

2003 DRAFTING REQUEST

Senate Substitute Amendment (SSA-AB2)

Received: **04/30/2003**

Received By: **rmarchan**

Wanted: **Soon**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **jonathan**

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

Drafter: **rmarchan**

May Contact:

Addl. Drafters: **gmalaise**

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us** ✓

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

Pre Topic:

No specific pre topic given

Topic:

SSA (add UCC change and wage lien changes) to AB-2 (financial modernization)

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 04/30/2003 gmalaise 05/01/2003	csicilia 05/02/2003		_____			
/1			rschluet 05/02/2003	_____	mbarman 05/02/2003	mbarman 05/02/2003	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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/?	rmarchan	1 js 5/2 03					

5-2-3

FE Sent For:

<END>

Sen Schultz

Sub Am to AB-2

Henry on 13th, product by Monday

Tel Jonathan

① Put back in the change to 409.617

② Add the wage claim stuff

Wanted on Monday,
5-5, or as soon
thereafter as possible.

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section. 266-3561

RTM
✓

You may use this form or talk directly with the LRB attorney who will draft the bill.

Date 4/30/03

Legislator, agency, or other person requesting this draft Senator Schultze

Person submitting request (name and phone number) Jonathan Klein 266 0703

Persons to contact for questions about this draft (names and phone numbers) Jonathan Klein T
Rose Smirski 266-5840 Erin Bilot 266 3796

Describe the problem, including any helpful examples. How do you want to solve the problem?

This will be a committee substitute amendment to AB 2. See Attached.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 2001 LRB-2345/1 or 1999AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
 Any legislator? YES NO

Only the following persons Rep Montgomery's office
Rep Terkewitz's office

Do you consider this request urgent? YES NO If yes, please indicate why Need action before Spring Floor period is over and hearing on 13th

Should we give this request priority over any pending request of this legislator, agency, or person? of may
 YES NO

Malaise, Gordon

From: Marchant, Robert
Sent: Wednesday, April 30, 2003 4:16 PM
To: Malaise, Gordon
Subject: FW: AB2

FYI

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

From: Klein, Jonathan
Sent: Wednesday, April 30, 2003 4:08 PM
To: Marchant, Robert
Subject: AB2

Rob I have two additional documents that my help.

- 1.) is the entire memo of understanding
- 2.) an email, with which we agree, citing an error in the memo of understanding with respect to a statute citation.

I really appreciate your help. Thank you.

Jonathan Klein
Office of Senator Dale Schultz
(800) 978-8008
(608) 266-0703



Wage Lien
043003.doc



FW: Revised
Memorandum of Unde

Draft

Memorandum Of Understanding

(Revised)
April 30, 2003

1. The parties agree to the language set forth in 2003 Assembly Bill 2 as passed by the Wisconsin State Assembly with regard to credit unions.
2. The parties agree to the language set forth in 2003 Assembly Bill 2 as passed by the Wisconsin State Assembly regarding the creation of a new type of financial institutions.
3. The parties agree to the language set forth in 2003 Assembly Bill 2 as originally introduced by the Wisconsin State Assembly, deleting the exception to give priority to subordinate liens held by this state or local government units under the Uniform Commercial Code.
4. The parties agree as follows regarding Wis. Stats. s. 109 regarding wage lien claims:
 - A. "Wage" or "wages" shall mean remuneration payable to an employee for personal services, including salaries, commissions, holiday and vacation pay, overtime pay, severance pay or dismissal pay, supplemental unemployment benefit plan payments when required under a binding collective bargaining agreement, bonuses and any other similar advantages agreed upon between the employer and the employee or provided by the employer to the employees as an established policy. [Current law]
 - B. "Employee" means any person employed by an employer, except that "employee" does not include an independent contractor, a person working for another for hire in the state of Wisconsin in a confidential, managerial, executive or commissioned sales capacity, an officer or director of a corporation, a member or manager of a limited liability company, a partner or a partnership or a joint venture or the owner of a sole proprietorship. [New provision underlined].
 - C. A new section of under Wis. Stats. s. 109 would be created which would provide for a first priority wage lien with a maximum established amount of \$3,000 per employee. All wage lien claims in excess of the \$3,000 limit would continue to have the same priority under current law. [New provision].

109.01(1r)

109.01(3)

"commissions" - out

(2)

✓ D. Change Wis. Stats. s. ~~109.09(1)~~^{109.09(2)} from "no later than 2 years after the date the wages are due" to "no later than six (6) months after the date the wages are due" [Revised provision]. The Department of Workforce Development would continue to have two (2) years from the time a wage claim is filed to investigate and initiate action. [Current law].

✓ E. The changes reflected in section 4C and 4D of this Memorandum of Understanding apply to any wage lien filed after the enactment of this statute. All liens currently on file will maintain their respective priority status as reflected in Wis. Stats. s. 109 and under the Uniform Commercial Code. None of these proposed changes will have retroactive application, nor will they affect the priority of any current lien on file. [New provision].

✓ F. No provision in Wis. Stats. s. 109 shall prohibit or infringe on an employee's right under either federal or state plant closing statutes. [Current law]

"Commercial lending institution"

✓ G. The definition of "financial institution" in Wis. Stats. s. 109.09 (2)(c) would be expanded to include all commercial lending, including but not limited to non-bank lenders. [New provision].

✓ H. The above described revisions to Wis. Stats. s. 109 would become effective one month after enactment. [Non-statutory language].

All parties agree to the above terms and agree these changes shall be drafted and introduced as a substitute amendment to 2003 Assembly Bill 2.

Wisconsin Bankers Association Date

Wisconsin AFL-CIO Date

Wisconsin Credit Union League Date

Wisconsin Community Bankers Date

Wisconsin Merchants Federation Date

Malaise, Gordon

From: O'Neill, Eileen
Sent: Wednesday, April 30, 2003 3:59 PM
To: Klein, Jonathan
Subject: FW: Revised Memorandum of Understanding / Wage Lien

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

From: Harry Argue [mailto:hargue@wisbank.com]
Sent: Wednesday, April 30, 2003 3:19 PM
To: Nettles, Cory
Cc: Rose Oswald Poels; Jodi Bloch
Subject: RE: Revised Memorandum of Understanding / Wage Lien

Cory,

Per our conversation of a few minutes ago, it is WBA's understanding that you will inform the drafter, through the legislative leaders we have been working with, to seriously look at the citations in section D. As Rose explained, it is WBA's belief that either Section 109.09(2) or 109.03(5) is the more appropriate reference for this change.

With this in mind, I will now sign the revised memo on behalf of WBA and return it to you by fax, noting that our acceptance remains contingent on reviewing and approving all of the actual legislative language.

My thanks and compliments to you for your persistence in achieving agreement among all of the parties to move these crucial issues forward.

Harry J. Argue, CAE
Executive Vice President/CEO
Wisconsin Bankers Association
P. O. Box 8880
Madison, Wisconsin 53708
(608) 441-1203
hargue@wisbank.com

+ Comm

50071/1

Rm. NR

2003 ASSEMBLY BILL 2

January 22, 2003 – Introduced by Representatives JESKEWITZ, PLALE, MONTGOMERY, RICHARDS, GARD, HEBL, KAUFERT, BALOW, OWENS, TURNER, HUNDERTMARK, KERKMAN, HUEBSCH, PETTIS, GRONEMUS, LASSA, RHOADES, F. LASEE, GUNDERSON, OLSEN, J. FITZGERALD, FRISKE, KESTELL, M. LEHMAN, LADWIG, HAHN, LOEFFELHOLZ, McCORMICK, WARD, FREESE, JENSEN, PETROWSKI, SHILLING, D. MEYER, POCAN, HUBER, KREIBICH, ZIEGELBAUER, TOWNSEND, GROTHMAN, WIECKERT, STONE, GIELOW, TOWNS, VAN ROY, JOHNSRUD, SERATTI, A. WILLIAMS, KRAWCZYK, POPE-ROBERTS, LOTHIAN, OTT, VRAKAS, AINSWORTH, BOYLE, COGGS, HINES, SUDER, VUKMIR, J. LEHMAN, YOUNG, MUSSER, WASSERMAN, NASS, COLON, POWERS, STASKUNAS, SINICKI, PLOUFF, UNDERHEIM, BIES, ZEPNICK, SHERMAN, WEBER, ALBERS, M. WILLIAMS, VRUWINK, NISCHKE, LEMAHIEU and CULLEN, cosponsored by Senators SCHULTZ, MOORE, PANZER, LEIBHAM, BROWN, HANSEN, KEDZIE, S. FITZGERALD, DARLING, KANAVAS, CARPENTER, A. LASEE, BRESKE, STEPP, ZIEN, WIRCH, WELCH, RISSER, DECKER, ROESSLER, M. MEYER, LAZICH, COWLES, REYNOLDS, ELLIS, GEORGE and HARSDFORF. Referred to Committee on Financial Institutions.

SAV

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

Regen
cat.

ASSEMBLY BILL 2

the priority of certain Wage claim liens over a prior lien of a commercial lending institution;

1 protection statutes to credit unions; the creation of a new type of financial
 2 institution; the powers of and requirements applicable to the new type of
 3 financial institution; the discharge of governmental liens under the Uniform
 4 Commercial Code; providing an exemption from emergency rule procedures;
 5 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

ASSEMBLY BILL 2

repeals the definition of "members of the immediate family" contained in current law 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.

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, among others, related to the routine daily operations 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 brokerage or agency 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

ASSEMBLY BILL 2

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

ASSEMBLY BILL 2

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

ASSEMBLY BILL 2

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

ASSEMBLY BILL 2

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) A credit union service organization under par. (a) may provide
21 any of the following services related to the routine daily operations of credit unions:

22 1. Checking and currency services, check cashing services, money order
23 services, savings bond services, traveler's check services, and services regarding the
24 purchase and sale of 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.

17 7. Insurance brokerage or agency services, including, but not limited to,
18 providing vehicle warranty programs, providing group insurance purchasing
19 programs, and acting as an agent 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.

12 **SECTION 15.** 186.11 (4) (bd) and (bh) 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. Any service
15 approved under this paragraph shall be authorized for all credit union service
16 organizations under par. (a). A credit union may file a written request with the office
17 of credit unions to exercise its authority under this paragraph and may include,
18 along with the request, a description of any proposed service and an explanation of
19 how that service is related to the routine daily operations of credit unions. Within
20 60 days after receiving a request under this paragraph, the office of credit unions
21 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 **SECTION 16.** 186.11 (4) (c) of the statutes is amended to read:

5 186.11 (4) (c) A credit union service corporation organization may be subject
6 to audit by the office of credit unions.

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

8 186.113 (1) BRANCH OFFICES. ~~If the need and necessity exist and with~~ With the
9 approval of the office of credit unions, establish branch offices inside ~~this state or no~~
10 ~~more than 25 miles~~ or outside of this state. Permanent records may be maintained
11 at branch offices established under this subsection. In this subsection, the term
12 "branch office" does not include a remote terminal, a limited services office, or a
13 service center.

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

15 186.113 (1m) (a) (intro.) Establish Before the effective date of this paragraph
16 [revisor inserts date], establish limited services offices outside this state to serve
17 any member of the credit union if all of the following requirements are met:

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

19 186.113 (6) (b) Act as trustees or custodians of member tax deferred retirement
20 funds, individual retirement accounts, medical savings accounts, or other employee
21 benefit accounts or funds permitted by federal law to be deposited in a credit union.

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

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

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1 186.113 (11) (a) ~~Have~~ Offer deposit accounts to members.

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

3 186.113 (11) (b) Offer deposit accounts to any person if the credit union satisfies
4 the requirements specified in 12 CFR 701.34 (a) for designation as a low-income
5 credit union and files a statement with the office of credit unions agreeing to be bound
6 by requirements and conditions that are substantially identical to those imposed by
7 the national board and the national credit union administration on federal credit
8 unions designated under 12 CFR 701.34 (a).

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

10 186.113 (24) FUNERAL TRUSTS. Accept deposits made by members for the
11 purpose of funding burial agreements by trusts created pursuant to s. 445.125.

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

13 186.113 (25) SALE OF INSURANCE PRODUCTS. Sell insurance, annuities, and
14 related products.

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

16 186.17 (1) REGULAR RESERVES. A credit union shall establish and maintain a
17 regular reserve account and shall transfer amounts to the regular reserve account
18 as required by the national board.

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

20 **186.20 Financial privacy.** A credit union shall comply with any applicable
21 requirements under 15 USC 6801 to 6803 and any applicable regulations prescribed
22 by the national credit union administration under 15 USC 6804.

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

24 186.22 (12m) MEETINGS OF DIRECTORS. Section 186.07 (3) and (3m) applies to
25 a credit union finance corporation.

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

2 186.235 (7) (a) (intro.) Employees of the office of credit unions and members
3 of the review board shall keep secret all the facts and information obtained in the
4 course of examinations, except or contained in any report provided by a credit union
5 other than any semiannual or quarterly financial report that is regularly filed with
6 the office of credit unions. This requirement does not apply in any of the following
7 situations:

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

9 186.235 (7) (c) If any person mentioned in par. (a) discloses any information
10 about the private account or transactions of a credit union or any information
11 obtained in the course of an examination of a credit union, except as provided in pars.
12 (a) and (b), that person is guilty of a Class I felony.

13 **SECTION 29.** 186.235 (7m) of the statutes is created to read:

14 186.235 (7m) RETURN OF EXAMINATION REPORTS. Examination reports possessed
15 by a credit union are confidential, remain the property of the office of credit unions,
16 and shall be returned to the office of credit unions immediately upon request.

17 **SECTION 30.** 186.235 (16) (a) of the statutes is renumbered 186.235 (16) and
18 amended to read:

19 186.235 (16) ~~ANNUAL~~ PERIODIC EXAMINATION. At least once ~~each year~~ every 18
20 months, the office of credit unions shall examine the records and accounts of each
21 credit union. For that purpose the office of credit unions shall have full access to, and
22 may compel the production of, each credit union's records and accounts. ~~They~~ The
23 office of credit unions may administer oaths to and examine each credit union's
24 officers and agents.

25 **SECTION 31.** 186.235 (16) (b) of the statutes is repealed.

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1 **SECTION 32.** 186.235 (16m) of the statutes is created to read:

2 186.235 (16m) FINANCIAL PRIVACY EXAMINATION. The office of credit unions shall
3 examine a credit union to determine the credit union's compliance with s. 186.20.

4 **SECTION 33.** 186.36 of the statutes is amended to read:

5 **186.36 Sale of insurance in credit unions.** Any officer or employee of a
6 credit union, when acting as an agent for the sale of insurance on behalf of the credit
7 union, shall pay all commissions received from the sale of ~~credit life insurance or~~
8 ~~credit accident and sickness~~ insurance to the credit union.

9 **SECTION 34.** 186.41 (title) of the statutes is amended to read:

10 **186.41 (title) Interstate ~~acquisition~~ acquisitions and merger mergers**
11 **of credit unions.**

12 **SECTION 35.** 186.41 (1) (a) of the statutes is renumbered 186.41 (1) (bm) and
13 amended to read:

14 186.41 (1) (bm) "~~In-state~~ Wisconsin credit union" means a credit union having
15 its principal office located in this state.

16 **SECTION 36.** 186.41 (1) (c) of the statutes is renumbered 186.41 (1) (am) and
17 amended to read:

18 186.41 (1) (am) "~~Regional Out-of-state~~ credit union" means a state or federal
19 credit union ~~that has its~~ the principal office of which is located in ~~one of the regional~~
20 states a state other than this state.

21 **SECTION 37.** 186.41 (1) (d) of the statutes is repealed.

22 **SECTION 38.** 186.41 (2) and (3) of the statutes are amended to read:

23 186.41 (2) ~~IN-STATE~~ WISCONSIN CREDIT UNION. (a) ~~An in-state~~ A Wisconsin credit
24 union may do any of the following:

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

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

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

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

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

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

13 SECTION 39. 186.41 (4) (intro.), (a) to (d) and (f) of the statutes are amended to
14 read:

15 186.41 (4) LIMITATIONS. (intro.) ~~A regional~~ An out-of-state credit union may
16 not take any action under sub. (3) until all of the following conditions have been met:

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

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

24 (c) The office of credit unions gives a class 3 notice, under ch. 985, in the official
25 state newspaper, of the application to take an action under sub. (3) and of the

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1 opportunity for a hearing and, if at least 25 residents of this state petition for a
2 hearing within 30 days of the final notice or if the office of credit unions on its own
3 motion calls for a hearing within 30 days of the final notice, the office of credit unions
4 holds a public hearing on the application, except that a hearing is not required if the
5 office of credit unions finds that an emergency exists and that the proposed action
6 under sub. (3) is necessary and appropriate to prevent the probable failure of an
7 ~~in-state~~ Wisconsin credit union that is closed or in danger of closing.

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

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

15 **SECTION 40.** 186.41 (5) (a), (b), (c) and (cr) of the statutes are amended to read:

16 186.41 (5) (a) Considering the financial and managerial resources and future
17 prospects of the applicant and of the ~~in-state~~ Wisconsin credit union concerned, the
18 action would be contrary to the best interests of the members of the ~~in-state~~
19 Wisconsin credit union.

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

23 (c) Because the applicant, its executive officers, or directors have not
24 established a record of sound performance, efficient management, financial
25 responsibility, and integrity, the action would be contrary to the best interests of the

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1 creditors, ~~the members of, the other customers of the applicant or of the in-state, the~~
2 Wisconsin credit union, or ~~contrary to the best interests of the public.~~

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

7 SECTION 41. 186.41 (6) (a) of the statutes is renumbered 186.41 (6).

8 SECTION 42. 186.41 (6) (b) of the statutes is repealed.

9 SECTION 43. 186.41 (8) of the statutes is repealed.

10 SECTION 44. 186.45 of the statutes is created to read:

11 **186.45 Non-Wisconsin credit union, Wisconsin offices. (1) DEFINITIONS.**

12 In this section:

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

15 (b) "Wisconsin credit union" has the meaning given in s. 186.41 (1) (bm).

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **SECTION 45.** 186.80 of the statutes is created to read:

21 **186.80 False statements.** (1) No officer, director, or employee of a credit
22 union may do any of the following:

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

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

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

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

6 **SECTION 46.** 220.04 (9) (a) 2. of the statutes is amended to read:

7 220.04 (9) (a) 2. “Regulated entity” means a bank, universal bank, trust
8 company bank, and any other entity ~~which~~ that is described in s. 220.02 (2) or
9 221.0526 as under the supervision and control of the division.

10 **SECTION 47.** 220.14 (5) of the statutes is created to read:

11 220.14 (5) Contain a statement of the total number of orders issued by the
12 division during the year under s. 222.0203 (2).

13 **SECTION 48.** Chapter 222 of the statutes is created to read:

14 **CHAPTER 222**

15 **UNIVERSAL BANKS**

16 **SUBCHAPTER I**

17 **GENERAL PROVISIONS**

18 **222.0101 Title.** This chapter may be cited as the “Wisconsin universal bank
19 law.”

20 **222.0102 Definitions.** In this chapter:

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

24 (a) For a universal bank organized as a stock organization, the universal bank’s
25 capital stock, preferred stock, undivided profits, surplus, outstanding notes and

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1 debentures approved by the division, other forms of capital designated as capital by
2 the division, and other forms of capital considered to be qualifying capital of the
3 universal bank by a deposit insurance corporation.

4 (b) For a universal bank organized as a mutual organization, the universal
5 bank's net worth, undivided profits, surplus, outstanding notes and debentures
6 approved by the division, other forms of capital designated as capital by the division,
7 and other forms of capital considered to be qualifying capital by a deposit insurance
8 corporation.

9 (2) "Deposit insurance corporation" means the Federal Deposit Insurance
10 Corporation or other instrumentality of, or corporation chartered by, the United
11 States that insures deposits of financial institutions and that is supported by the full
12 faith and credit of the U.S. government as stated in a congressional resolution.

13 (3) "Division" means the division of banking.

14 (4) "Financial institution" means a savings bank organized under ch. 214,
15 savings and loan association organized under ch. 215, or bank chartered under ch.
16 221.

17 (5) "Universal bank" means a financial institution that has been issued a
18 certificate of authority under s. 222.0205.

19 (6) "Well-capitalized" has the meaning given in 12 USC 1831o (b) (1) (A).

20 **222.0103 Applicability. (1) SAVINGS BANKS.** A universal bank that is a savings
21 bank organized under ch. 214 remains subject to all of the requirements, duties, and
22 liabilities, and may exercise all of the powers, of a savings bank, except that, in the
23 event of a conflict between this chapter and those requirements, duties, liabilities,
24 or powers, this chapter shall control.

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1 application shall be on the forms and in accordance with the procedures prescribed
2 by the division.

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

9 **222.0203 Eligibility. (1) REQUIREMENTS.** The division may approve an
10 application from a financial institution for certification as a universal bank only if
11 all of the following requirements are met:

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

14 (b) The financial institution is well-capitalized.

15 (c) The financial institution does not exhibit a combination of financial,
16 managerial, operational, and compliance weaknesses that is moderately severe or
17 unsatisfactory, as determined by the division based upon the division's assessment
18 of the financial institution's capital adequacy, asset quality, management capability,
19 earnings quantity and quality, adequacy of liquidity, and sensitivity to market risk.

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

24 (e) The most current evaluation prepared under 12 USC 2906 that the financial
25 institution has received rates the financial institution as "outstanding" or

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1 “satisfactory” in helping to meet the credit needs of its entire community, including
2 low-income and moderate-income neighborhoods, consistent with the safe and
3 sound operation of the financial institution.

4 (f) If the financial institution has received from its federal functional regulator,
5 as defined in 15 USC 6809 (2), a consumer compliance examination that contains
6 information regarding the financial institution’s compliance with 15 USC 6801 to
7 6803 and any applicable regulations prescribed under 15 USC 6804, the most recent
8 such examination indicates, in the opinion of the division, that the financial
9 institution is in substantial compliance with those statutes or regulations.

10 (2) FAILURE TO MAINTAIN ELIGIBILITY; LIMITATION OF AUTHORITY AND
11 DECERTIFICATION. For any period during which a universal bank fails to meet the
12 requirements under sub. (1), the division shall limit or restrict the exercise of the
13 powers of the universal bank under this chapter. In addition to or in lieu of limiting
14 or restricting the universal bank’s authority under this subsection, the division may
15 by order revoke the universal bank’s certificate of authority issued under s. 222.0205.

16 **222.0205 Certificate of authority.** Upon approval of an application for
17 certification as a universal bank, the division shall issue to the applicant a certificate
18 of authority stating that the financial institution is certified as a universal bank
19 under this chapter.

20 **222.0207 Voluntary termination of certification.** A financial institution
21 that is certified as a universal bank under this chapter may elect to terminate its
22 certification by giving 60 days’ prior written notice of the termination to the division.
23 A termination under this section is effective only with the written approval of the
24 division. A financial institution shall, as a precondition to termination under this
25 section, terminate its exercise of all powers granted under this chapter before the

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1 termination of the certification. The division's written approval of a financial
2 institution's termination under this section is void if the financial institution fails to
3 satisfy the precondition to termination under this section.

SUBCHAPTER III**ORGANIZATION**

4
5
6 **222.0301 Articles of incorporation and bylaws.** A universal bank shall
7 continue to operate under its articles of incorporation and bylaws as in effect prior
8 to certification as a universal bank or as such articles or bylaws may be subsequently
9 amended in accordance with the provisions of the chapter under which the universal
10 bank was organized or chartered.

11 **222.0303 Name. (1)** USE OF "BANK." Notwithstanding ss. 214.035, 215.40 (1)
12 (c), and 215.60 (1) (c) and subject to subs. (2) and (3) (b), a universal bank may use
13 the word "bank" in its name, without having to include the word "savings."
14 Notwithstanding ss. 215.40 (1) (a) and 215.60 (1) (a) and subject to subs. (2) and (3)
15 (b), a universal bank that is organized under ch. 215 and that uses the word "bank"
16 in its name in accordance with this section need not include the words "savings and
17 loan association" or "savings association" in its name.

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

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

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

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

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

8 1. Merged with the other institution.

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

10 3. Acquired all or substantially all of the assets, including the name, of the
11 other institution.

12 **222.0305 Capital and assets. (1) CAPITAL REQUIREMENTS.** Notwithstanding
13 subch. VI of ch. 214 and ss. 215.24 and 221.0205, the division shall determine the
14 minimum capital requirements of universal banks.

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

17 **222.0307 Acquisitions, mergers, and asset purchases. (1) IN GENERAL.**
18 A universal bank may, with the approval of the division, purchase the assets of,
19 merge with, acquire, or be acquired by any other financial institution, universal
20 bank, national bank, or federally chartered savings bank or savings and loan
21 association, or by a holding company of any of these entities. Notwithstanding subch.
22 III of ch. 214 and ss. 214.09 and 215.36, the approval of the division of savings
23 institutions is not required.

24 **(2) APPLICATIONS FOR APPROVAL.** An application for approval under sub. (1) shall
25 be submitted on a form prescribed by the division and accompanied by a fee

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1 determined by the division. In processing and acting on applications under this
2 section the division shall apply the following standards:

3 (a) For universal banks organized under ch. 214, the standards described in ss.
4 214.09, 214.62 to 214.64, and 214.665, and subch. III of ch. 214.

5 (b) For universal banks organized under ch. 215, the standards described in ss.
6 215.35, 215.36, 215.53, and 215.73.

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

SUBCHAPTER IV

POWERS

9
10
11 **222.0401 Federal financial institution powers. (1) IN GENERAL.** (a) *Powers*
12 *exercised by universal bank.* Subject to any applicable requirements of sub. (2), a
13 universal bank may exercise any power that may be directly exercised by a federally
14 chartered savings bank, a federally chartered savings and loan association, or a
15 federally chartered national bank.

16 (b) *Powers exercised by subsidiary of universal bank.* Subject to any applicable
17 requirements of sub. (2), a universal bank, through a subsidiary, may exercise any
18 power that a federally chartered savings bank, a federally chartered savings and
19 loan association, or a federally chartered national bank may exercise through a
20 subsidiary.

21 **(2) APPROVAL REQUIRED FOR EXERCISE OF FEDERAL POWER.** Except as otherwise
22 provided in this subsection, a universal bank shall file with the division a written
23 request to exercise a power under sub. (1). The division shall determine whether the
24 requested power is permitted under sub. (1). Within 60 days after receiving a request
25 under this subsection, the division shall approve the request, if the power is

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1 permitted under sub. (1), or shall disapprove the request if the power is not permitted
2 under sub. (1). The division and the universal bank may mutually agree to extend
3 this 60-day period for an additional period of 60 days. The division shall periodically
4 publish, in the Wisconsin administrative register, a list of all powers approved under
5 this subsection and, upon publication, shall mail a copy of the list to all universal
6 banks. A universal bank need not request the permission of the division under this
7 subsection to exercise any power described in the most current list published under
8 this subsection.

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

13 **222.0403 Loan powers. (1) PERMITTED PURPOSES.** A universal bank may
14 make, sell, purchase, arrange, participate in, invest in, or otherwise deal in loans or
15 extensions of credit for any purpose.

16 (2) IN GENERAL. (a) *Percentage limitation.* Except as provided in subs. (3) to
17 (8), the total liabilities of any person, other than a municipal corporation, to a
18 universal bank for a loan or extension of credit may not exceed 20% of the universal
19 bank's capital at any time.

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

23 (3) INCREASED LIMIT FOR CERTAIN SECURED LIABILITIES. The total liabilities of any
24 person, other than a municipal corporation, to a universal bank for a loan or

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1 extension of credit may not exceed 50% of the universal bank's capital at any time,
2 if the liabilities consist entirely of any of the following types of liabilities:

3 (a) *Warehouse receipts.* A liability secured by warehouse receipts issued by
4 warehouse keepers who are licensed and bonded in this state under ss. 99.02 and
5 99.03 or under the federal Bonded Warehouse Act or who are licensed under s.
6 126.26, if all of the following requirements are met:

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

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

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

16 2. The note or bond is secured or covered by guarantees or by commitments or
17 agreements to take over, or to purchase, the bonds or notes, and the guarantee,
18 commitment, or agreement is made by a federal reserve bank, the federal small
19 business administration, the federal department of defense, or the federal maritime
20 commission.

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

23 (4) OBLIGATIONS OF LOCAL GOVERNMENTAL UNITS. (a) *Definition.* In this
24 subsection, "local governmental unit" has the meaning given in s. 22.01 (7).

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

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

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

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

19 **(5) OBLIGATIONS OF CERTAIN INTERNATIONAL ORGANIZATIONS; OTHER FOREIGN BONDS.**
20 A universal bank may purchase bonds offered for sale by the International Bank for
21 Reconstruction and Development and the Inter-American Development Bank or
22 any other foreign bonds approved under rules established by the division. The
23 aggregate investment in any of these bonds issued by a single issuer may not exceed
24 10% of the capital of the universal bank.

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

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

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

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

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

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

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

7 (d) *Discounting bills of exchange or business or commercial paper.* A liability
8 created by the discounting of bills of exchange drawn in good faith against actually
9 existing values or the discounting of commercial or business paper actually owned
10 by the person negotiating the same.

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

17 (9) **ADDITIONAL AUTHORITY.** (a) *In general.* In addition to the authority
18 granted under subs. (1) to (8), and except as provided in par. (b), a universal bank may
19 lend under this subsection, through the universal bank or subsidiary of the universal
20 bank, to all borrowers from the universal bank and all of its subsidiaries, an
21 aggregate amount not to exceed 20% of the universal bank's capital. Except as
22 provided in subs. (3) and (4), neither a universal bank nor any subsidiary of the
23 universal bank may lend to any borrower, under this subsection or any other law or
24 rule, an amount that would result in an aggregate amount for all loans to that
25 borrower that exceeds 20% of the universal bank's capital. A universal bank or its

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1 subsidiary may take an equity position or other form of interest as security in a
2 project funded through loans made under this paragraph. Every transaction by a
3 universal bank or its subsidiary under this paragraph requires prior approval by the
4 governing board of the universal bank or its subsidiary, respectively. Loans made
5 under this paragraph are not subject to s. 221.0326 or to classification as losses, for
6 a period of 2 years from the date of each loan except as provided in par. (b).

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

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

19 **222.0405 Investment powers.** (1) INVESTMENT SECURITIES. Except as
20 provided in subs. (3) to (8), a universal bank may purchase, sell, underwrite, and hold
21 investment securities, consistent with safe and sound banking practices, up to 100%
22 of the universal bank's capital. A universal bank may not invest greater than 20%
23 of the universal bank's capital in the investment securities of one obligor or issuer.
24 In this subsection, "investment securities" includes commercial paper, banker's

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1 acceptances, marketable securities in the form of bonds, notes, debentures, and
2 similar instruments that are regarded as investment securities.

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

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

22 (4) PROFIT-PARTICIPATION PROJECTS. A universal bank may take equity positions
23 in profit-participation projects, including projects funded through loans from the
24 universal bank, in an aggregate amount not to exceed 20% of the universal bank's
25 capital. The division may suspend the investment authority under this subsection.

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1 If the division suspends the investment authority under this subsection, the division
2 may specify how outstanding investments under this subsection shall be treated by
3 the universal bank or its subsidiary. Among the factors that the division may
4 consider in suspending authority under this subsection are the universal bank's
5 capital adequacy, asset quality, earnings quantity, earnings quality, adequacy of
6 liquidity, sensitivity to market risk, and the ability of the universal bank's
7 management. This subsection does not authorize a universal bank, directly or
8 indirectly through a subsidiary, to engage in the business of underwriting insurance.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (k) *Certain federal obligations.* Obligations of, or obligations that are fully
22 guaranteed by, the United States and stocks or obligations of any federal reserve
23 bank, federal home loan bank, the Student Loan Marketing Association, the
24 Government National Mortgage Association, the Federal National Mortgage

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1 Association, the Federal Home Loan Mortgage Corporation, or the Federal Deposit
2 Insurance Corporation.

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

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

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

11 **222.0407 Universal bank purchase of its own stock.** (1) IN GENERAL. A
12 universal bank may hold or purchase not more than 10% of its capital stock, notes,
13 or debentures, except as provided in sub. (2) or (3).

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

16 (3) ADDITIONAL AUTHORITY. A universal bank may hold or purchase more than
17 10% of its capital stock, notes, or debentures if the purchase is necessary to prevent
18 loss upon a debt previously contracted in good faith. Stock, notes, or debentures held
19 or purchased under this subsection may not be held by the universal bank for more
20 than 6 months if the stock, notes, or debentures can be sold for the amount of the
21 claim of the universal bank against the holder of the debt previously contracted. The
22 universal bank shall either sell the stock, notes, or debentures within 12 months of
23 acquisition under this subsection or shall cancel the stock, notes, or debentures.
24 Cancellation of the stock, notes, or debentures reduces the amount of the universal
25 bank's capital stock, notes, or debentures. If the reduction reduces the universal

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1 bank's capital below the minimum level required by the division, the universal bank
2 shall increase its capital to the amount required by the division.

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

9 **222.0409 Stock in bank-owned banks.** With the approval of the division,
10 a universal bank may acquire and hold stock in one or more banks chartered under
11 s. 221.1202 or national banks chartered under 12 USC 27 (b) or in one or more
12 holding companies wholly owning such a bank. Aggregate investments under this
13 section may not exceed 10% of the universal bank's capital.

14 **222.0411 General deposit powers. (1) IN GENERAL.** A universal bank may
15 set eligibility requirements for, and establish the types and terms of, deposits that
16 the universal bank solicits and accepts. The terms set under this subsection may
17 include minimum and maximum amounts that the universal bank may accept and
18 the frequency and computation method of paying interest.

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

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

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

15 **222.0413 Necessary or convenient powers, reasonably related or**
16 **incidental activities, and other approved activities. (1) NECESSARY OR**
17 **CONVENIENT POWERS.** Unless otherwise prohibited or limited by this chapter, a
18 universal bank may exercise all powers necessary or convenient to effect the
19 purposes for which the universal bank is organized or to further the businesses in
20 which the universal bank is lawfully engaged.

21 **(2) REASONABLY RELATED AND INCIDENTAL ACTIVITIES. (a)** Subject to any
22 applicable state or federal regulatory or licensing requirements, a universal bank
23 may engage, directly or indirectly through a subsidiary, in activities reasonably
24 related or incident to the purposes of the universal bank. Activities reasonably
25 related or incident to the purposes of the universal bank are those activities that are

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1 part of the business of financial institutions, or closely related to the business of
2 financial institutions, or convenient and useful to the business of financial
3 institutions, or reasonably related or incident to the operation of financial
4 institutions, or financial in nature. Activities that are reasonably related or incident
5 to the purposes of a universal bank include the following:

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

23 (b) An activity that is authorized by statute or regulation for financial
24 institutions to engage in as of the effective date of this paragraph [revisor inserts
25 date], is an activity that is reasonably related or incident to the purposes of a

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1 universal bank. An activity permitted under the Bank Holding Company Act is an
2 activity that is reasonably related or incident to the purposes of a universal bank.
3 The division may expand the list of activities under par. (a) 1. to 15. that are
4 reasonably related or incident to the purposes of a universal bank. Any activity
5 approved by the division under this paragraph shall be authorized for all universal
6 banks.

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

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

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

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

24 (7) ACTIVITIES PROVIDED THROUGH A SUBSIDIARY. A universal bank may engage
25 in an activity under this section, directly or indirectly through a subsidiary, unless

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1 the division determines that the activity must be conducted through a subsidiary
2 with appropriate safeguards to limit the risk exposure of the universal bank.

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

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

12 **222.0415 Trust powers.** Subject to rules of the division, a universal bank may
13 exercise trust powers in accordance with s. 221.0316.

14 **SECTION 49.** 409.617 (1) (c) of the statutes is amended to read:

15 409.617 (1) (c) Discharges any subordinate security interest or other
16 subordinate lien ~~other than liens held by this state or a local governmental unit, as~~
17 ~~defined in s. 19.42 (7u).~~

18 **SECTION 50. Nonstatutory provisions.**

19 (1) EMERGENCY RULES; UNIVERSAL BANKING. Except as otherwise provided in this
20 subsection, using the procedure under section 227.24 of the statutes, the division of
21 banking may promulgate rules authorized under chapter 222 of the statutes, as
22 created by this act, for the period before permanent rules become effective, but not
23 to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes.
24 Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the division of
25 banking is not required to provide evidence that promulgating a rule under this

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✓ 1 subsection as an emergency rule is necessary for the preservation of the public peace,
 health, safety, or welfare and is not required to provide a finding of emergency for a
 rule promulgated under this subsection.

Insert
48-3

4 **SECTION 51. Effective dates.** This act takes effect on the day after publication,
 5 except as follows:

(c) UNIVERSAL BANKS.

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

✓ 9
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48-8

(END)

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SECTION 1. 109.01 (1r) of the statutes is amended to read:

109.01 (1r) "Employee" means any person employed by an employer, except that "employee" does not include an officer or director of a corporation, a member or manager of a limited liability company, a partner of a partnership or a joint venture or, the owner of a sole proprietorship, an independent contractor, or a person employed in a managerial, executive, or commissioned sales capacity or in a capacity in which the person is privy to confidential matters involving the employer-employee relationship.

History: 1975 c. 380, 421; 1989 a. 44; 1995 a. 27 s. 9130(4); 1997 a. 3, 39, 237.

X

SECTION 2. 109.09 (2) (c) of the statutes is renumbered 109.09 (2) (c) 1. and amended to read:

109.09 (2) (c) 1. A lien under par. (a) takes precedence over all other debts, judgments, decrees, liens, or mortgages against the employer, except a lien of a ~~financial institution, as defined in s. 69.30 (1) (b), that originates before the lien under par. (a) takes effect~~ commercial lending institution as provided in subd. 2. and 3. or a lien under s. 292.31 (8) (i) or 292.81, regardless of whether those other debts, judgments, decrees, liens, or mortgages originate before or after the lien under par. (a) takes effect. A lien under par. (a) may be enforced in the manner provided in ss. 779.09 to 779.12, 779.20, and 779.21, insofar as those provisions are applicable. The lien ceases to exist if the department of workforce development or the employee does not bring an action to enforce the lien within the period prescribed in s. 893.44 for the underlying wage claim.

X

SECTION 3. 109.09 (2) (c) 2. of the statutes is created to read:

109.09 (2) (c) 2. Except as provided in this subdivision, a lien under par. (a) does not take precedence over a lien of a commercial lending institution against the employer that originates before the lien under par. (a) takes effect. Subject to subd. 3., a lien under par. (a) takes precedence over a lien of a commercial lending institution against the employer that originates before the lien under par. (a) takes effect only to the extent that the lien under par. (a) is for unpaid wages of \$3,000 or less earned by an employee within the 6 months preceding the date on which the employee files the wage claim under sub. (1) or brings the action under s. 109.03 (5) or the date on which the department receives the wage claim under s. 109.10 (4) (a), whichever is applicable.

SECTION 4. 109.09 (2) (c) 3. of the statutes is created to read:

109.09 (2) (c) 3. Notwithstanding subd. 2., a lien of a financial institution, as defined in s. 69.30 (1) (b), that exists on the day before the effective date of this subdivision [revisor inserts date], and that originates before a lien under par. (a) takes effect takes precedence over the lien under par. (a), and a lien of a financial institution for any amount advanced by the financial institution after a lien under par. (a) takes effect under a contract entered into before the effective date of this subdivision [revisor inserts date], including any extension or renewal of such a contract, takes precedence over the lien under par. (a). Notwithstanding subd. 2., a lien under par. (a) that exists on the day before the effective date of this subdivision [revisor inserts date], takes precedence over a lien of a commercial lending institution that is not a financial institution, as defined in 69.30 (1) (b), regardless

of whether the lien of the commercial lending institution originates before or after the lien under par. (a) takes effect.

(END OF INSERT)

(INSERT 48-3)

SECTION 4. Initial applicability.

(1) WAGE CLAIM LIENS.

(a) Employees covered. The treatment of section 109.01 (1r) of the statutes first applies to wages, as defined in section 109.01 (3) of the statutes, earned by an employee, as defined in section 109.01 (1r) of the statutes, as affected by this act, on the effective date of this paragraph.

(b) Wage claim lien priority. The renumbering and amendment of section 109.09 (2) (c) of the statutes and the creation of section 109.09 (2) (c) 2. of the statutes first apply to a lien under section 109.09 (2) (a) of the statutes that takes effect on the effective date of this paragraph.

(END OF INSERT)

(INSERT 48-8)

(2) WAGE CLAIM LIENS. The treatment of section 109.01 (1r) of the statutes, the renumbering and amendment of section 109.09 (2) (c) of the statutes, and the creation of section 109.09 (2) (c) 2. and 3. of the statutes take effect on first day of the first month beginning after publication.

(END OF INSERT)

(END)

