



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4902/3
CMH:ahe

2017 ASSEMBLY BILL 822

1 **AN ACT** *to renumber and amend* 645.46 (11); *to amend* 34.07, 138.052 (5) (am)
2 1., 186.235 (16) (a), 214.54 (1), 214.54 (2), 214.725 (3) (intro.), 215.03 (2) (a),
3 220.04 (1) (a), 220.06 (1m) and 223.105 (3) (a); and **to create** 186.235 (7) (b) 4.,
4 214.725 (3m), 214.755 (1) (f), 215.02 (6) (a) 7., 221.0328 (4), 645.05 (3), 645.46
5 (11) (b) and 645.54 (1) (b) 3. of the statutes; **relating to:** confidentiality of
6 financial institution information maintained by the Department of Financial
7 Institutions; periodic examinations of financial institutions; savings bank loan
8 limitations; interest on residential mortgage loan escrow accounts; capital of
9 state banks; security provided by public depositories; insurance company
10 liquidation proceedings; and modifying an administrative rule of the

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1 Department of Workforce Development related to an exemption from overtime
2 pay requirements for outside salespersons.

Analysis by the Legislative Reference Bureau

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

3 **SECTION 1.** 34.07 of the statutes is amended to read:

4 **34.07 Security.** A surety bond or other security, including an irrevocable letter
5 of credit issued by a federal home loan bank, state bank, national bank, federal or
6 state savings bank, federal or state credit union, or federal or state savings and loan
7 association, may be required of or given by any public depository for any public
8 deposits that exceed the amount of deposit insurance provided by an agency of the
9 United States and the coverage provided under s. 34.08 (2).

10 **SECTION 2.** 138.052 (5) (am) 1. of the statutes is amended to read:

11 138.052 (5) (am) 1. Except as provided in par. (b) and unless the escrow funds
12 are held by a 3rd party in a noninterest-bearing account, a bank, credit union,
13 savings bank, savings and loan association or mortgage banker which originates a
14 loan on or after January 1, 1994, and before the effective date of this subdivision ...
15 [LRB inserts date], or a loan subject to subd. 3., and which requires an escrow to
16 assure the payment of taxes or insurance shall pay interest on the outstanding
17 principal balance of the escrow at the variable interest rate established under subd.
18 2.

19 **SECTION 3.** 186.235 (7) (b) 4. of the statutes is created to read:

20 186.235 (7) (b) 4. Furnish to a federal home loan bank, upon request, a copy of
21 any examination report made by, or other supervisory information created by, the

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1 office of credit unions of any credit union, if the federal home loan bank agrees to treat
2 the information received under this subdivision with the same degree of
3 confidentiality that is required of employees of the office of credit unions under par.
4 (a).

5 **SECTION 4.** 186.235 (16) (a) of the statutes is amended to read:

6 186.235 (16) (a) Except as provided in par. (b), at least once every 18 months,
7 the office of credit unions shall examine the records and accounts of each credit
8 union. For that purpose the office of credit unions shall have full access to, and may
9 compel the production of, each credit union's records and accounts. The office of
10 credit unions may administer oaths to and examine each credit union's officers and
11 agents. In conducting examinations under this paragraph, the office of credit unions
12 may accept and rely on information collected by other agencies or independent 3rd
13 parties in determining whether a credit union has satisfied any requirement that is
14 part of the examination.

15 **SECTION 5.** 214.54 (1) of the statutes is amended to read:

16 214.54 (1) Except as provided in sub. (2) and s. 214.49 (4), the total of
17 outstanding loans and extensions of credit, both direct and indirect, made by a
18 savings bank to a single person shall be subject to limits established by rule of the
19 division, but may not exceed ~~15~~ 20 percent of the savings bank's capital.

20 **SECTION 6.** 214.54 (2) of the statutes is amended to read:

21 214.54 (2) Total outstanding loans and extensions of credit, both direct and
22 indirect, made by a savings bank to a single person may exceed the ~~15~~ 20 percent
23 limit under sub. (1), but may not exceed 25 percent of the savings bank's capital, if
24 all loans or extensions of credit that exceed the ~~15~~ 20 percent limit are at least 100

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1 percent secured by readily marketable collateral having a market value that may be
2 determined by reliable and continuously available price quotations.

3 **SECTION 7.** 214.725 (3) (intro.) of the statutes is amended to read:

4 214.725 (3) (intro.) ~~An~~ Subject to sub. (3m), an examination shall include a
5 review of all of the following:

6 **SECTION 8.** 214.725 (3m) of the statutes is created to read:

7 214.725 (3m) In conducting examinations under sub. (1) (a), the division may
8 accept and rely on information collected by other agencies or independent 3rd parties
9 in determining whether a savings bank has satisfied any requirement that is part
10 of the examination.

11 **SECTION 9.** 214.755 (1) (f) of the statutes is created to read:

12 214.755 (1) (f) A federal home loan bank if the federal home loan bank agrees
13 to keep the information confidential.

14 **SECTION 10.** 215.02 (6) (a) 7. of the statutes is created to read:

15 215.02 (6) (a) 7. The division may furnish to a federal home loan bank a copy
16 of any examination report made by, or other supervisory information created by, the
17 division of any association if the federal home loan bank agrees to keep the
18 examination report or other information confidential.

19 **SECTION 11.** 215.03 (2) (a) of the statutes is amended to read:

20 215.03 (2) (a) Except as provided in par. (b), at least once within every
21 18-month period, the division shall examine the cash, bills, collaterals, securities,
22 assets, books of account, condition and affairs of all such associations and for that
23 purpose the division or the division's examiners shall have access to, and may compel
24 the production of, all their books, papers, securities and moneys, administer oaths
25 to and examine their officers and agents as to their affairs. In conducting

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1 examinations under this paragraph, the division may accept and rely on information
2 collected by other agencies or independent 3rd parties in determining whether an
3 association has satisfied any requirement that is part of the examination. An
4 employee of the division may not examine an association in which the employee is
5 interested as an officer or director.

6 **SECTION 12.** 220.04 (1) (a) of the statutes is amended to read:

7 220.04 (1) (a) The division shall examine at least once every 18 months the
8 cash, bills, collaterals, securities, assets, books of account, condition and affairs of
9 each bank and trust company bank doing business in this state, except national
10 banks. For that purpose the division may examine on oath any of the officers, agents,
11 directors, clerks, stockholders, customers or depositors thereof, touching the affairs
12 and business of such institution. In conducting examinations under this paragraph,
13 the division may accept and rely on information collected by other agencies or
14 independent 3rd parties in determining whether a bank or trust company bank has
15 satisfied any requirement that is part of the examination. In making such
16 examinations of banks, the division shall determine the fair valuation of all assets
17 in accordance with the schedules, rules and regulations prescribed by the banking
18 review board.

19 **SECTION 13.** 220.06 (1m) of the statutes is amended to read:

20 220.06 (1m) No division employee may examine a bank or licensee in which
21 that person is interested as a stockholder, officer or employee. No division employee
22 may examine a bank or licensee located in the same village, city or county with any
23 bank or licensee in which that person is so interested. Employees in the division, and
24 each member and employee of the banking review board, shall keep secret all facts
25 and information obtained in the course of examinations or from reports not under s.

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1 221.1002 (1) filed by a bank or licensee with the division, except so far as the public
2 duty of the person requires reporting upon or taking special action regarding the
3 affairs of any bank or licensee, and except when called as a witness in any criminal
4 proceeding or trial in a court of justice. The division may furnish to the federal
5 deposit insurance corporation, to a federal home loan bank, or to any regulatory
6 authority for state or federal financial institutions, insurance or securities a copy of
7 any examination made of any such bank or licensee or of any report made by such
8 bank or licensee and may give access to and disclose to the corporation or to any
9 regulatory authority for state or federal financial institutions, insurance or
10 securities any information possessed by the division, or to a federal home loan bank
11 any information created by the division, with reference to the conditions or affairs
12 of any such insured bank or licensee if the regulatory authority agrees to treat all
13 information received with the same degree of confidentiality as applies to reports of
14 examination that are in the custody of the division.

15 **SECTION 14.** 221.0328 (4) of the statutes is created to read:

16 221.0328 (4) REDUCTION OF CAPITAL. Subject to the approval of the division, and
17 subject to ss. 221.0211 (4) and 221.0323 (1) and (2), a bank may, by a vote of
18 shareholders owning, in the aggregate, at least two-thirds of its capital stock, reduce
19 its capital. Notwithstanding sub. (2) and subject to ss. 221.0216 (5) and 221.0327,
20 as part of its capital reduction plan approved by the division in accordance with this
21 subsection, and with the affirmative vote of shareholders owning at least two-thirds
22 of the shares of each class of its stock outstanding, a bank may distribute cash or
23 other assets to its shareholders.

24 **SECTION 15.** 223.105 (3) (a) of the statutes is amended to read:

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1 223.105 (3) (a) To assure compliance with such rules as may be established
2 under s. 220.04 (7), the division of banking and the office of credit unions shall, at
3 least once every 18 months, examine the fiduciary operations of each organization
4 which is under its respective jurisdiction and is subject to examination under sub.
5 (2). If a particular organization subject to examination under sub. (2) is not
6 otherwise under the jurisdiction of one of the foregoing agencies, such examination
7 shall be conducted by the division of banking. In conducting examinations under this
8 paragraph, the division of banking or office of credit unions may accept and rely on
9 information collected by other agencies or independent 3rd parties in determining
10 whether an organization has satisfied any requirement that is part of the
11 examination.

12 **SECTION 16.** 645.05 (3) of the statutes is created to read:

13 645.05 (3) INJUNCTIONS AGAINST A FEDERAL HOME LOAN BANK. (a) In this
14 subsection, “insurer-member” means a member of the federal home loan bank in
15 question that is an insurer.

16 (b) Notwithstanding subs. (1) and (2) and any other provision of this chapter,
17 a federal home loan bank may be stayed, enjoined, or prohibited from exercising or
18 enforcing any right or cause of action regarding collateral pledged under any security
19 agreement, or any pledge, security, collateral, or guarantee agreement, or any other
20 similar arrangement or credit enhancement relating to a federal home loan bank
21 security agreement, for a period not to exceed 10 days after the appointment of a
22 receiver for an insurer-member of the federal home loan bank. If the federal home
23 loan bank fails to comply with the provisions of pars. (c) and (d), the court may, within
24 10 days following the appointment of the receiver, extend the stay until the federal
25 home loan bank complies with the provisions of pars. (c) and (d).

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1 (c) Not later than 5 days after notification to the federal home loan bank of the
2 appointment of a receiver for an insurer-member, the federal home loan bank shall
3 deliver to the receiver a process and timeline for all of the following:

4 1. The release of collateral held by the federal home loan bank that exceeds the
5 amount that is required to support the outstanding secured loan obligations and that
6 is remaining after any repayment of loans, as determined under the applicable
7 agreements between the federal home loan bank and the insurer-member.

8 2. The release of any collateral remaining in the federal home loan bank's
9 possession following repayment of all outstanding secured obligations in full.

10 3. The payment of fees owed by the insurer-member.

11 4. The redemption or repurchase of federal home loan bank stock in excess of
12 the minimum amount the insurer-member is required to own.

13 (d) Upon the request of the receiver and not later than 5 days after notification
14 to the federal home loan bank of the appointment of a receiver for an
15 insurer-member, the federal home loan bank shall provide any available options for
16 the insurer-member to renew or restructure an advance. In determining which
17 options are available, the federal home loan bank may consider market conditions,
18 the terms of the advance outstanding to the insurer-member, the applicable policies
19 of the federal home loan bank, and compliance with the Federal Home Loan Bank
20 Act and corresponding regulations.

21 (e) A federal home loan bank shall, within 7 days of receipt of a repurchase
22 request made by the insurer-member, repurchase any outstanding capital stock in
23 excess of the amount of stock the insurer-member is required to hold as a minimum
24 investment. The federal home loan bank shall repurchase the excess outstanding
25 capital stock if the repurchase is all of the following:

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1 1. Permissible under federal laws and regulations and the federal home loan
2 bank's capital plan.

3 2. Consistent with the capital stock practices then applicable to the federal
4 home loan bank's entire membership.

5 **SECTION 17.** 645.46 (11) of the statutes is renumbered 645.46 (11) (a) and
6 amended to read:

7 645.46 (11) (a) ~~Enter~~ Subject to par. (b), enter into such contracts as are
8 necessary to carry out the order to liquidate, and affirm or disavow any contracts to
9 which the insurer is a party.

10 **SECTION 18.** 645.46 (11) (b) of the statutes is created to read:

11 645.46 (11) (b) Notwithstanding any other provision of this chapter, no
12 liquidator has the power to disavow any federal home loan bank security agreement,
13 or any pledge, security, collateral, or guarantee agreement, or any other similar
14 arrangement or credit enhancement relating to a federal home loan bank security
15 agreement.

16 **SECTION 19.** 645.54 (1) (b) 3. of the statutes is created to read:

17 645.54 (1) (b) 3. Notwithstanding any other provision of this chapter, no
18 liquidator may avoid any transfer of, or any obligation to transfer, money or any other
19 property arising under or in connection with any federal home loan bank security
20 agreement, or any pledge, security, collateral, or guarantee agreement, or any other
21 similar arrangement or credit enhancement relating to a federal home loan bank
22 security agreement. However, a transfer may be avoided under this paragraph if it
23 was made with actual intent to hinder, delay, or defraud either existing or future
24 creditors.

