

**SENATE AMENDMENT 1,
TO 2001 SENATE BILL 372**

*IN 5809
42-18*

February 20, 2002 - Offered by COMMITTEE ON PRIVACY, ELECTRONIC COMMERCE AND FINANCIAL INSTITUTIONS.

*Draw
bill section
number*

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 8: delete "institutions" and substitute "institutions, and when
3 the disposition of collateral by a creditor discharges a subordinate lien held by the
4 state or a local governmental unit".

5 **2.** Page 7, line 24: after that line insert:

6 ~~SECTION 18a. 409.617 (1) (c) of the statutes, as affected by 2001 Wisconsin Act~~

7 ~~(1)~~ is amended to read:

8 409.617 (1) (c) Discharges any subordinate security interest or other
9 subordinate lien other than liens held by this state or a local governmental unit, as
10 defined in s. 19.42 (7u).

11 (END)

*IN 5809
42-18*

PWF

✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

03-0636/2dn

RJM:.....

ejs

Representative Jeskewitz:

Please review the changes made to this draft to ensure that they are consistent with your intent. Although the language of the draft does not match exactly the language submitted with the drafting instructions, I tried to be sensitive to the fact that the intent of the submitted language was likely agreed to by various interested parties. The changes to the submitted language are to the following proposed statutes in the draft: 186.07 (3m), 186.11 (4) (a) (intro.) and (b) to (bt), 186.13 (11) (a) and (b) and (25), 186.22 (12m), and 222.0401 (1) and (2). Also, please note the following issues:

1. With regard to the treatment of credit union service organizations under proposed s. 186.11 (4) ~~(a) (intro.) and~~ (b) to (bt), I tried to eliminate any duplication in the listing of services and to better describe listed services, where possible. Please review the list to ensure that I did not inadvertently alter the substance of your intent. Typically, it is not advisable to use the phrase "including, but not limited to" in the statutes because the phrase has not been uniformly enforced by the courts, but in this case the phrase is appropriate, given the authority of the office of credit unions to expand the list of approved services. Note that I drafted the language concerning the expansion of the list of approved services under proposed s. 186.11 (4) ~~(a)~~ to be parallel with the language concerning the expansion of universal bank services under proposed s. 222.0413 (2) (b). Please let me know if you have any questions or desire any changes.

2. Please note that the change to the Uniform Commercial Code in proposed s. 409.617 (1) (c) may impact the fiscal note associated with this draft, in that one likely effect of the change is to ensure that certain secured creditors will obtain payment before the state or any local governmental unit upon disposition of collateral in which the state or the local governmental unit has a subordinate lien. As a general matter, the further down the line of priority a lien is, the less likely it is that there will be sufficient funds to pay off the lien upon disposition of the collateral.

If this change does impact the fiscal note and if you wish to lessen that impact, you may want to consider following the approach taken by the District of Columbia, which selected certain governmental liens (sales tax liens and income and franchise tax liens) to preserve under the exception in this portion of the Uniform Commercial Code. A cursory review of other states' Uniform Commercial Code provisions indicates that the states of New York, South Dakota, and Ohio also preserved liens of some type under this provision.

113

Somewhat

bd

Each of these three approaches (current law, the District of Columbia approach, or the approach taken in this bill) is consistent with the intent of the National Conference of Commissioners on Uniform State Laws, which authorized states to specify any or no liens under this provision. Please note, though, that the vast majority of states chose the approach taken in this bill.

3. I adjusted the effective date provision to account for the deletion of the rule-making requirement under proposed s. 222.0413 (2) (b). As currently drafted, the bill ^{universal banking provisions in the} ~~has~~ ^{have} a 3-month delayed effective date.

Please feel free to call if you have any questions or desire any further changes.

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

LRB-0636/2dn
RJM:cjs:pg

January 16, 2003

Representative Jeskewitz:

Please review the changes made to this draft to ensure that they are consistent with your intent. Although the language of the draft does not match exactly the language submitted with the drafting instructions, I tried to be sensitive to the fact that the intent of the submitted language was likely agreed to by various interested parties. The changes to the submitted language are to the following proposed statutes in the draft: 186.07 (3m), 186.11 (4) (a) (intro.) and (b) to (bt), 186.113 (11) (a) and (b) and (25), 186.22 (12m), and 222.0401 (1) and (2). Also, please note the following issues:

1. With regard to the treatment of credit union service organizations under proposed s. 186.11 (4) (b) to (bt), I tried to eliminate any duplication in the listing of services and to better describe listed services, where possible. Please review the list to ensure that I did not inadvertently alter the substance of your intent. Typically, it is not advisable to use the phrase "including, but not limited to" in the statutes because the phrase has not been uniformly enforced by the courts, but in this case the phrase is appropriate, given the authority of the office of credit unions to expand the list of approved services. Note that I drafted the language concerning the expansion of the list of approved services under proposed s. 186.11 (4) (bd) to be somewhat parallel with the language concerning the expansion of universal bank services under proposed s. 222.0413 (2) (b). Please let me know if you have any questions or desire any changes.
2. Please note that the change to the Uniform Commercial Code in proposed s. 409.617 (1) (c) may impact the fiscal note associated with this draft, in that one likely effect of the change is to ensure that certain secured creditors will obtain payment before the state or any local governmental unit upon disposition of collateral in which the state or the local governmental unit has a subordinate lien. As a general matter, the further down the line of priority a lien is, the less likely it is that there will be sufficient funds to pay off the lien upon disposition of the collateral.

If this change does impact the fiscal note and if you wish to lessen that impact, you may want to consider following the approach taken by the District of Columbia, which selected certain governmental liens (sales tax liens and income and franchise tax liens) to preserve under the exception in this portion of the Uniform Commercial Code. A cursory review of other states' Uniform Commercial Code provisions indicates that the states of New York, South Dakota, and Ohio also preserved liens of some type under this provision.

Each of these three approaches (current law, the District of Columbia approach, or the approach taken in this bill) is consistent with the intent of the National Conference of Commissioners on Uniform State Laws, which authorized states to specify any or no liens under this provision. Please note, though, that the vast majority of states chose the approach taken in this bill.

3. I adjusted the effective date provision to account for the deletion of the rule-making requirement under proposed s. 222.0413 (2) (b). As currently drafted, the universal banking provisions in the bill have a 3-month delayed effective date.

Please feel free to call if you have any questions or desire any further changes.

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

Marchant, Robert

From: Bilot, Erin
Sent: Friday, January 17, 2003 9:02 AM
To: Marchant, Robert
Subject: FW: Financial Modernization Draft

Rob,
I don't know if the credit unions have contacted you yet this morning, but they have some concerns that they would like to talk with you about.
Erin

-----Original Message-----

From: Larson, Ginger
Sent: Friday, January 17, 2003 7:49 AM
To: Bilot, Erin
Subject: RE: Financial Modernization Draft

Hi Erin,

✓ The draft looks fine, but I think one section that I had requested and was in the original financial modernization bill was left out. On page 20 of the draft, before section 31, there should be a section that says "186.235 (16) (b) of the statutes is repealed." I did put a call into Georgia because I wanted Brett to review the CUSO section to make sure it was okay.
Thanks, Ginger

-----Original Message-----

From: Bilot, Erin
Sent: Thursday, January 16, 2003 3:48 PM
To: 'Harry Argue'; 'Brett Thompson'; 'Georgia Maxwell'; 'Jodi Bloch'; 'Rose Oswald Poels'
Cc: Smyrski, Rose; Zavos, Nicholas; Roys, Lisa; Mach, Mike; Larson, Ginger
Subject: Financial Modernization Draft

Attached is the final draft of Financial Modernization. I know you all have eagerly been awaiting this, so if at all possible that you could check this over and get back to me today, I would REALLY appreciate it. Otherwise I will plan on sending it out at 9AM tomorrow.

Erin

<< File: draft-2.pdf >>

PS, Please be aware that there are four technical changes that Sue asked to be put into this draft that were requested by DFI. These were antiquated statutes that needed to be updated to reflect how things actually operate. She solely made the decision that they should be included in this bill. For more information on these changes, you can either contact myself or Ginger Larson.

Erin Bilot
Office of Suzanne Jeskewitz
State Representative
24th Assembly District

Marchant, Robert

From: Bilot, Erin
Sent: Friday, January 17, 2003 9:01 AM
To: Marchant, Robert
Subject: FW: Financial Modernization Draft

-----Original Message-----

From: R. Oswald Poels [mailto:ropoels@wisbank.com]
Sent: Thursday, January 16, 2003 11:01 PM
To: Bilot, Erin; Harry Argue; Brett Thompson; Georgia Maxwell; Jodi Bloch
Cc: Smyrski, Rose; Zavos, Nicholas; Roys, Lisa; Mach, Mike; Larson, Ginger
Subject: Re: Financial Modernization Draft

Erin,

My first opportunity to review the document was this evening at 10 p.m. so I hope that my responses will still be considered by you and Rob tomorrow. It took me a while to review the document since there were no drafter's notes to help point to the updated sections, so, I had no choice but to read the draft in its entirety. The few minor changes I have are intended to make the document a little more clear.

- 1. I noticed in the credit union section, page 15, line 20 that the word "excess" was missing in front of real estate. The phrase "excess real estate" was in the LRB 0636/1 version of the draft and I am not sure why it was removed from this version.
- 2. Page 33, line 14 a typo - it should be "published under" not "under published."
- 3. Page 46, beginning at the end of line 7 - with the changes made to par. (a)16. and (b), for clarification purposes, I think the last sentence in this subparagraph should read as follows: "Any activity approved by the division under par. (a)16. and this paragraph shall be authorized for all universal banks."

Please let me know in the morning if there are any other changes that anyone else had and whether you will be able to get these minor corrections made prior to circulation. Thank you for giving us the chance to review the document and I apologize for not being able to respond to you earlier.

Rose

Rose Oswald Poels
Vice President - Legal
Wisconsin Bankers Association
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608/441-1200
http://www.wisbank.com

The information contained in this email communication and any attached documentation is intended to be general information only and does not constitute legal advice. Transmission of this information is not intended to create, and receipt does not constitute, an attorney-client relationship.

----- Original Message -----

From: "Bilot, Erin" <Erin.Bilot@legis.state.wi.us>
To: "Harry Argue" <hargue@wisbank.com>; "Brett Thompson" <bthompson@wcul.org>; "Georgia Maxwell" <gmaxwell@wcul.org>; "Jodi Bloch" <jbloch@wisbank.com>; "Rose Oswald Poels" <ropoels@wisbank.com>
Cc: "Smyrski, Rose" <Rose.Smyrski@legis.state.wi.us>; "Zavos, Nicholas" <Nicholas.Zavos@legis.state.wi.us>; "Roys, Lisa" <Lisa.Roys@dfi.state.wi.us>; "Mach, Mike" <Mike.Mach@dfi.state.wi.us>; "Larson, Ginger" <Ginger.Larson@dfi.state.wi.us>
Sent: Thursday, January 16, 2003 3:47 PM
Subject: Financial Modernization Draft

Attached is the final draft of Financial Modernization. I know you all have eagerly been awaiting this, so if at all possible that you could check this over and get back to me today, I would REALLY appreciate it. Otherwise I will plan on sending it out at 9AM tomorrow.

Erin

<<draft-2.pdf>>

PS, Please be aware that there are four technical changes that Sue asked to be put into this draft that were requested by DFI. These were antiquated statutes that needed to be updated to reflect how things actually operate. She solely made the decision that they should be included in this bill. For more information on these changes, you can either contact myself or Ginger Larson.

Erin Bilot

Office of Suzanne Jockowitz

State Representative

24th Assembly District



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0636/2 3

RJM:cjs:pg

TODAY

2003 BILL

Stays
Purvis

re-fer

1 AN ACT *to repeal* 186.41 (1) (d), 186.41 (6) (b) and 186.41 (8); *to renumber* 186.41
2 (6) (a); *to renumber and amend* 186.02 (2) (d), 186.11 (4) (a), 186.113 (11),
3 186.235 (16) (a), 186.41 (1) (a) and 186.41 (1) (c); *to amend* 93.01 (1m), 186.01
4 (2), 186.02 (2) (a) 1., 186.02 (2) (b) 2., 186.02 (2) (c), 186.06 (4), 186.11 (4) (title),
5 186.11 (4) (c), 186.113 (1), 186.113 (1m) (a) (intro.), 186.113 (6) (b) and (c), 186.22
6 (12m), 186.235 (7) (a) (intro.), 186.36, 186.41 (title), 186.41 (2) and (3), 186.41
7 (4) (intro.), (a) to (d) and (f), 186.41 (5) (a), (b), (c) and (cr), 220.04 (9) (a) 2. and
8 409.617 (1) (c); *to repeal and recreate* 186.11 (4) (b) and 186.17 (1); and *to*
9 *create* 186.02 (2) (b) 2m., 186.02 (2) (d) 2., 186.07 (3m), 186.11 (4) (a) 1., 186.11
10 (4) (bd), (bh), and (bt), 186.113 (11) (b), 186.113 (24), 186.113 (25), 186.20,
11 186.235 (7) (c), 186.235 (7m), 186.235 (16m), 186.45, 186.80, 220.14 (5) and
12 chapter 222 of the statutes; **relating to:** credit union membership, powers,
13 operation, and regulation; the application of agriculture, trade, and consumer
14 protection statutes to credit unions; the creation of a new type of financial

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1 institution; the powers of and requirements applicable to the new type of
2 financial institution; the discharge of governmental liens under the Uniform
3 Commercial Code; providing an exemption from emergency rule procedures;
4 granting rule-making authority; and providing a penalty.

Analysis by the Legislative Reference Bureau**CREDIT UNIONS AND UNIVERSAL BANKS**

This bill makes numerous changes to the chapter that governs the formation, operation, and regulation of credit unions in this state and creates a new type of financial institution called a universal bank. The major provisions relating to credit unions and universal banks include the following:

CREDIT UNIONS***Credit union membership***

Under current law, credit union membership is open to groups having a common bond of occupation or association; residents within a well-defined neighborhood, community, or rural district; employees of related industries or industries that operate within a well-defined neighborhood, community, or rural district; members of certain fraternal, labor, educational, or other similar organizations; and credit union employees. Furthermore, credit union membership is open to the immediate family of all individuals who are qualified for membership. Current law defines “members of the immediate family” as any relative of a member or of a member’s spouse who is living with the member and as the member’s spouse, parents, stepchildren, and children. In addition, current law permits a credit union to accept an organization or association as a member if a majority of the members of the organization or association are eligible for membership.

This bill expands the pool of individuals, organizations, and associations that are eligible for membership in a credit union. Under this bill, credit union membership is open to individuals who reside or are employed in well-defined, contiguous neighborhoods and communities, except that, if the Office of Credit Unions determines, subsequent to a merger, that it is inappropriate to require the members of a credit union to reside or be employed in contiguous neighborhoods and communities, the requirement that these neighborhoods and communities be contiguous does not apply. In addition, membership is open to individuals who reside or are employed in well-defined, contiguous rural districts or multicounty regions.

This bill also opens credit union membership to any organization or association that has a business location within any geographic limits of the credit union’s field of membership. This bill also permits a credit union to accept any organization or association as a member, if a majority of the directors, owners, or members of the organization or association are eligible for membership. Furthermore, this bill repeals the definition of “members of the immediate family” contained in current law

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and instead requires a credit union's bylaws to specify the conditions that determine eligibility for membership.

Credit union investments and credit union service organizations

Under current law, a credit union may invest up to 1.5% of its total assets in an organization that is organized primarily to provide goods and services to credit unions, credit union organizations, and credit union members (credit union service organization). Under current law, a credit union may invest in a credit union service organization that is a corporation. Current law also specifies the types of goods and services that a credit union service organization may provide. These goods and services include, among other things, credit card services, automated teller services, financial planning, and insurance sales. However, current law is ambiguous as to whether the percentage limitation on a credit union's investment in credit union service organizations applies to the aggregate total of all credit union investments in credit union service organizations or to a credit union's investment in each particular credit union service organization.

This bill expands the types of organizations in which a credit union may invest. Under this bill, a credit union may invest in a credit union service organization that is a corporation, limited partnership, limited liability company, or any other entity that is permitted under state law and that is approved by the Office of Credit Unions.

This bill also provides that the Office of Credit Unions may permit a credit union to invest greater than 1.5% of credit union assets in a credit union service organization. In addition, this bill clarifies that the limitation on a credit union's investment in credit union service organizations applies to the aggregate total of all credit union investments in credit union service organizations. *among others,*

This bill also expands the types of services that a credit union service organization may provide. Under this bill, a credit union service organization may provide the following types of services related to the routine daily operations of credit unions, ~~unless prohibited from doing so by the Office of Credit Unions:~~ 1) checking and currency services; 2) clerical, professional, and management services; 3) consumer mortgage loan origination services; 4) electronic transaction services; 5) tax preparation services; 6) services regarding the development and administration of individual retirement accounts, specified retirement plans for self-employed individuals, and personnel benefit plans; 7) financial counseling services, including estate planning; 8) fixed asset services; 9) insurance services; 10) services with regard to leasing real property owned by the credit union service organization or personal property; 11) loan support services; 12) record retention, security, and disaster recovery services; 13) securities brokerage services; 14) shared credit union branch operations; 15) student loan origination services; 16) travel agency services; 17) trust and other fiduciary services; 18) real estate brokerage services. The bill further specifies additional services that are generally related to the 18 listed above. In addition, the bill authorizes the Office of Credit Unions to expand the list of services that are related to the routine daily operations of credit unions that a credit union service organization may provide. The bill also permits a credit union service organization to provide any of these services through an investment by the credit

brokerage or agency

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union service organization in a third-party service provider, subject to certain limitations.

Credit union powers

Currently, to the extent permitted by federal law, a credit union may act as trustee of member tax deferred funds and as a depository for member deferred compensation funds. This bill expands this authority, allowing a credit union, to the extent permitted by federal law, to act as a trustee or custodian of member tax deferred retirement funds, individual retirement accounts, medical savings accounts, and other employee benefit accounts or funds. In addition, this bill allows a credit union, to the extent permitted by federal law, to act as a depository for member qualified and nonqualified deferred compensation funds.

Under current law, funds held in trust under a burial agreement (commonly known as a funeral trust) must be deposited in a bank, savings bank, savings and loan association, or credit union. This bill clarifies that a credit union may accept these deposits if the deposits are made by a credit union member.

Currently, a federal credit union is permitted to accept deposits from nonmembers if the federal credit union is designated as a low-income credit union by the National Credit Union Administration. To obtain such a designation, a federal credit union must serve predominantly low-income members. This bill permits a state credit union to accept deposits from any person if the state credit union satisfies the federal requirements for designation as a low-income credit union and files a statement with the Office of Credit Unions agreeing to be bound by requirements and conditions that are substantially identical to those imposed on federally designated low-income credit unions.

This bill also permits credit unions to sell insurance products.

Branch offices of Wisconsin credit unions

Under current law, if the need exists, a credit union may establish branch offices within this state or no more than 25 miles outside of this state. In addition, if certain conditions are met, a credit union may establish a limited service office outside of this state to serve members of the credit union. A credit union seeking to establish a branch office or limited service office must first obtain the approval of the Office of Credit Unions.

This bill expands the authority of a credit union to establish branch offices. Under this bill, with the permission of the Office of Credit Unions, a credit union may establish branch offices anywhere inside or outside of this state. This bill repeals the authority for a credit union to establish a limited service office, although a credit union may continue to operate a limited service office that is in existence on the effective date of this bill.

Branch offices of non-Wisconsin credit unions

Current law does not specifically permit a credit union organized under the laws of another state (non-Wisconsin credit union) to establish a branch office in this state. This bill specifies that a non-Wisconsin credit union may establish a branch office in this state if the Office of Credit Unions finds that certain conditions apply to the non-Wisconsin credit union. For example, the non-Wisconsin credit union must be organized under laws similar to ch. 186, must be financially solvent, and

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must have federal insurance for member deposits. In addition, the Office of Credit Unions must find that credit unions organized under the laws of this state are allowed to do business under similar conditions in the home state of the non-Wisconsin credit union.

Interstate mergers and acquisitions of credit unions

Under current law regarding interstate mergers and acquisitions of credit unions, a credit union organized in this state may only merge with, acquire, or be acquired by a state or federal credit union that has its principal office in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, or Ohio. This bill repeals this geographic limitation on mergers and acquisitions of credit unions and, thus, expands the number of credit unions that are eligible to merge with, acquire, or be acquired by a credit union organized in this state.

Credit union reports and financial privacy

Current law contains several credit union reporting requirements and, with certain exceptions, requires the Office of Credit Unions annually to examine the records and accounts of each credit union. The employees of the Office of Credit Unions and members of the Credit Union Review Board must keep information obtained in the course of examinations confidential, with limited exceptions. A violation of this confidentiality requirement is subject to a forfeiture of up to \$200.

This bill expands the confidentiality requirement to also include information contained in certain reports that a credit union provides to the Office of Credit Unions. In addition, this bill specifies that, with certain exceptions, any employee of the Office of Credit Unions or member of the Credit Union Review Board who discloses any information about the private account or transactions of a credit union or who discloses any information obtained in the course of an examination is subject to a fine of not less than \$100 nor more than \$1,000, imprisonment for not less than six months nor more than three years, or both, and may be required to forfeit his or her office or position.

This bill also requires credit unions to comply with certain federal laws relating to customer financial privacy and requires the Office of Credit Unions to examine credit unions for compliance with these federal laws.

Board of directors action by unanimous, written consent

Currently, if an action is required or permitted to be authorized at a credit union board of directors meeting, the directors must either meet in person or via certain approved communications media to authorize the action. This bill permits an action to be authorized without a meeting, if that action is authorized by all directors and is evidenced by one or more written statements, signed by each director, describing and consenting to the action.

Other credit union changes

Under current law, a credit union is required to semiannually determine its gross income and transfer amounts to its reserve account, which is an account established by the credit union to cover losses. The National Credit Union Administration determines the required amount of the transfer. This bill repeals the requirement that a credit union determine its gross income and semiannually

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transfer amounts to its reserve account. Under this bill, a credit union must establish and maintain a reserve account and must transfer amounts to the reserve account as required by the National Credit Union Administration.

Under current law, the Office of Credit Unions must conduct an annual examination of each credit union, unless the Office of Credit Unions accepts an audit report of the condition of the credit union that satisfies certain conditions. This bill requires the Office of Credit Unions to conduct an examination of each credit union at least once every 18 months, and repeals the authority of the Office of Credit Unions to accept an audit report.

Current law specifically requires any officer or employee of a credit union who sells credit life insurance or credit accident or sickness insurance on behalf of the credit union to pay to the credit union all commissions received from the sale. This bill clarifies that an officer or employee of a credit union must pay to the credit union all commissions received from the sale of any authorized insurance product sold on behalf of the credit union.

This bill also creates a crime for knowingly falsifying certain credit union reports or statements. Any person who commits this crime may be fined not less than \$1,000 nor more than \$5,000 or imprisoned for not less than one year nor more than 15 years or both.

Under current law, credit unions are subject to the provisions of chs. 93 to 100 (agriculture, trade, and consumer protection statutes) that apply to businesses generally. Banks, savings banks, and savings and loan associations are specifically exempted from the definition of “business” that applies in the agriculture, trade, and consumer protection statutes. This bill specifically exempts credit unions from this definition.

UNIVERSAL BANKS***Generally***

Under current law, the Division of Savings Institutions regulates state savings banks and state savings and loan associations, and the Division of Banking regulates state banks. This bill allows a state savings bank, state savings and loan association, or state bank (financial institution) to apply to the Division of Banking to become certified as a universal bank. If certified as a universal bank, a financial institution may exercise certain powers, in addition to those that are granted under the statutes under which the financial institution is organized. A universal bank retains its status as a savings and loan association, savings bank, or state bank and remains subject to existing regulatory and supervisory requirements, except to the extent that these requirements are inconsistent with the requirements applicable to universal banks. Universal banks are subject to the following provisions:

Certification of universal banks

A financial institution may apply to become certified as a universal bank by filing a written application with the Division of Banking. In order to be certified as a universal bank, the financial institution must meet all of the following requirements: 1) the financial institution must have been in existence and continuous operation for at least three years; 2) the financial institution must be “well-capitalized,” as defined in federal law; 3) the financial institution must not

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exhibit moderately severe or unsatisfactory financial, managerial, operational, and compliance weaknesses; 4) the financial institution must not have been the subject of any enforcement action within the 12 months preceding the application; 5) the most recent evaluation of the financial institution under the federal Community Reinvestment Act must rate the financial institution as “outstanding” or “satisfactory” at helping to meet the credit needs of its entire community; and 6) the most recent report received by the financial institution evaluating the financial institution’s compliance with certain federal laws relating to customer privacy must indicate that the financial institution is in substantial compliance with these federal laws. If these requirements are met, the Division of Banking must certify the financial institution as a universal bank. If a universal bank fails to maintain compliance with these requirements, the Division of Banking must limit the universal bank’s exercise of universal banking powers. In addition, a universal bank may be decertified if it fails to maintain compliance with these requirements. With the approval of the Division of Banking, a universal bank may also elect to terminate its certification. As a precondition to elective decertification, the universal bank must terminate the exercise of all universal banking powers.

Organization and regulation of universal banks

A financial institution that is certified as a universal bank remains subject to all of the requirements and duties, and remains able to exercise all of the powers, that applied to the financial institution prior to its certification as a universal bank, except to the extent that such requirements, duties, and powers are inconsistent with the requirements, powers, and duties of universal banks. After a financial institution becomes certified as a universal bank, the Division of Banking is responsible for establishing the capital requirements applicable to the universal bank.

A universal bank continues to operate under the articles of incorporation and bylaws that were in effect prior to its certification as a universal bank, and these articles and bylaws may be amended in accordance with the law governing savings banks, savings and loan associations, or state banks, whichever is applicable to the financial institution. Current law generally prohibits a savings bank or a savings and loan association from using the term “bank” in its corporate name without also using the term “savings.” Notwithstanding these provisions, the bill allows any financial institution that becomes certified as a universal bank to use the term “bank” in its corporate name without using the word “savings,” subject to certain limitations relating to the distinguishability of the name.

Under current law, the Division of Banking regulates mergers and acquisitions of state banks, and the Division of Savings Institutions regulates mergers and acquisitions of savings banks and savings and loan associations. Under the bill, the Division of Banking assumes responsibility for reviewing and approving the mergers and acquisitions of all financial institutions that have been certified as universal banks, including savings banks and savings and loan associations. The standards to be used by the Division of Banking in reviewing a merger or acquisition of a universal bank generally track the standards currently applicable to the various financial institutions that may become certified as universal banks, except that

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universal banks may generally acquire or merge with any type of financial institution.

Powers of universal banks

The bill expands the powers of a financial institution that becomes certified as a universal bank. Currently, savings banks, savings and loan associations, and banks have differing powers under both state and federal law. Under the bill, a universal bank is authorized to engage in any activity authorized for any savings bank, savings and loan association, or state bank beginning on the first day of the third month beginning after the bill's publication. In addition, the bill specifically permits a universal bank to exercise all of the following powers:

1) Federal powers: Under the bill, a universal bank may exercise all powers that may be exercised directly by a national bank, a federally chartered savings and loan association, or a federally chartered savings bank. In addition, a universal bank may exercise through a subsidiary all powers that a subsidiary of these federal financial institutions may exercise. The Division of Banking must approve the initial exercise of a federal power by a universal bank under these provisions, but thereafter any universal bank generally may exercise that power. The Division of Banking may, however, require a universal bank to exercise a federal power through a subsidiary of the universal bank to limit the risk exposure of the universal bank.

2) Lending powers: Under current law, the lending powers of a financial institution depend on whether the financial institution is organized as a savings bank, savings and loan association, or state bank. The lending powers granted to universal banks under the bill are most similar to the lending powers granted to state banks under current law. Current law imposes some restrictions on the types and purposes of loans that savings banks and savings and loan associations may make. Under the bill, a universal bank may make, sell, purchase, arrange, participate in, invest in, or otherwise deal in loans or extensions of credit for any purpose. Like state banks, the limitations imposed on a universal bank's lending generally focus on the total amount of liabilities of any one lender at any one time. Although the limit varies depending on the lender and on the type of security pledged for the loan, the general rule is that the total liabilities of any one person to a universal bank may not exceed 20% of the universal bank's capital.

The lending limits for universal banks are generally the same as for state banks, except that universal banks are granted additional authority to lend, through the universal bank or its subsidiaries, an aggregate amount to all borrowers from the universal bank and all of its subsidiaries not to exceed 20% of the universal bank's capital. Generally, however, the loans to any one borrower made under any lending authority of the universal bank may not exceed 20% of the universal bank's capital. Loans made under this additional authority are not subject to rules regarding bad debts or classification of losses for a period of two years from the date of the loan. This additional authority may be suspended by the Division of Banking. Among the factors that may be considered by the Division of Banking in suspending this authority are a universal bank's capital adequacy, management, earnings, liquidity, and sensitivity to market risk. The bill prohibits a universal bank, in determining whether to make a loan or extension of credit, from considering any health

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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.

3) Investment powers: A universal bank may purchase, sell, underwrite, and hold investment securities, consistent with safe and sound banking practices, in an amount up to 100% of the universal bank's capital. Investment securities include commercial paper; banker's acceptances; marketable securities in the form of bonds, notes, and debentures; and similar instruments. A universal bank may not invest greater than 20% of its capital in any one obligor or issuer. A universal bank may purchase, sell, underwrite, and hold equity securities, consistent with safe and sound banking practices, in an amount up to 20% of the universal bank's capital, unless the Division of Banking approves a greater percentage. A universal bank may also invest in certain housing properties and projects, except that the total investment in any one project may not exceed 15% of the universal bank's capital and except that the total amount invested in housing properties and projects may not exceed 50% of the universal bank's capital. A universal bank may take equity positions in profit-participation projects, including projects funded through loans from the universal bank, in an aggregate amount not to exceed 20% of the universal bank's capital. The Division of Banking may suspend a universal bank's authority to invest in profit-participation projects.

The bill permits a universal bank to invest without limitation in certain types of securities, including: 1) obligations of certain federal agencies or federally chartered corporations and associations; 2) deposit accounts or insured obligations of insured financial institutions; 3) securities of certain business development corporations and urban renewal investment corporations; 4) certain securities of bank insurance companies; 5) securities of certain corporations operating automated teller machines; 6) securities of service corporation subsidiaries of the universal bank; 7) advances of federal funds; 8) risk management instruments, including financial futures transactions, financial operations transactions, and forward commitments, but solely for the purpose of reducing, hedging, or otherwise managing its interest rate risk exposure; 9) securities of subsidiaries exercising certain fiduciary powers; and 10) securities of certain agricultural credit corporations. A universal bank may invest in other financial institutions. The investment powers of a universal bank may be exercised directly or indirectly through a subsidiary, unless the Division of Banking requires the investment to be made through a subsidiary to limit the risk exposure of the universal bank. The bill contains specific provisions governing the purchase by a universal bank of its own stock and of stock in banks and bank holding companies.

4) Deposit and trust powers: The bill permits a universal bank to establish the types and terms of deposits that the universal bank will solicit and accept. A universal bank may pledge its assets as security for deposits. With the approval of the Division of Banking, a universal bank may securitize its assets for sale to the public, subject to any procedures established by the Division of Banking. A universal bank may exercise safe deposit powers and have a lien for its safekeeping charges on the contents of property accepted for safekeeping. If these charges remain unpaid

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for two years or if property accepted for safekeeping is not called for within two years, a universal bank may sell the property at public auction. The bill authorizes a universal bank to exercise the same trust powers that trust company banks are permitted to exercise under current law.

5) Incidental and related powers: Under the bill, a universal bank may exercise all powers necessary or convenient to effect the purposes for which the universal bank is organized or to further the businesses in which the universal bank is lawfully engaged. Current law does not have a similar provision.

In addition to these necessary or convenient powers, the bill allows a universal bank to engage in activities that are reasonably related or incidental to the purposes of the universal bank. With certain exceptions, a universal bank may engage in these activities either directly or indirectly through a subsidiary. Under the bill, any activity permitted under the federal Bank Holding Act satisfies the reasonably related or incidental criterion. The bill also contains a list of specific activities that meet the reasonably related or incidental criterion. The listed activities include: 1) business and professional services; 2) data processing; 3) courier and messenger services; 4) credit-related activities; 5) consumer services; 6) real estate-related services; 7) insurance services, other than insurance underwriting; 8) securities brokerage; 9) investment advice; 10) securities and bond underwriting; 11) mutual fund activities; 12) financial consulting; 13) tax planning and preparation; 14) community development and charitable activities; and 15) debt cancellation contracts.

A universal bank may also engage in activities that the Division of Banking determines are reasonably related or incidental to these listed activities. In addition, the Division of Banking may determine that other activities are reasonably related or incidental activities.

A universal bank must give 60 days' prior written notice to the Division of Banking of the universal bank's intention to exercise a necessary or convenient power or to engage in a reasonably related or incidental activity. The Division of Banking may deny a universal bank the authority to exercise a necessary or convenient power or to engage in a reasonably related or incidental activity, other than an activity that is contained in the specific list of reasonably related or incidental activities, if the Division of Banking determines that the activity is not a reasonably related or incidental activity, that the financial institution is not well-capitalized, that the financial institution is the subject of an enforcement action, or that the financial institution does not have sufficient management expertise for the activity. The Division of Banking may also require a universal bank to engage in certain of these activities through a subsidiary, with appropriate safeguards to limit the risk exposure of the universal bank. Amounts invested in a single subsidiary that engages in these activities may not exceed 20% of the universal bank's capital, unless a higher percentage is approved by the Division of Banking.

UNIFORM COMMERCIAL CODE

Currently, under this state's version of the Uniform Commercial Code, when collateral is disposed of by a secured party following a default by the debtor, all

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subordinate security interests and liens are discharged by the disposition of the collateral, except liens held by this state or a local governmental unit. One result of this exception is essentially to give priority to subordinate liens held by this state or a local governmental unit. These liens include, for example, tax liens, liens related to environmental clean-up payments, public assistance payments, wage claims, unemployment and worker's compensation payments, and liens on aircraft for nonpayment of certain fees. This bill deletes this exception and, in effect, grants these liens the priority otherwise applicable to them under the law.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 93.01 (1m) of the statutes is amended to read:

2 93.01 (1m) “Business” includes any business, except that of banks, savings
3 banks, credit unions, savings and loan associations, and insurance companies.
4 “Business” includes public utilities and telecommunications carriers to the extent
5 that their activities, beyond registration, notice, and reporting activities, are not
6 regulated by the public service commission and includes public utility and
7 telecommunications carrier methods of competition or trade and advertising
8 practices that are exempt from regulation by the public service commission under s.
9 196.195, 196.196, 196.202, 196.203, 196.219, or 196.499 or by other action of the
10 commission.

11 **SECTION 2.** 186.01 (2) of the statutes is amended to read:

12 186.01 (2) “Credit union” means, except as specifically provided under ss.
13 186.41 (1) and 186.45 (1), a cooperative, nonprofit corporation, incorporated under
14 this chapter to encourage thrift among its members, create a source of credit at a fair

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1 and reasonable cost, and provide an opportunity for its members to improve their
2 economic and social conditions.

3 **SECTION 3.** 186.02 (2) (a) 1. of the statutes is amended to read:

4 186.02 (2) (a) 1. The conditions of residence or occupation which qualify persons
5 that determine eligibility for membership.

6 **SECTION 4.** 186.02 (2) (b) 2. of the statutes is amended to read:

7 186.02 (2) (b) 2. Residents Except as otherwise provided in this subdivision,
8 individuals who reside or are employed within a well-defined neighborhood,
9 community or rural district and contiguous neighborhoods and communities. If the
10 office of credit unions, subsequent to a credit union merger, determines that it would
11 be inappropriate under the circumstances to require members of the credit union
12 that results from the merger to reside or be employed in contiguous neighborhoods
13 and communities, the requirement that these neighborhoods and communities be
14 contiguous does not apply.

15 **SECTION 5.** 186.02 (2) (b) 2m. of the statutes is created to read:

16 186.02 (2) (b) 2m. Individuals who reside or are employed within well-defined
17 and contiguous rural districts or multicounty regions.

18 **SECTION 6.** 186.02 (2) (c) of the statutes is amended to read:

19 186.02 (2) (c) Members of the immediate family of all qualified persons are
20 eligible for membership. ~~In this paragraph, “members of the immediate family”~~
21 ~~include the wife, husband, parents, stepchildren and children of a member whether~~
22 ~~living together in the same household or not and any other relatives of the member~~
23 ~~or spouse of a member living together in the same household as the member.~~

24 **SECTION 7.** 186.02 (2) (d) of the statutes is renumbered 186.02 (2) (d) 1. and
25 amended to read:

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1 186.02 (2) (d) 1. ~~Organizations and associations~~ An organization or association
2 of individuals, the majority of ~~whom~~ the directors, owners, or members of which are
3 eligible for membership, may be admitted to membership in the same manner and
4 under the same conditions as individuals.

5 **SECTION 8.** 186.02 (2) (d) 2. of the statutes is created to read:

6 186.02 (2) (d) 2. An organization or association that has a business location
7 within any geographic limits of the credit union's field of membership may be
8 admitted to membership.

9 **SECTION 9.** 186.06 (4) of the statutes is amended to read:

10 186.06 (4) FISCAL YEAR. The fiscal year of every credit union shall end at the
11 close of business on December 31 ~~and the credit union shall, at least semiannually,~~
12 ~~transfer funds as provided in s. 186.17.~~

13 **SECTION 10.** 186.07 (3m) of the statutes is created to read:

14 186.07 (3m) WRITTEN CONSENT IN LIEU OF MEETING. (a) Unless the articles of
15 incorporation or bylaws provide otherwise, any action required or permitted by this
16 chapter to be authorized at a board of directors' meeting may be authorized without
17 a meeting if that action is authorized by all directors and is evidenced by one or more
18 written statements, signed by each director, describing and consenting to the action.
19 Such an action has the same effect as an action authorized by unanimous vote at a
20 meeting at which all directors are present and may be described as such in any
21 document.

22 (b) Any action authorized under par. (a) is effective when the last director signs
23 the statement evidencing his or her consent, unless the statement specifies a
24 different effective date.

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1 (c) A credit union shall retain all statements signed by its directors under par.

2 (a).

3 SECTION 11. 186.11 (4) (title) of the statutes is amended to read:

4 186.11 (4) (title) INVESTMENT IN CREDIT UNION SERVICE CORPORATIONS
5 ORGANIZATIONS.

6 SECTION 12. 186.11 (4) (a) of the statutes is renumbered 186.11 (4) (a) (intro.)
7 and amended to read:

8 186.11 (4) (a) (intro.) ~~A- Unless the office of credit unions approves a higher~~
9 percentage, a credit union may invest not more than 1.5% of its total assets in the
10 capital shares or obligations of a credit union service corporation organizations that,
11 in the opinion of the office of credit unions, are sufficiently bonded and insured and
12 that satisfy all of the following:

13 2. Are organized primarily to provide goods and services to credit unions, credit
14 union organizations and credit union members.

15 SECTION 13. 186.11 (4) (a) 1. of the statutes is created to read:

16 186.11 (4) (a) 1. Are corporations, limited partnerships, limited liability
17 companies, or other entities that are permitted under the laws of this state and that
18 are approved by the office of credit unions.

19 SECTION 14. 186.11 (4) (b) of the statutes is repealed and recreated to read:

20 186.11 (4) (b) ~~Except as provided under par. (b)(1) a credit union service~~ ✓
21 organization under par. (a) may provide any of the following services related to the
22 routine daily operations of credit unions:

23 1. Checking and currency services, check cashing services, money order services, savings bond
24 services, traveler's check services, and services regarding the purchase and sale of
25 U.S. mint commemorative coins.

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1 2. Clerical, professional, and management services, including, but not limited
2 to, accounting, courier, credit analysis, facsimile transmission and copying, internal
3 credit union audit, locator, management and personnel training and support,
4 marketing, research, and supervisory committee audit services.

5 3. Consumer mortgage loan origination services.

6 4. Electronic transaction services, including, but not limited to, remote
7 terminal, credit and debit card, data processing, electronic fund transfer, electronic
8 income tax filing, payment item processing, wire transfer, and Internet financial
9 services.

10 5. Tax preparation services, services regarding the development and
11 administration of individual retirement accounts, Keogh plans, deferred
12 compensation plans, and other personnel benefit plans, and financial counseling
13 services, including, but not limited to, estate planning.

14 6. Fixed asset services, including, but not limited to, the management,
15 development, sale, or lease of fixed assets and the sale, lease, or servicing of computer
16 hardware or software.

brokerage or agency

17 7. Insurance services, including, but not limited to, providing vehicle warranty
18 programs, providing group insurance purchasing programs, and acting as an agent
19 for the sale of insurance.

20 8. Services with regard to the leasing of real property owned by the credit union
21 service organization or personal property.

22 9. Loan support services, including, but not limited to, debt collection and loan
23 processing, servicing, and sales services and services regarding the sale of
24 repossessed collateral.

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1 10. Record retention, security, and disaster recovery services, including, but
2 not limited to, alarm monitoring, data storage and retrieval, and record storage
3 services and providing forms and supplies.

4 11. Securities brokerage services.

5 12. Shared credit union branch operations.

6 13. Student loan origination services.

7 14. Travel agency services.

8 15. Trust and other fiduciary services, including, but not limited to, acting as
9 an administrator for prepaid legal services plans or acting as a trustee, guardian,
10 conservator, estate administrator, or in any other fiduciary capacity.

11 16. Real estate brokerage services. ^{and}

12 **SECTION 15.** 186.11 (4) (bd), (bh), ~~and (bt)~~ of the statutes are created to read:

13 186.11 (4) (bd) The office of credit unions may expand the list of services under

14 par. (b) that are related to the routine daily operations of credit unions. ~~Except as~~

15 ~~provided under par. (bt)~~ any service approved under this paragraph shall be

16 authorized for all credit union service organizations under par. (a). A credit union

17 may file a written request with the office of credit unions to exercise its authority

18 under this paragraph and may include, along with the request, a description of any

19 proposed service and an explanation of how that service is related to the routine daily

20 operations of credit unions. Within 60 days after receiving a request under this

21 paragraph, the office of credit unions shall approve or disapprove the request.

22 (bh) A credit union service organization under par. (a) may provide any service

23 described under par. (b) or approved under par. (bd) through an investment by the

24 credit union service organization in a third-party service provider. The amount that

25 a credit union service organization may invest in a third-party service provider

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1 under this paragraph may not exceed the amount necessary to obtain the applicable
2 services, or a greater amount if necessary for the credit union service organization
3 to obtain the services at a reduced cost.

4 (bt) The office of credit unions, based upon concerns for the safety and
5 soundness of credit union operations in this state or for any other legal or supervisory
6 reason, may prohibit any or all credit union service organizations under par. (a) from
7 providing any service described under par. (b) or approved under par. (bd). ✓

8 SECTION 16. 186.11 (4) (c) of the statutes is amended to read:

9 186.11 (4) (c) A credit union service corporation organization may be subject
10 to audit by the office of credit unions.

11 SECTION 17. 186.113 (1) of the statutes is amended to read:

12 186.113 (1) BRANCH OFFICES. ~~If the need and necessity exist and with~~ With the
13 approval of the office of credit unions, establish branch offices inside ~~this state or no~~
14 ~~more than 25 miles~~ or outside of this state. Permanent records may be maintained
15 at branch offices established under this subsection. In this subsection, the term
16 “branch office” does not include a remote terminal, a limited services office, or a
17 service center.

18 SECTION 18. 186.113 (1m) (a) (intro.) of the statutes is amended to read:

19 186.113 (1m) (a) (intro.) ~~Establish~~ Before the effective date of this paragraph
20 [revisor inserts date], establish limited services offices outside this state to serve
21 any member of the credit union if all of the following requirements are met:

22 SECTION 19. 186.113 (6) (b) and (c) of the statutes are amended to read:

23 186.113 (6) (b) Act as trustees or custodians of member tax deferred retirement
24 funds, individual retirement accounts, medical savings accounts, or other employee
25 benefit accounts or funds permitted by federal law to be deposited in a credit union.

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1 (c) Act as a depository for ~~member-deferred~~ member qualified and
2 nonqualified deferred compensation funds as permitted by federal law.

3 **SECTION 20.** 186.113 (11) of the statutes is renumbered 186.113 (11) (a) and
4 amended to read:

5 186.113 (11) (a) ~~Have~~ Offer deposit accounts to members.

6 **SECTION 21.** 186.113 (11) (b) of the statutes is created to read:

7 186.113 (11) (b) Offer deposit accounts to any person if the credit union satisfies
8 the requirements specified in 12 CFR 701.34 (a) for designation as a low-income
9 credit union and files a statement with the office of credit unions agreeing to be bound
10 by requirements and conditions that are substantially identical to those imposed by
11 the national board and the national credit union administration on federal credit
12 unions designated under 12 CFR 701.34 (a).

13 **SECTION 22.** 186.113 (24) of the statutes is created to read:

14 186.113 (24) FUNERAL TRUSTS. Accept deposits made by members for the
15 purpose of funding burial agreements by trusts created pursuant to s. 445.125.

16 **SECTION 23.** 186.113 (25) of the statutes is created to read:

17 186.113 (25) SALE OF INSURANCE PRODUCTS. Sell insurance, annuities, and
18 related products.

19 **SECTION 24.** 186.17 (1) of the statutes is repealed and recreated to read:

20 186.17 (1) REGULAR RESERVES. A credit union shall establish and maintain a
21 regular reserve account and shall transfer amounts to the regular reserve account
22 as required by the national board.

23 **SECTION 25.** 186.20 of the statutes is created to read:

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1 **186.20 Financial privacy.** A credit union shall comply with any applicable
2 requirements under 15 USC 6801 to 6803 and any applicable regulations prescribed
3 by the national credit union administration under 15 USC 6804.

4 **SECTION 26.** 186.22 (12m) of the statutes is amended to read:

5 **186.22 (12m) MEETINGS OF DIRECTORS.** Section 186.07 (3) and (3m) applies to
6 a credit union finance corporation.

7 **SECTION 27.** 186.235 (7) (a) (intro.) of the statutes is amended to read:

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

14 **SECTION 28.** 186.235 (7) (c) of the statutes is created to read:

15 **186.235 (7) (c)** If any person mentioned in par. (a) discloses any information
16 about the private account or transactions of a credit union or any information
17 obtained in the course of an examination of a credit union, except as provided in pars.
18 (a) and (b), that person is guilty of a Class I felony.

19 **SECTION 29.** 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 30.** 186.235 (16) (a) of the statutes is renumbered 186.235 (16) and
24 amended to read:

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SECT# RP; 186.235 (1C)(6).

1 186.235 (16) ~~ANNUAL PERIODIC~~ EXAMINATION. At least once each year every 18
 2 months, the office of credit unions shall examine the records and accounts of each
 3 credit union. For that purpose the office of credit unions shall have full access to, and
 4 may compel the production of, each credit union's records and accounts. ~~They~~ The
 5 office of credit unions may administer oaths to and examine each credit union's
 6 officers and agents.

7 SECTION 31. 186.235 (16m) of the statutes is created to read:

8 186.235 (16m) FINANCIAL PRIVACY EXAMINATION. The office of credit unions shall
 9 examine a credit union to determine the credit union's compliance with s. 186.20.

10 SECTION 32. 186.36 of the statutes is amended to read:

11 **186.36 Sale of insurance in credit unions.** Any officer or employee of a
 12 credit union, when acting as an agent for the sale of insurance on behalf of the credit
 13 union, shall pay all commissions received from the sale of ~~credit life insurance or~~
 14 ~~credit accident and sickness insurance~~ to the credit union.

15 SECTION 33. 186.41 (title) of the statutes is amended to read:

16 **186.41 (title) Interstate acquisition acquisitions and merger mergers**
 17 **of credit unions.**

18 SECTION 34. 186.41 (1) (a) of the statutes is renumbered 186.41 (1) (bm) and
 19 amended to read:

20 186.41 (1) (bm) "~~In-state~~ Wisconsin credit union" means a credit union having
 21 its principal office located in this state.

22 SECTION 35. 186.41 (1) (c) of the statutes is renumbered 186.41 (1) (am) and
 23 amended to read:

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

4 **SECTION 36.** 186.41 (1) (d) of the statutes is repealed.

5 **SECTION 37.** 186.41 (2) and (3) of the statutes are amended to read:

6 186.41 (2) ~~IN-STATE WISCONSIN~~ CREDIT UNION. (a) ~~An in-state~~ A Wisconsin credit
7 union may do any of the following:

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

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

11 (b) ~~An in-state~~ A Wisconsin credit union proposing any action under par. (a)
12 shall provide the office of credit unions a copy of any original application seeking
13 approval by a federal agency or by an agency of ~~the regional~~ another state and of any
14 supplemental material or amendments filed in connection with any application.

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

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

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

20 **SECTION 38.** 186.41 (4) (intro.), (a) to (d) and (f) of the statutes are amended to
21 read:

22 186.41 (4) LIMITATIONS: (intro.) ~~A regional~~ An out-of-state credit union may
23 not take any action under sub. (3) until all of the following conditions have been met:

24 (a) The office of credit unions finds that the statutes of the ~~regional~~ state in
25 which the ~~regional out-of-state~~ credit union has its principal office permit ~~in-state~~

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1 Wisconsin credit unions to both acquire ~~regional out-of-state~~ credit union assets and
2 merge with one or more ~~regional out-of-state~~ credit unions in the ~~regional~~ that state.

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

6 (c) The office of credit unions gives a class 3 notice, under ch. 985, in the official
7 state newspaper, of the application to take an action under sub. (3) and of the
8 opportunity for a hearing and, if at least 25 residents of this state petition for a
9 hearing within 30 days of the final notice or if the office of credit unions on its own
10 motion calls for a hearing within 30 days of the final notice, the office of credit unions
11 holds a public hearing on the application, except that a hearing is not required if the
12 office of credit unions finds that an emergency exists and that the proposed action
13 under sub. (3) is necessary and appropriate to prevent the probable failure of an
14 ~~in-state~~ a Wisconsin credit union that is closed or in danger of closing.

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

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

22 **SECTION 39.** 186.41 (5) (a), (b), (c) and (cr) of the statutes are amended to read:

23 186.41 (5) (a) Considering the financial and managerial resources and future
24 prospects of the applicant and of the ~~in-state~~ Wisconsin credit union concerned, the

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1 action would be contrary to the best interests of the members of the ~~in-state~~
2 Wisconsin credit union.

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

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

11 (cr) The applicant has failed to propose to provide adequate and appropriate
12 services of the type contemplated by the community reinvestment act of 1977 in the
13 community in which the ~~in-state~~ Wisconsin credit union which the applicant
14 proposes to acquire or merge with is located.

15 **SECTION 40.** 186.41 (6) (a) of the statutes is renumbered 186.41 (6).

16 **SECTION 41.** 186.41 (6) (b) of the statutes is repealed.

17 **SECTION 42.** 186.41 (8) of the statutes is repealed.

18 **SECTION 43.** 186.45 of the statutes is created to read:

19 **186.45 Non-Wisconsin credit union, Wisconsin offices. (1) DEFINITIONS.**

20 In this section:

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

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

24 (2) APPROVAL. A non-Wisconsin credit union may open an office and conduct
25 business as a credit union in this state if the office of credit unions finds that

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1 Wisconsin credit unions are allowed to do business in the other state under
2 conditions similar to those contained in this section and that all of the following apply
3 to the non-Wisconsin credit union:

4 (a) It is a credit union organized under laws similar to the credit union laws of
5 this state.

6 (b) It is financially solvent based upon national board ratings.

7 (c) It has member savings insured with federal share insurance.

8 (d) It is effectively examined and supervised by the credit union authorities of
9 the state in which it is organized.

10 (e) It has received approval to open an office and conduct business as a credit
11 union in this state from the credit union authorities of the state in which it is
12 organized.

13 (f) It has a need to place an office in this state to adequately serve its members
14 in this state.

15 (g) It meets all other relevant standards or qualifications established by the
16 office of credit unions.

17 **(3) REQUIREMENTS.** A non-Wisconsin credit that opens an office and conducts
18 business as a credit union in this state shall do all of the following:

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

21 (b) Comply with this state's laws.

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

23 **(4) RECORDS.** As a condition of a non-Wisconsin credit union doing business in
24 this state under this section, the office of credit unions may require copies of

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1 examination reports and related correspondence regarding the non-Wisconsin
2 credit union.

3 **SECTION 44.** 186.80 of the statutes is created to read:

4 **186.80 False statements.** (1) No officer, director, or employee of a credit
5 union may do any of the following:

6 (a) Willfully and knowingly subscribe to or make, or cause to be made, a false
7 statement or entry in the books of the credit union.

8 (b) Knowingly subscribe to or exhibit false information with the intent to
9 deceive any person authorized to examine the affairs of the credit union.

10 (c) Knowingly make, state, or publish any false report or statement of the credit
11 union.

12 (2) Any person who violates sub. (1) is guilty of a Class F felony.

13 **SECTION 45.** 220.04 (9) (a) 2. of the statutes is amended to read:

14 220.04 (9) (a) 2. "Regulated entity" means a bank, universal bank, trust
15 company bank, and any other entity ~~which~~ that is described in s. 220.02 (2) or
16 221.0526 as under the supervision and control of the division.

17 **SECTION 46.** 220.14 (5) of the statutes is created to read:

18 220.14 (5) Contain a statement of the total number of orders issued by the
19 division during the year under s. 222.0203 (2).

20 **SECTION 47.** Chapter 222 of the statutes is created to read:

21 **CHAPTER 222**

22 **UNIVERSAL BANKS**

23 **SUBCHAPTER I**

24 **GENERAL PROVISIONS**

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1 **222.0101 Title.** This chapter may be cited as the “Wisconsin universal bank
2 law.”

3 **222.0102 Definitions.** In this chapter:

4 (1) “Capital” of a universal bank means the sum of the following, less the
5 amount of intangible assets that is not considered to be qualifying capital by a deposit
6 insurance corporation or the division:

7 (a) For a universal bank organized as a stock organization, the universal bank’s
8 capital stock, preferred stock, undivided profits, surplus, outstanding notes and
9 debentures approved by the division, other forms of capital designated as capital by
10 the division, and other forms of capital considered to be qualifying capital of the
11 universal bank by a deposit insurance corporation.

12 (b) For a universal bank organized as a mutual organization, the universal
13 bank’s net worth, undivided profits, surplus, outstanding notes and debentures
14 approved by the division, other forms of capital designated as capital by the division,
15 and other forms of capital considered to be qualifying capital by a deposit insurance
16 corporation.

17 (2) “Deposit insurance corporation” means the Federal Deposit Insurance
18 Corporation or other instrumentality of, or corporation chartered by, the United
19 States that insures deposits of financial institutions and that is supported by the full
20 faith and credit of the U.S. government as stated in a congressional resolution.

21 (3) “Division” means the division of banking.

22 (4) “Financial institution” means a savings bank organized under ch. 214,
23 savings and loan association organized under ch. 215, or bank chartered under ch.
24 221.

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1 (5) “Universal bank” means a financial institution that has been issued a
2 certificate of authority under s. 222.0205.

3 (6) “Well-capitalized” has the meaning given in 12 USC 1831o (b) (1) (A).

4 **222.0103 Applicability. (1) SAVINGS BANKS.** A universal bank that is a savings
5 bank organized under ch. 214 remains subject to all of the requirements, duties, and
6 liabilities, and may exercise all of the powers, of a savings bank, except that, in the
7 event of a conflict between this chapter and those requirements, duties, liabilities,
8 or powers, this chapter shall control.

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

14 (3) **BANKS.** A universal bank that is a bank chartered under ch. 221 remains
15 subject to all of the requirements, duties, and liabilities, and may exercise all of the
16 powers, of a bank, except that, in the event of a conflict between this chapter and
17 those requirements, duties, liabilities, or powers, this chapter shall control.

18 **222.0105 Fees.** The division may establish such fees as it determines are
19 appropriate for documents filed with the division under this chapter and for services
20 provided by the division under this chapter.

21 **222.0107 Administration. (1) POWERS OF DIVISION.** The division shall
22 administer this chapter for all universal banks.

23 (2) **RULE-MAKING AUTHORITY.** The division may promulgate rules to administer
24 and carry out this chapter. The division may establish additional limits or
25 requirements on universal banks, if the division determines that the limits or

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1 requirements are necessary for the protection of depositors, members, investors, or
2 the public.

SUBCHAPTER II**CERTIFICATION**

5 **222.0201 Procedure. (1) APPLICATION.** A financial institution may apply to
6 become certified as a universal bank by filing a written application with the division.
7 The application shall include all information required by the division. The
8 application shall be on the forms and in accordance with the procedures prescribed
9 by the division.

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

16 **222.0203 Eligibility. (1) REQUIREMENTS.** The division may approve an
17 application from a financial institution for certification as a universal bank only if
18 all of the following requirements are met:

19 (a) The financial institution has been in existence and continuous operation for
20 a minimum of 3 years before the date of the application.

21 (b) The financial institution is well capitalized.

22 (c) The financial institution does not exhibit a combination of financial,
23 managerial, operational, and compliance weaknesses that is moderately severe or
24 unsatisfactory, as determined by the division based upon the division's assessment

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1 of the financial institution's capital adequacy, asset quality, management capability,
2 earnings quantity and quality, adequacy of liquidity, and sensitivity to market risk.

3 (d) During the 12-month period before the date of the application, the financial
4 institution has not been the subject of an enforcement action, and there is no
5 enforcement action pending against the financial institution by any state or federal
6 financial institution regulatory agency, including the division.

7 (e) The most current evaluation prepared under 12 USC 2906 that the financial
8 institution has received rates the financial institution as "outstanding" or
9 "satisfactory" in helping to meet the credit needs of its entire community, including
10 low-income and moderate-income neighborhoods, consistent with the safe and
11 sound operation of the financial institution.

12 (f) If the financial institution has received from its federal functional regulator,
13 as defined in 15 USC 6809 (2), a consumer compliance examination that contains
14 information regarding the financial institution's compliance with 15 USC 6801 to
15 6803 and any applicable regulations prescribed under 15 USC 6804, the most recent
16 such examination indicates, in the opinion of the division, that the financial
17 institution is in substantial compliance with those statutes or regulations.

18 **(2) FAILURE TO MAINTAIN ELIGIBILITY; LIMITATION OF AUTHORITY AND**
19 **DECERTIFICATION.** For any period during which a universal bank fails to meet the
20 requirements under sub. (1), the division shall limit or restrict the exercise of the
21 powers of the universal bank under this chapter. In addition to or in lieu of limiting
22 or restricting the universal bank's authority under this subsection, the division may
23 by order revoke the universal bank's certificate of authority issued under s. 222.0205.

24 **222.0205 Certificate of authority.** Upon approval of an application for
25 certification as a universal bank, the division shall issue to the applicant a certificate

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1 of authority stating that the financial institution is certified as a universal bank
2 under this chapter.

3 **222.0207 Voluntary termination of certification.** A financial institution
4 that is certified as a universal bank under this chapter may elect to terminate its
5 certification by giving 60 days' prior written notice of the termination to the division.
6 A termination under this section is effective only with the written approval of the
7 division. A financial institution shall, as a precondition to termination under this
8 section, terminate its exercise of all powers granted under this chapter before the
9 termination of the certification. The division's written approval of a financial
10 institution's termination under this section is void if the financial institution fails to
11 satisfy the precondition to termination under this section.

SUBCHAPTER III**ORGANIZATION**

14 **222.0301 Articles of incorporation and bylaws.** A universal bank shall
15 continue to operate under its articles of incorporation and bylaws as in effect prior
16 to certification as a universal bank or as such articles or bylaws may be subsequently
17 amended in accordance with the provisions of the chapter under which the universal
18 bank was organized or chartered.

19 **222.0303 Name.** (1) USE OF "BANK." Notwithstanding ss. 214.035, 215.40 (1)
20 (c), and 215.60 (1) (c) and subject to subs. (2) and (3) (b), a universal bank may use
21 the word "bank" in its name, without having to include the word "savings."
22 Notwithstanding ss. 215.40 (1) (a) and 215.60 (1) (a) and subject to subs. (2) and (3)
23 (b), a universal bank that is organized under ch. 215 and that uses the word "bank"
24 in its name in accordance with this section need not include the words "savings and
25 loan association" or "savings association" in its name.

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1 (2) **DISTINGUISHABILITY.** Except as provided in sub. (3), the name of the
2 universal bank shall be distinguishable upon the records of the division from all of
3 the following names:

4 (a) The name of every other financial institution organized under the laws of
5 this state.

6 (b) The name of every national bank or foreign bank authorized to transact
7 business in this state.

8 (3) **EXCEPTIONS.** (a) A universal bank may apply to the division for authority
9 to use a name that does not meet the requirements under sub. (2). The division may
10 authorize the use of the name if any of the conditions under s. 221.0403 (2) (a) or (b)
11 is met.

12 (b) A universal bank may use a name that is used in this state by another
13 financial institution or by an institution authorized to transact business in this state,
14 if the universal bank has done any of the following:

15 1. Merged with the other institution.

16 2. Been formed by reorganization of the other institution.

17 3. Acquired all or substantially all of the assets, including the name, of the
18 other institution.

19 **222.0305 Capital and assets. (1) CAPITAL REQUIREMENTS.** Notwithstanding
20 subch. VI of ch. 214 and ss. 215.24 and 221.0205, the division shall determine the
21 minimum capital requirements of universal banks.

22 (2) **CERTAIN ASSET REQUIREMENTS.** Section 214.045 does not apply to universal
23 banks.

24 **222.0307 Acquisitions, mergers, and asset purchases. (1) IN GENERAL.**
25 A universal bank may, with the approval of the division, purchase the assets of,

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1 merge with, acquire, or be acquired by any other financial institution, universal
2 bank, national bank, or federally chartered savings bank or savings and loan
3 association, or by a holding company of any of these entities. Notwithstanding subch.
4 III of ch. 214 and ss. 214.09 and 215.36, the approval of the division of savings
5 institutions is not required.

6 (2) APPLICATIONS FOR APPROVAL. An application for approval under sub. (1) shall
7 be submitted on a form prescribed by the division and accompanied by a fee
8 determined by the division. In processing and acting on applications under this
9 section the division shall apply the following standards:

10 (a) For universal banks organized under ch. 214, the standards described in ss.
11 214.09, 214.62 to 214.64, and 214.665, and subch. III of ch. 214.

12 (b) For universal banks organized under ch. 215, the standards described in ss.
13 215.35, 215.36, 215.53, and 215.73.

14 (c) For universal banks chartered under ch. 221, the standards described in
15 subchs. VII and IX of ch. 221.

SUBCHAPTER IV**POWERS**

18 **222.0401 Federal financial institution powers.** (1) IN GENERAL. (a) *Powers*
19 *exercised by universal bank.* Subject to any applicable requirements of sub. (2), a
20 universal bank may exercise any power that may be directly exercised by a federally
21 chartered savings bank, a federally chartered savings and loan association, or a
22 federally chartered national bank.

23 (b) *Powers exercised by subsidiary of universal bank.* Subject to any applicable
24 requirements of sub. (2), a universal bank, through a subsidiary, may exercise any
25 power that a federally chartered savings bank, a federally chartered savings and

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1 loan association, or a federally chartered national bank may exercise through a
2 subsidiary.

3 (2) APPROVAL REQUIRED FOR EXERCISE OF FEDERAL POWER. Except as otherwise
4 provided in this subsection, a universal bank shall file with the division a written
5 request to exercise a power under sub. (1). The division shall determine whether the
6 requested power is permitted under sub. (1). Within 60 days after receiving a request
7 under this subsection, the division shall approve the request, if the power is
8 permitted under sub. (1), or shall disapprove the request if the power is not permitted
9 under sub. (1). The division and the universal bank may mutually agree to extend
10 this 60-day period for an additional period of 60 days. The division shall periodically
11 publish, in the Wisconsin administrative register, a list of all powers approved under
12 this subsection and, upon publication, shall mail a copy of the list to all universal
13 banks. A universal bank need not request the permission of the division under this
14 subsection to exercise any power described in the most current list under published

15 this subsection.

16 (3) EXERCISE OF FEDERAL POWERS THROUGH A SUBSIDIARY. The division may
17 require that certain powers exercisable by a universal bank under sub. (1) (a) be
18 exercised through a subsidiary of the universal bank with appropriate safeguards to
19 limit the risk exposure of the universal bank.

20 **222.0403 Loan powers. (1) PERMITTED PURPOSES.** A universal bank may
21 make, sell, purchase, arrange, participate in, invest in, or otherwise deal in loans or
22 extensions of credit for any purpose.

23 (2) IN GENERAL. (a) *Percentage limitation.* Except as provided in subs. (3) to
24 (8), the total liabilities of any person, other than a municipal corporation, to a

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1 universal bank for a loan or extension of credit may not exceed 20% of the universal
2 bank's capital at any time.

3 (b) *Partnership liabilities.* In determining compliance with this section,
4 liabilities of a partnership include the liabilities of the general partners, computed
5 individually as to each general partner on the basis of his or her direct liability.

6 (3) INCREASED LIMIT FOR CERTAIN SECURED LIABILITIES. The total liabilities of any
7 person, other than a municipal corporation, to a universal bank for a loan or
8 extension of credit may not exceed 50% of the universal bank's capital at any time,
9 if the liabilities consist entirely of any of the following types of liabilities:

10 (a) *Warehouse receipts.* A liability secured by warehouse receipts issued by
11 warehouse keepers who are licensed and bonded in this state under ss. 99.02 and
12 99.03 or under the federal Bonded Warehouse Act or who are licensed under s.
13 126.26, if all of the following requirements are met:

- 14 1. The receipts cover readily marketable nonperishable staples.
- 15 2. The staples are insured, if it is customary to insure the staples.
- 16 3. The market value of the staples is not, at any time, less than 140% of the face
17 amount of the obligation.

18 (b) *Certain bonds or notes.* A liability in the form of a note or bond that meets
19 any of the following qualifications:

20 1. The note or bond is secured by not less than a like amount of bonds or notes
21 of the United States issued since April 24, 1917, or certificates of indebtedness of the
22 United States.

23 2. The note or bond is secured or covered by guarantees or by commitments or
24 agreements to take over, or to purchase, the bonds or notes, and the guarantee,
25 commitment, or agreement is made by a federal reserve bank, the federal small

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1 business administration, the federal department of defense, or the federal maritime
2 commission.

3 3. The note or bond is secured by mortgages or trust deeds insured by the
4 federal housing administration.

5 (4) OBLIGATIONS OF LOCAL GOVERNMENTAL UNITS. (a) *Definition.* In this
6 subsection, “local governmental unit” has the meaning given in s. 22.01 (7).

7 (b) *General limitation.* Except as otherwise provided in this subsection, the
8 total liabilities of a local governmental unit to a universal bank for money borrowed
9 may not, at any time, exceed 25% of the capital of the universal bank.

10 (c) *Revenue obligations.* Liabilities in the form of revenue obligations of a local
11 governmental unit are subject to the limitations provided in par. (b). In addition, a
12 universal bank may invest in a general obligation of that local governmental unit in
13 an amount that will bring the combined total of the general obligations and revenue
14 obligations of a single local governmental unit to a sum not in excess of 50% of the
15 capital of the universal bank.

16 (d) *General obligations.* If the liabilities of the local governmental unit are in
17 the form of bonds, notes, or other evidences of indebtedness that are a general
18 obligation of a local governmental unit, the total liability of the local governmental
19 unit may not exceed 50% of the capital of the universal bank.

20 (e) *Temporary borrowings.* The total amount of temporary borrowings of any
21 local governmental unit maturing within one year after the date of issue may not
22 exceed 60% of the capital of the universal bank. Temporary borrowings and
23 longer-term general obligation borrowings of a single local governmental unit may
24 be considered separately in determining compliance with this subsection.

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1 (5) OBLIGATIONS OF CERTAIN INTERNATIONAL ORGANIZATIONS; OTHER FOREIGN BONDS.
2 A universal bank may purchase bonds offered for sale by the International Bank for
3 Reconstruction and Development and the Inter-American Development Bank or
4 any other foreign bonds approved under rules established by the division. The
5 aggregate investment in any of these bonds issued by a single issuer may not exceed
6 10% of the capital of the universal bank.

7 (6) FOREIGN NATIONAL GOVERNMENT BONDS. A universal bank may purchase
8 general obligation bonds issued by any foreign national government if the bonds are
9 payable in United States funds. The aggregate investment in these foreign bonds
10 may not exceed 3% of the capital of the universal bank, except that this limitation
11 does not apply to bonds of the Canadian government and Canadian provinces that
12 are payable in United States funds.

13 (7) LIMITS ESTABLISHED BY BOARD. (a) *When financial statements required.* A
14 universal bank may not make or renew a loan or loans, the aggregate total of which
15 exceeds the level established by the board of directors without being supported by a
16 signed financial statement of the borrower, unless the loan is secured by collateral
17 having a value in excess of the amount of the loan. A signed financial statement
18 furnished by the borrower to a universal bank in compliance with this paragraph
19 must be renewed annually as long as the loan or any renewal of the loan remains
20 unpaid and is subject to this paragraph.

21 (b) *Treatment of loans complying with limits.* A loan or a renewal of a loan made
22 by a universal bank in compliance with par. (a), without a signed financial statement,
23 may be treated by the universal bank as entirely independent of any secured loan
24 made to the same borrower if the loan does not exceed the applicable limitations
25 provided in this section.

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1 **(8) EXCEPTIONS.** This section does not apply to any of the following:

2 (a) *Liabilities secured by certain short-term federal obligations.* A liability that
3 is secured by not less than a like amount of direct obligations of the United States
4 which will mature not more than 18 months after the date on which such liabilities
5 to the universal bank are entered into.

6 (b) *Certain federal and state obligations or guaranteed obligations.* A liability
7 that is a direct obligation of the United States or this state, or an obligation of any
8 governmental agency of the United States or this state, that is fully and
9 unconditionally guaranteed by the United States or this state.

10 (c) *Commodity Credit Corporation liabilities.* A liability in the form of a note,
11 debenture, or certificate of interest of the Commodity Credit Corporation.

12 (d) *Discounting bills of exchange or business or commercial paper.* A liability
13 created by the discounting of bills of exchange drawn in good faith against actually
14 existing values or the discounting of commercial or business paper actually owned
15 by the person negotiating the same.

16 (e) *Certain other federal or federally guaranteed obligations.* Obligations of, or
17 obligations that are fully guaranteed by, the United States and obligations of any
18 federal reserve bank, federal home loan bank, the Student Loan Marketing
19 Association, the Government National Mortgage Association, the Federal National
20 Mortgage Association, the Federal Home Loan Mortgage Corporation, the
21 Export-Import Bank of Washington, or the Federal Deposit Insurance Corporation.

22 **(9) ADDITIONAL AUTHORITY.** (a) *In general.* In addition to the authority
23 granted under subs. (1) to (8), and except as provided in par. (b), a universal bank may
24 lend under this subsection, through the universal bank or subsidiary of the universal
25 bank, to all borrowers from the universal bank and all of its subsidiaries, an

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1 aggregate amount not to exceed 20% of the universal bank's capital. Except as
2 provided in subs. (3) and (4), neither a universal bank nor any subsidiary of the
3 universal bank may lend to any borrower, under this subsection or any other law or
4 rule, an amount that would result in an aggregate amount for all loans to that
5 borrower that exceeds 20% of the universal bank's capital. A universal bank or its
6 subsidiary may take an equity position or other form of interest as security in a
7 project funded through loans made under this paragraph. Every transaction by a
8 universal bank or its subsidiary under this paragraph requires prior approval by the
9 governing board of the universal bank or its subsidiary, respectively. Loans made
10 under this paragraph are not subject to s. 221.0326 or to classification as losses, for
11 a period of 2 years from the date of each loan except as provided in par. (b).

12 (b) *Suspension of additional authority.* The division may suspend the authority
13 established under par. (a) and, in such case, may specify how an outstanding loan
14 shall be treated by the universal bank or its subsidiary. Among the factors that the
15 division may consider in suspending authority under par. (a) are the universal bank's
16 capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of
17 liquidity, and sensitivity to market risk and the ability of the universal bank's
18 management.

19 (10) **EXERCISE OF LOAN POWERS; PROHIBITED CONSIDERATIONS.** In determining
20 whether to make a loan or extension of credit, no universal bank may consider any
21 health information obtained from the records of an affiliate of the universal bank
22 that is engaged in the business of insurance, unless the person to whom the health
23 information relates consents.

24 **222.0405 Investment powers.** (1) **INVESTMENT SECURITIES.** Except as
25 provided in subs. (3) to (8), a universal bank may purchase, sell, underwrite, and hold

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1 investment securities, consistent with safe and sound banking practices, up to 100%
2 of the universal bank's capital. A universal bank may not invest greater than 20%
3 of the universal bank's capital in the investment securities of one obligor or issuer.
4 In this subsection, "investment securities" includes commercial paper, banker's
5 acceptances, marketable securities in the form of bonds, notes, debentures, and
6 similar instruments that are regarded as investment securities.

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

11 (3) HOUSING ACTIVITIES. With the prior written consent of the division, a
12 universal bank may invest in the initial purchase and development, or the purchase
13 or commitment to purchase after completion, of home sites and housing for sale or
14 rental, including projects for the reconstruction, rehabilitation, or rebuilding of
15 residential properties to meet the minimum standards of health and occupancy
16 prescribed for a local governmental unit, the provision of accommodations for retail
17 stores, shops, and other community services that are reasonably incident to that
18 housing, or the stock of a corporation that owns one or more of those projects and that
19 is wholly owned by one or more financial institutions. The total investment in any
20 one project may not exceed 15% of the universal bank's capital, nor may the
21 aggregate investment under this subsection exceed 50% of the universal bank's
22 capital. A universal bank may not make an investment under this subsection unless
23 it is in compliance with the capital requirements set by the division under s. 222.0305
24 (1) and with the capital maintenance requirements of its deposit insurance
25 corporation.

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1 (4) PROFIT-PARTICIPATION PROJECTS. A universal bank may take equity positions
2 in profit-participation projects, including projects funded through loans from the
3 universal bank, in an aggregate amount not to exceed 20% of the universal bank's
4 capital. The division may suspend the investment authority under this subsection.
5 If the division suspends the investment authority under this subsection, the division
6 may specify how outstanding investments under this subsection shall be treated by
7 the universal bank or its subsidiary. Among the factors that the division may
8 consider in suspending authority under this subsection are the universal bank's
9 capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of
10 liquidity, sensitivity to market risk, and the ability of the universal bank's
11 management. This subsection does not authorize a universal bank, directly or
12 indirectly through a subsidiary, to engage in the business of underwriting insurance.

13 (5) DEBT INVESTMENTS. A universal bank may invest in bonds, notes,
14 obligations, and liabilities described under s. 222.0403 (3) to (7), subject to the
15 limitations under those subsections.

16 (6) CERTAIN LIABILITIES. This section does not limit investment in the
17 liabilities described in s. 222.0403 (8).

18 (7) CERTAIN INVESTMENTS. A universal bank may invest without limitation in
19 any of the following:

20 (a) *Business development corporations.* Stocks or obligations of a corporation
21 organized for business development by this state or by the United States or by an
22 agency of this state or the United States.

23 (b) *Urban renewal investment corporations.* Obligations of an urban renewal
24 investment corporation organized under the laws of this state or of the United States.

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1 (c) *Certain bank insurance companies.* An equity interest in an insurance
2 company or an insurance holding company organized to provide insurance for
3 universal banks and for persons affiliated with universal banks, solely to the extent
4 that this ownership is a prerequisite to obtaining directors' and officers' insurance
5 or blanket bond insurance for the universal bank through the company.

6 (d) *Certain remote service unit corporations.* Shares of stock, whether
7 purchased or otherwise acquired, in a corporation acquiring, placing, and operating
8 remote service units under s. 214.04 (21) or 215.13 (46) or bank communications
9 terminals under s. 221.0303 (2).

10 (e) *Service corporations.* Equity or debt securities or instruments of a service
11 corporation subsidiary of the universal bank.

12 (f) *Federal funds.* Advances of federal funds.

13 (g) *Certain risk management financial products.* With the prior written
14 approval of the division, financial futures transactions, financial options
15 transactions, forward commitments, or other financial products for the purpose of
16 reducing, hedging, or otherwise managing its interest rate risk exposure.

17 (h) *Certain fiduciaries.* A subsidiary organized to exercise corporate fiduciary
18 powers under ch. 112.

19 (i) *Agricultural credit corporations.* An agricultural credit corporation, except
20 that if the universal bank owns less than 80% of the stock of the agricultural credit
21 corporation, the universal bank may not invest more than 20% of the universal
22 bank's capital in the agricultural credit corporation.

23 (j) *Deposit accounts and insured obligations.* Deposit accounts or insured
24 obligations of any financial institution, the accounts of which are insured by a deposit
25 insurance corporation.

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1 (k) *Certain federal obligations.* Obligations of, or obligations that are fully
2 guaranteed by, the United States and stocks or obligations of any federal reserve
3 bank, federal home loan bank, the Student Loan Marketing Association, the
4 Government National Mortgage Association, the Federal National Mortgage
5 Association, the Federal Home Loan Mortgage Corporation, or the Federal Deposit
6 Insurance Corporation.

7 (L) *Other investments.* Any other investment authorized by the division.

8 (8) INVESTMENTS IN OTHER FINANCIAL INSTITUTIONS. In addition to the authority
9 granted under ss. 222.0307 and 222.0409, and subject to the limitations of sub. (2),
10 a universal bank may invest in other financial institutions.

11 (9) INVESTMENTS THROUGH SUBSIDIARIES. A universal bank may make
12 investments under this section, directly or indirectly through a subsidiary, unless
13 the division determines that an investment shall be made through a subsidiary with
14 appropriate safeguards to limit the risk exposure of the universal bank.

15 **222.0407 Universal bank purchase of its own stock.** (1) IN GENERAL. A
16 universal bank may hold or purchase not more than 10% of its capital stock, notes,
17 or debentures, except as provided in sub. (2) or (3).

18 (2) DIVISION APPROVAL. A universal bank may hold or purchase more than 10%
19 of its capital stock, notes, or debentures, if approved by the division.

20 (3) ADDITIONAL AUTHORITY. A universal bank may hold or purchase more than
21 10% of its capital stock, notes, or debentures if the purchase is necessary to prevent
22 loss upon a debt previously contracted in good faith. Stock, notes, or debentures held
23 or purchased under this subsection may not be held by the universal bank for more
24 than 6 months if the stock, notes, or debentures can be sold for the amount of the
25 claim of the universal bank against the holder of the debt previously contracted. The

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1 universal bank shall either sell the stock, notes, or debentures within 12 months of
2 acquisition under this subsection or shall cancel the stock, notes, or debentures.
3 Cancellation of the stock, notes, or debentures reduces the amount of the universal
4 bank's capital stock, notes, or debentures. If the reduction reduces the universal
5 bank's capital below the minimum level required by the division, the universal bank
6 shall increase its capital to the amount required by the division.

7 (4) **LOANS SECURED BY CAPITAL, SURPLUS, OR DEPOSITS.** A universal bank may not
8 loan any part of its capital, surplus, or deposits on its own capital stock, notes, or
9 debentures as collateral security, except that a universal bank may make a loan
10 secured by its own capital stock, notes, or debentures to the same extent that the
11 universal bank may make a loan secured by the capital stock, notes, and debentures
12 of a holding company for the universal bank.

13 **222.0409 Stock in bank-owned banks.** With the approval of the division,
14 a universal bank may acquire and hold stock in one or more banks chartered under
15 s. 221.1202 or national banks chartered under 12 USC 27 (b) or in one or more
16 holding companies wholly owning such a bank. Aggregate investments under this
17 section may not exceed 10% of the universal bank's capital.

18 **222.0411 General deposit powers.** (1) **IN GENERAL.** A universal bank may
19 set eligibility requirements for, and establish the types and terms of, deposits that
20 the universal bank solicits and accepts. The terms set under this subsection may
21 include minimum and maximum amounts that the universal bank may accept and
22 the frequency and computation method of paying interest.

23 (2) **PLEDGE OF SECURITY FOR DEPOSITS.** Subject to the limitations of s. 221.0324
24 that are applicable to banks, a universal bank may pledge its assets as security for
25 deposits.

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1 **(3) SECURITIZATION OF ASSETS.** With the approval of the division, a universal
2 bank may securitize its assets for sale to the public. The division may establish
3 procedures governing the exercise of authority granted under this subsection.

4 **(4) SAFE DEPOSIT POWERS.** A universal bank may take and receive, from any
5 individual or corporation for safekeeping and storage, gold and silver plate, jewelry,
6 money, stocks, securities, and other valuables or personal property, and may rent out
7 the use of safes or other receptacles upon its premises for such compensation as may
8 be agreed upon. A universal bank has a lien for its charges on any property taken
9 or received by it for safekeeping. If the lien is not paid within 2 years from the date
10 the lien accrues, or if property is not called for by the person depositing the property,
11 or by his or her representative or assignee, within 2 years from the date the lien
12 accrues, the universal bank may sell the property at public auction. A universal bank
13 shall provide the same notice for a sale under this subsection that is required by law
14 for sales of personal property on execution. After retaining from the proceeds of the
15 sale all of the liens and charges due the bank and the reasonable expenses of the sale,
16 the universal bank shall pay the balance to the person depositing the property, or to
17 his or her representative or assignee.

18 **222.0413 Necessary or convenient powers, reasonably related or**
19 **incidental activities, and other approved activities.** **(1) NECESSARY OR**
20 **CONVENIENT POWERS.** Unless otherwise prohibited or limited by this chapter, a
21 universal bank may exercise all powers necessary or convenient to effect the
22 purposes for which the universal bank is organized or to further the businesses in
23 which the universal bank is lawfully engaged.

24 **(2) REASONABLY RELATED AND INCIDENTAL ACTIVITIES.** **(a)** Subject to any
25 applicable state or federal regulatory or licensing requirements, a universal bank

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1 may engage, directly or indirectly through a subsidiary, in activities reasonably
2 related or incident to the purposes of the universal bank. Activities reasonably
3 related or incident to the purposes of the universal bank are those activities that are
4 part of the business of financial institutions, or closely related to the business of
5 financial institutions, or convenient and useful to the business of financial
6 institutions, or reasonably related or incident to the operation of financial
7 institutions, or financial in nature. Activities that are reasonably related or incident
8 to the purposes of a universal bank include the following:

- 9 1. Business and professional services.
- 10 2. Data processing.
- 11 3. Courier and messenger services.
- 12 4. Credit-related activities.
- 13 5. Consumer services.
- 14 6. Real estate-related services, including real estate brokerage services.
- 15 7. Insurance and related services, other than insurance underwriting.
- 16 8. Securities brokerage.
- 17 9. Investment advice.
- 18 10. Securities and bond underwriting.
- 19 11. Mutual fund activities.
- 20 12. Financial consulting.
- 21 13. Tax planning and preparation.
- 22 14. Community development and charitable activities.
- 23 15. Debt cancellation contracts.
- 24 16. Any activities that are reasonably related or incident to activities under
25 subs. 1. to 15., as determined by the division.

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1 (b) An activity that is authorized by statute or regulation for financial
2 institutions to engage in as of the effective date of this paragraph [revisor inserts
3 date], is an activity that is reasonably related or incident to the purposes of a
4 universal bank. An activity permitted under the Bank Holding Company Act is an
5 activity that is reasonably related or incident to the purposes of a universal bank.
6 The division may expand the list of activities under par. (a) 1. to 15. that are
7 reasonably related or incident to the purposes of a universal bank. Any activity
8 approved by the division under this paragraph shall be authorized for all universal
9 banks.

10 (3) NOTICE REQUIREMENT. A universal bank shall give 60 days' prior written
11 notice to the division of the universal bank's intention to engage in an activity under
12 this section.

13 (4) STANDARDS FOR DENIAL. The division may deny the authority of a universal
14 bank to engage in an activity under this section, other than those activities described
15 in sub. (2) (a) 1. to 15., if the division determines that the activity is not an activity
16 reasonably related or incident to the purposes of a universal bank. The division may
17 deny the authority of a universal bank to engage in an activity under this section if
18 the division determines that the universal bank is not well-capitalized, that the
19 universal bank is the subject of an enforcement action, or that the universal bank
20 does not have satisfactory management expertise for the proposed activity.

21 (5) INSURANCE INTERMEDIATION. A universal bank, or an officer or salaried
22 employee of a universal bank, may obtain a license as an insurance intermediary, if
23 otherwise qualified. A universal bank may not, directly or indirectly through a
24 subsidiary, engage in the business of underwriting insurance.

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1 (6) OTHER ACTIVITIES APPROVED BY THE DIVISION. A universal bank may engage
2 in any other activity that is approved by rule of the division.

3 (7) ACTIVITIES PROVIDED THROUGH A SUBSIDIARY. A universal bank may engage
4 in an activity under this section, directly or indirectly through a subsidiary, unless
5 the division determines that the activity must be conducted through a subsidiary
6 with appropriate safeguards to limit the risk exposure of the universal bank.

7 (8) LIMITATIONS ON INVESTMENTS THROUGH SUBSIDIARIES. The amount of the
8 investment in any one subsidiary that engages in an activity under this section may
9 not exceed 20% of a universal bank's capital or, if approved by the division, a higher
10 percentage. The aggregate investment in all subsidiaries that engage in an activity
11 under this section may not exceed 50% of a universal bank's capital or, if approved
12 by the division, a higher percentage.

13 (9) OWNERSHIP OF SUBSIDIARIES. A subsidiary that engages in an activity under
14 this section may be owned jointly, with one or more other financial institutions,
15 individuals, or entities.

16 **222.0415 Trust powers.** Subject to rules of the division, a universal bank may
17 exercise trust powers in accordance with s. 221.0316.

18 **SECTION 48.** 409.617 (1) (c) of the statutes is amended to read:

19 409.617 (1) (c) Discharges any subordinate security interest or other
20 subordinate lien ~~other than liens held by this state or a local governmental unit, as~~
21 ~~defined in s. 19.42 (7u).~~

22 **SECTION 49. Nonstatutory provisions.**

23 (1) EMERGENCY RULES; UNIVERSAL BANKING. Except as otherwise provided in this
24 subsection, using the procedure under section 227.24 of the statutes, the division of
25 banking may promulgate rules authorized under chapter 222 of the statutes, as

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1 created by this act, for the period before permanent rules become effective, but not
2 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
3 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the division of
4 banking is not required to provide evidence that promulgating a rule under this
5 subsection as an emergency rule is necessary for the preservation of the public peace,
6 health, safety, or welfare and is not required to provide a finding of emergency for a
7 rule promulgated under this subsection.

8 **SECTION 50. Effective dates.** This act takes effect on the day after publication,
9 except as follows:

10 (1) The treatment of sections 220.04 (9) (a) 2. and 220.14 (5) and chapter 222
11 of the statutes takes effect on the first day of the 3rd month beginning after
12 publication.

13 (END)

Mentkowski, Annie

From: Bilot, Erin
Sent: Tuesday, January 21, 2003 9:15 AM
To: LRB.Legal
Subject: Draft review: LRB-0636/3 Topic: Universal banking and credit unions

It has been requested by <Bilot, Erin> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-0636/3 Topic: Universal banking and credit unions