

may hold licenses under either or all of these 3 laws. 29 Atty. Gen. 360.

Ch. 214, Stats. 1943, does not apply to banks and the banking commission has no authority to issue a license thereunder to a state bank. 32 Atty. Gen. 216.

If a lender licensed under 115.07 (3), 115.09 and ch. 214, Stats. 1943, originally makes a loan under 115.07 (3), it must be renewed under 115.07 (3) and may not be renewed under either 115.09 or ch. 214 if the renewal is considered a continuation of the prior obligation. If the parties agree that by the transaction the old obligation be discharged and a new one created, a lender licensed under all 3 may make the new loan under either 115.07 (3), 115.09 or ch. 214, provided all provisions of the particular statute under which the new loan is made are complied with. 34 Atty. Gen. 15.

Where loans are made either under 115.07 (3), 115.09 or ch. 214, the lender may not receive any commission on insurance which the borrower must obtain on the property which constitutes security for the loan. 34 Atty. Gen. 15.

214.03 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.03; 1969 c. 276 s. 592 (6).

214.04 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.04; 1969 c. 392 s. 87 (20).

214.05 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.05; 1969 c. 276 s. 592 (6).

214.06 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.06; 1969 c. 276 s. 592 (6).

Under 214.13, Stats. 1931, the license of a corporation may be canceled for fraud committed by an office manager only in cases where fraud is attributed to a corporation and there is a conviction of violation of this section. 19 Atty. Gen. 53.

214.07 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.07; 1969 c. 276 s. 592 (6).

214.08 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.08; 1969 c. 276 s. 592 (1), (6).

214.09 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.09; 1969 c. 276 s. 592 (6).

214.10 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.10; 1955 c. 221 s. 55, 56; 1969 c. 276 s. 592 (6).

214.11 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.11; 1943 c. 375 s. 87; 1969 c. 276 s. 592 (6).

214.12 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.12; 1969 c. 276 s. 592 (6).

214.13 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.13; 1965 c. 51; 1969 c. 276 s. 592 (6).

214.14 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.14; 1963 c. 158; 1969 c. 276 s. 592 (6).

A small loans company is not permitted to include in its notes attorney fees for collection or suit. 21 Atty. Gen. 348.

As to whether a licensee may sell insurance

to a borrower and charge him for premium, see 25 Atty. Gen. 1.

Under the small loans law a lender may not collect from a borrower items of costs, fees or disbursements incurred in bringing suit against the borrower for collection of a loan unless a judgment is entered and such items are duly taxed and included therein. 28 Atty. Gen. 723.

Loan companies, licensed under 115.07, 115.09 or ch. 214, Stats. 1949, may not, in addition to interest and charges expressly authorized by such statutes, and in the absence of judgment, charge for and collect expenses of retaking, storage and sale under chattel mortgages or expenses of garnishment. 39 Atty. Gen. 95.

214.15 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.15.

214.16 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.16.

214.17 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.17.

214.18 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.18.

214.19 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.19; 1969 c. 276 s. 592 (6).

214.20 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.20.

Small loan companies licensed in other states but not in Wisconsin may not lawfully engage in the small loan business under ch. 214, Stats. 1935. 24 Atty. Gen. 745.

214.21 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.21.

214.22 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.22.

214.23 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.23; 1947 c. 411 s. 6; 1967 c. 92 s. 22.

214.24 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.24.

214.26 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.26; 1969 c. 276 s. 592 (6).

214.27 History: 1933 c. 347 s. 2; 1933 c. 443; Stats. 1933 s. 214.27; 1969 c. 276 s. 592 (6).

CHAPTER 215.

Savings and Loan Associations.

Editor's Note: Chapter 215, Stats. 1947, on savings and loan associations, was revised in 1949 by ch. 22 (Bill 20-S), Laws 1949. In 1963 the chapter was repealed and recreated by ch. 315 (Bill 34-S), Laws 1963. The legislative histories of the sections comprising ch. 215, before 1949, will be found in ch. 215, Stats. 1947, and Wis. Annotations, 1930. Conversion tables relating to the 1949 revision were incorporated in the appendix to ch. 22, Laws 1949, and Wis. Annotations, 1950 and 1960. Ch. 315, Laws 1963, was not supplemented by conversion tables or explanatory notes. The

legislative histories cited in this edition start with the 1963 statutes.

215.01 History: 1963 c. 315; Stats. 1963 s. 215.01; 1965 c. 427; 1969 c. 47, 276, 392.

215.02 History: 1963 c. 315; Stats. 1963 s. 215.02; 1965 c. 272 s. 8; 1969 c. 276.

Fees and assessments imposed under statutory authority can be recovered in an action. 14 Atty. Gen. 481.

Under the statutes in force in 1947, the commissioner may retain his connection with and accept salary as an officer from an association which is subject to his supervision, with the qualification that he must refrain from passing on, considering or taking any action in his official capacity with respect to any matter involving the association with which he is affiliated. He must devote full time to the duties of his office and any service he may render to the association must be done at such time and under such circumstances as would not interfere with this requirement. 36 Atty. Gen. 551.

An employe of the savings and loan department who is an officer, employe or stockholder of a savings and loan association located in a certain county is not for that reason prohibited from examining other savings and loan associations located in the same county. 36 Atty. Gen. 551.

215.03 History: 1963 c. 315; Stats. 1963 s. 215.03; 1965 c. 427; 1969 c. 276 s. 600 (2); 1969 c. 392 s. 84.

215.03 (9), Stats. 1965, has for its purpose the determination of the basic question whether establishment of a branch is or is not in the best interest of the public, and the commissioner of savings and loan associations may refuse a certificate of authority when he deems it is not, or when other good and sufficient reasons exist for the refusal. *Mutual Fed. S. & L. Asso. v. Savings and Loan Adv. Committee*, 38 W (2d) 381, 157 NW (2d) 609.

The commissioner of banking, in possession of a building and loan association for purposes of liquidation, may move the office of the association without compliance with 215.01 (9), Stats. 1931. 20 Atty. Gen. 996.

Where the proposed location of a local building and loan association would be more than a mile from the present location the provisions of 215.01 (3) (e), Stats. 1945, are applicable (except in cases enumerated in 215.01 (21) (c)) so as to make it necessary that need for an additional association in the new locality be shown, before the change in location is approved by the banking commission. The decision to make an application and the making of an application for change in location under 215.01 (21) (b) may be by appropriate action of the board of directors of the association. Amendment of articles of incorporation to show the change need not be made until after the commission has approved the change. 34 Atty. Gen. 326.

215.04 History: 1963 c. 315; Stats. 1963 s. 215.04; 1965 c. 272 s. 8; 1969 c. 276 ss. 540, 541, 584 (1) (b), 600 (1), (2).

Approval of the commissioner of an application to operate branches under either 215.03

(9) or as required in 215.13 (39), Stats. 1965, is an "act" of the commissioner which may be reviewed by the savings and loan advisory committee under 215.04 (7), and the final order or determination of the committee is subject to review under ch. 227. *Mutual Fed. S. & L. Asso. v. Savings and Loan Adv. Committee*, 38 W (2d) 381, 157 NW (2d) 609.

An application for authority to organize a local building and loan association is not required to be passed upon by the building and loan advisory committee before a certificate of authority to organize may be granted. 35 Atty. Gen. 207.

The building and loan advisory committee, hearing an appeal from the commissioner, has statutory power to receive additional evidence at the hearing. 39 Atty. Gen. 242.

215.05 History: 1963 c. 315; Stats. 1963 s. 215.05; 1969 c. 276 s. 600 (1), (2).

215.06 History: 1963 c. 315; Stats. 1963 s. 215.06; 1969 c. 276 s. 600 (1).

A building and loan association may, without liability to others, waive its bylaws regulating deposits of stock on making loans to members and on cancellation by payment, such bylaws being made for the benefit of the member and of the association and not of the public. *North Ave. State Bank v. Excelsior M. B. & L. Asso.* 207 W 260, 240 NW 175.

Where definite limitations exist in a charter or bylaws, an association can avail itself of legislative extension of power only by amending the charter or bylaws to include such extension. 24 Atty. Gen. 682.

A statute governs over a conflicting provision in articles of association or a bylaw. 36 Atty. Gen. 551.

An association's practice of inserting the words "statutory limit" in blank spaces provided in its form of certificate of instalment stock to indicate the number of shares owned by the person named therein and the total dollar amount represented thereby is legally objectionable because a certificate drawn and issued in such form is contrary to the form of certificate prescribed by the association's bylaws. 36 Atty. Gen. 623.

215.07 History: 1963 c. 315; Stats. 1963 s. 215.07; 1965 c. 252; 1969 c. 276 ss. 600 (1), (2), 615.

Although 215.02, Stats. 1953, may contemplate 2 steps in the organization of a savings and loan association, a certificate of authority and a certificate of incorporation, a rejected applicant is not prejudiced in the commissioner's combining the 2 steps, where applicant did not object and presented evidence tending to establish all of the standards required for each step. "Background and experience" may be read into the standard of "general fitness" in 215.02 (18), since the latter term is modified in the statute by the clause "as to warrant the belief that the association will be conducted for the best interests of the members," and can only mean fitness for the conduct of a savings and loan association; hence, the lack of past experience in operating such an association is a circumstance properly to be considered by the commissioner in making his determination. *Atkins v. Diggles*, 1 W (2d) 549, 85 NW (2d) 454.

215.08 History: 1963 c. 315; Stats. 1963 s. 215.08.

A shareholder in a building and loan association is not entitled to examine the books of the association in the absence of statutory provision authorizing such examination. *State ex rel. Schomberg v. Home Mut. B. & L. Asso.* 220 W 649, 265 NW 701.

Minors holding shares in a building and loan association are subject to the same duties and liabilities as other shareholders, and the bylaws cannot legally discriminate in their favor. 1912 Atty. Gen. 100.

A provision that no shareholder in arrears to the association shall be allowed to vote is in conflict with sec. 2014-8, Stats. 1911, and void. 1 Atty. Gen. 77.

Minors may own stock in but cannot borrow money from or otherwise contract with a building and loan association. 5 Atty. Gen. 379.

A member may continue to make payments on instalment stock after it matures as provided by 215.13, Stats. 1947, but the amount paid in or invested, including dividends applied as additional payments on the stock, cannot exceed the maximum permitted by 215.20. 38 Atty. Gen. 28.

Inspection of books by stockholders of savings and loan association. 20 MLR 197.

215.09 History: 1963 c. 315; Stats. 1963 s. 215.09; 1969 c. 276 s. 600 (1).

The board of directors of a building and loan association cannot legally transfer property to one director in trust and release him from liability in regard thereto. 20 Atty. Gen. 544.

215.10 History: 1963 c. 315; Stats. 1963 s. 215.10; 1969 c. 276 s. 615.

215.11 History: 1963 c. 315; Stats. 1963 s. 215.11.

A teacher acting as an agent for a building and loan association must furnish bond. 15 Atty. Gen. 33.

215.12 History: 1963 c. 315; Stats. 1963 s. 215.12.

215.13 History: 1963 c. 315; Stats. 1963 s. 215.13; 1965 c. 272, 427; 1967 c. 288; 1969 c. 47, 155, 217; 1969 c. 276 s. 600 (1); 1969 c. 357.

Editor's Note: 215.13 (40), Stats. 1965, was construed in *Mutual Fed. S. & L. Asso. v. Savings and Loan Adv. Committee*, 38 W (2d) 381, 157 NW (2d) 609.

The power to borrow money implies the power to secure its payment by assigning bonds and mortgages given the association, though they were obtained from the holders of other series of stock than that which was payable. *North Hudson M. B. & L. Asso. v. First Nat. Bank*, 79 W 31, 47 NW 300.

Building and loan associations incorporated under the laws of the state are not banks and do not have banking powers and privileges. *State ex rel. Cleary v. Hopkins Street B. & L. Asso.* 217 W 179, 257 NW 684.

See note to sec. 1, art. IV, on delegation of power, citing *Mutual Fed. S. & L. Asso. v. Savings and Loan Adv. Committee*, 38 W (2d) 381, 157 NW (2d) 609.

Building and loan associations are not em-

powered to loan money to persons not members. 1902 Atty. Gen. 104.

The board of directors of a building and loan association may sell and convey real estate acquired pursuant to 215.07 (3), Stats. 1923, but cannot sell or convey real estate acquired otherwise for purposes of its business without specific authority from stockholders. 12 Atty. Gen. 613.

An association has no power to adopt a plan by which it collects premiums upon life insurance policies to be paid over to an insurance corporation. 12 Atty. Gen. 617.

In determining the limitation on borrowing power of an association under 215.07, Stats. 1925, borrowed money cannot be considered as assets. 15 Atty. Gen. 455.

A building and loan association may lawfully purchase and hold tax certificates on real estate on which it holds mortgages. 19 Atty. Gen. 578.

An association may take deeds to mortgaged property in settlement of a foreclosure. 25 Atty. Gen. 503.

A building and loan association may not act as an agent of a life insurance company in the collection of premiums. 26 Atty. Gen. 561.

As to establishment of pension programs by local building and loan associations and as to supervision of said matters by the banking commission see 35 Atty. Gen. 70.

A savings and loan association has a legal right to accept dividend waivers on any class of shares. 40 Atty. Gen. 278.

Solicitation of savings deposits by a savings and loan association not chartered as a bank constitutes banking business as defined by 224.02 and is prohibited by 224.03, Stats. 1957. 47 Atty. Gen. 153.

215.14 History: 1963 c. 315; Stats. 1963 s. 215.14.

So much of 215.14 (2), Stats. 1961, as provides that shares issued to a member payable upon death to another person "shall be considered a part of the deceased member's estate and subject to the payment of his just debts," is construed to mean that while the account is part of the estate for the payment of debts, it is not a part of the estate for all other purposes, i.e., a widow's statutory rights. In view of the specific language that "upon the death of the member such other named persons shall become the owner," it cannot be construed as contemplating that the shares would become a part of the estate for purposes not set forth—for such a construction would reduce the statute to a nullity. *Estate of Fucela*, 26 W (2d) 476, 132 NW (2d) 553.

Ch. 732, Laws 1913, relating to building and loan associations, created an exception to ch. 458, Laws 1913, relating to transfers of stock in corporations. 4 Atty. Gen. 280.

215.15 History: 1963 c. 315; Stats. 1963 s. 215.15; 1969 c. 47.

215.16 History: 1963 c. 315; Stats. 1963 s. 215.16; 1967 c. 44; 1969 c. 47, 194; 1969 c. 276 s. 600 (1).

Issuance of trading stamps to members of a savings and loan association does not violate 100.15, Stats. 1961, but there must be no discrimination between members of the same

class except as provided in 215.03 (6). 51 Atty. Gen. 151.

215.17 History: 1963 c. 315; Stats. 1963 s. 215.17; 1969 c. 47.

Rights of withdrawing and maturing members of building and loan associations are discussed in 21 Atty. Gen. 219.

Representatives of deceased members in a building and loan association are not given prior rights when the association is on withdrawal notice and receipts are not sufficient to pay a demand for withdrawal. Such representatives must wait their turn on the withdrawal list. 22 Atty. Gen. 903.

215.18 History: 1963 c. 315; Stats. 1963 s. 215.18.

No fee or other charge can be imposed when a member of a savings and loan association withdraws funds either by redemption under 215.06 or repurchase under 215.07, Stats. 1947, other than that mentioned in the definition of participation value notwithstanding any provision to the contrary contained in the articles or bylaws as provided in 215.03, which provisions are superseded by the statutory provisions referred to. 36 Atty. Gen. 551.

215.19 History: 1963 c. 315; Stats. 1963 s. 215.19; 1969 c. 276 s. 600 (1).

215.20 History: 1963 c. 315; Stats. 1963 s. 215.20.

215.205 History: 1969 c. 155; Stats. 1969 s. 215.205.

215.21 History: 1963 c. 315; Stats. 1963 s. 215.21; 1965 c. 270, 272; 1967 c. 95; 1969 c. 23, 60; 1969 c. 276 s. 600 (1).

Where a proposal to procure a new loan to replace a mortgage on a building under construction was suggested by a mechanics' lienor and the intent was that the surplus of the new loan should be used to discharge existing lien claims which, however, were not discharged, the new mortgagee was not entitled to subrogation to the lien of the old mortgage, in view, among other things, of the inequity of subrogation in the circumstances. *Union Trust Co. of Maryland v. Rodeman*, 220 W 453, 264 NW 508.

A 99-year lease is not real estate upon which a building and loan association may loan its funds. 5 Atty. Gen. 913.

An association ordinarily should not consent to removal of buildings on land upon which it has a loan. But the power of an association to protect its assets should not be unduly limited. 20 Atty. Gen. 362.

215.15, Stats. 1939, limiting the amount which a building and loan association may loan to its members in the regular course of business does not apply to loans made under 215.07 (2) and (6). 28 Atty. Gen. 653.

A savings and loan association can loan money only to members. Where a member of a savings and loan association sells to a nonmember real estate mortgaged to the association to secure a loan from it, the association can demand payment of the loan prior to the due date only if there is a provision in the note or mortgage or in the articles or bylaws which has the effect of making the note

become due and payable in such event. 37 Atty. Gen. 197.

Because the language in 215.15 (5), Stats. 1947, does not make it certain that the priority given the lien of a savings and loan association mortgage would extend to future advances under a mortgage providing therefor, it would not be safe for an association to rely upon such statute as giving the lien of any future advance priority over other liens filed subsequent to the recording of its mortgage. 37 Atty. Gen. 333.

219.01 (4) and 215.21 (1) (c), Stats. 1947, exempt investments by savings and loan associations in real estate loans guaranteed or secured under the servicemen's readjustment act of 1944 from restrictions in 215.22 (1), (3), (5) and (6). 219.01 (4) authorizes such investments even though the amount of the loan exceeds the maximum guaranteed or secured under said act. 37 Atty. Gen. 563.

A savings and loan association can increase the interest rate on a mortgage note as provided in the bylaws where the note provides that the member agrees to abide by the bylaws then or thereafter in force even though the specific provisions or the substance of 215.15 (3), Stats. 1947, is not expressly copied into the note. A savings and loan association can increase the interest rate on a mortgage note as provided in the bylaws where the note was executed before what is now 215.15 (3) was enacted, when the note provides that the member agrees to abide by the bylaws then or thereafter in force. 38 Atty. Gen. 14.

An association may not make a loan on the security of a single parcel of real estate which is used both for eligible purposes and for purposes declared ineligible under 215.22 (8), Stats. 1949. If an association has made a loan on eligible security any other type of real estate or personal property may be accepted as additional collateral security. 39 Atty. Gen. 562.

The limitation made by 215.22 (6) (c), Stats. 1951, upon the aggregate of mortgage loans in excess of the stated amount to 15% of the total assets of a savings and loan association refers to the unpaid balances due on such mortgage loans and not to the original amounts of such mortgage loans when made. 42 Atty. Gen. 42.

The term "aggregate of loans" as used in 215.22 (6) (a), Stats. 1951, means the amount for which the lending institution is committed to the borrower and not merely the amounts actually advanced, where the total commitment has not yet been advanced, as in the case of a construction loan mortgage during progress of construction. 42 Atty. Gen. 43.

Savings and loan associations may purchase conventional mortgage loans if the associations could have made such loans in the first instance. They may sell conventional mortgage loans only in accordance with the provisions of 215.20 (5) and (17), Stats. 1955. 45 Atty. Gen. 294.

On the application of 215.22 (9), Stats. 1961, to a group-insurance plan see 50 Atty. Gen. 161.

215.22 History: 1963 c. 315; Stats. 1963 s. 215.22.

215.23 History: 1963 c. 315; Stats. 1963 s. 215.23.

A building and loan association may, subject to approval of the banking commission, purchase a building for office purposes standing on leased land. In determining whether it will approve or disapprove a proposal to purchase or construct a building, the commission must base its determination upon the facts in each case. It must act in good faith and there must be some rational basis for the result reached, so it cannot be said the commission acted in an arbitrary or capricious manner in arriving at its determination. 34 Atty. Gen. 437.

Approval of the commissioner of savings and loan associations is necessary any time the directors of an association desire to alter or remodel the association office building. Such approval is necessary whether the association owns its office or occupies it under a leasehold. 44 Atty. Gen. 309.

215.24 History: 1963 c. 315; Stats. 1963 s. 215.24; 1969 c. 276 s. 600 (1).

215.25 History: 1963 c. 315; Stats. 1963 s. 215.25.

215.26 History: 1963 c. 315, 459; Stats. 1963 s. 215.26.

215.27 History: 1963 c. 315; Stats. 1963 s. 215.27.

215.28 History: 1963 c. 315; Stats. 1963 s. 215.28.

215.29 History: 1963 c. 315; Stats. 1963 s. 215.29.

215.20 (8), Stats. 1933, does not authorize associations to divest themselves of state charters and become federal savings and loan associations. *State v. Hopkins Street B. & L. Asso.* 217 W 179, 257 NW 684, affirmed *Hopkins Savings Asso. v. Cleary*, 296 US 315.

A federal district court had no original jurisdiction to entertain quo warranto action filed by the state in the name of the United States testing the right of a federally chartered corporation to assert its corporate authority by establishing 3 limited agency offices in the state, after the attorney general of the United States formally declined to file such an information. *United States ex rel. Wisconsin v. First Federal Savings & Loan Asso.* 248 F (2d) 804.

A state chartered savings and loan association can be converted into a federal chartered association only by compliance with 215.67 (1), Stats. 1959. The commissioner must act on a request within 90 days. Failing to do so, approval is deemed granted by 215.52 (7). If the statutory requirements for conversion have been complied with, the commissioner has no authority to disapprove the request. 48 Atty. Gen. 164.

The commissioner may not impose additional procedural requirements on associations considering conversion from state to federal charter. Approval may not be withheld if procedures conform to the statute. 54 Atty. Gen. 138.

215.30 History: 1963 c. 315; Stats. 1963 s. 215.30; 1969 c. 276 s. 600 (1).

215.31 History: 1963 c. 315; Stats. 1963 s. 215.31; 1965 c. 252; 1969 c. 276 s. 615; 1969 c. 404.

215.33 (8), Stats. 1931, creates no preference in favor of funds collected and deposited by officers of a building and loan association in voluntary liquidation. 20 Atty. Gen. 1257.

Members of a building and loan association who sign waivers of dividends in excess of a stipulated percentage, the excess, if any, being assigned to the association, are entitled upon voluntary dissolution of such association to share the assets of the association, including those resulting from earnings, on the same basis as are shareholders who did not sign such dividend waivers. 30 Atty. Gen. 264.

The proper procedure to be followed by the banking commission in making distribution of funds held by it under 215.33 (13) (a), Stats. 1945, where there is doubt as to proper claimant or conflicting claims, is to require an order of the circuit court authorizing and directing payment as provided by 215.33 (13) (d). 34 Atty. Gen. 324.

215.33 (13) (b), Stats. 1945, does not apply with respect to unclaimed funds or dividends in voluntary liquidations under 215.331. 35 Atty. Gen. 112.

215.32 History: 1963 c. 315; Stats. 1963 s. 215.32; 1965 c. 252; 1969 c. 276 s. 600 (1); 1969 c. 404.

Editor's Note: Sec. 2014-14, Stats. 1915, relating to the duties of the commissioner of banking in respect to building and loan associations with impaired capital was construed in *Bohemian M. L. & B. Asso. v. Kuolt*, 164 W 581, 160 NW 1086. 215.33, Stats. 1931, relating to the duties of the commissioner of banking in respect to building and loan associations with impaired capital, was construed in 20 Atty. Gen. 1252.

Under 215.33 (2), Stats. 1941, approval of an offer by the banking commission, and approval by the circuit court, of an offer to purchase property of the association are steps necessary to a contract for the sale of real estate after an offer of purchase has been received by the special deputy, but the acceptance of the offer by the special deputy is necessary to create a contract, so that, in the absence of such acceptance, the special deputy is not precluded by the approval of an offer by the commission and the court from subsequently accepting a higher offer, with the approval of the commission and the court. It is the special deputy in charge of the liquidation of an association, and not the circuit court or the banking commission, who is clothed with authority to sell the property of the association, and the fact that the court and the commission must approve does not bring the sale within any of the classes of "judicial sales". In re *Wisconsin S. L. & B. Asso.* 241 W 1, 4 NW (2d) 127.

The banking commission may insure properties of delinquent building and loan associations, held by it, in mutual insurance companies. 29 Atty. Gen. 430.

215.33 History: 1963 c. 315; Stats. 1963 s. 215.33; 1965 c. 163, 252; 1969 c. 276.

Members of a foreign loan and building association were estopped from claiming that

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.