

**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB325)**

Received: 02/08/2000

Received By: **rmarchan**

Wanted: 02/08/2000

Identical to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **rmarchan**

May Contact:

Alt. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Credit unions

**Instructions:**

Require fee disclosure for all ATM operators.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rmarchan 02/08/2000	gilfokm 02/08/2000	kfollet 02/08/2000	_____	lrb_docadmin 02/08/2000	lrb_docadmin 02/08/2000	

FE Sent For:

<END>

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/?	rmarchan	1-2-8-2000 KMG	KJ 2/8	KJ/ST 2/8			

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/?	rmarchan			_____			

FE Sent For:

<END>



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBs02942

RJM: King

1  
RMR  
DNOR

NOV

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION  
SENATE SUBSTITUTE AMENDMENT,  
TO 1999 SENATE BILL 325

gr. cart.

automated teller  
automated teller machine  
fees.

1 AN ACT (...; relating to: ~~200~~)

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

2 SECTION 1. 186.01 (1m) of the statutes is created to read:

3 186.01 (1m) "Automated teller machine" has the meaning given in s. 224.55  
4 (1) (a).

5 SECTION 2. 186.11 (4) (b) 1. of the statutes is amended to read:

6 186.11 (4) (b) 1. Credit union operations services, including service centers,  
7 credit and debit card services, automated teller ~~and remote terminal~~ machine  
8 services, accounting systems, data processing, management training and support,  
9 payment item processing, record retention and storage, locator services, research,  
10 debt collection, credit analysis and loan servicing, coin and currency services and  
11 marketing and advertising services.

1           **SECTION 3.** 186.113 (1) of the statutes is amended to read:

2           186.113 (1) **BRANCH OFFICES.** If the need and necessity exist and with the  
3 approval of the office of credit unions, establish branch offices inside this state or no  
4 more than 25 miles outside of this state. Permanent records may be maintained at  
5 branch offices established under this subsection. In this subsection, the term  
6 “branch office” does not include ~~a remote terminal~~ an automated teller machine, a  
7 limited services office or a service center.

8           **SECTION 4.** 186.113 (15) (a) of the statutes is amended to read:

9           186.113 (15) (a) ~~Directly~~ In accordance with rules established by the office of  
10 credit unions, directly or indirectly, acquire, place and operate, or participate in the  
11 acquisition, placement and operation of, at locations other than its offices, ~~remote~~  
12 ~~terminals, in accordance with rules established by the office of credit unions~~  
13 automated teller machines. The rules shall provide that any ~~remote terminal~~  
14 automated teller machine shall be available for use, on a nondiscriminatory basis,  
15 by any state or federal credit union which has its principal place of business in this  
16 state, by any other credit union obtaining the consent of a state or federal credit  
17 union which has its principal place of business in this state and is using the ~~terminal~~  
18 automated teller machine and by all members designated by a credit union using the  
19 ~~terminal~~ automated teller machine. This subsection does not authorize a credit  
20 union which has its principal place of business outside the state to conduct business  
21 as a credit union in this state. ~~The remote terminals~~ automated teller machines also  
22 shall be available for use, on a nondiscriminatory basis, by any state or national  
23 bank, state or federal savings bank or state or federal savings and loan association,  
24 whose home office is located in this state, if the bank, savings bank or savings and  
25 loan association requests to share its use, subject to the joint rules established under

1 s. 221.0303 (2). The office of credit unions by order may authorize the installation  
2 and operation of ~~a remote terminal~~ an automated teller machine in a mobile facility,  
3 after notice and hearing upon the proposed service stops of the mobile facility.

4 SECTION 5. 186.113 (15) (b) of the statutes is repealed.

5 SECTION 6. 186.113 (15) (c) to (e) of the statutes are amended to read:

6 186.113 (15) (c) If any person primarily engaged in the retail sale of goods or  
7 services owns or operates ~~a remote terminal~~ an automated teller machine on such  
8 person's premises and allows access to the ~~unit~~ automated teller machine by any  
9 financial institution, group of financial institutions or their customers, nothing in  
10 this subsection or in rules established by the office of credit unions shall, or shall be  
11 construed or interpreted to, require such person to accept any connection to or use  
12 of the ~~unit~~ automated teller machine on its premises for any other purpose or  
13 function or to accept any connection to the ~~unit~~ automated teller machine on its  
14 premises by any other financial institution.

15 (d) If a person primarily engaged in the retail sale of goods or services owns or  
16 operates ~~a remote terminal~~ an automated teller machine on such person's premises  
17 and allows access to the ~~unit~~ automated teller machine by any financial institution,  
18 group of financial institutions or their customers for any purpose or function, no laws  
19 governing such institutions or rules established by the office of credit unions shall  
20 apply to such person ~~other than~~ except as provided in s. 224.55 and except for those  
21 laws or rules that are directly related to the particular function performed by the ~~unit~~  
22 automated teller machine on such person's premises for a financial institution.

23 (e) Information transmitted from ~~a remote terminal, either~~ an automated teller  
24 machine, identified as to either particular transactions or aggregate information,  
25 shall only be used for purposes of effecting the financial transactions for which such

1 information was received, for any other purpose lawfully authorized by contract, or  
2 for any other purpose permitted by statute and rules pertaining to the dissemination  
3 and disclosure of such information.

4 SECTION 7. 214.01 (1) (am) of the statutes is created to read:

5 214.01 (1) (am) “Automated teller machine” has the meaning given in s. 224.55  
6 (1) (a).

7 SECTION 8. 214.01 (1) (d) of the statutes is amended to read:

8 214.01 (1) (d) “Branch office” means a place of business, other than the home  
9 office, where the business of the savings bank is conducted. “Branch office” does not  
10 include ~~a remote service unit~~ an automated teller machine, a limited office or an  
11 extended office.

12 SECTION 9. 214.01 (1) (q) of the statutes is amended to read:

13 214.01 (1) (q) “Limited office” means a place of business at which a savings  
14 bank provides lending and other services, but at which a savings bank may not  
15 accept deposits except through ~~a remote service unit~~ an automated teller machine.

16 SECTION 10. 214.01 (1) (sm) of the statutes is repealed.

17 SECTION 11. 214.04 (21) of the statutes is amended to read:

18 214.04 (21) (a) ~~Directly~~ In accordance with rules established by the division,  
19 directly or indirectly, to acquire, place and operate, or participate in the acquisition,  
20 placement and operation of, at locations other than its home office and branch offices,  
21 ~~remote service units, in accordance with rules established by the division~~ automated  
22 teller machines.

23 (b) The rules of the division shall provide that any ~~remote service unit~~  
24 automated teller machine shall be available for use, on a nondiscriminatory basis,  
25 by any state or federal savings bank which has its principal place of business in this

1 state, by any other state or federal savings bank obtaining the consent of a state or  
2 federal savings bank that has its principal place of business in this state and is using  
3 the ~~terminal~~ automated teller machine and by all customers designated by a savings  
4 bank using the ~~unit~~ automated teller machine. This paragraph does not authorize  
5 a savings bank which has its principal place of business outside this state to conduct  
6 business as a savings bank in this state. ~~A remote service unit~~ An automated teller  
7 machine shall be available for use, on a nondiscriminatory basis, by any credit union,  
8 state or national bank or state or federal savings and loan association, whose home  
9 office is located in this state, if the credit union, bank or savings and loan association  
10 requests to share its use, subject to joint rules established by the division of banking,  
11 the office of credit unions and the division. The division by order may authorize the  
12 installation and operation of ~~a remote service unit~~ an automated teller machine in  
13 a mobile facility, after notice and hearing upon the proposed service stops of the  
14 mobile facility.

15 (c) If any person primarily engaged in the retail sale of goods or services owns  
16 or operates ~~a remote service unit~~ an automated teller machine on such person's  
17 premises and allows access to the ~~unit~~ automated teller machine by any financial  
18 institution, group of financial institutions or their customers, nothing in this  
19 paragraph or in rules established by the division shall require such person to accept  
20 any connection to or use of the ~~unit~~ automated teller machine on its premises for any  
21 other purpose or function or to accept any connection to the ~~unit~~ automated teller  
22 machine on its premises by any other financial institution.

23 (d) If a person primarily engaged in the retail sale of goods or services owns or  
24 operates ~~a remote service unit~~ an automated teller machine on such person's  
25 premises and allows access to the ~~unit~~ automated teller machine by any financial



1 institution, group of financial institutions or their customers for any purpose or  
2 function, laws governing such institutions or rules established by the division shall  
3 not apply to such person ~~other than~~ except as provided in s. 224.55 and except for  
4 those laws or rules that are directly related to the particular function performed by  
5 the ~~unit~~ automated teller machine on such person's premises for a financial  
6 institution.

7 (e) Information transmitted from a ~~remote service unit, either~~ an automated  
8 teller machine, identified as to either particular transactions or aggregate  
9 information, shall only be used for purposes of effecting the financial transactions  
10 for which such information was received, for any other purpose lawfully authorized  
11 by contract, or for any other purpose permitted by statute and rules pertaining to the  
12 dissemination and disclosure of such information.

13 **SECTION 12.** 214.49 (9m) of the statutes is amended to read:

14 214.49 (9m) In shares of stock, whether purchased or otherwise acquired, in  
15 a corporation acquiring, placing and operating ~~remote service units~~ automated teller  
16 machines under s. 214.04 (21).

17 **SECTION 13.** 215.01 (1m) of the statutes is created to read:

18 215.01 (1m) "Automated teller machine" has the meaning given in s. 224.55  
19 (1) (a).

20 **SECTION 14.** 215.13 (26) (em) of the statutes is amended to read:

21 215.13 (26) (em) Shares of stock, whether purchased or otherwise acquired, in  
22 a corporation acquiring, placing and operating ~~remote service units~~ automated teller  
23 machines under sub. (46).

24 **SECTION 15.** 215.13 (46) (title) of the statutes is repealed and recreated to read:

25 215.13 (46) (title) AUTOMATED TELLER MACHINES.

1           **SECTION 16.** 215.13 (46) (a) 1. of the statutes is amended to read:

2           215.13 (46) (a) 1. ~~Directly~~ In accordance with rules established by the division,  
3 directly or indirectly, acquire, place and operate, or participate in the acquisition,  
4 placement and operation of, at locations other than its home or branch offices, ~~remote~~  
5 ~~service units, in accordance with rules established by the division. Remote service~~  
6 ~~units~~ automated teller machines. Automated teller machines established in  
7 accordance with such rules are not subject to sub. (36), (39), (40) or (47) or s. 215.03  
8 (8). The rules of the division shall provide that any ~~such remote service unit~~  
9 automated teller machine shall be available for use, on a nondiscriminatory basis,  
10 by any state or federal savings and loan association which has its principal place of  
11 business in this state, by any other savings and loan association obtaining the  
12 consent of a state or federal savings and loan association which has its principal place  
13 of business in this state and is using the ~~terminal~~ automated teller machine and by  
14 all customers designated by a savings and loan association using the ~~unit~~ automated  
15 teller machine. This paragraph does not authorize a savings and loan association  
16 which has its principal place of business outside this state to conduct business as a  
17 savings and loan association in this state. ~~The remote service units~~ automated teller  
18 machines also shall be available for use, on a nondiscriminatory basis, by any credit  
19 union, state or national bank or state or federal savings bank, whose home office is  
20 located in this state, if the credit union, bank or savings bank requests to share its  
21 use, subject to the joint rules established under s. 221.0303 (2). The division by order  
22 may authorize the installation and operation of ~~a remote service unit~~ an automated  
23 teller machine in a mobile facility, after notice and hearing upon the proposed service  
24 stops of the mobile facility.

25           **SECTION 17.** 215.13 (46) (a) 2. of the statutes is repealed.

1           **SECTION 18.** 215.13 (46) (a) 3. to 5. of the statutes are amended to read:

2           215.13 (46) (a) 3. If any person primarily engaged in the retail sale of goods or  
3 services owns or operates ~~a remote service unit~~ an automated teller machine on such  
4 person's premises and allows access to the ~~unit~~ automated teller machine by any  
5 financial institution, group of financial institutions or their customers, nothing in  
6 this paragraph or in rules established by the division shall, or shall be construed or  
7 interpreted to, require such person to accept any connection to or use of the ~~unit~~  
8 automated teller machine on its premises for any other purpose or function or to  
9 accept any connection to the ~~unit~~ automated teller machine on its premises by any  
10 other financial institution.

11           4. If a person primarily engaged in the retail sale of goods or services owns or  
12 operates ~~a remote service unit~~ an automated teller machine on such person's  
13 premises and allows access to the ~~unit~~ automated teller machine by any financial  
14 institution, group of financial institutions or their customers for any purpose or  
15 function, no laws governing such institutions or rules established by the division  
16 shall apply to such person ~~other than~~ except as provided in s. 224.55 and except for  
17 those laws or rules that are directly related to the particular function performed by  
18 the ~~unit~~ automated teller machine on such person's premises for a financial  
19 institution.

20           5. Information transmitted from ~~a remote service unit, either~~ an automated  
21 teller machine, identified as to either particular transactions or aggregate  
22 information, shall only be used for purposes of effecting the financial transactions  
23 for which such information was received, for any other purpose lawfully authorized  
24 by contract, or for any other purpose permitted by statute and rules pertaining to the  
25 dissemination and disclosure of such information.

1           **SECTION 19.** 215.26 (5) of the statutes is amended to read:

2           215.26 (5) **LEGAL HOLIDAYS.** The division shall designate such of the legal  
3 holidays listed in s. 895.20 as days on which no association may transact business  
4 or be open for the purpose of transacting business. For purposes of this subsection,  
5 operation of ~~a remote service unit as defined in an automated teller machine under~~  
6 s. 215.13 (46) (a) 1. or an unstaffed facility does not constitute the transaction of  
7 business.

8           **SECTION 20.** 221.0102 (2m) of the statutes is created to read:

9           221.0102 (2m) "Automated teller machine" has the meaning given in s. 224.55  
10 (1) (a).

11           **SECTION 21.** 221.0303 (title) of the statutes is repealed and recreated to read:

12           **221.0303 (title) Automated teller machines.**

13           **SECTION 22.** 221.0303 (1) of the statutes is repealed.

14           **SECTION 23.** 221.0303 (2) of the statutes, as affected by 1999 Wisconsin Act 9,  
15 is amended to read:

16           221.0303 (2) ~~OPERATION AND ACQUISITION OF CUSTOMER BANK COMMUNICATIONS~~  
17 ~~TERMINALS~~ AUTOMATED TELLER MACHINES. ~~A- In accordance with rules established by~~  
18 the division, a bank may, directly or indirectly, acquire, place and operate, or  
19 participate in the acquisition, placement and operation of, at locations other than its  
20 main or branch offices, ~~customer bank communications terminals, in accordance~~  
21 ~~with rules established by the division~~ automated teller machines. The rules of the  
22 division of banking shall provide that any ~~such customer bank communications~~  
23 ~~terminal~~ automated teller machine shall be available for use, on a nondiscriminatory  
24 basis, by any state or national bank and by all customers designated by a bank using  
25 the ~~terminal~~ automated teller machine. This subsection does not authorize a bank

1 which has its principal place of business outside this state to conduct banking  
2 business in this state. ~~The customer bank communications terminals~~ automated  
3 teller machines also shall be available for use, on a nondiscriminatory basis, by any  
4 credit union, savings and loan association or savings bank, if the credit union,  
5 savings and loan association or savings bank requests to share its use, subject to  
6 rules jointly established by the division of banking, the office of credit unions and the  
7 division of savings institutions. The division of banking by order may authorize the  
8 installation and operation of ~~a customer bank communications terminal~~ an  
9 automated teller machine in a mobile facility, after notice and hearing upon the  
10 proposed service stops of the mobile facility.

11 SECTION 24. 221.0303 (3) and (4) of the statutes are amended to read:

12 221.0303 (3) ~~TERMINALS~~ AUTOMATED TELLER MACHINES OWNED OR OPERATED BY  
13 RETAILERS. If a person who is primarily engaged in the retail sale of goods or services  
14 owns or operates ~~a customer bank communications terminal~~ an automated teller  
15 machine on the person's premises and allows access to the ~~terminal~~ automated teller  
16 machine by any financial institution, group of financial institutions, or their  
17 customers for any purpose or function, then all of the following apply:

18 (a) The division may not require the person to accept any connection to or use  
19 of the ~~customer bank communications terminal~~ automated teller machine on its  
20 premises for any other purpose or function, or to accept any connection to the  
21 ~~terminal~~ automated teller machine on its premises by any other financial institution.

22 (b) This chapter, and the rules promulgated by the division, do not apply to the  
23 person, except as provided in s. 224.55 and except for laws or rules that are directly  
24 related to the particular function performed by the ~~terminal~~ automated teller  
25 machine on such person's premises for a financial institution.



1 persons and financial institutions may engage, by means of either the direct  
2 transmission of electronic impulses to and from a financial institution or the  
3 recording of electronic impulses or other indicia of a transaction for delayed  
4 transmission to a financial institution, in transactions that are incidental to the  
5 conduct of the business of financial institutions and that are otherwise permitted by  
6 law. “Automated teller machine” also includes all equipment, regardless of location,  
7 that is interconnected with an automated teller machine and that is necessary to  
8 transmit, route and process electronic impulses in order to enable the automated  
9 teller machine to perform any function for which it is designed.

10 (b) “Financial institution” means any organization authorized to do business  
11 under state or federal laws relating to financial institutions, including banks and  
12 trust companies, savings banks, savings and loan associations, building and loan  
13 associations and credit unions.

14 (2) DISCLOSURE OF AUTOMATED TELLER MACHINE FEES. An automated teller  
15 machine operator shall disclose the amount of any charge imposed by the automated  
16 teller machine operator upon a person for making a transaction at an automated  
17 teller machine. This disclosure shall be made by posting a statement on the screen  
18 of the automated teller machine and shall be made in a manner that permits the  
19 person, in response to the disclosure, to discontinue the transaction without  
20 incurring a charge.

21 (3) ADMINISTRATION AND ENFORCEMENT. (a) *Division of banking.* The division  
22 of banking shall administer and enforce this section with regard to the activities of  
23 any person other than a credit union, savings bank, savings and loan association or  
24 building and loan association.





**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0294/1dn

RJM:k:....  
*mmj*

*In order to clarify that the provisions of the notice requirement apply to every ATM operator,*

Senator Lazich:

1. The attached substitute amendment requires every automated teller machine (ATM) operator to disclose the amount of any fee charged by the ATM operator for a transaction at an ATM. The amendment also creates uniform terminology throughout the statutes regarding ATMs and creates a new statute that deals specifically with ATMs. *See proposed s. 224.55.*

2. Please review the provisions in proposed s. 224.55 (3) regarding administration and enforcement to ensure that they are consistent with your intent.

3. The substitute amendment does not contain a specific penalty. Thus, under s. 939.61, stats., a person who violates proposed s. 224.55 (2) ~~shall~~ is subject to a forfeiture of up to \$200. Please let me know if you intend a different penalty to apply.

4. The notice requirement in the substitute amendment applies to any person that operates an ATM. However, this state may lack the authority to enforce these provisions against federal financial institutions and their subsidiaries. See *Bank One Utah, N.A. v. Guttan*, 1999 U.S. App. LEXIS 20967. If you would like to discuss this issue further, please feel free to call.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: Robert.Marchant@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0294/1dn  
RJM:kmg:kjf

February 8, 2000

Senator Lazich:

1. The attached substitute amendment requires every automated teller machine (ATM) operator to disclose the amount of any fee charged by the ATM operator for a transaction at an ATM. In order to clarify that the provisions of the notice requirement apply to every ATM operator, the substitute amendment also creates uniform terminology throughout the statutes regarding ATMs and creates a new statute that deals specifically with ATMs. See proposed s. 224.55.

2. Please review the provisions in proposed s. 224.55 (3) regarding administration and enforcement to ensure that they are consistent with your intent.

3. The substitute amendment does not contain a specific penalty. Thus, under s. 939.61, stats., a person who violates proposed s. 224.55 (2) is subject to a forfeiture of up to \$200. Please let me know if you intend a different penalty to apply.

4. The notice requirement in the substitute amendment applies to any person that operates an ATM. However, this state may lack the authority to enforce these provisions against federal financial institutions and their subsidiaries. See *Bank One Utah, N.A. v. Guttau*, 1999 U.S. App. LEXIS 20967. If you would like to discuss this issue further, please feel free to call.

Robert J. Marchant  
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