Committee Name:
Senate Committee – Privacy, Electronic Commerce and Financial Institutions (SC–PECFI)

Appointments

01hr_SC–PECFI_Appoint_pt00

Clearinghouse Rules

01hr_SC–PECFI_CRule_02-034_pt04

Committee Hearings

01hr_SC–PECFI_CH_pt00

Committee Reports

01hr_SC–PECFI_CR_pt00

Executive Sessions

01hr_SC–PECFI_ES_pt00

Hearing Records

01hr_ab0000

01hr_sb0000

Misc.

01hr_SC–PECFI__Misc__pt01

Record of Committee Proceedings

01hr_SC–PECFI_RCP_pt00

§ 723.16 What is the aggregate member business loan limit for a credit union?

The aggregate limit on a credit union's outstanding member business loans (including any unfunded commitments) is the lesser of 1.75 times the credit union's net worth or 12.25% of the credit union's total assets. Net worth is all of the credit union's retained earnings. Retained earnings normally includes undivided earnings, regular reserves and any other appropriations designated by management or regulatory authorities. Loans that are exempt from the definition of member business loans are not counted for the purpose of the aggregate loan limit.

§ 723.17 Are there any exceptions to the aggregate loan limit?

There are three circumstances where a credit union qualifies for an exception from the aggregate limit. Loans that are excepted from the definition of member business loans are not counted for the purpose of the exceptions. The three exceptions are:

(a) Credit unions that have a low-income designation or participate in the Community Development Financial Institutions program;

(b) Credit unions that were chartered for the purpose of making member business loans and can provide documentary evidence (such evidence includes but is not limited to the original charter, original bylaws, original business plan, original field of membership, board minutes and loan portfolio);

(c) Credit unions that have a history of primarily making member business loans, meaning that either member business loans comprise at least 25% of the credit union's outstanding loans (as evidenced in any call report filed between January 1995 and September 1998 or any equivalent documentation including financial statements) or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in any call report filed between January 1995 and September 1998 or any equivalent documentation including financial statements). For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit card loans, and 13% total other real estate loans, then the credit union meets this exception.

§ 723.18 How do I obtain an exception?

To obtain the exception, a federal credit union must submit documentation to the Regional Director, demonstrating that it meets the criteria of one of the exceptions. A state chartered federally insured credit union must submit documentation to its state supervisory authority. The state supervisory authority will forward its decision to NCUA. The exception does not expire unless revoked by the state supervisory authority for a state chartered federally insured credit union or the Regional Director for a federal credit union. If an exception request is denied for a federal credit union, it may be appealed to the NCUA Board within 60 days of the denial by the Regional Director. Until the NCUA Board acts on the appeal, the credit union can continue to make new member business loans.

§ 723.19 What are the recordkeeping requirements?

You must separately identify member business loans in your records and in the aggregate on your financial reports.

§ 723.20 How can a state supervisory authority develop and enforce a member business loan regulation?

(a) The NCUA Board may exempt federally insured state chartered credit unions in a given state from NCUA's member business loan rule if NCUA approves the state's rule for use for state chartered federally insured credit unions. In making this determination, the Board is guided by safety and soundness considerations and reviews whether the state regulation minimizes the risk and accomplishes the overall objectives of NCUA's member business loan rule in this part. Specifically, the Board will focus its review on:

(1) The definition of a member business loan;

(2) Loan to one borrower limits;

(3) Written loan policies;

(4) Collateral and security requirements;

FINAL DISPOSITION OF COMMITTEE MATERIALS

Bills / Resolutions / Joint Resolutions

All bills, resolutions and joint resolutions are adversely disposed of pursuant to the joint resolution creating the session schedule. At the time a bill expires, the record of committee proceedings should be completed as follows:

March 15, 2002 Recalled to the Senate floor and adversely disposed of pursuant to Senate Joint Resolution 1.

The final committee report should read:

> The following resolutions, joint resolutions and bills have been recalled from the committee on .... and adversely disposed of pursuant to Senate Joint Resolution 1 on March 15, 2002.

To create the necessary committee reports, on **ComClerk** go to **Utilities** on the top tool bar and click on **End of Session**. Fill in the appropriate information and complete committee action. Bill jackets should be returned to me as soon as possible. Please e-mail all final committee records to me as well.

Petitions

Petitions are not considered adversely disposed of. Petitions may be kept with other committee materials until the end of the year.

Executive Appointments

Executive appointments pending at the end of session are carried over into the new legislative session. Therefore, all appointment jackets should be retained in the committee files until the end of the two year session. At that time they will be collected by the Chief Clerk's office for referral to the new senate committees.

NOTE: Executive appointments may be taken up during the veto review session.

Clearinghouse Rules

Clearinghouse Rules continue in the committee, unaffected by the session schedule. Rules pending at the end of session are carried over into the new legislative session. They will be collected with the executive appointments for referral to the new senate committees.

Committee Materials

All miscellaneous committee records remain in the committee files until the end of the two year session. At that time, committee records will be collected for deposit in the office of the secretary of state.

MSS. 3-21-02

Credit union plan would ease rules for business loans

By PAUL GORES
of the Journal Sentinel staff

A change in state law proposed by the Wisconsin Office of Credit Unions would give the office final authority on most aspects of business lending by the state-chartered credit unions it regulates.

That authority would include the ability to waive some requirements for business loans by credit unions.

The proposal is opposed by bankers, who are concerned that it could help non-profit credit unions intrude on the commercial-loan turf of taxpaying banks.

Currently, any of Wisconsin's 326 state-chartered credit unions that wants to make business loans needs approval from both the state office and the National Credit Union Association, or NCUA, which insures deposits. The rule would give the final say on most issues to the state office, making approval of business lending a one-step process instead of a two-step procedure.

The Office of Credit Unions is requesting the rule change — which requires action by the Legislature — because "it simplifies the process," Director Ginger Larson said.

With speedier approvals, credit unions will be able to give a quicker decision to members who have applied for a business loan, said Brett A. Thompson, president and chief executive officer of the Wisconsin Credit Union League.

As the law now stands, the extra step of getting NCUA approval can take up to two months, Larson said. That time lag some-

Please see **CREDIT UNIONS, 3D**

Plan would ease loan rules for credit unions

CREDIT UNIONS, From **1D**

times forces credit union members to go elsewhere for business loans, Thompson added.

But Rose Oswald Poels, vice president in the legal department of the Wisconsin Bankers Association, contends that the change would give the director of the Office of Credit Unions too much authority to waive requirements and even lending limits for credit union business loans.

"It is the broadest discretion that I've ever seen a regulator try to get, and that broad authority is not something that the banking regulator has or the savings bank regulator has," she said.

"The rule as it's drafted, letting the director have total discretion, really raises some safety and soundness questions," Oswald Poels said.

Banks have opposed business lending by credit unions in the past, arguing that the non-tax status of credit unions gives them an unfair competitive advantage on the interest rates they could charge.

"Credit unions were not originally created for the purpose of making business loans," Oswald Poels said. "They were created to help meet the needs of low- and the moderate-income people."

But credit unions say concerns that they would cut into bankers' business lending are without merit. Credit unions always have helped members interested in small-business loans, Thompson said.

"What we're dealing with here, for most credit unions, is typically smaller business and agriculture-types of loans," Thompson said. "We're not talking, as a general rule, about any kind of large loan to large manufacturers or businesses."

Larson's office is scheduled to hold a hearing on the credit union proposal at 10 a.m. April 12 at the Wisconsin Department of Financial Institutions, 345 W. Washington Ave., Madison.

Business

United Way using Internet to reach out to donors 3D
www.jsonline.com/bym

D MONDAY, JANUARY 14, 2002 MILWAUKEE JOURNAL SENTINEL

Credit unions join to become lending force

Aggravating banks, Fox Valley alliance enjoys a brisk business

By PAUL GORES
of the Journal Sentinel staff

A joint venture of three Fox Valley credit unions set up to offer business loans is off to a fast start, a fact that troubles bankers opposed to the lending arrangement.

Since issuing its first loan in late 1999, the Neenah-based Business Lending Group has generated more than $60 million in loans. The loans have averaged $350,000, but some have been in the millions.

"That's an excellent start," said David L. Donihue, a partner in the Financial Institutions Group of the Wisconsin accounting and consulting firm Virchow, Krause & Co.

Donihue said almost any new commercial bank "would be very happy with $60 million out of the chute."

While credit union leaders assert that the Business Lending Group simply is meeting lending needs that banks tend to ignore, bankers say the venture unfairly encroaches on their turf.

Banks have argued for years that credit unions, which are tax-exempt, non-profit institutions, should not be allowed to expand into all arenas of financial services and take business away from tax-paying banks.

The Wisconsin Bankers Association and two banks went to court in 1999 to try to stop the Business Lending Group, which is considered a "credit union service organization" — an entity allowed by state law to provide credit analysis and loan-service functions to the credit unions that invest in it. Bankers said letting the service organization pool the resources of its credit union sponsors to make bigger business loans went beyond the intended scope of credit unions, which are largely consumer-oriented.

However, a judge dismissed the bankers' lawsuit.

"Our views haven't changed," said Harry J. Argue, vice president and chief executive officer of the Wisconsin Bankers Association. "We still claim the moral high ground on it."

Argue said if credit unions want to be commercial lenders, they should convert to bank charters "and compete on the same standards as everyone

Please see LENDER, 9D

Banks say credit-union lenders aren't playing fair

LENDER, From **1D**

else."

Dave Coggins, president of the Business Lending Group, said the group was formed by the three credit unions — Fox Communities in Appleton, Banta Community in Menasha and CitizensFirst in Oshkosh — after market studies showed business people were disgruntled by bank service in the wake of mergers.

"Decisions (on loan applications) were being pulled out of the local market and taken to regional and distant locations, where there was less responsiveness and less decision-making authority," Coggins said.

Said Brett A. Thompson, president and CEO of the Wisconsin Credit Union League: "The reason it's doing well is primarily that it's serving an awful lot of small businesses that many of the lenders in that area cannot and will not serve."

But Argue said banks in the Fox Valley would be happy to make the kind of loans the Business Lending Group is booking.

Coggins said the group's portfolio includes many real estate development and construction loans, including several for churches.

Coggins said the Business Lending Group has issued more loans than it initially expected. Part of its appeal is personal service, he said, including visits to the sites of businesses to which they lend.

"That seems to be very much appreciated," Coggins said. "We get a lot of people saying, 'Man, I can't remember the last time I had a lender on my property here.' I think that's consistent with the service orientation of credit unions."

Sharing the job

Together, the three credit unions that started the Business Lending Group have $535 million in assets and nearly 81,000 members. The territory they represent — credit unions differ from banks in that they are limited by their charters to certain geographic or other membership parameters — includes Calumet, Fond du Lac, Outagamie, Shawano, Waupaca, Waushara and Winnebago counties.

Each credit union usually funds a third of a loan, with one of them designated as the lead lender. The credit unions refer their members' inquiries about business loans to the Business Lending Group. The unit provides loans for real estate, construction, equipment and inventory. It also offers revolving lines of credit, checking and other business services.

Kim Johnson, a former mortgage banker and now managing partner of the Appleton development company Wisco Enterprises LLP, said he has found the Business Lending Group to be very accommodating. So far, his company has borrowed or is committed to borrowing about $3 million from the group for the small strip shopping centers and commercial buildings it develops, he said.

"I just put in an offer to purchase a property last week and four days later I had a financial commitment letter from Dave Coggins and his group to fund the building," Johnson said. "I couldn't do that at some of the banks."

Johnson added: "Do I think they're a force in the marketplace? Absolutely."

My name is Max Michaelson and I am representing Co-op Credit Union in Black River Falls. Thank you for this opportunity to testify in support of the proposed Wisconsin Business Loan Rule.

Co-op Credit Union has been making business loans for many years and we have done it very well. To determine what many years means, we went back in the minutes of the monthly credit union Board of Directors meetings and found a few examples I would like to read into the record. These are by no means exclusive, but were randomly selected from differing times in the past.

In June of 1943, a $500 loan was approved for a walk-in cooler, a refrigerator and an electric meat cutter.

In February of 1965:

1) **A maximum of $100 per head for 27 head of Jersey and Guernsey cows was approved.**

2) **$17,000 was approved for the purchase of a clothing store.**

3) **$10,000 was approved to buy a plumbing business.**

In July of 1972:

1) **$1300 was approved for the purchase of 66 feeder pigs.**

2) **Provisional approval was made for the purchase of a dump truck, trailer, cat and back-hoe.**

As these examples show, business lending (both agricultural and commercial) is something we at Co-op Credit Union have been doing for quite awhile.

And it is important to note that even while making business

loans, losses from this type of lending have been negligible. The experience ratio for business lending for the past 5 years that is incorporated into our allowance for loan loss is .03% in comparison to the personal loan experience ratio of .14%. Business loans have helped to diversify our loan portfolio and that diversity is what has helped this credit union operate with a 12% net worth ratio.

Although we operate today with a federal business lending rule, it is important to Co-op Credit Union that this state rule be implemented. For example, a few years ago, a local trucking firm approached us and asked if we would like to help finance several new tractors they were adding to their fleet. Because the federal rule requires a personal guarantee, the owners elected to finance their purchase elsewhere. We had sufficient collateral without the

guarantee, but lost the chance to invest in our community by not having the ability to operate under this "Proposed Wisconsin Business Lending Rule".

Thank you again for allowing me to testify in support of this rule. Co-op Credit Union is an example of how credit unions making business loans can help the citizens of Wisconsin without jeopardizing the safety and soundness of the industry.

TO:	Members of the Budget Repair Conference Committee
FROM:	Kurt Bauer, Wisconsin Bankers Association Daryll Lund, Community Bankers of Wisconsin
DATE:	June 20, 2002
RE:	Financial Modernization Provision in Budget Repair Bill

JUN 24 2002

Attached with this memo is a letter from Department of Financial Institutions Secretary Jack Kundert responding to recent statements made during a conference committee meeting regarding the financial modernization package in SS AB 1.

We hope this clarifies any confusion regarding the continuing need for the Wisconsin Legislature to enact the universal bank bill.

HIRSP amendment

Barbara Dr
Stoughton
53589

State of Wisconsin
Department of Financial Institutions

Scott McCallum, **Governor** Joł a F. Kundert, **Secretary**

June 20, 2002

Mr. Daryll Lund, President and CEO
Community Bankers of Wisconsin
455 County Road M, Suite 101
Madison, WI 53719

Mr. Kurt Bauer, Vice President Government Relations
Wisconsin Bankers Association
4721 S. Biltmore Lane
P.O. Box 8880
Madison, WI 53708-8880

Dear Sirs:

Thank you for the opportunity to clarify the Department of Financial Institutions' po sition regarding the comparisons made between the Universal Banking Bill and a recently enacted fi ancial subsidiary rule. During deliberations of the conference committee, statements attributed to the Department have mischaracterized our position on this issue. We have in the past, and continue to ma ntain that the Universal Banking proposal and the financial subsidiary rule are two distinct and sep arate issues. The implementation of the rule does not preclude or substitute the need to implement adc itional banking modernization statutes.

The Universal Banking bill was patterned after an effort in Maine to create one chart er for commercial banks and savings institutions. As you are well aware, Wisconsin's proposal was or ginally introduced during the 1997-98 legislative session. And, it has been introduced in each subsequε nt session. This bill relates to the ability of a bank (ch. 221 Wi. Stats.) or savings institution (Chs. 21 4 or 215 Wi. Stats) to exercise all powers granted under either set of statutes. In short, once certif ed as a universal bank, a savings institution could exercise all powers under Ch. 221 Wi. Stats. and vi e versa. In addition, the bill would give the Department greater authority and a streamlined rule making process to allow state chartered institutions to exercise any powers granted to federally chartere d institutions.

Conversely, the financial subsidiary rule implemented the provisions of federal legis ation, the Gramm-Leach-Bliley Financial Services Act of 1999 (GLB Act). The GLB Act cre ated a new banking structure to include financial holding companies and financial subsidiaries. The financial holding company provisions were implemented on a federal without need for changε s in state statutes. However, it was necessary to modify banking rules in order for a bank or savings ins titution to take advantage of a financial subsidiary structure. That was accomplished by the implem entation of DFI-Bkg 4.

Office of the Secretary
Mail: PO Box 8861 Madison WI 53708-8861 Courier: 345 W. Washington Ave. 5th Flo r Madison, WI 53703
Voice: (608) 264-7800 Fax: (608) 261-4DFI TTY: (608) 266-8818 Internet: ww v.wdfi.org

While both the rule and Universal Bank proposal deal with the exercise of federal powers, they clearly do not accomplish the same goal. One implements the GLB Act and the other modernizes our general banking statutes. Both are imperative in order for Wisconsin's state chartered institutions to remain competitive with their federally chartered counterparts.

Again, I cannot state it more clearly, the Department of Financial Institutions not only supports passage of the Universal Bank Bill, but strongly believes this package is vital to the continued strength of the state charter.

If you have any additional questions, please do not hesitate to contact me.

Sincerely,

John F. Kundert
Secretary