

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3533/1dn

RJM:wlj:ch

September 7, 1999

1. As explained below, proposed s. 186.113 (25), regarding the authority of a credit union to sell or purchase financial assets, appears to overlap with existing grants of authority in ch. 186. You may want to have the office of credit unions review this portion of the draft to determine whether any clarification is necessary. Please let me know if, at any time, you would like me to redraft the bill or prepare an amendment to address this issue.

Current law contains several relevant grants of authority regarding a credit union's sale or purchase of assets. Sections 186.18, 186.31 and 186.41 deal with the dissolution, merger and acquisition of a credit union, respectively, and contain specific procedures regarding the sale and acquisition of credit union assets. Furthermore, under s. 186.11 (2) (a), stats., a credit union may acquire or sell assets as necessary for or incidental to its operations. In addition, s. 186.115, stats., allows a credit union to exercise any power that the office of credit unions determines, by rule, to be financially related to the business of credit unions.

Although this draft does require any sale or purchase of financial assets under proposed s. 186.113 (25) to comply with the applicable statutes on dissolutions, mergers and acquisitions, the grant of authority under proposed s. 186.113 (25) otherwise overlaps with the grants of authority under ss. 186.11 (2) (a) and 186.115, stats. In the absence of clarifying language, it is unclear whether the "necessary or incidental" standard from s. 186.11 (2) (a), stats., the "financially related, as determined by rule" standard from s. 186.115, stats., or neither applies to a credit union's purchase or sale of assets under proposed s. 186.113 (25), stats.

2. This draft requires the office of credit unions, with the approval of the credit union review board, to specify by rule which types of assets in addition to mortgages and notes qualify as financial assets under proposed s. 186.113 (25). See proposed s. 186.235 (8). Please let me know if you do not approve of this provision.

3. You may want to consider either delaying the effective date of this draft in order to allow time for the office of credit unions to complete the rule-making process or granting an exception from the rule-making procedures.

4. In proposed s. 186.235 (7) (a) (intro.), I have removed the reference to a "call report" and replaced it with a reference to any quarterly or semiannual financial report regularly filed with the office of credit unions. Currently, a credit union must file either semiannual or quarterly financial reports (commonly referred to as call reports), which

together satisfy the annual reporting requirement under s. 186.235 (19), stats. However, because the term "call report" is undefined, it would be difficult for a court to ascertain what the legislature intended if that term is used. Hopefully, as drafted, proposed s. 186.235 (7) (intro.) more clearly expresses your intent. Let me know if you desire any changes.

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