



TERRY KATSMMA

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Date: October 6, 2021
To: Assembly Committee on Financial Institutions
From: Representative Terry Katsma
Re: Assembly Bill 596: Financial Institutions Modernization Act

Dear Chairman Duchow and committee members,

Thank you for convening a hearing on Assembly Bill (SB) 596. The proposals offered in this bill are intended to resolve or prevent real challenges that have been brought to my attention by one or more Wisconsin financial institutions:

- Like many states, Wisconsin permits the owner of a deposit account to designate it as a “payable on death” account. The account owner names a beneficiary; when the account owner dies, the funds transfer immediately to the beneficiary instead of becoming part of the owner’s estate. This bill ensures that, if the account owner owed money to the bank, the bank may setoff (keep) the amount it is owed before paying the beneficiary. I am concerned that some financial institutions are operating today under the assumption that their contractual agreements with depositors provide the financial institutions with the right of setoff—but, in reality, the financial institutions may not be able to enforce this right.
- Under current law, municipal deposits are guaranteed against loss up to \$250,000 through the Federal Deposit Insurance Corporation (FDIC) and up to an additional \$400,000 through Wisconsin’s Municipal Deposit Guarantee Program. The relatively low insurance guarantee creates a barrier, particularly for smaller financial institutions, to accept public deposits because of the amount of collateral required to secure the deposit. In fact, some municipalities choose to deposit their assets across multiple financial institutions to maximize their insurance protection. This bill increases the maximum insurance coverage available through the Municipal Deposit Guarantee Program from \$400,000 to \$1 million.
- Long ago, in an effort to protect consumers when ATM machines were introduced to the marketplace, the Legislature required financial institutions to notify the Department of Financial Institutions any time these machines were established, changed or removed. Neither state government nor private industry believe these protections are serving a useful purpose any longer. The bill eliminates the notification requirements.



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- Some municipalities require commercial buildings to have access boxes (commonly known as “Knox Boxes”) that contain keys to the premises located near the entrances. Although such ordinances are intended to enable first responders to rapidly access the locked building without forced entry, the ordinances generally do not contemplate the significant security needs of some buildings—such as financial institutions that contain substantial stores of cash, valuables and data. The bill prohibits state and local government from requiring financial institutions to leave the keys to their secure spaces right next to the front door.
- Under current law, municipalities may borrow from several sources, including the state Board of Commissioners of Public Lands (BCPL) and private financial institutions. The bill improves parity between the BCPL and financial institutions by allowing a municipality to borrow from a financial institution with a repayment term of up to 20 years—the same term allowed for loans through the BCPL. This proposal was unanimously recommended by the 2018 Legislative Council Study Committee on the Investment and Use of the School Trust Funds; it became 2019 Assembly Bill 48, which passed in the Assembly during the 2019-20 legislative session; but it did not reach the Senate floor in spring 2020, as the COVID-19 outbreak began.

Thank you for your time and consideration of AB 596.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

October 6, 2021

Assembly Committee on Financial Institutions Testimony on Assembly Bill 596

Good Afternoon!

Thank you Chair Duchow and committee members for hearing Assembly Bill 596 (AB 596) that makes several changes to statutes relating to banking practices. I am happy to be working on this proposal with Rep. Katsma, which has the support of the Wisconsin Bankers Association.

Key provisions of the Financial Institutions Modernization Act:

- Like many states, Wisconsin allows a deposit account at a financial institution to be “payable on death (POD)” to a designated beneficiary – meaning the funds transfer directly to the beneficiary upon the owner’s death instead of becoming part of the owner’s estate. My bank accounts are set up this way. In some instances, these POD designated accounts prevent financial institutions from collecting debts owed. This bill would allow a financial institution to retain amounts owed to them before paying the remaining amount to the listed beneficiary.
- This provision is timely as municipalities have an influx of federal money. Under current law, municipal deposits are guaranteed up to \$250,000 through the Federal Deposit Insurance Corporation (FDIC) and up to an additional \$400,000 through the Department of Financial Institutions (DFI) through the Municipal Deposit Guarantee Program. While the program is rarely used, the low insurance guarantee creates a barrier particularly for smaller institutions to accept public deposits because of the amount of collateral required to secure the deposit. Likewise, many municipalities choose to make deposits in multiple institutions to ensure the full amount is insured. AB 596 increases the existing insurance for municipal deposits, up to \$1 million.
- The bill eliminates the requirement for financial institutions to provide written notice to DFI of establishment, removal or changes to ATMs. This requirement, once created in the interest of consumer protection, no longer serves a purpose as technological advances have rendered it unnecessary.
- Under current law, municipalities may require certain buildings to have access boxes, commonly known as “Knox Boxes”, which contain keys to the premise, and in some cases all secure spaces, enabling first responders to access the locked building without forced entry. These local ordinances do not contemplate the security needs of individual buildings,

such as financial institutions which contain significant stores of cash and other tangible assets or personally identifying information and data. To prevent security lapses, AB 596 exempts financial institutions from access box requirements.

- Under current law, municipalities may borrow from several sources including the Board of Commissioners of Public Lands (BCPL) and financial institutions. The bill creates parity between the BCPL and financial institutions by allowing a municipality to borrow from a financial institution with a repayment term of 20 years – the same term allowable for loans through the BCPL.

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

Thank you again for hearing AB 596, and your timely action on this proposal.



State of Wisconsin
Department of Financial Institutions

Tony Evers, **Governor**

Kathy Blumenfeld, **Secretary**

October 6, 2021

Statement from the Division of Banking Regarding Assembly Bill 596

The Division of Banking, a division of the Wisconsin Department of Financial Institutions (DFI), regulates and regularly examines state-chartered financial institutions to help ensure the safety and soundness of their operations. The Division has no objections to Assembly Bill 596, which modifies certain provisions of the statutes that govern financial institutions without creating new or greater risks to their safety and soundness.

The Division recognizes that there are statutory provisions regarding the regulation of our financial institutions and financial services that are outdated and in need of modernization. This bill updates several key areas to reflect the realities of the current environment, of which two are highlighted below.

First, the bill eliminates the requirement for financial institutions to provide written notice to DFI of establishment, removal, or changes to ATMs. While that regulatory requirement may have served a cautionary and protective function when ATMs were still an emerging technology, it is no longer necessary for the safe and sound operation of our financial institutions.

Second, the bill better ensures the physical security of financial institutions by exempting them from state or local regulations that would otherwise require them to install access boxes on their buildings. Access boxes, also known as lock boxes or Knox Boxes, allow emergency responders to gain access to secured buildings without forceful entry. While Knox Box requirements may be reasonable and appropriate as applied to many businesses, that is not the case as applied to financial institutions. Financial institutions are required to retain a wide range of financial records concerning individuals, businesses, and themselves, many of which must be kept confidential by law, and state and federal regulators hold them to high standards in managing the risks of unauthorized access. No matter how well-designed, an exterior key box creates such risks, including the loss, theft, or unauthorized copying of municipal master keys as well as direct attacks on the exterior boxes themselves. For those reasons, among others, some municipalities with access-box ordinances have expressly exempted financial institutions from their scope.

Other provisions of the bill include increasing insurance for municipal deposits from up to \$400,000 to up to \$1,000,000, as well as allowing a 20-year repayment term, rather than 10 years, when a municipality borrows from a financial institution. The Division has no objection to these updates.

In sum, Assembly Bill 596 provides helpful updates to several statutes without interfering with the DFI's mission of safety and soundness of financial institutions. We appreciate the

Division of Banking

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Committee's attention to the bill and to the modernization of the regulation of our state-chartered financial institutions.

Thank you.

Sincerely,

Kim Swissdorf

Kim Swissdorf
Acting Administrator, Division of Banking
Wisconsin Department of Financial Institutions



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REAL PROPERTY, PROBATE & TRUST LAW SECTION

Date: October 6, 2021

To: Members of the Assembly Committee on Financial Institutions

From: Real Property, Probate and Trust Section of the State Bar of Wisconsin

Re: AB 596 – P.O.D. Accounts

The Real Property, Probate and Trust (RPPT) Section of the State Bar of Wisconsin has concerns regarding the proposed P.O.D. (payable on death) changes in Assembly Bill 596. RPPT has no other concerns with any of the other provisions as currently drafted in the legislation.

P.O.D. accounts is one tool of many that residents use to avoid potentially costly probate proceedings. AB 596 revisions to the law on P.O.D. circumvents the priority of claim statute and creates likely unintended consequences for individuals where a P.O.D. designation was to a revocable trust.

The bill proposes a statutory “set-off” provision that would allow a financial institution to retain assets in a P.O.D. account prior to payment to a designated beneficiary if the deceased account owner had an outstanding liability due the financial institution. This essentially makes an unsecured liability subject to the priority of claims statute, Wis. Stat. §859.25 (see also § 701.505(1)(a)3.), a secured claim favoring the financial institution. The proposed bill would circumvent the priority of claims that would otherwise direct the order in which the trustee satisfies at death: costs and expenses of administration, funeral and burial expenses, statutory provisions for the decedent’s family, the decedent’s last sickness expenses, debts, charges, or taxes owed the federal or state government, among other higher priority claims.

RPPT appreciates the opportunity to discuss the P.O.D. issue further and again takes no position on the other aspects of the legislation. If you have any questions, please contact Cale Battles, Governor Relations Coordinator at the State Bar of Wisconsin, at cbattles@wisbar.org or (608) 250-6077.

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone.



STATE BAR OF WISCONSIN



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To: Assembly Committee on Financial Institutions
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities
Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities
Date: October 6, 2021
Re: AB 596, Covering Public Deposit Losses and Extending Maturity Date of Promissory Notes

The League of Wisconsin Municipalities supports AB 596, authored by Rep. Katsma and Sen. Marklein. The bill makes the following two changes to state law particularly beneficial to municipalities:

1. Increases, from \$400,000 to \$1,000,000, the maximum payment that the Department of Financial Institutions can make to a public depositor, such a city or village, for losses from a single financial institution that exceed federal deposit insurance.
2. Extends from 10 to 20 years the maximum maturity date of a promissory note issued by a city, or village.

The first provision offers more protection to municipal deposits in public depositories thereby allowing communities to confidently increase their maximum deposits in local banks by \$600,000. The second provision doubles the maturity date of promissory notes issued by a city or village, making it easier for communities to borrow funds from their local banks rather than going to the bond market to fund capital projects.

While we have reservations about the part of the bill prohibiting municipalities from requiring a financial institution to install an access box in or on any financial institution building, the benefits of the two provisions described above outweigh our concerns about the access box item.

Therefore, we urge the committee to recommend passage of AB 596. Thanks for considering our comments.



Testimony of the Wisconsin Bankers Association

John Cronin, Director – Government Relations, WBA

**Assembly Committee on Financial Institutions
Assembly Bill 596**

October 6, 2021

Chairwoman Duchow and members of the Assembly Committee on Financial Institutions,

My name is John Cronin, and I am Director of Government Relations at the Wisconsin Bankers Association. Joining me today is Gary Kuter, Senior Vice President of Retail Banking and Chief Compliance Officer at Capitol Bank here in Madison.

Founded in 1892, WBA is the state's largest financial industry trade association, representing over 200 banks and savings institutions, their branches, and over 21,000 employees. The Association represents banks of all sizes in Wisconsin, and over 98% of banks in the state are WBA members.

Thank you for the opportunity to testify today in favor of Assembly Bill 596, legislation designed to update several statutes relating to banking practices. Our organization is very appreciative of the efforts of Rep. Terry Katsma and Sen. Howard Marklein for bringing this legislation forward.

In many ways, banks are the cornerstones of Wisconsin's communities, having long provided services to individuals and business customers. Bankers relish the opportunity to build and maintain relationships and offer products that help propel Wisconsin's diverse and vibrant economy.

Banks are also subject to many rules and regulations and are regularly examined for safety and soundness. Therefore, regulatory compliance, operations, and security are key areas of emphasis for financial institutions both large and small.

AB 596 will help us realize efficiencies in all three of these areas without jeopardizing safety and soundness. The common-sense pieces of regulatory relief in this legislation will allow our members to spend more time focusing on what's most important: serving their customers.

Briefly, the bill seeks to accomplish five objectives. Members of this committee have likely seen some of the bill's provisions in other forms or bills in previous sessions.

First, AB 596 modernizes the Department of Financial Institutions' municipal deposit guarantee program to provide up to \$1 million of coverage for losses of public deposits in case of a bank failure. The current limit is \$400,000, a level set in 1985. This will allow local units of government to deposit funds more confidently and help keep these deposits at local institutions.

Next, the bill levels the playing field between the loan terms a bank may make to a municipality and what the Board of Commissioners of Public Lands (BCPL) may offer. The BCPL may

(over)

currently make loans to municipalities with 20-year terms, while banks are limited to 10-year terms. 2019 Assembly Bill 48, which passed on a voice vote in the Assembly last session, would have accomplished this change.

Under current law, financial institutions must provide advanced written notice to DFI before acquiring, placing, operating, or changing off-site ATM's. AB 596 would repeal these outdated regulations that track back to the mid-1970s.

Fourth, the bill exempts financial institutions from local ordinances requiring the installation of access boxes designed to hold keys for use by first responders. In addition to coins and currency, banks are also repositories of vast amounts of personal information that must be kept confidential by law. Access boxes create a single point of security failure and the severity of potential exploitation by a criminal outweighs the benefit such a box would provide. The genesis of this provision was a citation a Wisconsin bank received for not complying with an ordinance requiring the installation of an access box. That bank had decided the risks associated with these boxes outweighed any benefit one would have provided.

Thankfully fires at financial institutions are exceedingly rare. However, there are numerous examples from across the country of nefarious actors, who are not firefighters, obtaining access box master keys and committing crimes inside businesses. A motivated criminal entering a financial institution could be devastating and is a scenario we are trying to prevent.

Lastly, AB 596 clarifies financial institutions' right to setoff against a payable-on-death (POD) account the amount owed on a loan before paying out the net amount to the POD beneficiary.

Thank you Chairwoman Duchow and members for taking the time to hear our testimony today. We would be happy to answer any questions you may have.