



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2990/1
ARG:emw

2021 ASSEMBLY BILL 478

July 26, 2021 - Introduced by Representatives MURPHY, CALLAHAN, BALDEH, EDMING, GOYKE, KRUG, KUGLITSCH, LOUDENBECK, ROZAR, SUBECK, TITTL, TUSLER and WITTKE, cosponsored by Senators STAFSHOLT, BEWLEY, CARPENTER, JACQUE, RINGHAND and WIRCH. Referred to Committee on Financial Institutions.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 186.235 (21); **to renumber and amend** 186.11 (2); **to amend**
2 186.07 (7), 186.098 (1), 186.113 (15) (a), 186.115 (2), 186.118 (1), 186.118 (3) (a)
3 (intro.), 186.118 (4), 186.118 (5), 186.235 (14) (c), 214.04 (21) (b), 215.13 (46) (a)
4 1., 221.0303 (2), 227.10 (2m), 227.14 (2) (a) 8., 227.20 (3) (c), 227.24 (1) (b) and
5 227.24 (1) (d); and **to create** 186.11 (2) (b) and (c), 186.113 (26), 186.118 (3m)
6 and 227.01 (13) (yu) of the statutes; **relating to:** authorized activities and
7 operations of credit unions, automated teller machines of financial institutions,
8 repealing rules promulgated by the Department of Financial Institutions, and
9 providing an exemption from rule-making procedures.

Analysis by the Legislative Reference Bureau

This bill makes various changes related to the authorized activities and operations of credit unions. The bill also repeals certain administrative rules related to the placement or operation of automated teller machines (ATMs) by financial institutions.

Under current law, the Office of Credit Unions (OCU) in the Department of Financial Institutions regulates credit unions in this state. Current law specifies various authorized activities and powers of credit unions.

ASSEMBLY BILL 478***Parity with federally chartered credit unions***

Current law includes the following provisions relating to parity between federally chartered and state-chartered credit unions:

1. OCU must establish, by rule, a list of activities and powers incidental to the business of a credit union that are authorized for federally chartered credit unions as of April 18, 2014. A credit union chartered under Wisconsin law (Wisconsin-chartered credit union) may engage in any activity or exercise any power listed by OCU in addition to exercising any other power authorized for the credit union. After April 18, 2014, if any additional activity or power incidental to the business of a credit union becomes authorized for federally chartered credit unions, OCU must make a determination, within 30 days after the activity or power becomes authorized, as to whether the activity or power should also be authorized for Wisconsin-chartered credit unions. In making this determination, OCU must consider specified factors and, 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, by rule, add the activity or power to the list. An OCU rule that includes an activity or power in the list is exempt from most administrative rule-making requirements, but deleting an activity or power from the list or modifying the activity or power on the list requires OCU to go through the normal rule-making process.

2. 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 may undertake, exercise, or provide or that OCU finds to be financially related if OCU has specified, by rule, the activity, power, product, or service as one that may be undertaken, exercised, or offered by a credit union.

3. OCU may, by rule, authorize credit unions to exercise any power under the notice, disclosure, or procedural requirements governing federally chartered credit unions or to make any loan or investment or exercise any right, power, or privilege of federally chartered credit unions permitted under federal law if the Credit Union Review Board approves. Such a rule may not restrict powers granted to credit unions or affect provisions of the Wisconsin Consumer Act.

The bill makes the following changes to these provisions: 1) with respect to item 1., above, 30 days after an activity or power becomes authorized for federally chartered credit unions, the activity or power also becomes authorized for Wisconsin-chartered credit unions unless otherwise noted by an OCU general order within this 30-day period; 2) with respect to item 2., above, OCU specifies the activity, power, product, or service that may be undertaken, exercised, or offered by a credit union by OCU guidance, not OCU rule; and 3) item 3., above, is repealed.

Credit union property

Under current law, a credit union may purchase, hold, and dispose of property as necessary for or incidental to its operations.

The bill specifies that a credit union may purchase, lease, hold, and convey certain real estate, including real estate conveyed to the credit union in satisfaction of a debt or foreclosed real estate, subject to guidance by OCU and a five-year limit on holding the real estate.

ASSEMBLY BILL 478***Off-site ATMs***

Under current law, a bank, savings bank, savings and loan association, or credit union (collectively, financial institution) may acquire, place, and operate, or participate in the acquisition, placement, and operation of, at locations away from the financial institution, what is variously referred to as customer bank communications terminals, remote terminals, or remote service units, in accordance with rules established by OCU and DFI's Division of Banking (division). These devices are terminals or other facilities that are not located at a financial institution and through which customers and financial institutions may engage in electronic transactions that are incidental to the conduct of the business of financial institutions (collectively, off-site ATMs).

Under current rules of OCU and the division, a financial institution must provide advance written notice to OCU or the division before acquiring, placing, or operating an off-site ATM. The bill repeals these rules.

Current statutes provide that OCU or the division may, by order, authorize the installation and operation of an off-site ATM in a mobile facility, after notice and hearing upon the proposed service stops of the mobile facility. The bill repeals these provisions.

Vacancy on board of directors

Current law allows the board of directors of a credit union to remove a director. Within 60 days after the date of removal of a director, the board of directors must appoint a director to fill the vacancy. The bill requires a credit union's board of directors to fill any vacancy, including a vacancy resulting from removal of a director, within 90 days.

Nonmember loan participation

Under current law, a credit union may make loans to members upon terms approved by the credit committee, loan officer, or board of directors.

The bill specifies that a credit union may allow nonmember loan participation as a joint applicant, co-obligor, cosigner, co-borrower, surety, or guarantor.

Supplemental capital

The bill specifies that credit unions may issue or offer supplemental forms of capital approved by OCU.

Charges for credit union examinations

Current law generally requires OCU to conduct, at least once every 18 months, examinations of credit unions in which OCU examines the credit union's records and accounts. OCU must charge the credit union for the cost of the examination, and the credit union must pay the charge on the day on which the examination is completed.

The bill requires the credit union to pay the charge within 30 days of the completion of OCU's examination.

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

ASSEMBLY BILL 478**SECTION 1**

1 **SECTION 1.** 186.07 (7) of the statutes is amended to read:

2 186.07 (7) VACANCIES. Within ~~60~~ 90 days after the date of a removal vacancy
3 on the board of directors, the board of directors shall appoint a director to fill the
4 vacancy. The appointee shall serve until a successor is elected at the next annual
5 membership meeting.

6 **SECTION 2.** 186.098 (1) of the statutes is amended to read:

7 186.098 (1) LOAN APPROVAL. The credit union may make loans to members upon
8 terms approved by the credit committee, loan officer, or board of directors. The credit
9 union may also permit a nonmember to participate in an obligation or extension of
10 credit to a member as a joint applicant, co-obligor, cosigner, co-borrower, surety, or
11 guarantor.

12 **SECTION 3.** 186.11 (2) of the statutes is renumbered 186.11 (2) (a) and amended
13 to read:

14 186.11 (2) (a) ~~A~~ Subject to pars. (b) and (c), a credit union may purchase, hold,
15 and dispose of property as necessary for or incidental to its operations.

16 **SECTION 4.** 186.11 (2) (b) and (c) of the statutes are created to read:

17 186.11 (2) (b) Subject to guidance issued by the office of credit unions, a credit
18 union may purchase, lease, hold, and convey the following types of real estate:

19 1. Real estate conveyed to the credit union in satisfaction of debts previously
20 contracted in the course of the credit union's business.

21 2. Real estate purchased at sale on judgments, decrees, or mortgage
22 foreclosures under securities held by the credit union, but a credit union may not bid
23 at a sale a larger amount than is necessary to satisfy its debts and costs.

24 3. Subject to the approval of the office of credit unions, real estate acquired or
25 held by the credit union for any other purpose.

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1 (c) Real estate acquired under par. (b) may not be held for more than 5 years,
2 unless an extension is granted by the office of credit unions.

3 **SECTION 5.** 186.113 (15) (a) of the statutes is amended to read:

4 186.113 (15) (a) Directly or indirectly, acquire, place, and operate, or
5 participate in the acquisition, placement, and operation of, at locations other than
6 its offices, remote terminals, in accordance with rules established by the office of
7 credit unions. The rules shall provide that any remote terminal shall be available
8 for use, on a nondiscriminatory basis, by any state or federal credit union which has
9 its principal place of business in this state, by any other credit union obtaining the
10 consent of a state or federal credit union which has its principal place of business in
11 this state and is using the terminal and by all members designated by a credit union
12 using the terminal. This subsection does not authorize a credit union which has its
13 principal place of business outside the state to conduct business as a credit union in
14 this state. The remote terminals also shall be available for use, on a
15 nondiscriminatory basis, by any state or national bank, state or federal savings bank
16 or state or federal savings and loan association, whose home office is located in this
17 state, if the bank, savings bank or savings and loan association requests to share its
18 use, subject to the joint rules established under s. 221.0303 (2). ~~The office of credit
19 unions by order may authorize the installation and operation of a remote terminal
20 in a mobile facility, after notice and hearing upon the proposed service stops of the
21 mobile facility.~~

22 **SECTION 6.** 186.113 (26) of the statutes is created to read:

23 186.113 (26) SUPPLEMENTAL CAPITAL. Issue or otherwise offer supplemental
24 forms of capital in such form and with such conditions as are approved by the office
25 of credit unions.

ASSEMBLY BILL 478**SECTION 7**

1 **SECTION 7.** 186.115 (2) of the statutes is amended to read:

2 186.115 (2) ~~RULES~~ GUIDANCE. The activities, powers, products, and services
3 that may be undertaken, exercised, or offered by credit unions under sub. (1) are
4 limited to those specified by ~~rule of~~ guidance issued by the office of credit unions. The
5 office of credit unions may direct any credit union to cease any activity, the exercise
6 of any power, or the offering of any product or service authorized by ~~rule~~ this
7 guidance. Among the factors that the office of credit unions may consider in so
8 directing a credit union are the credit union's net worth, assets, management rating,
9 and liquidity ratio and its ratio of net worth to assets.

10 **SECTION 8.** 186.118 (1) of the statutes is amended to read:

11 186.118 (1) In addition to any activity or power authorized under ss. 186.098,
12 186.11, 186.113, 186.114, and 186.115, ~~and 186.235 (21)~~, a credit union organized
13 under s. 186.02 may engage in any activity or exercise any power that is listed by the
14 office of credit unions under sub. (2) (a) ~~or~~, (3) (b) 1., or (3m) (b) 1.

15 **SECTION 9.** 186.118 (3) (a) (intro.) of the statutes is amended to read:

16 186.118 (3) (a) (intro.) After April 18, 2014, and before the effective date of this
17 paragraph [LRB inserts date], if any activity or power incidental to the business
18 of a credit union that is not listed under sub. (2) (a) becomes authorized for federally
19 chartered credit unions, within 30 days after the activity or power becomes
20 authorized the office of credit unions shall make a determination as to whether the
21 activity or power should also be authorized for credit unions organized under s.
22 186.02. In making this determination, the office of credit unions shall consider the
23 degree to which the following apply with respect to the activity or power:

24 **SECTION 10.** 186.118 (3m) of the statutes is created to read:

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1 186.118 (3m) (a) On or after the effective date of this paragraph [LRB inserts
2 date], if any activity or power incidental to the business of a credit union that is not
3 listed under sub. (2) (a) or (3) (b) 1. becomes authorized for federally chartered credit
4 unions, 30 days after the activity or power becomes authorized the activity or power
5 shall also be authorized for credit unions organized under s. 186.02 unless otherwise
6 noted by general order of the office of credit unions within this 30-day period. In
7 making the determination whether to issue such a general order, the office of credit
8 unions shall consider the degree to which the following apply with respect to the
9 activity or power:

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

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

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

17 (b) 1. The office of credit unions shall promulgate a rule adding an activity or
18 power to the list of activities and powers established under subs. (2) (a) and (3) (b)
19 1. unless the office of credit unions has issued a general order otherwise as provided
20 in par. (a).

21 2. The office of credit unions shall submit the proposed rule under subd. 1. to
22 the legislative reference bureau in an electronic format approved by the legislative
23 reference bureau, and the legislative reference bureau shall publish the proposed
24 rule in the notice section of the Wisconsin administrative register under s. 35.93.

ASSEMBLY BILL 478**SECTION 10**

1 3. Sections 227.114 (4) and (6), 227.115, 227.135, 227.137, 227.14 (2) (a) 6., (2g),
2 (4), and (4m), 227.15, 227.16, 227.17, 227.18, 227.185, 227.19, and 227.30 do not
3 apply to the office of credit unions in promulgating a rule under subd. 1. or to any rule
4 promulgated by the office of credit unions under subd. 1. Guidelines prescribed by
5 executive order of the governor do not apply to the office of credit unions in
6 promulgating a rule under subd. 1.

7 **SECTION 11.** 186.118 (4) of the statutes is amended to read:

8 186.118 (4) The office of credit unions shall publish and maintain on the
9 department of financial institutions' Internet site the list of activities and powers
10 under ~~sub.~~ subs. (2) (a), (3) (b) 1., and (3m) (b) 1.

11 **SECTION 12.** 186.118 (5) of the statutes is amended to read:

12 186.118 (5) If the office of credit unions promulgates a rule listing an activity
13 or power as provided in sub. (2) (a) ~~or~~, (3) (b) 1., or (3m) (b) 1., subs. (2) (b) and (c) ~~and~~,
14 (3) (b) 2. and 3., and (3m) (b) 2. and 3. do not apply to any subsequent rule modifying
15 or eliminating the listed activity or power.

16 **SECTION 13.** 186.235 (14) (c) of the statutes is amended to read:

17 186.235 (14) (c) In addition to the annual assessment, each credit union shall
18 be charged for the cost of every examination made. The examination charge shall
19 include the prorated amount of salaries and expenses of all examiners and other
20 employees actively engaged in the examination, the salaries and expenses of any
21 other person whose services are required in connection with the examination and
22 any examination report and any other expenses which may be directly attributable
23 to the examination. The examination charge shall be paid ~~on~~ within 30 days of the
24 day on which the examination is completed.

25 **SECTION 14.** 186.235 (21) of the statutes is repealed.

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1 **SECTION 15.** 214.04 (21) (b) of the statutes is amended to read:

2 214.04 **(21)** (b) The rules of the division shall provide that any remote service
3 unit shall be available for use, on a nondiscriminatory basis, by any state or federal
4 savings bank which has its principal place of business in this state, by any other state
5 or federal savings bank obtaining the consent of a state or federal savings bank that
6 has its principal place of business in this state and is using the terminal and by all
7 customers designated by a savings bank using the unit. This paragraph does not
8 authorize a savings bank which has its principal place of business outside this state
9 to conduct business as a savings bank in this state. A remote service unit shall be
10 available for use, on a nondiscriminatory basis, by any credit union, state or national
11 bank or state or federal savings and loan association, whose home office is located
12 in this state, if the credit union, bank or savings and loan association requests to
13 share its use, subject to joint rules established by the division and the office of credit
14 unions. ~~The division by order may authorize the installation and operation of a~~
15 ~~remote service unit in a mobile facility, after notice and hearing upon the proposed~~
16 ~~service stops of the mobile facility.~~

17 **SECTION 16.** 215.13 (46) (a) 1. of the statutes is amended to read:

18 215.13 **(46)** (a) 1. Directly or indirectly, acquire, place, and operate, or
19 participate in the acquisition, placement, and operation of, at locations other than
20 its home or branch offices, remote service units, in accordance with rules established
21 by the division. Remote service units established in accordance with such rules are
22 not subject to sub. (36), (39), (40) or (47) or s. 215.03 (8). The rules of the division shall
23 provide that any such remote service unit shall be available for use, on a
24 nondiscriminatory basis, by any state or federal savings and loan association which
25 has its principal place of business in this state, by any other savings and loan

ASSEMBLY BILL 478**SECTION 16**

1 association obtaining the consent of a state or federal savings and loan association
2 which has its principal place of business in this state and is using the terminal and
3 by all customers designated by a savings and loan association using the unit. This
4 paragraph does not authorize a savings and loan association which has its principal
5 place of business outside this state to conduct business as a savings and loan
6 association in this state. The remote service units also shall be available for use, on
7 a nondiscriminatory basis, by any credit union, state or national bank or state or
8 federal savings bank, whose home office is located in this state, if the credit union,
9 bank or savings bank requests to share its use, subject to the joint rules established
10 under s. 221.0303 (2). ~~The division by order may authorize the installation and~~
11 ~~operation of a remote service unit in a mobile facility, after notice and hearing upon~~
12 ~~the proposed service stops of the mobile facility.~~

13 **SECTION 17.** 221.0303 (2) of the statutes is amended to read:

14 **221.0303 (2) OPERATION AND ACQUISITION OF CUSTOMER BANK COMMUNICATIONS**
15 **TERMINALS.** A bank may, directly or indirectly, acquire, place, and operate, or
16 participate in the acquisition, placement, and operation of, at locations other than
17 its main or branch offices, customer bank communications terminals, in accordance
18 with rules established by the division. The rules of the division shall provide that
19 any such customer bank communications terminal shall be available for use, on a
20 nondiscriminatory basis, by any state or national bank and by all customers
21 designated by a bank using the terminal. This subsection does not authorize a bank
22 which has its principal place of business outside this state to conduct banking
23 business in this state. The customer bank communications terminals also shall be
24 available for use, on a nondiscriminatory basis, by any credit union, savings and loan
25 association, or savings bank, if the credit union, savings and loan association, or

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1 savings bank requests to share its use, subject to rules jointly established by the
2 division of banking and the office of credit unions. ~~The division by order may~~
3 ~~authorize the installation and operation of a customer bank communications~~
4 ~~terminal in a mobile facility, after notice and hearing upon the proposed service stops~~
5 ~~of the mobile facility.~~

6 **SECTION 18.** 227.01 (13) (yu) of the statutes is created to read:

7 227.01 (13) (yu) Relates to guidance issued by the office of credit unions under
8 s. 186.11 (2) (b) or 186.115 (2).

9 **SECTION 19.** 227.10 (2m) of the statutes is amended to read:

10 227.10 (2m) No agency may implement or enforce any standard, requirement,
11 or threshold, including as a term or condition of any license issued by the agency,
12 unless that standard, requirement, or threshold is explicitly required or explicitly
13 permitted by statute or by a rule that has been promulgated in accordance with this
14 subchapter, except as provided in s. 186.118 (2) (c) ~~and~~, (3) (b) 3., and (3m) (b) 3. The
15 governor, by executive order, may prescribe guidelines to ensure that rules are
16 promulgated in compliance with this subchapter.

17 **SECTION 20.** 227.14 (2) (a) 8. of the statutes is amended to read:

18 227.14 (2) (a) 8. The place where comments on the proposed rule should be
19 submitted and the deadline for submitting those comments, if the deadline is known
20 at the time the proposed rule is submitted to the legislative council staff under s.
21 227.15 or, for a rule promulgated under s. 186.118 (2) (a) ~~or~~, (3) (b) 1., or (3m) (b) 1.,
22 submitted as provided in s. 186.118 (2) (b) ~~or~~, (3) (b) 2., or (3m) (b) 2.

23 **SECTION 21.** 227.20 (3) (c) of the statutes is amended to read:

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1 227.20 (3) (c) That all of the rule-making procedures required by this chapter
2 were complied with, except as provided in s. 186.118 (2) (c) ~~or~~, (3) (b) ~~3.~~, or (3m) (b)
3 3.

4 **SECTION 22.** 227.24 (1) (b) of the statutes is amended to read:

5 227.24 (1) (b) An agency acting under s. ~~186.235 (21)~~, 215.02 (18) or 220.04 (8)
6 may promulgate a rule without complying with the notice, hearing and publication
7 procedures under this chapter.

8 **SECTION 23.** 227.24 (1) (d) of the statutes is amended to read:

9 227.24 (1) (d) A rule promulgated under par. (b) takes effect upon publication
10 in the official state newspaper or on any later date specified in the rule and remains
11 in effect for one year or until it is suspended or the proposed rule corresponding to
12 it is objected to by the joint committee for review of administrative rules, whichever
13 is sooner. If a rule under par. (b) is suspended or a proposed rule under s. ~~186.235~~
14 ~~(21)~~, 215.02 (18) or 220.04 (8) is objected to by the joint committee for review of
15 administrative rules, any person may complete any transaction entered into or
16 committed to in reliance on that rule and shall have 45 days to discontinue other
17 activity undertaken in reliance on that rule.

18 **SECTION 24.** DFI-Bkg 14.03 of the administrative code is repealed.

19 **SECTION 25.** DFI-CU 63.03 of the administrative code is repealed.

20 **SECTION 26.** DFI-SB 12.03 of the administrative code is repealed.

21 **SECTION 27.** DFI-SL 12.03 of the administrative code is repealed.

22 **(END)**