

1977 Senate Bill 406

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CHAPTER 307, Laws of 1977

AN ACT to amend 223.06; and to create 221.04 (6m), 223.025 and 223.07 of the statutes, relating to the amount of capital required of trust company banks and permitting trust company banks and certain state and national banks to establish trust service offices at the location of other banks.

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

SECTION 1. 221.04 (6m) of the statutes is created to read:

221.04 (6m) TRUST SERVICE OFFICES. Any state bank exercising trust powers may, with the approval of the commissioner of banking, establish and maintain a trust service office at any office in this state of any other state or national bank. Any state bank may, with the approval of the commissioner, permit any other state or national bank exercising trust powers or any trust company bank organized under ch. 223 to

establish and maintain a trust service office at any of its banking offices. The establishment and operation of such trust service offices shall be subject to s. 223.07. This subsection is not intended to authorize branch banking. If, at any time, the U.S. comptroller of the currency interprets this subsection or s. 223.07 to mean that a national bank may establish a branch office, other than an office with powers limited to those of trust service offices as provided in s. 223.07, this subsection and s. 223.07 shall be rendered void as of the date of enactment.

SECTION 2. 223.025 of the statutes is created to read:

223.025 Capital necessary to qualify as fiduciary. Notwithstanding any other provision of law, a corporation organized, continued or reorganized under this chapter, a majority of the outstanding voting stock of which is controlled directly or indirectly by a holding company organized under ch. 180, which has complied with s. 223.02 and which has combined unimpaired capital stock and surplus of \$200,000 or more or, if located in a city, town or village of less than 100,000 inhabitants, unimpaired capital stock of not less than \$50,000, shall not be required to provide additional capital and surplus if the parent holding company of the corporation files with the commissioner of banking an undertaking, in a form approved by the commissioner, to be fully responsible for the existing and future fiduciary acts and omissions of the corporation and the commissioner determines that, under the circumstances, the combined and unimpaired capital stock and surplus of the parent holding company of the corporation are adequate.

SECTION 3. 223.06 of the statutes is amended to read:

223.06 Loans to officers; branch banks prohibited. ~~It shall~~ A trust company bank ~~may~~ not loan its funds, trust or otherwise, to any salaried officer or employe, nor shall any ~~such~~ officer or employe become, in any manner, indebted to ~~it~~ the bank by means of an overdraft, promissory note, account, indorsement, guaranty or any other contract; ~~nor shall.~~ No such corporation may establish more than one office of deposit nor establish nor maintain branches. The establishment of trust service offices under s. 223.07 shall not be construed to extend or enlarge the powers of trust company banks to establish branch offices or to carry on the business of banking beyond that limited to a trust service office.

SECTION 4. 223.07 of the statutes is created to read:

223.07 Trust service offices. (1) Any trust company bank may, with the approval of the commissioner of banking, establish and maintain a trust service office at any office in this state of a state or national bank if the establishment of the trust service office has been approved by the board of directors of the state or national bank at a meeting called for that purpose.

(2) Upon establishment of a trust service office under sub. (1), the trust company bank may conduct at the office any trust business and business incidental thereto which it is permitted to conduct at its principal office, but may not accept deposits except as incidental to the trust business.

(3) If the state or national bank at which a trust service office is to be established has exercised trust powers, the trust company bank and the state or national bank shall enter into an agreement respecting those fiduciary powers to which the trust company bank shall succeed and shall file the agreement with the commissioner of banking. The trust company bank shall cause a notice of the filing, in a form prescribed by the commissioner, to be published as a class 1 notice, under ch. 985, in the city, village or town where the state or national bank is located. After filing and publication, the trust company bank establishing the office shall, as of the date the office first opens for business, without further authorization of any kind, succeed to and be substituted for the state or national bank as to all fiduciary powers, rights, duties, privileges and liabilities of the bank in its capacity as fiduciary for all estates, trusts, guardianships and other fiduciary relationships of which the bank is then serving as fiduciary, except as may be otherwise specified in the agreement between the trust company bank and the state or national bank. The trust company bank shall also be deemed named as

fiduciary in all writings, including, but not limited to, wills, trusts, court orders and similar documents and instruments naming the state or national bank as fiduciary, signed before the date the trust office first opens for business, unless expressly negated by the writing or otherwise specified in the agreement between the trust company bank and the state or national bank. On the effective date of the substitution, the state or national bank shall be released and absolved from all fiduciary duties and obligations under such writings and shall discontinue its exercise of trust powers on all matters not specifically retained by the agreement. This subsection does not effect a discharge in the manner of s. 701.16 (6) or other applicable statutes and does not absolve a state or national bank exercising trust powers from liabilities arising out of any breach of fiduciary duty or obligation occurring prior to the date the trust service office first opens for business at the bank. This subsection does not affect the authority, duties or obligations of a bank with respect to relationships which may be established without trust powers, including escrow arrangements, whether the relationships arise before or after the establishment of the trust service office.

(4) Not less than 60 days prior to the effective date of a proposed substitution under sub. (3), the parties to the substitution shall send written notice of the proposed substitution to each cofiduciary, each surviving settlor of a trust, each ward under guardianship, each person who alone or in conjunction with others has the power to remove the fiduciary being substituted and each adult beneficiary currently receiving or entitled to receive a distribution of principal or income from a trust or estate with respect to which such substitution is to be effected. Intentional failure to send such notice to any such party at the party's current address as shown in the fiduciary's records shall render not effective the substitution of fiduciaries with respect to such fiduciary relationship, but an unintentional failure to give such notice shall not impair the validity or effect of any substitution of fiduciaries under sub. (3). A trust company bank substituted or about to be substituted as fiduciary with respect to a trust, estate or guardianship under sub. (3) may be removed as fiduciary, or the substitution may be denied, upon petition by a cofiduciary, by a beneficiary of a trust or estate, by the settlor of a trust or on behalf of a ward under guardianship if the trust company bank files a written consent to its removal or a written declination to act, or if the court having jurisdiction over the fiduciary relationship, upon notice and hearing, approves the petition as in the best interests of the petitioner and all other parties interested in the trust, estate or guardianship. This subsection applies in addition to any applicable provision for removal of a fiduciary or appointment of a successor fiduciary in any other statute or in the instrument creating the fiduciary relationship.
