

1999 ASSEMBLY BILL 563

October 27, 1999 – Introduced by Representatives JESKEWITZ, RHOADES, KELSO, WARD, RILEY, F. LASEE, HUEBSCH, PLALE, JENSEN, KESTELL, LADWIG, STASKUNAS, MONTGOMERY, HAHN, SPILLNER, OWENS, ZIEGELBAUER, VRAKAS, GRONEMUS, STONE, DUFF, KEDZIE, MILLER, HOVEN, LEIBHAM, OLSEN, HUNDERTMARK, REYNOLDS, SUDER, PETTIS, WALKER, KLUSMAN, SYKORA, GROTHMAN, KREIBICH and LASSA, cosponsored by Senators MOORE, FITZGERALD, WELCH, DARLING, ROSENZWEIG, LAZICH, RUDE, DRZEWIECKI, FARROW and ZIEN. Referred to Committee on Financial Institutions.

1 **AN ACT** *to amend* 220.04 (9) (a) 2.; and *to create* chapter 222 of the statutes;
 2 **relating to:** the creation of a new type of financial institution; the powers of and
 3 requirements applicable to these financial institutions; providing an
 4 exemption from emergency rule procedures; and granting rule-making
 5 authority.

Analysis by the Legislative Reference Bureau

Under current law, the division of savings and loan regulates savings banks and savings and loan associations and the division of banking regulates state banks. This bill allows savings banks, savings and loan associations and state banks (financial institutions) to apply to the division of banking to become certified as a universal bank. If certified as a universal bank, the financial institution may exercise certain powers, in addition to those that are granted under the statutes under which they are organized. Universal banks retain their status as savings and loan associations, savings banks or state banks and remain subject to existing regulatory and supervisory requirements, except to the extent that these requirements are inconsistent with the requirements applicable to universal banks. Universal banks are subject to the following provisions:

Certification

A financial institution may apply to become certified as a universal bank by filing a written application with the division of banking. In order to be certified as

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a universal bank, the financial institution must meet all of the following conditions: 1) the financial institution is chartered or organized, and regulated, as a Wisconsin financial institution and has been in existence and continuous operation for at least three years; 2) the financial institution must be “well-capitalized” or “adequately capitalized”; 3) the financial institution must not exhibit moderately severe or unsatisfactory financial, managerial, operational and compliance weaknesses; and 4) the financial institution must not have been the subject of any enforcement action within the 12 months preceding the application. If these requirements are met, the division of banking must certify the financial institution as a universal bank. The financial institution may be decertified only if it elects to terminate its certification and the election is approved by the division. As a precondition to decertification, the universal bank must terminate the exercise of all universal banking powers.

Organization and regulation

A financial institution that is certified as a universal bank remains subject to all of the requirements and duties, and remains able to exercise all of the powers, that applied to the financial institution prior to its certification as a universal bank, except to the extent that such requirements, duties and powers are inconsistent with the powers and duties of universal banks. After a financial institution becomes certified as a universal bank, the division of banking becomes solely responsible for establishing the capital requirements applicable to the universal bank.

A universal bank continues to operate under the articles of incorporation and bylaws in effect prior to the certification and these articles and bylaws may be amended in accordance with the law governing savings banks, savings and loan associations or state banks, whichever is applicable to the financial institution. Current law generally prohibits savings banks and savings and loan associations from using the term “bank” in their corporate name, without also using the term “savings”. Notwithstanding these provisions, the bill allows all financial institutions that become certified as a universal bank to use the term “bank” in their corporate name without using the word “savings”, subject to certain limitations relating to the distinguishability of the name. Under current law, the division of banking regulates mergers and acquisitions of state banks and the division of savings and loan is responsible for regulating the mergers and acquisitions of savings banks and savings and loan associations. Under the bill, the division of banking assumes responsibility for reviewing and approving the mergers and acquisitions of all financial institutions that have been certified as universal banks, including savings banks and savings and loan associations. The standards to be used by the division of banking track the standards currently applicable to the various financial institutions that may become certified as universal banks, except that universal banks may generally acquire or merge with any type of financial institution.

Powers

The bill expands the powers of financial institutions that become certified as universal banks. Currently, savings banks, savings and loan associations and banks have differing powers. Under the bill, a universal bank is authorized to engage in any activity authorized for any savings bank, savings and loan association or state bank on the first day of the third month beginning after the bill’s publication. In

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addition, the bill specifically provides that universal banks may exercise the following powers:

Federal powers: The bill grants all universal banks the authority to exercise all powers that may be exercised, directly or indirectly through a subsidiary, by certain federally chartered financial institutions, such as a national bank or a federally chartered savings and loan association, or by an affiliate of such an institution. The division of banking may require that a federal power be exercised by a subsidiary of the universal bank in order to limit the risk exposure of the universal bank.

Lending powers: Under current law, the lending powers of a financial institution depend on whether the financial institution is organized as a savings bank, savings and loan association or state bank. The lending powers granted to universal banks are most similar to the powers granted to state banks under current law. Current law imposes some restrictions on the types and purposes of loans that savings banks and savings and loan associations may make. Under the bill, a universal bank may make, sell, purchase, arrange, participate in, invest in or otherwise deal in loans or extensions of credit for any purpose. Like state banks, the limitations imposed on a universal bank's lending generally focus on the total amount of liabilities of any one lender at any one time. Although the limit varies depending on the lender and on the type of security pledged for the loan, the general rule is that the total liabilities of any one person to a universal bank may not exceed 20% of the capital of the universal bank. These lending limits for universal banks are generally the same as for state banks, except that universal banks are granted additional authority to lend, through the universal bank or its subsidiaries, an amount to all borrowers from the universal bank and all of its subsidiaries, an aggregate amount not to exceed 20% of the bank's capital, provided that the loans to any one borrower may not exceed 20% of the bank's capital. Loans made under this additional authority are not subject to rules regarding bad debts or classification of losses, for a period of three years from the date of the loan. This additional authority may be suspended by the division of banking; among the factors that may be considered by the division of banking in suspending this authority are a universal bank's capital adequacy, management, earnings, liquidity and sensitivity to market risk.

Investment powers: To the extent consistent with safe and sound banking powers, a universal bank may purchase, sell, underwrite and hold investment securities in an amount up to 100% of the universal bank's capital. Investment securities include commercial paper; banker's acceptances; marketable securities in the form of bonds, notes and debentures; and similar instruments. A universal bank may not invest greater than 20% of its capital in any one obligor or issuer. A bank may purchase, sell, underwrite and hold equity securities, consistent with safe and sound banking principles, in an amount up to 20% of the capital of the universal bank, unless the division of banking approves a greater percentage. Universal banks may also invest in certain housing properties and projects, except that the total investment in any one project may not exceed 15% of the universal bank's capital and except that the total amount invested in housing properties and projects may not exceed 50% of the universal bank's capital. A universal bank may take equity positions in profit-participation projects, including projects funded through loans from the

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universal bank, in an aggregate amount not to exceed 20% of capital. The division of banking may suspend the authority to invest in profit-participation projects.

The bill provides that the universal banks may invest without limitations in certain types of securities, including: 1) obligations of certain federal agencies or federally chartered corporations and associations; 2) deposit accounts or insured obligations of insured financial institutions; 3) securities of certain business development corporations and urban renewal investment corporations; 4) certain securities of bank insurance companies; 5) securities of certain corporations operating automated teller machines; 6) securities of service corporation subsidiaries of a universal bank; 7) advances of federal funds; 8) risk management instruments, including financial futures transactions, financial operations transactions and forward commitments, solely for the purpose of reducing, hedging or otherwise managing its interest rate risk exposure; 9) securities of subsidiaries exercising certain fiduciary powers; and 10) securities of agricultural credit corporations. Universal banks may invest in other financial institutions. The investment powers of universal banks may be exercised directly or indirectly through a subsidiary, unless the division of banking requires the investment to be made through a subsidiary in order to limit the risk exposure of the universal bank. The bill contains specific provisions governing the purchase by a universal bank of its own stock and of stock in banks and bank holding companies.

Deposit and trust powers: The bill grants universal banks the authority to establish the types and terms of deposits that the universal banks solicit and accept. A universal bank may pledge its assets as security for deposits. With the approval of the division of banking, a universal bank may securitize its assets for sale to the public, subject to any procedures established by the division. Universal banks may exercise safe deposit powers, and universal banks have a lien on the contents of property accepted for safekeeping for their safekeeping charges. If these charges remain unpaid for two years or property accepted for safekeeping is not called for within two years, the bank may sell the property at public auction. The bill authorizes universal banks to exercise trust powers that are permitted to trust company banks.

Incidental and related powers: Under the bill, a universal bank may exercise all powers necessary or convenient to effect the purposes for which the universal bank is organized or to further the businesses in which the universal bank is lawfully engaged. Current law does not have a similar provision for savings banks, savings and loan associations or state banks.

In addition to these necessary or convenient powers, the bill allows universal banks to engage, directly or indirectly through a subsidiary, in activities that are reasonably related or incident to the purposes of the universal bank. The bill contains a list of activities that meet the reasonably related or incidental powers criteria. The listed activities include: 1) business and professional services; 2) data processing; 3) courier and messenger services; 4) credit-related activities; 5) consumer services; 6) real estate-related services; 7) insurance services, other than insurance underwriting; 8) securities brokerage; 9) investment advice; 10) securities and bond underwriting; 11) mutual fund activities; 12) financial consulting; 13) tax

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1 **222.0102 Definitions.** In this chapter:

2 **(1)** “Adequately capitalized” has the meaning given in 12 USC 1831o (b) (1) (B).

3 **(2)** “Capital” of a universal bank means the sum of the following, less the
4 amount of intangible assets that is not considered to be qualifying capital by a deposit
5 insurance corporation or the division:

6 (a) For a universal bank organized as a stock organization, the universal bank’s
7 capital stock, preferred stock, undivided profits, surplus, outstanding notes and
8 debentures approved by the division, other forms of capital designated as capital by
9 the division and other forms of capital considered to be qualifying capital of the
10 universal bank by a deposit insurance corporation.

11 (b) For a universal bank organized as a mutual organization, the universal
12 bank’s net worth, undivided profits, surplus, outstanding notes and debentures
13 approved by the division, other forms of capital designated as capital by the division
14 and other forms of capital considered to be qualifying capital by a deposit insurance
15 corporation.

16 **(3)** “Deposit insurance corporation” means the Federal Deposit Insurance
17 Corporation or other instrumentality of, or corporation chartered by, the United
18 States that insures deposits of financial institutions and that is supported by the full
19 faith and credit of the U.S. government as stated in a congressional resolution.

20 **(4)** “Division” means the division of banking.

21 **(5)** “Financial institution” means a state savings bank organized under ch. 214,
22 state savings and loan association organized under ch. 215 or a state bank chartered
23 under ch. 221.

24 **(6)** “Universal bank” means a financial institution that has been issued a
25 certificate of authority under s. 222.0205.

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1 (7) “Well-capitalized” has the meaning given in 12 USC 1831o (b) (1) (A).

2 **222.0103 Applicability. (1) SAVINGS BANKS.** A universal bank that is a savings
3 bank organized under ch. 214 remains subject to all of the requirements, duties and
4 liabilities, and may exercise all of the powers, of a savings bank, except that in the
5 event of a conflict between this chapter and those requirements, duties, liabilities or
6 powers, this chapter shall control.

7 (2) SAVINGS AND LOAN ASSOCIATIONS. A universal bank that is a savings and loan
8 association organized under ch. 215 remains subject to all of the requirements,
9 duties and liabilities, and may exercise all of the powers, of a savings and loan
10 association, except that, in the event of a conflict between this chapter and those
11 requirements, duties, liabilities or powers, this chapter shall control.

12 (3) BANKS. A universal bank that is a bank chartered under ch. 221 remains
13 subject to all of the requirements, duties and liabilities, and may exercise all of the
14 powers, of a bank, except that, in the event of a conflict between this chapter and
15 these requirements, duties, liabilities or powers, this chapter shall control.

16 **222.0105 Fees.** The division may establish such fees as it determines are
17 appropriate for documents filed with the division under this chapter and for services
18 provided by the division under this chapter.

19 **222.0107 Administration. (1) POWERS OF DIVISION.** The division shall
20 administer this chapter for all universal banks.

21 (2) RULE-MAKING AUTHORITY. The division may promulgate rules to administer
22 and carry out this chapter. The division may establish additional limits or
23 requirements on universal banks, if the division determines that the limits or
24 requirements are necessary for the protection of depositors, members, investors or
25 the public.

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SUBCHAPTER II

CERTIFICATION

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3 **222.0201 Procedure. (1) APPLICATION.** A financial institution may apply to
4 become certified as a universal bank by filing a written application with the division.
5 The application shall include such information as the division may require. The
6 application shall be on such forms and in accordance with such procedures as the
7 division may prescribe.

8 **(2) REVIEW BY DIVISION.** An application submitted to the division shall either
9 be approved or disapproved by the division in writing within 60 days after its
10 submission to the division. The division and the financial institution may mutually
11 agree to extend the application period for an additional period of 60 days.

12 **222.0203 Eligibility. (1) REQUIREMENTS.** The division shall approve an
13 application for certification as a universal bank, if the applying financial institution
14 meets all of the following requirements:

15 (a) The financial institution is chartered or organized, and regulated, under ch.
16 214, 215 or 221 and has been in existence and continuous operation for a minimum
17 of 3 years prior to the date of the application.

18 (b) The financial institution is well-capitalized or adequately capitalized.

19 (c) The financial institution does not exhibit a combination of financial,
20 managerial, operational and compliance weaknesses that is moderately severe or
21 unsatisfactory, as determined by the division based upon the division's assessment
22 of the financial institution's capital adequacy, asset quality, management capability,
23 earnings quantity and quality, adequacy of liquidity, and sensitivity to market risk.

24 (d) During the 12-month period prior to the application, the financial
25 institution has not been the subject of an enforcement action and there is no

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1 enforcement action pending against the financial institution by any state or federal
2 financial institution regulatory agency, including the division.

3 **(2) FAILURE TO MAINTAIN COMPLIANCE.** For any period during which a universal
4 bank fails to meet the requirements under sub. (1), the division may by order limit
5 or restrict the exercise of the powers of the universal bank under this chapter.

6 **222.0205 Certificate of authority.** Upon approval of the application under
7 s. 222.0201 for certification as a universal bank, the division shall issue to the
8 applicant a certificate of authority stating that the financial institution is certified
9 as a universal bank under this chapter.

10 **222.0207 Decertification.** A financial institution that is certified as a
11 universal bank under this chapter may elect to terminate its certification upon 60
12 days' prior written notice to the division and written approval of the division. The
13 financial institution shall, as a condition to the termination, terminate its exercise
14 of all powers granted under this chapter prior to the termination of the certification.
15 Written approval of the termination by the division is void if the financial institution
16 fails to satisfy the precondition to termination under this section.

17 SUBCHAPTER III

18 ORGANIZATION

19 **222.0301 Articles of incorporation and bylaws.** A universal bank shall
20 continue to operate under its articles of incorporation and bylaws as in effect prior
21 to certification as a universal bank or as such articles or bylaws may be subsequently
22 amended in accordance with the provisions of the chapter under which the universal
23 bank was organized or chartered.

24 **222.0303 Name. (1) USE OF "BANK".** Notwithstanding ss. 214.035, 215.40 (1)
25 and 215.60 (1) and subject to subs. (2) and (4), a universal bank may use the word

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1 “bank” in its name, without having to include the word “savings”. Notwithstanding
2 ss. 215.40 (1) and 215.60 (1) and subject to subs. (2) and (4), a universal bank that
3 is organized under ch. 215 and that uses the word “bank” in its name in accordance
4 with this section need not include the words “savings and loan association” or
5 “savings association” in its name.

6 **(2) DISTINGUISHABILITY.** Except as provided in subs. (3) and (4), the name of the
7 universal bank shall be distinguishable upon the records of the division from all of
8 the following names:

9 (a) The name of any other financial institution organized under the laws of this
10 state.

11 (b) The name of a national bank or foreign bank authorized to transact business
12 in this state.

13 **(3) EXCEPTIONS.** A universal bank may apply to the division for authority to use
14 a name that does not meet the requirement under sub. (2). The division may
15 authorize the use of the name if any of the conditions under s. 221.0403 (2) (a) or (b)
16 is met.

17 **(4) USE OF SAME NAME.** A universal bank may use a name that is used in this
18 state by another financial institution or by an institution authorized to transact
19 business in this state, if the universal bank has done any of the following:

20 (a) Merged with the other institution.

21 (b) Been formed by reorganization of the other institution.

22 (c) Acquired all or substantially all of the assets, including the name, of the
23 other institution.

1 be exercised, directly or indirectly through a subsidiary, by a federally chartered
2 savings bank, a federally chartered savings and loan association, a federally
3 chartered national bank or by an affiliate of such an institution.

4 **(2) REQUIRED NOTIFICATION FOR EXERCISE OF A FEDERAL POWER.** A universal bank
5 shall give 60 days' prior written notice to the division of the universal bank's
6 intention to exercise a power under this section.

7 **(3) EXERCISE OF FEDERAL POWERS THROUGH A SUBSIDIARY.** The division may
8 require that certain powers exercisable by universal banks under this section be
9 exercised through a subsidiary of the universal bank with appropriate safeguards to
10 limit the risk exposure of the universal bank.

11 **222.0403 Loan powers. (1) PERMITTED PURPOSES.** A universal bank may
12 make, sell, purchase, arrange, participate in, invest in or otherwise deal in loans or
13 extensions of credit for any purpose.

14 **(2) IN GENERAL.** Except as provided in subs. (3) to (8), the total liabilities of any
15 person, other than a municipal corporation, to a universal bank for a loan or
16 extension of credit may not exceed 20% of the capital of the universal bank at any
17 time. In determining compliance with this section, liabilities of a partnership
18 includes the liabilities of the general partners, computed individually as to each
19 general partner on the basis of his or her direct liability.

20 **(3) CERTAIN SECURED LIABILITIES.** The percentage limitation under sub. (2) is
21 50% of the universal bank's capital, if the liabilities under sub. (2) are limited to the
22 following types of liabilities:

23 (a) *Warehouse receipts.* A liability secured by warehouse receipts issued by
24 warehouse keepers who are licensed and bonded in this state under ss. 99.02 and

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1 99.03 or under the federal Bonded Warehouse Act or who hold a registration
2 certificate under ch. 127, if all of the following requirements are met:

3 1. The receipts cover readily marketable nonperishable staples.

4 2. The staples are insured, if it is customary to insure the staples.

5 3. The market value of the staples is not, at any time, less than 140% of the face
6 amount of the obligation.

7 (b) *Certain bonds or notes.* A liability in the form of a note or bond that meets
8 any of the following qualifications:

9 1. The note or bond is secured by not less than a like amount of bonds or notes
10 of the United States issued since April 24, 1917, or certificates of indebtedness of the
11 United States.

12 2. The note or bond is secured or covered by guarantees or by commitments or
13 agreements to take over, or to purchase, the bonds or notes, and the guarantee,
14 commitment or agreement is made by a federal reserve bank, the federal small
15 business administration, the federal department of defense or the federal maritime
16 commission.

17 3. The note or bond is secured by mortgages or trust deeds insured by the
18 federal housing administration.

19 **(4) OBLIGATIONS OF LOCAL GOVERNMENTAL UNITS.** (a) *Definition.* In this
20 subsection, “local governmental unit” has the meaning given in s. 16.97 (7).

21 (b) *General limitation.* Except as otherwise provided in this subsection, the
22 total liabilities of a local governmental unit to a universal bank for money borrowed
23 may not, at any time, exceed 25% of the capital of the universal bank.

24 (c) *Revenue obligations.* Liabilities in the form of revenue obligations of a local
25 governmental unit are subject to the limitations provided in par. (b). In addition, a

1 universal bank is permitted to invest in a general obligation of that local
2 governmental unit in an amount that will bring the combined total of the general
3 obligations and revenue obligations of a single local governmental unit to a sum not
4 in excess of 50% of the capital of the universal bank.

5 (d) *General obligations.* If the liabilities of the local governmental unit are in
6 the form of bonds, notes or other evidences of indebtedness that are a general
7 obligation of a local governmental unit, the total liability of the local governmental
8 unit may not exceed 50% of the capital of the universal bank.

9 (e) *Temporary borrowings.* The total amount of temporary borrowings of any
10 local governmental unit maturing within one year after the date of issue may not
11 exceed 60% of the capital of the universal bank. Temporary borrowings and
12 longer-term general obligation borrowings of a single local governmental unit may
13 be considered separately in determining compliance with this subsection.

14 (5) OBLIGATIONS OF CERTAIN INTERNATIONAL ORGANIZATIONS; OTHER FOREIGN BONDS.
15 A universal bank may purchase bonds offered for sale by the International Bank for
16 Reconstruction and Development and the Inter-American Development Bank or
17 such other foreign bonds as may be approved under rules established by the division.
18 At no time shall the aggregate investment in any of these bonds issued by a single
19 issuer exceed 10% of the capital of the universal bank.

20 (6) FOREIGN NATIONAL GOVERNMENT BONDS. A universal bank may purchase
21 general obligation bonds issued by any foreign national government if the bonds are
22 payable in United States funds. The aggregate investment in these foreign bonds
23 may not exceed 3% of the capital of the universal bank, except that this limitation
24 does not apply to bonds of the Canadian government and Canadian provinces that
25 are payable in United States funds.

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1 **(7) LIMITS ESTABLISHED BY BOARD.** (a) *When financial statements required.* A
2 universal bank may not make or renew a loan or loans, the aggregate total of which
3 exceeds the level established by the board of directors without being supported by a
4 signed financial statement of the borrower, unless the loan is secured by collateral
5 having a value in excess of the amount of the loan. A signed financial statement
6 furnished by the borrower to a universal bank in compliance with this paragraph
7 must be renewed annually as long as the loan or any renewal of the loan remains
8 unpaid and is subject to this paragraph.

9 (b) *Treatment of loans complying with limits.* A loan or a renewal of a loan made
10 by a universal bank in compliance with par. (a), without a signed financial statement,
11 may be treated by the universal bank as entirely independent of any secured loan
12 made to the same borrower if the loan does not exceed the limitations provided in this
13 section.

14 **(8) EXCEPTIONS.** This section does not apply to any of the following:

15 (a) *Liabilities secured by certain short-term federal obligations.* A liability that
16 is secured by not less than a like amount of direct obligations of the United States
17 which will mature not more than 18 months after the date on which such liabilities
18 to the universal bank are entered into.

19 (b) *Certain federal and state obligations or guaranteed obligations.* A liability
20 that is a direct obligation of the United States or this state, or an obligation of any
21 governmental agency of the United States or this state, that is fully and
22 unconditionally guaranteed by the United States or this state.

23 (c) *Commodity Credit Corporation liabilities.* A liability in the form of a note,
24 debenture or certificate of interest of the Commodity Credit Corporation.

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1 (d) *Discounting bills of exchange or business or commercial paper.* A liability
2 created by the discounting of bills of exchange drawn in good faith against actually
3 existing values or the discounting of commercial or business paper actually owned
4 by the person negotiating the same.

5 (e) *Certain other federal or federally guaranteed obligations.* In obligations of,
6 or obligations that are fully guaranteed by, the United States and in obligations of
7 any federal reserve bank, federal home loan bank, the Student Loan Marketing
8 Association, the Government National Mortgage Association, the Federal National
9 Mortgage Association, the Federal Home Loan Mortgage Corporation, the
10 Export–Import Bank of Washington or the Federal Deposit Insurance Corporation.

11 **(9) ADDITIONAL AUTHORITY.** (a) *In general.* In addition to the authority granted
12 under subs. (1) to (8), and except as provided in par. (b), a universal bank may lend
13 under this subsection, through the universal bank or subsidiary of the universal
14 bank, to all borrowers from the universal bank and all of its subsidiaries, an
15 aggregate amount not to exceed 20% of the universal bank’s capital. Neither a
16 universal bank nor any subsidiary of the universal bank may lend to any borrower,
17 under this subsection and any other law or rule, an amount that would result in an
18 aggregate amount for all loans to that borrower that exceeds 20% of the universal
19 bank’s capital. A universal bank or its subsidiary may take an equity position or
20 other form of interest as security in a project funded through such loans. Every
21 transaction by a universal bank or its subsidiary under this subsection shall require
22 prior approval by the governing board of the universal bank or its subsidiary,
23 respectively. Such loans are not subject to s. 221.0326 or to classification as losses,
24 for a period of 3 years from the date of each loan except as provided in par. (b).

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1 (b) *Suspension of additional authority.* The division may suspend authority
2 established under this subsection and, in such case, may specify how an outstanding
3 loan shall be treated by the universal bank or its subsidiary. Among the factors that
4 the division may consider in suspending authority under this subsection are the
5 universal bank’s capital adequacy, asset quality, earnings quantity, earnings quality,
6 adequacy of liquidity and sensitivity to market risk and the ability of the universal
7 bank’s management.

8 **222.0405 Investment powers. (1) INVESTMENT SECURITIES.** Except as
9 provided in subs. (3) to (8), a universal bank may purchase, sell, underwrite and hold
10 investment securities, consistent with safe and sound banking practices, up to 100%
11 of the universal bank’s capital. A universal bank shall not invest greater than 20%
12 of the universal bank’s capital in the investment securities of one obligor or issuer.
13 In this subsection, “investment securities” includes commercial paper, banker’s
14 acceptances, marketable securities in the form of bonds, notes, debentures and
15 similar instruments that are regarded as investment securities.

16 **(2) EQUITY SECURITIES.** Except as provided in subs. (3) to (8), a universal bank
17 may purchase, sell, underwrite and hold equity securities, consistent with safe and
18 sound banking practices, up to 20% of capital or, if approved by the division in
19 writing, a greater percentage of capital.

20 **(3) HOUSING ACTIVITIES.** With the prior written consent of the division, a
21 universal bank may invest in the initial purchase and development, or the purchase
22 or commitment to purchase after completion, of home sites and housing for sale or
23 rental, including projects for the reconstruction, rehabilitation or rebuilding of
24 residential properties to meet the minimum standards of health and occupancy
25 prescribed for a local governmental unit, the provision of accommodations for retail

1 stores, shops and other community services that are reasonably incident to that
2 housing, or in the stock of a corporation that owns one or more of those projects and
3 that is wholly owned by one or more financial institutions. The total investment in
4 any one project may not exceed 15% of the universal bank's capital, nor may the
5 aggregate investment under this subsection exceed 50% of capital. A universal bank
6 may not make an investment under this subsection unless it is in compliance with
7 the capital requirements set by the division under s. 222.0305 (1) and with the capital
8 maintenance requirements of its deposit insurance corporation.

9 (4) PROFIT-PARTICIPATION PROJECTS. A universal bank may take equity positions
10 in profit-participation projects, including projects funded through loans from the
11 universal bank, in an aggregate amount not to exceed 20% of capital. The division
12 may suspend the investment authority under this subsection. If the division
13 suspends the investment authority under this subsection, the division may specify
14 how outstanding investments under this subsection shall be treated by the universal
15 bank or its subsidiary. Among the factors that the division may consider in
16 suspending authority under this subsection are the universal bank's capital
17 adequacy, asset quality, earnings quantity, earnings quality, adequacy of liquidity
18 and sensitivity to market risk and the ability of the universal bank's management.
19 This subsection does not authorize a universal bank, directly or indirectly through
20 a subsidiary, to engage in the business of underwriting insurance.

21 (5) DEBT INVESTMENTS. A universal bank may invest in bonds, notes, obligations
22 and liabilities described under s. 222.0403 (3) to (7), subject to the limitations under
23 those subsections.

24 (6) CERTAIN LIABILITIES. This section does not limit investment in the
25 liabilities described in s. 222.0403 (8).

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1 **(7) CERTAIN INVESTMENTS.** A universal bank may invest without limitation in
2 any of the following:

3 (a) *Business development corporations.* Stocks or obligations of a corporation
4 organized for business development by this state or by the United States or by an
5 agency of this state or the United States.

6 (b) *Urban renewal investment corporations.* Obligations of an urban renewal
7 investment corporation organized under the laws of this state or of the United States.

8 (c) *Certain bank insurance companies.* An equity interest in an insurance
9 company or an insurance holding company organized to provide insurance for
10 universal banks and for persons affiliated with universal banks, solely to the extent
11 that this ownership is a prerequisite to obtaining directors' and officers' insurance
12 or blanket bond insurance for the universal bank through the company.

13 (d) *Certain remote service unit corporations.* Shares of stock, whether
14 purchased or otherwise acquired, in a corporation acquiring, placing and operating
15 remote service units under s. 214.04 (21) or 215.13 (46) or bank communications
16 terminals under s. 221.0303 (2).

17 (e) *Service corporations.* Equity or debt securities or instruments of a service
18 corporation subsidiary of the universal bank.

19 (f) *Federal funds.* Advances of federal funds.

20 (g) *Certain risk management financial products.* With the prior written
21 approval of the division, financial futures transactions, financial options
22 transactions, forward commitments or other financial products for the purpose of
23 reducing, hedging or otherwise managing its interest rate risk exposure.

24 (h) *Certain fiduciaries.* A subsidiary organized to exercise corporate fiduciary
25 powers under ch. 112.

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1 (i) *Agricultural credit corporations.* An agricultural credit corporation. Unless
2 a universal bank owns at least 80% of the stock of the agricultural credit corporation,
3 a universal bank may not invest more than 20% of the universal bank's capital in the
4 agricultural credit corporation.

5 (j) *Deposit accounts and insured obligations.* Deposit accounts or insured
6 obligations of any financial institution, the accounts of which are insured by a deposit
7 insurance corporation.

8 (k) *Certain federal obligations.* Obligations of, or obligations that are fully
9 guaranteed by, the United States and stocks or obligations of any federal reserve
10 bank, federal home loan bank, the Student Loan Marketing Association, the
11 Government National Mortgage Association, the Federal National Mortgage
12 Association, the Federal Home Loan Mortgage Corporation or the Federal Deposit
13 Insurance Corporation.

14 (L) *Other investments.* Any other investment authorized by the division.

15 **(8)** INVESTMENTS IN OTHER FINANCIAL INSTITUTIONS. In addition to the authority
16 granted under ss. 222.0307 and 222.0409, and subject to the limitations of sub. (2),
17 a universal bank may invest in other financial institutions.

18 **(9)** INVESTMENTS THROUGH SUBSIDIARIES. A universal bank may make
19 investments under this section, directly or indirectly through a subsidiary, unless
20 the division determines that an investment shall be made through a subsidiary with
21 appropriate safeguards to limit the risk exposure of the universal bank.

22 **222.0407 Universal bank purchase of its own stock. (1)** IN GENERAL. A
23 universal bank may hold or purchase not more than 10% of its capital stock, notes
24 or debentures, except as provided in sub. (2) or (3).

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1 **(2) DIVISION APPROVAL.** A universal bank may hold or purchase more than 10%
2 of its capital stock, notes or debentures, if approved by the division.

3 **(3) ADDITIONAL AUTHORITY.** A universal bank may hold or purchase more than
4 10% of its capital stock, notes or debentures if the purchase is necessary to prevent
5 loss upon a debt previously contracted in good faith. Stock, notes or debentures held
6 or purchased under this subsection may not be held by the universal bank for more
7 than 6 months if the stock, notes or debentures can be sold for the amount of the claim
8 of the universal bank against the holder of the debt previously contracted. The
9 universal bank shall either sell the stock, notes or debentures within 12 months of
10 acquisition under this subsection or shall cancel the stock, notes or debentures.
11 Cancellation of the stock, notes or debentures reduces the amount of the universal
12 bank's capital stock, notes or debentures. If the reduction reduces the universal
13 bank's capital below the minimum level required by the division, the universal bank
14 shall increase its capital to the amount required by the division.

15 **(4) LOANS SECURED BY CAPITAL, SURPLUS OR DEPOSITS.** A universal bank may not
16 loan any part of its capital, surplus or deposits on its own capital stock, notes or
17 debentures as collateral security, except that a universal bank may make a loan
18 secured by its own capital stock, notes or debentures to the same extent that the
19 universal bank may make a loan secured by the capital stock, notes and debentures
20 of a holding company for the universal bank.

21 **222.0409 Stock in bank-owned banks.** With the approval of the division,
22 a universal bank may acquire and hold stock in one or more banks chartered under
23 s. 221.1202 or national banks chartered under 12 USC 27 (b) or in one or more
24 holding companies wholly owning such a bank. Aggregate investments under this
25 section may not exceed 10% of the universal bank's capital.

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1 **222.0411 General deposit powers. (1)** IN GENERAL. A universal bank may
2 set eligibility requirements for, and establish the types and terms of, deposits that
3 the universal bank solicits and accepts. The terms set under this subsection may
4 include minimum and maximum amounts that the universal bank may accept and
5 the frequency and computation method of paying interest.

6 **(2) PLEDGE OF SECURITY FOR DEPOSITS.** Subject to the limitations of s. 221.0324
7 that are applicable to banks, a universal bank may pledge its assets as security for
8 deposits.

9 **(3) SECURITIZATION OF ASSETS.** With the approval of the division, a universal
10 bank may securitize its assets for sale to the public. The division may establish
11 procedures governing the exercise of authority granted under this subsection.

12 **(4) SAFE DEPOSIT POWERS.** A universal bank may take and receive, from any
13 individual or corporation for safekeeping and storage, gold and silver plate, jewelry,
14 money, stocks, securities, and other valuables or personal property; and rent out the
15 use of safes or other receptacles upon its premises upon such compensation as may
16 be agreed upon. A universal bank has a lien for its charges on any property taken
17 or received by it for safekeeping. If the lien is not paid within 2 years from the date
18 the lien accrues, or if property is not called for by the person depositing the property,
19 or by his or her representative or assignee, within 2 years from the date the lien
20 accrues, the universal bank may sell the property at public auction. A universal bank
21 shall provide the same notice for a sale under this subsection that is required by law
22 for sales of personal property on execution. After retaining from the proceeds of the
23 sale all of the liens and charges due the bank and the reasonable expenses of the sale,
24 the universal bank shall pay the balance to the person depositing the property, or to
25 his or her representative or assignee.

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1 **222.0413 Other service and incidental activity powers. (1)** NECESSARY
2 OR CONVENIENT POWERS. Unless otherwise prohibited or limited by this chapter, a
3 universal bank may exercise all powers necessary or convenient to effect the
4 purposes for which the universal bank is organized or to further the businesses in
5 which the universal bank is lawfully engaged.

6 **(2) REASONABLY RELATED POWERS.** (a) Subject to any applicable state or federal
7 regulatory or licensing requirements, a universal bank may engage, directly or
8 indirectly through a subsidiary, in activities reasonably related or incident to the
9 purposes of the universal bank. Activities reasonably related or incident to the
10 purposes of the universal bank are those activities that are part of the business of
11 financial institutions, or closely related to the business of financial institutions, or
12 convenient and useful to the business of financial institutions, or reasonably related
13 or incident to the operation of financial institutions or are financial in nature.
14 Activities that are reasonably related or incident to the purposes of a universal bank
15 include the following:

- 16 1. Business and professional services.
- 17 2. Data processing.
- 18 3. Courier and messenger services.
- 19 4. Credit-related activities.
- 20 5. Consumer services.
- 21 6. Real estate-related services, including real estate brokerage services.
- 22 7. Insurance and related services, other than insurance underwriting.
- 23 8. Securities brokerage.
- 24 9. Investment advice.
- 25 10. Securities and bond underwriting.

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1 11. Mutual fund activities.

2 12. Financial consulting.

3 13. Tax planning and preparation.

4 14. Community development and charitable activities.

5 15. Debt cancellation contracts.

6 16. Any activities reasonably related or incident to activities under subds. 1.

7 to 15.

8 (b) An activity that is authorized by statute or regulation for financial
9 institutions to engage in as of the effective date of this paragraph [revisor inserts
10 date], is an activity that is reasonably related to or incident to the purposes of a
11 universal bank. An activity permitted under the Bank Holding Company Act is an
12 activity that is reasonably related to or incident to the purposes of a universal bank.
13 The list of activities reasonably related or incident to the purposes of a universal
14 bank may be expanded by the division. Any additional activity approved by the
15 division shall be authorized for all universal banks.

16 (3) NOTICE REQUIREMENT. A universal bank shall give 60 days' prior written
17 notice to the division of the universal bank's intention to engage in an activity under
18 this section.

19 (4) STANDARDS FOR DENIAL. The division may deny the authority of a universal
20 bank to engage in an activity under this section, other than those activities described
21 in sub. (2) (a) 1. to 16., if the division determines that the activity is not an activity
22 reasonably related or incident to the purposes of a universal bank, that the financial
23 institution is not well-capitalized or adequately capitalized, that the financial
24 institution is the subject of an enforcement action or that the financial institution
25 does not have satisfactory management expertise for the proposed activity.

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1 **(5) INSURANCE INTERMEDIATION.** A universal bank, or an officer or salaried
2 employe of a universal bank, may obtain a license as an insurance intermediary, if
3 otherwise qualified. A universal bank may not, directly or indirectly through a
4 subsidiary, engage in the business of underwriting insurance.

5 **(6) OTHER ACTIVITIES APPROVED BY THE DIVISION.** A universal bank may engage
6 in any other activity that is approved by rule of the division.

7 **(7) ACTIVITIES PROVIDED THROUGH A SUBSIDIARY.** A universal bank may engage
8 in activities under this section, directly or indirectly through a subsidiary, unless the
9 division determines that an activity must be conducted through a subsidiary with
10 appropriate safeguards to limit the risk exposure of the universal bank.

11 **(8) LIMITATIONS ON INVESTMENTS THROUGH SUBSIDIARIES.** The amount of the
12 investment in any one subsidiary that engages in an activity under this section may
13 not exceed 20% of capital or, if approved by the division, a higher percentage
14 authorized by the division. The aggregate investment in all subsidiaries that engage
15 in an activity under this subsection may not exceed 50% of capital or, if approved by
16 the division, a higher percentage authorized by the division.

17 **(9) OWNERSHIP OF SUBSIDIARIES.** A subsidiary that engages in an activity under
18 this section may be owned jointly, with one or more other financial institutions,
19 individuals or entities.

20 **222.0415 Trust powers.** Subject to rules of the division, a universal bank may
21 exercise trust powers in accordance with s. 221.0316.

SECTION 3. Nonstatutory provisions.

22
23 (1) Using the procedure under section 227.24 of the statutes, the division of
24 banking shall promulgate rules required under chapter 222 of the statutes, as
25 created by this act, for the period before permanent rules become effective, but not

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SECTION 3

1 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
2 Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the division of
3 banking need not provide evidence of the necessity of preservation of the public
4 peace, health, safety or welfare in promulgating rules under this subsection.

5 **SECTION 4. Effective dates.** This act takes effect on the day after publication,
6 except as follows:

7 (1) The treatment of section 220.04 (9) (a) 2. and chapter 222 of the statutes
8 takes effect on the first day of the 3rd month beginning after publication.

9 (END)