

State of Wisconsin



2023 Senate Bill 773

Date of enactment: **March 21, 2024**

Date of publication*: **March 22, 2024**

2023 WISCONSIN ACT 128

AN ACT *to repeal* 138.052 (7e) and (7m), 138.056 (6) and 215.21 (2); *to renumber and amend* 186.11 (2); *to amend* 34.08 (2), 38.20 (2) (e), 67.12 (12) (a), 138.052 (12) (a), 186.07 (7), 186.113 (15) (a), 186.118 (3) (a) (intro.), 186.235 (14) (c), 214.04 (21) (b), 215.13 (39), 215.13 (46) (a) 1., 215.21 (15), 221.0303 (2), 941.38 (1) (b) 21., 946.82 (4) and 969.08 (10) (b); and *to create* 186.11 (2) (b) and (c), 186.113 (26), 227.01 (13) (yu) and 943.825 of the statutes; **relating to:** authorized activities and operations of credit unions; the lending area of savings and loan associations; automated teller machines; residential mortgage loans and variable rate loans; payments for public deposit losses in failed financial institutions; promissory notes of certain public bodies; repealing rules promulgated by the Department of Financial Institutions; providing an exemption from rule-making procedures; and providing a penalty.

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

SECTION 1. 34.08 (2) of the statutes is amended to read:

34.08 (2) Payments under sub. (1) shall be made in the order in which satisfactory proofs of loss are received by the division of banking. The payment made to any public depositor for all losses of the public depositor in any individual public depository may not exceed \$400,000 ~~\$1,000,000~~ above the amount of deposit insurance provided by an agency of the United States at the public depository that experienced the loss. Upon a satisfactory proof of loss, the division of banking shall direct the department of administration to draw its warrant payable from the appropriation under s. 20.144 (1) (a) and the secretary of administration shall pay the warrant under s. 16.401 (4) in favor of the public depositor that has submitted the proof of loss.

SECTION 2. 38.20 (2) (e) of the statutes is amended to read:

38.20 (2) (e) The district purchasing property under this subsection may, with approval of the city council or village board involved, pay the purchase price by issuing and delivering directly to the city or village the general obligation promissory notes or the notes of the district under s. 67.12 (12), except that no referendum may be held and the ~~40-year~~ 20-year limitation on such notes shall be inapplicable to such notes issued under this paragraph. Such notes shall mature and be payable at such times, in such amounts and at such rate of interest as will amortize and pay when due the principal and interest on the outstanding obligations of the city or village for technical college purposes. All such notes, upon execution and delivery to the city or village, shall in all respects be held and considered as an authorized investment under s. 66.0603 (1m) or 67.11 (2) and (3) of the debt service fund created for payment of the city or village obligations issued for technical college purposes and shall be offset against city or village indebtedness in computing legal debt limit to the same extent as other authorized invest-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

ments of the debt service fund and such notes may be sold and hypothecated. If the offset against city or village indebtedness under this paragraph is determined to be invalid in any respect, such city or village immediately may require the district issuing the promissory notes to such city or village to comply with pars. (c) and (d) to the extent necessary to cure such invalidity.

SECTION 3. 67.12 (12) (a) of the statutes, as affected by 2023 Wisconsin Act 6, is amended to read:

67.12 (12) (a) Any municipality may issue promissory notes as evidence of indebtedness for any public purpose, as defined in s. 67.04 (1) (b), including but not limited to paying any general and current municipal expense, and refunding any municipal obligations, including interest on them. Each note, plus interest if any, shall be repaid ~~within 10 years after the original date of the note, except that notes issued under this section for purposes of ss. 119.498, 281.58, 281.59, 281.61, and 292.72 and s. 281.60, 2021 stats., issued to raise funds to pay a portion of the capital costs of a metropolitan sewerage district, or issued by a 1st class city or a county having a population of 750,000 or more, to pay unfunded prior service liability with respect to an employee retirement system, shall be repaid~~ within 20 years after the original date of the note.

SECTION 4. 138.052 (7e) and (7m) of the statutes are repealed.

SECTION 5. 138.052 (12) (a) of the statutes is amended to read:

138.052 (12) (a) Any lender violating sub. (2) (b), (5), (5m) (b) 1., (6), (7), ~~(7e), (7m)~~ or (7s), or an escrow agent, as defined in sub. (5m) (a), violating sub. (5m) (b) 2., is liable to the borrower for \$500 plus actual damages, costs and reasonable attorney fees.

SECTION 6. 138.056 (6) of the statutes is repealed.

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

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

SECTION 8. 186.11 (2) of the statutes is renumbered 186.11 (2) (a) and amended to read:

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

SECTION 9. 186.11 (2) (b) and (c) of the statutes are created to read:

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

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

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

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

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

SECTION 10. 186.113 (15) (a) of the statutes is amended to read:

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

SECTION 11. 186.113 (26) of the statutes is created to read:

186.113 (26) SUPPLEMENTAL CAPITAL. In addition to the rights of credit unions under other law, issue or otherwise offer supplemental forms of capital in the form and with the conditions, including those related to the safety and soundness of the proposed use of the capital and the overall condition of the credit union, approved by the office of credit unions. This approval shall be in writing and obtained prior to the issuance of the supplemental capital.

SECTION 12. 186.118 (3) (a) (intro.) of the statutes is amended to read:

186.118 (3) (a) (intro.) After April 18, 2014, if any activity or power incidental to the business of a credit union that is not listed under sub. (2) (a) becomes autho-

alized for federally chartered credit unions, within ~~30~~ 60 days after the activity or power becomes authorized the office of credit unions shall make a determination as to whether the activity or power should also be authorized for credit unions organized under s. 186.02. In making this determination, the office of credit unions shall consider the degree to which the following apply with respect to the activity or power:

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

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

SECTION 14. 214.04 (21) (b) of the statutes is amended to read:

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

SECTION 15. 215.13 (39) of the statutes is amended to read:

215.13 (39) BRANCHES. Subject to the approval of the division, any savings and loan association may establish and maintain one or more branch offices ~~within the normal lending area of the home office, as defined in s. 215.21 (2),~~ in this state or in any one of the regional states, as defined in s. 215.36 (1) (f). In the division's approval, the division may limit the powers of the branch. Savings and loan associations may promote thrift in their local

schools by accepting payments in the school upon savings accounts of the teachers and pupils.

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

215.13 (46) (a) 1. Directly or indirectly, acquire, place, and operate, or participate in the acquisition, placement, and operation of, at locations other than its home or branch offices, remote service units, in accordance with rules established by the division. Remote service units established in accordance with such rules are not subject to sub. (36), (39), (40) or (47) or s. 215.03 (8). The rules of the division shall provide that any such remote service unit shall be available for use, on a nondiscriminatory basis, by any state or federal savings and loan association which has its principal place of business in this state, by any other savings and loan association obtaining the consent of a state or federal savings and loan association which has its principal place of business in this state and is using the terminal and by all customers designated by a savings and loan association using the unit. This paragraph does not authorize a savings and loan association which has its principal place of business outside this state to conduct business as a savings and loan association in this state. The remote service units also shall be available for use, on a nondiscriminatory basis, by any credit union, state or national bank or state or federal savings bank, whose home office is located in this state, if the credit union, bank or savings bank requests to share its use, subject to the joint rules established under s. 221.0303 (2). ~~The division by order may authorize the installation and operation of a remote service unit in a mobile facility, after notice and hearing upon the proposed service stops of the mobile facility.~~

SECTION 17. 215.21 (2) of the statutes is repealed.

SECTION 18. 215.21 (15) of the statutes is amended to read:

215.21 (15) PARTICIPATION LOANS. Any association may participate with other lenders in mortgage loans of any type that such association may otherwise make if the real estate securing such loan is located within the United States, subject to such rules as the division issues, including the interest in participation loans to be retained by the originator. ~~The normal lending area, prescribed in sub. (2), shall not apply to any association purchasing a participating interest in such loan, provided the real estate securing such loan is located within the United States.~~

SECTION 19. 221.0303 (2) of the statutes is amended to read:

221.0303 (2) OPERATION AND ACQUISITION OF CUSTOMER BANK COMMUNICATIONS TERMINALS. A bank may, directly or indirectly, acquire, place, and operate, or participate in the acquisition, placement, and operation of, at locations other than its main or branch offices, customer bank communications terminals, in accordance with rules established by the division. The rules of the division shall provide that any such customer bank communi-

cations terminal shall be available for use, on a nondiscriminatory basis, by any state or national bank and by all customers designated by a bank using the terminal. This subsection does not authorize a bank which has its principal place of business outside this state to conduct banking business in this state. The customer bank communications terminals also shall be available for use, on a nondiscriminatory basis, by any credit union, savings and loan association, or savings bank, if the credit union, savings and loan association, or savings bank requests to share its use, subject to rules jointly established by the division of banking and the office of credit unions. ~~The division by order may authorize the installation and operation of a customer bank communications terminal in a mobile facility, after notice and hearing upon the proposed service stops of the mobile facility.~~

SECTION 20. 227.01 (13) (yu) of the statutes is created to read:

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

SECTION 21. 941.38 (1) (b) 21. of the statutes is amended to read:

941.38 (1) (b) 21. A crime under s. 943.81, 943.82, 943.825, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, or 943.90 or, if the victim is a financial institution, as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

SECTION 22. 943.825 of the statutes is created to read:

943.825 Interference with automated teller machine. Whoever intentionally causes impairment or interruption of use, in whole or in part, of an automated teller machine or customer bank communications terminal is guilty of a Class H felony.

SECTION 23. 946.82 (4) of the statutes, as affected by 2023 Wisconsin Act 10, is amended to read:

946.82 (4) “Racketeering activity” means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49, 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (2) and (3), 943.231 (1), 943.24 (2),

943.27, 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c) and (4m), 943.60, 943.70, 943.76, 943.81, 943.82, 943.825, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

SECTION 24. 969.08 (10) (b) of the statutes, as affected by 2023 Wisconsin Act 10, is amended to read:

969.08 (10) (b) “Serious crime” means any crime specified in s. 943.23 (1m), 1999 stats., s. 943.23 (1r), 1999 stats., or s. 943.23 (1g), 2021 stats., or s. 346.62 (4), 940.01, 940.02, 940.03, 940.05, 940.06, 940.08, 940.09, 940.10, 940.19 (5), 940.195 (5), 940.198 (2) (a) or (c), 940.20, 940.201, 940.203, 940.204, 940.21, 940.225 (1) to (3), 940.23, 940.24, 940.25, 940.29, 940.295 (3) (b) 1g., 1m., 1r., 2. or 3., 940.302 (2), 940.31, 941.20 (2) or (3), 941.26, 941.30, 941.327, 943.01 (2) (c), 943.011, 943.013, 943.02, 943.03, 943.04, 943.06, 943.10, 943.231 (1), 943.30, 943.32, 943.81, 943.82, 943.825, 943.83, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 946.01, 946.02, 946.43, 947.015, 948.02 (1) or (2), 948.025, 948.03, 948.04, 948.05, 948.051, 948.06, 948.07, 948.085, or 948.30 or, if the victim is a financial institution, as defined in s. 943.80 (2), a crime under s. 943.84 (1) or (2).

SECTION 25. DFI-Bkg 14.03 of the administrative code is repealed.

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

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

SECTION 28. Initial applicability.

(1) PUBLIC DEPOSIT LOSSES. The treatment of s. 34.08 (2) first applies to losses, as defined in s. 34.01 (2), occurring on the effective date of this subsection.

(2) RESIDENTIAL MORTGAGE LOANS AND VARIABLE RATE LOANS. The treatment of ss. 138.052 (7e) and (7m) and 138.056 (6) first applies to loans for which applications are received on the effective date of this subsection.

SECTION 29. Effective dates. This act takes effect on the day after publication, except as follows:

(1) ADMINISTRATIVE RULES. The repeal of sections DFI-Bkg 14.03, DFI-SB 12.03, and DFI-SL 12.03 of the administrative code takes effect as provided in s. 227.265.