



2013 ASSEMBLY BILL 649

January 22, 2014 - Introduced by Representatives CRAIG, BIES, BROOKS, KAHL, KAPENGA, KAUFERT, KOOYENGA, KRUG, LEMAHIEU, MURPHY, SANFELIPPO, TAUCHEN, WRIGHT, HINTZ and ZEPNICK, cosponsored by Senators LASEE, SCHULTZ and GROTHMAN. Referred to Committee on Financial Institutions.

1 **AN ACT to repeal** 215.26 (3) and 220.28; **to amend** 13.92 (4) (c), 13.92 (4) (d),
2 13.92 (4) (e), 13.92 (4) (f), 35.93 (2) (b) 4., 35.93 (2) (c) 1., 35.93 (3), 35.93 (3) (e)
3 (intro.), 35.93 (3) (e) 1., 186.098 (9m), 186.113 (7), 186.71 (1), 214.75 (4), 214.75
4 (5) (a), 215.26 (4) (a), 220.285 (1), 227.01 (13) (intro.), 227.11 (2) (intro.) and
5 227.27 (2); and **to create** 13.92 (4) (bm), 186.118, 227.01 (13) (yv) and 227.265
6 of the statutes; **relating to:** rule-making procedures and modifying and
7 repealing various rules promulgated by the Department of Financial
8 Institutions.

Analysis by the Legislative Reference Bureau

STATUTORY TREATMENTS

Rule-making procedures

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.

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2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.

3. Subject to certain exceptions, a public hearing is held on the proposed rule.

4. The final draft of the proposed rule is submitted to the governor for approval.

5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.

6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule-making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

TREATMENTS OF ADMINISTRATIVE RULES

This bill modifies and repeals various rules promulgated by the Department of Financial Institutions (DFI), as described below.

Authorized activities of credit unions**1. Incidental powers activities**

Current statutes specify various powers and authorized activities of a credit union, including authority to sell insurance, annuities, and related products, to participate with other lenders in loans of any type that the credit union could make by itself, and to exercise all powers necessary and proper to carry out the purposes of the credit union. In addition, a credit union may undertake any activity, exercise any power, or offer any financially related product or service that any other provider of financial products or services in this state may undertake, exercise, or provide if the Office of Credit Unions (OCU) in DFI, by rule, authorizes the activity, power, product, or service for credit unions. OCU also has general authority, subject to the approval of the Credit Union Review Board, to promulgate rules authorizing credit unions to make any loan or investment or exercise any right, power, or privilege afforded federally chartered credit unions.

Under current OCU rules authorizing Wisconsin-chartered credit unions to engage in incidental activities in the same manner that these activities are available to federally chartered credit unions, a credit union may offer and enter into debt cancellation contracts and debt suspension agreements with customers, subject to various requirements and restrictions. Under a debt cancellation contract or debt suspension agreement, a credit union agrees to cancel or suspend, respectively, all or part of a customer's obligation to repay a loan from the credit union upon the occurrence of a specified event. Under other OCU rules, Wisconsin-chartered credit unions are authorized to engage in loan participation agreements with other credit unions and financial institutions in the same manner that these participation

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agreements are available to federally chartered credit unions, subject to various requirements and restrictions.

This bill repeals the chapters of OCU's rules relating to credit unions' debt cancellation contracts, debt suspension agreements, and loan participation agreements. The bill creates statutory provisions relating to incidental powers of credit unions. Under the bill, OCU must publish on DFI's Internet site a list of activities and powers incidental to the business of a credit union that are authorized for federally chartered credit unions as of the effective date of the bill. In addition to any other activity or power authorized by statute, a Wisconsin-chartered credit union may engage in any listed activity or exercise any listed power. After the effective date of the bill, if any activity or power incidental to the business of a credit union that is not listed becomes authorized for federally chartered credit unions, within 30 days after the activity or power becomes authorized, OCU must make a determination as to whether the activity or power should also be authorized for Wisconsin-chartered credit unions. In making this determination, OCU must consider the degree to which the following apply with respect to the activity or power: 1) it is necessary, convenient, or useful for effectively carrying out the mission or business of a credit union; 2) it is the functional equivalent or logical outgrowth of activities or powers that are part of the mission or business of a credit union; and 3) it involves risks similar in nature to those already assumed as part of the business of the credit union and it is not likely to be detrimental to the overall safety and soundness of the credit union. If OCU determines that the activity or power authorized for federally chartered credit unions should also be authorized for Wisconsin-chartered credit unions, OCU must add the activity or power to the list and a Wisconsin-chartered credit union may then engage in the activity or exercise the power. OCU is not required to engage in rule making in developing, publishing, or updating this list.

2. Credit union service organizations

Under current statutes, subject to certain limitations, a credit union may invest in credit union service organizations (CUSOs) that are approved by OCU and are organized primarily to provide goods and services to credit unions, credit union organizations, and credit union members. A CUSO may provide specified types of services related to the routine daily operations of credit unions, including checking and currency services; accounting services; clerical and management services; electronic transaction services; insurance, securities, or real estate brokerage services; loan support services; record retention services; and trust and other fiduciary services. In addition, OCU may expand this list of CUSO services authorized for all credit unions upon written request of any credit union.

Current OCU rules establish certain requirements and limitations with respect to CUSOs and credit unions that invest in them, including requirements related to corporate separation between a credit union and a CUSO, notice and legal advice required before investing in a CUSO, the amount of the permissible investment in a CUSO, conflicts of interest between credit union officials and a CUSO, and a CUSO's financial reporting duties to OCU.

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This bill repeals the chapter of OCU's rules relating to CUSOs but does not modify any statute relating to CUSOs.

3. Investment in deposit accounts and the securities of certain institutions

Under OCU's current rules relating to permissible investments by credit unions, a credit union may invest in deposit accounts of federally insured banks and savings and loan associations (insured financial institutions) if the aggregate investment per financial institution does not exceed the greater of the institution's deposit insurance limit or one-half of the unimpaired balance of the credit union's regular reserve, which is an amount the credit union sets aside to cover losses.

This bill allows a credit union to make investments in deposit accounts of insured financial institutions that exceed this aggregate investment limit if OCU approves the investment.

Under OCU's current rules, credit unions may make investments in securities issued by hospitals, churches, dioceses, and similar institutions (institutional investments), subject to various restrictions. Among the restrictions on these investments, an individual credit union may not invest more than \$50,000 in securities issued by any one individual institution without OCU's prior approval.

This bill increases this investment limit from \$50,000 to \$100,000 and provides that this amount increases biennially to adjust for inflation.

4. Time deposits

Under OCU's current rules, a credit union's board of directors must establish the dividend periods applicable to each classification of member savings and must establish the credit union's policy with regard to maturities and minimum denominations for each classification of certificates of deposit. A certificate of deposit is defined as a savings deposit evidenced by a non-negotiable instrument that contains certain information, including the principal amount of the deposit and dividend rate, the expiration date at which time the certificate of deposit is due and payable, and any penalties that may be imposed for early withdrawal. Certain requirements apply with respect to certificates of deposit, including notice to the depositor prior to maturity setting forth the terms and options available with regard to continuation or renewal of the certificate. The credit union's board of directors must also establish the credit union's policy with regard to the penalties for early withdrawal from certificate of deposit accounts.

This bill modifies OCU's rules so that these provisions currently applicable only to certificates of deposit apply to all time deposits, not just certificates of deposit. The modified rules do not define the term "time deposit."

5. Acquisition of conditional sales contracts of members

Under current statutes, a credit union may purchase or acquire conditional sales contracts or similar instruments (conditional sales contracts) executed by credit union members.

Under OCU's current rules, credit unions may purchase or acquire conditional sales contracts executed by their members, although if the credit union has assets of less than \$1,000,000, it may do so only with the prior, written approval of OCU. These rules also include certain requirements and restrictions with respect to

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conditional sales contracts. The term “conditional sales contract” is not defined by statute or by rule.

This bill modifies both the statutes and the rules to replace the term “conditional sales contracts” with the term “interests in credit sales transactions.”

Control procedures for credit unions**1. Audits in lieu of examination**

Under current statutes, the board of directors of a credit union must hire a certified public accountant (CPA) to conduct a comprehensive annual audit of the records, accounts, and affairs of the credit union, or the board may instead appoint an auditing committee to annually audit the records, accounts, and cash of the credit union and to verify member accounts. OCU may order an independent audit at the credit union’s expense if OCU finds an annual audit to be unsatisfactory. Also under current statutes, at least once every 18 months, OCU must examine the records and accounts of each credit union (periodic examination).

Under OCU’s current rules, OCU may accept an audit report of a CPA who is not an employee of the credit union in lieu of all or a portion of the OCU’s periodic examination. For OCU to accept an examination from the CPA of a credit union, the CPA must satisfy certain requirements, including that the CPA submit an additional special report on forms provided by OCU that are the regular examination forms completed by OCU staff examiners during the course of their routine examinations.

This bill modifies OCU’s rules to allow OCU to accept, in lieu of a periodic examination, an audit report of a CPA who is an employee of the credit union. The CPA’s examination must include a determination that the credit union is operating in accordance with generally accepted accounting principles, rather than regular accepted credit union accounting principles as specified in OCU’s current rules. The bill also repeals the requirement that the CPA submit additional special reports on OCU forms.

2. Reserves for member business loans with potential losses

Current OCU rules require credit unions to adopt member business loan policies and impose various requirements and restrictions on member business loans. A member business loan is, with certain exceptions, a loan in which the borrower intends to use the proceeds for commercial, corporate, or agricultural purposes or for purposes involving investment property or a business venture. With exceptions, there is a total aggregate limit on the amount of a credit union’s member business loans as well as a per-member limit. A credit union must classify member business loans for which there is a potential loss as substandard, doubtful, or loss, according to the degree to which the loss is likely. For these loans classified as substandard, doubtful, or loss, the credit union must establish a reserve of the following minimum amounts: 10 percent of the outstanding balance of a substandard loan, subject to variation; 50 percent of the outstanding balance of a doubtful loan; and 100 percent of the outstanding balance of a loss loan.

This bill repeals OCU’s rules requiring credit unions to classify member business loans for which there is a potential loss as substandard, doubtful, or loss and to establish a specified reserve amount for each of these classified member business loans.

ASSEMBLY BILL 649***Record retention by financial institutions***

Under current statutes, a credit union, state bank, savings and loan association (S&L), or savings bank may have its records reproduced by a photographic or optical imaging process that accurately and permanently reproduces the originals and then dispose of the originals after first obtaining the written consent of, respectively, OCU or the Division of Banking (division) in DFI. The reproduced records are thereafter treated the same as originals.

Under this bill, after having its records accurately reproduced in this manner, a credit union, state bank, S&L, or savings bank is not required to obtain the written consent of OCU or the division to thereafter dispose of the originals.

Under current statutes, a state bank or an S&L may destroy or dispose of its records that have become obsolete after first obtaining the written consent of the division.

This bill repeals these statutory provisions relating to destruction of obsolete records.

Under current statutes, the division must, by rule, prescribe periods of time for which savings banks must retain records and after the expiration of which the savings bank may destroy those records.

Under this bill, the division must by rule prescribe standards by which savings banks must retain records and may thereafter destroy those records.

Under current rules of OCU and the division, each credit union, savings bank, and S&L must retain its records in a manner consistent with prudent business practices and in accordance with other provisions of state and federal law. For credit unions, the record retention system utilized must be able to produce accurate and verifiable records and include an index to the retained forms. Each credit union, savings bank, and S&L must retain its records for at least the minimum period specified in a particular publication of the Financial Managers Society, Inc. (FMS). A credit union, savings bank, or S&L may destroy its records at the end of the applicable minimum retention period specified in the applicable FMS publication unless a longer retention period is required by other state or federal law. In the destruction of records, the credit union, savings bank, or S&L must take reasonable precautions to assure the confidentiality of information in the records.

The division's current rules for state banks include a detailed schedule setting forth minimum record retention periods according to record type. A state bank may destroy its records after the applicable minimum retention period has expired.

This bill modifies the rules of OCU and the division to eliminate the requirement that credit union, savings bank, and S&L records must be retained for at least the minimum period specified in the applicable FMS publication.

The bill also eliminates the division's rule establishing a schedule of required minimum retention periods, according to record type, for state banks. The bill specifies that, subject to the requirement that records be retained in a manner consistent with prudent business practices and in accordance with other provisions of state and federal law, a credit union, state bank, S&L, or savings bank may destroy its records. In the destruction of records, the credit union, state bank, S&L, or savings bank must take reasonable precautions to assure the confidentiality of

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information in the records. For state banks, S&Ls, and savings banks the bill specifies that the record retention system must be able to accurately produce records, and for credit unions the bill eliminates the requirement that the record retention system include an index to retained forms.

Technical corrections

The bill makes other minor, clarifying, technical, or nonsubstantive changes to OCU's rules.

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.** 13.92 (4) (bm) of the statutes is created to read:
2 13.92 (4) (bm) If 2 or more rules filed under s. 227.20 or modified under s.
3 227.265 affect the same unit of the Wisconsin administrative code without taking
4 cognizance of the effect thereon of the other rules and if the legislative reference
5 bureau finds that there is no mutual inconsistency in the changes made by each such
6 rule, the legislative reference bureau shall incorporate the changes made by each
7 rule into the text of the unit and document the incorporation in a note to the unit.
8 For each such incorporation, the legislative reference bureau shall include in a
9 correction bill a provision formally validating the incorporation. Section 227.27 (2)
10 is not affected by printing decisions made by the legislative reference bureau under
11 this paragraph.

12 **SECTION 2.** 13.92 (4) (c) of the statutes is amended to read:
13 13.92 (4) (c) The legislative reference bureau may insert in the Wisconsin
14 administrative code a note explaining any change made under par. (b) or (bm).

15 **SECTION 3.** 13.92 (4) (d) of the statutes is amended to read:

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1 13.92 (4) (d) Sections 227.114, 227.116, 227.135, and 227.14 to 227.24 do not
2 apply to any change made by the legislative reference bureau under par. (b) or (bm).

3 **SECTION 4.** 13.92 (4) (e) of the statutes is amended to read:

4 13.92 (4) (e) The legislative reference bureau shall prepare and keep on file a
5 record of each change made under par. (b) or (bm).

6 **SECTION 5.** 13.92 (4) (f) of the statutes is amended to read:

7 13.92 (4) (f) The legislative reference bureau shall notify the agency involved
8 of each change made under par. (b) or (bm).

9 **SECTION 6.** 35.93 (2) (b) 4. of the statutes, as affected by 2013 Wisconsin Act 20,
10 is amended to read:

11 35.93 (2) (b) 4. Copies of all rules filed with the legislative reference bureau
12 under s. 227.20 (1) or modified under s. 227.265 since the compilation of the
13 preceding register, including emergency rules filed under s. 227.24 (3).

14 **SECTION 7.** 35.93 (2) (c) 1. of the statutes, as affected by 2013 Wisconsin Act 20,
15 is amended to read:

16 35.93 (2) (c) 1. Each chapter of the Wisconsin administrative code that has been
17 affected by rules filed with legislative reference bureau under s. 227.20 (1) or
18 modified under s. 227.265, in accordance with sub. (3) (e) 1.

19 **SECTION 8.** 35.93 (3) of the statutes is amended to read:

20 35.93 (3) The legislative reference bureau shall compile and deliver to the
21 department for printing copy for a register which shall contain all the rules filed
22 under s. 227.20 or modified under s. 227.265 since the compilation of rules for the
23 preceding issue of the register was made and those executive orders which are to be
24 in effect for more than 90 days or an informative summary thereof. The complete
25 register shall be compiled and published before the first day of each month and a

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1 notice section of the register shall be compiled and published before the 15th day of
2 each month. Each issue of the register shall contain a title page with the name
3 “Wisconsin administrative register”, the number and date of the register, and a table
4 of contents. Each page of the register shall also contain the date and number of the
5 register of which it is a part in addition to the other necessary code titles and page
6 numbers. The legislative reference bureau may include in the register such
7 instructions or information as in the bureau’s judgment will help the user to correctly
8 make insertions and deletions in the code and to keep the code current.

9 **SECTION 9.** 35.93 (3) (e) (intro.) of the statutes, as affected by 2013 Wisconsin
10 Act 20, is amended to read:

11 35.93 (3) (e) (intro.) The legislative reference bureau shall incorporate into the
12 appropriate chapters of the Wisconsin administrative code each permanent rule filed
13 with the legislative reference bureau under s. 227.20 (1) or modified under s. 227.265
14 and, for each chapter of the administrative code affected by a rule, do all of the
15 following:

16 **SECTION 10.** 35.93 (3) (e) 1. of the statutes, as affected by 2013 Wisconsin Act
17 20, is amended to read:

18 35.93 (3) (e) 1. Publish the chapter in the appropriate end-of-month register
19 in accordance with the filing deadline for publication established in the rules
20 procedures manual published under s. 227.15 (7) ~~or~~, in an end-of-month register
21 agreed to by the submitting agency and the legislative reference bureau, or, in the
22 case of a rule modified under s. 227.265, in the end-of-month register for the month
23 in which the bill modifying the rule is enacted.

24 **SECTION 11.** 186.098 (9m) of the statutes is amended to read:

ASSEMBLY BILL 649**SECTION 11**

1 186.098 **(9m)** PARTICIPATION LOANS. ~~Subject to rules prescribed by the office of~~
2 ~~credit unions, a~~ A credit union may participate with other lenders in a loan of any
3 type that the credit union may otherwise make.

4 **SECTION 12.** 186.113 (7) of the statutes is amended to read:

5 186.113 **(7)** ~~CONDITIONAL SALES CONTRACTS~~ ACQUIRING INTERESTS IN CREDIT SALES
6 TRANSACTIONS. Purchase or acquire ~~conditional sales contracts or similar~~
7 ~~instruments executed by~~ interests in credit sales transactions involving credit union
8 members.

9 **SECTION 13.** 186.118 of the statutes is created to read:

10 **186.118 Incidental powers parity with federal credit unions.** (1) In
11 addition to any activity or power authorized under ss. 186.098, 186.11, 186.113,
12 186.115, and 186.235 (21), a credit union organized under s. 186.02 may engage in
13 any activity or exercise any power that is listed by the office of credit unions under
14 sub. (2) or (3) (b).

15 **(2)** The office of credit unions shall publish on the department of financial
16 institutions' Internet site a list of activities and powers incidental to the business of
17 a credit union that are authorized for federally chartered credit unions as of the
18 effective date of this subsection [LRB inserts date].

19 **(3)** (a) After the effective date of this paragraph [LRB inserts date], if any
20 activity or power incidental to the business of a credit union that is not listed under
21 sub. (2) becomes authorized for federally chartered credit unions, within 30 days
22 after the activity or power becomes authorized the office of credit unions shall make
23 a determination as to whether the activity or power should also be authorized for
24 credit unions organized under s. 186.02. In making this determination, the office of

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1 credit unions shall consider the degree to which the following apply with respect to
2 the activity or power:

3 1. It is necessary, convenient, or useful for effectively carrying out the mission
4 or business of a credit union.

5 2. It is the functional equivalent or logical outgrowth of activities or powers that
6 are part of the mission or business of a credit union.

7 3. It involves risks similar in nature to those already assumed as part of the
8 business of the credit union and it is not likely to be detrimental to the overall safety
9 and soundness of the credit union.

10 (b) If the office of credit unions determines under par. (a) that the activity or
11 power authorized for federally chartered credit unions should also be authorized for
12 credit unions organized under s. 186.02, the office of credit unions shall add the
13 activity or power to the list under sub. (2).

14 **SECTION 14.** 186.71 (1) of the statutes is amended to read:

15 186.71 (1) Any credit union may cause any or all records kept by such credit
16 union to be recorded, copied or reproduced by any photostatic, photographic or
17 miniature photographic process or by optical imaging if the process employed
18 correctly, accurately and permanently copies, reproduces or forms a medium for
19 copying, reproducing or recording the original record on a film or other durable
20 material. A credit union may thereafter dispose of the original record ~~after first~~
21 ~~obtaining the written consent of the office of credit unions.~~

22 **SECTION 15.** 214.75 (4) of the statutes is amended to read:

23 214.75 (4) The division shall by rule prescribe ~~periods of time for~~ standards by
24 which savings banks must retain records and after the expiration of which, the
25 ~~savings bank~~ may destroy those records. Liability may not accrue against the

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1 savings bank, the division or this state for destruction of records according to rules
2 of the division promulgated under this subsection. In an action in which records of
3 the savings bank may be called in question or demanded, a showing of ~~the expiration~~
4 ~~of the retention period~~ compliance with the division's standards shall be sufficient
5 to excuse for failure any inability to produce the records.

6 **SECTION 16.** 214.75 (5) (a) of the statutes is amended to read:

7 214.75 (5) (a) A savings bank may cause records kept by the savings bank to
8 be recorded, copied or reproduced by any photostatic, photographic or miniature
9 photographic process or by optical imaging if the process employed correctly,
10 accurately and permanently copies, reproduces or forms a medium for copying,
11 reproducing or recording the original record on a film or other durable material. A
12 savings bank may thereafter dispose of the original record ~~after obtaining the~~
13 ~~written consent of the division.~~ This subsection, ~~except that part requiring written~~
14 ~~consent of the division,~~ is applicable to federal savings banks if it does not contravene
15 federal law.

16 **SECTION 17.** 215.26 (3) of the statutes is repealed.

17 **SECTION 18.** 215.26 (4) (a) of the statutes is amended to read:

18 215.26 (4) (a) Any association may cause any or all records kept by such
19 association to be recorded, copied or reproduced by any photostatic, photographic or
20 miniature photographic process or by optical imaging if the process employed
21 correctly, accurately and permanently copies, reproduces or forms a medium for
22 copying, reproducing or recording the original record on a film or other durable
23 material. An association may thereafter dispose of the original record ~~after first~~
24 ~~obtaining the written consent of the division.~~ This section, ~~excepting the part of it~~

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1 ~~which requires written consent of the division,~~ is applicable to federal associations
2 insofar as it does not contravene federal law.

3 **SECTION 19.** 220.28 of the statutes is repealed.

4 **SECTION 20.** 220.285 (1) of the statutes is amended to read:

5 220.285 (1) Any state bank, trust company bank, licensee under ss. 138.09,
6 138.12, 138.14, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, or 224.725 or
7 ch. 217 may cause any or all records kept by such bank, licensee, or registered person
8 to be recorded, copied or reproduced by any photostatic, photographic or miniature
9 photographic process or by optical imaging if the process employed correctly,
10 accurately and permanently copies, reproduces or forms a medium for copying,
11 reproducing or recording the original record on a film or other durable material. A
12 bank, may thereafter dispose of the original record. A licensee, or registered person
13 may thereafter dispose of the original record after first obtaining the written consent
14 of the division. This section, ~~excepting that part of it which requires written consent~~
15 ~~of the division,~~ is applicable to national banking associations insofar as it does not
16 contravene federal law.

17 **SECTION 21.** 227.01 (13) (intro.) of the statutes is amended to read:

18 227.01 (13) (intro.) “Rule” means a regulation, standard, statement of policy,
19 or general order of general application which has the effect of law and which is issued
20 by an agency to implement, interpret, or make specific legislation enforced or
21 administered by the agency or to govern the organization or procedure of the agency.
22 “Rule” includes a modification of a rule under s. 227.265. “Rule” does not include, and
23 s. 227.10 does not apply to, any action or inaction of an agency, whether it would
24 otherwise meet the definition under this subsection, which:

25 **SECTION 22.** 227.01 (13) (yv) of the statutes is created to read:

ASSEMBLY BILL 649**SECTION 22**

1 227.01 (13) (yv) Relates to any determination or list under s. 186.118.

2 **SECTION 23.** 227.11 (2) (intro.) of the statutes is amended to read:

3 227.11 (2) (intro.) Rule-making authority is expressly conferred on an agency
4 as follows:

5 **SECTION 24.** 227.265 of the statutes is created to read:

6 **227.265 Repeal or modification of rules.** If a bill to repeal or modify a rule
7 is enacted, the procedures under ss. 227.114 to 227.21 and 227.26 do not apply.
8 Instead, the legislative reference bureau shall publish the repeal or modification in
9 the Wisconsin administrative code and register as required under s. 35.93, and the
10 repeal or modification shall take effect as provided in s. 227.22.

11 **SECTION 25.** 227.27 (2) of the statutes is amended to read:

12 227.27 (2) The code shall be prima facie evidence in all courts and proceedings
13 as provided by s. 889.01, but this does not preclude reference to or, in case of a
14 discrepancy, control over a rule filed with the legislative reference bureau ~~or the~~
15 ~~secretary of state~~ under s. 227.20 or modified under s. 227.265, and the certified copy
16 of a rule shall also and in the same degree be prima facie evidence in all courts and
17 proceedings.

18 **SECTION 26.** DFI-Bkg 9.01 of the administrative code is repealed and recreated
19 to read:

20 DFI-Bkg 9.01 **Retention of records; destruction of records.** (1) Each
21 bank shall retain its records in a manner consistent with prudent business practices
22 and in accordance with this chapter and other applicable state or federal laws, rules,
23 and regulations. The record retention system utilized must be able to accurately
24 produce such records.

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1 **(2)** Except where a retention period is required by state or federal laws, rules,
2 or regulations, a bank may destroy its records subject to the considerations set forth
3 in sub. (1). In the destruction of records, the bank shall take reasonable precautions
4 to assure the confidentiality of information in the records.

5 **SECTION 27.** DFI-Bkg 41.01 (intro.) of the administrative code is amended to
6 read:

7 DFI-Bkg 41.01 **License fee.** (intro.) ~~Except as provided in s. DFI-Bkg 47.04,~~
8 ~~the~~ The following nonrefundable fees shall be submitted with an application for a
9 license or renewal of a license under subch. III of ch. 224, Stats.:

10 **SECTION 28.** Chapter DFI-Bkg 47 of the administrative code is repealed.

11 **SECTION 29.** DFI-CU 54.05 (2) (b) 3. of the administrative code is amended to
12 read:

13 DFI-CU 54.05 **(2)** (b) 3. A final title letter report showing the status of the
14 current lien.

15 **SECTION 30.** DFI-CU 57.01 of the administrative code is amended to read:

16 DFI-CU 57.01 **Retention of records.** Each credit union shall retain its
17 records in a manner consistent with prudent business practices and in accordance
18 with this chapter and other applicable state or federal laws, rules, and regulations.
19 The record retention system utilized must be able to accurately produce ~~accurate and~~
20 ~~verifiable records and include an index to the retained forms.~~ Each credit union shall
21 retain its records for at least the minimum period specified in the January 1996
22 edition of the technical publication of the Financial Managers Society, Inc. of
23 Chicago, Illinois, titled "Financial Institutions Record Retention Manual." such
24 records.

25 **SECTION 31.** DFI-CU 57.01 (note) of the administrative code is repealed.

ASSEMBLY BILL 649**SECTION 32**

1 **SECTION 32.** DFI-CU 57.03 of the administrative code is amended to read:

2 DFI-CU 57.03 **Destruction of records.** Except where a longer retention
3 period is required by ~~other~~ state or federal laws, rules, ~~and or~~ regulations, a credit
4 union may destroy its records ~~at the end of the applicable minimum retention period~~
5 ~~determined under~~ subject to the considerations set forth in s. DFI-CU 57.01. In the
6 destruction of records, the credit union shall take reasonable precautions to assure
7 the confidentiality of information in the records.

8 **SECTION 33.** DFI-CU 59.03 (1) of the administrative code is amended to read:

9 DFI-CU 59.03 **(1)** The institutional security must ~~have at least a "AA" rating~~
10 ~~by fitch investors service of New York City, or a comparable rating service~~ be rated
11 by a nationally recognized statistical rating organization in one of its 2 highest rating
12 categories.

13 **SECTION 34.** DFI-CU 59.03 (6) of the administrative code is renumbered
14 DFI-CU 59.03 (6) (a) and amended to read:

15 DFI-CU 59.03 **(6)** (a) An individual credit union may not invest more than
16 ~~\$50,000~~ \$100,000, subject to adjustment under par. (b), in securities issued by any
17 one individual institution without the prior approval of the director of credit unions.

18 **SECTION 35.** DFI-CU 59.03 (6) (b) of the administrative code is created to read:

19 DFI-CU 59.03 **(6)** (b) 1. In this paragraph, "consumer price index" means the
20 U.S. consumer price index for all urban consumers, U.S. city average, as determined
21 by the U.S. department of labor.

22 2. On July 1 of each even-numbered year beginning on July 1, 2016, the
23 legislative fiscal bureau shall make a calculation of the percentage difference
24 between the consumer price index for the 12-month period ending on December 31
25 of the preceding year and the consumer price index for the 12-month period ending

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1 on December 31 of the year that is 2 years before the preceding year and, if this
2 percentage difference is a positive number, shall make a calculation of the dollar
3 amount specified under par. (a) as adjusted by this percentage difference, rounded
4 to the nearest multiple of \$1,000. The legislative fiscal bureau shall notify the
5 legislative reference bureau of these calculated amounts, and the legislative
6 reference bureau shall publish these calculated amounts in the Wisconsin
7 Administrative Register. If the calculated percentage difference is a positive
8 number, then on the effective date of the Wisconsin Administrative Register, the
9 amount under par. (a) is adjusted to reflect the calculated adjusted amount, as
10 published.

11 **SECTION 36.** DFI-CU 60.01 (title) of the administrative code is amended to
12 read:

13 DFI-CU 60.01 (title) **Definitions Definition.**

14 **SECTION 37.** DFI-CU 60.01 (1) of the administrative code is repealed.

15 **SECTION 38.** DFI-CU 60.01 (2) of the administrative code is renumbered
16 DFI-CU 60.01 and amended to read:

17 DFI-CU 60.01 “Passbook In this chapter, “passbook savings account” means
18 any book, statement of account, or similar record in which a running account of all
19 moneys paid in or withdrawn by a credit union member on a savings account are
20 recorded.

21 **SECTION 39.** DFI-CU 60.03 of the administrative code is amended to read:

22 DFI-CU 60.03 ~~**Certificates of deposit**~~ **Time deposits.** (1) The board of
23 directors shall establish the policy with regard to maturities and minimum
24 denominations for each classification of ~~certificates of~~ time deposit. This policy shall
25 be reviewed from time to time as conditions require.

ASSEMBLY BILL 649**SECTION 39**

1 (2) (a) At least 10 days prior to the maturity of a ~~certificate of~~ time deposit, the
2 credit union shall provide the holder written notice which sets forth the terms and
3 options available to the holder with regard to continuation or renewal of the
4 ~~certificate~~ time deposit.

5 (b) If the credit union elects not to renew a ~~certificate of~~ time deposit, the credit
6 union shall send the holder a clear notice of this intent at least 10 days prior to the
7 maturity of the ~~certificate~~ time deposit. If a member is duly notified of the intention
8 not to renew, it shall be optional with the credit union whether dividends will
9 continue to be paid after maturity on ~~certificates of deposit~~ time deposits not
10 surrendered at maturity date.

11 (3) At the option of the credit union, additional deposits may be permitted to
12 ~~certificate of~~ time deposit accounts without extending the original maturity of the
13 ~~certificate~~ time deposit.

14 (4) The information contained in s. DFI-CU 60.06 shall be disclosed on all
15 ~~certificates of deposit~~ time deposits or accompanying disclosure forms.

16 **SECTION 40.** DFI-CU 60.05 (1) and (2) of the administrative code are amended
17 to read:

18 DFI-CU 60.05 (1) The board of directors shall establish the policy with regard
19 to the penalties for early withdrawal from ~~certificate of~~ time deposit accounts or
20 passbook savings accounts with stated maturities. Early withdrawal penalties may
21 be enforced up to the maximum permitted by the depository institutions
22 deregulation committee for similar types of accounts held in banks and savings and
23 loan associations. If early withdrawal penalties are enforced by a credit union, these
24 penalties shall be applied in a consistent manner to all accounts of a similar

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1 classification. This policy shall state the conditions under which penalties may be
2 waived or modified.

3 (2) Penalties imposed for early withdrawal from ~~certificate of~~ time deposit
4 accounts or passbook savings accounts with maturities may be deducted from the
5 principal amount of the ~~certificate~~ time deposit or account balance.

6 **SECTION 41.** DFI-CU 60.06 of the administrative code is amended to read:

7 DFI-CU 60.06 **Credit union dissolution.** The liability for dividends
8 declared by the board of directors on ~~certificate of~~ time deposit accounts and passbook
9 savings accounts shall terminate without penalty to the credit union upon the credit
10 union entering an involuntary dissolution procedure, or if the director shall take
11 possession of the credit union under s. 186.235 (11), Stats. Upon dissolution, the
12 director shall determine the priority of payout of the various classifications of
13 savings.

14 **SECTION 42.** DFI-CU 61 (title) of the administrative code is amended to read:

15 DFI-CU 61 (title) **CREDIT UNION PURCHASE OR ACQUISITION OF**
16 ~~CONDITIONAL SALES CONTRACTS OR SIMILAR INSTRUMENTS~~
17 ~~EXECUTED BY CREDIT UNION MEMBERS~~ INTERESTS IN CREDIT
18 SALES TRANSACTIONS

19 **SECTION 43.** DFI-CU 61.01 (1) of the administrative code is renumbered
20 DFI-CU 61.01 and amended to read:

21 DFI-CU 61.01 **Limitations.** Subject to the following minimum requirements,
22 credit unions with assets of \$1,000,000 or more may purchase or acquire ~~conditional~~
23 ~~sales contracts or similar instruments executed~~ interests in credit sales transactions
24 entered into by their members. Credit unions with assets of less than \$1,000,000

ASSEMBLY BILL 649**SECTION 43**

1 may do so ~~subject to the following minimum requirements~~, only with the prior,
2 written approval of the director.

3 **SECTION 44.** DFI-CU 61.02 (1) and (2) of the administrative code are amended
4 to read:

5 DFI-CU 61.02 (1) The maximum interest rate (finance charge) chargeable to
6 the member-borrower by a seller ~~on a conditional sales contract or similar~~
7 ~~instrument sold to~~ in a credit sales transaction involving a credit union shall not
8 exceed that permitted by s. 422.201, Stats. ~~On such contracts~~ In such transactions,
9 neither the seller nor the credit union, in the aggregate, may directly benefit by
10 interest charges, including “Time Price Differential”, processing or service fees by an
11 amount in excess of that permitted by s. 422.201, Stats.

12 (2) The interest rate or finance charges ~~on conditional sales contracts and~~
13 ~~similar instruments~~ in credit sales transactions and on all loans shall be calculated
14 and applied on a simple interest basis on the unpaid balance. “Add-on” or “Discount”
15 interest rates on purchased contracts interests in these transactions and on other
16 credit union loans are not permitted.

17 **SECTION 45.** DFI-CU 61.03 (1), (2) and (3) of the administrative code are
18 amended to read:

19 DFI-CU 61.03 (1) Subject to the discretion of the board of directors a portion
20 of interest charges (finance charges) on purchased contracts interests in credit sales
21 transactions may be shared by the credit union with the seller subject, however, to
22 s. DFI-CU 61.02.

23 (2) When interest income (finance charges) is shared with the seller, on
24 contracts interests in credit sales transactions purchased with recourse, the credit
25 union shall establish as a liability on its records, a dealer reserve. This reserve shall

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1 be adjusted and negotiated with the seller at least annually on the basis of the
2 interest which has been accrued or earned.

3 **(3)** On ~~contracts~~ interests in credit sales transactions purchased without
4 recourse, the shared interest (finance charges) paid to the seller must be set up as
5 a deferred charge and applied at least semi-annually to the income received on those
6 ~~contracts~~ interests.

7 **SECTION 46.** DFI-CU 61.04 of the administrative code is amended to read:

8 DFI-CU 61.04 **Dealer financial statements.** Credit unions purchasing
9 member ~~contracts~~ interests in credit sales transactions made with recourse must
10 secure annual sworn financial statements from each participating seller until the
11 purchased ~~contracts~~ interests have been paid. These sworn financial statements are
12 to be retained by the credit union for review by departmental examiners.

13 **SECTION 47.** Chapter DFI-CU 65 of the administrative code is repealed.

14 **SECTION 48.** DFI-CU 66.02 (2) (note) of the administrative code is repealed.

15 **SECTION 49.** DFI-CU 67.01 of the administrative code is amended to read:

16 DFI-CU 67.01 **Purpose.** The director may accept an audit report of a certified
17 public accountant ~~who is not an employee of the credit union~~ in lieu of all or a portion
18 of the routine examination which is made by or caused to be made by the director as
19 required by s. 186.235 (16), Stats.

20 **SECTION 50.** DFI-CU 67.02 (2) of the administrative code is amended to read:

21 DFI-CU 67.02 **(2)** "Accountant" means a certified public accountant who is ~~not~~
22 ~~an employee of the credit union and~~ is licensed in the state of Wisconsin.

23 **SECTION 51.** DFI-CU 67.03 (8) of the administrative code is amended to read:

24 DFI-CU 67.03 **(8)** The credit union is operating in accordance with ~~regular~~
25 generally accepted ~~credit union~~ accounting principles.

ASSEMBLY BILL 649**SECTION 52**

1 **SECTION 52.** DFI-CU 67.04 (3) and (3) (note) of the administrative code are
2 repealed.

3 **SECTION 53.** DFI-CU 67.04 (4) of the administrative code is amended to read:

4 DFI-CU 67.04 (4) The credit union requesting the director to accept an audit
5 by an accountant shall pay to the director the current hourly examination fee
6 established by s. 186.235 (14) (c), Stats., for the review and analysis of the audit
7 report, and management report and the special report on the forms supplied by the
8 director.

9 **SECTION 54.** DFI-CU 67.05 (1) of the administrative code is amended to read:

10 DFI-CU 67.05 (1) The director will analyze and review or cause to have
11 analyzed or reviewed the reports and worksheets required by s. DFI-CU 67.04 (2)
12 ~~and (3)~~ and determine if they satisfy s. DFI-CU 67.03.

13 **SECTION 55.** DFI-CU 68.02 (note) of the administrative code is repealed.

14 **SECTION 56.** DFI-CU 68.03 (2) of the administrative code is amended to read:

15 DFI-CU 68.03 (2) “Authorized depository financial institution” means any
16 bank ~~insured by the federal deposit insurance corporation~~ or savings and loan
17 association insured by the federal ~~savings and loan~~ deposit insurance corporation.

18 **SECTION 57.** DFI-CU 68.06 (2) of the administrative code is amended to read:

19 DFI-CU 68.06 (2) AUTHORIZED DEPOSITORY FINANCIAL INSTITUTIONS. A credit
20 union may invest in deposit accounts of any authorized depository financial
21 institution, provided the aggregate investment per institution shall not exceed the
22 greater of the deposit insurance limit under federal deposit insurance corporation ~~or~~
23 ~~federal savings and loan insurance corporation~~ or 1/2 the unimpaired balance of the
24 credit union’s regular reserve unless the director of credit unions approves
25 investment by the credit union exceeding this amount.

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1 **SECTION 58.** Chapter DFI-CU 70 of the administrative code is repealed.

2 **SECTION 59.** DFI-CU 72.12 and 72.13 of the administrative code are repealed.

3 **SECTION 60.** Chapter DFI-CU 74 of the administrative code is repealed.

4 **SECTION 61.** DFI-SL 6.01 of the administrative code is amended to read:

5 DFI-SL 6.01 **Destruction of records.** Except where a longer retention period
6 is required by another state or federal agency having jurisdiction over the
7 association, the division authorizes the destruction of records at the end of the
8 applicable minimum retention period determined under laws, rules, or regulations,
9 an association may destroy its records subject to the considerations set forth in s.
10 DFI-SL 6.03. In the destruction of records, the association shall take reasonable
11 precautions ~~should be taken~~ to assure the confidentiality of members' accounts
12 information in the records.

13 **SECTION 62.** DFI-SL 6.03 of the administrative code is amended to read:

14 DFI-SL 6.03 **Records retention requirements.** Each association shall
15 retain its records in a manner consistent with prudent business practices and in
16 accordance with this chapter and ~~the other applicable~~ state or federal laws, rules ~~or,~~
17 and regulations of state or federal agencies. ~~Each association shall retain its records~~
18 ~~for the minimum period specified in the technical publication of the Financial~~
19 ~~Managers Society, Inc. of Chicago, Illinois, titled "Records Retention Guidelines" and~~
20 ~~dated July 1986.~~ The record retention system utilized must be able to accurately
21 produce such records.

22 **SECTION 63.** DFI-SB 6.01 of the administrative code is amended to read:

23 DFI-SB 6.01 **Retention of records.** Each savings bank shall retain its
24 records in a manner consistent with prudent business practices and in accordance
25 with this chapter and ~~the other applicable~~ state or federal laws, rules ~~of state~~

ASSEMBLY BILL 649**SECTION 63**

1 agencies, and regulations of federal agencies. ~~Each savings bank shall retain its~~
2 records for the minimum period specified in the technical publication of the Financial
3 Managers Society, Inc. of Chicago, Illinois, titled "Records Retention Guidelines" and
4 dated 1992. The record retention system utilized must be able to accurately produce
5 such records.

6 **SECTION 64.** DFI-SB 6.01 (second note) of the administrative code is repealed.

7 **SECTION 65.** DFI-SB 6.03 of the administrative code is amended to read:

8 DFI-SB 6.03 **Destruction of records.** Except where a longer retention period
9 is required by another state or federal agency ~~having jurisdiction over the savings~~
10 ~~bank laws, rules, or regulations,~~ a savings bank may destroy its records ~~at the end~~
11 ~~of the applicable minimum retention period determined under~~ subject to the
12 considerations set forth in s. DFI-SB 6.01. In the destruction of records, the savings
13 bank shall take reasonable precautions to assure the confidentiality of information
14 in the records.

15 **SECTION 66.** DFI-SB 6.05 (1) of the administrative code is amended to read:

16 DFI-SB 6.05 (1) MICROPHOTOGRAPHY STANDARDS. Microphotography may be
17 used to commit a savings bank's records to microfilm. The film used shall be of a
18 quality which permits it to be legible for ~~at least the retention periods under s.~~
19 ~~DFI-SB 6.01~~ as long as the records are retained.

20 **SECTION 67. Effective dates.** This act takes effect on the day after publication,
21 except as follows:

22 (1) The treatment of section 35.93 (2) (b) 4. and (c) 1. and (3) (e) (intro.) and 1.
23 of the statutes takes effect on January 1, 2015.

24

(END)