

1989 Assembly Bill 133

Date of enactment: **July 26, 1989**

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1989 WISCONSIN ACT 29

AN ACT *to renumber and amend* 221.04 (4g) and 221.14 (4); *to amend* 221.04 (1) (f), 221.04 (1) (i), 221.04 (1) (im), 221.04 (1) (ir), 221.04 (1) (j) 8, 221.04 (1) (j) 10, 221.04 (1) (j) 14, 221.04 (1) (k) 1, 221.04 (1) (L), 221.04 (1) (m), 221.04 (6m), 221.08 (1), 221.12, 221.14 (4m) (a), 221.57, 222.21 (1) (a) and 701.108 (3) (am) and (d); and *to create* 221.04 (1) (j) 1m, 221.04 (1) (j) 20, 221.04 (1) (j) 21, 221.04 (1) (jm), 221.04 (1) (p), 221.04 (1) (q), 221.04 (4g) (b) and (c), 221.14 (4) (b), 221.14 (4m) (c) and 221.14 (4s) of the statutes, **relating to:** branch banking and bank-owned banking.

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

SECTION 1. 221.04 (1) (f) of the statutes is amended to read:

221.04 (1) (f) To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers necessary to carry on the business of banking; by buying, discounting, and negotiating promissory notes, bonds, drafts, bills of exchange, foreign and domestic, and other evidences of debt; by buying and selling coin and bullion; by receiving commercial and savings deposits under such regulations as it may establish; by buying and selling exchange, and by loans on personal and real security as hereafter provided; but no bank shall establish more than one office of deposit and discount or, except as provided under pars. (i) to (j) (jm), (m) and (n), establish branch offices, branch banks or bank stations, but this prohibition shall not apply to any branch office or branch bank established and maintained prior to May 14, 1909, or any bank station established and maintained prior to May 17, 1947, and any or any branch bank existing on July 31, 1990, or approved by the commissioner before August 1, 1990. Any bank may exercise the powers granted by this subsection to carry on the business of banking in any such branch office, branch bank or banking station so established. Applications for the establishment of bank stations which were on file with the banking

commission on or before April 1, 1947 may be granted, subject to the provisions of this section as they existed prior to May 17, 1947.

SECTION 2. 221.04 (1) (i) of the statutes is amended to read:

221.04 (1) (i) To Before August 1, 1989, and after July 31, 1990, to establish and maintain, upon approval by the commissioner, a bank station, as defined by the commissioner, exclusively to receive deposits, permit withdrawals, issue cashiers' checks, money orders, drafts and travelers' checks and provide safekeeping and safety deposit services in any town completely surrounded by outlying waters and having no bank or place where such banking may be done in the town or readily accessible to all persons of the town desiring the service. A bank whose home bank is located on a body of land completely surrounded by outlying waters, as defined in s. 29.01 (9) and (11), may establish and maintain a bank station across such outlying waters from the home bank but within the same municipality. Such a bank station is not subject to the distance limitations of par. (j) 2. or 3. Interpretation of this paragraph by the comptroller of currency to mean that a national bank may establish a bank station, branch bank or branch office in any place or town other than in one completely surrounded by outlying waters will render this paragraph void.

SECTION 3. 221.04 (1) (im) of the statutes is amended to read:

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221.04 (1) (im) ~~Notwithstanding Before August 1, 1989, and after July 31, 1990, and notwithstanding~~ par. (f) or (j) 2. or 3., to establish and maintain a branch at an airport operated by a county having at least 500,000 population, if the branch is approved by the commissioner and the banking review board.

SECTION 4. 221.04 (1) (ir) of the statutes is amended to read:

221.04 (1) (ir) ~~Notwithstanding Before August 1, 1989, and after July 31, 1990, and notwithstanding~~ par. (j) 2. or 3., to establish and maintain a branch bank located in the city of Milwaukee in the area bounded on the north by Center street, on the south by W. Reservoir avenue, on the east by N. Hubbard street and on the west by N. 7th street, if the branch bank is approved by the commissioner and the banking review board.

SECTION 5. 221.04 (1) (j) 1m of the statutes is created to read:

221.04(1) (j) 1m. This paragraph does not apply after July 31, 1989, and before August 1, 1990.

SECTION 6. 221.04 (1) (j) 8. of the statutes is amended to read:

221.04 (1) (j) 8. Notwithstanding subds. 1 ~~to~~ 2 and 3, a branch of a home bank converted to a branch under subd. 4, 5, 6 or 7 becomes a branch of the new home bank. Subject to subds. 1 ~~to~~ 2 and 3, a branch of a home bank converted to a branch under subd. 4, 5 or 6 may be transferred to any other home bank located in the same county as, or within 25 miles of, the transferred branch. For purposes of this paragraph, a branch existing on May 7, 1982, as a branch of the converted home bank, is a branch existing on May 7, 1982, of the home bank of which it becomes a branch under this subdivision.

SECTION 7. 221.04 (1) (j) 10. of the statutes is amended to read:

221.04 (1) (j) 10. Notwithstanding subd. 2 or 3 and with the approval of the commissioner and the banking review board, a branch may be relocated no more than once every 10 years within 1,500 feet of its prior location, except that its initial location continues to be its location for purposes of subds. 1, 2 to 9 and 11 to 19.

SECTION 8. 221.04 (1) (j) 14. of the statutes is amended to read:

221.04 (1) (j) 14. Subdivisions 1 ~~to~~ 2, 3 and 7 do not apply to an emergency situation where the commissioner finds that a bank is failing and that it must be merged or consolidated under s. 221.25 for the protection of depositors. The opportunity to merge or consolidate with the bank shall first be offered to and not accepted by all other banks within the distances specified in subd. 1 before it may be offered to a bank outside of the distances specified in subd. 1.

SECTION 9. 221.04 (1) (j) 20. of the statutes is created to read:

221.04 (1) (j) 20. At least 30 days before closing a branch bank, a bank shall notify the commissioner in

writing and post a notice of the closing in the lobby of the bank and the lobby of the branch bank to be closed.

SECTION 10. 221.04 (1) (j) 21. of the statutes is created to read:

221.04 (1) (j) 21. Notwithstanding subds. 1 and 2 to 11, a branch bank existing on July 31, 1990, or approved by the commissioner under par. (jm) before August 1, 1990, shall be considered a branch bank approved by the commissioner under this paragraph.

SECTION 11. 221.04 (1) (jm) of the statutes is created to read:

221.04 (1) (jm) 1. To establish and maintain a branch bank with the approval of the commissioner.

1m. This paragraph does not apply before August 1, 1989, and after July 31, 1990.

2. A bank may be converted to a branch bank of the surviving bank of a merger or consolidation under s. 221.25. A branch of a bank converted into a branch bank becomes a branch of the surviving bank.

3. A bank may transfer a branch bank to any other bank located in this state with the approval of the commissioner.

4. A bank may establish a branch bank in another state with the approval of the commissioner and the appropriate regulator of the other state.

5. The establishment of a branch bank under sud. 1 or the conversion of a bank to a branch bank under subd. 2 shall be approved if the financial and managerial resources and future prospects of the bank establishing a branch bank or the surviving bank of a merger or consolidation are satisfactory to the commissioner.

6. A bank shall apply for the establishment or transfer of a branch bank under this paragraph to the commissioner on a form furnished by the commissioner. The application shall be accompanied by a fee of \$1,000.

7. Branch banks are subject to all laws and rules applicable to banks generally.

8. At least 30 days before closing a branch bank, a bank shall notify the commissioner in writing and post a notice of the closing in the lobby of the bank and the lobby of the branch bank to be closed.

9. Every branch bank, branch office or bank station existing on August 1, 1989, shall be considered a branch bank approved by the commissioner under this paragraph.

SECTION 12. 221.04 (1) (k) 1. of the statutes is amended to read:

221.04 (1) (k) 1. Directly or indirectly, to 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 commissioner. Terminals established in accordance with such rules are not subject to the limitations of par. (i) ~~or~~ (j) ~~or~~ (jm) or s. 221.14 (4m) ~~or~~ (4s). The rules of the commissioner shall provide that any such customer bank commu-

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nications terminal shall be available for use, on a nondiscriminatory basis, by any state or national bank which has its principal place of business in this state, by any other bank obtaining the consent of a state or national bank which has its principal place of business in this state and is using the terminal and by all customers designated by a bank using the terminal. This paragraph 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 mutual savings bank, whose home office is located in this state, if the credit union, savings and loan association or mutual savings bank requests to share its use, subject to rules jointly established by the commissioner of banking, the commissioner of credit unions and the commissioner of savings and loan. The rules of the commissioner and the joint rules shall each prohibit any advertising with regard to a shared terminal which suggests or implies exclusive ownership or control of the shared terminal by any financial institution or group of financial institutions operating or participating in the operation of the terminal. The commissioner 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 13. 221.04 (1) (L) of the statutes is amended to read:

221.04 (1) (L) To establish and maintain facilities for the receipt of checks and other transit items as an intermediary or payor bank in bank-to-bank transactions. Establishment or maintenance of a facility under this paragraph shall not constitute establishment or maintenance of a branch bank within the meaning of pars. (f), (i), (ir) ~~and~~, (j) ~~and~~ (jm).

SECTION 14. 221.04 (1) (m) of the statutes is amended to read:

221.04 (1) (m) ~~To Before August 1, 1989, and after July 31, 1990, to~~ establish and maintain a branch bank at the former site of a branch bank in a 1st class city upon approval by the commissioner and the banking review board. In this paragraph, "former site" means any parcel of real estate upon which a branch bank in operation on May 17, 1947, but no longer in operation as a branch bank on November 1, 1957, was actually located, as well as any site the nearest point of the boundary of which is 250 feet or less from any point along the boundary of any parcel of real estate actually occupied by a former branch bank. All measurements under this paragraph shall be made along the shortest straight line connecting the 2 nearest points of the respective parcels of real estate. No bank may establish and maintain more than one branch bank under this paragraph at one time. No more than one branch bank may be established and maintained on a former site of a branch bank at one time. A branch bank

established and maintained under this paragraph may not be moved to a location which is not on the former site on which it is established. Applications for the establishment of a branch bank under this paragraph shall be made to the commissioner on a form furnished by the commissioner. Interpretation of this paragraph by the comptroller of currency to mean that a national bank may establish a bank station, branch bank or branch office in any place other than on or within 250 feet of the former site of a branch bank renders this paragraph void.

SECTION 15. 221.04 (1) (p) of the statutes is created to read:

221.04 (1) (p) After July 31, 1989, and before August 1, 1990, to contract with one or more banks to provide banking and financially related products or services on its behalf to its customers or to establish a joint branch bank of the contracting banks. The contracting banks shall inform the commissioner in writing of any contract entered into under this paragraph. The expiration of this paragraph shall not impair a contract entered into under this paragraph. The establishment of a joint branch bank is subject to the provisions for the establishment of a branch bank in par. (jm).

SECTION 16. 221.04 (1) (q) of the statutes is created to read:

221.04 (1) (q) After July 31, 1989, and before August 1, 1990, to pick up deposits and deliver money to bank customers at locations designated by the bank. The expiration of this paragraph shall not impair a contract entered into under this paragraph.

SECTION 17. 221.04 (4g) of the statutes is renumbered 221.04 (4g) (a) and amended to read:

221.04 (4g) (a) ~~Any Before August 1, 1989, and after July 31, 1990, any~~ bank may, with the approval of the commissioner, acquire and hold stock in an aggregate amount not exceeding 4% of its capital and surplus, in one or more banks chartered under s. 221.57 or in one or more bank holding companies wholly owning a bank chartered under s. 221.57.

SECTION 18. 221.04 (4g) (b) and (c) of the statutes are created to read:

221.04 (4g) (b) After July 31, 1989, and before August 1, 1990, any bank holding company, subject to the limitations in s. 221.58 (7), or any bank may, with the approval of the commissioner, acquire and hold stock in an aggregate amount not exceeding 10% of its capital and surplus, in one or more banks chartered under s. 221.57 or in one or more bank holding companies wholly owning a bank chartered under s. 221.57.

(c) Notwithstanding par. (a), stock acquired under par. (b) and held by a bank holding company or a bank on July 31, 1990, or a stock acquisition approved by the commissioner under par. (b) before August 1, 1990, shall be considered a stock acquisition approved by the commissioner under this subsection.

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SECTION 19. 221.04 (6m) of the statutes is amended 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 does 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 20. 221.08 (1) of the statutes is amended to read:

221.08 (1) The affairs of the bank shall be managed by a board of not less than 5 directors, at least two-thirds of whom shall reside in this state, ~~and a majority of the directors of a bank not chartered under s. 221.57 shall reside in the county or adjoining counties in which the bank is located.~~ No person who has been convicted of a crime against the banking laws of the United States, or of any state of the union, shall be elected director. They shall be elected by the stockholders and hold office for one year and until their successors have been elected and have qualified. If the bylaws provide for a minimum and maximum number of directors, the stockholders may at any annual meeting vote to elect less than the maximum number and to authorize the board to appoint directors to the unfilled offices at any time prior to the next annual meeting. In no event shall the stockholders elect less than 5 directors nor shall the board be permitted to appoint more than 2 persons to such unfilled offices.

SECTION 21. 221.12 of the statutes is amended to read:

221.12 Articles may be amended. A bank may amend its articles of incorporation in any manner not inconsistent with law, at any time, by a vote of its stockholders representing two-thirds of the capital stock taken at a meeting called for that purpose. The bank shall submit the amendment to the commissioner of banking. The amendment is not effective unless approved by the commissioner. The amendment may provide for a change of location of the bank, subject to s. 221.04 (1) (j) or (jm). Subject to s. 221.04 (1) (j) or (jm), the amendment may provide for a change of the location of a parent bank to the location of a branch of the parent bank and a change of the location of a branch of the parent bank to the location of the parent bank if the change is first approved by

the commissioner upon application. The amendment, certified by the president or cashier, and setting forth the volume and page of recording in the office of the register of deeds of the original articles of incorporation, shall be recorded as required for articles of incorporation. No increase of the capital shall be valid until the amount of the increase has been subscribed and actually paid in. The entire surplus fund of a bank, or as much as may be required, may be declared and paid out as a stock dividend to apply on, and be converted into, an increase of capital. No reduction of capital shall be made to a less amount than is required under this chapter for capital, nor be valid or warrant the cancellation of stock certificates or diminish the personal liability of stockholders, until the reduction has been approved by the commissioner. No reduction may be effected in any other way than by a proportional reduction of all outstanding shares unless approved by the commissioner. The approval may be given only when the commissioner is satisfied that the reduction of the capital is in the best interests of the depositors.

SECTION 22. 221.14 (4) of the statutes is renumbered 221.14 (4) (a) and amended to read:

221.14 (4) (a) Real estate purchased or leased by a bank for the purpose of providing parking facilities for immediate and reasonable future needs. The Except as provided in par. (b), the distance between the bank premises and the parking facility may not exceed 1,000 feet. Parking fees and property rentals may be derived from the acquired real estate.

SECTION 23. 221.14 (4) (b) of the statutes is created to read:

221.14 (4) (b) If real estate under par. (a) is purchased or leased by a bank after July 31, 1989, and before August 1, 1990, the distance between the bank premises and the parking facility may exceed 1,000 feet. The expiration of this paragraph shall not impair a lease entered into under this paragraph.

SECTION 24. 221.14 (4m) (a) of the statutes is amended to read:

221.14 (4m) (a) Real Before August 1, 1989, and after July 31, 1990, real estate, if the real estate is within the distances under par. (b) of the main or a branch office of the bank and used as an attended or unattended remote facility for paying and receiving only. All measurements under this subsection shall be made in a straight line from the nearest adjacent points in the respective property lines. Remote facilities may be established only with specific approval by the commissioner. The authority under this subsection is in addition to the authority to establish facilities which are attached to or a part of the main or a branch office of a bank.

SECTION 25. 221.14 (4m) (c) of the statutes is created to read:

221.14 (4m) (c) Notwithstanding par. (b), a remote facility existing on July 31, 1990, or approved by the

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commissioner under sub. (4s) before August 1, 1990, shall be considered a remote facility approved by the commissioner under this subsection.

SECTION 26. 221.14 (4s) of the statutes is created to read:

221.14 (4s) After July 31, 1989, and before August 1, 1990, real estate used as an attended or unattended remote facility for paying and receiving only. Remote facilities may be established only with specific approval by the commissioner. The authority under this subsection is in addition to the authority to establish facilities that are attached to or a part of a bank or a branch bank. After July 31, 1989, and before February 1, 1990, a bank may inform the commissioner in writing that it is converting a remote facility existing on August 1, 1989, into a branch bank, specifying the effective date of the conversion. An application fee is not required for a conversion under this subsection.

SECTION 27. 221.57 of the statutes is amended to read:

221.57 Bank-owned banks. The commissioner ~~and the banking review board~~ may authorize the establishment of, and issue a charter to, a bank, all of the stock of which is owned by 2 or more state or national banks whose home offices are situated in this state. Notwithstanding any other requirement of this section, the commissioner may authorize, by rule, up to 10% of the stock to be held by other persons to accommodate operational needs of the bank. The bank shall be deemed a state bank chartered under this chapter for all purposes, except that

its functions shall be limited solely to providing banking and banking-related services to other banks, subsidiaries of banks, bank holding companies, subsidiaries of bank holding companies and directors, officers and employees of other banks, subsidiaries of banks, bank holding companies and subsidiaries of bank holding companies. Such bank shall be empowered to authorize and to hold authorized but not issued stock.

SECTION 28. 222.21 (1) (a) of the statutes is amended to read:

222.21 (1) (a) Every mutual savings bank formed under this chapter shall possess the powers and be subject to the general laws relating to corporations, so far as applicable, and shall be subject to all of the provisions of ss. 220.04, 220.05, 220.07, 220.08 to 220.086, 220.10, 221.04 (1) (j), (jm) and (k) and (3), 221.045, 221.046 and 221.31.

SECTION 29. 701.108 (3) (am) and (d) of the statutes are amended to read:

701.108 (3) (am) Acquire or merge with an in-state bank, as defined in s. 221.58 (1) (c), unless the acquisition or merger is for the purpose of establishing a branch bank under s. 221.04 (1) (j) or (jm) and the acquired or merged in-state bank, as defined in s. 221.58 (1) (c), is used as a branch of a banking subsidiary acquired in a transaction under this section.

(d) Notwithstanding s. 221.04 (1) (j) or (jm), convert a home bank of the banking subsidiary to a branch or a branch to a home bank.