

2003 SENATE BILL 326

AN ACT *to create* 186.035, 214.035 (4), 215.26 (10) and 221.0404 of the statutes;
relating to: the deceptive or misleading use of the name, logo, or symbol of a state-chartered bank, savings bank, savings and loan association, or credit union, the deceptive or misleading use of a name, logo, or symbol that is deceptively similar to the name of a state-chartered bank, savings bank, savings and loan association, or credit union, and providing a penalty.

Analysis by the Legislative Reference Bureau

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

- 1 **SECTION 1.** 186.035 of the statutes is created to read:
- 2 **186.035 Deceptive or misleading use of credit union name, logo, or**
- 3 **symbol. (1)** USE OF CREDIT UNION NAME, LOGO, OR SYMBOL FOR MARKETING PURPOSES.
- 4 Except as provided in sub. (3), no person may use the name, logo, or symbol, or any

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1 combination thereof, of a credit union, or any name, logo, or symbol, or any
2 combination thereof, that is deceptively similar to the name, logo, or symbol of a
3 credit union, in any marketing material provided to or solicitation of another person
4 in a manner such that a reasonable person may believe that the marketing material
5 or solicitation originated from or is endorsed by the credit union or that the credit
6 union is responsible for the marketing material or solicitation.

7 **(2) ENFORCEMENT AND PENALTIES.** The office of credit unions shall direct any
8 person the office finds to have violated sub. (1) to cease and desist from violating sub.
9 (1). If a person violates sub. (1) after receiving such direction, the office of credit
10 unions may impose a forfeiture of up to \$1,000 for each violation. Each instance in
11 which marketing material is provided to another person or solicitation of another
12 person takes place in violation of sub. (1) constitutes a separate violation. This
13 subsection does not affect the availability of any remedies otherwise available to a
14 credit union.

15 **(3) EXCEPTIONS.** Subsection (1) does not apply to a person who uses the name,
16 logo, or symbol of a credit union in any of the following circumstances:

17 (a) With the consent of the credit union.

18 (b) If the person is the credit union, an affiliate of the credit union, or an agent
19 of the credit union.

20 **SECTION 2.** 214.035 (4) of the statutes is created to read:

21 214.035 **(4)** (a) Except as provided in par. (c), no person may use the name, logo,
22 or symbol, or any combination thereof, of a savings bank, or any name, logo, or
23 symbol, or any combination thereof, that is deceptively similar to the name, logo, or
24 symbol of a savings bank, in any marketing material provided to or solicitation of
25 another person in a manner such that a reasonable person may believe that the

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1 marketing material or solicitation originated from or is endorsed by the savings bank
2 or that the savings bank is responsible for the marketing material or solicitation.

3 (b) The division shall direct any person the division finds to have violated par.
4 (a) to cease and desist from violating par. (a). If a person violates par. (a) after
5 receiving such direction, the division may impose a forfeiture of up to \$1,000 for each
6 violation. Each instance in which marketing material is provided to another person
7 or solicitation of another person takes place in violation of par. (a) constitutes a
8 separate violation. This subsection does not affect the availability of any remedies
9 otherwise available to a savings bank.

10 (c) Paragraph (a) does not apply to a person who uses the name, logo, or symbol
11 of a savings bank in any of the following circumstances:

- 12 1. With the consent of the savings bank.
- 13 2. If the person is the savings bank, an affiliate of the savings bank, or an agent
14 of the savings bank.

15 **SECTION 3.** 215.26 (10) of the statutes is created to read:

16 **215.26 (10) DECEPTIVE OR MISLEADING USE OF ASSOCIATION NAME, LOGO, OR SYMBOL.**

17 (a) Except as provided in par. (c), no person may use the name, logo, or symbol, or
18 any combination thereof, of an association, or any name, logo, or symbol, or any
19 combination thereof, that is deceptively similar to the name, logo, or symbol of an
20 association, in any marketing material provided to or solicitation of another person
21 in a manner such that a reasonable person may believe that the marketing material
22 or solicitation originated from or is endorsed by the association or that the
23 association is responsible for the marketing material or solicitation.

24 (b) The division shall direct any person the division finds to have violated par.
25 (a) to cease and desist from violating par. (a). If a person violates par. (a) after

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1 receiving such direction, the division may impose a forfeiture of up to \$1,000 for each
2 violation. Each instance in which marketing material is provided to another person
3 or solicitation of another person takes place in violation of par. (a) constitutes a
4 separate violation. This subsection does not affect the availability of any remedies
5 otherwise available to an association.

6 (c) Paragraph (a) does not apply to a person who uses the name, logo, or symbol
7 of an association in any of the following circumstances:

8 1. With the consent of the association.

9 2. If the person is the association, an affiliate of the association, or an agent of
10 the association.

11 **SECTION 4.** 221.0404 of the statutes is created to read:

12 **221.0404 Deceptive or misleading use of bank name, logo, or symbol.**

13 **(1) USE OF BANK NAME, LOGO, OR SYMBOL FOR MARKETING PURPOSES.** Except as provided
14 in sub. (3), no person may use the name, logo, or symbol, or any combination thereof,
15 of a bank, or any name, logo, or symbol, or any combination thereof, that is
16 deceptively similar to the name, logo, or symbol of a bank, in any marketing material
17 provided to or solicitation of another person in a manner such that a reasonable
18 person may believe that the marketing material or solicitation originated from or is
19 endorsed by the bank or that the bank is responsible for the marketing material or
20 solicitation.

21 **(2) ENFORCEMENT AND PENALTIES.** The division shall direct any person the
22 division finds to have violated sub. (1) to cease and desist from violating sub. (1). If
23 a person violates sub. (1) after receiving such direction, the division may impose a
24 forfeiture of up to \$1,000 for each violation. Each instance in which marketing
25 material is provided to another person or solicitation of another person takes place

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1 in violation of sub. (1) constitutes a separate violation. This subsection does not
2 affect the availability of any remedies otherwise available to a bank.

3 **(3) EXCEPTIONS.** Subsection (1) does not apply to a person who uses the name,
4 logo, or symbol of a bank in any of the following circumstances:

5 (a) With the consent of the bank.

6 (b) If the person is the bank, an affiliate of the bank, or an agent of the bank.

7 **(END)**