



TERRY KATSMAS

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Date: January 25th, 2018
To: Assembly Committee on Ways and Means
From: Representative Terry Katsma
Re: Assembly Bill 822: the Financial Institutions Modernization Act

Dear Chairman Macco and committee members,

Thank you for your prompt consideration of Assembly Bill (AB) 822. Every financial institution that serves Wisconsin customers (primarily banks and credit unions) is organized under either a federal charter or a state charter. Although most customers would never notice any difference between the two types, there are some important regulatory differences. The statutory improvements proposed under this bill will streamline business for the financial institutions who choose to be governed by the State of Wisconsin rather than Washington, DC.

This omnibus bill:

- Allows, but does not require, the Department of Financial Institutions (DFI) to disclose a financial institution's confidential examination information to the Federal Home Loan Bank (FHLB)—which is customary in approximately 30 other states, and which many banks and credit unions in Wisconsin would appreciate. Very many state- and federally-chartered financial institutions are FHLB members and make use of the liquidity, mortgage and community investment products that the FHLB offers. (For example, the 11 FHLBs across the nation proved to be invaluable sources of emergency liquidity during the financial crisis of 2008.) But because federal law gives the FHLB access to federally-chartered financial institutions' examination reports, and because the FHLB can therefore be more confident in the "health" of any such federally-chartered customer, federally-chartered financial institutions can often get better prices on FHLB products than state-chartered institutions can get. This bill allows, but does not require, DFI to share state-chartered financial institutions' examination reports and other data with the FHLB so that state-chartered institutions are not at a disadvantage against federally-chartered competitors.
- Clarifies that a letter of credit from the FHLB is an acceptable form of security for purposes of securing public deposits. Public depositors (such as local governments) sometimes need to prove the security of public money as collateral in a transaction; one way of doing this is by obtaining a letter of credit from a financial institution. This bill provides that an irrevocable letter of credit from the FHLB—often a desirable product due to its relatively low cost and its Aaa/AA+ credit-rated source—is an acceptable form of security in these situations.
- Grants the FHLB protection as a secured creditor to insurance companies. It is unclear under state law how the FHLB would be treated if a member insurance company (who owed money to



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the FHLB) became insolvent. Due to this uncertainty, the FHLB has to be more conservative—that is, charge a higher price—when lending to insurance companies compared to financial institutions. This bill gives the FHLB a “clean exemption” from stay and voidable preference statutes, consistent with the protection that Congress gives the FHLB for depository institutions under federal law, so that FHLB can have the confidence it needs to provide insurance company borrowers the highest possible value.

- Provides parity among federally- and state-chartered banks in regards to paying dividends to shareholders. This bill provides that, like federally-chartered banks, a state-chartered bank may pay dividends to shareholders from not only its undivided profits but also from its capital with (1) DFI approval and (2) a majority vote of its shareholders.
- Allows, but does not require, DFI to accept and rely upon information collected by other agencies—such as the Federal Deposit Insurance Corporation (FDIC) or independent accounting firms—to be used to satisfy state-chartered financial institutions’ examination requirements. Typically, regulators examine state-chartered banks’ and credit unions’ records at least once every 18 months; this bill would allow, but not require, the regulators to use data from other sources as part of this routine process.
- Removes the existing state requirement that state-chartered financial institutions pay interest on the escrow accounts connected with residential home loans. Under current law, when a homebuyer purchases a new residential mortgage loan from a state-chartered financial institution, the bank or credit union must pay interest on the funds that the homebuyer sets aside in escrow for paying taxes and insurance. (In 2017, that interest rate, set annually by DFI, is 0.14 percent.) There is no such requirement for federally-chartered competitors. This bill would provide parity with federal law; under the bill, all financial institutions, whether federally- or state-chartered, would compete under market forces that are identical in this respect.
- Allows a state-chartered savings bank to lend up to 20 percent of its capital to a single borrower. Under current law, a state bank may already lend up to 20 percent of its capital to any one borrower, but a state-chartered savings bank may lend no more than 15 percent. This bill provides a consistent 20 percent limit for all state banks and state-chartered savings banks.
- Aligns Wisconsin administrative code with federal law regarding positions that are exempt from overtime pay. Wisconsin’s definition of an “outside salesperson” is obsolete and does not match the federal definition that took effect in 2004, which affects employees such as mortgage loan originators and financial consultants. Although the Department of Workforce Development (DWD) has an approved Statement of Scope for modernizing DWD 274 (the relevant chapter of Wisconsin Administrative Code) to comply with federal law, this bill would enact a portion of the proposed rule change more promptly than is possible under the normal rulemaking process.

Thank you for your consideration of this bill.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

January 25, 2018

Assembly Committee on Ways and Means

Testimony on Assembly Bill 822

Good Morning!

Thank you Chairman Macco and committee members for hearing Assembly Bill 822 (AB 822) that makes several changes to statutes relating to banking practices. I am happy to be working on this proposal with Rep. Katsma, which has support from both the banks and credit unions in Wisconsin.

Key provisions of the Financial Institutions Modernization Act include:

- ❖ Allows, but does not require, the Department of Financial Institutions (DFI) to disclose a financial institution's confidential examination information to the Federal Home Loan Bank (FHLB)—which is customary in approximately 30 other states, and which many banks and credit unions in Wisconsin would appreciate.
- ❖ Clarifies that a letter of credit from the FHLB is an acceptable form of security for purposes of securing public deposits.
- ❖ Grants the FHLB protection as a secured creditor to insurance companies. It is unclear under state law how the FHLB would be treated if a member insurance company (who owed money to the FHLB) became insolvent.
- ❖ Provides parity among federally- and state-chartered banks in regards to paying dividends to shareholders.
- ❖ Allows, but does not require, DFI to accept and rely upon information collected by other agencies—such as the Federal Deposit Insurance Corporation (FDIC) or independent accounting firms—to be used to satisfy state-chartered financial institutions' examination requirements.
- ❖ Removes the existing state requirement that state-chartered financial institutions pay interest on the escrow accounts connected with residential home loans. There is no such requirement for federally-chartered competitors.
- ❖ Allows a state-chartered savings bank to lend up to 20 percent of its capital to a single borrower. This change would make the law consistent for state banks and state chartered savings banks.

- ❖ Aligns Wisconsin administrative code with federal law regarding positions that are exempt from overtime pay. Wisconsin's definition of an "outside salesperson" is obsolete and does not match the federal definition that took effect in 2004, which affects employees such as mortgage loan originators and financial consultants.

Passing this bill will have a positive impact on Wisconsin's banking industry.

Thank you again for hearing AB 822, and your timely action on this proposal.



Date: January 25th, 2018
To: Members of the Assembly Ways & Means Committee
From: Jon Turke, Director – Government Relations
Re: Testimony in support of AB 822

Chairman Macco and members of the committee:

Thank you for the opportunity to testify on in support of Assembly Bill 822, the Financial Institutions Modernization Act.

My name is Jon Turke and I am Director of Government Relations at the Wisconsin Bankers Association. WBA represents approximately 240 commercial banks and savings institutions, their nearly 2,300 branch offices and more than 30,000 employees.

The Wisconsin Bankers Association (WBA) is requesting several changes to statutes relating to banking practices. The below requests are a collection of concepts derived from discussions over the past year with members of the WBA. We feel that these changes will enhance the value of the state charter and streamline operations within the industry.

WBA requests the following changes:

1. Add the Federal Home Loan Bank (FHLB) to the list of entities to which the Wisconsin Department of Financial Institutions (DFI) may disclose reports of examination and confidential supervisory information pertaining to Wisconsin banks, thrifts and credit unions.
2. Amend Wisconsin law to explicitly permit a letter of credit (LC) from the FHLB to be used to secure Wisconsin public unit deposits.
3. Amend Wisconsin laws to provide that an FHLB (1) would not be subject to a stay or prohibited from exercising its rights to collateral pledged to the FHLB by an insurance company member who becomes subject to an insolvency proceeding; and (2) would be excluded from the voidable preference provision of the insolvency statutes. This provides parity for FHLB insurance members with their fellow bank members.
4. Repeal requirement that banks shall pay interest on escrow accounts. This change would not prohibit such interest accounts if a bank chooses to offer.
5. Allow a savings bank to lend up to 20% of its capital to one member. This change brings parity for savings banks with their state bank, universal bank, and savings & loan charters.
6. Federalize the Wisconsin definition of outside sales representative. Outside sales representatives are no longer going door-to-door to make sales. This change will bring law in-line with current practice.
7. Allow DFI to accept information collected by other agencies (FDIC) to be used to satisfy certain exam state requirements.

8. Allow banks to pay dividends out of its capital to match similar powers for national banks.

We appreciate your willingness to consider these concepts. Several banks have recently begun the conversion from switching to a state charter from a national bank. The Department of Financial Institutions has made this a priority of theirs and WBA feels these changes will only enhance those efforts.