



1997 ASSEMBLY BILL 746

January 27, 1998 - Introduced by Representative WARD, cosponsored by Senator C. POTTER, by request of Ginger Larson, Director of the Office of Credit Unions. Referred to Committee on Financial Institutions.

1 **AN ACT to repeal** 186.01 (3), 186.01 (3g), 186.01 (6), 186.02 (2) (a) 5k., 186.02 (2)
2 (f), 186.08 (1m) (f), 186.08 (1m) (g) and 186.113 (11); **to amend** 186.015 (5),
3 186.07 (5) (c), 186.07 (6), 186.071 (1) (a), 186.071 (1) (b), 186.08 (1m) (c), 186.098
4 (13), 186.10 (2), 186.113 (1), 186.12 (2), 186.13, 220.285 (1), 708.10 (1) (e) 2. and
5 708.10 (1) (e) 3.; **to repeal and recreate** 186.19; and **to create** 186.113 (1m)
6 (title) and 186.113 (23) of the statutes; **relating to:** "good funds" requirements
7 for loan closings and the powers and duties of credit unions and their directors,
8 officers, employes and members.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the laws governing credit unions. In particular, the bill does the following:

1. Share deposits and deposit accounts. Current law provides that credit unions may offer a deposit account, which is defined to mean an account treated as any form of savings. The definition does not provide that deposits in a deposit account confer membership rights. Current law also refers to a share deposit, which is defined to mean a balance that is established and maintained by a person at a credit union that confers membership rights to that person. This bill repeals references to deposit accounts and instead refers to share deposits throughout the

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statutes governing credit unions. The bill also eliminates references to interest on deposits and instead refers to dividends on share deposits.

2. Hearings and appeals. Under current law, a person who is aggrieved by an act of the office of credit unions can appeal the act to the credit union review board. The review board must dispose of the review application within 60 days after the date on which it was received. This bill amends this provision to provide that, if the review board designates a hearing examiner, the review board has 180 days to dispose of the matter. Current law requires a board of directors of a credit union to allow a director that it has removed from office an opportunity to appeal that board's decision to the board. This bill amends the provision to provide that, if the removed director petitions the board of directors to reverse its decision and the board of directors does not reverse its decision, the removed director may appeal the decision to the office of credit unions. The bill grants the office of credit unions the authority to reinstate the removed director, if the office determines that the removal was improper.

The bill also affects the hearing rights of members who are expelled by the board. Current law requires that expelled members be given notice of their right to a hearing before the board of directors and that the board shall give the member an opportunity to be heard within 90 days after the date of the expulsion notice. The bill amends this provision to require that the expelled member request any hearing in writing within 45 days of receipt of the expulsion notice, and that the expulsion notice inform the expelled member of the time period for requesting a hearing.

3. Bonding. Current law requires the bylaws of a credit union to prescribe the type and amount of a bond required to be maintained on behalf of a director. This bill eliminates the requirement that the bond requirements be placed in the bylaws. Instead the bill directs the board of directors to set the type and amount of bond required for directors, officers and employees of the credit union. The credit union is required to maintain the necessary bonds for directors, officers and employees according to standards prescribed by the national credit union administration board. Current law requires the removal of a director if the director is unable to be bonded for all activities of the credit union. This bill modifies the provision to refer to require removal of a director only if the director cannot be bonded in accordance with the standards set by the board of directors.

4. Confidentiality. Current law requires credit union directors, officers and employees to take an oath of office to keep confidential the financial affairs of credit union members, unless state and federal laws, security requirements or sound lending practices require disclosure. This bill amends the provision to require confidentiality unless state and federal laws, security requirements or sound lending practices *permit*, rather than *require*, disclosure. The bill also modifies the confidentiality provisions of the oath to cover the deliberations of the board of directors, unless state or federal law permits disclosure.

5. Miscellaneous changes. The bill provides credit unions with the authority to accept investments made by state or federally chartered credit unions. Under current law, banks, credit unions and certain other licensed financial institutions that preserve records by microfiche or optical imaging may destroy the original records after first obtaining the written consent of the division of banking. This bill

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modifies this provision so that credit unions must seek the prior written consent from the office of credit unions, rather than the division of banking. Current law establishes certain “good funds” requirements for loan closings, which generally prohibit a lender from completing a loan settlement without delivering qualified loan funds to the settlement agent before or immediately on completion of the loan settlement. This bill amends the definition of qualified loan funds to include teller’s checks and checks on which the lender an affiliate is the drawer.

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

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

1 **SECTION 1.** 186.01 (3) of the statutes is repealed.

2 **SECTION 2.** 186.01 (3g) of the statutes is repealed.

3 **SECTION 3.** 186.01 (6) of the statutes is repealed.

4 **SECTION 4.** 186.015 (5) of the statutes is amended to read:

5 186.015 (5) **REVIEWS.** Any interested person aggrieved by any act, order or
6 determination of the office of credit unions that relates to credit unions may, within
7 60 days after the date of the act, order or determination, apply for review by the
8 review board. The review board shall determine if the office of credit unions acted
9 within the scope of the office’s authority, has not acted in an arbitrary or capricious
10 manner and has based the act, order or determination on evidence supported by the
11 record. The review board shall dispose of a review application within 60 days after
12 the date on which it is received, unless the review board designates a hearing
13 examiner, in which case the review board shall dispose of the review application
14 within 180 days after the date on which it is received.

15 **SECTION 5.** 186.02 (2) (a) 5k. of the statutes is repealed.

16 **SECTION 6.** 186.02 (2) (f) of the statutes is repealed.

17 **SECTION 7.** 186.07 (5) (c) of the statutes is amended to read:

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1 186.07 (5) (c) The director is unable to be bonded for all activities of the credit
2 ~~union in accordance with the standards set by the board of directors.~~

3 **SECTION 8.** 186.07 (6) of the statutes is amended to read:

4 186.07 (6) REMOVAL NOTICE AND APPEAL. A director who is removed under sub.
5 (5) or s. 186.071 (2) shall be given notice of removal and shall be given an opportunity
6 to appeal before the board of directors. The removed director may petition the board
7 of directors to reconsider its decision. If the board of directors does not reinstate the
8 director, the director may appeal the decision of the board of directors to the office
9 of credit unions. If the office of credit unions determines that the removal of the
10 director was improper, the office of credit unions shall order the reinstatement of the
11 director and, if the board of directors has already appointed a person to fill the
12 vacancy created by the removal of the director, the removal of such person.

13 **SECTION 9.** 186.071 (1) (a) of the statutes is amended to read:

14 186.071 (1) (a) Keep confidential the financial affairs of credit union members,
15 unless state and federal laws, security requirements or sound lending practices
16 require permit disclosure.

17 **SECTION 10.** 186.071 (1) (b) of the statutes is amended to read:

18 186.071 (1) (b) Keep confidential the records and accounts of the credit union
19 and the deliberations of the board of directors unless state or federal law requires
20 permits disclosure.

21 **SECTION 11.** 186.08 (1m) (c) of the statutes is amended to read:

22 186.08 (1m) (c) Setting the type and amount of surety bond required of each
23 ~~officer having custody of funds~~ for directors, officers and employees.

24 **SECTION 12.** 186.08 (1m) (f) of the statutes is repealed.

25 **SECTION 13.** 186.08 (1m) (g) of the statutes is repealed.

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1 **SECTION 14.** 186.098 (13) of the statutes is amended to read:

2 186.098 **(13)** LIENS. (a) Subject to any limitation on security interests
3 identified in s. 422.417 (3) and if the loan agreement or endorsement permits it, a
4 credit union shall have a lien on the share ~~deposits and~~ deposit accounts and
5 accumulated dividends of a member for any amount owed the credit union by the
6 member and for any loan endorsed by the member. Upon the default of the owner
7 of the account in an obligation owed to the credit union, the credit union shall have
8 a right of immediate setoff for each share deposit ~~and deposit~~ account unless
9 prohibited under 12 CFR 226.12 (d). ~~Sections~~ If the loan is a consumer credit
10 transaction as defined in s. 421.301 (10), ss. 425.104 and 425.105 apply to a default
11 under this paragraph. The credit union may also refuse to allow withdrawals from
12 any share deposit ~~or deposit~~ account in an amount not to exceed any delinquent
13 obligation to the credit union.

14 (b) The credit union may waive its rights to a lien, to immediate setoff or to
15 restrict withdrawals or to any combination of these rights for any share deposit ~~or~~
16 ~~deposit~~ account.

17 **SECTION 15.** 186.10 (2) of the statutes is amended to read:

18 186.10 **(2)** SHARES IN TRUST. Shares may be issued in trust, subject to any
19 conditions prescribed in the bylaws. Share ~~accounts and~~ deposit accounts may be
20 ~~owned~~ held by a member in trust for a beneficiary, ~~or owned~~ held by a nonmember
21 in trust for a beneficiary who is a member or held by a nonmember custodian for a
22 member pursuant to ss. 880.61 to 880.72.

23 **SECTION 16.** 186.113 (1) of the statutes is amended to read:

24 186.113 **(1)** BRANCH OFFICES. If the need and necessity exist and with the
25 approval of the office of credit unions, establish branch offices inside this state or no

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1 more than 25 miles outside of this state. Permanent records may be maintained at
2 branch offices established under this subsection. In this subsection, the term
3 “branch office” does not include a remote terminal.

4 **SECTION 17.** 186.113 (1m) (title) of the statutes is created to read:

5 186.113 **(1m)** (title) LIMITED SERVICES OFFICES.

6 **SECTION 18.** 186.113 (11) of the statutes is repealed.

7 **SECTION 19.** 186.113 (23) of the statutes is created to read:

8 186.113 **(23)** ACCEPT INVESTMENTS. Accept investments made by state or
9 federally chartered credit unions.

10 **SECTION 20.** 186.12 (2) of the statutes is amended to read:

11 186.12 **(2)** SURETIES. A member of the credit committee or a loan officer shall
12 not, directly or indirectly, become surety for any loan or advance made by the credit
13 union, unless the credit committee member or loan officer receives the prior approval
14 of the board of directors to act in such capacity.

15 **SECTION 21.** 186.13 of the statutes is amended to read:

16 **186.13 Expulsion.** If the board of directors adopts a written policy, a credit
17 union may expel a member if the member neglects or refuses to comply with this
18 chapter or the credit union bylaws or if the board has other just cause. The credit
19 union shall provide notice to the member in writing of the reason for expulsion. The
20 notice shall include a description of the member’s right to a hearing and the time
21 period for the member to request a hearing. If a member requests a hearing in
22 writing within 45 days of receipt of the expulsion notice, the board shall give the
23 member an opportunity to be heard on the expulsion within 90 days after the date
24 of the expulsion notice.

25 **SECTION 22.** 186.19 of the statutes is repealed and recreated to read:

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1 **186.19 Bonding requirements.** A credit union shall maintain the necessary
2 bonds for directors, officers and employes according to any standards prescribed by
3 the national board.

4 **SECTION 23.** 220.285 (1) of the statutes is amended to read:

5 220.285 (1) Any state bank, trust company bank, licensee under s. 138.09,
6 138.12, 218.01, 218.02, 218.04 or 218.05 or ch. 217 or credit union may cause any or
7 all records kept by such bank, licensee or credit union to be recorded, copied or
8 reproduced by any photostatic, photographic or miniature photographic process or
9 by optical imaging if the process employed correctly, accurately and permanently
10 copies, reproduces or forms a medium for copying, reproducing or recording the
11 original record on a film or other durable material. A bank, or licensee or credit union
12 may thereafter dispose of the original record after first obtaining the written consent
13 of the division; a credit union may thereafter dispose of the original record after first
14 obtaining the written consent of the office of credit unions. This section, excepting
15 that part of it which requires written consent of the division, is applicable to national
16 banking associations insofar as it does not contravene federal law.

17 **SECTION 24.** 708.10 (1) (e) 2. of the statutes is amended to read:

18 708.10 (1) (e) 2. Cashier's check or teller's check.

19 **SECTION 25.** 708.10 (1) (e) 3. of the statutes is amended to read:

20 708.10 (1) (e) 3. A check that is negotiable, as defined in s. 403.104 (1), and on
21 which the lender or an affiliate of the lender is the payer drawer, as defined in s.
22 403.103 (1) (c).

23 **SECTION 26. Initial applicability.**

