

**2011 DRAFTING REQUEST**

**Assembly Amendment (AA-AB40)**

Received: **05/13/2011**

Received By: **agary**

Wanted: **As time permits**

Companion to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Moran**

May Contact:

Drafter: **agary**

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

Addl. Drafters:

Extra Copies: **PJK**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to: **aaron.gary@legis.wisconsin.gov**

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**Pre Topic:**

LFB:.....Moran, Motion 169 -

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**Topic:**

Changes to regulations of financial institutions and foreclosures of residential rental property

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**Instructions:**

See attached

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**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>
/?							
/1	agary 05/17/2011	kfollett 05/20/2011	rschluet 05/20/2011	_____	mbarman 05/20/2011		

FE Sent For:

<END>

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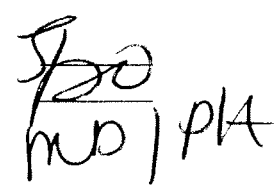
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See attached

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/?	agary	11/5f 5/20					

FE Sent For:

<END>

CHANGES TO REGULATIONS OF FINANCIAL INSTITUTIONS AND  
FORECLOSURES OF RESIDENTIAL RENTAL PROPERTY

Motion:

Move to make the following changes to provisions governing financial institutions and required notifications from a landlord to tenants in a foreclosure action:

**1. Conversion of a Credit Union to a Savings Bank or Bank**

Provide that a credit union may convert to a mutual or capital stock savings bank (including in a mutual holding company structure), or a bank organized under state law in the following manner:

*Statutes Governing Credit Unions*

Provide the following definitions under these provisions: (a) a savings bank is a financial institution organized as a savings bank under state law in either mutual or stock form; and (b) a commercial bank is a financial institution organized as a bank under state law.

Require that the proposition for a conversion must first be approved by a majority recommendation of the directors of the credit union. Specify that the directors must, by a majority vote of the directors, set a date for a meeting of the credit union members to vote on the conversion. Provide that the credit union members may also vote by written ballot to be filed on or before the meeting date. Require that written notice specifying the purpose and subject matter of the meeting, and the date that is set for the meeting and for voting by submission of a written ballot, must be sent to each member eligible to vote at the member's address appearing on the records of the credit union. Specify that the notice must be sent to each credit union member not more than 90 days nor less than 30 days before the date of the meeting to vote on the conversion, and the notice must be accompanied by a written ballot. Require that the ballot must: (a) permit the member to vote for or against the proposal; (b) clearly inform the member that the member may vote at the meeting or by submitting the written ballot; and (c) state the date, time, and place of the meeting. Specify that approval of the proposition for conversion must be by an affirmative vote, in person or in writing, of a majority of the credit union members voting either at the meeting or by written ballot.

Require that a credit union that proposes to convert to a savings bank or bank must file a notice of its intent to convert with the Office of Credit Unions (OCU), and within ten days after the member vote on the conversion, must file a statement of the results of the member vote. Require the OCU to verify the credit union member vote to approve the proposition for conversion if the members vote to approve the proposition for conversion.

Require that, upon approval by the credit union members of the proposition for conversion, the credit union must take all necessary action as required under state laws governing savings banks and state banks to complete the conversion. Specify that the credit union must file a copy of the certificate with the OCU within 90 days following receipt from the Division of Banking of a certificate of incorporation as a savings bank or bank, and require that the Office must issue to the converting credit union a certificate of conversion to a savings bank or bank.

Require that, upon conversion, the credit union must cease to be a credit union and must: (a) be a savings bank or commercial bank; (b) no longer be subject to laws governing credit unions; (c) be subject to laws governing savings banks in the case of a savings bank or laws governing state banks in the case of a bank; and (d) be subject to all other provisions of law governing savings banks or banks, as the case may be. Specify that, upon conversion, the legal existence of the savings bank or bank must be a continuation of the credit union, and specify that all property and every right, privilege, interest, and asset of the credit union immediately vests in the savings bank without a conveyance, transfer, or further act of the savings bank. Require that the resulting savings bank or bank must succeed to, and be vested with, all the rights, assets, obligations, and relations of the credit union. Specify that all actions and other judicial proceedings to which the credit union is a party may be prosecuted and defended to the same extent as though the conversion had not taken place.

Specify that, in connection with a conversion into a capital stock savings bank or a bank, the former credit union may choose to distribute shares of the capital stock of the savings bank or bank and/or cash to the former members of the credit union in recognition of their ownership of the equity of the former credit union.

Specify that no director or senior management official of a credit union may receive any economic benefit in connection with a conversion of the credit union to a savings bank or bank, except that a director or senior management official may receive director fees, as well as compensation and other benefits paid to directors and senior management officials of the converted savings bank or bank in the ordinary course of business. Define a "senior management official" to mean a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer as defined by the appropriate banking agency as directed under federal law.

#### *Statutes Governing Savings Banks*

Modify the statutes governing savings banks to specify that a credit union may become a savings bank or bank by doing all of the following:

- a. Applying to the Division of Banking for authority to organize as a savings bank and satisfying all the requirements for organizing as a savings bank or bank;
- b. Satisfying all of the above conversion requirements for conversion to a savings bank or bank; and

c. Recording the savings bank's or bank's articles of incorporation in the county in which its home office is located.

## **2. Permitted Methods of Calculating Interest on Loans**

Specify that interest on any note, bond, or other instrument computed on the declining unpaid principal balance from time to time outstanding may be computed and charged on actual unpaid balances at 1/360 of the annual rate for the actual number of days outstanding if the use of this calculation method is disclosed in the note, bond, or other instrument. Specify that this provision does not apply to pawnbrokers' loans. Specify that this provision first applies, retroactively, to all existing notes, bonds, or other instruments, regardless of their origination date.

## **3. Responsible High Cost Mortgage Lending**

Provide that any state chartered bank, trust company, savings and loan association, savings bank, or credit union, or any subsidiary thereof, is exempt from state laws governing responsible high cost mortgage lending, regardless of whether or not federal law preempts or prohibits the application of those provisions to a federally chartered institution of the same type. Specify that this exemption would apply to both state and federally chartered institutions.

## **4. Tenant Protections in Foreclosure Actions**

Repeal sections 704.35 and 846.35 of the statutes related to tenant protections in foreclosure actions.

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Note:

### **1. Conversion of a Credit Union to a Savings Bank or Bank**

Under current law, a credit union is permitted to convert to a federal credit union, but is not permitted to convert directly from a credit union to a savings bank or a bank. The motion creates specific criteria to permit a credit union to convert directly from a credit union to either a savings bank or bank. The motion specifies regulations regarding credit union member voting rights prior to conversion to a savings bank or bank from a credit union. The motion would also provide certain restrictions on compensation to directors and senior management officials of a credit union that

converts to a savings bank or bank.

According to the Department of Financial Institutions (DFI), state chartered credit unions that wish to convert to a savings bank or bank can accomplish this transition under current law by first converting to a national credit union, then converting from a national credit union to a savings bank or bank, and either choosing to remain a federally chartered savings bank or bank or converting to a state savings bank or bank.

## **2. Permitted Methods of Calculating Interest on Loans**

According to the Legislative Reference Bureau (LRB), under current law, in calculating interest in consumer credit transactions, including those entered into by licensed lenders, a day may be considered 1/30 of a month. Over a 12-month period, use of this method would equate to permitting each day to be calculated as 1/360 of a year. According to the LRB, no provisions under current state law govern what method of calculating interest must be used for other notes, bonds, or instruments that are not consumer credit transactions. The motion would permit interest to be calculated using 1/360 of the annual rate for other types of loans, such as mortgage loans, provided that use of this method is disclosed on the note, bond, or other instrument. The motion does not specify how this calculation method must be disclosed.

In calculating the rate of interest based on 1/360 of the annual rate per day, interest is calculated using a method that takes this annual rate, multiplied by 365, and divided by 360. As compared to interest using a standard 365/365 interest calculation method, for example, if a person were to have a \$1,000 loan with a simple annual interest rate of 10%, interest of \$100.00 would accrue after one year. If the 365/360 method were used to calculate interest on the same loan, \$101.39 would accrue. The use of the 365/360 interest formula as opposed to the 365/365 day formula increases the effective annual interest rate from 10.00% to 10.14%. The motion would statutorily permit this method for calculating interest on all notes, bonds, and other instruments, other than pawnbrokers' loans.

The motion would retroactively apply to all existing notes, bonds, and other instruments, regardless of their origination date. According to the LRB, and as noted prior, current law neither expressly permits nor prohibits the use of interest calculated at a rate of 1/360 per day for these notes, bonds, and other instruments that are not consumer credit transactions.

## **3. Responsible High Cost Mortgage Lending**

Current law imposes certain regulations for responsible high cost mortgage lending on covered loans. Covered loans are generally consumer credit mortgage loan transactions, other than an open end credit plan or reverse mortgage, in which the customer is a natural person and the loan is secured by a mortgage on a residential real property occupied as the customer's principal dwelling. These regulations include certain prohibitions and requirements for lenders and assignees making covered loans, such as restrictions on balloon payments, call provisions, negative amortization, prepayment provisions, and advanced payments. In addition, current law specifies

certain disclosure requirements. According to DFI, these laws generally apply to mortgage bankers and mortgage brokers.

Under current law, the regulations for responsible high cost mortgage lending on covered loans do not apply to any state chartered bank, trust company, savings and loan association, savings bank, or credit union, or to any subsidiary thereof, to the extent that federal law preempts or prohibits the application of these provisions to a federally chartered institution of the same type. According to the DFI, federal law preempts and prohibits the application of these provisions to federally chartered institutions and, as a result, these regulations do not apply to any similarly chartered state institution.

Under the motion, any state or federally chartered bank, trust company, savings and loan association, savings bank, or credit union, and any subsidiary thereof, would be exempt from state laws governing responsible high cost mortgage lending. The motion would not change DFI's application of current law. It should be noted that under the motion, as compared to current law, if the applicable federal law were repealed or altered to permit states to similarly regulate state and federally chartered financial institutions, regulations governing responsible high cost mortgage lending for covered loans that are generally applicable to mortgage bankers and mortgage brokers would not apply to either state or federally chartered financial institutions.

#### **4. Tenant Protections in Foreclosure Actions**

Sections 704.35 and 846.35 were created under 2009 Act 2, providing a variety of protections to tenants of residential rental properties. Under the current provisions:

##### *Prospective Tenants*

*Notice.* If a foreclosure action has been commenced against a residential rental property, during the pendency of the action and before the expiration of the redemption period (the time period when the owner may redeem the property), the owner of the property must notify any prospective tenant in writing all of the following: (a) that a foreclosure action has been commenced against the rental property; and (b) if judgment has been entered, the date on which the redemption period expires.

*Rental Agreement/Tenant Protections.* Any rental agreement entered into between the property owner and a tenant during the pendency of the foreclosure action and before the expiration of the redemption period must include a separate written statement, signed by the tenant, that the owner has provided written notice of the foreclosure action. A rental agreement that does not include the statement signed by the tenant is voidable at the option of the tenant. The tenant protections that apply to current tenants (described below) apply to tenants who enter a rental agreement during a foreclosure action.

### *Current Tenants*

*Notice.* If a residential rental property is subject to a foreclosure action, the plaintiff must provide the following notices at the following times to tenants in possession of each rental unit when notice is given:

a. No later than five days after foreclosure action is filed, notice that the plaintiff has commenced a foreclosure action with respect to the rental property.

b. No later than five days after the judgment of foreclosure is entered, notice that the plaintiff has been granted a judgment of foreclosure with respect to the rental property and notice of the date on which the redemption period ends.

c. When the confirmation of sale hearing has been scheduled, notice of the date and time of the hearing.

The above notices may be given by personal service (as provided under s. 801.11(1)) or by certified mail with return receipt requested. Notice given by certified mail is considered completed when it is mailed, unless the envelope enclosing the notice is returned unopened to the plaintiff. All notices given by certified mail must be mailed in envelopes upon which the plaintiff's, or the plaintiff's attorney's, return address appears, with a request to return to that address.

*Possession of Premises/Withholding Rent/Penalties.* If a tenancy is terminated as a result of a foreclosure judgment and sale with respect to the rental property, all the following apply to the tenant:

a. The tenant may retain possession of the rental unit for up to two months after the end of the month in which the sale of the property is confirmed. A tenant who retains possession of the rental unit after the sale of the property is confirmed must pay rent for the period during which the tenant retains possession at the same rent that applied immediately before the sale confirmation, subject to b. below.

b. The tenant may withhold rent in an amount equal to the security deposit during the last period the tenant actually retains possession of the rental unit, regardless of whether the tenant retains possession after the sale of the property is confirmed.

c. The tenant's right to retain possession of the rental unit expires at the end of the month for which the tenant withholds rent.

No writ of assistance or writ of restitution for removal of a tenant whose tenancy is terminated as a result of a foreclosure judgment and sale may be executed before the end of the second month beginning after the month in which the sale of the property is confirmed, unless the tenant has waived in writing the right to retain possession. Further, in an action for foreclosure of residential real property, the complaint may not name a tenant as a defendant unless the tenant has a



lien or ownership interest in the real property.

If the plaintiff fails to provide required notice, or prohibitively names a tenant in a complaint, the court must award the tenant to whom notice should have been given or should not have been named as a defendant \$250 in damages, plus reasonable attorney fees. A tenant may not recover for more than one notice violation.

This motion would delete these provisions.



In  
5/17



LRBb0821/1  
ARG:....kif  
alt

LFB:.....Moran, Motion 169 - Changes to regulations of financial institutions  
and foreclosures of residential rental property

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION  
ASSEMBLY AMENDMENT,  
TO 2011 ASSEMBLY BILL 40**

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

2 *se*  
3 INSERT F *here*

4 *se*  
5 1. Page 1032, line 17: after that line insert:

6 INSERT A *here*

7 *not* (a) In this subsection:

8 1. "Savings bank" has the meaning given in s. 214.01 (1) (t) and includes a  
9 mutual savings bank and a stock savings bank as well as a savings bank that is a  
10 subsidiary of, or is otherwise controlled by, a savings bank holding company.

11 2. "Savings bank holding company" has the meaning given in s. 214.01 (1) (tm).

1 3. "State bank" means a bank organized under ch. 221. ✓

2 (b) no P

3 INSERT B here

4 g

5 (g) Upon conversion of a credit union into a stock savings bank or state bank,  
6 the stock savings bank or state bank may distribute shares of the capital stock of the  
7 stock savings bank or state bank, or may distribute cash, or both, to the former  
8 members of the converted credit union in recognition of their ownership of the equity  
9 of the converted credit union.

10 g

11 INSERT C here

12 g

13 2. Page 1034, line 25: after that line insert: ✓

14 INSERT D here

15 g

16 3. Page 1035, line 7: after that line insert: ✓

17 INSERT E here

18 g

19 4. Page 1037, line 4: after that line insert: ✓

20 "SECTION 2724m. 221.0219 of the statutes is created to read: ✓

21 221.0219 Conversion of a credit union to a state bank. A credit union  
22 under ch. 186 may become a state bank under this chapter by doing all of the  
23 following: ✓

1 (1) Applying to the division of banking for authority to organize as a bank  
2 under this chapter and satisfying all requirements under this chapter for organizing  
3 as a bank.

4 (2) Satisfying all requirements under s. 186.314 (2m) for conversion to a state  
5 bank.

6 (3) Recording the bank's articles of incorporation in the county in which its  
7 home office is located."

8

9 5. Page 1162, line 14: after that line insert:

10 INSERT H here

11  
12 6. Page 1252, line 14: after that line insert:

13 "SECTION 3474m. 704.35 of the statutes is repealed."

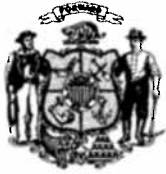
14 7. Page 1257, line 4: after that line insert:

15 "SECTION 3492m. 846.35 of the statutes is repealed."

16  
17 INSERT G here

18  
19 #. Page 1337, line 14: after that line insert:

20 (END)  
INSERT I



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO 2011 ASSEMBLY BILL 40

**INSERT**

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

2 1. Page 1015, line 20: after that line insert:

3 "SECTION 2637m. 138.045 of the statutes is created to read:

4 **138.045 Method of calculating interest.** Interest on any note, bond, or  
5 other instrument computed on the declining unpaid principal balance from time to  
6 time outstanding may be computed and charged on actual unpaid balances at 1/360  
7 of the annual rate for the actual number of days outstanding if the use of this  
8 calculation method is disclosed in the note, bond, or other instrument. This section  
9 does not apply to pawnbrokers' loans under s. 138.10."

10 2. Page 1330, line 19: after that line insert:

Insert  
F

Insert  
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cont'd  
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*ef*  
“(1c) METHOD OF CALCULATING INTEREST. The treatment of section 138.045 of the statutes first applies, retroactively, to all existing notes, bonds, or other instruments, regardless of their origination date.” ✓

(END)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

~~INSERTS~~

1 AN ACT *to renumber* 186.314 (intro.) (except 186.314 (title)), 186.314 (1) to (4),  
2 214.66 (intro.) (except 214.66 (title)) and 214.66 (1) to (7); *to amend* 214.40 (3);  
3 and *to create* 186.314 (1m) (title), 186.314 (2m), 214.66 (1m) (title) and 214.66  
4 (2) of the statutes; **relating to:** the conversion of credit unions to mutual  
5 savings banks.

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***Analysis by the Legislative Reference Bureau***

Current law provides procedures for the organizational conversion of certain financial institutions, including the conversion of state savings and loan associations into state savings banks, mutual savings banks into stock savings banks, and state credit unions into federal credit unions.

This bill allows state credit unions to convert to mutual savings banks if certain requirements are met. The credit union must follow certain procedural requirements related to voting for the conversion, and a majority of credit union members who vote must vote to approve the conversion. If the credit union members vote to approve the conversion, the Office of Credit Unions (OCU) attached to the Department of Financial Institutions must verify the vote and the credit union must take all necessary action to complete the conversion to a mutual savings bank. After receiving a certificate of incorporation as a mutual savings bank, the credit union must file a copy of the certificate with OCU, and OCU must issue a certificate of conversion if OCU determines that the conversion complies with applicable law. The date specified in the certificate of conversion is the effective date of the conversion.

Upon conversion, the credit union ceases to be a credit union and becomes a mutual savings bank, but all assets, rights, and obligations of the credit union immediately vest in the mutual savings bank to the same extent as if the conversion had not taken place.

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

<sup>2707d</sup>  
" SECTION 1. 186.314 (intro.) (except 186.314 (title)) of the statutes is renumbered 186.314 (1m) (intro.).

<sup>2707e</sup>  
SECTION 2. 186.314 (1) to (4) of the statutes are renumbered 186.314 (1m) (a) to (d).

<sup>2707f</sup>  
SECTION 3. 186.314 (1m) (title) of the statutes is created to read:  
186.314 (1m) (title) TO FEDERAL CREDIT UNION.

<sup>2707g</sup>  
SECTION 4. 186.314 (2m) of the statutes is created to read:

186.314 (2m) TO MUTUAL SAVINGS BANK <sup>or state bank</sup> (a) A credit union may convert to a mutual savings bank by complying with pars. (b) <sup>or state bank</sup> (c) to (e).

<sup>30</sup> (c) ~~(b)~~ The proposition for a conversion shall first be approved by a majority recommendation of the directors of the credit union. The directors shall, by a majority vote of the directors, set a date for a meeting of credit union members to vote on the conversion. Credit union members may also vote by written ballot to be filed on or before the meeting date. Written notice specifying the purpose and subject matter of the meeting and the date that is set for the meeting and for voting by submission of a written ballot shall be sent to each member eligible to vote at the member's address appearing on the records of the credit union. This notice shall be sent to each credit union member <sup>30</sup> 3 times, once not more than <sup>90</sup> 90 days nor less than 90 days before the date of the meeting to vote on the conversion, ~~once not more than 65 days nor less than 60 days before the date of the meeting to vote on the conversion.~~

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*the ballot shall permit the member to vote for  
& against the proposal,*

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1 ~~and once not more than 35 days nor less than 30 days before the date of the meeting~~

2 to vote on the conversion. The 3rd such notice <sup>and</sup> shall be accompanied by a written

3 ballot <sup>and</sup> shall clearly inform the member that the member may vote at the meeting or

4 by submitting the written ballot, and shall state the <sup>date,</sup> time, and place of the meeting

5 ~~in addition to the date of the meeting.~~ Approval of the proposition for conversion

6 shall be by affirmative vote, in person or in writing, of a majority of the credit union

7 members voting at the meeting or by written ballot.

8 (d) ~~the~~ A credit union that proposes to convert to a <sup>or state bank</sup> mutual savings bank under this

9 subsection shall file with the office of credit unions a notice of its intent to convert

10 and, within 10 days after the member vote on the conversion under par. <sup>(c)</sup> ~~(a)~~ a

11 statement of the results of the member vote. If the credit union members vote to

12 approve the proposition for conversion, the member vote shall be verified by the office

13 of credit unions and, if the office of credit unions disapproves of the methods or

14 ~~procedures used in relation to that member vote, the member vote shall be taken~~

15 ~~again in the manner directed by the office of credit unions and consistent with the~~

16 ~~requirements under par. (b).~~

17 (e) ~~(d)~~ Upon approval by the credit union members of the proposition for

18 conversion under par. <sup>(c)</sup> ~~(a)~~ the credit union shall take all necessary action under ch.

19 214 <sup>or 221</sup> to complete the conversion to a <sup>or state bank</sup> mutual savings bank. Within ~~10~~ <sup>90</sup> days after

20 receipt from the division of banking of a certificate of incorporation as a ~~mutual~~

21 <sup>or state bank</sup> savings bank the credit union shall file a copy of the certificate with the office of

22 credit unions. <sup>and the</sup> The office of credit unions shall issue to a converting credit union a

23 certificate of conversion to a <sup>e</sup> mutual savings bank <sup>or state bank</sup> ~~if the office determines that the~~

24 ~~conversion complies with this subsection and all requirements under ch. 214. The~~

25 ~~date specified in the certificate of conversion is the effective date of the conversion.~~

(f) ~~to~~ Upon conversion, the credit union shall cease to be a credit union, shall be a <sup>e</sup>mutual savings bank <sup>or state bank</sup> shall no longer be subject to this chapter, and shall be subject to ch. 214 <sup>or 221</sup> and all other provisions of law governing <sup>e</sup>mutual savings banks <sup>or state banks</sup>. Upon conversion, the legal existence of the <sup>e</sup>mutual savings bank <sup>or state bank</sup> shall be a continuation of the credit union, and all property and every right, privilege, interest, and asset of the credit union immediately, without any conveyance, transfer, or further act of the <sup>e</sup>mutual savings bank <sup>or state bank</sup> vests in the <sup>e</sup>mutual savings bank <sup>or state bank</sup>. The resulting <sup>e</sup>mutual savings bank <sup>or state bank</sup> shall succeed to and be vested with all the rights, assets, obligations, and relations of the credit union, and all actions and other judicial proceedings to which the credit union is a party may be prosecuted and defended, to the same extent as though the conversion had not taken place.

(h) ~~to~~ 1. In this paragraph, "senior management official" means a chief executive officer, an assistant chief executive officer, a chief financial officer, and any other senior executive officer as defined by the appropriate federal banking agency as directed under 12 USC 1831i (f).

2. No director or senior management official of a credit union may receive any economic benefit in connection with a conversion of the credit union to a <sup>e</sup>mutual savings bank <sup>or state bank</sup> except that a director or senior management official may receive director fees as well as compensation and other benefits paid to directors and senior management officials of the converted <sup>e</sup>mutual savings bank <sup>or state bank</sup> in the ordinary course of business. " 2718m

" SECTION 5. 214.40 (3) of the statutes is amended to read:

214.40 (3) A stock financial institution seeking to convert to a savings bank under s. 214.66 (1m) shall, before declaring a dividend on its capital stock, transfer

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not less than 50% of its net profits of the preceding half year to its paid-in surplus until it has paid-in surplus equal to 20% of capital stock. "

SECTION 6. 214.66 (intro.) (except 214.66 (title)) of the statutes is renumbered 214.66 (1m) (intro.).

SECTION 7. 214.66 (1) to (7) of the statutes are renumbered 214.66 (1m) (a) to (g).

SECTION 8. 214.66 (1m) (title) of the statutes is created to read:  
214.66 (1m) (title) FROM SAVINGS AND LOAN ASSOCIATION OR FEDERAL SAVINGS BANK.

SECTION 9. 214.66 (2) of the statutes is created to read:  
214.66 (2) FROM CREDIT UNION. A credit union under ch. 186 may become a

mutual savings bank by doing all of the following:

(a) Applying to the division for authority to organize as a mutual savings bank and satisfying all requirements under this chapter for organizing as a mutual savings bank.

(b) Satisfying all requirements under s. 186.314 (2m) for conversion to a mutual savings bank.

(c) Recording the mutual savings bank's articles of incorporation in the county in which its home office is located.

(END)

**INSERT**

securing the loan. A "covered loan" also does not include an open-end credit plan or reverse mortgage transaction. The restrictions and limitations on covered loans also do not apply with respect to state banks and other state-chartered financial institutions to the extent that federal law preempts or prohibits their application to national banks and other federally chartered financial institutions.

The bill specifies that the statutory restrictions and limitations on covered loans do not apply to banks, trust companies, savings and loan associations, savings banks, and credit unions, and to their subsidiaries.

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

" SECTION 1. <sup>3194m</sup> 428.211 of the statutes is amended to read:

**428.211 Parity Exemption for federally insured depository institutions.** This subchapter does not apply to any ~~state chartered~~ bank, trust company, savings and loan association, savings bank, or credit union, or to any subsidiary of <sup>such</sup> a ~~state chartered~~ bank, trust company, savings and loan association, savings bank, or credit union, to the extent that federal law preempts or prohibits the application of the provisions of this subchapter to a federally chartered bank, trust company, savings and loan association, savings bank, or credit union of the same type. "

(END)

or federally chartered

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**INSEKT**

statements regarding the notice of foreclosure, and eliminates the right of a tenant to retain possession of his or her rental unit after the confirmation of the sale of foreclosed rental property.

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

1 SECTION 1. 704.35 of the statutes is repealed.

2 SECTION 2. 846.35 of the statutes is repealed.

3 SECTION 9355. Initial applicability; Other.

4 (1) TENANT PROTECTIONS IN FORECLOSURE. The treatment of sections 704.35 (3)

5 and 846.35 of the statutes first applies to foreclosure actions that are commenced on  
6 the effective date of this subsection.

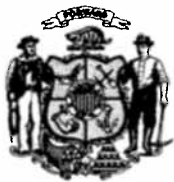
7 (2) RENTAL AGREEMENTS REGARDING FORECLOSURE. The treatment of section

8 704.35 (2) of the statutes first applies to rental agreements that are entered into on  
9 the effective date of this subsection.

10 (END)

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State of Wisconsin  
2011 - 2012 LEGISLATURE



LRBb0821/1  
ARG:kjf:rs

LFB:.....Moran, Motion 169 - Changes to regulations of financial institutions  
and foreclosures of residential rental property

**FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION**

**ASSEMBLY AMENDMENT ,**

**TO 2011 ASSEMBLY BILL 40**

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

2 **1.** Page 1015, line 20: after that line insert:

3 “SECTION 2637m. 138.045 of the statutes is created to read:

4 **138.045 Method of calculating interest.** Interest on any note, bond, or  
5 other instrument computed on the declining unpaid principal balance from time to  
6 time outstanding may be computed and charged on actual unpaid balances at 1/360  
7 of the annual rate for the actual number of days outstanding if the use of this  
8 calculation method is disclosed in the note, bond, or other instrument. This section  
9 does not apply to pawnbrokers’ loans under s. 138.10.”.

10 **2.** Page 1032, line 17: after that line insert:

1           **SECTION 2707d.** 186.314 (intro.) (except 186.314 (title)) of the statutes is  
2           renumbered 186.314 (1m) (intro.).

3           **SECTION 2707e.** 186.314 (1) to (4) of the statutes are renumbered 186.314 (1m)  
4           (a) to (d).

5           **SECTION 2707f.** 186.314 (1m) (title) of the statutes is created to read:

6           186.314 (1m) (title) TO FEDERAL CREDIT UNION.

7           **SECTION 2707g.** 186.314 (2m) of the statutes is created to read:

8           186.314 (2m) TO SAVINGS BANK OR STATE BANK. (a) In this subsection:

9           1. "Savings bank" has the meaning given in s. 214.01 (1) (t) and includes a  
10           mutual savings bank and a stock savings bank as well as a savings bank that is a  
11           subsidiary of, or is otherwise controlled by, a savings bank holding company.

12           2. "Savings bank holding company" has the meaning given in s. 214.01 (1) (tm).

13           3. "State bank" means a bank organized under ch. 221.

14           (b) A credit union may convert to a savings bank or state bank by complying  
15           with pars. (c) to (e).

16           (c) The proposition for a conversion shall first be approved by a majority  
17           recommendation of the directors of the credit union. The directors shall, by a  
18           majority vote of the directors, set a date for a meeting of credit union members to vote  
19           on the conversion. Credit union members may also vote by written ballot to be filed  
20           on or before the meeting date. Written notice specifying the purpose and subject  
21           matter of the meeting and the date that is set for the meeting and for voting by  
22           submission of a written ballot shall be sent to each member eligible to vote at the  
23           member's address appearing on the records of the credit union. This notice shall be  
24           sent to each credit union member not more than 90 days nor less than 30 days before  
25           the date of the meeting to vote on the conversion and shall be accompanied by a

1 written ballot. The ballot shall permit the member to vote for or against the proposal,  
2 shall clearly inform the member that the member may vote at the meeting or by  
3 submitting the written ballot, and shall state the date, time, and place of the  
4 meeting. Approval of the proposition for conversion shall be by affirmative vote, in  
5 person or in writing, of a majority of the credit union members voting at the meeting  
6 or by written ballot.

7 (d) A credit union that proposes to convert to a savings bank or state bank under  
8 this subsection shall file with the office of credit unions a notice of its intent to convert  
9 and, within 10 days after the member vote on the conversion under par. (c), a  
10 statement of the results of the member vote. If the credit union members vote to  
11 approve the proposition for conversion, the member vote shall be verified by the office  
12 of credit unions.

13 (e) Upon approval by the credit union members of the proposition for  
14 conversion under par. (c), the credit union shall take all necessary action under ch.  
15 214 or 221 to complete the conversion to a savings bank or state bank. Within 90 days  
16 after receipt from the division of banking of a certificate of incorporation as a savings  
17 bank or state bank, the credit union shall file a copy of the certificate with the office  
18 of credit unions and the office of credit unions shall issue to a converting credit union  
19 a certificate of conversion to a savings bank or state bank.

20 (f) Upon conversion, the credit union shall cease to be a credit union, shall be  
21 a savings bank or state bank, shall no longer be subject to this chapter, and shall be  
22 subject to ch. 214 or 221 and all other provisions of law governing savings banks or  
23 state banks. Upon conversion, the legal existence of the savings bank or state bank  
24 shall be a continuation of the credit union, and all property and every right, privilege,  
25 interest, and asset of the credit union immediately, without any conveyance,



1 transfer, or further act of the savings bank or state bank, vests in the savings bank  
2 or state bank. The resulting savings bank or state bank shall succeed to and be  
3 vested with all the rights, assets, obligations, and relations of the credit union, and  
4 all actions and other judicial proceedings to which the credit union is a party may be  
5 prosecuted and defended, to the same extent as though the conversion had not taken  
6 place.

7 (g) Upon conversion of a credit union into a stock savings bank or state bank,  
8 the stock savings bank or state bank may distribute shares of the capital stock of the  
9 stock savings bank or state bank, or may distribute cash, or both, to the former  
10 members of the converted credit union in recognition of their ownership of the equity  
11 of the converted credit union.

12 (h) 1. In this paragraph, "senior management official" means a chief executive  
13 officer, an assistant chief executive officer, a chief financial officer, and any other  
14 senior executive officer as defined by the appropriate federal banking agency as  
15 directed under 12 USC 1831i (f).

16 2. No director or senior management official of a credit union may receive any  
17 economic benefit in connection with a conversion of the credit union to a savings bank  
18 or state bank except that a director or senior management official may receive  
19 director fees as well as compensation and other benefits paid to directors and senior  
20 management officials of the converted savings bank or state bank in the ordinary  
21 course of business."

22 **3.** Page 1034, line 25: after that line insert:

23 "**SECTION 2718m.** 214.40 (3) of the statutes is amended to read:

1           214.40 (3) A stock financial institution seeking to convert to a savings bank  
2 under s. 214.66 (1m) shall, before declaring a dividend on its capital stock, transfer  
3 not less than 50% of its net profits of the preceding half year to its paid-in surplus  
4 until it has paid-in surplus equal to 20% of capital stock.”.

5           **4.** Page 1035, line 7: after that line insert:

6           “**SECTION 2719d.** 214.66 (intro.) (except 214.66 (title)) of the statutes is  
7 renumbered 214.66 (1m) (intro.).

8           **SECTION 2719e.** 214.66 (1) to (7) of the statutes are renumbered 214.66 (1m)  
9 (a) to (g).

10          **SECTION 2719f.** 214.66 (1m) (title) of the statutes is created to read:

11          214.66 (1m) (title) FROM SAVINGS AND LOAN ASSOCIATION OR FEDERAL SAVINGS BANK.

12          **SECTION 2719g.** 214.66 (2) of the statutes is created to read:

13          214.66 (2) FROM CREDIT UNION. A credit union under ch. 186 may become a  
14 savings bank by doing all of the following:

15           (a) Applying to the division for authority to organize as a savings bank and  
16 satisfying all requirements under this chapter for organizing as a savings bank.

17           (b) Satisfying all requirements under s. 186.314 (2m) for conversion to a  
18 savings bank.

19           (c) Recording the savings bank’s articles of incorporation in the county in which  
20 its home office is located.”.

21          **5.** Page 1037, line 4: after that line insert:

22          “**SECTION 2724m.** 221.0219 of the statutes is created to read:

1           **221.0219 Conversion of a credit union to a state bank.** A credit union  
2 under ch. 186 may become a state bank under this chapter by doing all of the  
3 following:

4           (1) Applying to the division of banking for authority to organize as a bank  
5 under this chapter and satisfying all requirements under this chapter for organizing  
6 as a bank.

7           (2) Satisfying all requirements under s. 186.314 (2m) for conversion to a state  
8 bank.

9           (3) Recording the bank's articles of incorporation in the county in which its  
10 home office is located.”.

11           **6.** Page 1162, line 14: after that line insert:

12           “**SECTION 3194m.** 428.211 of the statutes is amended to read:

13           **428.211 Parity Exemption for federally insured depository**  
14 **institutions.** This subchapter does not apply to any state chartered or federally  
15 chartered bank, trust company, savings and loan association, savings bank, or credit  
16 union, or to any subsidiary of such a state chartered bank, trust company, savings  
17 and loan association, savings bank, or credit union, ~~to the extent that federal law~~  
18 ~~preempts or prohibits the application of the provisions of this subchapter to a~~  
19 ~~federally chartered bank, trust company, savings and loan association, savings bank,~~  
20 ~~or credit union of the same type.”.~~

21           **7.** Page 1252, line 14: after that line insert:

22           “**SECTION 3474m.** 704.35 of the statutes is repealed.”.

23           **8.** Page 1257, line 4: after that line insert:

24           “**SECTION 3492m.** 846.35 of the statutes is repealed.”.

