## SENATE BILL 584 (LRB -2939)

An Act to renumber 221.0903 (1) (a); to amend 221.0302 (3), 221.0302 (4) and 221.0901 (8) (a); and to create 221.0901 (2) (jm), 221.0901 (2) (Lm), 221.0901 (2) (mm), 221.0901 (8) (d) and (e), 221.0903 (1) (ag), 221.0904 and 227.01 (13) (zw) of the statutes; relating to: regulation of bank branches, mergers and acquisitions of banks, providing an exemption from rule-making procedures, and granting rule-making authority. (FE)

**2006**

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|---|---|---|---|
| 02-21. | S. | Introduced by Senators **Stepp**, **Brown**, **Grothman**, **Erpenbach** and **Harsdorf**; cosponsored by Representatives **Vos**, **Molepske**, **Albers**, **Fields**, **Musser**, **Krawczyk**, **Jeskewitz**, **Petrowski**, **Kreibich**, **J. Fitzgerald**, **Jensen**, **Hahn**, **Gunderson**, **Moulton**, **F. Lasee** and **Nischke**. | |
| 02-08. | S. | Read first time and referred to committee on Housing and Financial Institutions | 586 |
| 02-14. | S. | Fiscal estimate received. | |
| 02-15. | S. | Public hearing held. | |
| 02-17. | S. | Representative McCormick added as a cosponsor | 603 |
| 02-21. | S. | Executive action taken. | |
| 02-21. | S. | Report passage recommended by committee on Housing and Financial Institutions, Ayes 7, Noes 0 | 607 |
| 02-21. | S. | Available for scheduling. | |
| 02-22. | S. | Rereferred to joint committee on Finance by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e) | 618 |
| 02-22. | S. | Withdrawn from joint committee on Finance and placed on the calendar of 2-23-2006 by committee on Senate Organization, pursuant to Senate Rule 41 (1)(e) | 618 |
| 02-23. | S. | Read a second time | 625 |
| 02-23. | S. | Ordered to a third reading | 625 |
| 02-23. | S. | Rules suspended | 625 |
| 02-23. | S. | Read a third time and **passed**, Ayes 33, Noes 0 | 625 |
| 02-23. | S. | Ordered immediately messaged | 626 |
| 02-23. | A. | Received from Senate | 837 |
| 02-23. | A. | Read first time and referred to committee on Rules | 838 |
| 02-23. | A. | Placed on calendar 2-28-2006 by committee on Rules. | |
| 02-28. | A. | Rules suspended to withdraw from calendar and take up | 868 |
| 02-28. | A. | Read a second time | 868 |
| 02-28. | A. | Ordered to a third reading | 868 |
| 02-28. | A. | Rules suspended | 868 |
| 02-28. | A. | Read a third time and **concurred in** | 868 |
| 02-28. | A. | Ordered immediately messaged | 868 |
| 03-01. | S. | Received from Assembly concurred in. | |

# 2005
# ENROLLED BILL

05en S B- 584

**ADOPTED DOCUMENTS:**

☒ Orig ☐ Engr ___ SubAmdt ___ 05-2939/4

**Amendments to above (if none, write "NONE"):** None

**Corrections – show date (if none, write "NONE"):** None

**Topic** Rel

3/2/06
**Date**

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# 2005 SENATE BILL 584

February 8, 2006 – Introduced by Senators STEPP, BROWN, GROTHMAN, ERPENBACH and HARSDORF, cosponsored by Representatives VOS, MOLEPSKE, ALBERS, FIELDS, MUSSER, KRAWCZYK, JESKEWITZ, PETROWSKI, KREIBICH, J. FITZGERALD, JENSEN, HAHN, GUNDERSON, MOULTON, F. LASEE and NISCHKE. Referred to Committee on Housing and Financial Institutions.

1 AN ACT ***to renumber*** 221.0903 (1) (a); ***to amend*** 221.0302 (3), 221.0302 (4) and
2 221.0901 (8) (a); and ***to create*** 221.0901 (2) (jm), 221.0901 (2) (Lm), 221.0901
3 (2) (mm), 221.0901 (8) (d) and (e), 221.0903 (1) (ag), 221.0904 and 227.01 (13)
4 (zw) of the statutes; **relating to:** regulation of bank branches, mergers and
5 acquisitions of banks, providing an exemption from rule–making procedures,
6 and granting rule–making authority.

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### *Analysis by the Legislative Reference Bureau*

Under current law, an out–of–state bank may operate a branch in this state only if the out–of–state bank has acquired a Wisconsin bank. (A Wisconsin bank is a bank chartered under the laws of Wisconsin. An out–of–state bank is a bank chartered under the laws of another state or a bank chartered under federal law that has its principal place of business in another state.) An out–of–state bank may acquire a Wisconsin bank by merging or consolidating with a Wisconsin bank or holding company or acquiring the shares or assets of a Wisconsin bank or holding company. With certain exceptions, such acquisitions are subject to the prior approval of the Division of Banking (division) in the Department of Financial Institutions.

This bill allows an out–of–state bank to establish a branch in this state without acquiring a Wisconsin bank, but only if all of the following conditions are satisfied: 1) the laws of the home state of the out–of–state bank allow the out–of–state bank to establish a branch in this state; 2) the division determines that the laws of the

home state are reciprocal to Wisconsin law with respect to establishing branches; and 3) the out–of–state bank gives prior notice to the division as specified in rules promulgated by the division.

Regarding the second condition, the bill prohibits the division from determining that a home state's laws are reciprocal unless the division finds that the home state's laws allow a Wisconsin bank to establish a branch in that state under terms and conditions that are substantially similar to Wisconsin law. In making this determination, the division must consider, at a minimum, whether the laws of the home state discriminate against Wisconsin banks or impose regulatory burdens that are substantially more restrictive than Wisconsin law. The bill requires the division to periodically publish a list of states that the division determines are reciprocal. If the division has not determined whether the laws of an out–of–state bank's home state are reciprocal, the bill allows the out–of–state bank to request that the division make such a determination.

If an out–of–state bank establishes a branch in this state as provided under the bill, the bill allows the out–of–state bank to establish additional branches in this state to the same extent as current law allows a Wisconsin bank to establish branches. Also, the out–of–state bank is not required to provide notice to the division before establishing any additional branches.

The bill also changes the requirements under current law that apply to an out–of–state bank's acquisition of a Wisconsin bank. Under current law, with certain exceptions, an out–of–state bank may acquire a Wisconsin bank only if the Wisconsin bank has been in existence and in continuous operation for at least five years.

The bill creates a new exception to this requirement. Under the bill, an out–of–state bank may acquire a Wisconsin bank that has been in existence and in continuous operation for less than five years if all of the following conditions are satisfied: 1) the laws of the home state of the out–of–state bank allow a Wisconsin bank to acquire a bank in the home state; and 2) the division determines that the laws of the home state are reciprocal to Wisconsin law with respect to mergers and acquisitions. The bill also allows a holding company of an out–of–state bank to acquire a Wisconsin bank or holding company of a Wisconsin bank under the same conditions.

Regarding the second condition, the bill prohibits the division from determining that a home state's laws are reciprocal unless the division finds that the home state's laws allows a Wisconsin bank to merge or acquire a bank in that state under terms and conditions that are substantially similar to Wisconsin law. (Under the bill, the home state of a holding company of an out–of–state bank is the state in which the total deposits of all banking subsidiaries of the holding company are the largest.) In making the determination regarding reciprocity, the division must consider, at a minimum, whether the laws of the home state discriminate against Wisconsin banks or impose regulatory burdens that are substantially more restrictive than Wisconsin law. The bill requires the division to periodically publish a list of states that the division determines are reciprocal. If the division has not determined whether the laws of an out–of–state bank's home state are reciprocal, the

bill allows the out–of–state bank to request that the division make such a determination.

The bill makes other changes, including the following:

1. The bill allows the division to make the determinations described above regarding reciprocity without promulgating rules.

2. The bill allows a Wisconsin bank to transfer an existing branch to a bank located in another state only if the division has determined, as described above, that the other state's laws are reciprocal with respect to establishing branches.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 221.0302 (3) of the statutes is amended to read:

221.0302 **(3)** TRANSFER. A bank may transfer a branch bank to any other bank located in this state with the approval of the division. <u>A bank may transfer a branch bank to a bank located in another state only if the division has determined under s. 221.0904 (3) (b) that the state's laws are reciprocal regarding establishing branches.</u>

**SECTION 2.** 221.0302 (4) of the statutes is amended to read:

221.0302 **(4)** OUT–OF–STATE BRANCHES. A bank may establish a branch bank in another state with the approval of the division ~~and the appropriate bank regulator in the state where the branch is to be established~~.

**SECTION 3.** 221.0901 (2) (jm) of the statutes is created to read:

221.0901 **(2)** (jm) "Home state" means, with respect to an out–of–state bank, the state in which the bank is chartered and, with respect to an out–of–state bank holding company, the state in which the total deposits of all banking subsidiaries of the company are the largest.

**SECTION 4.** 221.0901 (2) (Lm) of the statutes is created to read:

221.0901 **(2)** (Lm) "Out–of–state bank" means a bank that is not an in–state bank.

1 **SECTION 5.** 221.0901 (2) (mm) of the statutes is created to read:

2 221.0901 **(2)** (mm) "Out–of–state banking organization" means an
3 out–of–state bank or out–of–state bank holding company.

4 **SECTION 6.** 221.0901 (8) (a) of the statutes is amended to read:

5 221.0901 **(8)** (a) Except as provided in pars. (b) ~~and~~, (c), and (d), the division
6 may not approve an application under sub. (3) (a), other than an application by an
7 in–state bank holding company or in–state bank, unless the in–state bank to be
8 acquired, or all in–state bank subsidiaries of the in–state bank holding company to
9 be acquired, have as of the proposed date of acquisition been in existence and in
10 continuous operation for at least 5 years.

11 **SECTION 7.** 221.0901 (8) (d) and (e) of the statutes are created to read:

12 221.0901 **(8)** (d) Paragraph (a) does not apply to the merger or acquisition by
13 an out–of–state banking organization of all or substantially all of the assets of an
14 in–state bank, or of an in–state bank holding company that owns one or more
15 in–state banks, if all of the following apply:

16 1. The laws of the home state of the out–of–state banking organization allow
17 an in–state bank or in–state bank holding company to acquire an out–of–state
18 banking organization in the home state.

19 2. The division determines under par. (e) that the laws of the home state of the
20 out–of–state banking organization are reciprocal with respect to mergers and
21 acquisitions.

22 (e) 1. The division shall periodically publish a list of states that the division has
23 found have laws that are reciprocal for purposes of par. (d) 2. An out–of–state
24 banking organization with a home state for which the division has made no such

determination may request, on a form prescribed by the division, that the division make a determination regarding the home state.

2. The division shall make determinations under subd. 1. in writing. The division may not determine that the laws of a state are reciprocal under subd. 1. unless the division finds that the laws of that state allow an in–state bank or in–state bank holding company to merge with or acquire an out–of–state banking organization under terms and conditions that are substantially similar to the terms and conditions under this section. In making such a finding, the division shall consider, at a minimum, whether the laws of that state discriminate in any way against an in–state bank or in–state bank holding company and whether the laws of that state impose regulatory burdens that are substantially more restrictive than the requirements under this section that apply to an out–of–state banking organization seeking to merge or acquire an in–state bank or in–state bank holding company.

**SECTION 8.** 221.0903 (1) (a) of the statutes is renumbered 221.0903 (1) (ar).

**SECTION 9.** 221.0903 (1) (ag) of the statutes is created to read:

221.0903 **(1)** (ag) "Bank" has the meaning given in 12 USC 1841 (c).

**SECTION 10.** 221.0904 of the statutes is created to read:

**221.0904 Out–of–state banks establishing branches. (1)** DEFINITIONS. In this section:

(a) "Home state" has the meaning given in s. 221.0903 (1) (b).

(b) "Out–of–state bank" has the meaning given in s. 221.0903 (1) (d).

(c) "State bank" has the meaning given in s. 221.0903 (1) (e).

**(2)** IN GENERAL. No out–of–state bank may establish a branch in this state unless all of the following apply:

1 (a) The laws of the home state of the out–of–state bank allow the out–of–state
2 bank to establish a branch in this state.
3 (b) The division determines under sub. (3) (b) that the laws of the home state
4 of the out–of–state bank are reciprocal with respect to a state bank establishing a
5 branch in that state.
6 (c) The out–of–state bank complies with the notice requirements under sub. (4).
7 **(3)** RECIPROCITY. (a) The division shall periodically publish a list of states that
8 the division has found have laws that are reciprocal for purposes of sub. (2) (b). An
9 out–of–state bank with a home state for which the division has made no such
10 determination may request, on a form prescribed by the division, that the division
11 make a determination regarding the home state.
12 (b) The division shall make determinations under par. (a) in writing. The
13 division may not determine that the laws of a state are reciprocal under par. (a)
14 unless the division finds that the laws of that state allow a state bank to establish
15 a branch in the state under terms and conditions that are substantially similar to the
16 terms and conditions under this section. In making such a finding, the division shall
17 consider, at a minimum, whether the laws of that state discriminate in any way
18 against a state bank and whether the laws of that state impose regulatory burdens
19 that are substantially more restrictive than the requirements under this section that
20 apply to an out–of–state bank seeking to establish a branch in this state.
21 **(4)** NOTICE. (a) Except as provided in par. (b), an out–of–state bank may not
22 establish a branch in this state without providing prior notice to the division. The
23 division shall promulgate rules specifying the requirements and procedures for
24 making such notice. The rules shall allow an out–of–state bank to provide notice by
25 submitting to the division a copy of any notice or application regarding the proposed

1 branch that the out–of–state bank submits to the regulatory authority of its home
2 state or the appropriate federal regulatory authority.

3 (b) If an out–of–state bank establishes a branch in this state pursuant to this
4 section, the out–of–state bank is not required to provide notice for any subsequent
5 branches established in this state.

6 **(5)** ADDITIONAL BRANCHING AUTHORITY. An out–of–state bank that establishes
7 a branch in this state pursuant to this section may establish additional branches in
8 this state to the same extent as a state bank.

9 **SECTION 11.** 227.01 (13) (zw) of the statutes is created to read:

10 227.01 **(13)** (zw) Determines whether a state law is reciprocal under s.
11 221.0901 (8) (e) 2. or 221.0904 (3) (b).

12 **(END)**