



2011 ASSEMBLY BILL 492

January 25, 2012 – Introduced by Representative KRAMER, cosponsored by Senator GROTHMAN. Referred to Committee on Financial Institutions.

1 **AN ACT to repeal** 15.187, 186.015 (2) (a), 214.78 (1) (a) and 215.04 (1) (a); **to**
2 **renumber and amend** 186.015 (1); and **to amend** 15.09 (6), 186.015 (1) (title),
3 186.015 (2) (b), 186.015 (3), 214.78 (1) (intro.), 215.04 (1) (intro.), 220.035 (1) (a),
4 224.79 (1) and 224.79 (2) of the statutes; **relating to:** duties of review boards
5 for banks, savings banks, savings and loan associations, and credit unions and
6 eliminating the mortgage loan originator council.

Analysis by the Legislative Reference Bureau

Under current law, a five-member Banking Review Board and a five-member Savings Institutions Review Board are created in the Department of Financial Institutions (DFI) and a 5-member credit union review board is created in the Office of Credit Unions (OCU) attached to DFI. These review boards serve functions associated with, respectively, state banks, state savings banks and savings and loan associations, and state credit unions (collectively, financial institutions).

Current law requires these review boards to perform certain general functions. Each review board must: 1) review the acts and decisions of the division of banking (division) in DFI or OCU with respect to applicable financial institutions; 2) advise the division or OCU with respect to applicable financial institutions; and 3) perform other review functions provided by law with respect to applicable financial institutions. The Banking Review Board and Credit Union Review Board may also require the division or OCU, respectively, to submit any of its actions to the review

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board for approval. OCU must also confer with the Credit Union Review Board on matters affecting credit unions.

Current law specifies additional specific functions of these review boards, such as the following:

1. The division must establish a reasonable fee structure for savings banks and savings and loan associations, and this fee structure is subject to approval by the Savings Institutions Review Board.

2. The division may by rule provide state savings and loan associations or state banks, and OCU may provide credit unions, with authority equivalent to their federal counterparts, with the approval of, respectively, the Savings Institutions Review Board, Banking Review Board, or Credit Union Review Board.

3. The division must issue orders prescribing reasonable rules for conducting business as a savings and loan association and these orders are subject to approval by the Savings Institutions Review Board. Certain rules relating to the formation of savings and loan institutions are also subject to approval by the review board.

4. The limit on the total amount of mortgage loans that a savings and loan association may make to a single borrower, and on the amount of mortgage loans that may be sold and then serviced by the savings and loan association, are determined by the division and the Savings Institutions Review Board, subject to certain statutory limitations.

5. The Banking Review Board may make rules to safeguard the interest of depositors and stockholders in emergencies and may make rules and prescribe schedules for arriving at a fair valuation of bank assets. In examining banks, the division must determine the fair valuation of assets in accordance with the rules and schedules prescribed by the Banking Review Board.

6. Before seeking removal of an officer or director of a bank for certain reasons related to the safety or solvency of the bank, the division must have the approval of the Banking Review Board.

7. To establish uniform savings rules for banks providing conditions under which banks may accept deposits or uniform rules regulating fiduciary operations, the division must have the approval of the Banking Review Board.

8. If the division has reason to believe a banking violation has occurred that subjects a person to prosecution for a criminal offense or to a penalty, the division must bring the relevant information to the attention of the Banking Review Board, which may then bring the information to the attention of the Attorney General.

9. The Banking Review Board must determine the annual assessment amount to be paid to the division by state banks.

10. If the division determines that it should take possession of a bank for specified reasons, including that the bank is unsafe, unsound, or undercapitalized, the division must bring the matter to the attention of the Banking Review Board and the Banking Review Board must decide whether or not the division should take possession of the bank.

11. After receiving an application to form a state bank and conducting its investigation on the application, the division must make a written report to the Banking Review Board. The review board must make a decision approving or

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disapproving the application. Immediately after the bank's formation, the division must determine the required capital of the bank, subject to review by the Banking Review Board.

12. The division must consult with the Banking Review Board before making recommendations to any bank as to the advisability of consolidation or merger with other banks.

13. The Banking Review Board must set fees for certified copies of records filed with the division.

14. OCU must promulgate rules relating to the business of credit unions, and these rules are subject to the approval of the Credit Union Review Board.

15. OCU must determine the assessment amounts for credit unions, which is subject to approval by the Credit Union Review Board.

Under this bill, review boards must advise the division with respect to applicable financial institutions only if the division requests advice. Also, instead of OCU being required to confer with the Credit Union Review Board on matters affecting credit unions and OCU, OCU must keep the Credit Union Review Board aware of the activities of credit unions and supervisory actions that OCU has taken and may confer with and seek the advice of the Credit Union Review Board on how to improve the condition and service of credit unions and on any other matters affecting credit unions and OCU. In addition, instead of the Banking Review Board and Credit Union Review Board requiring the division or OCU, respectively, to submit any of the division's or OCU's actions to the review board for approval, it is the division or OCU that decides to submit any of the division's or OCU's actions to the review board for approval. However, the bill does not affect review board authority for the types of specific functions described in items 1. to 15., above.

Under current law, there is a mortgage loan originator council (council) created in DFI. The council consists of six persons appointed by the secretary of financial institutions (secretary) and the secretary or his or her designee. The only function specified by statute for the council is that the division must consult with the council in promulgating rules related to residential mortgage brokerage service contracts and disclosures.

This bill eliminates the council.

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.** 15.09 (6) of the statutes is amended to read:
- 2 15.09 (6) REIMBURSEMENT FOR EXPENSES. Members of a council shall not be
- 3 compensated for their services, but, except as otherwise provided in this subsection,
- 4 members of councils created by statute shall be reimbursed for their actual and

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1 necessary expenses incurred in the performance of their duties, such reimbursement
2 in the case of an elective or appointive officer or employee of this state who represents
3 an agency as a member of a council to be paid by the agency which pays his or her
4 salary. ~~Members of the mortgage loan originator council under s. 15.187 (1) may not~~
5 ~~be reimbursed for their actual and necessary expenses incurred in the performance~~
6 ~~of their duties.~~ Members of the agricultural education and workforce development
7 council may not be reimbursed for their actual and necessary expenses incurred in
8 the performance of their duties.

9 **SECTION 2.** 15.187 of the statutes is repealed.

10 **SECTION 3.** 186.015 (1) (title) of the statutes is amended to read:

11 186.015 (1) (title) ~~CONFER~~ RELATIONSHIP WITH THE OFFICE; MEETINGS.

12 **SECTION 4.** 186.015 (1) of the statutes is renumbered 186.015 (1) (a) and
13 amended to read:

14 186.015 (1) (a) ~~The~~ In exercising its authority to control and supervise credit
15 unions as provided in 186.235 (1), the office of credit unions shall confer with keep
16 the credit union review board on matters affecting aware of the activities of credit
17 unions and the office in the state and supervisory actions the office has taken. In
18 addition, the office of credit unions may confer with and seek the advice of the credit
19 union review board on how to improve the condition and service of credit unions and
20 on any other matters affecting credit unions and the office of credit unions.

21 (b) Detailed minutes of each review board meeting shall be kept, and the
22 decision of the review board with reference to all orders an order issued, or policies
23 policy established by the office of credit unions pursuant to this chapter is final,
24 except for judicial review as provided in ch. 227.

25 **SECTION 5.** 186.015 (2) (a) of the statutes is repealed.

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1 **SECTION 6.** 186.015 (2) (b) of the statutes is amended to read:

2 186.015 (2) (b) ~~Review~~ Under sub. (5), review the acts and decisions of the office
3 of credit unions and conduct reviews ~~under sub. (5)~~.

4 **SECTION 7.** 186.015 (3) of the statutes is amended to read:

5 186.015 (3) APPROVAL OF ACTIONS. The ~~review board may require~~ the office of
6 credit unions to may submit any of the office's official actions to the review board for
7 its approval.

8 **SECTION 8.** 214.78 (1) (intro.) of the statutes is amended to read:

9 214.78 (1) (intro.) Upon request by the division, the review board may advise
10 the division on matters related to this chapter. The review board shall also do all of
11 the following:

12 **SECTION 9.** 214.78 (1) (a) of the statutes is repealed.

13 **SECTION 10.** 215.04 (1) (intro.) of the statutes is amended to read:

14 215.04 (1) DUTIES. (intro.) Upon request by the division, the review board shall
15 advise the division on matters related to this chapter. The review board shall do all
16 of the following:

17 **SECTION 11.** 215.04 (1) (a) of the statutes is repealed.

18 **SECTION 12.** 220.035 (1) (a) of the statutes is amended to read:

19 220.035 (1) (a) ~~The~~ Upon request by the division, the banking review board
20 shall advise the division and others in respect to improvement in the condition and
21 service of banks and banking business in this state ~~and.~~ The banking review board
22 shall also review the acts and decisions of the division with respect to banks, except
23 for such acts and decisions of the division under chs. 138, 217 and 218, ~~and.~~ The
24 banking review board shall also perform such other review functions in relation to
25 banking as are provided by law. ~~The banking review board may require~~ the division

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1 ~~to~~ may submit any of the division's actions to ~~it~~ the banking review board for its
2 approval. The board may make rules of procedure as provided in ch. 227.

3 **SECTION 13.** 224.79 (1) of the statutes is amended to read:

4 224.79 (1) FORM AND CONTENT OF MORTGAGE BROKERAGE AGREEMENTS. Every
5 contract between a mortgage broker and an individual under which the mortgage
6 broker agrees to provide brokerage services to the individual relating to a residential
7 mortgage loan shall be in writing, in the form prescribed by rule of the division, and
8 shall contain all information required by rule of the division. The division shall
9 promulgate rules to administer this subsection ~~in consultation with the mortgage~~
10 ~~loan originator council under s. 15.187 (1).~~ The division and shall design these rules
11 to facilitate the comparison of similar charges and total charges assessed by different
12 mortgage brokers.

13 **SECTION 14.** 224.79 (2) of the statutes is amended to read:

14 224.79 (2) DISCLOSURE STATEMENT. Before entering into a contract with an
15 individual to provide brokerage services relating to a residential mortgage loan, a
16 mortgage broker shall give the individual a copy of a disclosure statement, explain
17 the content of the statement, and ensure that the individual initials or signs the
18 statement, acknowledging that the individual has read and understands the
19 statement. The disclosure statement shall contain a brief explanation of the
20 relationship between the individual and the mortgage broker under the proposed
21 contract, a brief explanation of the manner in which the mortgage broker may be
22 compensated under the proposed contract, and any additional information required
23 by rule of the division. The division shall promulgate rules to administer this
24 subsection ~~in consultation with the mortgage loan originator council under s. 15.187~~

