

**2001 DRAFTING REQUEST**

**Assembly Amendment (AA-AB(LRBx5023/1))**

Received: 03/04/2002

Received By: **rmarchan**

Wanted: **Today**

Identical to LRB:

For: **Suzanne Jeskewitz (608) 266-3796**

By/Representing: **erin**

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

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - banking inst.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jeskewitz@legis.state.wi.us**

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

AA (privacy examinations and loan discrimination) to LRB-5023 (universal banks and credit unions)

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**Instructions:**

See Attached

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**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>
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Page 2

***LRBa1437***

FE Sent For:

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/?	rmarchan	1/1 hmk 3/4/02		 3-4-2			

FE Sent For:

<END>

**Marchant, Robert**

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**From:** Bilot, Erin  
**Sent:** Monday, March 04, 2002 12:52 PM  
**To:** Marchant, Robert  
**Subject:** Amendment

Rob,  
Is it possible to get this amendment drafted for tomorrow's Financial Institutions exec? (The page letters refer to the original bill). Please let me know.

Erin  
Rep. Jeskewitz's office



A0052514.DOC

**AMENDMENT  
TO 2001 ASSEMBLY BILL 299**

At the locations indicated, amend the bill as follows:

1. Page 22, line 10: after that line insert:

**A(3) FINANCIAL PRIVACY EXAMINATIONS.**

The division shall include as part of its examination of a universal bank under s. 220.04 an examination to determine the universal bank=s compliance with the requirement under 15 U.S.C. 6803 that the universal bank provide a disclosure at the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship of such universal bank=s policies and practices with respect to disclosing nonpublic personal information to affiliates and nonaffiliated third parties, including the customer=s opt-out rights, if applicable, in accordance with applicable regulations prescribed under 15 U.S.C. 6804. The division need not examine a universal bank under this subsection if, during the 18 months preceding the date of the proposed examination under this subsection, the universal bank received from its federal functional regulator, as defined in 15 U.S.C. 6809(2), a consumer compliance examination regarding the universal bank=s compliance with 15 U.S.C. 6803 and any applicable regulations prescribed under 15 U.S.C. 6804.@

2. Page 33, line 1: delete lines 1 to 5 and substitute:

**A(10) EXERCISE OF LOAN POWERS;**

**PROHIBITED CONSIDERATIONS.** In determining whether to make a loan or extension of credit, no universal bank may consider any health information obtained from the records of an affiliate of the universal bank that is engaged in the business of insurance, unless the person to whom the health information relates consents, or consider any refusal by the

person to whom the health information relates to consent to  
the use of such information by the universal bank.@

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TOC: United States Code Service; Code, Const, Rules, Conventions & Public Laws > /.../ > DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION > § 6803. Disclosure of institution privacy policy

Citation: **15 USC 6802**

Section: **15 USCS § 6803**

*15 USCS § 6803*

UNITED STATES CODE SERVICE  
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\*\*\* CURRENT THROUGH P.L. 107-136, APPROVED 1/24/02 \*\*\*  
\*\*\* WITH A GAP OF P.L. 107-110 \*\*\*

TITLE 15. COMMERCE AND TRADE  
CHAPTER 94. PRIVACY  
DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION

♦ **GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

15 USCS § 6803 (2001)

§ 6803. Disclosure of institution privacy policy

(a) Disclosure required. At the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous disclosure to such consumer, in writing or in electronic form or other form permitted by the regulations prescribed under section 504 [15 USCS § 6804], of such financial institution's policies and practices with respect to--

- (1) disclosing nonpublic personal information to affiliates and nonaffiliated third parties, consistent with section 502 [15 USCS § 6802], including the categories of information that may be disclosed;
- (2) disclosing nonpublic personal information of persons who have ceased to be customers of the financial institution; and
- (3) protecting the nonpublic personal information of consumers.

Such disclosures shall be made in accordance with the regulations prescribed under section 504 [15 USCS § 6804].

(b) Information to be included. The disclosure required by subsection (a) shall include--

(1) the policies and practices of the institution with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the institution, consistent with section 502 of this subtitle [15 USCS § 6802], and including--

(A) the categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided pursuant to section 502(e) [15 USCS § 6802(e)]; and

(B) the policies and practices of the institution with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the financial institution;

(2) the categories of nonpublic personal information that are collected by the financial institution;

(3) the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501 [15 USCS § 6801]; and

(4) the disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit

Reporting Act [[15 USCS § 1681a\(d\)\(2\)\(A\)\(iii\)](#)].

**HISTORY:**

(Nov. 12, 1999, P.L. 106-102, Title V, Subtitle A, § 503, 113 Stat. 1439.)

**HISTORY; ANCILLARY LAWS AND DIRECTIVES**

Effective date of section:

This section takes effect 6 months after the date on which rules are required to be prescribed under [15 USCS § 6804\(a\)\(3\)](#), except to the extent that a later date is specified in such rules, pursuant to § 510 of Act Nov. 12, 1999, P.L. 106-102, which appears as [15 USCS § 6801](#) note.

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TOC: [United States Code Service: Code, Const. Rules, Conventions & Public Laws > /.../ > DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION > § 6803. Disclosure of institution privacy policy](#)

Citation: **15 USC 6802**

Section: **15 USCS § 6803**

View: Full

Date/Time: Monday, March 4, 2002 - 2:21 PM EST

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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRBa1437/7

RJM: heth

TODAY

Am MR

DRAFT

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO 2001 ASSEMBLY BILL (LRB-5023/1)

INSERT 1-2

1

At the locations indicated, amend the bill as follows:

2)

1. Page 24, line 10: after that line insert:

3

2. Page 35, line 5: after "consents" insert "2".

4

(END)

INSERT 1-3

BILL

- 23 -  
INSC 1-2

1 event of a conflict between this chapter and those requirements, duties, liabilities,  
2 or powers, this chapter shall control.

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

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

12 **222.0105 Fees.** The division may establish such fees as it determines are  
13 appropriate for documents filed with the division under this chapter and for services  
14 provided by the division under this chapter.

15 **222.0107 Administration.** (1) POWERS OF DIVISION. The division shall  
16 administer this chapter for all universal banks.

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

21 the public.

EXAMINATION CONCERNING

22 (3) COMPLIANCE WITH FINANCIAL PRIVACY NOTICE REQUIREMENTS. Except as  
23 otherwise provided in this subsection, at least once every 18 months, the division  
24 shall examine each universal bank to determine the universal bank's compliance  
25 with 15 USC 6802 (b) and 6803 and any applicable regulations administering those

that statute

as part of its examination of  
a universal bank under s. 220.04,

**BILL**

*under this subsection*

1 statutes prescribed under 15 USC 6804. The division need not examine a universal  
 2 bank if, during the 18 months preceding the date of the proposed examination under  
 3 this subsection, the universal bank received from its federal functional regulator, as  
 4 defined in 15 USC 6809 (2), a consumer compliance examination that contains  
 5 information regarding the universal bank's compliance with 15 USC 6802 (b) and  
 6 6803 and any applicable regulations administering those statutes prescribed under  
 7 15 USC 6804.

*that statute*

8 **222.0109 Financial Privacy.** A universal bank shall comply with any  
 9 applicable requirements under 15 USC 6801 to 6803 and any applicable regulations  
 10 prescribed under 15 USC 6804.

SUBCHAPTER II

CERTIFICATION

13 **222.0201 Procedure.** (1) APPLICATION. A financial institution may apply to  
 14 become certified as a universal bank by filing a written application with the division.  
 15 The application shall include all information required by the division. The  
 16 application shall be on the forms and in accordance with the procedures prescribed  
 17 by the division.

18 (2) REVIEW BY DIVISION. An application submitted by a financial institution  
 19 under sub. (1) shall either be approved or disapproved by the division, in writing,  
 20 within 60 days after the date on which application is filed with the division. The  
 21 division and the financial institution may mutually agree to extend the application  
 22 period for an additional period of 60 days. The division shall approve an application  
 23 if all of the applicable requirements under s. 222.0203 (1) are met.

*(ad insert)*

**BILL**

1 **(10) EXERCISE OF LOAN POWERS; PROHIBITED CONSIDERATIONS AND DISCRIMINATION.**

2 In determining whether to make a loan or extension of credit, no universal bank may  
3 consider any health information obtained from the records of an affiliate of the  
4 universal bank that is engaged in the business of insurance, unless the person to  
5 whom the health information relates consents. A universal bank may not  
6 discriminate against a person in regard to making a loan or extension of credit or

DWSSR  
1-3

7 ~~determining whether to make a loan or extension of credit on the basis that the~~  
8 ~~person refuses to consent to the consideration of health information that relates to~~  
9 ~~the person.~~

or consider the refusal of such a person

him or her.

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

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

22 **(3) HOUSING ACTIVITIES.** With the prior written consent of the division, a  
23 universal bank may invest in the initial purchase and development, or the purchase  
24 or commitment to purchase after completion, of home sites and housing for sale or  
25 rental, including projects for the reconstruction, rehabilitation, or rebuilding of

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

LRBa1437/7dn  
RJM: *hmk*

*Date*

Representative Jeskewitz:

Attached is the amendment you requested. Please note that, although this amendment generally requires the division of banking to examine universal banks to determine whether the banks are complying with the federal privacy notice requirements, the amendment does not require universal banks to comply with these notice requirements as a matter of Wisconsin law. As a result, although the examination would potentially allow public access to information about a universal bank's compliance with the federal requirements, the examination could ~~not~~ be used as a basis for any adverse regulatory action against a non-complying universal bank. If you would like to ~~include a requirement~~ in Wisconsin law that universal banks comply with the federal requirements, please let me know.

*it is unclear the extent to which*

*specify*

*must*

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**

LRBa1437/1dn  
RJM:hmh:rs

March 4, 2002

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