



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4193/1
ARG:all

2019 SENATE BILL 457

September 27, 2019 - Introduced by Senators MARKLEIN, FEYEN, OLSEN, RINGHAND and KAPENGA, cosponsored by Representatives KATSMA, DUCHOW, DITTRICH, DOYLE, FELZKOWSKI, HORLACHER, KITCHENS, QUINN, SKOWRONSKI, TUSLER and ZIMMERMAN. Referred to Committee on Agriculture, Revenue and Financial Institutions.

1 **AN ACT to repeal** 15.07 (1) (b) 5., 15.07 (5) (g), 15.185 (3) and 227.53 (1) (b) 2.;

2 **to amend** 15.07 (1) (b) 1., 15.07 (5) (b), 15.185 (1), 71.91 (6) (c) 1., 71.91 (6) (d)

3 1., 214.01 (1) (sr), 215.01 (22), 220.02 (5), 220.035 (title), 220.035 (1) (a), 220.035

4 (2), 220.035 (3), 220.035 (6), 220.04 (1) (a), 220.04 (4), 220.04 (6), 220.04 (7) (b)

5 (intro.), 220.04 (8), 220.04 (9) (f) 2., 220.04 (12), 220.05 (2), 220.06 (1m), 220.06

6 (2), 220.07 (2), 220.08 (1), 220.08 (3a), 220.08 (9), 220.085, 221.0202 (5),

7 221.0205, 221.0324 (9), 221.0702 (3), 221.1006, 223.01, 224.725 (1), 227.52 (3),

8 227.53 (1) (a) 1., 227.53 (1) (b) 4., 227.53 (1) (d), 403.312 (2) (c) 1., 705.04 (2)

9 (intro.), 705.04 (2g), 705.06 (3) and 812.18 (1); and **to create** 71.91 (6) (a) 1r.,

10 71.91 (6) (d) 4., 224.46, 224.725 (1r), 705.06 (2m) and 812.19 (4) of the statutes;

11 **relating to:** P.O.D. accounts and loan obligations to financial institutions; the

12 duty of a bank to make payment on a lost, destroyed, or stolen cashier's check,

13 teller's check, or certified check; providing temporary authority to act as a

14 mortgage loan originator while a license application is pending; property

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1 subject to garnishment or tax levy in possession of a financial institution;
2 entities that provide to financial institutions electronic data processing
3 services; loans to state banks by a Federal Home Loan Bank; and consolidating
4 the Banking Review Board and Savings Institutions Review Board in the
5 Department of Financial Institutions.

Analysis by the Legislative Reference Bureau***P.O.D. accounts***

This bill allows a financial institution that has established a payable-on-death (P.O.D.) account and made a loan to the P.O.D. account owner to, upon the death of the account owner, withhold distribution to the P.O.D. account beneficiary of an amount necessary to satisfy the account owner's loan obligation to the financial institution.

Current law allows a depositor of a financial institution to establish a P.O.D. account under which the sums on deposit at the time of the depositor's death are transferred to a designated P.O.D. beneficiary and are not subject to distribution by will or otherwise as part of the deceased depositor's estate.

Under this bill, if the financial institution has made a loan to the depositor and has any lien right, right to setoff, or security interest in the P.O.D. account resulting from the loan, then upon the depositor's death, the financial institution may retain control of all sums on deposit in the P.O.D. account to the extent necessary to exercise its lien right or right to setoff or to protect its security interest. The financial institution must then pay the remaining balance of the account to the P.O.D. beneficiary.

Bank's payment duty on lost, destroyed, or stolen instrument

This bill reduces the period, from 90 days to 14 days, after certain checks are issued or guaranteed before the issuing or guaranteeing bank is obligated to pay the amount of the check to a person who meets specified requirements and claims that the check has been lost, destroyed, or stolen.

Under current law, if certain requirements are satisfied, a person may claim the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen by communicating the claim to the obligated bank (the issuer or guarantor of the check), describing the check with reasonable certainty, and requesting payment of the amount of the check. If various requirements are satisfied, the obligated bank must pay the amount of the check to the claimant on the later of the time that the claim is asserted or the 90th day after the date of the cashier's check or teller's check or, for a certified check, the 90th day after the date of the obligated bank's guarantee to honor the check. Payment to the claimant discharges all liability of the obligated bank with respect to the check. However, under certain circumstances, the claimant must refund the payment to the obligated

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bank if the check is subsequently presented for payment by a person with certain superior rights.

Under this bill, if all applicable requirements are satisfied, the obligated bank must pay the claimant the amount of the lost, destroyed, or stolen check on the later of the time that the claim is asserted or the 14th day after the date of the cashier's check or teller's check or, for a certified check, the 14th day after the date of the obligated bank's guarantee to honor the check.

Mortgage loan originators

This bill provides an applicant for a mortgage loan originator license, under limited circumstances, with temporary authority to act as a mortgage loan originator while the application is pending with the Department of Financial Institutions.

Under current law, with certain exceptions, a person may not engage in business as a mortgage banker, mortgage broker, or mortgage loan originator unless the person is licensed as such by DFI. A mortgage banker is a person that originates residential mortgage loans (loans) for itself or for another person; sells loans or interests in loans to another person; or services loans or provides escrow services. A mortgage broker is a person that, among other activities, assists others, for compensation, in obtaining or applying for loans, but does not make underwriting decisions or close loans. A mortgage loan originator is an individual who, for compensation, takes loan applications or offers or negotiates terms of a loan. Certain of DFI's licensing and registration functions are administered through the Nationwide Mortgage Licensing System and Registry (NMLSR), as required under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Under current law, state and federally chartered financial institutions (depository institutions) are not required to be licensed as mortgage bankers or mortgage brokers. A depository institution may register with DFI (registered entity) for the purpose of sponsoring licensed mortgage loan originators that are under the depository institution's direct control. An individual who is registered with the NMLSR and employed by the depository institution as a mortgage loan originator (registered mortgage loan originator) is not required to hold a mortgage loan originator license issued by DFI.

Also under current law, a mortgage loan originator may act on behalf of only the mortgage banker, mortgage broker, or registered entity with which that mortgage loan originator's license is associated in DFI's records. A mortgage loan originator's license may only be associated with one mortgage banker, mortgage broker, or registered entity at a time. The mortgage banker, mortgage broker, or registered entity is responsible for, and must supervise the acts of, the mortgage loan originator with whom it is associated.

Under this bill, an individual who applies to DFI for a mortgage loan originator license is considered to have temporary authority to act as a mortgage loan originator if the individual is employed by a licensed mortgage banker or mortgage broker, was a registered mortgage loan originator or licensed as a mortgage loan originator in another state, and meets certain other requirements, including that the individual was not previously denied a license and has not been convicted of a disqualifying crime. The period for which the individual has temporary authority begins when the

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individual furnishes certain required application information to the NMLSR and ends upon the earliest of certain events, including DFI's granting or denial of the license. During this period, the individual is associated with the mortgage banker or mortgage broker employing the individual and is considered to have mortgage loan originator authority subject to all applicable requirements, including duties imposed on the associated mortgage banker or mortgage broker.

Financial institution's possession of property subject to garnishment

This bill specifies that a financial institution in possession of a debtor's property subject to garnishment or tax levy is liable for the surrender of this property only upon expiration of a reasonable time to comply with the garnishment directive or demand by the Department of Revenue.

Under current law, a creditor who has obtained judgment against a debtor may proceed against any third party in possession of the debtor's property by commencing a garnishment action. From the time of service on the third party (referred to in a garnishment action as a garnishee) of the summons and complaint, the garnishee is liable to the creditor for the debtor's property then in the garnishee's possession or under the garnishee's control, up to the amount of the creditor's claim.

Also under current law, DOR has certain procedures available to collect unpaid taxes. Among these, DOR may levy upon property belonging to the person responsible for the unpaid taxes. Upon demand by DOR, a third party in possession of property subject to the levy must surrender the property, and the third party is liable to DOR for the value of the property if it is not surrendered.

Under this bill, if the third-party garnishee in a garnishment action, or the third party to whom a demand is made by DOR to surrender property subject to a tax levy, is a financial institution, the financial institution is liable for the surrender of the subject property only upon expiration of a reasonable time to comply with the garnishment summons or demand by DOR.

Data processing services provided to financial institutions

This bill creates certain provisions applicable to entities that provide to financial institutions electronic data processing services (independent data processing servicers). Under the bill, if a financial institution transfers or otherwise makes available to an independent data processing servicer any data from the financial institution's records, this data remains the property of the financial institution, and the independent data processing servicer has no right, title, or interest in, or claim to legal ownership of, the data. Also under the bill, an independent data processing servicer may not enter into a contract with a financial institution unless the contract discloses in separate contract provisions 1) all fees or charges that the independent data processing servicer may impose on the financial institution; and 2) any formula or other grounds that the independent data processing servicer may apply or rely upon to terminate the contract.

Federal Home Loan Bank loans

This bill eliminates certain limitations on loans to state banks made by a Federal Home Loan Bank.

Under current law, a state bank may become a member of a Federal Home Loan Bank and borrow money from the Federal Home Loan Bank for a term not to exceed

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20 years. The state bank may pledge bank assets having a value that does not exceed two times the amount of the loan as collateral to secure the loan, but the total assets pledged may not exceed four times the amount of the bank's capital.

This bill eliminates, with respect to a loan to a bank from a Federal Home Loan Bank, the 20-year term limitation and the limitation on the value of bank assets that may be pledged as collateral to secure the loan.

Banking Review Board and Savings Institutions Review Board

This bill renames the Banking Review Board as the Banking Institutions Review Board and consolidates it with the Savings Institutions Review Board.

Current law creates in DFI a five-member Banking Review Board and a five-member Savings Institutions Review Board. The Banking Review Board advises the Division of Banking (division) in DFI on matters related to banks and banking and reviews the division's administrative actions related to banks and banking. The Savings Institutions Review Board advises the division on matters related to savings banks and savings and loan associations and reviews the division's administrative actions related to savings banks and savings and loans.

Under the bill, the renamed and consolidated Banking Institutions Review Board has ten members until May 1, 2020, six members after May 1, 2020, and until May 1, 2021, and five members after May 1, 2021. The functions of the Banking Institutions Review Board are the same as the current functions, merged, of the Banking Review Board and Savings Institutions Review Board

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 15.07 (1) (b) 1. of the statutes is amended to read:

2 15.07 (1) (b) 1. Banking institutions review board.

3 **SECTION 2.** 15.07 (1) (b) 5. of the statutes is repealed.

4 **SECTION 3.** 15.07 (5) (b) of the statutes is amended to read:

5 15.07 (5) (b) Members of the banking institutions review board, \$25 per day but
6 not to exceed \$1,500 per year.

7 **SECTION 4.** 15.07 (5) (g) of the statutes is repealed.

8 **SECTION 5.** 15.185 (1) of the statutes is amended to read:

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1 15.185 (1) BANKING INSTITUTIONS REVIEW BOARD. There is created in the
2 department of financial institutions a banking institutions review board consisting
3 of ~~5~~ 10 persons, until May 1, 2020, and consisting of 6 persons after May 1, 2020.
4 The members of the board shall be appointed for staggered 5-year terms. At least
5 3 members shall be experienced bankers or savings institution employees having at
6 least 5 years' experience in the banking or savings institution business. No member
7 is qualified to act in any matter involving a bank or savings institution in which the
8 member is an officer, director, or stockholder, or to which the member is indebted.

9 **SECTION 6.** 15.185 (1) of the statutes, as affected by 2019 Wisconsin Act (this
10 act), is amended to read:

11 15.185 (1) BANKING INSTITUTIONS REVIEW BOARD. There is created in the
12 department of financial institutions a banking institutions review board consisting
13 of ~~10~~ 5 persons ~~until May 1, 2020, and consisting of 6 persons after May 1, 2020.~~ ~~The~~
14 ~~members of the board shall be,~~ appointed for staggered 5-year terms. At least 3
15 members shall be experienced bankers or savings institution employees having at
16 least 5 years' experience in the banking or savings institution business. No member
17 is qualified to act in any matter involving a bank or savings institution in which the
18 member is an officer, director, or stockholder, or to which the member is indebted.

19 **SECTION 7.** 15.185 (3) of the statutes is repealed.

20 **SECTION 8.** 71.91 (6) (a) 1r. of the statutes is created to read:

21 71.91 (6) (a) 1r. "Financial institution" has the meaning given in s. 214.01 (1)
22 (jn).

23 **SECTION 9.** 71.91 (6) (c) 1. of the statutes is amended to read:

24 71.91 (6) (c) 1. Except as provided in subd. 2. and par. (d) 4., any person in
25 possession of, or obligated with respect to, property subject to levy upon which a levy

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1 has been made shall, upon demand of the department, surrender that property
2 unless it is subject to attachment or execution under judicial process, or discharge
3 that obligation, to the department.

4 **SECTION 10.** 71.91 (6) (d) 1. of the statutes is amended to read:

5 71.91 (6) (d) 1. Any Except as provided in subd. 4., any person, including an
6 officer or employee, who fails to surrender property that is subject to levy upon
7 demand of the department is liable to the department for a sum equal to the value
8 of the property not surrendered, but not exceeding the amount of taxes for the
9 collection of which that levy was made, together with costs and interest at the rate
10 of 18 percent per year from the date of that levy. Any amount, other than costs,
11 recovered under this paragraph shall be credited against the tax liability for the
12 collection of which that levy was made. The liability under this paragraph may be
13 assessed, levied and collected as are additional income or franchise taxes or may be
14 recovered by the department in a civil action.

15 **SECTION 11.** 71.91 (6) (d) 4. of the statutes is created to read:

16 71.91 (6) (d) 4. If a financial institution is in possession of, or obligated with
17 respect to, property subject to levy upon which a levy has been made, the financial
18 institution is liable under this paragraph for failure to surrender that property or
19 discharge that obligation only upon expiration of a reasonable time to comply with
20 the department's demand for the property.

21 **SECTION 12.** 214.01 (1) (sr) of the statutes is amended to read:

22 214.01 (1) (sr) "Review board" means the ~~savings~~ banking institutions review
23 board.

24 **SECTION 13.** 215.01 (22) of the statutes is amended to read:

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1 215.01 (22) “Review board” means the ~~savings~~ banking institutions review
2 board.

3 **SECTION 14.** 220.02 (5) of the statutes is amended to read:

4 220.02 (5) Except for acts and decisions of the division under chs. 138, 217, and
5 218, any interested person or any bank or banking corporation aggrieved by an act,
6 order, or determination of the division may, within 10 days from the date thereof,
7 apply to the banking institutions review board to review the same. All such
8 applications for review shall be considered and disposed of as speedily as possible.
9 The banking institutions review board may require the division to submit any of the
10 division’s actions subject to such review to said board for its approval.

11 **SECTION 15.** 220.035 (title) of the statutes is amended to read:

12 **220.035 (title) Banking institutions review board.**

13 **SECTION 16.** 220.035 (1) (a) of the statutes is amended to read:

14 220.035 (1) (a) The banking institutions review board shall advise the division
15 and others in respect to improvement in the condition and service of banks and
16 banking business in this state and shall review the acts and decisions of the division
17 with respect to banks, except for such acts and decisions of the division under chs.
18 138, 217, and 218, and shall perform such other review functions in relation to
19 banking as are provided by law. The banking institutions review board may require
20 the division to submit any of the division’s actions to it for its approval. The board
21 may make rules of procedure as provided in ch. 227.

22 **SECTION 17.** 220.035 (2) of the statutes is amended to read:

23 220.035 (2) The banking institutions review board may make rules and
24 regulations to safeguard the interest of depositors and stockholders generally in
25 emergencies.

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1 **SECTION 18.** 220.035 (3) of the statutes is amended to read:

2 220.035 (3) Any final order or determination of the banking institutions review
3 board shall be subject to review in the manner provided in ch. 227.

4 **SECTION 19.** 220.035 (6) of the statutes is amended to read:

5 220.035 (6) Any bank whose assets, upon the basis of a fair valuation, are equal
6 to or in excess of its liabilities exclusive of capital stock, preferred stock, capital notes,
7 and debentures, shall be deemed to be safe and solvent. The banking institutions
8 review board may prescribe schedules, rules, and regulations for arriving at a fair
9 valuation of various classes of assets of banks.

10 **SECTION 20.** 220.04 (1) (a) of the statutes is amended to read:

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

23 **SECTION 21.** 220.04 (4) of the statutes is amended to read:

24 220.04 (4) Whenever the division is of the opinion that the loaning, investing,
25 or other banking policies or practices of any officer or director of any bank have been

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1 prejudicial to the best interests of such bank or its depositors, or that such policies
2 or practices, if put into operation or continued, will endanger the safety or solvency
3 of said bank or impair the interests of its depositors, the division may, with the
4 approval of the banking institutions review board, request the removal of such officer
5 or director. Such request shall be served on the bank and on such officer or director
6 in the manner provided by law for serving a summons in a court of record or shall be
7 transmitted to said bank and officer or director by registered mail with return receipt
8 requested. If such request for removal is not complied with within a reasonable time
9 fixed by the division, the division may by order, with like approval of the banking
10 institutions review board, remove such officer or director, but no order of removal
11 shall be entered until after an opportunity for hearing before the banking
12 institutions review board is given to such officer or director upon not less than 10
13 days' notice. An order of removal shall take effect as of the date issued. A copy of such
14 order shall be served upon the bank and upon such officer or director in the manner
15 provided by law for service of a summons in a court of record or by mailing such copy
16 to the bank or officer or director at the bank's or officer's or director's last-known
17 post-office address. Any removal under this subsection shall be effective in all
18 respects the same as if made by the board of directors or stockholders of said bank.
19 Any officer or director removed from office under the provisions of this subsection
20 shall not be reelected as an officer or director of any bank without the approval of the
21 division and the banking institutions review board. An order of removal under this
22 subsection shall be deemed a final order or determination of the banking institutions
23 review board within the meaning and contemplation of s. 220.035 (3).

24 **SECTION 22.** 220.04 (6) of the statutes is amended to read:

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1 220.04 (6) (a) The division, with the approval of the banking institutions review
2 board, may establish uniform savings rules which shall be adopted by every bank
3 and trust company bank. Such rules may provide the conditions under which banks
4 or trust company banks may accept deposits.

5 (b) In times of financial distress, the commissioner with the approval of the
6 banking institutions review board may by order restrict the withdrawal of any class
7 of deposits in any bank or trust company bank. The pendency of any proceeding for
8 review of such order shall not stay or suspend the operation of such order.

9 (d) The division, with the approval of the banking institutions review board,
10 may establish rules regulating the kind and amount of foreign bonds or bonds and
11 securities offered for sale by the international bank for reconstruction and
12 development, the inter-American development bank, the international finance
13 corporation, the African development bank and the Asian development bank which
14 state banks and trust company banks may purchase, except that such rules shall not
15 apply to bonds and securities of the Canadian government and Canadian provinces,
16 which are payable in American funds.

17 **SECTION 23.** 220.04 (7) (b) (intro.) of the statutes is amended to read:

18 220.04 (7) (b) (intro.) The division may, with the approval of the banking
19 institutions review board, establish uniform rules regulating organizations
20 engaging in fiduciary operations. Such rules may:

21 **SECTION 24.** 220.04 (8) of the statutes is amended to read:

22 220.04 (8) Unless the division is expressly restricted by statute from acting
23 under this subsection with respect to a specific power, right, or privilege, the division
24 by rule may, with the approval of the banking institutions review board, authorize
25 state banks to exercise any power under the notice, disclosure, or procedural

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1 requirements governing national banks or to make any loan or investment or
2 exercise any right, power, or privilege permitted national banks under federal law,
3 regulation, or interpretation. Notice, disclosure, and procedures prescribed by
4 statute which may be modified by a rule adopted under this subsection include, but
5 are not limited to, those provided under s. 138.056. A rule adopted under this
6 subsection may not affect s. 138.041 or chs. 421 to 428 or restrict powers specifically
7 granted state banks under this chapter or ch. 221 or 224.

8 **SECTION 25.** 220.04 (9) (f) 2. of the statutes is amended to read:

9 220.04 (9) (f) 2. An official or regulated entity who violates an order issued
10 under par. (d) shall, for each violation, forfeit not more than \$1,000 per day for each
11 day the violation continues. Assessment of a forfeiture under this subdivision shall
12 commence on the latest of 10 days after the date of delivery of the order or, if an appeal
13 is taken under s. 220.035, 10 days after the date of the decision of the banking
14 institutions review board.

15 **SECTION 26.** 220.04 (12) of the statutes is amended to read:

16 220.04 (12) If the division has information that causes the division to believe
17 that any bank, trust company bank, or any other person subject in whole or in part
18 to supervision or control by the division, or any officer, employee, member, or
19 manager thereof, has violated any law, rule, or order that subjects the person to
20 prosecution for a criminal offense or to a penalty, the division shall bring such
21 information to the attention of the banking institutions review board, with the
22 division's recommendation in writing as to action to be taken. The banking
23 institutions review board shall, if in its judgment probable cause exists for believing
24 that a criminal offense has been committed, or a penalty incurred, call the facts and
25 information to the attention of the attorney general whose duty it shall be to cause

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1 prosecution or other action to be instituted if, in the attorney general's judgment, the
2 facts warrant. This subsection does not prevent the institution of any prosecution
3 by any district attorney of this state with or without any advice or act on the part of
4 the attorney general. This subsection does not preclude the division, in any case
5 where the division deems it important to act immediately, from causing any arrest
6 and prosecution where the division is satisfied that there is reason to believe the
7 offense has been committed and that prosecution should be immediately
8 commenced.

9 **SECTION 27.** 220.05 (2) of the statutes is amended to read:

10 220.05 (2) On or before July 15 of each year, each state bank and trust company
11 bank shall pay to the division an annual assessment for the maintenance of the
12 functions of the division in an amount to be determined by the banking institutions
13 review board, but which shall not exceed 8 cents per \$1,000 of resources, or part
14 thereof, for the first \$5,000,000 and shall not exceed 6 cents per \$1,000, or part
15 thereof, for all resources over \$5,000,000.

16 **SECTION 28.** 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 institutions review board, shall keep
22 secret all facts and information obtained in the course of examinations or from
23 reports not under s. 221.1002 (1) filed by a bank or licensee with the division, except
24 so far as the public duty of the person requires reporting upon or taking special action
25 regarding the affairs of any bank or licensee, and except when called as a witness in

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

12 **SECTION 29.** 220.06 (2) of the statutes is amended to read:

13 220.06 (2) If any employee in the division or any member of the banking
14 institutions review board or any employee thereof discloses the name of any debtor
15 of any bank or licensee, or anything relative to the private account or transactions
16 of such bank or licensee, or any fact obtained in the course of any examination of any
17 bank or licensee, except as herein provided, that person is guilty of a Class I felony
18 and shall be subject, upon conviction, to forfeiture of office or position.

19 **SECTION 30.** 220.07 (2) of the statutes is amended to read:

20 220.07 (2) REVIEW OF ORDER. In any case where the division has made an order
21 requiring capital to be made good, the bank may within 10 days after the making of
22 said order secure a review of same by the banking institutions review board by filing
23 with the division a statement requesting such review and stating the grounds of
24 objection to the order of the division. Said board shall promptly conduct a hearing
25 thereon after affording reasonable notice to the bank and shall affirm, modify, or set

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1 aside the order of the division. No such review or hearing shall extend the time for
2 compliance with the order of the division unless the banking institutions review
3 board shall so direct.

4 **SECTION 31.** 220.08 (1) of the statutes is amended to read:

5 220.08 (1) Whenever it shall appear to the division that any bank or banking
6 corporation to which this chapter is applicable has violated its charter or any law of
7 the state, or is conducting its business in an unsafe or unauthorized manner, or if the
8 capital of any such bank or banking corporation is impaired, or if any such bank or
9 banking corporation shall refuse to submit its books, papers, and concerns to the
10 inspection of any examiner, or if any officer thereof shall refuse to be examined upon
11 oath touching the concerns of any such bank or banking corporation, or if any such
12 bank or banking corporation shall suspend payment of its obligations, or if from any
13 examination or report provided for by this chapter the division shall have reason to
14 conclude that such bank or banking corporation is in an unsound or unsafe condition
15 to transact the business for which it is organized, or that it is unsafe and inexpedient
16 for it to continue business, or if any such bank or banking corporation shall neglect
17 or refuse to observe an order of the division, specified in s. 220.07, or if the division
18 shall find that the management of the bank or the manner in which the work of any
19 of its officers or employees is done, if continued, is such as to endanger the safety or
20 solvency of the bank and the division shall have made written recommendations for
21 change in management or officers and employees and such recommendation shall
22 not have been complied with after the expiration of a reasonable time therefor fixed
23 by the division, the division may take possession of the property and business of such
24 bank or banking corporation, and retain such possession until such bank or banking
25 corporation shall resume business, or its affairs be finally liquidated as herein

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1 provided. Whenever facts have come to the attention of the division which cause the
2 division to believe that it may be necessary or advisable to take possession of a bank,
3 or if the division has reasonable cause to believe that any of the grounds for taking
4 possession of a bank, specified in this section, exist, the division shall bring the
5 matter to the attention of the banking institutions review board, reporting to them
6 in writing the situation and the division's recommendation as to action to be taken.
7 The banking institutions review board shall promptly consider the matter and
8 promptly decide whether or not the division should take possession of the bank. If
9 the review board decides that the division should take possession, the division shall
10 forthwith take possession as hereinbefore provided. If at any time the division is
11 confronted with an emergency situation where in the division's opinion it is
12 imperative in order to protect the public or for other reasons that possession of the
13 bank be at once taken, the division may do so forthwith without referring the matter
14 to the banking institutions review board.

15 **SECTION 32.** 220.08 (3a) of the statutes is amended to read:

16 220.08 **(3a)** That in addition to the authority conferred by sub. (3), the division
17 with the approval of the banking institutions review board may, for purposes of
18 collection or liquidation, sell, assign, convey, and transfer or approve the sale,
19 assignment, conveyance, and transfer of the assets of a closed bank or bank operating
20 under a stabilization and readjustment agreement to any other bank or trust
21 company under such terms and conditions as the division may deem for the best
22 interests of the depositors and unsecured creditors of such bank.

23 **SECTION 33.** 220.08 (9) of the statutes is amended to read:

24 220.08 **(9)** Whenever any such bank or banking corporation, of whose property
25 and business the division has taken possession, as aforesaid, deems itself aggrieved

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1 thereby, it may, at any time within 10 days after such taking possession, apply to the
2 circuit court for the county in which such bank or banking corporation is located to
3 enjoin further proceedings; and said court, after citing the division to show cause why
4 further proceedings should not be enjoined and hearing the allegations and proofs
5 of the parties and determining the facts may, upon the merits dismiss such
6 application or enjoin the division from further proceedings, and direct the division
7 to surrender such business and property to such bank or banking corporation. Said
8 bank or banking corporation may, if it desires so to do, within 10 days after taking
9 possession apply to the banking institutions review board to review the action of the
10 division in taking possession. The banking institutions review board shall act
11 speedily on such application. Within 10 days after notice of the decision of the
12 banking institutions review board, said bank or banking corporation may apply to
13 said circuit court of the county in which such bank or banking corporation is located
14 to enjoin further proceedings. The proceedings on such application shall be on notice
15 to the division and shall be the same as where the application to the court is made
16 as above provided without application to the review board.

17 **SECTION 34.** 220.085 of the statutes is amended to read:

18 **220.085 Federal aid to banks.** On approval of the banking institutions
19 review board, any state bank or trust company, or the receiver of any insolvent or
20 delinquent state bank or trust company, may take advantage of any act that may be
21 enacted by the congress of the United States for the relief of any state banks or trust
22 companies.

23 **SECTION 35.** 221.0202 (5) of the statutes is amended to read:

24 221.0202 (5) DECISION. After completing the investigation under sub. (4), the
25 division shall make a written report to the banking institutions review board stating

SENATE BILL 457**SECTION 35**

1 the results of the investigation and the division's recommendation. The board shall
2 consider the matter, conduct any necessary hearing, and promptly make its decision
3 approving or disapproving the application. The decision shall be final except
4 pursuant to s. 220.035 (1) and (3). If the application is approved, the division shall
5 endorse on each of the original applications the word "Approved". If the application
6 is disapproved, the division shall endorse the word "Disapproved". One of the
7 duplicate originals shall be filed in the division's office and one shall be returned by
8 mail to the applicants.

9 **SECTION 36.** 221.0205 of the statutes is amended to read:

10 **221.0205 Capital stock.** Immediately following a bank's organization under
11 this chapter, the division shall determine the required capital of the bank, subject to
12 review by the banking institutions review board. In addition to the required capital
13 stock, a contingent fund and paid-in surplus each in an amount equal to at least 25
14 percent of the aggregate amount of the capital stock, shall be subscribed at the time
15 the subscription list of shareholders is prepared by the incorporators.

16 **SECTION 37.** 221.0324 (9) of the statutes is amended to read:

17 221.0324 (9) PLEDGES TO AND LOANS FROM THE FEDERAL HOME LOAN BANK.
18 Notwithstanding sub. (3), a bank that is a member of the federal home loan bank may
19 borrow money from the federal home loan bank ~~for a term not to exceed 20 years and~~
20 may pledge bank assets ~~having a value that does not exceed 2 times the amount of~~
21 ~~the loan as collateral to secure the loan. Total assets pledged under this subsection~~
22 ~~may not exceed 4 times the amount of the bank's capital~~ or any other extension of
23 credit from the federal home loan bank.

24 **SECTION 38.** 221.0702 (3) of the statutes is amended to read:

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1 221.0702 (3) ROLE OF DIVISION. After consultation with the banking institutions
2 review board, the division may make recommendations to any bank within this state
3 as to the advisability of consolidation or merger with other banks and may make
4 recommendations as to terms for consolidation or merger of banks in order to avoid
5 a condition of oversupply of banks in any community or area of the state. The division
6 may also, if requested so to do, act as mediator or arbitrator to fix any of the terms
7 of any such consolidation or merger. The board of directors of any bank organized
8 under the laws of this state may use a reasonable amount of the assets of the bank
9 toward assisting in bringing about a consolidation or merger of banks or to aid in
10 reorganization or in avoiding the closing of a bank, if the board considers it to be in
11 the interests of safe banking and the maintenance of credit and banking facilities in
12 the county in which the bank is located.

13 **SECTION 39.** 221.1006 of the statutes is amended to read:

14 **221.1006 Fees for certified copies.** If a certified copy of a record filed in the
15 division is lawfully required to be furnished by the division, the division may assess
16 a reasonable fee as determined by the banking institutions review board. These fees
17 shall be deposited in the general fund.

18 **SECTION 40.** 223.01 of the statutes is amended to read:

19 **223.01 Trust company banks, capital.** Trust company banks may be
20 organized pursuant to ch. 221 and shall be subject to all the provisions,
21 requirements, and liabilities of chs. 220 and 221, so far as applicable, except that
22 trust company banks may not accept deposits other than trust deposits and except
23 as otherwise hereinafter provided. The division may, with the approval of the
24 banking institutions review board, establish minimum capital requirements for a
25 trust company bank.

SENATE BILL 457**SECTION 41**

1 **SECTION 41.** 224.46 of the statutes is created to read:

2 **224.46 Independent data processing servicers. (1) DEFINITIONS.** In this
3 section:

4 (a) “Financial institution” has the meaning given in s. 214.01 (1) (jn).

5 (b) “Independent data processing servicer” means an entity that provides to a
6 financial institution electronic data processing services, but not including the
7 exchange of data and settlement of funds between 2 or more unaffiliated financial
8 institutions resulting from transactions involving remote terminals under s. 186.113
9 (15), remote service units under s. 214.04 (21) or 215.13 (46), or customer bank
10 communications terminals under s. 221.0303 (2).

11 (c) “Interface agreement” means a written agreement specifying the terms and
12 conditions under which an interface of communications, data, or systems between
13 independent data processing servicers shall be accomplished.

14 **(2) OWNERSHIP OF FINANCIAL INSTITUTION DATA.** If a financial institution
15 transfers or otherwise makes available to an independent data processing servicer
16 any data from the financial institution’s records, this data shall remain the property
17 of the financial institution. The independent data processing servicer has no right,
18 title, or interest in, or claim to legal ownership of, the data. The transfer of the data
19 by the financial institution authorizes the independent data processing servicer only
20 to exercise temporary control of the data for the limited purpose of performing the
21 contracted services requested by the financial institution. This subsection also
22 applies with respect to an independent data processing servicer that receives a
23 financial institution’s data under an interface agreement or other agreement with
24 another independent data processing servicer.

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1 **(3) CONTRACT DISCLOSURES BY INDEPENDENT DATA PROCESSING SERVICERS.** No
2 independent data processing servicer may enter into a contract with a financial
3 institution, or renew or amend such a contract, unless the contract discloses, in
4 separate contract provisions, all of the following:

5 (a) All fees or charges, including any fee schedule, that the independent data
6 processing servicer may impose on the financial institution.

7 (b) Any formula or other grounds that the independent data processing servicer
8 may apply or rely upon to terminate the contract.

9 **SECTION 42.** 224.725 (1) of the statutes is amended to read:

10 224.725 **(1) LICENSE REQUIRED.** Except as provided in ~~sub.~~ subs. (1m) and (1r),
11 an individual may not regularly engage in the business of a mortgage loan originator
12 with respect to a residential mortgage loan, or use the title “mortgage loan
13 originator,” advertise, or otherwise portray himself or herself as a mortgage loan
14 originator in this state, unless the individual has been issued by the division, and
15 thereafter maintains, a license under this section. Each licensed mortgage loan
16 originator shall register with, and maintain a valid unique identifier issued by, the
17 nationwide mortgage licensing system and registry.

18 **SECTION 43.** 224.725 (1r) of the statutes is created to read:

19 224.725 **(1r) EMPLOYMENT TRANSITION; TEMPORARY AUTHORITY.** (a) An individual
20 who was a registered mortgage loan originator immediately prior to becoming
21 employed by, and who remains employed by, a mortgage banker or mortgage broker
22 licensed under this subchapter and who has applied to the division for a mortgage
23 loan originator license is considered to have temporary authority to act as a mortgage
24 loan originator under this subchapter, for the period specified in par. (c), if all of the
25 following apply:

SENATE BILL 457**SECTION 43**

1 1. The individual has not previously had an application for a mortgage loan
2 originator license denied.

3 2. The individual has not previously had a mortgage loan originator license
4 suspended or revoked in any governmental jurisdiction.

5 3. The individual has not been subject to, or served with, a cease and desist
6 order in any governmental jurisdiction or by the director of the federal bureau of
7 consumer financial protection under 12 USC 5113 (c).

8 4. The individual has not been convicted of any crime that disqualifies the
9 individual under sub. (3) (b) from issuance of a license.

10 5. The individual was registered with the nationwide mortgage licensing
11 system and registry as a loan originator during the one-year period immediately
12 preceding the date on which the individual furnished the information required under
13 sub. (2) (c).

14 (b) An individual who is licensed as a mortgage loan originator in another state,
15 who is employed by a mortgage banker or mortgage broker licensed under this
16 subchapter, and who has applied to the division for a mortgage loan originator license
17 is considered to have temporary authority to act as a mortgage loan originator under
18 this subchapter, for the period specified in par. (c), if all of the following apply:

19 1. The individual meets the requirements of par. (a) 1. to 4.

20 2. The individual was licensed in another state during the 30-day period
21 immediately preceding the date on which the individual furnished the information
22 required under sub. (2) (c).

23 (c) 1. The period during which an individual described in par. (a) or (b) is
24 considered to have temporary authority to act as a mortgage loan originator under
25 this subchapter shall begin on the date on which the individual furnishes to the

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1 nationwide mortgage licensing system and registry the information required under
2 sub. (2) (c) in connection with the application for a mortgage loan originator license
3 under this subchapter.

4 2. The period that begins under subd. 1. shall end on the earliest of the
5 following:

6 a. The date on which the individual withdraws the application for a mortgage
7 loan originator license.

8 b. The date on which the division denies, or issues a notice of intent to deny, the
9 application for a mortgage loan originator license.

10 c. The date on which the division grants to the individual a mortgage loan
11 originator license.

12 d. If the individual's application is listed on the nationwide mortgage licensing
13 system and registry as incomplete, the date that is 120 days after the date on which
14 the individual applied for a mortgage loan originator license.

15 (d) 1. Any person employing an individual who is considered to have temporary
16 authority to act as a mortgage loan originator under this subsection shall be subject
17 to the requirements of this subchapter to the same extent as if that individual were
18 a licensed mortgage loan originator.

19 2. Any individual who is considered to have temporary authority to act as a
20 mortgage loan originator under this subsection and who engages in any activity
21 described in s. 224.71 (6) (c) and (d) shall be subject to the requirements of this
22 subchapter to the same extent as if the individual were a licensed mortgage loan
23 originator.

24 **SECTION 44.** 227.52 (3) of the statutes is amended to read:

SENATE BILL 457**SECTION 44**

1 227.52 (3) Those decisions of the division of banking that are subject to review,
2 prior to any judicial review, by the banking institutions review board, and decisions
3 of the division of banking relating to savings banks or savings and loan associations,
4 but no other institutions subject to the jurisdiction of the division of banking.

5 **SECTION 45.** 227.53 (1) (a) 1. of the statutes is amended to read:

6 227.53 (1) (a) 1. Proceedings for review shall be instituted by serving a petition
7 therefor personally or by certified mail upon the agency or one of its officials, and
8 filing the petition in the office of the clerk of circuit court for the county where the
9 judicial review proceedings are to be held. If the agency whose decision is sought to
10 be reviewed is the tax appeals commission, the banking institutions review board,
11 or the credit union review board, ~~or the savings institutions review board~~, the
12 petition shall be served upon both the agency whose decision is sought to be reviewed
13 and the corresponding named respondent, as specified under par. (b) 1. to 4.

14 **SECTION 46.** 227.53 (1) (b) 2. of the statutes is repealed.

15 **SECTION 47.** 227.53 (1) (b) 4. of the statutes is amended to read:

16 227.53 (1) (b) 4. The ~~savings~~ banking institutions review board, the division of
17 banking, except if the petitioner is the division of banking, the prevailing parties
18 before the ~~savings~~ banking institutions review board shall be the named
19 respondents.

20 **SECTION 48.** 227.53 (1) (d) of the statutes is amended to read:

21 227.53 (1) (d) Except in the case of the tax appeals commission, the banking
22 institutions review board, and the credit union review board, ~~and the savings~~
23 ~~institutions review board~~, the agency and all parties to the proceeding before it shall
24 have the right to participate in the proceedings for review. The court may permit
25 other interested persons to intervene. Any person petitioning the court to intervene

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1 shall serve a copy of the petition on each party who appeared before the agency and
2 any additional parties to the judicial review at least 5 days prior to the date set for
3 hearing on the petition.

4 **SECTION 49.** 403.312 (2) (c) 1. of the statutes is amended to read:

5 403.312 (2) (c) 1. The claim becomes enforceable at the later of the time that
6 the claim is asserted, or the ~~90th~~ 14th day following the date of the check, in the case
7 of a cashier's check or teller's check, or the ~~90th~~ 14th day following the date of the
8 acceptance, in the case of a certified check.

9 **SECTION 50.** 705.04 (2) (intro.) of the statutes is amended to read:

10 705.04 (2) (intro.) If Except as provided in s. 705.06 (2m), if the account is a
11 P.O.D. account, on the death of the original payee or the survivor of 2 or more original
12 payees, all of the following apply:

13 **SECTION 51.** 705.04 (2g) of the statutes, as affected by 2019 Wisconsin Act 9,
14 is amended to read:

15 705.04 (2g) Notwithstanding subs. (1) and (2) and s. 705.06 (2m), the
16 department of health services may collect, from funds of a decedent that are held by
17 the decedent immediately before death in a joint account or a P.O.D. account, an
18 amount equal to the medical assistance that is recoverable under s. 49.496 (3) (a), an
19 amount equal to aid under s. 49.68, 49.683, 49.685, or 49.785 that is recoverable
20 under s. 49.682 (2) (a) or (am), or an amount equal to long-term community support
21 services under s. 46.27, 2017 stats., that is recoverable under s. 46.27 (7g) (c) 1., 2017
22 stats., and that was paid on behalf of the decedent or the decedent's spouse.

23 **SECTION 52.** 705.06 (2m) of the statutes is created to read:

24 705.06 (2m) If a financial institution has any lien right, right to setoff, or
25 security interest in a P.O.D. account resulting from the financial institution's loan

SENATE BILL 457**SECTION 52**

1 or other extension of credit to an original payee, on the death of the original payee
2 or the survivor of 2 or more original payees, the financial institution may retain
3 control of all sums on deposit in the P.O.D. account to the extent necessary to exercise
4 its lien right or right to setoff or to protect its security interest or may tender such
5 sums to a court and seek a court determination, but shall pay any remaining balance
6 of the sums on deposit to the P.O.D. beneficiary or beneficiaries as provided in s.
7 705.04 (2). This subsection applies notwithstanding any limitation on the rights of
8 creditors under s. 705.07 (1).

9 **SECTION 53.** 705.06 (3) of the statutes is amended to read:

10 705.06 (3) The protection provided by this section subs. (1) and (2) shall have
11 no bearing on the rights of parties or their successors in disputes concerning the
12 beneficial ownership of funds in or withdrawn from an account.

13 **SECTION 54.** 812.18 (1) of the statutes is amended to read:

14 812.18 (1) ~~From~~ Subject to s. 812.19 (4), from the time of service upon the
15 garnishee, the garnishee shall be liable to the creditor for the property then in the
16 garnishee's possession or under his or her control belonging to the debtor or in which
17 the debtor is interested to the extent of his or her right or interest therein and for all
18 the garnishee's debts due or to become due to the debtor, except such as are exempt
19 from execution, or are required by a court to be paid by the debtor as restitution under
20 s. 973.20, but not in excess of the amount of the creditor's claim.

21 **SECTION 55.** 812.19 (4) of the statutes is created to read:

22 812.19 (4) If a garnishee is a financial institution, as defined in s. 214.01 (1)
23 (jn), in possession of, or obligated with respect to, property subject to garnishment,
24 the financial institution is liable for the surrender of that property only upon

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1 expiration of a reasonable time to comply with or respond to the garnishee summons
2 and complaint.

3 **SECTION 56. Nonstatutory provisions.**

4 (1) BOARD MEMBERSHIP; TRANSITION PROVISION. On the effective date of this
5 subsection, each member of the savings institutions review board under s. 15.185 (3),
6 2017 stats., serving an unexpired term on that board shall become a member of the
7 banking institutions review board for a term that expires on the member's expiration
8 date previously established for the savings institutions review board.

9 (2) CONSOLIDATION OF BANKING REVIEW BOARD AND SAVINGS INSTITUTIONS REVIEW
10 BOARD; TRANSFER PROVISIONS.

11 (a) *Banking review board renamed.* On the effective date of this paragraph, the
12 banking review board is renamed the banking institutions review board.

13 (b) *Tangible personal property.* On the effective date of this paragraph, all
14 tangible personal property, including records, of the savings institutions review
15 board is transferred to the banking institutions review board.

16 (c) *Pending matters.* Any matter pending with the savings institutions review
17 board on the effective date of this paragraph is transferred to the banking
18 institutions review board. All materials submitted to or actions taken by the savings
19 institutions review board are considered as having been submitted to or taken by the
20 banking institutions review board.

21 (d) *Orders.* All orders issued by the savings institutions review board in effect
22 on the effective date of this paragraph remain in effect until their specified expiration
23 dates or until modified or rescinded by the banking institutions review board.

24 (e) *Secretary to resolve transition disagreements.* In the case of disagreement
25 between the savings institutions review board and the banking institutions review

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1 board with respect to any provision of this subsection, the secretary of financial
2 institutions shall determine the matter and shall develop a plan for an orderly
3 transfer.

4 **SECTION 57. Initial applicability.**

5 (1) PAYMENT OF LOST, DESTROYED, OR STOLEN INSTRUMENTS. The treatment of s.
6 403.312 (2) (c) 1. first applies to claims asserted on the effective date of this
7 subsection.

8 (2) FEDERAL HOME LOAN BANK LOANS; RETROACTIVE APPLICABILITY. The treatment
9 of s. 221.0324 (9) first applies retroactively to loans made or credit extended before,
10 and applies to loans made or credit extended on or after, the effective date of this
11 subsection.

12 (3) INDEPENDENT DATA PROCESSING SERVICERS. The treatment of s. 224.46 (3) first
13 applies to contracts entered into, renewed, or amended on the effective date of this
14 subsection.

15 **SECTION 58. Effective dates.** This act takes effect on the day after publication,
16 except as follows:

17 (1) BANKING INSTITUTIONS REVIEW BOARD. The treatment of s. 15.185 (1) (by
18 SECTION 6) takes effect on May 2, 2021, or on the day after publication, whichever is
19 later.

20 (2) MORTGAGE LOAN ORIGINATORS. The treatment of s. 224.725 (1) and (1r) takes
21 effect on November 28, 2019, or on the day after publication, whichever is later.

22 (3) INDEPENDENT DATA PROCESSING SERVICERS. The treatment of s. 224.46 and
23 SECTION 57 (3) of this act take effect on the first day of the 4th month beginning after
24 publication.

25

(END)