

the deposit of securities was ultra vires and that the statute under which the deposit was made was unconstitutional when applied to associations doing business in the state before its passage. *Lewis v. American S. & L. Asso.* 98 W 203, 73 NW 793, writ of error dismissed, *Hale v. Lewis*, 181 US 473.

See note to 216.02, citing *In re Fidelity Assur. Asso.* 248 W 373, 21 NW (2d) 730.

Securities deposited with the state treasurer by a foreign investment association are to be valued at actual or market value in ascertaining whether the required amount is on deposit. 20 Atty. Gen. 588.

A deposit with the state treasurer by a foreign building and loan association pursuant to 215.38, Stats. 1937, may be held for the exclusive benefit of Wisconsin creditors in the event of federal receivership. 27 Atty. Gen. 56.

CHAPTER 216.

Investment Associations.

216.01 History: 1899 c. 216 s. 1; 1903 c. 374 s. 1; 1905 c. 219 s. 1; Supl. 1906 s. 2014-27; 1911 c. 663 s. 407; 1923 c. 291 s. 3; Stats. 1923 s. 216.01; 1947 c. 411 s. 6 (215.30 (5)); 1947 c. 612 s. 1.

The soliciting and receiving of payments by an investment company, licensed under ch. 216, Stats. 1929, as amended, and its issuance of income reserve contracts as part of an employer's plan for payment of unemployment benefits, under which a proposed income reserve contract and accompanying special separate contract between the employer and the investment company, the monthly payments, which are to be made by the employer, are not to be commingled with other funds of the investment company, but are to be invested by it in approved securities which are to be held by a designated depository exclusively for purposes that are expressed to be principally for the benefit of the employer and its employees until the investment company's obligations under such contracts are fully discharged are within the scope of the authorized business of such an investment company, and do not constitute the doing of a prohibited "banking business," as defined in 224.02. State ex rel. *Rohn S. Mfg. Co. v. Industrial Comm.* 217 W 138, 258 NW 449.

The mere fact that a corporation engaged in the business of buying, selling and dealing in stocks, bonds and other securities, did not make it an "investment company." *Wisconsin Investment Co. v. Skinner*, 220 W 537, 265 NW 681.

The requirement of 215.82 and 216.02, Stats. 1955, as to the nature and amount of securities to be deposited with the state treasurer by any investment company subject to regulation under 216.01, does not apply to a company operating in interstate commerce and subject to the Federal Investment Company Act of 1940, 15 USCA, sec. 80a. *Investors Diversified Services v. Diggles*, 272 W 66, 74 NW (2d) 805.

A person accepting money from individuals, to be invested by him in securities, is subject to regulation as an investment company. 10 Atty. Gen. 920.

An employer's thrift club, in which each

member pays in \$5 or some multiple thereof each month, the money being invested in bonds, and the profits derived from the interest and sales of bonds being divided among the members, does not come within laws relating to mutual savings banks, but would seem to be an investment company and within the provisions of sec. 2014-27, Stats. 1921. 11 Atty. Gen. 420.

The commissioner of banking is under no duty to examine investment associations which have not been licensed. 11 Atty. Gen. 801.

The provisions of law relating to investments by local building and loan associations do not apply to organizations coming within the provisions of ch. 216, Stats. 1923. Investment associations need comply only with requirements relating to foreign building and loan associations contained in ch. 215. 13 Atty. Gen. 300.

A corporation organized under the laws of Texas and engaged in the business of selling its special income bonds, secured by mortgages on Texas real estate, must comply with ch. 216, Stats. 1923, and also procure a license under ch. 189. 14 Atty. Gen. 137.

216.02 History: 1899 c. 216 s. 2; 1903 c. 374 s. 2; 1905 c. 219 s. 2; Supl. 1906 s. 2014-28; 1923 c. 291 s. 3; Stats. 1923 s. 216.02; 1943 c. 275 s. 55; 1947 c. 411 s. 6 (215.30 (5)); 1947 c. 612 s. 1.

Under 215.38, Stats. 1941, Wisconsin certificate holders, on the insolvency of an association, in the absence of any agreement to pay interest, were entitled to be paid out of the deposit fund only the net surrender value of their certificates, as of the date of insolvency, and were not entitled to be paid, in addition, out of the deposit fund, interest by way of damages from the date of insolvency, without regard to the rights of other claimants in the assets of the association. *In re Fidelity Assur. Asso.* 248 W 373, 21 NW (2d) 730.

The affairs of associations which are governed by secs. 2014-27 and 2014-28, Stats. 1919, are subject to annual examination by the commissioner of banking. 9 Atty. Gen. 355.

216.03 History: 1899 c. 216 s. 3; 1903 c. 374 s. 3; 1905 c. 219 s. 3; Supl. 1906 s. 2014-29; 1923 c. 291 s. 3; Stats. 1923 s. 216.03.

Agents transacting business for an unlicensed investment company are guilty of a criminal offense. 3 Atty. Gen. 157.

216.05 History: 1939 c. 240; Stats. 1939 s. 216.05; 1947 c. 411 s. 6 (215.30 (5)); 1947 c. 612 s. 1; 1949 c. 634; 1963 c. 315 s. 2.

CHAPTER 217.

Seller of Checks.

217.01 History: 1967 c. 288; Stats. 1967 s. 217.01.

217.02 History: 1967 c. 288; Stats. 1967 s. 217.02; 1969 c. 276 ss. 543, 592 (6).

217.03 History: 1967 c. 288; Stats. 1967 s. 217.03; 1969 c. 276 s. 592 (6).

217.04 History: 1967 c. 288; Stats. 1967 s. 217.04.

217.05 History: 1967 c. 283, 288; Stats. 1967 s. 217.05; 1969 c. 276 s. 592 (6); 1969 c. 323.

217.06 History: 1967 c. 283, 288; Stats. 1967 s. 217.06; 1969 c. 276 ss. 585 (5), 592 (6); 1969 c. 323; 1969 c. 392 s. 65c.

217.07 History: 1967 c. 288; Stats. 1967 s. 217.07; 1969 c. 276 s. 592 (6).

217.08 History: 1967 c. 283, 288; Stats. 1967 s. 217.08; 1969 c. 276 s. 592 (6); 1969 c. 323; 1969 c. 392 s. 65g.

217.09 History: 1967 c. 288; Stats. 1967 s. 217.09; 1969 c. 276 s. 592 (6).

217.10 History: 1967 c. 288; Stats. 1967 s. 217.10; 1969 c. 276 s. 592 (6); 1969 c. 323.

217.11 History: 1967 c. 283, 288; Stats. 1967 s. 217.11; 1969 c. 323.

217.12 History: 1967 c. 288; Stats. 1967 s. 217.12.

217.13 History: 1967 c. 288; Stats. 1967 s. 217.13.

217.14 History: 1967 c. 288; Stats. 1967 s. 217.14.

217.15 History: 1967 c. 288; Stats. 1967 s. 217.15; 1969 c. 276 s. 592 (7).

217.16 History: 1967 c. 288; Stats. 1967 s. 217.16.

CHAPTER 218.

Finance Companies, Auto Dealers, Adjustment Companies and Collection Agencies.

218.01 (1) History: 1935 c. 474; Stats. 1935 s. 218.01 (1); 1937 c. 417; 1943 c. 20 s. 1; 1943 c. 219; 1945 c. 171; 1947 c. 411 s. 11 (220.02 (5)); 1947 c. 605; 1949 c. 262; 1953 c. 302; 1955 c. 594; 1957 c. 260; 1961 c. 560 ss. 2, 3; 1963 c. 387; 1969 c. 276 s. 592 (4); 1969 c. 500 s. 30 (3) (b), (i).

218.01 (1a) History: 1943 c. 219; Stats. 1943 s. 218.01 (1a); 1947 c. 411 s. 11 (220.02 (5)); 1969 c. 500 s. 30 (3) (i).

On exercises of police power see notes to sec. 1, art. I; and on delegation of power see notes to sec. 1, art. IV.

Under 218.01 (1a), Stats. 1947, approval of an application for a motor vehicle dealer's license by the commissioner of banks is required only when the applicant will operate both as a motor vehicle dealer and as a sales finance company during the license year. Where a dealer sells for cash only, the banking commissioner's approval is not required. 37 Atty. Gen. 486.

218.01 (1b) History: 1961 c. 560 s. 2m; Stats. 1961 s. 218.01 (1b).

218.01 (2) History: 1935 c. 474; Stats. 1935 s. 218.01 (2); 1937 c. 377, 417; 1939 c. 489; 1943 c. 20 s. 1; 1943 c. 219 ss. 6, 8; 1945 c. 171; 1947 c. 411 s. 11 (220.02 (5)); 1957 c. 260 ss. 1, 38; 1957 c. 307, 477, 554; 1957 c. 672 s. 81; Stats. 1957 s. 218.01 (2), 341.49 (2), (3); 1959 c. 220

ss. 2, 3; 1959 c. 664 s. 17; 1961 c. 560 ss. 2r, 4, 12; Stats. 1961 s. 218.01 (2); 1963 c. 209, 387; 1969 c. 159; 1969 c. 500 s. 30 (3) (d), (f), (g), (h), (i).

218.01, Stats. 1951, applies to a Wisconsin resident selling and negotiating for the sale of motor vehicles at Kenosha to other Kenosha residents, although most of the transactions are on behalf of an out-of-state seller and involve interstate commerce. *State v. Helwig*, 262 W 299, 54 NW (2d) 907.

Under a bond issued to a licensed used-car dealer pursuant to 218.01 (2) (h), Stats. 1953, the owner of a used car, who had left it with the dealer to be sold by the latter at an agreed minimum net price, suffered a "loss" when the dealer wrongfully mortgaged the car to an innocent third party as security for money borrowed, within the bond period, so as to warrant recovery on the bond, although the dealer did not sell the mortgaged car to an innocent purchaser until after the expiration of the bond period. *State ex rel. MacNaughton v. New Amsterdam Cas. Co.* 1 W (2d) 494, 85 NW (2d) 337.

A person, firm, or corporation previously licensed as a "sales finance company" under 218.01, Stats. 1941, having no activity other than liquidation of contracts previously acquired and not acquiring any new contracts, is not required to be licensed under that section. 32 Atty. Gen. 1.

The provisions of 218.01, Stats. 1945, prohibiting sales finance companies from engaging in the business of acquiring retail installment contracts on motor vehicles by purchase or discount unless they have obtained a license as provided in said section are not applicable to national banks engaged in such business in this state, but are applicable to state banks engaged in such business in this state. 33 Atty. Gen. 264.

Under the facts stated the purchase of motor vehicles constitutes the purchaser a motor vehicle dealer within 218.01, Stats. 1947, and accordingly subject to the licensing provisions of the section. 36 Atty. Gen. 256.

The motor vehicle commissioner may require an applicant for a salesman's license to furnish a bond under 218.01 (2) (h), Stats. 1955. 45 Atty. Gen. 150.

Any person, firm, or corporation which is in the business of leasing motor vehicles to the public is a "motor vehicle dealer" within the meaning of 218.01 (1) (a), Stats. 1957, and must have an automobile dealer's license. 47 Atty. Gen. 23.

Certain licensing provisions of 218.01 (2) (d), Stats. 1957, are applicable to mobile home time-sales transactions. 47 Atty. Gen. 274.

218.01 (2a) History: 1957 c. 260; Stats. 1957 s. 341.54; 1961 c. 560 s. 14; 1961 c. 622; Stats. 1961 s. 218.01 (2a); 1969 c. 500 s. 30 (3) (i).

218.01 (3) History: 1935 c. 474; Stats. 1935 s. 218.01 (3); 1937 c. 378, 417; 1943 c. 20 s. 1; 1943 c. 375, 515; 1945 c. 171; 1947 c. 411 s. 11 (220.02 (5)); 1953 c. 302; 1955 c. 364; 1957 c. 260, 477, 554, 674; Stats. 1957 s. 218.01 (3), 341.50; 1959 c. 220, 236, 660; 1961 c. 560 ss. 5, 6, 13; Stats. 1961 s. 218.01 (3); 1963 c. 343;