

**Senate Bill 326 ... relating to: the deceptive or misleading use of the name of a state-chartered bank, savings bank, savings and loan association, or credit union, the deceptive or misleading use of a name 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.**

**BILL SPONSORS**  
 Introduced by Senators **Schultz**, M. Meyer, Carpenter, **Reynolds**, **S. Fitzgerald**, **Lazich**, **Leibham**, Hansen, Erpenbach, Breske, **Kedzie** and **Cowles**;  
 Cosponsored by Representative **Montgomery**;

**BILL HISTORY**  
 Senate was introduced on 11-26-03 and referred to the Committee on Agriculture, Financial Institutions and Insurance.  
 A public hearing and executive session were held on 01-13-04.  
 Senate Amendment 1 was adopted by the committee on a vote, Ayes 5, Noes 0  
**The committee recommended SB326 as amended by SA 1 for passage on a vote Ayes 5, Noes 0.**

**LRB ANALYSIS**  
**Current Law:** generally prohibits any person from making any assertion, representation, or statement of fact, which is untrue, deceptive, or misleading in the person's commercial solicitations. Current law also limits the use of the terms "bank," "savings bank," "savings and loan association," and "credit union" in certain circumstances.  
**Proposed Changes:** With certain exceptions, this bill specifically prohibits any person from using the name of a state-chartered bank, savings bank, savings and loan association, or credit union (banking institution), or a name that is deceptively similar to such a name, in any marketing material provided to or solicitation of another person in a manner such that a reasonable person may believe that the marketing material or solicitation originated from or is endorsed by the banking institution, or that the banking institution is responsible for the marketing material or solicitation. This prohibition does not apply to a banking institution that uses its own name, to the use of such a name by an affiliate or agent of the banking institution, or to the use of such a name with consent of the banking institution.  
 Senate Amendment 1 was a simple amendment which included the unauthorized use of a banks logo as well as it's name

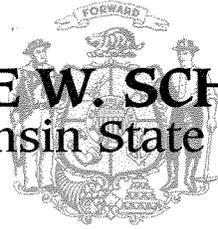
**FISCAL EFFECT**  
 None

**SUPPORT**  
**The following person/people appeared in favor of this bill:** (1) Daryll Lund, Community Bankers, Madison, (2) Christopher Sosnay, WI Bankers Assn., Madison  
**The following person/people registered in favor of this bill:** (1) Sen. Dale Schultz, 17th State Senate District, Madison, Kathryn Carlson, WI Dept. of Financial Institutions, Madison, Georgia Maxwell, WI Credit Union League, Madison

	<p>The Wisconsin Mortgage Bankers Association registered their support for the bill with the State Ethics Board, but did not testify or register at the public hearing.</p> <p>No one registered their intention to lobby on SB 326 but did not take a position on the bill.</p>
OPPOSITION	<p><b>No one appeared in opposition to this bill.</b></p> <p><b>No one registered in opposition to this bill.</b></p> <p>No one registered their opposition for the bill with the State Ethics Board</p>
CONTACT	<b>John O'Brien, Committee Clerk, 6-0703 Sen Ag. Financial Inst. &amp; Insurance</b>
DATE	<b>January 13th, 2003</b>



**DALE W. SCHULTZ**  
Wisconsin State Senator



January 12, 2004

**Senate Committee on Agriculture, Financial Institutions and Insurance**

**Re: SB 326**

Dear Members,

As author, I would like to thank you for your consideration SB 326

Wisconsin Statutes currently prohibit a person from falsely representing to the public that they are a bank. This legislation would further prohibit the unauthorized use of a legitimate financial institution's name in deceptive marketing solicitations.

Some marketers have adopted the practice of using the name of a prospective customer's financial institution on the outside of the envelope or directly in the marketing material. Such solicitations are clearly designed to give the prospective customer the false impression that the mail is from their financial institution. Marketing companies often obtain this information by purchasing lien recording information. These records contain information on recent home mortgage financings and automobile loans, and are often available on compact discs from state and local county sources. Information about home mortgage financings can be obtained from local county Registers of Deeds.

After the customer has read the content of this solicitation, they are frequently, and mistakenly, offended that their financial institution has marketed to them in such a fashion. If they do read closely enough to figure out that the solicitation is not actually from their financial institution, they may still falsely reach the conclusion that their financial institution participated in or endorsed the solicitation because it's name was prominently used on the envelope or in the enclosed materials.

The amendment, which you received prior to this hearing, simply expands the scope of this bill to provide the same protections to a financial institutions logo or symbol.

I am grateful to the Community Bankers of Wisconsin, the Wisconsin Bankers Association, the Wisconsin Credit Union League, and the Department of Financial Institutions for their cooperation on this matter.

I respectfully request that the committee give its unanimous support to this important legislation.

With kindest regards,

Dale W. Schultz



**Public Hearing of the  
Senate Agriculture, Financial Institutions and Insurance Committee  
SB – 326 Bank Name Protection (1/13/04)**

**Testimony of Daryll Lund, President & CEO  
Community Bankers of Wisconsin**

Honorable members of the Senate Agriculture, Financial Institutions and Insurance committee my name is Daryll Lund, President & CEO of the Community Bankers of Wisconsin (CBW). CBW is a statewide trade association representing the interests of approximately 220 community based financial institutions.

I appear before you today to testify in support of SB-326. The CBW strongly supports passage of this bill that will prohibit the unauthorized use of a financial institution's name in deceptive marketing solicitations. CBW also supports passage of the Senate Amendment to include a bank "logo or symbol". An Assembly companion bill to SB-326 (AB-673) passed the Assembly Financial Institutions committee on January 8, 2004 by a vote of 16-0. No groups testified in opposition to the bill.

Background on current law

Wisconsin Statutes currently prohibit a person from falsely representing to the public that they are a bank. These statutes recognize the importance of not confusing consumers with what 'is' and 'is not' a 'bank'. The statutes specifically state that a person engaged in business in this state may not use the term "bank" in any form such as upon an office sign at the place where the business is transacted, or on letterheads, billheads, certificates, or any other written or printed materials. This legislation would further prohibit the unauthorized use of a legitimate bank's name in deceptive marketing solicitations.

What is the problem?

Some marketing companies (e.g. mortgage life and disability insurance companies) have adopted the practice of designing solicitations by using the name of the prospective customer's bank on the outside of the envelope or directly in the marketing material. Such solicitations are clearly designed to give the prospective customer the false impression that the mail is from their bank. The goal of the solicitation often is to sell the homeowner or new car owner some additional credit insurance or extended warranty coverage.

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**SB-326 Testimony**

In a recent study, 71% of consumers polled indicated that the financial institution's name on the envelope was a key factor in deciding if they would open the direct mail offer.

How is customer information obtained?

The marketing companies obtain information about bank customers' recent home mortgage financings by purchasing lien recording information, often available electronically from state and local county sources. For example, information about home mortgage financings can be obtained from local county Register of Deeds.

Why is protecting the bank's name important?

After the customer has read the content of the solicitation, they are frequently, and mistakenly, offended that their bank has marketed to them in such a fashion. If they do read closely enough to figure out that the solicitation is not actually from their bank, they may still reach the erroneous conclusion that their bank participated in or endorsed the solicitation because the bank's name was prominently used on the envelope or in the enclosed materials. The reality is however, that the bank had nothing to do with the solicitation, shared no customer financial information at all with the marketer, and typically is unaware even of who the marketing firm is that contacted the customers.

Importance of Customer Privacy

The banking industry recognizes the increasing importance of the privacy of customer financial information. It is critical for banks to continue to maintain the trust and confidence of their customers when it comes to the confidentiality and privacy of their customers' financing arrangements. Wisconsin banks are very protective of their customer's financial privacy. Passage of SB-326 would help prevent bank customers from being misled into believing that their privacy has been violated.



**Senate Agriculture, Financial Institutions and Insurance Committee Hearing  
01/13/04**

**Testimony by  
Christopher Sosnay  
Assistant Director-Government Relations  
Wisconsin Bankers Association**

**In Support of SB 326**

Chairman, and Honorable committee members thank you for the opportunity to come before you today to testify in support of SB 326 and the substitute amendment. My name is Christopher Sosnay and I am the Assistant Director of Government Relations for the Wisconsin Bankers Association (WBA). WBA represents over 320 financial institutions throughout Wisconsin, ranging from the large regional holding company banks to the small community banks. I am here today to testify in support of SB 326.

This bill prohibits the unauthorized use of a bank's name in third party marketing materials. It is very common for consumers to be inundated with materials from third party marketers shortly after a customer takes out a new loan or refinances an existing loan. WBA has seen examples of these sort of marketing materials come from home improvement contractors, insurance companies and other lenders. Many times these marketing materials display the bank's name, a version of the bank's name and/or the bank's logo. This display causes confusion for the customer because the customer thinks either the bank shared the customer's information, sold the information to the marketer or may be so confused by the slick marketing materials that the customer mistakes that the solicitation is coming from the bank itself.

Attached are examples of some of these solicitations for your review, with the personal identifying information removed. WBA has seen most of these materials come through the mail to the customer, but recently these types of solicitations have begun to also come to customers via email, as you will also see in the attached examples.

Please support SB 326 and the substitute amendment. You will help alleviate some of this confusion for consumers that these third party materials cause. Thank you for the opportunity to testify before this committee in support of this legislation.

4721 SOUTH BILTMORE LANE  
MADISON, WI 53718

P. O. Box 8880  
MADISON, WI 53708-8880

608-441-1200  
FAX 608-661-9381

[www.wisbank.com](http://www.wisbank.com)

**Jodi Bloch**

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**Subject:** FW: email solicitation of customer

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

**From:** Gary Kemp [mailto:garyk@bankpds.com]

**Sent:** Wednesday, November 12, 2003 2:43 PM

**To:** wbalegal

**Subject:** email solicitation of customer

One of our customers received an email from a Tiffany Hite representing the Lending Depot. The subject line of the email says: **FW: Prairie du Sac Bank grants the( customer name) access to 4.91%**

The email goes on to say:

Dear (customer name),

Interest has hit a new low of 4.91 and Lending Depot is all over it.  
We have brought our most popular Refiniance (missspelled Refinance) Offer back.

No IncomeCheck  
FixedRates starting at 4.91%  
No Out of Pocket Expenses  
Instant Approval  
36 Hr Turnaround

ReApply Here

<http://8480E6E8ED9B4D4Ea31163e2a80306bd.popperjohn.com> **(see attached for link)**

It is our opinion that this email is once again very miss leading and possible against statute. Please let me know what you think and if there is any action that can or should be taken.

Thanks,

Gary A. Kemp  
Bank of Prairie du Sac  
garyk@bankpds.com



Are you purchasing a new home? Please click [HERE](#)

APPLICANT INFORMATION

First Name	<input type="text"/>	Last Name	<input type="text"/>
Address	<input type="text"/>	City	<input type="text"/>
State	<input type="text" value="(please select)"/>	Zip Code	<input type="text"/>
Home Phone	( <input type="text"/> ) <input type="text"/> - <input type="text"/>	Work Phone	( <input type="text"/> ) <input type="text"/> - <input type="text"/>
Email	<input type="text" value="vernfowler@myexce"/>	Best Contact Time	<input type="text" value="(please select)"/>

LOAN INFORMATION

Loan Purpose	<input type="text" value="(please select)"/>	Home Value	<input type="text" value="(please select)"/>
Type of House	<input type="text" value="Single Family Detached Home"/>	Loan Amount Desired	<input type="text" value="145,000 - 170,000"/>
Current Rate	<input type="text" value="8.00%"/> %	1st Mortgage Balance	<input type="text" value="(please select)"/>

CREDIT / EMPLOYMENT INFORMATION

Credit Rating	<input type="text" value="Good"/>	Employer	<input type="text"/>
Current Income	<input type="text"/>	Current Debt	<input type="text"/>

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# \*\* Important Notice \*\*

## Please Complete and Return

Loan Amount: \$122,100  
Lender: M&I Marshall & Isley Bk

WI079



[Redacted]  
[Redacted]  
Milwaukee, WI 53226- [Redacted]  
[Barcode]

Dear [Redacted],

As a recent "New Homeowner" (or) "New Mortgage Holder" you may qualify to purchase our Mortgage Life and Disability coverage With No Physical Exam. By acting now you can take advantage of your "New Homeowner" status and lock in special low rates for your entire mortgage term without an exam.

### Available Benefits Include:

- ◆ **Death** – Pays off your \$122,100 loan in the event of your death.
- ◆ **Disability** – Pays your monthly payments if you can't work due to an illness or injury.
- ◆ **Unemployment** – Makes your premium payments if you become unemployed.
- ◆ **Return of Premiums** – Refunds 100% of your premiums if the benefits are not used by the end of your mortgage term.

**For immediate details with no cost or obligation.** Please complete and return this form in the postage paid envelope provided.

	<i>Borrower</i>	<i>Spouse/Co-Borrower</i>
Date of Birth	____/____/____	____/____/____
Sex	Male <input type="checkbox"/> Female <input type="checkbox"/>	Male <input type="checkbox"/> Female <input type="checkbox"/>
Height	____ ft. ____ in.	____ ft. ____ in.
Weight	____ lbs.	____ lbs.
Smoker	Yes <input type="checkbox"/> No <input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Phone # _____	Work # _____	
Best Time to Call _____	Home <input type="checkbox"/> Work <input type="checkbox"/>	
Contact Person: _____		

\*The above referenced Mortgage Life and Disability Insurance plan may be purchased by the homeowner at a later date but may be subject to a medical exam and more extensive underwriting which in many cases can result in higher rate. All benefits are not available in all states.

All coverage information provided by Independent Life & Disability agents representing multiple A and A+ carriers offering specialized Mortgage Protection Products. Not affiliated with any lending institution.

# Consumer Credit Services, Inc.

A Consumer Credit Advocate Corporation

## MORTGAGE NOTICE

September 12, 2003

Reference # CL 90351.25

[REDACTED]  
[REDACTED]  
Hartland, WI 53029

Dear [REDACTED]

Our records indicate that you had taken a mortgage loan out with M & I Bak Fsb on 5/1/00 with an original loan amount of \$750,000.00. Consumer Credit Services, Inc. has been officially approved to shorten your mortgage term by as much as 10 years and lower your effective interest rate by as much as 4 %, while lowering your monthly payments.

Due to the significant increase in your property value since 5/1/00, coupled with a positive pay history, the lenders risk is decreased. This decreased risk on behalf of the mortgage lender is a benefit that you can now take advantage of by reducing the terms of your mortgage. This term reduction will allow you to save as much as \$600.00 a month and several thousands over the pay back period of your loan. Upon request, you may apply these savings towards other debt obligations or in the form of cash.

We feel that is only fair to advise you of your rights to reduce the amount of interest that you are paying on this loan. Our customer service center is open from 9:00 am - 7:30 p.m. Monday through Friday Eastern Time and will be able to provide you with your savings and answer any questions you may have.

**Toll Free (866) 306-0800**

**Local (904) 306-0800**

### PHONE REGISTRATION FORM

Borrowers Name \_\_\_\_\_  
Original Loan Amount \$750,000.00  
Original Term 360  
Mortgage Start Date 5/9/00  
Mortgage Payoff Date 5/1/30

Reference # CL 90351.25

Call Customer Service to complete the savings form below.

Existing Monthly Payments \$ \_\_\_\_\_  
New Monthly Payments \$ \_\_\_\_\_  
Total Monthly Savings \$ \_\_\_\_\_  
Life of Loan Savings \$ \_\_\_\_\_  
Years deducted of Mortgage \_\_\_\_\_

CCS Agent Name \_\_\_\_\_  
Confirmation # \_\_\_\_\_

**DO NOT MAIL CLIENT COPY**

5329 Emerson Street Jacksonville, Florida 32207

