

## 2013 DRAFTING REQUEST

### Bill

Received: **2/13/2013** Received By: **agary**  
Wanted: **Soon** Same as LRB:  
For: **David Craig (608) 266-3363** By/Representing: **Nate**  
May Contact: Drafter: **agary**  
Subject: **Fin. Inst. - banking inst.** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Rep.Craig@legis.wisconsin.gov**  
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

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### Pre Topic:

No specific pre topic given

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### Topic:

Bank service corporations

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### Instructions:

See attached

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### 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>
/?	agary 2/15/2013			_____			
/P1	agary 2/22/2013	kfollett 2/19/2013	rschluet 2/19/2013	_____	lparisi 2/19/2013		
/P2	agary 2/27/2013	kfollett 2/25/2013	rschluet 2/25/2013	_____	sbasford 2/25/2013		State
/P3	agary	kfollett	jmurphy	_____	lparisi		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	2/28/2013	2/27/2013	2/27/2013	_____	2/27/2013		
		kfollett 2/28/2013	jmurphy 2/28/2013	_____	srose 2/28/2013	srose 2/28/2013	State

FE Sent For:

→ 02-28-2013  
(1/1)

see attached

<END>

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	2/28/2013	2/27/2013	2/27/2013	_____	2/27/2013		
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/P3		kfollett	jmurphy	_____	lparisi		State
		11/5/11 2/28	gm 2/28	self			

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		2/27/2013	2/27/2013	_____	2/27/2013		

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1P3/CF  
2/27  
jm  
2/27  
jm RS  
2/27

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**Instructions:**

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/?	agary						
	2/15/2013						

/P1		kfollett	rschluet		lparisi		
		2/19/2013	2/19/2013		2/19/2013		

FE Sent For:

1/21/13  
2/25  
2/25/13  
JA  
<END>

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**Pre Topic:**

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**Topic:**

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**Instructions:**

See attached

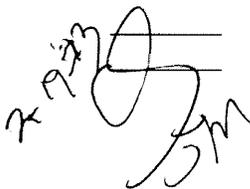
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/? agary

1/16/13  
2/1/13



FE Sent For:

<END>

**Gary, Aaron**

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**From:** Schacht, Nathan  
**Sent:** Wednesday, February 13, 2013 4:32 PM  
**To:** Gary, Aaron  
**Subject:** RE: template language for bank service corporations

Please make sure this is just a p-draft as well.

Thank you.

Nathan Schacht  
Office of State Representative David Craig

---

**From:** Schacht, Nathan  
**Sent:** Wednesday, February 13, 2013 3:07 PM  
**To:** Gary, Aaron  
**Subject:** template language for bank service corporations

Rep Craig considers this high priority but not urgent. Thank you for the help.

SUBCHAPTER XI  
BANK SERVICE CORPORATIONS

**221.1101 Bank service corporations.**

**(1) Definitions.** In this subchapter:

- (a)** "Bank service corporation" means a corporation organized to perform bank services for 2 or more banks, each of which owns part of the capital stock of the corporation.
- (b)** "Bank services" means check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, ~~or any other~~ clerical, bookkeeping, accounting, statistical or other similar functions performed for a bank or any other services that a bank is permitted to provide directly to or for the bank.
- (c)** "Invest" includes any advance of funds to a bank service corporation, whether by purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of the payment.

**(2) Investments in bank service corporations.**

- (a)** Two or more banks may invest not more than 10% of the capital of each of the banks in a bank service corporation.
- (b)** If stock in a bank service corporation is held by 2 banks, and one of the banks ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves the other as the sole stock holding bank, the corporation may nevertheless continue to function as a bank service corporation and the other bank may continue to hold stock in it.

~~**(3) Services to competitive banks.**~~

- ~~**(a)** Except as provided in par. (b), if a bank, referred to in this subsection as the "applying bank", applies for a type of bank service for itself from a bank service corporation that supplies the same type of bank service to another bank, and the applying bank is competitive with a bank that holds stock in the bank service corporation, the bank service corporation must offer to supply the service by doing at least one of the following, at the option of the applying bank:
  - ~~1. Issuing stock to the applying bank and furnishing the bank service to it on the same basis as to the other banks holding stock in the bank service corporation.~~
  - ~~2. Furnishing the bank service to the applying bank at a rate no higher than necessary to fairly reflect the cost of the service, including the reasonable cost of the capital provided to the bank service corporation by its shareholders.~~~~

~~(b) The bank service corporation need not offer to supply the bank service to the applying bank under par. (a) if the service at competitive overall costs are available to the applying bank from another source, or if the furnishing of the bank service sought by the applying bank would be beyond the practical capacity of the bank service corporation. In any action or proceeding to enforce the duty imposed by this subsection, or for damages for the breach of this section, the bank service corporation has the burden of showing the applicability of this paragraph.~~

**(43)** Permitted activities of bank service corporations. A bank service corporation may not engage in any activity other than the performance of bank services for banks.

**(54)** Contracting for bank services. A bank may cause to be performed, by contract or otherwise, any bank service for itself, whether on or off its premises, if the bank and the party performing the service provide the division with assurances, satisfactory to the division, that the performance of the service will be subject to regulation and examination by the division to the same extent as if the service was being performed by the bank itself on its own premises.

Nathan Schacht  
Office of State Representative David Craig  
83<sup>rd</sup> Assembly District  
P: (608) 266-3363  
E: [nathan.schacht@legis.wi.gov](mailto:nathan.schacht@legis.wi.gov)

*NOTE: Emails sent to and from this account may be subject to open records requests and should not be considered private.*



in  
2/15



wanted  
by 2/22

ef

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Gen

1 AN ACT ...; relating to: bank service corporations.

***Analysis by the Legislative Reference Bureau***

Under current law, two or more banks may organize a corporation to perform bank services (bank service corporation) by investing not more than 10 percent of each bank's capital in the bank service corporation and holding the capital stock of the bank service corporation. A bank service corporation may perform bank services for banks, but may not engage in any other activity. "Bank services" are defined to mean check and deposit sorting and posting; computation and posting of interest and other credits and charges; preparation and mailing of checks, statements, notices, and similar items; or any other clerical, bookkeeping, accounting, statistical, or other similar functions performed for a bank. In addition to using a bank service corporation, a bank may contract to have performed for the bank any bank service if both the bank and the contractor assure the Department of Financial Institutions (DFI) that the performance of the service will be subject to regulation and examination by DFI to the same extent as if the service were performed by the bank.

Also under current law, a bank that has not organized a bank service corporation (non-participant bank) and that is competitive with banks that have organized a bank service corporation may obtain bank services from the bank service corporation by, at the non-participant bank's option, either: 1) acquiring an ownership interest in the bank service corporation, or 2) obtaining the bank service at a rate no higher than necessary to fairly reflect the cost of the service, including the cost of capital contributions of the bank service corporation owners. However, the bank service corporation may deny a bank service to the non-participant bank if the bank service is available from another source at a competitive cost or if

X providing the bank service to the non-participant bank would be beyond the practical capacity of the bank service corporation.

This bill expands the definition of "bank services" to include any service that a bank is permitted to provide directly to or for itself. The bill also repeals the requirement that a bank service corporation provide bank services to non-participant banks.

---

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

1 SECTION 1. 221.1101 (1) (b) of the statutes is amended to read:

2 221.1101 (1) (b) "Bank services" means check and deposit sorting and posting,  
3 computation and posting of interest and other credits and charges, preparation and  
4 mailing of checks, statements, notices and similar items, ~~or any other clerical,~~  
5 bookkeeping, accounting, statistical, or other similar functions performed for a bank,  
6 or any other service that a bank is permitted to provide directly to or for the bank.

History: 1995 a. 336.

7 SECTION 2. 221.1101 (3) of the statutes is repealed.

8 (END)

**Gary, Aaron**

---

**From:** Schacht, Nathan  
**Sent:** Wednesday, February 20, 2013 7:20 PM  
**To:** Gary, Aaron  
**Subject:** FW: Draft review: LRB -1635/P1 Topic: Bank service corporations  
**Attachments:** 13-1635/P1.pdf

Aaron,

Can you make these changes and send back another p-draft?

**(b)** "Bank services" means check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, ~~or any~~ other clerical, bookkeeping, accounting, statistical, auditing, compliance, loan documentation services, administrative services and technology or other similar functions performed for a bank. The division may expand the list of Bank services to include services that are related to the routine daily operations of banks. A bank may file a written request with the division to exercise its authority under this paragraph and may include, along with the request, a description of any proposed Bank service and an explanation of how that service is related to the routine daily operations of banks. Within 60 days after receiving a request under this paragraph the division shall approve or disapprove the request.

Thank you for the help,

Nathan Schacht  
Office of State Representative David Craig

---

**From:** Rep.Craig  
**Sent:** Tuesday, February 19, 2013 1:01 PM  
**To:** Schacht, Nathan  
**Subject:** FW: Draft review: LRB -1635/P1 Topic: Bank service corporations

---

**From:** LRB.Legal  
**Sent:** Tuesday, February 19, 2013 12:55 PM  
**To:** Rep.Craig  
**Subject:** Draft review: LRB -1635/P1 Topic: Bank service corporations

*file w/ Nate 2/21*

**Following is the PDF version of draft LRB -1635/P1.**

*w/in 60 days,  
division would  
initiate the  
release  
process.*

## Gary, Aaron

---

**From:** Schacht, Nathan  
**Sent:** Thursday, February 21, 2013 9:07 AM  
**To:** Gary, Aaron  
**Subject:** RE: Draft review: LRB -1635/P1 Topic: Bank service corporations

Keep the same rules process. Thanks.

Nathan Schacht  
Office of State Representative David Craig

---

**From:** Gary, Aaron  
**Sent:** Thursday, February 21, 2013 9:03 AM  
**To:** Schacht, Nathan  
**Subject:** RE: Draft review: LRB -1635/P1 Topic: Bank service corporations

Probably 18 months or so

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**From:** Schacht, Nathan  
**Sent:** Thursday, February 21, 2013 8:58 AM  
**To:** Gary, Aaron  
**Subject:** RE: Draft review: LRB -1635/P1 Topic: Bank service corporations

How long does it take to make a rule like this? From writing to getting it through JCRAR? Rough estimate is fine.

Nathan Schacht  
Office of State Representative David Craig

---

**From:** Gary, Aaron  
**Sent:** Thursday, February 21, 2013 8:55 AM  
**To:** Schacht, Nathan  
**Subject:** RE: Draft review: LRB -1635/P1 Topic: Bank service corporations

The other thing I should mention is that, under ch. 227, something like this must be done by rule. Without any additional language in this draft, the division would have to promulgate a rule to modify the statutory definition, and after 2011 Act 21 the rulemaking process has become much longer and more demanding. However, I could do one of two things if you want to avoid this: 1) create an exception in ch. 227 so that the division's action in modifying the definition is exempt from rulemaking, OR 2) continue to require rulemaking but create exceptions to make the rulemaking process faster and easier. Let me know if you want to pursue either of these options. Thanks. Aaron

---

**From:** Schacht, Nathan  
**Sent:** Thursday, February 21, 2013 8:38 AM  
**To:** Gary, Aaron  
**Subject:** RE: Draft review: LRB -1635/P1 Topic: Bank service corporations

Good point. Thanks.

Nathan Schacht  
Office of State Representative David Craig

---

**From:** Gary, Aaron  
**Sent:** Thursday, February 21, 2013 8:37 AM  
**To:** Schacht, Nathan  
**Subject:** RE: Draft review: LRB -1635/P1 Topic: Bank service corporations

Hi Nate,

I can add the substance of these changes, but I'll have to find a different place for some of the language, as I cannot add non-definitional material into a definition.

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** Schacht, Nathan  
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**To:** Gary, Aaron  
**Subject:** FW: Draft review: LRB -1635/P1 Topic: Bank service corporations

Aaron,

Can you make these changes and send back another p-draft?

(b) "Bank services" means check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, ~~or any~~ other clerical, bookkeeping, accounting, statistical, auditing, compliance, loan documentation services, administrative services and technology or other similar functions performed for a bank. The division may expand the list of Bank services to include services that are related to the routine daily operations of banks. A bank may file a written request with the division to exercise its authority under this paragraph and may include, along with the request, a description of any proposed Bank service and an explanation of how that service is related to the routine daily operations of banks. Within 60 days after receiving a request under this paragraph the division shall approve or disapprove the request.

Thank you for the help,

Nathan Schacht  
Office of State Representative David Craig

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**Following is the PDF version of draft LRB -1635/P1.**



in  
2/22



LRB-1635/PZ  
ARG:kjf:rs

wanted  
by 3/11

AMR

D-Note

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

and granting  
rule-making authority

Regen

Division of Banking in the

- 1 AN ACT to repeal 221.1101 (3); and to amend 221.1101 (1) (b) of the statutes;
- 2 relating to: bank service corporations.

**Analysis by the Legislative Reference Bureau**

Under current law, two or more banks may organize a corporation to perform bank services (bank service corporation) by investing not more than 10 percent of each bank's capital in the bank service corporation and holding the capital stock of the bank service corporation. A bank service corporation may perform bank services for banks, but may not engage in any other activity. "Bank services" are defined to mean check and deposit sorting and posting; computation and posting of interest and other credits and charges; preparation and mailing of checks, statements, notices, and similar items; or any other clerical, bookkeeping, accounting, statistical, or other similar functions performed for a bank. In addition to using a bank service corporation, a bank may contract to have performed for the bank any bank service if both the bank and the contractor assure the Department of Financial Institutions (DFI) that the performance of the service will be subject to regulation and examination by DFI to the same extent as if the service were performed by the bank.

(division)

the division

Also under current law, a bank that has not organized a bank service corporation (nonparticipant bank) and that is competitive with banks that have organized a bank service corporation may obtain bank services from the bank service corporation by, at the nonparticipant bank's option, either: 1) acquiring an ownership interest in the bank service corporation, or 2) obtaining the bank service at a rate no higher than necessary to fairly reflect the cost of the service, including the cost of capital contributions of the bank service corporation owners. However,

the bank service corporation may deny a bank service to the nonparticipant bank if the bank service is available from another source at a competitive cost or if providing the bank service to the nonparticipant bank would be beyond the practical capacity of the bank service corporation.

insert  
ANAL

This bill expands the definition of "bank services" to ~~include any service that a bank is permitted to provide directly to or for itself.~~ The bill also repeals the requirement that a bank service corporation provide bank services to nonparticipant banks.

FE-S →

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

1 SECTION 1. 221.1101 (1) (b) of the statutes is amended to read:

2 221.1101 (1) (b) "Bank services" means check and deposit sorting and posting,  
3 computation and posting of interest and other credits and charges, preparation and  
4 mailing of checks, statements, notices and similar items, ~~or any other clerical,~~  
5 bookkeeping, accounting, statistical, or other similar functions performed for a bank,  
6 ~~or any other service that a bank is permitted to provide directly to or for the bank.~~

insert  
2-5  
5  
6

7 SECTION 2. 221.1101 (3) of the statutes is repealed.

insert  
2-6  
7  
8

(END)

insert  
2-8

D-Note

1 **INSERT ANAL:**

(no P) specifically include auditing, compliance, loan documentation, administrative, and technology functions performed for a bank, as well as any other service established by rule by the division. The bill allows the division to, by rule, establish additional services as "bank services" if the services are related to the routine daily operations of banks. If a bank files a written request with the division to establish additional services as "bank services," the division must approve or disapprove the request within 60 days after receiving the request. If the division approves the request, the division must initiate rulemaking within this 60-day period by preparing a rules scope statement and submitting it to the governor.

2 of the scope of the rule

3 **INSERT 2-5:**

④ (no P) auditing, compliance, loan documentation, administrative, technology,

5

6 **INSERT 2-6:**

7 (no P) established by rule under sub. (6)

8

9 **INSERT 2-8:**

10 **SECTION 1.** 221.1101 (6) of the statutes is created to read:

11 221.1101 (6) ADDITIONAL BANK SERVICES. (a) The division may, by rule, establish  
12 additional services as bank services under sub. (1) (b) if the services are related to  
13 the routine daily operations of banks.

14 (b) A bank may file a written request with the division to exercise its authority  
15 under par. (a) and may include, along with the request, a description of any proposed  
16 bank service and an explanation of how that service is related to the routine daily  
17 operations of banks. Within 60 days after receiving a request under this paragraph,  
18 the division shall approve or disapprove the request.

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(c) If the division approves a request under par. (b), the division shall, within the same 60-day period specified in par. (b), also prepare a statement of the scope of the rule under par. (a), as provided in s. 227.135 (1), and present the statement as required under s. 227.135 (2).

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

LRB-1635/P2dn

ARG: *kjf*

*Date*

ATTN: Nathan Schacht

Please review the attached draft carefully to ensure that it is consistent with your intent.

*f* As discussed, expanding the statutory definition of "bank services" in s. 221.1101 (1) (b) would be the type of policy or procedure that requires DFI to undertake rulemaking unless an exception to rulemaking is created by statute. See ss. 227.01 (13) and 227.10 (1), stats. This draft recognizes that the change must be made by rule. The draft also requires DFI to initiate the rulemaking process within 60 days of receiving a request. This may be insufficient time for DFI to prepare a scope statement for the proposed rule and submit it to the governor. *v*

In the attached draft, I made changes to the proposed language in s. 221.1101 (1) (b) to make the language grammatically correct. The term "accounting, statistical," etc. modifies the word "functions," so adding, for example, "loan documentation *services*" in this list would not be grammatically correct. Please advise if the changes in s. 221.1101 (1) (b) do not meet your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "1" draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: aaron.gary@legis.state.wi.us

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

LRB-1635/P2dn  
ARG:kjf.rs

February 25, 2013

ATTN: Nathan Schacht

Please review the attached draft carefully to ensure that it is consistent with your intent.

As discussed, expanding the statutory definition of “bank services” in s. 221.1101 (1) (b) would be the type of policy or procedure that requires DFI to undertake rule-making unless an exception to rule-making is created by statute. See ss. 227.01 (13) and 227.10 (1), stats. This draft recognizes that the change must be made by rule. The draft also requires DFI to initiate the rule-making process within 60 days of receiving a request. This may be insufficient time for DFI to prepare a scope statement for the proposed rule and submit it to the governor.

In the attached draft, I made changes to the proposed language in s. 221.1101 (1) (b) to make the language grammatically correct. The term “accounting, statistical,” etc. modifies the word “functions,” so adding, for example, “loan documentation *services*” in this list would not be grammatically correct. Please advise if the changes in s. 221.1101 (1) (b) do not meet your intent.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible “/1” draft.

Aaron R. Gary  
Legislative Attorney  
Phone: (608) 261-6926  
E-mail: [aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

## Gary, Aaron

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**From:** Gary, Aaron  
**Sent:** Tuesday, February 26, 2013 3:24 PM  
**To:** Schacht, Nathan  
**Subject:** Bank service corps

Nate,  
The provision you mentioned, s. 186.11 (4) (bd), was created in 2003 Act 63, a major piece of legislation relating to financial institutions. There was no rule-making exception in the draft. I believe there should have been.

If you would like to take the rule-making parts out of LRB-1635/P2 so that it more closely resembles s. 186.11 (4) (bd), I would recommend adding a new provision in s. 227.01 (13) along the following lines:

Creating s. 227.01 (13) (yy) - "(yy) Establishes additional services as bank services as provided in s. 221.1101 (6)."

This new provision would make it clear that DFI's expansion of the list of additional bank services is not subject to the rulemaking process. Otherwise, sections 227.01 (13) and 227.10 (1) suggest that it is.

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

*h/c w/ Nate 2/27*

- take out rulemaking*
- add 227 provision*
- add similar provision for credit unions too*
- needs ASAP*



in  
2/27



LRB-1635/03 P3  
ARG:kjfrs

RMA

wanted rfr  
by end of day

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

insert 1-2

1 AN ACT *to repeal* 221.1101 (3); *to amend* 221.1101 (1) (b); and *to create*  
2 221.1101 (6) of the statutes; **relating to:** bank service corporations and  
3 granting rule-making authority.

***Analysis by the Legislative Reference Bureau***

Under current law, two or more banks may organize a corporation to perform bank services (bank service corporation) by investing not more than 10 percent of each bank's capital in the bank service corporation and holding the capital stock of the bank service corporation. A bank service corporation may perform bank services for banks, but may not engage in any other activity. "Bank services" are defined to mean check and deposit sorting and posting; computation and posting of interest and other credits and charges; preparation and mailing of checks, statements, notices, and similar items; or any other clerical, bookkeeping, accounting, statistical, or other similar functions performed for a bank. In addition to using a bank service corporation, a bank may contract to have performed for the bank any bank service if both the bank and the contractor assure the Division of Banking in the Department of Financial Institutions (division) that the performance of the service will be subject to regulation and examination by the division to the same extent as if the service were performed by the bank.

Also under current law, a bank that has not organized a bank service corporation (nonparticipant bank) and that is competitive with banks that have organized a bank service corporation may obtain bank services from the bank service corporation by, at the nonparticipant bank's option, either: 1) acquiring an ownership interest in the bank service corporation, or 2) obtaining the bank service

(DFI) \*  
\*

at a rate no higher than necessary to fairly reflect the cost of the service, including the cost of capital contributions of the bank service corporation owners. However, the bank service corporation may deny a bank service to the nonparticipant bank if the bank service is available from another source at a competitive cost or if providing the bank service to the nonparticipant bank would be beyond the practical capacity of the bank service corporation.

This bill expands the definition of "bank services" to specifically include auditing, compliance, loan documentation, administrative, and technology functions performed for a bank, as well as any other service established ~~by rule~~ by the division. The bill allows the division to, by rule, establish additional services as "bank services" if the services are related to the routine daily operations of banks. If a bank files a written request with the division to establish additional services as "bank services," the division must approve or disapprove the request within 60 days after receiving the request. If the division approves the request, the division must initiate rule-making within this 60-day period by preparing a statement of the scope of the rule and submitting it to the governor.

insert  
ANAL-A

The bill also repeals the requirement that a bank service corporation provide bank services to nonparticipant banks.

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

insert  
ANAL-B

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

1 SECTION 1. 221.1101 (1) (b) of the statutes is amended to read:

2 221.1101 (1) (b) "Bank services" means check and deposit sorting and posting,  
3 computation and posting of interest and other credits and charges, preparation and  
4 mailing of checks, statements, notices and similar items, ~~or any other clerical,~~  
5 bookkeeping, accounting, statistical, auditing, compliance, loan documentation,  
6 administrative, technology, or other similar functions performed for a bank, or any  
7 other service established by rule under sub. (6).

8 SECTION 2. 221.1101 (3) of the statutes is repealed.

9 SECTION 3. 221.1101 (6) of the statutes is created to read:

1

221.1101 (6) ADDITIONAL BANK SERVICES. (a) The division may by rule establish additional services as bank services under sub. (1) (b) if the services are related to the routine daily operations of banks.

4

(b) A bank may file a written request with the division to exercise its authority under par. (a) and may include, along with the request, a description of any proposed bank service and an explanation of how that service is related to the routine daily operations of banks. Within 60 days after receiving a request under this paragraph, the division shall approve or disapprove the request.

9

~~(c) If the division approves a request under par. (b), the division shall, within the same 60-day period specified in par. (b), also prepare a statement of the scope of the rule under par. (a), as provided in s. 227.135 (1), and present the statement as required under s. 227.135 (2).~~

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11

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(END)

Insert  
3-13

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1635/P3ins  
ARG:.....

1

2

**INSERT ANAL-A:**

X (no fl) The division is not required to engage in rulemaking to establish additional services as "bank services." -

3

4

**INSERT ANAL-B:**

X Current law allows credit unions to invest in credit union service organizations (CUSOs), which may provide specified services related to the routine daily operations of credit unions. The Office of Credit Unions (OCU) in DFI may expand this list of permissible services provided by CUSOs. This bill specifies that OCU is not required to engage in rulemaking to expand this list of permissible services.

5

**INSERT 1-2:**

6

(no fl) credit union service organizations

7

**INSERT 3-13:**

8

SECTION 1. 227.01 (13) (yw) and (yy) of the statutes are created to read: ✓

9

227.01 (13) (yw) Establishes additional services as bank services as provided

10

in s. 221.1101 (6). ✓

11

(yy) Expands the list of services that a credit union service organization may

12

provide, as provided in s. 186.11 (4) (bd). ✓

13

14

15

**Gary, Aaron**

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**From:** Schacht, Nathan  
**Sent:** Wednesday, February 27, 2013 5:16 PM  
**To:** Gary, Aaron  
**Subject:** LRB -1635 Topic: Bank service corporations

**Importance:** High

Aaron,

Please turn LRB-1635 (relating to bank service corporations and credit union service organizations) into an introducible draft.

Thank you,

Nathan Schacht  
Office of State Representative David Craig



TODAY



in 2/28

KMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

No changes —  
edited yesterday

Regen

1 AN ~~ACT~~ *to repeal* 221.1101 (3); *to amend* 221.1101 (1) (b); and *to create*  
2 221.1101 (6) and 227.01 (13) (yw) and (yy) of the statutes; **relating to:** bank  
3 service corporations and credit union service organizations.

***Analysis by the Legislative Reference Bureau***

Under current law, two or more banks may organize a corporation to perform bank services (bank service corporation) by investing not more than 10 percent of each bank's capital in the bank service corporation and holding the capital stock of the bank service corporation. A bank service corporation may perform bank services for banks, but may not engage in any other activity. "Bank services" are defined to mean check and deposit sorting and posting; computation and posting of interest and other credits and charges; preparation and mailing of checks, statements, notices, and similar items; or any other clerical, bookkeeping, accounting, statistical, or other similar functions performed for a bank. In addition to using a bank service corporation, a bank may contract to have performed for the bank any bank service if both the bank and the contractor assure the Division of Banking (division) in the Department of Financial Institutions (DFI) that the performance of the service will be subject to regulation and examination by the division to the same extent as if the service were performed by the bank.

Also under current law, a bank that has not organized a bank service corporation (nonparticipant bank) and that is competitive with banks that have organized a bank service corporation may obtain bank services from the bank service corporation by, at the nonparticipant bank's option, either: 1) acquiring an ownership interest in the bank service corporation, or 2) obtaining the bank service

at a rate no higher than necessary to fairly reflect the cost of the service, including the cost of capital contributions of the bank service corporation owners. However, the bank service corporation may deny a bank service to the nonparticipant bank if the bank service is available from another source at a competitive cost or if providing the bank service to the nonparticipant bank would be beyond the practical capacity of the bank service corporation.

This bill expands the definition of "bank services" to specifically include auditing, compliance, loan documentation, administrative, and technology functions performed for a bank, as well as any other service established by the division. The bill allows the division to establish additional services as "bank services" if the services are related to the routine daily operations of banks. The division is not required to engage in rule-making to establish additional services as "bank services." If a bank files a written request with the division to establish additional services as "bank services," the division must approve or disapprove the request within 60 days after receiving the request.

The bill also repeals the requirement that a bank service corporation provide bank services to nonparticipant banks.

Current law allows credit unions to invest in credit union service organizations (CUSOs), which may provide specified services related to the routine daily operations of credit unions. The Office of Credit Unions (OCU) in DFI may expand this list of permissible services provided by CUSOs. This bill specifies that OCU is not required to engage in rule-making to expand this list of permissible services.

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:*

1           **SECTION 1.** 221.1101 (1) (b) of the statutes is amended to read:

2           221.1101 (1) (b) "Bank services" means check and deposit sorting and posting,  
3           computation and posting of interest and other credits and charges, preparation and  
4           mailing of checks, statements, notices and similar items, ~~or any~~ other clerical,  
5           bookkeeping, accounting, statistical, auditing, compliance, loan documentation,  
6           administrative, technology, or other similar functions performed for a bank, or any  
7           other service established under sub. (6).

8           **SECTION 2.** 221.1101 (3) of the statutes is repealed.

9           **SECTION 3.** 221.1101 (6) of the statutes is created to read:



**Parisi, Lori**

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**From:** Lewis, Amy  
**Sent:** Thursday, February 28, 2013 11:57 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -1635/1 Topic: Bank service corporations

Please Jacket LRB -1635/1 for the ASSEMBLY.

## Barman, Mike

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**From:** LRB.Legal  
**Sent:** Thursday, February 28, 2013 1:42 PM  
**To:** Schacht, Nathan  
**Subject:** Early Fiscal Estimate(s) for un-introduced LRB -1635/1 (Topic: Bank service corporations)

I will submit your draft to DOA for FE assignment.

Please let me know if I can be of further assistance.

### **Mike Barman (Lead Program Assistant)**

State of Wisconsin - Legislative Reference Bureau - Legal Section - Front Office

1 East Main Street, Suite 200, Madison, WI 53703

(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)

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**From:** Schacht, Nathan  
**Sent:** Thursday, February 28, 2013 1:22 PM  
**To:** LRB.Legal  
**Subject:** LRB -1635/1 Topic: Bank service corporations

I would like a fiscal estimate prepared on this draft prior to introduction. Please confirm receipt of this email.

Thank you.

Nathan Schacht  
Office of State Representative David Craig  
83<sup>rd</sup> Assembly District  
P: (608) 266-3363  
E: [nathan.schacht@legis.wi.gov](mailto:nathan.schacht@legis.wi.gov)