL OR DISCIPLINARY ACTION. The division may deny an
2 application for issuance or renewal of a license under this subchapter or may revoke,
3 suspend or limit a license issued under this subchapter if the division finds that the
4 applicant or nondepository lender did any of the following:

5 (a) Made a material misstatement in an application for issuance or renewal of
6 a license issued under this subchapter or in information provided to the division.

7 (b) Demonstrated a lack of competency to act as a nondepository lender.

8 (c) Violated any provision of this subchapter or any rule of the division.

9 (3) DISCIPLINARY ORDERS. The division may issue general or special orders
10 necessary to prevent or correct actions by a nondepository lender that constitute
11 cause under this section for revoking, suspending or limiting a license.

12 (4) APPEAL OF DENIAL OR DISCIPLINARY ACTION. A person whose application for
13 issuance or renewal of a license under this subchapter has been denied or whose
14 license has been revoked, suspended or limited under this section may request a
15 hearing under s. 227.42 within 30 days after the date of denial, revocation,
16 suspension or limitation. Failure of a person to request a hearing within the time
17 provided under this subsection is a waiver of the person's right to a hearing on the
18 denial, revocation, suspension or limitation.

19 **224.96 Required loan loss reserve.** Each licensee shall provide for a loan
20 loss reserve sufficient to cover projected loan losses that are not guaranteed by the
21 U.S. government or any agency of the U.S. government.

22 **224.97 Division review of nondepository lender operations.** The
23 division may, at any reasonable time, examine the books of account, records,
24 condition and affairs of a nondepository lender licensed under this subchapter. The
25 division shall examine the books of account, records, condition and affairs of every

1 nondepository lender licensed under this subchapter at least once during every 12
2 month period. The division shall prepare a report of each examination conducted
3 under this section. As part of an examination under this section or as part of the
4 preparation of an examination report, the division may examine under oath any
5 person in control, officer, director, agent, employe or customer of the nondepository
6 lender. The division may require a nondepository lender that is examined under this
7 section to pay to the division a reasonable fee for the costs of conducting the
8 examination.

9 **224.98 Powers of licensee.** A licensee may do any of the following:

10 (1) Participate in the loan guaranty program under 15 USC 636 (a).

11 (2) Participate in any other government program for which the licensee is
12 eligible and which has as its function the provision or facilitation of financing or
13 management assistance to business firms.

14 **224.985 Required records and reports.** (1) RECORD KEEPING. A licensee
15 shall keep books, accounts, and other records in such a form and manner as required
16 by rule of the division. These records shall be kept at a location and shall be
17 preserved for a length of time as prescribed by rule of the division.

18 (2) ANNUAL REPORT. Not more than ninety days after the close of a licensee's
19 fiscal year or upon request of the division, every licensee shall file with the division
20 a report containing all of the following:

21 (a) Financial statements, including the balance sheet, the statement of income
22 or loss, the statement of changes in capital accounts and the statement of changes
23 in financial position of the licensee. The licensee shall ensure that the financial
24 statements have been audited by an independent certified public account and
25 prepared in accordance with generally accepted account principles.

1 (b) Other relevant information requested by the division.

2 **224.99 Rule making.** The division may promulgate rules for the efficient
3 administration of this subchapter.”

4 **5.** Page 1589, line 14: after that line insert:

5 “(1g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV
6 of chapter 224 [precedes 224.90] of the statutes first applies to nondepository small
7 business lenders on the effective date of this subsection.”

8 **6.** Page 1608, line 19: after that line insert:

9 “(2g) NONDEPOSITORY SMALL BUSINESS LENDERS. The creation of subchapter IV
10 of chapter 224 [precedes 224.90] of the statutes and the treatment of SECTION 9319
11 (1g) of this act take effect on the first day of the 6th month beginning after
12 publication.”

13 (END)