



2005 DRAFTING REQUEST

Bill

Received: **02/03/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

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

Drafter: **mkunkel**

May Contact:

Adtl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hundertmark@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Department of Financial Institutions remedial changes

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>
/?				_____			State
/1	mkunkel 02/03/2006	jdyer 02/06/2006	pgreensl 02/07/2006	_____	sbasford 02/07/2006		State
/2	mkunkel 02/14/2006	kfollett 02/15/2006	jfrantze 02/15/2006	_____	sbasford 02/15/2006		State
/3	mkunkel 02/15/2006	jdyer 02/16/2006	rschluet 02/17/2006	_____	lnorthro 02/17/2006	sbasford 02/17/2006	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/4	mkunkel 02/17/2006	wjackson 02/17/2006	rschluet 02/17/2006	_____	mbarman 02/17/2006	mbarman 02/17/2006	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 02/03/2006

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Jean Hundertmark (608) 266-3794

By/Representing: Jason

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact:

Addl. Drafters:

Subject: Fin. Inst. - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hundertmark@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Department of Financial Institutions remedial changes

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>
/?				_____			State
/1	mkunkel 02/03/2006	jdyer 02/06/2006	pgreensl 02/07/2006	_____	sbasford 02/07/2006		State
/2	mkunkel 02/14/2006	kfollett 02/15/2006	jfrantze 02/15/2006	_____	sbasford 02/15/2006		State
/3	mkunkel 02/15/2006	jdyer 02/16/2006	rschluet 02/17/2006	_____	lnorthro 02/17/2006	sbasford 02/17/2006	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/4	mkunkel 02/17/2006	wjackson 02/17/2006	rschluet 02/17/2006	_____	mbarman 02/17/2006		

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **02/03/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hundertmark@legis.state.wi.us**

Carbon copy (CC:) to:

*PA: please jacket
"1/4"
-MOR*

Pre Topic:

No specific pre topic given

Topic:

Department of Financial Institutions remedial changes

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>
/?				_____			State
/1	mkunkel 02/03/2006	jdyer 02/06/2006	pgreensl 02/07/2006	_____	sbasford 02/07/2006		State
/2	mkunkel 02/14/2006	kfollett 02/15/2006	jfrantze 02/15/2006	_____	sbasford 02/15/2006		State
/3	mkunkel 02/15/2006	jdyer 02/16/2006	rschluet 02/17/2006	_____	lnorthro 02/17/2006	sbasford 02/17/2006	

SSA 176 PB

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

1/4 WJ 2/17

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: 02/03/2006

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hundertmark@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Department of Financial Institutions remedial changes

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>
/?				_____			State
/1	mkunkel 02/03/2006	jdyer 02/06/2006	pgreensl 02/07/2006	_____	sbasford 02/07/2006		State
/2	mkunkel 02/14/2006	kfollett 02/15/2006	jfrantze 02/15/2006	_____	sbasford 02/15/2006		State
/3	mkunkel 02/15/2006	jdyer 02/16/2006	rschluet 02/17/2006	_____	lnorthro 02/17/2006		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **02/03/2006**

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hundertmark@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Department of Financial Institutions remedial changes

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>
/?				_____			State
/1	mkunkel 02/03/2006	jdyer 02/06/2006	pgreensl 02/07/2006	_____	sbasford 02/07/2006		State
/2	mkunkel 02/14/2006	kfollett 02/15/2006	jfrantze 02/15/2006	_____	sbasford 02/15/2006		

FE Sent For:

13 2/10 jld
[Signature]
2176

2005 DRAFTING REQUEST

Bill

Received: 02/03/2006

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Jean Hundertmark (608) 266-3794

By/Representing: Jason

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact:

Addl. Drafters:

Subject: Fin. Inst. - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hundertmark@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Department of Financial Institutions remedial changes

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>
/?				_____			State
/1	mkunkel 02/03/2006	jdyer 02/06/2006	pgreensl 02/07/2006	_____	sbasford 02/07/2006		

FE Sent For:

12 kgf
2/15/06

<END>

2005 DRAFTING REQUEST

Bill

Received: 02/03/2006

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Jean Hundertmark (608) 266-3794**

By/Representing: **Jason**

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

Drafter: **mkunkel**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hundertmark@legis.state.wi.us**

Carbon copy (CC:) to:

*Compile as
"1"*

Pre Topic:

No specific pre topic given

Topic:

Department of Financial Institutions remedial changes

Instructions:

See Attached

Compile - 3367/1, -1420/1, -1027/1, and -1421/1

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>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

/?	mkunkel	<i>1/2 jld</i>	<i>compile etc 2-3 2-3 "1"</i>	<i>7/7 ps/1/1</i>			
----	---------	----------------	--	-----------------------	--	--	--

FE Sent For:

<END>

Sorted Item List

<u>Store File Name</u>	<u>Text</u>
-1420.1	138.09 (4) (a) (intro.) of the statutes is amended to read:
-1420.2	138.09 (4) (a) 1. of the statutes is amended to read:
-1420.3	138.09 (4) (a) 2. of the statutes is amended to read:
-1420.4	138.09 (4) (d) of the statutes is created to read:
-1420.5	138.09 (4) (e) of the statutes is created to read:
-1420.6	138.12 (5m) of the statutes is created to read:
-1027.1	180.1911 (1) of the statutes is amended to read:
-1027.2	180.1919 (1) (b) of the statutes is renumbered 180.1919 (1) (b) 1. and amended to read:
-1027.3	180.1919 (1) (b) 2. of the statutes is created to read:
-1421.1	220.02 (2) (g) of the statutes is created to read:
-1421.2	220.02 (2) (h) of the statutes is created to read:
-1421.3	220.02 (3) of the statutes is amended to read:
-1421.4	220.04 (10) of the statutes is amended to read:
-1421.5	220.06 (1) of the statutes is amended to read:
-1421.6	220.285 (1) of the statutes is amended to read:
-1421.7	220.285 (2) of the statutes is amended to read:
-3367.1	421.202 (intro.), (1), (2), (3), (4), (5), (6), (7) and (8) of the statutes are amended to read:
-3367.2	428.101 (3) of the statutes, as affected by 2003 Wisconsin Act 257, is amended to read:
-3367.3	Initial applicability.
-1420.7	Initial applicability.
-1421.8	Initial applicability.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1027/P1

MDK:wlj:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 180.1919 (1) (b); *to amend* 180.1911 (1); and
2 *to create* 180.1919 (1) (b) 2. of the statutes; **relating to:** shareholders of service
3 corporations that carry on the profession of certified public accounting
4 (suggested as remedial legislation by the Department of Financial
5 Institutions).

Analysis by the Legislative Reference Bureau

Current law contains conflicts regarding whether a person who is not a certified public accountant may be a shareholder of a service corporation that is organized for carrying on the profession of certified public accounting. One statute specifies that such a service corporation may be organized if more than 50 percent of the shareholders are certified public accountants. Another statute generally requires each shareholder, director, and officer of a service corporation to be licensed, certified, or registered by a state agency in the same field of endeavor. In addition, another statute requires a service corporation to convert to a business corporation if all shareholders cease at any one time to be licensed, certified, or registered in the same field of endeavor. This bill eliminates these conflicts. Under this bill, a service corporation may be organized for carrying on the profession of certified public accounting if more than 50 percent of the shareholders are certified public accountants. If such a service corporation ceases to satisfy this requirement, it must convert to a business corporation.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 180.1911 (1) of the statutes is amended to read:

2 180.1911 (1) Except as provided in ~~s.~~ ss. 180.1903 (1m) and 180.1913, each
3 shareholder, director and officer of a service corporation must at all times be licensed,
4 certified or registered by a state agency in the same field of endeavor or be a health
5 care professional. An individual who is not so licensed, certified or registered may
6 not have any part in the ownership or control of the service corporation, except that
7 the nonparticipant spouse of a married individual has the rights of ownership
8 provided under ch. 766. A proxy to vote any shares of the service corporation may
9 not be given to a person who is not so licensed, certified or registered.

10 **SECTION 2.** 180.1919 (1) (b) of the statutes is renumbered 180.1919 (1) (b) 1. and
11 amended to read:

12 180.1919 (1) (b) 1. If Except as provided in subd. 2., if all shareholders of a
13 service corporation cease at any one time and for any reason to be licensed, certified
14 or registered in the particular field of endeavor for which the service corporation was
15 organized, the service corporation is converted into and shall operate solely as a
16 business corporation under applicable provisions of this chapter, exclusive of ss.
17 180.1901 to 180.1921.

18 **SECTION 3.** 180.1919 (1) (b) 2. of the statutes is created to read:

1 180.1919 (1) (b) 2. If not more than 50 percent of the shareholders in a service
2 corporation described in s. 180.1903 (1m) at any one time are not certified public
3 accountants, the service corporation is converted into and shall operate solely as a
4 business corporation under applicable provisions of this chapter, exclusive of ss.
5 180.1901 to 180.1921.

6

(END)



2005 BILL

1 AN ACT *to amend* 138.09 (4) (a) (intro.), 138.09 (4) (a) 1. and 138.09 (4) (a) 2.; and
2 *to create* 138.09 (4) (d), 138.09 (4) (e) and 138.12 (5m) of the statutes; **relating**
3 **to:** authority of the Division of Banking over loan companies and insurance
4 premium finance companies (suggested as remedial legislation by the
5 Department of Financial Institutions).

Analysis by the Legislative Reference Bureau

Under current law, certain loan companies and insurance premium finance companies are subject to regulation by the Division of Banking (division) in the Department of Financial Institutions. This bill makes the following changes to such regulation:

1. The bill specifies that each ground for the division to suspend or revoke the license of a loan company is a separate ground. Under current law, all of the grounds must be satisfied for the division to take such action.

2. The bill allows the division to require a loan company to pay the costs incurred by the division in investigating or taking disciplinary action against the loan company.

3. The bill allows the division to issue orders against loan companies and insurance premium finance companies to prevent or correct certain prohibited actions. Under current law, the division has similar authority regarding other entities regulated by the division.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

BILL

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:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 138.09 (4) (a) (intro.) of the statutes is amended to read:

2 138.09 (4) (a) (intro.) The division for the purpose of discovering violations of
3 this chapter may cause an investigation to be made of the business of the licensee
4 transacted under this section, and shall cause an investigation to be made of
5 convictions reported to the division by any district attorney for violation by a licensee
6 of this chapter. The place of business, books of account, papers, records, safes and
7 vaults of said licensee shall be open to inspection and examination by the division
8 for the purpose of such investigation and the division may examine under oath all
9 persons whose testimony the division may require relative to said investigation. The
10 division may, upon notice to the licensee and reasonable opportunity to be heard,
11 suspend or revoke such license after such hearing if any of the following apply:

12 **SECTION 2.** 138.09 (4) (a) 1. of the statutes is amended to read:

13 138.09 (4) (a) 1. The licensee has violated any provision of this chapter and if
14 the division determines such violation justifies the suspension or revocation of the
15 license;

16 **SECTION 3.** 138.09 (4) (a) 2. of the statutes is amended to read:

BILL

1 138.09 (4) (a) 2. Any fact or condition exists which, if it had existed at the time
2 of the original application for such license, would have warranted the division in
3 refusing to issue such license; ~~and.~~

4 **SECTION 4.** 138.09 (4) (d) of the statutes is created to read:

5 138.09 (4) (d) The cost of any investigation, examination, or hearing, including
6 witness fees or any other expenses, conducted by the division under this section shall
7 be paid by the licensee so examined within 30 days after demand therefor by the
8 division, and the state may maintain an action for the recovery of such costs and
9 expenses.

10 **SECTION 5.** 138.09 (4) (e) of the statutes is created to read:

11 138.09 (4) (e) 1. In this paragraph:

12 a. “General order” means an order of the division other than a special order.

13 b. “Special order” means an order of the division to or affecting a person.

14 2. The division may issue general or special orders necessary to prevent or
15 correct actions by a licensee that constitute cause under this chapter for revoking,
16 suspending, or restricting a license.

17 **SECTION 6.** 138.12 (5m) of the statutes is created to read:

18 138.12 (5m) DISCIPLINARY ORDERS. The division may issue general orders, as
19 defined in s. 138.09 (4) (e) 1. a., or special orders, as defined in s. 138.09 (4) (e) 1. b.,
20 necessary to prevent or correct actions by an insurance premium finance company
21 that constitute cause under this section for revoking, suspending, or restricting a
22 license.

23 **SECTION 7. Initial applicability.**

BILL

1 (1) The treatment of section 138.09 (4) (a) (intro.), 1., and 2. of the statutes first
2 applies to notices made by the division of banking on the effective date of this
3 subsection.

4 (2) The treatment of section 138.09 (4) (d) of the statutes first applies to costs
5 incurred on the effective date of this subsection.

6 (3) The treatment of sections 138.09 (4) (e) and 138.12 (5m) of the statutes first
7 applies to actions occurring on the effective date of this subsection.

8

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1421/1
MDK:kj:rs

2005 BILL

1 AN ACT to amend 220.02 (3), 220.04 (10), 220.06 (1), 220.285 (1) and 220.285 (2);
2 and to create 220.02 (2) (g) and 220.02 (2) (h) of the statutes; relating to:
3 regulation of insurance premium finance companies, mortgage bankers, loan
4 originators, and mortgage brokers.

Analysis by the Legislative Reference Bureau

Under current, the Division of Banking (division) in the Department of Financial Institutions has regulatory authority over financial institutions, as well as certain loan companies, insurance premium finance companies, mortgage bankers, loan originators, and mortgage brokers. However, certain statutes under current law that refer to the division's regulatory authority omit references to insurance premium finance companies, mortgage bankers, loan originators, and mortgage brokers. This bill inserts the omitted references.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the

BILL

various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 220.02 (2) (g) of the statutes is created to read:

2 220.02 (2) (g) Insurance premium finance companies under s. 138.12.

3 **SECTION 2.** 220.02 (2) (h) of the statutes is created to read:

4 220.02 (2) (h) Mortgage bankers, loan originators, and mortgage brokers under
5 subch. III of ch. 224.

6 **SECTION 3.** 220.02 (3) of the statutes is amended to read:

7 220.02 (3) It is the intent of sub. (2) to give the division jurisdiction to enforce
8 and carry out all laws relating to banks or banking in this state, including those
9 relating to state banks, savings banks, savings and loan associations, and trust
10 company banks, and also all laws relating to small loan companies or other loan
11 companies or agencies, finance companies, insurance premium finance companies,
12 motor vehicle dealers, adjustment service companies, community currency
13 exchanges, mortgage bankers, loan originators, mortgage brokers, and collection
14 agencies and those relating to sellers of checks under ch. 217, whether doing business
15 as corporations, individuals, or otherwise, but to exclude laws relating to credit
16 unions.

17 **SECTION 4.** 220.04 (10) of the statutes is amended to read:

18 220.04 (10) If it appears to the division that a person has engaged or is about
19 to engage in an act or practice constituting a violation of the laws of this state relating
20 to banks and banking, including this chapter, chs. 217, 218 and 221 to 224 and s. ss.
21 138.09 and 138.12, or a rule promulgated or order issued under those laws, the
22 division may bring an action in the name of the state in the circuit court of the
23 appropriate county to enjoin the acts or practices and to enforce compliance with the

BILL

1 laws, rules or orders, or the division may refer the matter to the district attorney of
2 the appropriate county or, if the alleged violation may be enforced by the attorney
3 general under sub. (12) or s. 220.12, 221.1005 or 224.06 (7) or is statewide in nature,
4 to the attorney general. Upon a proper showing, the court may grant a permanent
5 or temporary injunction or restraining order, appoint a receiver for the defendant or
6 the defendant's assets or order rescission of any acts determined to be unlawful. The
7 court may not require the division to post a bond.

8 **SECTION 5.** 220.06 (1) of the statutes is amended to read:

9 220.06 (1) In this section, "licensee" means a person licensed by the division
10 under ch. 138, 217 or 218 or under s. 224.92 or registered by the division under s.
11 224.72.

12 **SECTION 6.** 220.285 (1) of the statutes is amended to read:

13 220.285 (1) Any state bank, trust company bank, licensee under ss. 138.09,
14 138.12, 218.0101 to 218.0163, 218.02, 218.04 or 218.05 or ch. 217, or person
15 registered under s. 224.72 may cause any or all records kept by such bank ~~or~~, licensee,
16 or registered person to be recorded, copied or reproduced by any photostatic,
17 photographic or miniature photographic process or by optical imaging if the process
18 employed correctly, accurately and permanently copies, reproduces or forms a
19 medium for copying, reproducing or recording the original record on a film or other
20 durable material. A bank ~~or~~, licensee, or registered person may thereafter dispose
21 of the original record after first obtaining the written consent of the division. This
22 section, excepting that part of it which requires written consent of the division, is
23 applicable to national banking associations insofar as it does not contravene federal
24 law.

25 **SECTION 7.** 220.285 (2) of the statutes is amended to read:

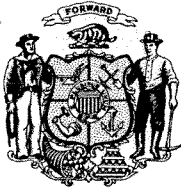
BILL

1 220.285 (2) Any photographic, photostatic or miniature photographic copy or
2 reproduction or copy reproduced from a film record or any copy of a record generated
3 from optical disk storage of a bank record or record of a licensee or registered person
4 is considered to be an original record for all purposes and shall be treated as an
5 original record in all courts or administrative agencies for the purpose of its
6 admissibility in evidence. A facsimile, exemplification or certified copy of any such
7 photographic copy or reproduction, copy reproduced from a film record or copy
8 generated from optical disk storage of a record shall, for all purposes, be considered
9 a facsimile, exemplification or certified copy of the original record.

SECTION 8. Initial applicability.

10 (1) The treatment of section 220.04 (10) of the statutes first applies to acts or
11 practices occurring on the effective date of this subsection.
12

13 (END)



2005 BILL

1 **AN ACT to amend** 421.202 (intro.), (1), (2), (3), (4), (5), (6), (7) and (8) and 428.101
2 (3) of the statutes; **relating to:** requirements applicable to consumer loans
3 secured by liens on residential real estate (suggested as remedial legislation by
4 the Department of Financial Institutions).

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, consumer loans for \$25,000 or less are subject to the Wisconsin Consumer Act (WCA). One exception applies to loans secured by first or subsequent liens on residential real property. If a consumer loan for \$25,000 or less is secured by a first lien, the loan is not subject to the WCA, but is subject to certain requirements regarding delinquency charges, notices, debt collection, and accounting. These requirements are referred to below as the "first lien requirements." If a consumer loan for \$25,000 or less is secured by a first or subsequent lien and the loan qualifies as a "high cost" loan, then the loan is not subject to the first lien requirements or the WCA. Instead, different requirements apply regarding payment and prepayment of the loan as well as certain disclosures that the lender must make. These requirements, which apply to loans of any amount, are referred to below as the "high cost requirements."

Thus, under current law, if a consumer loan for \$25,000 or less is subject to either the first lien or high cost requirements, the WCA does not apply to the loan. In addition, if the high cost requirements apply to a loan, the first lien requirements do not apply to the loan.

BILL

This bill changes the foregoing applicability requirements. Under this bill, if the first lien requirements apply to a loan for \$25,000 or less, then the WCA does not apply to the loan. However, if the high cost requirements apply to the loan, the loan is secured by a second or subsequent lien on residential real estate, and the loan is for \$25,000 or less, then the WCA also applies to the loan. In addition, a loan subject to the high cost requirements is not automatically exempt from the first lien requirements. Instead, if a loan that is subject to the high cost requirements is for \$25,000 or less, and the loan is secured by a first lien, then the first lien requirements also apply to the loan.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 421.202 (intro.), (1), (2), (3), (4), (5), (6), (7) and (8) of the statutes
2 are amended to read:

3 **421.202 Exclusions.** (intro.) Chapters 421 to 427 do not apply to any of the
4 following:

- 5 (1) Extensions of credit to organizations (s. 421.301 (28));
6 (2) Transactions in which all parties are organizations (s. 421.301 (28));
7 (3) Charges for delayed payment and any discount allowed for early payment
8 in transactions under public utility or common carrier tariffs if a subdivision or
9 agency of this state or of the United States regulates such charges or discounts, or
10 if such charges or discounts are made in connection with the furnishing of electric
11 service by an electric cooperative organized and operating on a nonprofit basis under
12 ch. 185;

BILL

1 (4) The ceilings on rates and charges of a licensed pawnbroker if these ceilings
2 are established by statute or ordinance;

3 (5) The sale of insurance by an insurer, except as otherwise provided in ch. 424;

4 (6) Consumer credit transactions in which the amount financed exceeds
5 \$25,000, motor vehicle consumer leases in which the total lease obligation exceeds
6 \$25,000 or other consumer transactions in which the cash price exceeds \$25,000;

7 (7) Transactions ~~subject to ch. 428;~~ secured by a first lien real estate mortgage
8 or equivalent security interest.

9 (8) Transactions in securities accounts or securities transactions by or with a
10 broker-dealer, as defined in s. 551.02 (3), licensed under ch. 551; ~~or.~~

11 **SECTION 2.** 428.101 (3) of the statutes, as affected by 2003 Wisconsin Act 257,
12 is amended to read:

13 428.101 (3) Loans made on or after November 1, 1981, by a creditor to a
14 customer and which are secured by a first lien real estate mortgage or equivalent
15 security interest if the amount financed is \$25,000 or less and if the loan is not subject
16 to subch. II.

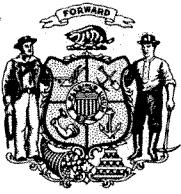
17 **SECTION 3. Initial applicability.**

18 (1) The treatment of section 421.202 (7) of the statutes first applies to
19 transactions entered into on the effective date of this subsection.

20 (2) The treatment of section 428.101 (3) of the statutes first applies to
21 transactions made on the effective date of this subsection.

22

(END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-4581/1

MDK::ch

O-NOTE

Jld/wlj/kjf

Bu wEP
2/8

2005 BILL

* LPS - Turn off
burning dots *

Regen

1
2
3
4
5
6
7
8
9
10
11
12

AN ACT *to renumber and amend* 180.1919 (1) (b); *to amend* 138.09 (4) (a) (intro.), 138.09 (4) (a) 1., 138.09 (4) (a) 2., 180.1911 (1), 220.02 (3), 220.04 (10), 220.06 (1), 220.285 (1), 220.285 (2), 421.202 (intro.), (1), (2), (3), (4), (5), (6), (7) and (8) and 428.101 (3); and *to create* 138.09 (4) (d), 138.09 (4) (e), 138.12 (5m), 180.1919 (1) (b) 2., 220.02 (2) (g) and 220.02 (2) (h) of the statutes; **relating to:** shareholders of service corporations that carry on the profession of certified public accounting ~~(suggested as remedial legislation by the Department of Financial Institutions)~~; authority of the Division of Banking over loan companies and insurance premium finance companies ~~(suggested as remedial legislation by the Department of Financial Institutions)~~; regulation of insurance premium finance companies, mortgage bankers, loan originators, and mortgage brokers; requirements applicable to consumer loans secured by

and

BILL

1 liens on residential real estate (suggested as remedial legislation by the
2 Department of Financial Institutions)

MOVE
to
next
page

INSERT 3A: Analysis by the Legislative Reference Bureau

Finally,
*** ANALYSIS FROM -1027/P1 ***
Current law contains conflicts regarding whether a person who is not a certified public accountant may be a shareholder of a service corporation that is organized for carrying on the profession of certified public accounting. One statute specifies that such a service corporation may be organized if more than 50 percent of the shareholders are certified public accountants. Another statute generally requires each shareholder, director, and officer of a service corporation to be licensed, certified, or registered by a state agency in the same field of endeavor. In addition, another statute requires a service corporation to convert to a business corporation if all shareholders cease at any one time to be licensed, certified, or registered in the same field of endeavor. This bill eliminates these conflicts. Under this bill, a service corporation may be organized for carrying on the profession of certified public accounting if more than 50 percent of the shareholders are certified public accountants. If such a service corporation ceases to satisfy this requirement, it must convert to a business corporation.

END OF INSERT 3A

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

***** ANALYSIS FROM -1420/1 *****

Under current law, certain loan companies and insurance premium finance companies are subject to regulation by the Division of Banking (division) in the Department of Financial Institutions. This bill makes the following changes to such regulation:

1. The bill specifies that each ground for the division to suspend or revoke the license of a loan company is a separate ground. Under current law, all of the grounds must be satisfied for the division to take such action.
2. The bill allows the division to require a loan company to pay the costs incurred by the division in investigating or taking disciplinary action against the loan company.
3. The bill allows the division to issue orders against loan companies and insurance premium finance companies to prevent or correct certain prohibited actions. Under current law, the division has similar authority regarding other entities regulated by the division.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

***** ANALYSIS FROM -1421/1 *****

Under current law, the Division of Banking (division) in the Department of Financial Institutions has regulatory authority over financial institutions, as well as certain loan companies, insurance premium finance companies, mortgage bankers, loan originators, and mortgage brokers. However, certain statutes under

Q: Also

BILL

current law that refer to the division's regulatory authority omit references to insurance premium finance companies, mortgage bankers, loan originators, and mortgage brokers. This bill inserts the omitted references.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

*** ANALYSIS FROM -3367/1 ***

Under current law, with certain exceptions, consumer loans for \$25,000 or less are subject to the Wisconsin Consumer Act (WCA). One exception applies to loans secured by first or subsequent liens on residential real property. If a consumer loan for \$25,000 or less is secured by a first lien, the loan is not subject to the WCA, but is subject to certain requirements regarding delinquency charges, notices, debt collection, and accounting. These requirements are referred to below as the "first lien requirements." If a consumer loan for \$25,000 or less is secured by a first or subsequent lien and the loan qualifies as a "high cost" loan, then the loan is not subject to the first lien requirements or the WCA. Instead, different requirements apply regarding payment and prepayment of the loan as well as certain disclosures that the lender must make. These requirements, which apply to loans of any amount, are referred to below as the "high cost requirements."

Thus, under current law, if a consumer loan for \$25,000 or less is subject to either the first lien or high cost requirements, the WCA does not apply to the loan. In addition, if the high cost requirements apply to a loan, the first lien requirements do not apply to the loan.

This bill changes the foregoing applicability requirements. Under this bill, if the first lien requirements apply to a loan for \$25,000 or less, then the WCA does not apply to the loan. However, if the high cost requirements apply to the loan, the loan is secured by a second or subsequent lien on residential real estate, and the loan is for \$25,000 or less, then the WCA also applies to the loan. In addition, a loan subject to the high cost requirements is not automatically exempt from the first lien requirements. Instead, if a loan that is subject to the high cost requirements is for \$25,000 or less, and the loan is secured by a first lien, then the first lien requirements also apply to the loan.

↓
INSERT
3A:
(see p. 2)

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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:

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

BILL

SECTION 1

1 *~~1420/1.1~~* **SECTION 1.** 138.09 (4) (a) (intro.) of the statutes is amended to read:

2 138.09 (4) (a) (intro.) The division for the purpose of discovering violations of
3 this chapter may cause an investigation to be made of the business of the licensee
4 transacted under this section, and shall cause an investigation to be made of
5 convictions reported to the division by any district attorney for violation by a licensee
6 of this chapter. The place of business, books of account, papers, records, safes and
7 vaults of said licensee shall be open to inspection and examination by the division
8 for the purpose of such investigation and the division may examine under oath all
9 persons whose testimony the division may require relative to said investigation. The
10 division may, upon notice to the licensee and reasonable opportunity to be heard,
11 suspend or revoke such license after such hearing if any of the following ~~apply~~: ^{applies}

12 *~~1420/1.2~~* **SECTION 2.** 138.09 (4) (a) 1. of the statutes is amended to read:

13 138.09 (4) (a) 1. The licensee has violated any provision of this chapter and if
14 the division determines such violation justifies the suspension or revocation of the
15 license;

16 *~~1420/1.3~~* **SECTION 3.** 138.09 (4) (a) 2. of the statutes is amended to read:

17 138.09 (4) (a) 2. Any fact or condition exists which, if it had existed at the time
18 of the original application for such license, would have warranted the division in
19 refusing to issue such license; ~~and~~

20 *~~1420/1.4~~* **SECTION 4.** 138.09 (4) (d) of the statutes is created to read:

21 138.09 (4) (d) The cost of any investigation, examination, or hearing, including
22 witness fees or any other expenses, conducted by the division under this section shall
23 be paid by the licensee so examined within 30 days after demand therefor by the
24 division, and the state may maintain an action for the recovery of such costs and
25 expenses.

BILL

1 ***-1420/1.5*** SECTION 5. 138.09 (4) (e) of the statutes is created to read:

2 138.09 (4) (e) 1. In this paragraph:

3 a. “General order” means an order of the division other than a special order.

4 b. “Special order” means an order of the division to or affecting a person.

5 2. The division may issue general or special orders necessary to prevent or
6 correct actions by a licensee that constitute cause under this chapter for revoking,
7 suspending, or restricting a license.

8 ***-1420/1.6*** SECTION 6. 138.12 (5m) of the statutes is created to read:

9 138.12 (5m) DISCIPLINARY ORDERS. The division may issue general orders, as
10 defined in s. 138.09 (4) (e) 1. a., or special orders, as defined in s. 138.09 (4) (e) 1. b.,
11 necessary to prevent or correct actions by an insurance premium finance company
12 that constitute cause under this section for revoking, suspending, or restricting a
13 license.

14 ***-1027/P1.1*** SECTION 7. 180.1911 (1) of the statutes is amended to read:

15 180.1911 (1) Except as provided in ~~s.~~ ss. 180.1903 (1m) and 180.1913, each
16 shareholder, director and officer of a service corporation must at all times be licensed,
17 certified or registered by a state agency in the same field of endeavor or be a health
18 care professional. An individual who is not so licensed, certified or registered may
19 not have any part in the ownership or control of the service corporation, except that
20 the nonparticipant spouse of a married individual has the rights of ownership
21 provided under ch. 766. A proxy to vote any shares of the service corporation may
22 not be given to a person who is not so licensed, certified or registered.

23 ***-1027/P1.2*** SECTION 8. 180.1919 (1) (b) of the statutes is renumbered
24 180.1919 (1) (b) 1. and amended to read:

BILL**SECTION 8**

1 180.1919 (1) (b) 1. If Except as provided in subd. 2., if all shareholders of a
2 service corporation cease at any one time and for any reason to be licensed, certified
3 or registered in the particular field of endeavor for which the service corporation was
4 organized, the service corporation is converted into and shall operate solely as a
5 business corporation under applicable provisions of this chapter, exclusive of ss.
6 180.1901 to 180.1921.

7 ***-1027/P1.3*** SECTION 9. 180.1919 (1) (b) 2. of the statutes is created to read:

8 180.1919 (1) (b) 2. If not more than 50 percent of the shareholders in a service
9 corporation described in s. 180.1903 (1m) at any one time are not certified public
10 accountants, the service corporation is converted into and shall operate solely as a
11 business corporation under applicable provisions of this chapter, exclusive of ss.
12 180.1901 to 180.1921.

13 ***-1421/1.1*** SECTION 10. 220.02 (2) (g) of the statutes is created to read:

14 220.02 (2) (g) Insurance premium finance companies under s. 138.12.

15 ***-1421/1.2*** SECTION 11. 220.02 (2) (h) of the statutes is created to read:

16 220.02 (2) (h) Mortgage bankers, loan originators, and mortgage brokers under
17 subch. III of ch. 224.

18 ***-1421/1.3*** SECTION 12. 220.02 (3) of the statutes is amended to read:

19 220.02 (3) It is the intent of sub. (2) to give the division jurisdiction to enforce
20 and carry out all laws relating to banks or banking in this state, including those
21 relating to state banks, savings banks, savings and loan associations, and trust
22 company banks, and also all laws relating to small loan companies or other loan
23 companies or agencies, finance companies, insurance premium finance companies,
24 motor vehicle dealers, adjustment service companies, community currency
25 exchanges, mortgage bankers, loan originators, mortgage brokers, and collection

BILL

1 agencies and those relating to sellers of checks under ch. 217, whether doing business
2 as corporations, individuals, or otherwise, but to exclude laws relating to credit
3 unions.

4 ***-1421/1.4* SECTION 13.** 220.04 (10) of the statutes is amended to read:

5 220.04 (10) If it appears to the division that a person has engaged or is about
6 to engage in an act or practice constituting a violation of the laws of this state relating
7 to banks and banking, including this chapter, chs. 217, 218 and 221 to 224 and ~~s. ss.~~
8 138.09 and 138.12, or a rule promulgated or order issued under those laws, the
9 division may bring an action in the name of the state in the circuit court of the
10 appropriate county to enjoin the acts or practices and to enforce compliance with the
11 laws, rules or orders, or the division may refer the matter to the district attorney of
12 the appropriate county or, if the alleged violation may be enforced by the attorney
13 general under sub. (12) or s. 220.12, 221.1005 or 224.06 (7) or is statewide in nature,
14 to the attorney general. Upon a proper showing, the court may grant a permanent
15 or temporary injunction or restraining order, appoint a receiver for the defendant or
16 the defendant's assets or order rescission of any acts determined to be unlawful. The
17 court may not require the division to post a bond.

18 ***-1421/1.5* SECTION 14.** 220.06 (1) of the statutes is amended to read:

19 220.06 (1) In this section, "licensee" means a person licensed by the division
20 under ch. 138, 217 or 218 or under s. 224.92 or registered by the division under s.
21 224.72.

22 ***-1421/1.6* SECTION 15.** 220.285 (1) of the statutes is amended to read:

23 220.285 (1) Any state bank, trust company bank, licensee under ss. 138.09,
24 138.12, 218.0101 to 218.0163, 218.02, 218.04 or 218.05 or ch. 217, or person
25 registered under s. 224.72 may cause any or all records kept by such bank ~~or~~ licensee,

BILL**SECTION 15**

1 or registered person to be recorded, copied or reproduced by any photostatic,
2 photographic or miniature photographic process or by optical imaging if the process
3 employed correctly, accurately and permanently copies, reproduces or forms a
4 medium for copying, reproducing or recording the original record on a film or other
5 durable material. A bank or licensee, or registered person may thereafter dispose
6 of the original record after first obtaining the written consent of the division. This
7 section, excepting that part of it which requires written consent of the division, is
8 applicable to national banking associations insofar as it does not contravene federal
9 law.

10 ***-1421/1.7*** SECTION 16. 220.285 (2) of the statutes is amended to read:

11 220.285 (2) Any photographic, photostatic or miniature photographic copy or
12 reproduction or copy reproduced from a film record or any copy of a record generated
13 from optical disk storage of a bank record or record of a licensee or registered person
14 is considered to be an original record for all purposes and shall be treated as an
15 original record in all courts or administrative agencies for the purpose of its
16 admissibility in evidence. A facsimile, exemplification or certified copy of any such
17 photographic copy or reproduction, copy reproduced from a film record or copy
18 generated from optical disk storage of a record shall, for all purposes, be considered
19 a facsimile, exemplification or certified copy of the original record.

20 ***-3367/1.1*** SECTION 17. 421.202 (intro.), (1), (2), (3), (4), (5), (6), (7) and (8) [✓]
21 the statutes are amended to read:

22 **421.202 Exclusions.** (intro.) [✓] Chapters 421 to 427 do not apply to any of the
23 following:

24 (1) Extensions of credit to organizations (s. 421.301 (28))₂.

25 (2) Transactions in which all parties are organizations (s. 421.301 (28))₂.

BILL

1 (3) Charges for delayed payment and any discount allowed for early payment
2 in transactions under public utility or common carrier tariffs if a subdivision or
3 agency of this state or of the United States regulates such charges or discounts, or
4 if such charges or discounts are made in connection with the furnishing of electric
5 service by an electric cooperative organized and operating on a nonprofit basis under
6 ch. 185;

7 (4) The ceilings on rates and charges of a licensed pawnbroker if these ceilings
8 are established by statute or ordinance;

9 (5) The sale of insurance by an insurer, except as otherwise provided in ch. 424;

10 (6) Consumer credit transactions in which the amount financed exceeds
11 \$25,000, motor vehicle consumer leases in which the total lease obligation exceeds
12 \$25,000 or other consumer transactions in which the cash price exceeds \$25,000;

13 (7) Transactions ~~subject to ch. 428;~~ secured by a first lien real estate mortgage
14 or equivalent security interest.

15 (8) Transactions in securities accounts or securities transactions by or with a
16 broker-dealer, as defined in s. 551.02 (3), licensed under ch. 551; or

17 ***-3367/1.2*** SECTION 18. 428.101 (3) of the statutes, as affected by 2003
18 Wisconsin Act 257, is amended to read:

19 428.101 (3) Loans made on or after November 1, 1981, by a creditor to a
20 customer and which are secured by a first lien real estate mortgage or equivalent
21 security interest if the amount financed is \$25,000 or less ~~and if the loan is not subject~~
22 ~~to subch. II.~~

23 ***-3367/1.3*** SECTION 19. **Initial applicability.**

24 (1) The treatment of section 421.202 (7) of the statutes first applies to
25 transactions entered into on the effective date of this subsection.

INSERT 9-23:
(See p. 10)

BILL

1 (2) The treatment of section 428.101 (3) of the statutes first applies to
2 transactions made on the effective date of this subsection.

3 ~~*-1420/1.7* SECTION 20. Initial applicability.~~

4 (1) The treatment of section 138.09 (4) (a) (intro.), 1., and 2. of the statutes first
5 applies to notices made by the division of banking on the effective date of this
6 subsection.

7 (2) The treatment of section 138.09 (4) (d) of the statutes first applies to costs
8 incurred on the effective date of this subsection.

9 (3) The treatment of sections 138.09 (4) (e) and 138.12 (5m) of the statutes first
10 applies to actions occurring on the effective date of this subsection.

11 ~~*-1421/1.8* SECTION 21. Initial applicability.~~

12 (1) The treatment of section 220.04 (10) of the statutes first applies to acts or
13 practices occurring on the effective date of this subsection.

14 ✓ (END)

END of INSERT 9-83

move
to
previous
pages
4 INSERT
9-83
5
6

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4581/1dn

MDK: ^:...

JLD

Rep. Hundertmark:

This bill consists of LRB-1027/P1, LRB-1420/1, LRB-1421/1, and LRB-3367/1. ✓

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4581/1dn
MDK:jld:pg

February 6, 2006

Rep. Hundertmark:

This bill consists of LRB-1027/P1, LRB-1420/1, LRB-1421/1, and LRB-3367/1.

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Kunkel, Mark

From: Rostan, Jason
Sent: Monday, February 13, 2006 11:08 AM
To: Kunkel, Mark
Subject: Final Changes for LRB 4581

These are the final changes that are needed for LRB 4581. This is just the written form of my voice mail message.

You can disregard all other emails on LRB 4581.

From: Rostan, Jason
Sent: Thursday, February 09, 2006 4:53 PM
To: Kunkel, Mark
Subject: LRB 4581

Hi Mark,

These are most of the changes we need to have made to LRB 4581. I'm waiting on word for one more. We are still working the language out with DFI. I will forward that to you on Monday. I thought it might be easier if you at least had these changes to work on. Thanks for your help.

- Add: 138.056(4) (c)
(b) 138.056(4)(a) and (b) do not apply to any junior liens including any equivalent security interest.
- Amend: 138.056(4)(a)1 & 2
138.056(4)(a)1.
 1. At least ~~30~~ 15 days before the change if an increase in periodic payments other than the final payment is required.
- 138.056(4)(a)2.
 2. Not later than ~~15~~ 30 days after any other change.
- Eliminate: Section 5 of the draft
- Page 9, line 15: delete 138.09(4)(e)

Jason Rostan
Research Assistant
Rep. Jean Hundertmark
40th Assembly District