

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 274**

February 8, 2000 – Offered by Senator MOORE.

1 **AN ACT** *to repeal* 186.235 (16) (b), 186.41 (1) (d), 186.41 (6) (b) and 186.41 (8); *to*
2 *renumber* 186.235 (16) (a) and 186.41 (6) (a); *to renumber and amend* 186.41
3 (1) (a) and 186.41 (1) (c); *to amend* 186.235 (7) (a) (intro.), 186.36, 186.41 (title),
4 186.41 (2) and (3), 186.41 (4) (intro.), (a) to (d) and (f), 186.41 (5) (a), (b), (c) and
5 (cr) and 186.41 (5m); and *to create* 186.113 (24), 186.1155, 186.235 (7) (c),
6 186.235 (7m) and 186.45 of the statutes; **relating to:** membership, powers and
7 operation of certain credit unions; creation of a community reinvestment
8 requirement applicable to certain credit unions; interstate operation, merger
9 and acquisition of credit unions; and granting rule-making authority.

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

10 **SECTION 1.** 186.113 (24) of the statutes is created to read:
11 186.113 **(24)** FUNERAL TRUSTS. Accept deposits made by members for the
12 purpose of funding burial agreements by trusts created under s. 445.125.

1 **SECTION 2.** 186.1155 of the statutes is created to read:

2 **186.1155 Enhanced credit unions. (1) DEFINITION.** In this section,
3 “enhanced credit union” means a credit union that has been issued a certificate of
4 authority under sub. (2) (d).

5 **(2) CERTIFICATION.** (a) *Application.* A credit union may apply to be certified as
6 an enhanced credit union by filing a written application with the office of credit
7 unions. The written application shall contain all information required by the office
8 of credit unions and shall be on a form required by the office of credit unions.

9 (b) *Eligibility.* The office of credit unions may approve an application for
10 certification as an enhanced credit union if the credit union filing the application
11 achieves a rating of 3 or better in the assessment under par. (c).

12 (c) *Assessment of applicant's community reinvestment performance.* For each
13 credit union that files an application under par. (a), the office of credit unions shall
14 assess the performance of the credit union in helping to meet the credit needs of its
15 community, consistent with safe and sound operation of the credit union. In making
16 this assessment, the office of credit unions shall consider factors that are
17 substantially the same as the factors under sub. (4) (c) and may require the credit
18 union to file any information that may assist the office of credit unions in making the
19 assessment. Using the same 1 to 5 rating system established under sub. (4) (d) 1.,
20 the office of credit unions shall rate the credit union's performance in helping to meet
21 the credit needs of its community.

22 (d) *Approval.* If an applicant achieves a rating of 3 or better in the assessment
23 under par. (c), the office of credit unions shall issue to the applicant a certificate of
24 authority stating that the credit union is certified as an enhanced credit union. The
25 office of credit unions may issue an amended charter to the applicant in order to

1 reflect any necessary changes to the charter resulting from the approval of the
2 application.

3 (e) *Limitation of authority and decertification.* If an enhanced credit union fails
4 to maintain a rating of 3 or better in the annual assessment performed by the office
5 of credit unions under sub. (4) (c), the office of credit unions may limit the enhanced
6 credit union's exercise of powers under sub. (3) and may terminate the enhanced
7 credit union's certificate of authority issued under par. (d). An enhanced credit union
8 may voluntarily terminate its certificate of authority issued under par. (d), under any
9 voluntary termination procedure established by rule of the office of credit unions.

10 **(3) POWERS, DUTIES AND PROHIBITIONS.** All of the following apply to an enhanced
11 credit union:

12 (a) *Purpose.* Notwithstanding s. 186.01 (2), an enhanced credit union need not
13 be incorporated for the purpose of encouraging thrift among its members, creating
14 a source of credit at a fair and reasonable cost and providing an opportunity for its
15 members to improve their economic and social conditions.

16 (b) *By-laws.* The by-laws of an enhanced credit union shall establish a policy
17 determining which individuals qualify as members of the immediate family of an
18 individual who is qualified to be admitted to membership and, notwithstanding s.
19 186.02 (2) (a) 1., the by-laws of an enhanced credit union shall specify the conditions
20 that determine eligibility for membership in the enhanced credit union.

21 (c) *Membership of individuals.* Notwithstanding s. 186.02 (2) (b), membership
22 in an enhanced credit union may be open to any of the following:

23 1. Individuals that reside or are employed within a well-defined neighborhood,
24 community, rural district or multicounty region, unless the office of credit unions

1 determines that it is impractical for a particular enhanced credit union to serve the
2 area in which the individuals reside or are employed.

3 2. Employes of related industries or employes of industries that operate at least
4 one facility within a well-defined neighborhood or urban, suburban or rural
5 community, the limits of which are not determined by any arbitrary physical
6 standard.

7 (d) *Membership of organizations.* Notwithstanding s. 186.02 (2) (d), an
8 organization or association of individuals, the majority of the directors, owners or
9 members of which are eligible for membership, may be admitted to membership in
10 an enhanced credit union in the same manner and under the same conditions as
11 individuals. Notwithstanding s. 186.02 (2) (d), an organization or association that
12 has a business location within any geographic limits of an enhanced credit union's
13 field of membership or an organization or association that, in the ordinary course of
14 business, provides goods and services to credit unions, credit union organizations or
15 persons who are eligible for membership in the enhanced credit union may be
16 admitted to membership.

17 (e) *Membership of family members.* As determined under an enhanced credit
18 union's by-laws and notwithstanding s. 186.02 (2) (c), members of the immediate
19 family of an individual who is qualified to be admitted to membership in the
20 enhanced credit union may be admitted to membership.

21 (f) *Investment in credit union service organizations.* Unless the office of credit
22 unions approves a higher percentage, an enhanced credit union may invest not more
23 than 1.5% of its total assets in the capital shares or obligations of credit union service
24 organizations that are organized to provide goods and services, in the ordinary
25 course of business, to credit unions, credit union organizations and credit union

1 members and that are corporations, limited partnerships, limited liability
2 companies or other entities permitted under the laws of this state and approved by
3 the office of credit unions. A credit union service organization under this paragraph
4 may be subject to audit by the office of credit unions. A credit union service
5 organization under this paragraph may provide, in addition to all of the goods and
6 services that a credit union service corporation may provide under s. 186.11 (4) (b),
7 any of the following:

8 1. Electronic transaction services.

9 2. Management, development, sale or lease of fixed assets and sale, lease or
10 servicing of computer hardware or software.

11 3. Securities brokerage services.

12 4. Travel agency services.

13 (g) *Branch offices.* Notwithstanding s. 186.113 (1), an enhanced credit union,
14 with the approval of the office of credit unions, may establish branch offices inside
15 or outside of this state. Permanent records may be maintained at branch offices
16 established under this paragraph. In this paragraph, “branch office” does not
17 include a remote terminal, a limited services office or a service center.

18 (h) *Limited services offices.* An enhanced credit union may not establish a
19 limited services office under s. 186.113 (1m), except that this paragraph does not
20 apply to a limited services office that is established before the effective date of this
21 paragraph [revisor inserts date].

22 (i) *Trust services and related deposits.* Notwithstanding s. 186.113 (6) (b) and
23 (c), an enhanced credit union may do any of the following:

1 1. Act as a trustee or custodian of member tax deferred retirement funds,
2 individual retirement accounts, medical savings accounts or other employe benefit
3 accounts or funds permitted by federal law to be deposited in a credit union.

4 2. Act as a depository for member qualified and nonqualified deferred
5 compensation funds as permitted by federal law.

6 (j) *Conditional sales contracts.* Notwithstanding par. (k), an enhanced credit
7 union may purchase or acquire conditional sales contracts or similar instruments
8 executed by credit union members.

9 (k) *Purchase of certain assets.* Subject to ss. 186.31 and 186.41, an enhanced
10 credit union, with the prior approval of the office of credit unions, may purchase any
11 of the following assets of another lender or seller:

12 1. Loans and lines of credit.

13 2. Liens and security interests.

14 3. Leases.

15 4. Conditional sales contracts.

16 5. Investments, as permitted under s. 186.11 (1) to (3).

17 **(4) COMMUNITY REINVESTMENT.** (a) *Required information.* An enhanced credit
18 union shall prepare a community credit needs statement for filing with the office of
19 credit unions under par. (b) and shall post a community credit needs notice indicating
20 the enhanced credit union's numerical rating under par. (d) 1.

21 (b) *Filing.* No later than March 1 of each year, an enhanced credit union shall
22 file with the office of credit unions a community credit needs statement. In addition
23 to the community credit needs statement, the office of credit unions may require an
24 enhanced credit union to file additional information in making an assessment of the

1 enhanced credit union under par. (c) and in considering an application of the
2 enhanced credit union that is listed under par. (e).

3 (c) *Annual assessment.* The office of credit unions shall assess annually an
4 enhanced credit union's performance in helping to meet the credit needs of its
5 community, consistent with safe and sound operation of the enhanced credit union.
6 In making an assessment under this paragraph, the office of credit unions shall
7 consider the enhanced credit union's community credit needs statement and all of
8 the following:

9 1. Activities conducted by the enhanced credit union to determine the credit
10 needs of its community.

11 2. The enhanced credit union's marketing efforts to make community members
12 aware of the credit services offered by the enhanced credit union.

13 3. Participation by the board of directors of the enhanced credit union in
14 formulating the enhanced credit union's policies and reviewing the enhanced credit
15 union's performance in helping to meet the credit needs of its community.

16 4. Practices that the enhanced credit union, or an officer, employe or director
17 of the enhanced credit union, engages in that are intended to discourage, or have the
18 effect of discouraging, applications for the types of credit identified in any plan
19 prepared by the enhanced credit union that specifies the enhanced credit union's
20 goals for helping to meet the credit needs of its community.

21 5. The geographic distribution of the enhanced credit union's credit
22 applications, extensions and denials.

23 6. Evidence of prohibited discriminatory or other illegal credit practices.

24 7. The enhanced credit union's record of opening and closing branch offices and
25 of providing services at branch offices.

1 8. The enhanced credit union's participation in, and investments in,
2 community development and redevelopment projects and programs.

3 9. The enhanced credit union's origination, to members of its community, of
4 residential mortgage loans, housing rehabilitation or improvement loans and small
5 farm loans, and the enhanced credit union's purchase of these types of loans made
6 by others to members of its community.

7 10. The enhanced credit union's participation in government-insured,
8 guaranteed or subsidized loan programs for housing, small businesses or small
9 farms.

10 11. The enhanced credit union's ability to meet the credit needs of its
11 community based on the enhanced credit union's size and financial condition, local
12 economic conditions or other factors.

13 12. The geographic distribution and use of remote terminals under s. 186.113
14 (15) that are operated by the enhanced credit union.

15 13. The enhanced credit union's participation in credit counseling services in
16 its community.

17 14. Any other factor that affects an enhanced credit union's performance in
18 helping to meet the credit needs of its community.

19 (d) *Assessment report; confidentiality.* 1. The office of credit unions shall
20 prepare a written report summarizing the results of each assessment under par. (c).
21 The office of credit unions shall provide the enhanced credit union that is the subject
22 of the report with a copy of the report and, except as provided in subd. 2., shall make
23 the report available for public inspection. The report shall include a numerical
24 rating of the enhanced credit union's performance in helping to meet the credit needs

1 of its community. The numerical rating shall use a 1 to 5 rating system, with one
2 representing excellent performance and 5 representing unsatisfactory performance.

3 2. The office of credit unions may not make available for public inspection
4 under subd. 1. any statements obtained or made by the office of credit unions in the
5 course of the assessment that, in the discretion of the office of credit unions, are too
6 sensitive or speculative in nature to disclose to the public, or any personal financial
7 information.

8 (e) *Use of assessment upon consideration of certain applications.* The office of
9 credit unions shall consider the assessment of an enhanced credit union under par.
10 (c) whenever the office of credit unions considers any of the following applications
11 from the enhanced credit union:

12 1. An application to invest under s. 186.11 (1) (e).

13 2. An application to establish a branch office under sub. (3) (g).

14 3. An application to operate a remote terminal in a mobile facility under s.
15 186.113 (15) (a).

16 4. An application to merge with a credit union under s. 186.31.

17 5. An application to acquire or merge with an out-of-state credit union under
18 s. 186.41 (2) (a).

19 (f) *Assessment as basis for denial of application.* The office of credit unions may
20 use the assessment of an enhanced credit union under par. (c) as a basis for denying
21 an application of the enhanced credit union that is listed under par. (e).

22 (g) *Hearing.* The office of credit unions may hold a public hearing on an
23 application of an enhanced credit union that is listed under par. (e) if the office of
24 credit unions receives an objection to the application that is based on any of the
25 factors used in making the assessment under par. (c).

1 **(5) ADMINISTRATION.** The office of credit unions, with the approval of the credit
2 union review board, shall promulgate rules for the efficient administration of this
3 section. The rules shall include the form and content of a community credit needs
4 statement and the form and content of, and acceptable manner of posting, a
5 community credit needs notice under sub. (4) (a).

6 **SECTION 3.** 186.235 (7) (a) (intro.) of the statutes is amended to read:

7 186.235 (7) (a) (intro.) Employes Except as provided in s. 186.1155 (4) (d) 1.,
8 employes of the office of credit unions and members of the review board shall keep
9 secret all the facts and information obtained in the course of examinations, except
10 or contained in any report provided by a credit union other than any semiannual or
11 quarterly financial report that is regularly filed with the office of credit unions. This
12 requirement does not apply in any of the following situations:

13 **SECTION 4.** 186.235 (7) (c) of the statutes is created to read:

14 186.235 (7) (c) If any person mentioned in par. (a) discloses any information
15 about the private account or transactions of a credit union or any information
16 obtained in the course of an examination of a credit union, except as provided in pars.
17 (a) and (b) and s. 186.1155 (4) (d) 1., that person may be required to forfeit not less
18 than \$100 nor more than \$1,000.

19 **SECTION 5.** 186.235 (7m) of the statutes is created to read:

20 186.235 (7m) **RETURN OF EXAMINATION REPORTS.** Examination reports possessed
21 by a credit union are confidential, remain the property of the office of credit unions
22 and shall be returned to the office of credit unions immediately upon request.

23 **SECTION 6.** 186.235 (16) (a) of the statutes is renumbered 186.235 (16).

24 **SECTION 7.** 186.235 (16) (b) of the statutes is repealed.

25 **SECTION 8.** 186.36 of the statutes is amended to read:

1 **186.36 Sale of insurance in credit unions.** Any officer or employe of a credit
2 union, when acting as an agent for the sale of insurance on behalf of the credit union,
3 shall pay all commissions received from the sale of ~~credit life insurance or credit~~
4 ~~accident and sickness insurance~~ to the credit union.

5 **SECTION 9.** 186.41 (title) of the statutes is amended to read:

6 **186.41 (title) Interstate acquisition acquisitions and merger mergers**
7 **of credit unions.**

8 **SECTION 10.** 186.41 (1) (a) of the statutes is renumbered 186.41 (1) (bm) and
9 amended to read:

10 186.41 (1) (bm) “~~In-state~~ Wisconsin credit union” means a credit union having
11 its principal office located in this state.

12 **SECTION 11.** 186.41 (1) (c) of the statutes is renumbered 186.41 (1) (am) and
13 amended to read:

14 186.41 (1) (am) “~~Regional~~ Out-of-state credit union” means a state or federal
15 credit union that ~~has its,~~ the principal office of which is located in ~~one of the regional~~
16 states a state other than this state.

17 **SECTION 12.** 186.41 (1) (d) of the statutes is repealed.

18 **SECTION 13.** 186.41 (2) and (3) of the statutes are amended to read:

19 186.41 (2) ~~IN-STATE~~ WISCONSIN CREDIT UNION. (a) ~~An in-state~~ A Wisconsin credit
20 union may do any of the following:

21 1. Acquire an interest in, or some or all of the assets and liabilities of, one or
22 more ~~regional~~ out-of-state credit unions.

23 2. Merge with one or more ~~regional~~ out-of-state credit unions.

24 (b) ~~An in-state~~ A Wisconsin credit union proposing any action under par. (a)
25 shall provide the office of credit unions a copy of any original application seeking

1 approval by a federal agency or by an agency of ~~the regional~~ another state and of any
2 supplemental material or amendments filed in connection with any application.

3 **(3)** ~~REGIONAL OUT-OF-STATE~~ CREDIT UNIONS. Except as provided in sub. (4), a
4 ~~regional~~ an out-of-state credit union may do any of the following:

5 (a) Acquire an interest in, or some or all of the assets of, one or more ~~in-state~~
6 Wisconsin credit unions.

7 (b) Merge with one or more ~~in-state~~ Wisconsin credit unions.

8 **SECTION 14.** 186.41 (4) (intro.), (a) to (d) and (f) of the statutes are amended to
9 read:

10 186.41 **(4)** LIMITATIONS. (intro.) ~~A regional~~ An out-of-state credit union may
11 not take any action under sub. (3) until all of the following conditions have been met:

12 (a) The office of credit unions finds that the statutes of the ~~regional~~ state in
13 which the ~~regional~~ out-of-state credit union has its principal office permit ~~in-state~~
14 Wisconsin credit unions to both acquire ~~regional~~ out-of-state credit union assets and
15 merge with one or more ~~regional~~ out-of-state credit unions in the ~~regional~~ that state.

16 (b) The office of credit unions has not disapproved the acquisition of ~~in-state~~
17 Wisconsin credit union assets or the merger with the ~~in-state~~ Wisconsin credit union
18 under sub. (5).

19 (c) The office of credit unions gives a class 3 notice, under ch. 985, in the official
20 state newspaper, of the application to take an action under sub. (3) and of the
21 opportunity for a hearing and, if at least 25 residents of this state petition for a
22 hearing within 30 days of the final notice or if the office of credit unions on its own
23 motion calls for a hearing within 30 days of the final notice, the office of credit unions
24 holds a public hearing on the application, except that a hearing is not required if the
25 office of credit unions finds that an emergency exists and that the proposed action

1 under sub. (3) is necessary and appropriate to prevent the probable failure of an
2 ~~in-state~~ a Wisconsin credit union that is closed or in danger of closing.

3 (d) The office of credit unions is provided a copy of any original application
4 seeking approval by a federal agency of the acquisition of ~~in-state~~ Wisconsin credit
5 union assets or of the merger with an ~~in-state~~ a Wisconsin credit union and of any
6 supplemental material or amendments filed with the application.

7 (f) With regard to an acquisition of assets of an ~~in-state~~ a Wisconsin credit
8 union that is chartered on or after May 9, 1986, the ~~in-state~~ Wisconsin credit union
9 has been in existence for at least 5 years before the date of acquisition.

10 **SECTION 15.** 186.41 (5) (a), (b), (c) and (cr) of the statutes are amended to read:

11 186.41 (5) (a) Considering the financial and managerial resources and future
12 prospects of the applicant and of the ~~in-state~~ Wisconsin credit union concerned, the
13 action would be contrary to the best interests of the members of the ~~in-state~~
14 Wisconsin credit union.

15 (b) The action would be detrimental to the safety and soundness of the
16 applicant or of the ~~in-state~~ Wisconsin credit union concerned, or to a subsidiary or
17 affiliate of the applicant or of the ~~in-state~~ Wisconsin credit union.

18 (c) Because the applicant, its executive officers or directors have not
19 established a record of sound performance, efficient management, financial
20 responsibility and integrity, the action would be contrary to the best interests of the
21 creditors, members or other customers of the applicant or of the ~~in-state~~ Wisconsin
22 credit union or contrary to the best interests of the public.

23 (cr) The applicant has failed to propose to provide adequate and appropriate
24 services of the type contemplated by the community reinvestment act of 1977 in the

1 community in which the ~~in-state~~ Wisconsin credit union which the applicant
2 proposes to acquire or merge with is located.

3 **SECTION 16.** 186.41 (5m) of the statutes is amended to read:

4 186.41 (5m) BRANCHING NOT LIMITED. This section does not limit branching
5 authority under ~~s. ss.~~ ss. 186.113 (1) and (1m) and 186.1155 (3) (g).

6 **SECTION 17.** 186.41 (6) (a) of the statutes is renumbered 186.41 (6).

7 **SECTION 18.** 186.41 (6) (b) of the statutes is repealed.

8 **SECTION 19.** 186.41 (8) of the statutes is repealed.

9 **SECTION 20.** 186.45 of the statutes is created to read:

10 **186.45 Non-Wisconsin credit union, Wisconsin offices. (1) DEFINITIONS.**

11 In this section:

12 (a) “Non-Wisconsin credit union” means a credit union organized under the
13 laws of and with its principal office located in a state other than this state.

14 (b) “Wisconsin credit union” has the meaning given in s. 186.41 (1) (bm).

15 **(2) APPROVAL.** A non-Wisconsin credit union may open an office and conduct
16 business as a credit union in this state if the office of credit unions finds that
17 Wisconsin credit unions are allowed to do business in the other state under
18 conditions similar to those contained in this section and that the non-Wisconsin
19 credit union meets all of the following conditions:

20 (a) Is a credit union organized under laws similar to the credit union laws of
21 this state.

22 (b) Is financially solvent based upon national board ratings.

23 (c) Has member savings insured with federal share insurance.

24 (d) Is effectively examined and supervised by the credit union authorities of the
25 state in which it is organized.

1 (e) Has received approval from the credit union authorities of the state in which
2 it is organized.

3 (f) Has a need to place an office in this state to adequately serve its members
4 in this state.

5 (g) Meets all other relevant standards or qualifications established by the office
6 of credit unions.

7 **(3) REQUIREMENTS.** A non–Wisconsin credit union shall agree to do all of the
8 following:

9 (a) Grant loans at rates not in excess of the rates permitted for Wisconsin credit
10 unions.

11 (b) Comply with this state’s laws.

12 (c) Designate and maintain an agent for the service of process in this state.

13 **(4) RECORDS.** As a condition of a non–Wisconsin credit union doing business in
14 this state under this section, the office of credit unions may require copies of
15 examination reports and related correspondence regarding the non–Wisconsin
16 credit union.

17 **SECTION 21. Nonstatutory provisions.**

18 (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
19 the office of credit unions shall promulgate rules required under section 186.1155 (5)
20 of the statutes, as created by this act, for the period before permanent rules become
21 effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2)
22 of the statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the
23 office of credit unions need not provide evidence of the necessity of preservation of

1 the public peace, health, safety or welfare in promulgating rules under this
2 subsection.

3 (END)