

CHAPTER 224.

MISCELLANEOUS BANKING PROVISIONS.

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224.01 Definitions. The term "bank," as used in this chapter, shall be construed to mean any incorporated banking institution which shall have been incorporated under the laws of this state as they existed prior to the passage of this chapter, and to such banking institutions as shall hereafter become incorporated under the provisions of this chapter. The term "mutual savings bank" shall be construed to mean any corporation organized pursuant to the provisions of the act for the organization of savings banks and savings societies, as such act existed prior to the passage of this chapter, or to such corporations as shall hereafter incorporate as mutual savings banks under this chapter. The term "lawful money," as used in this chapter shall be construed to mean all coin, United States notes, treasury notes, gold certificates, silver certificates, national bank notes, and all other forms of money issued by or which may hereafter be issued by or under the authority of the United States as a circulating medium, and shall also be construed to mean any form of certificate which is now or may hereafter be declared to be lawful money by any law of the United States.

224.02 Banking, defined. The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business by any person, copartnership, association, or corporation, shall be deemed to be doing a banking business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass book, a note, a receipt, or other writing, provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of his principal. Provided, however, that if money so left with an agent for investment shall not be kept in a separate trust fund or if the agent receiving such money shall mingle same with his own property, whether with or without the consent of the principal, or shall make an agreement to pay any certain rate of interest thereon or any agreement to pay interest thereon other than an agreement to account for the actual income which may be derived from such money while held pending investment, the person receiving such money shall be deemed to be in the banking business. [*Spl. S. 1931 c. 10 s. 13*]

Note: Soliciting and receiving of payments by investment association and its issuance of income reserve contracts as part of employer's plan for payment of unemployment benefits was not doing of prohibited "banking business" by investment company. State ex rel. Rohn Shoe Mfg. Co. v. Industrial Commission, 217 W 138, 258 NW 449.

Securities company which receives money as regular business, money deposited to apply on purchase of securities and to draw interest violates banking law. 20 Atty. Gen. 489.

Where broker sells specific security and delivers interim receipt to customer pending delivery of specific security, relationship is that of seller and purchaser, and transaction is not banking business. 21 Atty. Gen. 631.

Money accepted on deposit as regular business by insurance company constitutes violation of banking laws, but if money accepted constitutes merely advance payment of premiums and is in fact used as such, there is no violation of banking laws. 21 Atty. Gen. 999.

Life insurance contract permitting insured to deposit money with insurance company, such money not being definitely committed to payment of premiums, so that it is

possible to withdraw same with interest, constitutes banking business in violation of chapter 224. 26 Atty. Gen. 463.

While life insurance companies or fraternal benefit societies may not accept money of policy holders on deposit for withdrawal at any time on demand as in case of bank, they may accept and accumulate deposits with interest to pay future premiums and, in event of death, maturity or surrender of policy, pay out unused portion of accumulation as part of benefit provided in policy. 26 Atty. Gen. 603.

Contract providing for weekly payments to be made to furniture firm up to a specified amount, sum so paid to apply as first payment on merchandise to be selected and which gives customer no right to demand return of all or any part of money so paid in, does not constitute unlawful banking under 224.02 and 224.03. 27 Atty. Gen. 556.

Plan for sale of aluminum ware whereby customers may buy stamps for ten cents each, which are placed in book and which are redeemable only in goods, wares and merchandise subsequently to be selected and purchased, does not constitute unauthorized banking under this section. 27 Atty. Gen. 819.

224.03 Banking, unlawful, without charter; penalty. It shall be unlawful for any person, copartnership, association, or corporation to do a banking business without having been regularly organized and chartered as a national bank, a state bank, a mutual savings bank, or a trust company bank. Any person or persons violating any of the provisions of this section, either individually or as an interested party in any copartnership, association, or corporation shall be guilty of a misdemeanor and on conviction thereof shall be fined in a sum not less than three hundred dollars nor more than one thousand dollars, or by im-

prisonment in the county jail not less than sixty days nor more than one year, or by both such fine and imprisonment.

224.04 State banks; time limited for reincorporation. Any person, copartnership, association or corporation doing business in this state as defined in sections 224.02 to 224.04, may incorporate as a state bank and may convert into a state bank, on or before September 1, 1909, as provided in section 221.54 of the statutes.

224.05 Municipality not preferred creditor. If any bank, banking institution or trust company, being indebted to the state of Wisconsin, or indebted to any county, city, town or other municipality therein, for deposits made or indebtedness incurred after the passage of this act, becomes insolvent or bankrupt, the state, county, city, town or other municipality shall not be a preferred creditor and shall have no preference or priority of claim whatever over any other creditor or creditors thereof; but a just and fair distribution of the property of such bank, banking institution or trust company, and of the proceeds thereof, shall be made among the creditors thereof pro rata, according to the amount of their respective claims. Nothing herein contained shall in any manner affect the provisions of law as they now exist providing for the payment of unpaid taxes and assessments, laborer's claims, expenses of assignment and execution of the trust.

224.06 Fidelity bonds for bank officers and employes. (1) As a condition precedent to qualification or entry upon the discharge of his duties, every person appointed or elected to any position requiring the receipt, payment or custody of money or other personal property owned by a bank or in its custody or control as collateral or otherwise, shall give a bond in some responsible corporate surety company, licensed to do business in this state, in such adequate sum as the directors shall require and approve. In lieu of individual bonds the commission may accept a schedule or blanket bond which covers all of the officers and employes of any bank whose duties include the receipt, payment or custody of money or other personal property for or on behalf of the bank. All such bonds shall be in the form prescribed by the banking commission.

(2) No officer or employe who is required to give bond shall be deemed qualified nor shall be permitted to enter upon the discharge of his duties until his bond shall have been approved by a majority of the board of directors. Such bond shall be filed with the banking commission within 10 days next after approval thereof by the board of directors. The minute books of each bank shall contain a record of each bond executed and approved.

(3) Such bond shall be sufficient in amount to protect the bank from loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction or misapplication on the part of the person, directly or through connivance with others. At any time the banking commission may require additional bond or security, when in its opinion, the bonds then executed and approved are insufficient.

(4) Every such bond shall also include the following provisions:

(a) No cancellation or other termination of this bond shall be effective unless the surety gives in advance at least 10 days' written notice by registered mail to the banking commission. If this bond is canceled or terminated at the request of the insured (employer) this provision nevertheless shall apply, it being the duty of the surety to give the required written notice to the banking commission, such notice to be given promptly and in any event within 10 days after the receipt of such request.

(b) The surety agrees to furnish the banking commission at Madison, Wisconsin, a copy of all riders and indorsements executed subsequently to the effective date of this bond.

(5) For reasons which it deems valid and sufficient the banking commission may waive as to the cancellation or termination of any such bond the 10-day written notice in advance required by subsection (4) (a) and may give its written consent to the termination or cancellation being made effective as of a date agreed upon and requested by the surety and the bank.

(6) The provisions required by subsection (4) to be in every such bond shall not in any way modify, impair or otherwise affect or render invalid a provision therein to the effect that the bond shall terminate as to any person covered thereby upon the discovery by the bank of any dishonest act on the part of such person.

(7) Any violation of the provisions contained in subsections (1) and (2) shall subject the bank to a fine of \$10 per day for each consecutive day of such violation and it shall be the duty of the attorney-general to recover any such penalties by action for and in behalf of the state. [S^{pl.} S. 1931 c. 10 s. 14; 1937 c. 284 s. 3; 1943 c. 157; 1945 c. 65]

Note: Provisions in a fidelity bond for ten days after the insured's discovery bank employes, limiting the coverage to thereof, are not in violation of or in conflict with the provisions of (1), requiring the expiration of one year from the date of the cancellation of the bond and requiring fidelity bonds for bank officers and employes. *Bank of Kaukauna v. Maryland Casualty Co.*, 234 W 321, 291 NW 319.

225.01 to 225.48 [Repealed by 1943 c. 399]