



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-4736/1  
ARG:all

## 2021 SENATE BILL 596

October 8, 2021 - Introduced by Senators MARKLEIN, FELZKOWSKI, FEYEN and NASS, cosponsored by Representatives KATSMA, ARMSTRONG, DALLMAN, DITTRICH, KURTZ, LOUDENBECK, PENTERMAN, THIESFELDT, WICHGERS, WITTKE, ZIMMERMAN, DOYLE, MURSAU and KNODL. Referred to Committee on Financial Institutions and Revenue.

1     **AN ACT to amend** 34.08 (2), 38.20 (2) (e), 67.12 (12) (a), 705.04 (2) (intro.), 705.04  
2           (2g) and 705.06 (3); and **to create** 66.0440, 101.02 (7m) and 705.06 (2m) of the  
3           statutes; **relating to:** P.O.D. accounts and loan obligations to financial  
4           institutions; payments for public deposit losses in failed financial institutions;  
5           automated teller machines; prohibiting requiring access boxes on buildings  
6           owned by financial institutions; promissory notes of certain public bodies; and  
7           repealing rules promulgated by the Department of Financial Institutions.

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

This bill does all of the following:

1. Allows a financial institution that has established a payable-on-death (P.O.D.) account and made a loan to the P.O.D. account owner to, upon the death of the account owner, withhold distribution to the P.O.D. account beneficiary of an amount necessary to satisfy the account owner's loan obligation to the financial institution.
2. Increases the amount of compensation available from the Department of Financial Institutions for losses by the state or a local government resulting from the deposit of public moneys in a failed or failing financial institution.
3. Repeals certain DFI rules related to the placement or operation of automated teller machines (ATMs) by financial institutions.

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4. Prohibits the Department of Safety and Professional Services and local governments from requiring a financial institution to install an access box in or on any financial institution building.

5. Extends the maximum maturity date, from 10 to 20 years, of a promissory note issued by a city, village, town, county, or school district.

***P.O.D. accounts***

Current law allows a depositor of a financial institution to establish a P.O.D. account under which the sums on deposit at the time of the depositor's death are transferred to a designated P.O.D. beneficiary and are not subject to distribution by will or otherwise as part of the deceased depositor's estate.

Under this bill, if the financial institution has made a loan to the depositor and has any lien right, right to setoff, or security interest in the P.O.D. account resulting from the loan, then upon the depositor's death, the financial institution may retain control of all sums on deposit in the P.O.D. account to the extent necessary to exercise its lien right or right to setoff or to protect its security interest. The financial institution must then pay the remaining balance of the account to the P.O.D. beneficiary.

***Public deposit losses***

Under current law, the Investment Board (SWIB) and the governing bodies of counties, municipalities, and certain other local governmental units (collectively, public depositors) must designate one or more financial institutions in this state for deposit of all public moneys received by the public depositor. DFI administers a claims process that repays public depositors for losses that exceed applicable deposit insurance resulting from a failed or failing financial institution's failure to repay the deposit of public moneys. The maximum payment that DFI can make to a public depositor for losses from a single financial institution is \$400,000. These loss payment provisions also apply to local government deposits in the local government pooled-investment fund managed by SWIB.

This bill increases, from \$400,000 to \$1,000,000, the maximum payment that DFI can make to a public depositor for losses from a single financial institution that exceed deposit insurance.

***ATMs***

Under current law, a bank, savings bank, savings and loan association, or credit union (financial institution) may acquire, place, and operate, at locations away from the financial institution, devices referred to variously as customer bank communications terminals, remote terminals, or remote service units (collectively, off-site ATMs), in accordance with rules established by DFI. Among these rules, 1) a financial institution must provide advance written notice to DFI before acquiring, placing, or operating an off-site ATM or changing an off-site ATM location; and 2) a financial institution may not engage in any activity related to an off-site ATM if the activity is beyond the financial or management capabilities of the financial institution, would result in unfair competition among financial institutions, or is otherwise in violation of DFI's rules relating to off-site ATMs.

This bill repeals these rules described as 1) and 2), above.

**SENATE BILL 596*****Access boxes on financial institution buildings***

Under current law, DSPS is required to promulgate rules establishing standards for building safety, including prescribing safety devices, safeguards, and other means of protection necessary to render public buildings and places of employment safe. Under current law generally, local ordinances that establish minimum standards for constructing, altering, or adding to public buildings or places of employment must conform to applicable DSPS rules.

This bill prohibits DSPS from requiring, and prohibits local units of government from enacting or enforcing an ordinance requiring, a financial institution to install an access box in or on any financial institution building. The bill defines “access box” as “any box that is installed in or on a building and that is designed to hold keys or access codes to the building for use by emergency responders.”

***Promissory notes of certain public bodies***

Under current law, a public body that has the authority to borrow money and issue obligations to repay the money out of public funds or revenues and that has the authority to levy a tax may issue promissory notes for any public purpose. Public bodies covered by this provision include cities, villages, towns, counties, and school districts. Each promissory note, with several exceptions, must be repaid within 10 years after the original date of the note. Under this bill, each promissory note must be repaid within 20 years after the original date of the note.

For further information see the state and local 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.** 34.08 (2) of the statutes is amended to read:
- 2           34.08 (2) Payments under sub. (1) shall be made in the order in which
- 3           satisfactory proofs of loss are received by the division of banking. The payment made
- 4           to any public depositor for all losses of the public depositor in any individual public
- 5           depository may not exceed \$400,000 \$1,000,000 above the amount of deposit
- 6           insurance provided by an agency of the United States at the public depository that
- 7           experienced the loss. Upon a satisfactory proof of loss, the division of banking shall
- 8           direct the department of administration to draw its warrant payable from the
- 9           appropriation under s. 20.144 (1) (a) and the secretary of administration shall pay

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1 the warrant under s. 16.401 (4) in favor of the public depositor that has submitted  
2 the proof of loss.

3 **SECTION 2.** 38.20 (2) (e) of the statutes is amended to read:

4 38.20 (2) (e) The district purchasing property under this subsection may, with  
5 approval of the city council or village board involved, pay the purchase price by  
6 issuing and delivering directly to the city or village the general obligation promissory  
7 notes or the notes of the district under s. 67.12 (12), except that no referendum may  
8 be held and the ~~10-year~~ 20-year limitation on such notes shall be inapplicable to  
9 such notes issued under this paragraph. Such notes shall mature and be payable at  
10 such times, in such amounts and at such rate of interest as will amortize and pay  
11 when due the principal and interest on the outstanding obligations of the city or  
12 village for technical college purposes. All such notes, upon execution and delivery  
13 to the city or village, shall in all respects be held and considered as an authorized  
14 investment under s. 66.0603 (1m) or 67.11 (2) and (3) of the debt service fund created  
15 for payment of the city or village obligations issued for technical college purposes and  
16 shall be offset against city or village indebtedness in computing legal debt limit to  
17 the same extent as other authorized investments of the debt service fund and such  
18 notes may be sold and hypothecated. If the offset against city or village indebtedness  
19 under this paragraph is determined to be invalid in any respect, such city or village  
20 immediately may require the district issuing the promissory notes to such city or  
21 village to comply with pars. (c) and (d) to the extent necessary to cure such invalidity.

22 **SECTION 3.** 66.0440 of the statutes is created to read:

23 **66.0440 (1) DEFINITIONS.** In this section:

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1 (a) "Access box" means any box that is installed in or on a building and that is  
2 designed to hold keys or access codes to the building for use by emergency  
3 responders.

4 (b) "Financial institution" has the meaning given in s. 705.01 (3).

5 (c) "Local governmental unit" has the meaning given in s. 66.0137 (1) (as).

6 **(2)** No local governmental unit may enact or enforce an ordinance that requires  
7 a financial institution to install or use an access box in or on any building owned or  
8 occupied by a financial institution.

9 **SECTION 4.** 67.12 (12) (a) of the statutes is amended to read:

10 67.12 **(12)** (a) Any municipality may issue promissory notes as evidence of  
11 indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not  
12 limited to paying any general and current municipal expense, and refunding any  
13 municipal obligations, including interest on them. Each note, plus interest if any,  
14 shall be repaid ~~within 10 years after the original date of the note, except that notes~~  
15 ~~issued under this section for purposes of ss. 119.498, 281.58, 281.59, 281.60, 281.61,~~  
16 ~~and 292.72, issued to raise funds to pay a portion of the capital costs of a metropolitan~~  
17 ~~sewerage district, or issued by a 1st class city or a county having a population of~~  
18 ~~750,000 or more, to pay unfunded prior service liability with respect to an employee~~  
19 ~~retirement system, shall be repaid~~ within 20 years after the original date of the note.

20 **SECTION 5.** 101.02 (7m) of the statutes is created to read:

21 101.02 **(7m)** (a) DEFINITIONS. In this subsection:

22 1. "Access box" means any box that is installed in or on a building and that is  
23 designed to hold keys or access codes to the building for use by emergency  
24 responders.

25 2. "Financial institution" has the meaning given in s. 705.01 (3).

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1           3. “Local governmental unit” has the meaning given in s. 66.0137 (1) (as).

2           (b) Notwithstanding subs. (1) (b) and (15) (h) to (j), the department may not  
3 require, and notwithstanding subs. (7) (a) and (7r), no local governmental unit may  
4 enact or enforce an ordinance that requires, a financial institution to install or use  
5 an access box in or on any building owned or occupied by a financial institution.

6           **SECTION 6.** 705.04 (2) (intro.) of the statutes is amended to read:

7           705.04 (2) (intro.) If Except as provided in s. 705.06 (2m), if the account is a  
8 P.O.D. account, on the death of the original payee or the survivor of 2 or more original  
9 payees, all of the following apply:

10          **SECTION 7.** 705.04 (2g) of the statutes is amended to read:

11          705.04 (2g) Notwithstanding subs. (1) and (2) and s. 705.06 (2m), the  
12 department of health services may collect, from funds of a decedent that are held by  
13 the decedent immediately before death in a joint account or a P.O.D. account, an  
14 amount equal to the medical assistance that is recoverable under s. 49.496 (3) (a), an  
15 amount equal to aid under s. 49.68, 49.683, 49.685, or 49.785 that is recoverable  
16 under s. 49.682 (2) (a) or (am), or an amount equal to long-term community support  
17 services under s. 46.27, 2017 stats., that is recoverable under s. 46.27 (7g) (c) 1., 2017  
18 stats., and that was paid on behalf of the decedent or the decedent’s spouse.

19          **SECTION 8.** 705.06 (2m) of the statutes is created to read:

20          705.06 (2m) If a financial institution has any lien right, right to setoff, or  
21 security interest in a P.O.D. account resulting from the financial institution’s loan  
22 or other extension of credit to an original payee, on the death of the original payee  
23 or the survivor of 2 or more original payees, the financial institution may retain  
24 control of all sums on deposit in the P.O.D. account to the extent necessary to exercise  
25 its lien right or right to setoff or to protect its security interest or may tender such

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1 sums to a court and seek a court determination, but shall pay any remaining balance  
2 of the sums on deposit to the P.O.D. beneficiary or beneficiaries as provided in s.  
3 705.04 (2). This subsection applies notwithstanding any limitation on the rights of  
4 creditors under s. 705.07 (1).

5 **SECTION 9.** 705.06 (3) of the statutes is amended to read:

6 705.06 (3) The protection provided by ~~this section~~ subs. (1) and (2) shall have  
7 no bearing on the rights of parties or their successors in disputes concerning the  
8 beneficial ownership of funds in or withdrawn from an account.

9 **SECTION 10.** DFI-Bkg 14.03 of the administrative code is repealed.

10 **SECTION 11.** DFI-CU 63.03 of the administrative code is repealed.

11 **SECTION 12.** DFI-SB 12.03 of the administrative code is repealed.

12 **SECTION 13.** DFI-SL 12.03 of the administrative code is repealed.

13 **SECTION 14. Initial applicability.**

14 (1) PUBLIC DEPOSIT LOSSES. The treatment of s. 34.08 (2) first applies to losses,  
15 as defined in s. 34.01 (2), occurring on the effective date of this subsection.

16 **SECTION 15. Effective dates.** This act takes effect on the day after publication,  
17 except as follows:

18 (1) ADMINISTRATIVE RULES. The repeal of sections DFI-Bkg 14.03, DFI-CU  
19 63.03, DFI-SB 12.03, and DFI-SL 12.03 of the administrative code takes effect as  
20 provided in s. 227.265.

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(END)