


Appendix A ... segment I

LEGISLATIVE REFERENCE BUREAU
DRAFTING HISTORY RESEARCH APPENDIX


 The drafting file for 2017 LRB-3555/2 (For: Rep. Katsma)
has been copied/transferred to the drafting file for
2017 LRB-4902 (For: Rep. Katsma)



 Are These “Companion Bills” ?? ... No

RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

 Request Made By: ARG

 Date: 11/21/2017

2017 DRAFTING REQUEST

Bill

For: **Terry Katsma (608) 266-0656** Drafter: **agary**
 By: **Nick** Secondary Drafters: **kpleviak**
 Date: **5/18/2017** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Katsma@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**
krista.pleviak@legis.wisconsin.gov
michael.duchek@legis.wisconsin.gov
tamara.dodge@legis.wisconsin.gov
Aaron.McKean@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Disclosure by DFI of examination information and reports to Federal Home Loan Banks; periodic examinations; loan limitations; mortgage loan escrow account interest; public depositories; bank capital; insurance liquidation proceedings; FLSA rule

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 5/26/2017				
/P1	agary 9/7/2017	eweiss 9/12/2017	hkohn 5/31/2017		
/P2	agary	eweiss	dwalker		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P3	agary 10/19/2017	eweiss 10/20/2017	mbarman 10/17/2017		
/1	agary 11/14/2017	eweiss 11/14/2017	mbarman 10/20/2017		
/2			lparisi 11/14/2017		

FE Sent For:

<END>

Gary, Aaron

From: Krueger, Nick
Sent: Thursday, May 18, 2017 12:22 PM
To: Gary, Aaron
Subject: New Katsma drafting request

Hi Aaron,

Hope you're surviving the busy budget season. Got a new drafting request for you; the goal here is to add the Federal Home Loan Bank of Chicago to the list of entities to which DFI may disclose bank exam reports/supervisory info. Please create a P1 draft; we think the following changes would achieve the goal:

- Amend the middle of 220.06(1m) to read:
"... The division may furnish to the federal deposit insurance corporation, a Federal Home Loan Bank, or to any regulatory authority for state or federal financial institutions..."
- Create a new subsection 4 under 186.235(7)(b) to read:
"4. Furnish to a Federal Home Loan Bank, upon request, a copy of any examination report or other supervisory information made by the office of credit unions of any credit union, if the Federal Home Loan Bank agrees to treat the information received under this subdivision with the same degree of confidentiality that is required of employees of the office of credit unions under par. (a)."
- Create a new subsection (f) under 214.755(1) to read:
"A Federal Home Loan Bank."
- Create a new subsection 7 under 215.02(6)(a) to read:
"7. The division may furnish to a federal home loan bank a copy of any examination report or other supervisory information made by the division of any association, provided the federal home loan bank agrees to keep the examination confidential."

Thanks Aaron! No major hurry on this, but I've tried to make it easy for you this time.

Best,

Nick Krueger

Office of Representative Terry Katsma

Wisconsin State Assembly

Room 208 North, State Capitol

P.O. Box 8952

Madison, WI 53708

(608) 266-0656 (office)

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State of Wisconsin
2017 - 2018 LEGISLATURE

in 5/26
wanted
Wed,
5/31

LRB-3555/P1

ARG:...

emw

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

S.A.
Krac
DUE

1 AN ACT ^{Gen} ...; relating to: confidentiality of financial institution information
2 maintained by the Department of Financial Institutions. ✓

Analysis by the Legislative Reference Bureau ^{the}

* This bill allows the Division of Banking (division) and Office of Credit Unions (OCU) in the Department of Financial Institutions to disclose certain financial institution information to a Federal Home Loan Bank.

Under current law, the division regulates state banks, savings banks, and savings and loan associations and OCU regulates state credit unions (financial institutions), and this regulation includes periodic examinations of these financial institutions by, and reports from these financial institutions to, the division or OCU. Current law generally requires the division and OCU to maintain the confidentiality of examination information and of reports provided to the division or OCU. However, limited exceptions allow disclosure under certain circumstances, including disclosure to state regulatory authorities and to the Federal Deposit Insurance Corporation or National Credit Union Administration. ✓

This bill allows the division or OCU to furnish to a Federal Home Loan Bank, upon request, a copy of any examination report made by, or other supervisory information possessed by, the division or OCU if the Federal Home Loan Bank agrees to treat the information confidentially.

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

1

X 3
SECTION 1. 186.25 (7) (b) 4. of the statutes is created to read:

2

186.235 (7) (b) 4. Furnish to a federal home loan bank, upon request, a copy of

3

any examination report made by, or other supervisory information possessed by, the

4

office of credit unions of any credit union, if the federal home loan bank agrees to treat

5

the information received under this subdivision with the same degree of

6

confidentiality that is required of employees of the office of credit unions under par.

7

(a).

8

X
SECTION 2. 214.755 (1) (f) of the statutes is created to read:

9

214.755 (1) (f) A federal home loan bank if the federal home loan bank agrees

10

to keep the information confidential.

11

X
SECTION 3. 215.02 (6) (a) 7. of the statutes is created to read:

12

215.02 (6) (a) 7. The division may furnish to a federal home loan bank a copy

13

of any examination report made by, or other supervisory information possessed by,

14

the division of any association if the federal home loan bank agrees to keep the

15

examination report or other information confidential.

16

X
SECTION 4. 220.06 (1m) of the statutes is amended to read:

17

220.06 (1m) No division employee may examine a bank or licensee in which

18

that person is interested as a stockholder, officer or employee. No division employee

19

may examine a bank or licensee located in the same village, city or county with any

20

bank or licensee in which that person is so interested. Employees in the division, and

21

each member and employee of the banking review board, shall keep secret all facts

22

and information obtained in the course of examinations or from reports not under s.

23

221.1002 (1) filed by a bank or licensee with the division, except so far as the public

24

duty of the person requires reporting upon or taking special action regarding the

25

affairs of any bank or licensee, and except when called as a witness in any criminal

1 proceeding or trial in a court of justice. The division may furnish to the federal
2 deposit insurance corporation, to a federal home loan bank, or to any regulatory
3 authority for state or federal financial institutions, insurance or securities a copy of
4 any examination made of any such bank or licensee or of any report made by such
5 bank or licensee and may give access to and disclose to the corporation, to a federal
6 home loan bank, or to any regulatory authority for state or federal financial
7 institutions, insurance or securities any information possessed by the division with
8 reference to the conditions or affairs of any such insured bank or licensee if the
9 regulatory authority agrees to treat all information received with the same degree
10 of confidentiality as applies to reports of examination that are in the custody of the
11 division.

12 **History:** 1977 c. 418; 1979 c. 102; 1983 a. 27; 1985 a. 127, 325; 1987 a. 252; 1995 a. 27, 336; 1997 a. 283; 1999 a. 9; 2001 a. 109; 2005 a. 215; 2009 a. 2.

(END)

Gary, Aaron

From: Krueger, Nick
Sent: Wednesday, September 06, 2017 11:33 AM
To: Gary, Aaron
Subject: FW: New Katsma drafting request
Attachments: Summary of Outside Salesperson situation.docx

Hi Aaron—please see attached. Does this give you enough background and guidance?

Also: in 214.54, can we also provide that DFI may waive the 20 percent limit (newly increased from 15 percent under the bill) on a case-by-case basis, at the discretion of the Secretary?

Thanks!

Nick

*conf. w/ Mike Buchele
o talked to write - hold
off on bullet 5 -
DWA is currently doing
rulemaking*

From: Gary, Aaron
To: Krueger, Nick <Nick.Krueger@legis.wisconsin.gov>
Subject: RE: New Katsma drafting request

Hi Nick,

I need a little help with the last item below, the outside sales exemption. After digging in a little, I still don't understand the context of this piece of the request. Does this pertain to state-chartered financial institutions or some other licensed business regulated by DFI? Can you provide any further information about what is wanted? Also, any citation to the referenced federal language or FLSA definition would be helpful.

Thanks!

Aaron

Aaron R. Gary
Senior Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Krueger, Nick
To: Gary, Aaron <Aaron.Gary@legis.wisconsin.gov>
Subject: New Katsma drafting request

Hi Aaron,

Thank you for drafting LRB-3555/P1 for us some time ago. Please work up a new P2 draft that also includes several new/additional provisions:

- We want to clarify that a Federal Home Loan Bank (FHLB) letter of credit is an acceptable form of security for purposes of securing public deposits. We think this could be achieved thusly:
34.07 **Security.** A surety bond or other security, including but not limited to an irrevocable letter of credit issued by a Federal Home Loan Bank or bank, may be required of or given by any public depository...
- In 214.54, we want to change the existing 15 percent limit to 20 percent.

- We want to eliminate the existing requirement for state-chartered financial institutions to pay interest on escrow accounts related to residential mortgage loans. We think this could be achieved by:
138.052(5)(c) is created to read: This section does not apply to a loan originated after [effective date of the bill].
 - We want to allow DFI to accept information collected by other agencies (FDIC) to be used to satisfy certain state-level exam requirements. [Aaron: if you need further detail on this one, let me know what questions I need to relay. These are the exact words that I was told to relay to you!]
-
- We want to adopt federal language related to outside sales exemption:
Outside sales exemption. To qualify for the outside sales employee exemption, all of the following tests must be met:
 - The employee's primary duty must be making sales (as defined in the FLSA), or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and
 - The employee must be customarily and regularly engaged away from the employer's place or places of business.

Thanks in advance! Let me know what questions you have.

Best,

Nick Krueger

Office of Representative Terry Katsma

Wisconsin State Assembly

Room 208 North, State Capitol

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Summary: Request for revisions to DWD 274.04 (2) – definition of Outside Sales

We are respectfully requesting that the Wisconsin regulation defining "Outside Sales" be amended to bring it in line with federal law.

- DWD 274.04 defines the classifications of positions that are exempt from overtime pay.
- With respect to administrative, executive and professional classifications, Wisconsin is consistent with federal law and most states.
- However, with respect to Outside Sales, Wisconsin's is outdated and this negatively impacts business.
- DWD 274.04 provides: (2) Outside salespersons may be exempt from overtime if they spend 80% of their time away from the employer's place of business.
- The regulation was drafted in 1977 when it was typical for salespersons to go door to door selling vacuum cleaners, encyclopedias and other merchandise.
- With the use of computers and other technology, it is not feasible for salespersons to spend only 20% of their time in the office, however they are still clearly operating as salespersons.
- This has a negative impact on business because it is necessary to classify salespeople as non-exempt and pay them by the hour. Due to the nature of their jobs, Outside Salespeople are entertaining clients, working irregular hours, and engaging in work time that is also very social. These factors provide challenges for the employees to accurately track and record their time. Additionally, salespeople are professionals, and it is not feasible for them to track their time.
- In the banking business, the regulation has a negative impact on Mortgage Loan Originators and Financial Consultants.

Additional Information related to the language in the regulation:

- The introduction to DWD 274.04 provides: It is the intent of the department to interpret these exemptions to be consistent with any comparable federal statute or regulation in respect to the following employees (includes outside salespersons).
- This appears at the end of DWD 274.04: **Note:** This provision is intended to be interpreted in a manner consistent with 29 USC 213 (a) (17).
- Wisconsin's law is NOT consistent with the federal law, Fair Labor Standards Act, despite two references that it seeks to be.

- The FLSA provides:

Outside Sales Exemption. To qualify for the outside sales employee exemption, all of the following tests must be met:

- The employee's primary duty must be making sales (as defined in the FLSA), or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and
- The employee must be customarily and regularly engaged away from the employer's place or places of business.

Conclusion: Adopting the federal language to define the exemption for Outside Sales in Wisconsin would solve the problem.

Gary, Aaron

From: Krueger, Nick
Sent: Thursday, September 07, 2017 11:56 AM
To: Gary, Aaron
Subject: RE: New Katsma drafting request

Thanks for the update, Aaron. Yes, that is correct, I was in touch with Mike yesterday; yes, holding off on DWD/FLSA is the plan for now, pending more info that Mike will hopefully provide to me soon. Will stand by to receive P2.

We appreciate that budget season can be a wild ride in your office; thanks for your good work!

Nick

From: Gary, Aaron
Sent: Thursday, September 07, 2017 11:40 AM
To: Krueger, Nick <Nick.Krueger@legis.wisconsin.gov>
Subject: RE: New Katsma drafting request

Hi Nick,

I finished drafting the first four bullets below and put the "/P2" draft into editing. (I'm not sure how long it will take to get out to you, given that most of our resources are being devoted to the budget bill at the moment.)

I just wanted to confirm that you spoke with Mike Duchek from our office and we are holding off on the fifth bullet below (regarding DWD and the FLSA). Accordingly, the "/P2" won't include that item. Please correct me if I'm mistaken about this.

Thanks. Aaron

Aaron R. Gary
Senior Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Krueger, Nick
Sent: Wednesday, September 06, 2017 11:33 AM
To: Gary, Aaron <Aaron.Gary@legis.wisconsin.gov>
Subject: FW: New Katsma drafting request

Hi Aaron—please see attached. Does this give you enough background and guidance?

Also: in 214.54, can we also provide that DFI may waive the 20 percent limit (newly increased from 15 percent under the bill) on a case-by-case basis, at the discretion of the Secretary?

Thanks!

Nick



State of Wisconsin
2017 - 2018 LEGISLATURE

Wanted
for
9/15
in
9/17

LRB-3555/EMW
ARG:emw

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SAY
X
Y
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P
W
T

Regen

1 AN ACT to amend 220.06 (1m); and to create 186.235 (7) (b) 4., 214.755 (1) (f)
2 and 215.02 (6) (a) 7. of the statutes; relating to: confidentiality of financial
3 institution information maintained by the Department of Financial
4 Institutions.

insert 1-4

Analysis by the Legislative Reference Bureau

This bill allows the Division of Banking (division) and the Office of Credit Unions (OCU) in the Department of Financial Institutions to disclose certain financial institution information to a Federal Home Loan Bank.

insert
ANAL - A

Under current law, the division regulates state banks, savings banks, and savings and loan associations and OCU regulates state credit unions (financial institutions), and this regulation includes periodic examinations of these financial institutions by, and reports from these financial institutions to, the division or OCU. Current law generally requires the division and OCU to maintain the confidentiality of examination information and of reports provided to the division or OCU. However, limited exceptions allow disclosure under certain circumstances, including disclosure to state regulatory authorities and to the Federal Deposit Insurance Corporation or National Credit Union Administration.

The bill allows the division or OCU to furnish to a Federal Home Loan Bank, upon request, a copy of any examination report made by, or other supervisory

collectively,

insert
ANAL-B

information possessed by, the division or OCU if the Federal Home Loan Bank agrees to treat the information confidentially.

insert
2-1

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

1 **SECTION 1.** 186.235 (7) (b) 4. of the statutes is created to read:

2 186.235 (7) (b) 4. Furnish to a federal home loan bank, upon request, a copy of
3 any examination report made by, or other supervisory information possessed by, the
4 office of credit unions of any credit union, if the federal home loan bank agrees to treat
5 the information received under this subdivision with the same degree of
6 confidentiality that is required of employees of the office of credit unions under par.
7 (a).

insert
2-7

8 **SECTION 2.** 214.755 (1) (f) of the statutes is created to read:

9 214.755 (1) (f) A federal home loan bank if the federal home loan bank agrees
10 to keep the information confidential.

11 **SECTION 3.** 215.02 (6) (a) 7. of the statutes is created to read:

12 215.02 (6) (a) 7. The division may furnish to a federal home loan bank a copy
13 of any examination report made by, or other supervisory information possessed by,
14 the division of any association if the federal home loan bank agrees to keep the
15 examination report or other information confidential.

insert
2-15

16 **SECTION 4.** 220.06 (1m) of the statutes is amended to read:

17 220.06 (1m) No division employee may examine a bank or licensee in which
18 that person is interested as a stockholder, officer or employee. No division employee
19 may examine a bank or licensee located in the same village, city or county with any
20 bank or licensee in which that person is so interested. Employees in the division, and
21 each member and employee of the banking review board, shall keep secret all facts

1 and information obtained in the course of examinations or from reports not under s.
2 221.1002 (1) filed by a bank or licensee with the division, except so far as the public
3 duty of the person requires reporting upon or taking special action regarding the
4 affairs of any bank or licensee, and except when called as a witness in any criminal
5 proceeding or trial in a court of justice. The division may furnish to the federal
6 deposit insurance corporation, to a federal home loan bank, or to any regulatory
7 authority for state or federal financial institutions, insurance or securities a copy of
8 any examination made of any such bank or licensee or of any report made by such
9 bank or licensee and may give access to and disclose to the corporation, to a federal
10 home loan bank, or to any regulatory authority for state or federal financial
11 institutions, insurance or securities any information possessed by the division with
12 reference to the conditions or affairs of any such insured bank or licensee if the
13 regulatory authority agrees to treat all information received with the same degree
14 of confidentiality as applies to reports of examination that are in the custody of the
15 division.

(END)

15
16

1

2 **INSERT 1-4:**

3 (no P) periodic examinations of financial institutions; savings bank loan limitations;
4 interest on residential mortgage loan escrow accounts; and security provided by ✓
5 public depositories

6

7 **INSERT ANAL-A:**

(no P) and to accept and rely on information collected by other agencies in conducting
financial institution examinations. The bill also increases the limit on loans by a
savings bank to a single person and allows DFI to waive this limit. The bill
eliminates the requirement that financial institutions and mortgage bankers pay
interest on escrow accounts for residential mortgage loans originated on or after the
effective date of the bill. The bill also specifies that the security that may be provided
by a public depository to secure the repayment of public deposits includes an
irrevocable letter of credit issued by a Federal Home Loan Bank or financial
institution.

8 ***Disclosure of information to Federal Home Loan Bank*** ✓

9

10

INSERT ANAL-B:

Periodic examinations of financial institutions ✓

With exceptions, current law requires the division and OCU to examine the
records and affairs of financial institutions under their respective jurisdictions at
least once every 18 months.

the ⁹ Under (this) bill, in conducting these periodic examinations, the division and ✓
(Ste) OCU may accept and rely on information collected by other agencies in determining
whether a financial institution has satisfied any requirement that is part of the
examination.

11

12

Limit on savings bank loans to one borrower

Under current law, with exceptions, a savings bank may not make loans to a single person totaling more than 15 percent of the savings bank's capital. ✓

This bill increases this limit to 20 percent and allows DFI to waive this 20 percent limit on a case-by-case basis.

Interest on residential mortgage loan escrow accounts

Under current law, subject to certain exceptions, a financial institution or mortgage banker that originates a residential mortgage loan and requires an escrow to assure the payment of taxes or insurance must pay interest on the outstanding principal balance of the escrow at the following annual rate: 1) if the loan was originated between February 1, 1984, and December 31, 1993, not less than 5.25 percent; or 2) if the loan was originated on or after January 1, 1994, a variable rate calculated annually by the division and OCU using the average interest rate paid on passbook accounts. ✓

Under this bill, financial institutions and mortgage bankers are not required to pay interest on escrow accounts for residential mortgage loans originated on or after the effective date of the bill.

Security for public deposits

Under current law, the Investment Board and the governing bodies of counties, municipalities, and certain other local governmental units (collectively, public depositors) must designate one or more federal or state credit unions, federal or state savings and loan associations, state banks, savings and trust companies, federal or state savings banks, or national banks in this state (public depositories) for deposit of all public moneys received by the public depositor. The public depositor must specify whether security is required of the public depository to secure the repayment of deposits exceeding deposit insurance. ✓

This bill specifies that the security that may be provided by a public depository includes an irrevocable letter of credit issued by a Federal Home Loan Bank, state bank, national bank, federal or state savings bank, or federal or state savings and loan association.

1

SAI

2

INSERT 2-1:

3

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

4

34.07 Security. A surety bond or other security, ^{check scoring ↓} including an irrevocable letter

5

of credit issued by a federal home loan bank, state bank, national bank, federal or

1 state savings bank, or federal or state savings and loan association, may be required
 2 of or given by any public depository for any public deposits that exceed the amount
 3 of deposit insurance provided by an agency of the United States and the coverage
 4 provided under s. 34.08 (2).

History: 1985 a. 25; 2005 a. 134.

****NOTE: The drafting instructions for s. 34.07 refer to a federal home loan bank
 and a "bank." I assume the term "bank" is meant to apply to more than just a state bank,
 so I replaced the term "bank" with the list of banks appearing in s. 34.09, stats. I did not
 include federal or state credit unions or trust companies. Please advise if this change is
 not consistent with your intent.

5

6

7

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

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

History: 1981 c. 45, 100, 314; 1987 a. 359, 360, 403; 1989 a. 31, 56; 1991 a. 90, 92; 1993 a. 68, 112; 1995 a. 27, 336; 1999 a. 9, 31; 2003 a. 33, 257; 2007 a. 11, 20, 97; 2013 a. 20.

****NOTE: I drafted the change in s. 138.052 (5) (am) 1. in a manner that parallels
 s. 138.052 (5) (a). I believe it is preferable to have the applicability of the provision appear
 directly in the provision rather than in another paragraph that a reader might overlook.

16

17

18

19

1 **INSERT 2-7:**

X

2 **SECTION 3.** 186.235 (16) (a) of the statutes is amended to read:

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

History: 1995 a. 151 ss. 12 to 14, 16, 65, 191 to 231, 233, 235, 237 to 264, 292; 1995 a. 225 s. 429; 1995 a. 325 ss. 1, 2; 1995 a. 417; 1997 a. 35, 152; 2003 a. 63; 2011 a. 32; 2013 a. 20; 2015 a. 304.

11 **SECTION 4.** 214.54 (1) of the statutes is amended to read:

X

12 214.54 (1) Except as provided in sub. ~~subs.~~ ⁽²⁾ and (10) and s. 214.49 (4), the
13 total of outstanding loans and extensions of credit, both direct and indirect, made by
14 a savings bank to a single person shall be subject to limits established by rule of the
15 division, but may not exceed ~~15~~ 20 percent of the savings bank's capital.

History: 1991 a. 221; 1995 a. 27.

16 **SECTION 5.** 214.54 (2) of the statutes is amended to read:

X

17 214.54 (2) Total outstanding loans and extensions of credit, both direct and
18 indirect, made by a savings bank to a single person may exceed the ~~15~~ 20 percent
19 limit under sub. (1), but may not exceed 25 percent of the savings bank's capital, if
20 all loans or extensions of credit that exceed the ~~15~~ 20 percent limit are at least 100
21 percent secured by readily marketable collateral having a market value that may be
22 determined by reliable and continuously available price quotations.

History: 1991 a. 221; 1995 a. 27.

23 **SECTION 6.** 214.54 (10) of the statutes is created to read:

X

1 214.54 (10) Upon application and on a case-by-case basis, the division may,
2 at the discretion of the secretary of financial institutions, waive the limit under sub.
3 (1) on the total of outstanding loans and extensions of credit that may be made by a
4 savings bank to a single person.

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

6 214.725 (3) (intro.) ~~An~~ Subject to sub. (3m), an examination shall include a
7 review of all of the following:

History: 1991 a. 221; 1995 a. 27; 2003 a. 263; 2011 a. 182.

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

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

12
13 **INSERT 2-15:**

14 **SECTION 9.** 215.03 (2) (a) of the statutes is amended to read:

15 215.03 (2) (a) Except as provided in par. (b), at least once within every
16 18-month period, the division shall examine the cash, bills, collaterals, securities,
17 assets, books of account, condition and affairs of all such associations and for that
18 purpose the division or the division's examiners shall have access to, and may compel
19 the production of, all their books, papers, securities and moneys, administer oaths
20 to and examine their officers and agents as to their affairs. In conducting
21 examinations under this paragraph, the division may accept and rely on information
22 collected by other agencies in determining whether an association has satisfied any

1 requirement that is part of the examination. An employee of the division may not
2 examine an association in which the employee is interested as an officer or director.

History: 1975 c. 359 ss. 5, 6, 51; 1977 c. 140; 1983 a. 167; 1985 a. 157, 325; 1991 a. 316; 1995 a. 27, 104, 325; 1997 a. 144; 2003 a. 263.

3 ~~§~~

4 **SECTION 10.** 220.04 (1) (a) of the statutes is amended to read:

5 220.04 (1) (a) The division shall examine at least once every 18 months the
6 cash, bills, collaterals, securities, assets, books of account, condition and affairs of
7 each bank and trust company bank doing business in this state, except national
8 banks. For that purpose the division may examine on oath any of the officers, agents,
9 directors, clerks, stockholders, customers or depositors thereof, touching the affairs
10 and business of such institution. In conducting examinations under this paragraph,
11 the division may accept and rely on information collected by other agencies in
12 determining whether a bank or trust company bank has satisfied any requirement
13 that is part of the examination. In making such examinations of banks, the division
14 shall determine the fair valuation of all assets in accordance with the schedules,
15 rules and regulations prescribed by the banking review board.

History: 1971 c. 239; 1975 c. 65; 1981 c. 45; 1983 a. 119; 1987 a. 252; 1991 a. 221, 269, 315, 316; 1993 a. 213; 1995 a. 27, 55, 336; 1997 a. 35, 146; 2003 a. 63; 2005 a. 215; 2009 a. 405.

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17
18
19 **INSERT 3-15:**

~~×~~

20 **SECTION 11.** 223.105 (3) (a) of the statutes is amended to read:

21 223.105 (3) (a) To assure compliance with such rules as may be established
22 under s. 220.04 (7), the division of banking and the office of credit unions shall, at
23 least once every 18 months, examine the fiduciary operations of each organization

1 which is under its respective jurisdiction and is subject to examination under sub.
2 (2). If a particular organization subject to examination under sub. (2) is not
3 otherwise under the jurisdiction of one of the foregoing agencies, such examination
4 shall be conducted by the division of banking. In conducting examinations under this
5 paragraph, the division of banking or office of credit unions may accept and rely on
6 information collected by other agencies in determining whether an organization has
7 satisfied any requirement that is part of the examination.

History: 1975 c. 65; 1977 c. 187 s. 135; Sup. Ct. Order, eff. 1-1-80; 1983 a. 189 s. 329 (26); 1989 a. 56; 1991 a. 221, 243, 315; 1993 a. 112; 1995 a. 27, 273, 417; 1997 a. 35; 1999 a. 9; 2003 a. 33; 2005 a. 441; 2013 a. 92.

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Nick Edstrom
(P) 2
LRB-3555
(ARG)

Wanted by 4 PM Tues

Emily?

Gary, Aaron

From: Krueger, Nick
Sent: Wednesday, October 11, 2017 12:14 PM
To: Gary, Aaron; Duchek, Michael
Subject: Edits to LRB-3555/P2

Hi Aaron and Mike,

Thanks for your good work so far helping us to create LRB-3555. I've got a few changes to request to the P2 draft; please work up a P3 that does the following:

- 1) Delete Section 7 of the bill—remove what would have been a new provision allowing DFI to waive the 20 percent lending limit. (I know, Aaron; I had specifically requested this be added; now I'm specifically requesting it be removed. Hope you won't shoot me, the messenger!)
- 2) Create new Wis. Stat. 221.0328(4) that is substantially similar to the federal 12 USC 59(a) and (b):
(4) Reduction of capital. Subject to the approval of the division, a bank may, by a vote of shareholders owning, in the aggregate, two-thirds of its capital stock, reduce its capital, including without limitation the transfer of surplus to undivided profits. As part of its capital reduction plan approved by the division in accordance with this section, and with the affirmative vote of shareholders owning at least two-thirds of the shares of each class of its stock outstanding, a bank may distribute cash or other assets to its shareholders.
- 3) Amend DWD 274.04 (2) to match the meaning of the equivalent federal FLSA provision. Maybe the words would look like this:
(2) An employee whose primary duty is making sales [as defined in the FLSA], or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer, and who is customarily and regularly engaged away from the employer's place or places of business.

(Thanks, Mike, for your helpful insight on this. In addition to your research, I have also spoken recently with Jim Chiolino at DWD, who is overseeing the proposed DWD rule change intended to align all of DWD 274 with state and federal statutes. Jim told me that he thinks this partial statutory fix—to DWD 274.04 only—would not interfere with the department's overall rule change proposal and may even be desirable. I'm really glad you alerted me to DWD's existing/proposed action!)

- 4) We want to provide that a Federal Home Loan Bank (FHLB) would not, under state law, be subject to a stay or be prohibited from exercising its rights to collateral pledged to the FHLB by an insurance company member who becomes insolvent. And we want to provide that the FHLB would be excluded from the voidable preference provision of the insolvency statutes. (My understanding is that, because the FHLB does not have the same protection under state law as secured creditors to insurance company members as they do to depository institutions under federal law, the FHLB has to be "more conservative" when valuing collateral pledged by insurance companies—which hampers FHLB lending to them.) We think these words would meet our intent:
 - Create new Wis. Stat. 645.05 (3):
(3) No injunction against a federal home loan bank. Notwithstanding the foregoing, or any other provision of this chapter, no Federal Home Loan Bank shall be stayed, enjoined or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under any security agreement, or any pledge, security, collateral or guarantee agreement or any other similar arrangement or credit enhancement relating to such Federal Home Loan Bank security agreement.
 - AND
 - Add onto existing Wis. Stat. 645.46 (11):

(11) Enter into such contracts as are necessary to carry out the order to liquidate, and affirm or disavow any contracts to which the insurer is a party; notwithstanding the foregoing, or any other provision of this chapter, no liquidator shall have the power to disavow any Federal Home Loan Bank security agreement, or any pledge, security, collateral or guarantee agreement or any other similar agreement or credit enhancement relating to such Federal Home Loan Bank security agreement.

AND

- Create new Wis. Stat. 645.54 (1)(b)(3):

3. Notwithstanding any other provision of this chapter, no liquidator shall avoid any transfer of, or any obligation to transfer, money or any other property arising under or in connection with any Federal Home Loan Bank security agreement, or any pledge, security, collateral or guarantee agreement or any other similar arrangement or credit enhancement relating to such Federal Home Loan Bank security agreement. However, a transfer may be avoided under this section if it was made with actual intent to hinder, delay or defraud either existing or future creditors.

Whew. Thanks again for the good work! We're in no particular hurry; it'd be somewhat helpful to have a new P3 draft from you in the first half of next week if possible.

Best,

Nick Krueger

Office of Representative Terry Katsma

Wisconsin State Assembly

Room 208 North, State Capitol

P.O. Box 8952

Madison, WI 53708

(608) 266-0656 (office)

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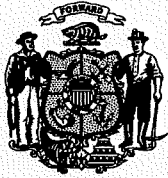
From: LRB.Legal

Sent: Tuesday, September 12, 2017 2:37 PM

To: Rep.Katsma <Rep.Katsma@legis.wisconsin.gov>

Subject: Draft review: LRB -3555/P2

Following is the PDF version of draft LRB -3555/P2.



State of Wisconsin
2017 - 2018 LEGISLATURE

Wanted
Tues.
10/17

LRB-3555/11 P3
ARG:emw

KRP

in
10/13

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA ✓
KRP ✓
PWF

Rezen

1 AN ACT *to amend* 34.07, 138.052 (5) (am) 1., 186.235 (16) (a), 214.54 (1), 214.54
 2 (2), 214.725 (3) (intro.), 215.03 (2) (a), 220.04 (1) (a), 220.06 (1m) and 223.105
 3 (3) (a); and *to create* 186.235 (7) (b) 4., 214.54 (10), 214.725 (3m), 214.755 (1)
 4 (f) and 215.02 (6) (a) 7. of the statutes; **relating to:** confidentiality of financial
 5 institution information maintained by the Department of Financial
 6 Institutions; periodic examinations of financial institutions; savings bank loan
 7 limitations; interest on residential mortgage loan escrow accounts; and
 8 security provided by public depositories;

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Analysis by the Legislative Reference Bureau

This bill allows the Division of Banking (division) and the Office of Credit Unions (OCU) in the Department of Financial Institutions to disclose certain financial institution information to a Federal Home Loan Bank and to accept and rely on information collected by other agencies in conducting financial institution examinations. The bill also increases the limit on loans by a savings bank to a single person ~~and allows DFI to waive this limit~~. The bill eliminates the requirement that financial institutions and mortgage bankers pay interest on escrow accounts for residential mortgage loans originated on or after the effective date of the bill. The bill also specifies that the security that may be provided by a public depository to

*

secure the repayment of public deposits includes an irrevocable letter of credit issued by a Federal Home Loan Bank or financial institution.

Disclosure of information to Federal Home Loan Bank

Under current law, the division regulates state banks, savings banks, and savings and loan associations and OCU regulates state credit unions (collectively, financial institutions), and this regulation includes periodic examinations of these financial institutions by, and reports from these financial institutions to, the division or OCU. Current law generally requires the division and OCU to maintain the confidentiality of examination information and of reports provided to the division or OCU. However, limited exceptions allow disclosure under certain circumstances, including disclosure to state regulatory authorities and to the Federal Deposit Insurance Corporation or National Credit Union Administration.

This bill allows the division or OCU to furnish to a Federal Home Loan Bank, upon request, a copy of any examination report made by, or other supervisory information possessed by, the division or OCU if the Federal Home Loan Bank agrees to treat the information confidentially.

Periodic examinations of financial institutions

With exceptions, current law requires the division and OCU to examine the records and affairs of financial institutions under their respective jurisdictions at least once every 18 months.

Under this bill, in conducting these periodic examinations, the division and OCU may accept and rely on information collected by other agencies in determining whether a financial institution has satisfied any requirement that is part of the examination.

Limit on savings bank loans to one borrower

Under current law, with exceptions, a savings bank may not make loans to a single person totaling more than 15 percent of the savings bank's capital.

This bill increases this limit to 20 percent ~~and allows DFI to waive this 20 percent limit on a case-by-case basis.~~

Interest on residential mortgage loan escrow accounts

Under current law, subject to certain exceptions, a financial institution or mortgage banker that originates a residential mortgage loan and requires an escrow to assure the payment of taxes or insurance must pay interest on the outstanding principal balance of the escrow at the following annual rate: 1) if the loan was originated between February 1, 1984, and December 31, 1993, not less than 5.25 percent; or 2) if the loan was originated on or after January 1, 1994, a variable rate calculated annually by the division and OCU using the average interest rate paid on passbook accounts.

Under this bill, financial institutions and mortgage bankers are not required to pay interest on escrow accounts for residential mortgage loans originated on or after the effective date of the bill.

Security for public deposits

Under current law, the Investment Board and the governing bodies of counties, municipalities, and certain other local governmental units (collectively, public

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Intro.

depositors) must designate one or more federal or state credit unions, federal or state savings and loan associations, state banks, savings and trust companies, federal or state savings banks, or national banks in this state (public depositories) for deposit of all public moneys received by the public depositor. The public depositor must specify whether security is required of the public depository to secure the repayment of deposits exceeding deposit insurance.

This bill specifies that the security that may be provided by a public depository includes an irrevocable letter of credit issued by a Federal Home Loan Bank, state bank, national bank, federal or state savings bank, or federal or state savings and loan association.

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

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

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

****NOTE: The drafting instructions for s. 34.07 refer to a federal home loan bank and a "bank." I assume the term "bank" is meant to apply to more than just a state bank, so I replaced the term "bank" with the list of banks appearing in s. 34.09, stats. I did not include federal or state credit unions or trust companies. Please advise if this change is not consistent with your intent.

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

9 138.052 (5) (am) 1. Except as provided in par. (b) and unless the escrow funds
10 are held by a 3rd party in a noninterest-bearing account, a bank, credit union,
11 savings bank, savings and loan association or mortgage banker which originates a
12 loan on or after January 1, 1994, and before the effective date of this subdivision
13 [LRB inserts date], or a loan subject to subd. 3., and which requires an escrow to
14 assure the payment of taxes or insurance shall pay interest on the outstanding

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1 principal balance of the escrow at the variable interest rate established under subd.

2 2.

****NOTE: I drafted the change in s. 138.052 (5) (am) 1. in a manner that parallels s. 138.052 (5) (a). I believe it is preferable to have the applicability of the provision appear directly in the provision rather than in another paragraph that a reader might overlook.

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

4 186.235 (7) (b) 4. Furnish to a federal home loan bank, upon request, a copy of
5 any examination report made by, or other supervisory information possessed by, the
6 office of credit unions of any credit union, if the federal home loan bank agrees to treat
7 the information received under this subdivision with the same degree of
8 confidentiality that is required of employees of the office of credit unions under par.
9 (a).

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

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

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

20 214.54 (1) Except as provided in ^{delete strike} ~~sub.~~ ~~subs.~~ (2) and (10) and s. 214.49 (4), the
21 total of outstanding loans and extensions of credit, both direct and indirect, made by
22 a savings bank to a single person shall be subject to limits established by rule of the
23 division, but may not exceed 15 20 percent of the savings bank's capital.

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

2 214.54 (2) Total outstanding loans and extensions of credit, both direct and
3 indirect, made by a savings bank to a single person may exceed the ~~15~~ 20 percent
4 limit under sub. (1), but may not exceed 25 percent of the savings bank's capital, if
5 all loans or extensions of credit that exceed the ~~15~~ 20 percent limit are at least 100
6 percent secured by readily marketable collateral having a market value that may be
7 determined by reliable and continuously available price quotations.

8 ~~**SECTION 7.** 214.54 (10) of the statutes is created to read:~~

9 ~~214.54 (10) Upon application and on a case-by-case basis, the division may,~~
10 ~~at the discretion of the secretary of financial institutions, waive the limit under sub.~~
11 ~~(1) on the total of outstanding loans and extensions of credit that may be made by a~~
12 ~~savings bank to a single person.~~

13 **SECTION 8.** 214.725 (3) (intro.) of the statutes is amended to read:

14 214.725 (3) (intro.) ~~An~~ Subject to sub. (3m), an examination shall include a
15 review of all of the following:

16 **SECTION 9.** 214.725 (3m) of the statutes is created to read:

17 214.725 (3m) In conducting examinations under sub. (1) (a), the division may
18 accept and rely on information collected by other agencies in determining whether
19 a savings bank has satisfied any requirement that is part of the examination.

20 **SECTION 10.** 214.755 (1) (f) of the statutes is created to read:

21 214.755 (1) (f) A federal home loan bank if the federal home loan bank agrees
22 to keep the information confidential.

23 **SECTION 11.** 215.02 (6) (a) 7. of the statutes is created to read:

24 215.02 (6) (a) 7. The division may furnish to a federal home loan bank a copy
25 of any examination report made by, or other supervisory information possessed by,

1 the division of any association if the federal home loan bank agrees to keep the
2 examination report or other information confidential.

3 **SECTION 12.** 215.03 (2) (a) of the statutes is amended to read:

4 215.03 (2) (a) Except as provided in par. (b), at least once within every
5 18-month period, the division shall examine the cash, bills, collaterals, securities,
6 assets, books of account, condition and affairs of all such associations and for that
7 purpose the division or the division's examiners shall have access to, and may compel
8 the production of, all their books, papers, securities and moneys, administer oaths
9 to and examine their officers and agents as to their affairs. In conducting
10 examinations under this paragraph, the division may accept and rely on information
11 collected by other agencies in determining whether an association has satisfied any
12 requirement that is part of the examination. An employee of the division may not
13 examine an association in which the employee is interested as an officer or director.

14 **SECTION 13.** 220.04 (1) (a) of the statutes is amended to read:

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

1 **SECTION 14.** 220.06 (1m) of the statutes is amended to read:

2 220.06 (1m) No division employee may examine a bank or licensee in which
3 that person is interested as a stockholder, officer or employee. No division employee
4 may examine a bank or licensee located in the same village, city or county with any
5 bank or licensee in which that person is so interested. Employees in the division, and
6 each member and employee of the banking review board, shall keep secret all facts
7 and information obtained in the course of examinations or from reports not under s.
8 221.1002 (1) filed by a bank or licensee with the division, except so far as the public
9 duty of the person requires reporting upon or taking special action regarding the
10 affairs of any bank or licensee, and except when called as a witness in any criminal
11 proceeding or trial in a court of justice. The division may furnish to the federal
12 deposit insurance corporation, to a federal home loan bank, or to any regulatory
13 authority for state or federal financial institutions, insurance or securities a copy of
14 any examination made of any such bank or licensee or of any report made by such
15 bank or licensee and may give access to and disclose to the corporation, to a federal
16 home loan bank, or to any regulatory authority for state or federal financial
17 institutions, insurance or securities any information possessed by the division with
18 reference to the conditions or affairs of any such insured bank or licensee if the
19 regulatory authority agrees to treat all information received with the same degree
20 of confidentiality as applies to reports of examination that are in the custody of the
21 division.

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

23 223.105 (3) (a) To assure compliance with such rules as may be established
24 under s. 220.04 (7), the division of banking and the office of credit unions shall, at
25 least once every 18 months, examine the fiduciary operations of each organization

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1 which is under its respective jurisdiction and is subject to examination under sub.
2 (2). If a particular organization subject to examination under sub. (2) is not
3 otherwise under the jurisdiction of one of the foregoing agencies, such examination
4 shall be conducted by the division of banking. In conducting examinations under this
5 paragraph, the division of banking or office of credit unions may accept and rely on
6 information collected by other agencies in determining whether an organization has
7 satisfied any requirement that is part of the examination.

(END)

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1 **INSERT 1-7:**

2 (no 9) capital of state banks;

3 **INSERT 1-8:**

4 (no 9) insurance company liquidation proceedings;

5 **INSERT ANAL-A:**

(no 9) The bill further allows a state bank, with approval of the division, to reduce its capital and distribute cash or other assets to its shareholders. The bill also includes provisions applicable to collateral and other security interests of Federal Home Loan Banks in insurance company liquidation proceedings.

INSERT ANAL-B:

Capital reduction by state banks

Current law requires the division, immediately following a state bank's organization, to determine the required capital of the bank, including the required capital stock. "Capital stock" means the bank's stock other than preferred stock, and "capital" includes the bank's capital stock, preferred stock, surplus, and undivided profits. Subject to certain requirements and limitations, a bank's board of directors may declare and pay a dividend from its undivided profits, but the bank's dividends may not impair or diminish the bank's capital except to reduce undivided profits.

This bill provides that, with approval of the division, a state bank may, by vote of its shareholders, reduce its capital, including by transfer of surplus to undivided profits, and distribute cash or other assets to its shareholders.

Insurance company liquidation proceedings

* Current law contains various provisions applicable in a proceeding brought by the Commissioner of Insurance for the liquidation or rehabilitation of an insurer. Any receiver, liquidator, or rehabilitator appointed in such a proceeding may seek and obtain from a court a restraining order or injunction to prevent specified conduct by the insurer, including its transaction of business, transfer of property, or wasting of assets.

This bill specifies that a Federal Home Loan Bank may not be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under any security agreement or similar arrangement.

Current law provides certain powers for the liquidator in a liquidation proceeding, including the power to enter into contracts as necessary to carry out the liquidation and the power to affirm or disavow any contracts to which the insurer is

a party. Also in a liquidation proceeding, if one of ^{the} specified conditions is met, a liquidator may avoid a preference and recover property or its value. A "preference" is a transfer of an insurer's property to or for the benefit of a creditor based on a preexisting debt if the transfer is made within one year before the liquidation petition and the transfer's effect is to enable the creditor to obtain a greater percentage of his or her debt than another creditor of the same class.

This bill provides that a liquidator does not have the power to disavow any Federal Home Loan Bank security agreement or similar arrangement, and may not avoid any transfer of money or property in connection with any Federal Home Loan Bank security agreement or similar arrangement, except that a transfer may be avoided if it was made with actual intent to hinder, delay, or defraud creditors.

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SECTION 1. 221.0328 (4) of the statutes is created to read:

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

****NOTE: I added cross-references in sub. (4), above, to clarify the effect of this new provision on certain existing provisions. Please advise if you believe any of these cross-references are inappropriate or unnecessary and should therefore be modified or removed.

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INSERT 8-7:

SECTION 2. 645.05 (3) of the statutes is created to read:

645.05 (3) NO INJUNCTION AGAINST A FEDERAL HOME LOAN BANK. Notwithstanding subs. (1) and (2) and any other provision of this chapter, no federal home loan bank may be stayed, enjoined, or prohibited from exercising or enforcing any right or cause

1 of action regarding collateral pledged under any security agreement, or any pledge,
2 security, collateral, or guarantee agreement, or any other similar arrangement or
3 credit enhancement relating to a federal home loan bank security agreement.

4 **SECTION 3.** 645.46 (11) of the statutes is renumbered 645.46 (11) (a) and
5 amended to read:

6 645.46 (11) (a) ~~Enter~~ Subject to par. (b), enter into such contracts as are
7 necessary to carry out the order to liquidate, and affirm or disavow any contracts to
8 which the insurer is a party.

History: 1971 c. 164 s. 90; 1977 c. 196 s. 131; 1977 c. 273. 1979 c. 93; 1979 c. 102 ss. 206, 236 (11); 1979 c. 109; 1993 a. 301; 2007 a. 20.

9 **SECTION 4.** 645.46 (11) (b) of the statutes is created to read:

10 645.46 (11) (b) Notwithstanding any other provision of this chapter, no
11 liquidator has the power to disavow any federal home loan bank security agreement,
12 or any pledge, security, collateral, or guarantee agreement, or any other similar
13 arrangement or credit enhancement relating to a federal home loan bank security
14 agreement.

15 **SECTION 5.** 645.54 (1) (b) 3. of the statutes is created to read:

16 645.54 (1) (b) 3. Notwithstanding any other provision of this chapter, no
17 liquidator may avoid any transfer of, or any obligation to transfer, money or any other
18 property arising under or in connection with any federal home loan bank 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. However, a transfer may be avoided under this paragraph if it
22 was made with actual intent to hinder, delay, or defraud either existing or future
23 creditors.

KRP INSERT 1-8

1 ; and modifying an administrative rule of the Department of Workforce Development
2 related to an exemption from overtime pay requirements for outside salespersons

(END KRP INSERT 1-8)

KRP INSERT A-1

Exemption from overtime pay requirements for outside salespersons

(no #) Finally, The bill modifies an administrative rule of the Department of Workforce Development to conform the rule to a similar provision under the federal Fair Labor Standards Act. (FLSA)

The FLSA currently provides an exemption from the minimum wage and overtime pay provisions of the FLSA for employees employed as outside salespersons, as defined under the Code of Federal Regulations. Rules promulgated by DWD currently provide an exemption from state overtime pay provisions for outside salespersons who spend 80 percent of their time away from the employer's place of business.

The bill modifies the administrative rule provision to conform the state exemption for outside salespersons to the exemption under the FLSA. Specifically, the bill provides that the state exemption applies to an employee 1) whose primary duty is either making sales or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer, and 2) who is customarily and regularly engaged away from the employer's place of business in performing that primary duty.

(END KRP INSERT A-1)

KRP INSERT 8-8

3 **SECTION 1.** DWD 274.04 (2) of the administrative code is repealed and
4 recreated to read:

5 DWD 274.04 (2) An employee who meets all of the following conditions:

6 (a) The employee's primary duty, as determined under 29 CFR 541.500 (b), is
7 any of the following:

8 1. Making sales, as defined under 29 USC 203 (k).

9 2. Obtaining orders or contracts for services or for the use of facilities for which

10 a consideration will be paid by the client or customer.

Insert KRP A intro

1 (b) The employee is customarily and regularly engaged away from the
2 employer's place of business, as described under 29 CFR 541.502, in performing the
3 employee's primary duty described under par. (a).

4 **SECTION 2. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) The treatment of section DWD 274.04 (2) of the Wisconsin Administrative
7 Code takes effect as provided in section 227.265 of the statutes.

(END KRP INSERT 8-8)

Gary, Aaron

From: Krueger, Nick
Sent: Wednesday, October 18, 2017 3:01 PM
To: Gary, Aaron
Subject: One more request for LRB-3555

Hi Aaron,

Thanks as always for your good work for us recently on LRB-3555.

One last request to make, please: at several locations in the P3 draft, the bill provides that DFI may "accept and rely on information collected by other agencies" in determining whether a financial institution has satisfied its exam requirements. We'd like to broaden that to "...collected by other agencies or independent third parties."

Our rationale is that a number of large private accounting firms (i.e., VantagePoint, Fipco, etc.) conduct independent audits of financial institutions; we'd like DFI to have the discretion to use such information if the department finds it useful/satisfactory.

With this change, please do go ahead and provide us with a /1 draft.

Thank you!

Nick Krueger

Office of Representative Terry Katsma

Wisconsin State Assembly

Room 208 North, State Capitol

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Madison, WI 53708

(608) 266-0656 (office)

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From: LRB.Legal
Sent: Tuesday, October 17, 2017 2:02 PM
To: Rep.Katsma <Rep.Katsma@legis.wisconsin.gov>
Subject: Draft review: LRB -3555/P3

Following is the PDF version of draft LRB -3555/P3.