

CHAPTER 215

SAVINGS AND LOAN ASSOCIATIONS

SUBCHAPTER I		GENERAL PROVISIONS ON SAVINGS AND LOAN ASSOCIATIONS	
215.01	Definitions.	215.43	Members and voting rights in a mutual association
215.02	Office of the commissioner of savings and loan	215.50	Directors of a mutual association
215.03	Supervision and control of associations.	215.51	Officers of a mutual association
215.04	Savings and loan review board.	215.52	General operation of a mutual association.
215.11	Surety bond of association's officers, directors and employees.	215.53	Absorption of other mutual association.
215.12	Penalty for dishonest acts; falsification of records.	215.54	Consolidation with other mutual association
215.13	Powers of savings and loan associations.	215.55	Mutual associations operating under restrictions imposed by the commissioner.
215.14	Savings accounts	215.56	Voluntary liquidation of a mutual association
215.15	Evidence of ownership of savings accounts	215.57	Jurisdictional conversion of mutual associations
215.16	Distribution of earnings on savings accounts.	215.58	Organizational conversion of mutual association into capital stock association
215.17	Withdrawal of savings accounts	SUBCHAPTER III	
215.18	Redemption of savings accounts.	CAPITAL STOCK SAVINGS AND LOAN ASSOCIATIONS; ORGANIZATION AND MANAGEMENT	
215.19	Loans on savings accounts.	215.60	Incorporation of a capital stock savings and loan association.
215.20	Property improvement loans	215.61	Articles of incorporation for capital stock associations.
215.205	Other loans and investments	215.62	Bylaws of stock associations.
215.21	Mortgage loans.	215.63	Voting rights in a stock association
215.22	Real estate owned by association.	215.64	Stock control of association by holding companies.
215.23	Limitations on investments in office buildings and related facilities	215.65	Capital stock of a stock association.
215.24	Legal reserve	215.66	Paid-in surplus of a stock association.
215.25	Fiscal year audits.	215.67	Earned surplus; dividends on capital stock
215.26	Miscellaneous provisions.	215.70	Directors of a stock association
215.32	Possession by commissioner; involuntary liquidation.	215.71	Officers of stock association.
215.33	Foreign associations.	215.72	General operations of a stock association
SUBCHAPTER II		215.73	Absorption of another stock association.
MUTUAL SAVINGS AND LOAN ASSOCIATIONS; ORGANIZATION AND MANAGEMENT		215.74	Consolidation with other stock associations
215.40	Incorporation of a mutual savings and loan association.	215.75	Stock associations operating under restrictions imposed by the commissioner.
215.41	Articles of incorporation for mutual associations.	215.76	Voluntary liquidation of a stock association.
215.42	Bylaws of mutual associations.	215.77	Jurisdictional conversion of capital stock associations.

SUBCHAPTER I

GENERAL PROVISIONS ON SAVINGS AND LOAN ASSOCIATIONS

215.01 Definitions. In this chapter:

(1) "Association" means a savings and loan association, a building and loan association or a savings association operating as a mutual or capital stock corporation.

(2) "Board" means the board of directors of an association.

(3) "Branch office" means a place of business, other than the home office, where the business of an association is conducted.

(4) "Bylaws" means the bylaws of a given association.

(5) "Capital stock" means the aggregate of shares of nonwithdrawable stock issued by a stock association.

(6) "Commissioner" means the commissioner of savings and loan.

(7) "Earnings" means the return paid on or credited to savings accounts, and may be designated as earnings, dividends or interest.

(8) "Federal savings and loan association" means a savings and loan association organized pursuant to the Home Owners' Loan Act of 1933, and any acts amendatory thereof and supplementary thereto.

(9) "Foreign association" means a savings and loan association organized under the laws of any other state or territory, but does not include a federal association.

(10) "Guaranteed mortgage loans" means loans wholly or partially guaranteed by the administrator of veterans' affairs of the U.S. veterans administration under the servicemen's readjustment act of 1944, P.L. 78-346, and acts amendatory thereof and supplementary thereto.

(11) "Home office" means the principal place of business of an association.

(12) "Impairment of capital stock" means that the assets of a stock association do not have an aggregate appraised value equal to the aggregate of the following:

215.01 SAVINGS AND LOAN ASSOCIATIONS

3446

- (a) Savings accounts.
- (b) Capital stock.
- (c) Other liabilities of the association.

(13) "Impairment of savings accounts" means that the assets of an association do not have an aggregate appraised value equal to the aggregate savings accounts and other liabilities of the association.

(14) "Insured association" means an association whose savings accounts are insured by the federal savings and loan insurance corporation.

(15) "Insured loans" means loans wholly or partially insured by a state or federal agency.

(16) "Legal reserve" means the required statutory reserve, established for the sole purpose of absorbing losses.

(17) "Member" of a mutual association means a person owning a savings account in a mutual association or being a borrower from or obligor of the association.

(18) "Mutual association" means a mutual savings and loan association.

(19) "Net income" means the gross income for any period, less the aggregate of the following:

- (a) Operating expenses;
- (b) Real estate expenses;
- (c) Earned distributions on savings accounts;
- (d) Interest paid or accrued on borrowed money;
- (e) Other nonoperating expenses;
- (f) Losses on sale of assets not charged to reserves; and
- (g) State and federal income taxes.

(20) "Net worth" means:

(a) In a capital stock association, the aggregate of the following:

- 1. Capital stock;
- 2. Paid-in surplus;
- 3. Legal reserve;
- 4. Federal insurance reserve;
- 5. Other general reserves;
- 6. Other reserves, exclusive of valuation reserves and depreciation reserves;
- 7. Undivided profits; and
- 8. Earned surplus.

(b) In a mutual association, the aggregate of the following:

- 1. Legal reserve;
- 2. Federal insurance reserve;
- 3. Other general reserves;
- 4. Other reserves, exclusive of valuation reserves and depreciation reserves; and
- 5. Undivided profits and earned surplus.

(21) "Office" means the office of the commissioner of savings and loan.

(22) "Review board" means the savings and loan review board.

(23) "Saver" means a person who is an owner of a savings account in a given association.

(24) "Savings account" means the monetary interest of the owner thereof in the aggregate of savings accounts in the association and consists of the withdrawal value of such interest.

(25) "State chartered association" means a savings and loan association organized under this chapter.

(26) "Stock association" means a capital stock savings and loan association.

(27) "Stockholder" means a person owning one or more shares of capital stock in a capital stock association.

(28) "Withdrawal value of a savings account" means the aggregate of deposits in a savings account and the total earnings credited thereto, less withdrawal payments and depreciation charges.

History: 1971 c. 229; 1975 c. 359.

Chapter 215 is inapplicable to federal savings and loan associations. *Kaski v. First Fed. S. & L. Asso. of Madison*, 72 W (2d) 132, 240 NW (2d) 367.

215.02 Office of the commissioner of savings and loan. (1) QUALIFICATIONS, APPOINTMENT AND DUTIES OF DEPUTY COMMISSIONER.

No person is eligible for appointment as deputy commissioner unless he or she has had at least 3 years' actual experience in a savings and loan association or serving in a savings and loan supervisory authority, or a combination of both. The commissioner shall appoint the deputy commissioner, with the consent of the review board, subject to s. 15.04 (2) and (3). The deputy commissioner shall possess all powers and perform the duties of the commissioner during a vacancy in that office and during the absence of or inability of the commissioner to serve.

(2) **FULL-TIME DEVOTION TO DUTIES OF OFFICE.** The deputy commissioner, examiners and clerks shall devote full time to the duties of their respective positions.

(3) **SURETY BONDS.** Bonds shall be executed and filed as follows:

(a) The commissioner shall file an official bond in the sum of \$25,000 approved by the governor.

(b) The deputy commissioner, special deputy commissioners and examiners, each \$10,000.

(c) Special assistants to the commissioner, each \$10,000.

(d) The surety on every bond required under this subsection shall be a surety company licensed by this state.

(4) **IMMUNITY OF COMMISSIONER.** The commissioner shall not be subject to any civil liability or penalty, nor to any criminal prosecution, for any error in judgment or discretion made in

good faith and upon reasonable grounds in any action taken or omitted by him in his official capacity.

(5) ACTIONS VENUE. Proceedings by any association to enjoin the commissioner in the discharge of his duties shall be had in the county where the savings and loan association is located, or in the state supreme court. All suits and proceedings arising out of this chapter, in which the state, or any of its officers or agents are parties, shall be conducted under the direction and supervision of the department of justice.

(6) DISCLOSURE OF INFORMATION; PENALTY.

(a) The commissioner, and all other officers and employes of the office, and members of the review board shall keep secret all the facts and information obtained in the course of examinations, except:

1. So far as the public duty of such person requires the person to report upon or take special action regarding the affairs of any association.

2. When called as a witness in any criminal proceeding or trial in a court of justice.

3. Under rules prescribed by the commissioner, for the purpose of comparing notes as to matters affecting an association with an examiner of the federal home loan bank board or federal savings and loan insurance corporation as to any association whose savings accounts are insured by the federal savings and loan insurance corporation.

4. The commissioner may:

a. Furnish to the federal home loan bank board or federal savings and loan insurance corporation or to any official or examiner thereof a copy of any examination made of any association or of any report made by such association.

b. Give access to and disclose to the federal home loan bank board, federal savings and loan insurance corporation or to any official or examiner thereof any information possessed by the commissioner about the conditions or affairs of any association whose savings accounts are insured by the federal savings and loan insurance corporation.

(b) If any person mentioned in par. (a) discloses the name of any debtor of any association or any information about the private account or transactions of such association, or discloses any fact obtained in the course of any examination of any association, except as provided in par. (a), he shall forfeit his office or position and may be fined not less than \$100 nor more than \$1,000, or imprisoned not less than 6 months nor more than 2 years or both.

(7) COMMISSIONER TO ISSUE ORDERS; REASONABLE RULES. (a) In addition to performing

the duties prescribed in this chapter, the commissioner shall, with the approval of the review board, issue orders prescribing reasonable rules for conducting the business of associations, subject to the requirements of ch. 227.

(b) The violation of any such rule or order may be cause for the removal of any officer, director or employe of any association.

(c) If the commissioner, as a result of any examination or report made to the commissioner, finds that any association is violating the provisions of the articles or bylaws of the association, or the laws of this state, or the laws of the United States, or any lawful rule or order promulgated by the commissioner and review board or any order of the commissioner, the commissioner shall deliver a formal written order to the board of directors of the association in which the facts known to the commissioner are set forth, demanding the discontinuance of the violation and, where applicable, order the association to institute corrective action thereon. The association affected by the order may within 10 days after the order has been delivered to the association request a review of the findings and order before the commissioner, at which time any pertinent evidence may be presented. After review, the commissioner, on the basis of the evidence presented and any matters of record in the office, shall continue, modify or set aside the order. The enforcement of any order issued under this paragraph shall be stayed pending review before the commissioner, and during the period of any subsequent review under s. 215.04 (4).

(d) Any association which wilfully violates par. (c) or any order issued thereunder shall, for each violation, forfeit not more than \$250 per day for each day the violation continues. Assessment of any forfeiture shall become effective 20 days from the date of delivery of the order, 20 days from the date of review by the commissioner, if requested, or 20 days from the date of the decision of the review board, if an appeal is taken pursuant to s. 215.04 (4).

(8) REVOCATION OF CERTIFICATE OF INCORPORATION OR LICENSE. Whenever it appears to the commissioner that any association or corporation which has received a certificate of incorporation or a license to do business in this state is conducting its business in violation of this chapter, he shall report the facts to the department of justice which may bring an action to revoke the certificate of incorporation or license of such association or corporation.

(9) APPROVAL OF ACTS. Whenever any association requests approval of the commissioner for any act, which by statute requires such approval, he shall have 90 days in which to grant or deny such approval. If he fails to act,

215.02 SAVINGS AND LOAN ASSOCIATIONS

3448

approval shall be deemed to have been granted. In matters which require the holding of public hearings, the 90-day period shall not commence until the conclusion of the hearing and the date set by the commissioner for receipt of briefs.

(10) REMOVAL OF OFFICERS OR DIRECTORS.

(a) 1. Whenever the commissioner is of the opinion that the loaning, investing or other policies or practices of any officer or director of any association have been prejudicial to the best interest of such association or its savers, or that such policies or practices, if put into operation or continued, will endanger the safety or solvency of said association or impair the interests of its savers the commissioner may, with the approval of the review board, request the removal of such officer or director.

2. Such request shall be served on the association and on such officer or director:

a. In the manner provided by law for serving summons in a court of record; or

b. By registered mail with return receipt requested.

3. If such request for removal is not complied with within a reasonable time fixed by the commissioner the commissioner may by order, with approval of the review board, remove such officer or director. No order of removal may be entered until after an opportunity for hearing before the review board is given to such officer or director upon not less than 10 days' notice.

4. An order of removal shall take effect as of the date issued. A copy of such order shall be served upon the association and upon such officer or director in the manner provided by law for service of a summons in a court of record or by mailing such copy to the association or officer or director at the last known post-office address. Any removal under this subsection shall be effective in all respects as if made by the board of directors or the members or stockholders of the association. Any officer or director removed from office under this subsection may not be reelected as an officer or director of any association without the approval of the commissioner and the review board. An order of removal under this subsection shall be deemed a final order or determination of the review board within the meaning of s. 215.04 (4).

(b) The commissioner may appoint any person to fill the vacancies caused by removal of officers or directors. Any person so appointed shall hold office until the next annual meeting of the members or stockholders.

(11) ANNUAL REPORT TO THE GOVERNOR AND LEGISLATURE. (a) In the commissioner's annual report under s. 15.04 (1) (d), the commissioner shall include a statement concerning the general conduct and condition of associations doing business in this state, including such

facts and suggestions as deemed expedient. The annual report shall be based upon the individual annual reports of associations filed, and shall also include the information required in ss. 215.32 (7) (a), 215.56 (8) (a) and 215.76 (8) (a).

(b) The commissioner shall designate the number of copies of the report to be made available for distribution. Each association is entitled to one copy.

(12) DISPOSITION OF OBSOLETE RECORDS. The commissioner may turn over obsolete departmental records to the secretary of administration, pursuant to s. 16.61.

(14) FEES FOR OFFICE PUBLICATIONS. (a) Whenever extra copies of statutory reprints of this chapter, the annual report of savings and loan associations or any other publication published by the office are requested, such extra copies shall be furnished upon payment of such fee as the commissioner determines. All such fees shall be paid by the commissioner into the general fund to the credit of the office.

(b) Upon request, extra copies may be distributed free to agencies or legislators of this state or any other state, county clerks and to the courts of this state, trade organizations and any other agencies of the United States.

(15) HEARINGS, FINDINGS AND ORDERS ON COMPLAINTS AGAINST ASSOCIATIONS. (a) 1. Within 10 days after any of the following petitions have been filed with the commissioner, the commissioner shall proceed to hear the same:

a. A petition stating that an association fails to pay its debts on demand.

b. A petition signed by not less than 25 savers in an association, stating that: 1) the association or the officers or directors of the association fail to honor requests for the withdrawal of savings accounts under this chapter; 2) the officers or directors are conducting the business of the association in an unsafe or unauthorized manner; 3) by the acts or negligence of officers or directors the funds or assets of the association are or may become impaired.

2. Not less than 3 days before the date of hearing, a copy of the petition and a notice stating the date, time and place for the hearing shall be mailed or delivered to the association and the party petitioning.

(b) At the time and place so fixed, unless by stipulation some other time and place is fixed, the commissioner shall hear all parties interested and shall cause the testimony given to be reduced to writing, or he may designate some person employed in his office to take testimony, hear the petition and file the testimony with the commissioner.

(c) The commissioner shall within a reasonable time make findings as to all matters covered by the petition and make such order as he deems just and reasonable.

(d) The findings and order of the commissioner shall be final unless modified by the court.

(e) Chapter 776 shall not apply to associations organized under this chapter.

(16) ANNUAL FEES AND EXAMINATION COSTS. (a) *Annual fee.* In addition to such capital fee, associations organized under this chapter shall, on or before July 15, pay an annual fee as determined by the commissioner and the review board, but not exceeding 12 cents per \$1,000 of assets or fraction thereof, as of the close of the preceding calendar year.

(b) *Penalty for failure to pay fees.* An association failing to pay such capital fee and annual fee to the commissioner by July 15 of each year shall, if ordered by the commissioner, forfeit \$10 for each day it fails to pay such fees.

(c) *Regular examination costs.* 1. On or before June 30 of each year the commissioner and the review board shall fix a per diem charge for the services of each examiner used in the examination of an association, for the next 12 months. Such per diem charge shall be the same for all associations. The hours constituting a day shall be that which is fixed for state employees by s. 230.35.

2. After the per diem charge for each examiner has been fixed by the commissioner and review board, each association shall be uniformly billed for examinations during the ensuing year on a fixed per diem basis for each examiner engaged in such examination.

3. Every charge so made to an association shall be paid within 30 days from the time the association receives notice of the assessment.

(d) *Special examination costs.* The commissioner shall charge any special costs and expenses incurred because of special work required by him, caused by an association not having proper or sufficient management or failing to keep its books, records and other matters in a standard and approved manner. An itemized statement of such charges must be submitted to the association.

(e) *Penalty for failure to pay examination costs.* Any association failing to pay the charges and assessments under pars. (c) and (d) shall be subject to the penalty under par. (b) for each day it fails to pay the charge or assessment after it becomes due.

(17) TESTIMONIAL POWERS. (a) The office may, in relation to any matter within its powers, issue subpoenas and take testimony.

(b) Witnesses shall be entitled to the same fees as are allowed to witnesses in courts of record. Such fees shall be audited and paid by

the state in the same manner as other expenses of the office are audited and paid. No witness subpoenaed at the instance of any party other than the office shall be entitled to payment of fees by the state, unless the office certifies that the testimony of the witness was material to the hearing or proceeding.

(c) No person may, without reasonable cause, fail to comply with a subpoena issued under this subsection, nor refuse to be sworn or to be examined, or to answer a proper question or produce a pertinent document, when ordered to do so by the official conducting the investigation or proceeding.

History: 1971 c. 101; 1971 c. 270 s. 104; 1973 c. 205; 1975 c. 41 s. 52; 1975 c. 348, 359, 421; 1977 c. 140; 1977 c. 196 s. 131; 1977 c. 418; 1979 c. 32 s. 92 (6); 1979 c. 287.

215.03 Supervision and control of associations. (1) TYPES OF ASSOCIATIONS SUPERVISED AND CONTROLLED BY THE COMMISSIONER. All associations organized under this chapter or similar laws, or permitted by license to transact, in this state, a business similar to that authorized by this chapter, shall be under the supervision and control of the commissioner.

(2) ANNUAL SUPERVISORY EXAMINATIONS. (a) At least once within every 18-month period, the commissioner shall examine the affairs of all such associations and for that purpose he or the examiners appointed by him shall have access to, and may compel the production of, all their books, papers, securities and moneys; administer oaths to and examine their officers and agents as to their affairs. Neither the commissioner nor any employe of the office shall examine an association in which he is interested as an officer or director.

(b) The commissioner may accept an examination-audit made by the federal home loan bank board or any other governmental agency authorized to make examination-audits of savings and loan associations pursuant to their rules and regulations. The examination-audit must comply with the procedure established by the commissioner.

(3) SPECIAL EXAMINATIONS. Special examinations shall be made upon written request of 5 or more savers, they guaranteeing the expense.

(4) REFUSAL TO SUBMIT TO AN EXAMINATION. Any association refusing to submit to an examination so ordered or requested, shall be reported to the attorney general, who shall institute proceedings to revoke its certificate of incorporation for such refusal.

(5) ACCOUNTING AND BOOKKEEPING PROCEDURE PRESCRIBED BY COMMISSIONER. (a) Whenever it appears to the commissioner that any association does not keep books and accounts in such manner as to enable him to

readily ascertain its true condition, he may require the officers of such associations or any of them to open and keep such books or accounts as he prescribes.

(b) Any association that fails to open books or keep books or accounts as prescribed by the commissioner, shall, at the discretion of the commissioner, forfeit \$10 for each day it so fails. If the association fails to pay the forfeiture, the commissioner may institute proceedings to recover such forfeitures.

(6) **FILE ANNUAL REPORTS** (a) 1. Not later than February 1 of each year each association subject to the supervision and control of the commissioner shall file with the commissioner a report of its activities of the preceding year, upon forms furnished by the commissioner.

2. The report shall include:

a. A true and verified copy of a statement of condition as of the close of December 31 of the preceding calendar year;

b. A statement of its operations during that period; and

c. Such other information as the commissioner requires.

3. Attached to the annual report shall be a copy of a printed statement of condition and operations as of the end of the association's most recent fiscal year, which shall be available to the savers of the association and, in the case of a stock association, its stockholders. The printed statement shall contain such information as the commissioner may by rule prescribe.

(b) If such association fails or refuses to furnish the report herein required, it shall be subject, at the discretion of the commissioner, to a forfeiture of \$10 per day for each day of default, and the commissioner may maintain an action in the name of the state to recover such penalty, and the same shall be paid into the general fund.

(7) **RELOCATION OF ASSOCIATION OFFICE.**

(a) Any association, which determines to move its main office or branch to some other location not more than one mile from its then location, shall make an application to the commissioner. The commissioner may approve or deny such application for relocation.

(b) Any association which determines to move its main office or branch to some other location more than one mile from its then location shall make an application to the commissioner. The commissioner shall give notice and provide an opportunity for hearing as provided in s. 215.40 (7). In approving or denying the application for relocation, the commissioner shall ascertain the need for relocation and determine whether undue harm or injury would be caused to any properly conducted association or

branch now doing business in the area or vicinity of the proposed relocation.

(8) **APPLICATION TO ESTABLISH BRANCHES; APPEAL.** (a) Any association desiring to establish a branch office, subject to the limitations of s. 215.13 (39), shall apply to the commissioner in such form as the commissioner prescribes, giving such information as the commissioner requires. Each application shall be accompanied by a fee of \$500. The commissioner shall give notice and provide an opportunity for hearing as provided in s. 215.40 (7). The commissioner may grant certificates of authority to maintain and operate branch offices or may refuse to issue certificates when, in the commissioner's opinion, such branch is not in the best interests of the public, or when other good and sufficient reasons exist for refusal.

(b) It is the intent of this section to provide adequate and convenient savings and loan facilities for the public. When 2 or more applications for a branch in the same area are pending, priority of application shall be considered but not be controlling, and the commissioner shall give consideration to the equitable distribution of branches among the associations making application.

(c) Review of the decision of the commissioner in regard to applications for branches shall be governed by s. 215.04 (4).

History: 1975 c. 359 ss. 5, 6, 51; 1977 c. 140

The legislature established different standards under 215.03 (8) (a) and (b) for the relocation of an office and the commissioner need not apply the standards of par. (b) where the move is less than one mile. *Mut. Fed. S & L Asso. v. S & L. Rev. Bd.* 46 W (2d) 110, 174 NW (2d) 554

215.04 Savings and loan review board.

(1) **DUTIES.** The duties of the review board shall be to:

(a) Advise the commissioner, deputy commissioner and others in respect to improvement in the condition and service of associations;

(b) Review the acts, orders and determinations of the commissioner under sub. (4);

(c) Act promptly on matters and questions, pertaining to associations, that may be submitted to it by the commissioner;

(d) Serve as an appeal board for associations under s. 215.40 (18) and 215.60 (15);

(e) Perform such other review functions in relation to associations as may be provided by law;

(f) Conduct hearings and take testimony, and to subpoena and swear witnesses at such hearings. The review board shall have the same subpoena powers as are possessed by the department of industry, labor and human relations and also the powers granted by s. 885.01 (4);

(g) 1. Conduct examinations of associations by one or more of its members when said members are so appointed:

a. By the commissioner and required to submit a report and findings of such examination to the commissioner; or

b. Upon motion of the review board, with the affirmative vote of 5 members, and required to submit its findings and report to the review board and the commissioner.

2. Upon completing its examination the review board shall make recommendations to the commissioner as to the report and its findings. In making examinations a member of the review board appointed under this paragraph shall have the same powers and duties as examiners under this chapter.

(2) APPEARANCE OF INTERESTED PERSONS AT BOARD PROCEEDINGS. Any party interested may appear in any proceedings of the review board and may participate in the examination of witnesses and present evidence.

(3) FEES OF SUBPOENAED WITNESSES. (a) Any person causing a witness to be subpoenaed shall advance the fees and mileage of such witness which shall be the same as in circuit court.

(b) The fees of witnesses who are called by the review board in the interests of the state shall be paid by the state in the same manner that other expenses are paid, upon presentation of proper vouchers approved by a member of the review board and charged to the appropriation of the office.

(4) REVIEW OF GRIEVANCES, ORDERS OR DETERMINATIONS. Any interested person or any association aggrieved by any act, order or determination of the commissioner, which relates to savings and loan associations may, within 20 days thereof, apply to the review board to review the action of the commissioner. The sole review of the commissioner's decision shall be to determine whether or not the commissioner has acted within the scope of his authority, has not acted in an arbitrary or capricious manner, and that the act, order or determination of the commissioner is supported by substantial evidence in view of the entire record as submitted. The review of applications for branches, relocation of association offices or new charters shall be based exclusively on the record, and no new evidence shall be taken by the review board. Applications under this subsection shall be considered and disposed of as speedily as possible.

(6) REVIEW OF FINAL ORDERS AND DETERMINATIONS. Any final order or determination of the review board shall be subject to review under ch. 227. If an act, order or determination of the commissioner is reversed or modified by the

review board, the commissioner shall be deemed a person aggrieved and directly affected thereby under s. 227.16 (1).

(7) MEMBERS DISQUALIFIED TO ACT. No member of the review board shall be qualified to act in any matter involving the association of which he is an officer or director.

History: 1971 c. 164, 243; 1975 c. 359

215.11 Surety bond of association's officers, directors and employes. **(1) WHO SHALL FURNISH BOND; TYPE AND FORM.** Before entry upon the discharge of his duties, every person appointed or elected to any position requiring receipt, payment or custody of money or other personal property of an association or in its custody or control as collateral or otherwise shall give a bond in some surety company, licensed by this state, in such sum as the commissioner prescribes. In lieu of individual bonds, the commissioner may accept a schedule or blanket bond which covers all of the officers, directors and employes of the association, whose duties include the receipt, payment or custody of money or other personal property. Such bonds shall be in the form prescribed by the commissioner.

(2) SURETY BONDS TO BE APPROVED BY THE BOARD AND FILED WITH THE COMMISSIONER. No officer, director or employe who is required to give bond shall enter upon the discharge of his duties until his bond has been approved by the board. The minute book of the association shall contain a record of each bond executed and approved. Such bonds shall be filed with the commissioner within 10 days after approval by the board.

(3) SURETY BOND COVERAGE. Such bond shall be sufficient to protect the association 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 commissioner may require an additional bond.

(4) PROVISIONS OF SURETY BONDS. Every such bond shall also include the following provisions:

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

(b) The surety agrees to furnish the commissioner, at Madison, a copy of all riders and

215.11 SAVINGS AND LOAN ASSOCIATIONS

3452

indorsements executed subsequently to the effective date of this bond.

(5) **COMMISSIONER MAY CONSENT TO TERMINATION AND WAIVE NOTICE THEREOF.** The commissioner may waive, as to the termination of any bond, the 10-day written notice in advance and may give his written consent to the termination being made effective as of a date agreed upon by the surety and the association.

(6) **TERMINATION OF SURETY BOND UPON DISCOVERY OF ANY DISHONEST ACT.** Subsection (4) shall not in any way modify or affect or render invalid a provision therein that the bond shall terminate as to any person covered thereby, upon the discovery by the association of any dishonest act on his part.

(7) **PENALTY FOR FAILURE TO FURNISH SURETY BOND.** Any violations of subs. (1) and (2) shall subject the association to a fine of \$10 per day for each consecutive day of such violation and it is the duty of the attorney general to recover any such penalties by action in behalf of the state.

215.12 Penalty for dishonest acts; falsification of records. Every officer, director, employe or agent of any association who steals, abstracts, or wilfully misapplies any property of the association, whether owned by it or held in trust, or who, without authority, issues or puts forth any certificate of savings accounts, assigns any note, bond, mortgage, judgment or decree, or, who makes any false entry in any book, record, report or statement of the association with intent to injure or defraud the association or any person or corporation, or to deceive any officer or director of the association, or any other person, or any agent appointed to examine the affairs of such association, or any person who, with like intent, aids or abets any officer, director, employe or agent in the violation of this section, shall be imprisoned in the Wisconsin state prisons for not to exceed 20 years.

History: 1977 c. 418 s. 924 (18) (e).

215.13 Powers of savings and loan associations. Savings and loan associations may:

(1) **SAVINGS ACCOUNTS.** Accept payments on savings accounts in accordance with s. 215.14.

(2) **EVIDENCE OF SAVINGS ACCOUNT OWNERSHIP.** Issue evidence of ownership to savers, in accordance with s. 215.15.

(3) **DECLARATION AND DISTRIBUTION OF EARNINGS ON SAVINGS ACCOUNTS.** Declare and distribute earnings to savers, in accordance with s. 215.16.

(4) **WITHDRAWALS OF SAVINGS ACCOUNTS.** Pay withdrawal requests of savings accounts, in part or in full, in accordance with s. 215.17.

(5) **REDEEM SAVINGS ACCOUNTS.** Redeem savings accounts, in part or in full, in accordance with s. 215.18.

(6) **LOANS ON SAVINGS ACCOUNTS.** Make loans to savers on the security of savings accounts owned by them, in accordance with s. 215.19.

(7) **PROPERTY IMPROVEMENT LOANS.** Make property improvement loans in accordance with s. 215.20.

(8) **INSURED OR GUARANTEED LOANS.** Make secured or unsecured loans, which are partially insured or guaranteed in any manner by the United States or any instrumentality thereof or for which there is a commitment to so insure or guarantee, pursuant to ch. 219.

(9) **MORTGAGE LOANS.** Make mortgage loans in accordance with s. 215.21.

(10) **ADDITIONAL COLLATERAL TO MORTGAGE LOANS.** Accept additional collateral to mortgage loans in accordance with s. 215.21 (10).

(11) **PURCHASING MORTGAGE LOANS.** Purchase mortgage loans in accordance with s. 215.21 (13).

(12) **SERVICING OF PURCHASED MORTGAGE LOANS.** Negotiate servicing agreements to enable vendors of mortgage loans, purchased by the association, to collect payments for transmission to the association, in accordance with s. 215.21 (13).

(13) **SELLING MORTGAGE LOANS.** Sell mortgage loans in accordance with s. 215.21 (14).

(14) **SERVICING OF MORTGAGE LOANS SOLD.** Negotiate servicing agreements to enable the association to collect payments for transmission to the purchasers of mortgage loans in accordance with s. 215.21 (14).

(15) **PURCHASING PARTICIPATING INTERESTS IN MORTGAGE LOANS.** Purchase participating interests in mortgage loans from other lenders and negotiate servicing agreements with said lenders in accordance with s. 215.21 (15).

(16) **SELLING PARTICIPATING INTERESTS IN MORTGAGE LOANS.** Sell participating interests in mortgage loans, to other lenders, and negotiate servicing agreements with said lenders in accordance with s. 215.21 (15).

(17) **ACQUIRING REAL ESTATE.** Acquire real estate to enforce protection of its securities in accordance with s. 215.22 (1).

(18) **SELLING OF ACQUIRED REAL ESTATE.** Sell acquired real estate in accordance with s. 215.22 (2).

(19) **ACQUIRING REAL ESTATE SUBJECT TO SALES CONTRACTS.** Acquire real estate, subject

to a sales contract, from any instrumentality of the United States.

(20) PURCHASING PROPERTY IMPROVEMENT LOANS. Purchase secured or unsecured property improvement loans from any person, whether or not such loans are partially insured or guaranteed in any manner by the United States or any instrumentality thereof, provided such loans could have been made by the association in the first instance.

(21) ACQUIRING ASSETS OF OTHER ASSOCIATIONS. Acquire all or any part of the assets of any other association with prior approval of the commissioner.

(22) SELLING OF ASSETS TO OTHER ASSOCIATIONS. Sell all or any part of its assets to any other association with prior approval of the commissioner.

(23) ASSOCIATION OFFICE BUILDING. Acquire real estate for use as the association's office building in accordance with s. 215.23.

(24) MEMBERSHIP IN ANY FEDERAL FINANCE OR CREDIT CORPORATION. Become a member in any federal finance or credit corporation organized by an act of congress for aiding associations to utilize their resources and credit. Membership in such federal finance or credit corporation to include:

- (a) Purchasing stock therein;
- (b) Purchasing notes and debentures thereof;
- (c) Borrowing money therefrom, not exceeding that allowed under sub. (28).

(25) MEMBERSHIP IN A NATIONAL MORTGAGE COMPANY. Become a member in, and purchase stock or securities of a national mortgage company, under the national housing act approved June 27, 1934, and acts amendatory thereof and supplemental thereto.

(26) INVESTMENT SECURITIES. Invest in the following types of securities, subject to such limitations as may be fixed by the commissioner:

- (a) United States government securities;
- (b) Savings accounts of savings and loan associations doing business in the state;
- (c) Savings accounts of savings and loan associations, located outside the state, providing such savings accounts are insured by an instrumentality of the United States;

(d) Bonds, notes or other evidences of indebtedness which are general obligations supported by the full faith and credit of any state in the United States or any city, town, village, county, vocational, technical and adult education district or school district in any state in the United States if the obligations have been assigned one of the 4 highest grades by a nationally recognized investment rating service. Before purchasing any obligation under this paragraph other than an obligation issued in this state, the

association shall ascertain whether suitable obligations issued in this state are available in the quantity sought by the association at a competitive rate of return at the time the investment is intended to be made. If such obligations are available, the association shall give preference to obligations issued in this state. Notwithstanding any other requirement of this paragraph, an association may invest not more than one percent of its assets in the obligations of any city, town, village, county, vocational, technical and adult education district or school district in this state which are not assigned one of the 4 highest grades by a nationally recognized investment rating service, if the obligations are issued by a city, town, village, county, vocational, technical and adult education district or school district in which the association maintains one or more offices.

(e) Certificates of deposit of a state or national bank.

(f) Such other types of securities which may be approved and authorized by the commissioner.

(27) LEND MONEY TO OTHER ASSOCIATIONS. Lend money to other savings and loan associations incorporated and operating under this chapter, subject to approval of the commissioner.

(28) BORROWING MONEY. Borrow money and issue its obligations therefor, the aggregate of which shall not exceed 20 per cent of its total assets, except with the approval of the commissioner an association may borrow an amount not exceeding 50 per cent of its total assets.

(29) ASSIGN COLLATERAL FOR BORROWED MONEY. Assign as collateral for borrowed money its mortgages and mortgage notes or any of the securities enumerated in sub. (26).

(30) INTEREST AND OTHER CHARGES. Assess and collect interest, premiums, fines, fees and other charges. No savings and loan association may demand or receive for loans or discounts a rate of interest exceeding that allowed by law.

(31) INSURANCE OF SAVINGS ACCOUNTS. Insure the savings accounts of savers only in an instrumentality created by an act of congress.

(32) ACT AS AGENT FOR THE UNITED STATES. Whenever designated by the secretary of the treasury of the U.S. or any other instrumentality of the U.S., and authorized by a resolution of the board of directors, act as agent for them, and perform all duties as agent that may be required.

(33) STORE MICROFILM RECORDS OF OTHER ASSOCIATIONS. Act as custodian or keeper of microfilm records of other savings and loan associations for a fee.

215.13 SAVINGS AND LOAN ASSOCIATIONS

3454

(34) PLACE MICROFILM RECORDS FOR STORAGE AT OTHER ASSOCIATIONS. Place microfilm records of the association for storage and safe-keeping with another association for a fee.

(35) MEMBERSHIP IN A RECORD STORAGE CORPORATION. Create or form a separate corporation or association, purchase stock therein, and maintain such organization through fees, the sole purpose of such corporation or association being that of a custodian of any microfilm records of any association having membership therein.

(36) SELL JUDGMENTS. Sell any judgment to any person with prior approval of the commissioner.

(37) OMNIBUS POWERS. Exercise all powers necessary and proper to carry out the purposes of the association.

(38) EDUCATIONAL LOANS. Make loans to defray the expense of attending any college or university.

(39) BRANCHES. Subject to the approval of the commissioner, any savings and loan association may establish and maintain one or more branch offices within the normal lending area of the home office, as defined in s. 215.21 (2). In his approval, the commissioner may limit the powers of the branch. Savings and loan associations may promote thrift in their local schools by accepting payments in the school upon savings accounts of the teachers and pupils.

(40) LOCATION OF BRANCHES. Whenever an association is absorbed under s. 215.53 or 215.73 or consolidated under s. 215.54 or 215.74, maintain and operate a branch office at the location of the absorbed or consolidated association, if:

(a) The location is within the home office normal lending area, as defined in s. 215.21 (2); or

(b) The commissioner finds that the continued operation of a branch office at the location of the absorbed or consolidated association outside the home office normal lending area, as defined in s. 215.21 (2), would be in the public interest. This paragraph does not permit continued operation of an office of an absorbed or consolidated association which received its certificate of incorporation less than 5 years prior to its absorption or consolidation.

(41) SELLER OF CHECKS. To engage as an authorized agent in the business and functions provided for in ch. 217 for their members upon receiving a certificate of authority from the commissioner. Such applicants shall be under the jurisdiction and supervision of the commissioner and meet the same requirements as other applicants under ch. 217, but no license or investigation fee shall be charged savings and

loan association applicants. The commissioner has the authority to enforce ch. 217 as it applies to savings and loan associations, the same as that granted the commissioner of banking in enforcing ch. 217. The commissioner shall determine the records that shall be maintained and he shall require the segregation of such funds as is necessary for operations permitted savings and loan associations under this subsection and ch. 217.

(42) INVEST IN REAL PROPERTY. Invest in, or in interests in, real property, subject to such rules as the commissioner shall issue.

(43) SECURITIES GUARANTEED UNDER NATIONAL HOUSING ACT. Issue and sell securities which are guaranteed under the national housing act.

(44) ACT AS TRUSTEE. Act as trustee of trusts created or organized in the United States under the self-employed individuals tax retirement act of 1962, and amendments thereto, and which qualify for specific tax treatment under section 401 (d) or 408 (a) of the U.S. internal revenue code of 1954, if the funds of such trust are invested in savings accounts or deposits in such association or in obligations or securities issued by such association. Individual accounts and records shall be kept by the association for each participant and shall show in proper detail all transactions therein.

(45) OTHER LOANS AND INVESTMENTS. Make loans and investments in accordance with s. 215.205.

(46) REMOTE SERVICE UNITS. (a) 1. Directly or indirectly, acquire, place and operate, or participate in the acquisition, placement and operation of, at locations other than its main or branch offices, remote service units, in accordance with rules established by the commissioner. Remote service units established in accordance with such rules are not subject to sub. (39), (40) or (47) or s. 215.03 (8). The rules of the commissioner shall provide that any such remote service unit shall be available for use, on a nondiscriminatory basis, by any state or federal savings and loan association which has its principal place of business in this state, by any other savings and loan association obtaining the consent of a state or federal savings and loan association which has its principal place of business in this state and is using the terminal and by all customers designated by a savings and loan association using the unit. This paragraph does not authorize a savings and loan association which has its principal place of business outside this state to conduct business as a savings and loan association in this state. The remote service units also shall be available for use, on a nondiscriminatory basis, by any credit union, state or

national bank or mutual savings bank, whose home office is located in this state, if the credit union, bank or mutual savings bank requests to share its use, subject to the joint rules established under s. 221.04 (1) (k). The rules of the commissioner shall prohibit any advertising with regard to a shared remote service unit which suggests or implies exclusive ownership or control of the shared unit by any savings and loan association or group of savings and loan associations operating or participating in the operation of the unit. The commissioner by order may authorize the installation and operation of a remote service unit in a mobile facility, after notice and hearing upon the proposed service stops of the mobile facility.

2 In this paragraph "remote service unit" means a terminal or other facility or installation, attended or unattended, which is not located at the principal place of business or at a branch or extended facility of a savings and loan association and through which customers and savings and loan associations may engage, by means of either the direct transmission of electronic impulses to and from a savings and loan association or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a savings and loan association, in transactions which are incidental to the conduct of the business of a savings and loan association and which are otherwise permitted by law. "Remote service unit" also includes all equipment, regardless of location, which is interconnected with a remote service unit and which is necessary to transmit, route and process electronic impulses in order to enable the remote service unit to perform any function for which it is designed.

3. If any person primarily engaged in the retail sale of goods or services owns or operates a remote service unit on such person's premises and allows access to the unit by any financial institution, group of financial institutions or their customers, nothing in this paragraph or in rules established by the commissioner shall, or shall be construed or interpreted to, require such person to accept any connection to or use of the unit on its premises for any other purpose or function or to accept any connection to the unit on its premises by any other financial institution.

4. If a person primarily engaged in the retail sale of goods or services owns or operates a remote service unit on such person's premises and allows access to the unit by any financial institution, group of financial institutions or their customers for any purpose or function, no laws governing such institutions or rules established by the commissioner shall apply to such person other than those laws or rules directly related to the particular function performed by

the unit on such person's premises for a financial institution.

5. Information transmitted from a remote service unit, either identified as to particular transactions or aggregate information, shall only be used for purposes of effecting the financial transactions for which such information was received, for any other purpose lawfully authorized by contract, or for any other purpose permitted by statute and rules pertaining to the dissemination and disclosure of such information.

(47) EXTENDED OFFICE. With the approval of the commissioner, extend its home office or branch by purchasing or leasing real estate for the purpose of establishing, identifying and maintaining an extended office, but only if the extended office is located within 1,000 feet of the home office or branch. All measurements under this subsection shall be made in a straight line from the nearest adjacent points in the respective property lines. The authority under this subsection is in addition to the authority to establish branch offices under s. 215.03 (8).

History: 1971 c. 154, 164, 173, 229; 1973 c. 205; 1975 c. 3, 11, 359, 389, 391; 1977 c. 26 s. 75; 1977 c. 136, 272, 387; 1979 c. 78, 280; 1979 c. 287 ss 8, 14

Use of sight drafts payable to third parties to make withdrawals under (4) is illegal. *Wis. Bankers Ass'n v. Mut. Savings & Loan*, 96 W (2d) 438, 291 NW (2d) 869 (1980)

Commissioner may issue, pursuant to (41), a certificate of authority to a state-chartered savings and loan association to engage as an authorized agent for the Federal Home Loan Bank of Chicago, which is lawfully engaged in the business of a seller of checks. 61 Atty. Gen. 186.

215.14 Savings accounts. (1) AGGREGATE OF SAVINGS ACCOUNTS. The aggregate of savings accounts of any association is unlimited, and consists of the total deposits in savings accounts and the total earnings credited thereto, less withdrawals, redemptions or depreciation charges made pursuant to this chapter.

(2) WHO MAY OWN A SAVINGS ACCOUNT. Any person may, subject to acceptance by the association, become the owner of a savings account.

(3) DEPOSITS IN SAVINGS ACCOUNTS. Deposits may be made in savings accounts in any amount at any time, unless otherwise determined by the board.

(4) WITHDRAWAL VALUE OF A SAVINGS ACCOUNT. The withdrawal value of a savings account shall be the aggregate of deposits made therein and total earnings credited thereto, less withdrawals and depreciation charges.

(5) MAXIMUM OWNERSHIP OF SAVINGS ACCOUNTS BY ONE PERSON. The aggregate amount of the withdrawal value of savings accounts owned by one person in any association is unlimited, unless the board determines otherwise.

215.14 SAVINGS AND LOAN ASSOCIATIONS

3456

(6) FORFEITURE OF INACTIVE SAVINGS ACCOUNTS. When a savings account in an amount less than \$100 remains inactive by the failure of the saver to make any deposit therein for 3 years, the board may declare the savings account forfeited and the saver's right to participate in the distribution of earnings terminated. The withdrawal value of a savings account declared forfeited shall be set aside in a separate liability account by the association and held for the benefit of the owner of the savings account.

(7) CHARGES ON SAVINGS ACCOUNTS PROHIBITED. No admission, withdrawal or other fee may be charged any person for the privilege of opening, maintaining or withdrawing a savings account.

(8) NONASSESSABILITY OF SAVINGS ACCOUNTS. All savings accounts shall be nonassessable. No person may, in the person's capacity as a saver, be responsible for any losses incurred by the association beyond the loss of the withdrawal value of the person's savings accounts.

(9) SAVINGS ACCOUNTS ELIGIBLE INVESTMENT FOR TRUST FUNDS. An administrator, executor, personal representative, guardian, trustee or other fiduciary authorized to invest trust funds, may acquire, own or hold savings accounts in an association, within the limits of standards contained in s. 881.01, and shall have the same rights and be subject to the same obligations and limitations as other savings account owners, except the right to be an officer or director. Savings accounts owned or held by an administrator, executor, personal representative, guardian, trustee or other fiduciary shall specifically name the trust represented.

(10) VOTING RIGHTS OF JOINT SAVINGS ACCOUNTS. When a savings account in a mutual association is a multiple-party account under ch. 705, the right to vote such account shall be no greater than if the account were held by an individual.

(11) RIGHTS OF FIDUCIARIES. (a) In a mutual association a fiduciary shall have all rights and privileges of a saver except the right to hold office.

(b) In a capital stock association a fiduciary shall have all rights and privileges as other savers in the association.

(12) SAVINGS ACCOUNTS OF DECEASED OR INCOMPETENT PERSONS. The savings account of a deceased individual may be held and controlled by the administrator, executor, personal representative or trustee of the estate, or after 60 days after death, the legal representative may be paid the withdrawal value of such savings accounts. If the savings account is pledged to the

association for a loan, such loan shall first be fully repaid.

History: 1971 c. 41 s. 12; 1971 c. 229; 1971 c. 307 s. 118; 1973 c. 291; 1975 c. 359, 421.

215.15 Evidence of ownership of savings accounts. **(1) SAVINGS ACCOUNT PASSBOOKS AND CERTIFICATES.** The association shall issue to each saver such passbooks, certificates of savings account or deposit, or such other evidence of savings accounts as the commissioner authorizes. The form of such evidences of ownership shall be acceptable to the commissioner.

(2) VALIDATION OF PASSBOOKS AND CERTIFICATES. The board of directors may designate one or more persons to sign passbooks, certificates or other evidence of savings accounts. Facsimile signatures of designated signatures may be used when authorized by the board of directors.

(3) GENERAL. The procedure for transferring of savings accounts, and the replacing of lost or destroyed evidence of savings accounts, shall be prescribed by the commissioner.

History: 1975 c. 359

215.16 Distribution of earnings on savings accounts. **(1) WHEN DECLARED.** The board of directors shall make such transfers to its legal reserves, other required reserves, undivided profits or earned surplus, at such times and in such manner as the commissioner determines.

(2) WHEN DISTRIBUTED. Rates of earnings, including contractually fixed rates, shall be determined by the board of directors, and shall be distributed on savings accounts at such times and in such manner, all as may be prescribed by the commissioner. Earnings do not have to be distributed on savings accounts having a withdrawal value of \$10 or less.

(3) TO WHOM DISTRIBUTED. Except as otherwise provided in sub. (2) and ss. 215.14 (8), 215.17 (6), 215.18 (5) and 215.43 (6) (b), earnings may be paid or credited on savings accounts outstanding on the date when earnings may be distributed. The board of directors may, by resolution consider any partial or total withdrawal of any savings account, made during the last 3 business days of any earning distribution period, as having been made immediately after the close of such period.

(4) HOW DISTRIBUTED. Earnings on savings accounts may be credited thereon or paid in cash.

(5) DETERMINATION DATE. The board of directors may, by resolution so providing and while such resolution remains in effect, fix any date, up to and including the twentieth of the month, as the determination date for computing earnings distribution. All payments on savings

accounts, made on or before the determination date, shall receive earnings as of the first of the month. Any payments on savings accounts made after the determination date shall receive earnings as of the first of the subsequent month.

(6) EARNINGS ON WITHDRAWALS. The commissioner may authorize distribution of earnings on withdrawals between earning distribution dates. When so authorized by the commissioner, the board of directors of an association may by resolution authorize the distribution of earnings on withdrawals between earning distribution dates, but earnings on any amount so withdrawn may not be distributed for a greater portion of the earning distribution period than that during which such amount remained in the association.

(7) BONUS PLAN. (a) The commissioner may, with the approval of the review board, authorize and approve the distribution of a bonus, in addition to the regular earnings, on monthly payment or fixed balance savings accounts. Only such bonus plans as approved by the commissioner and the review board may be adopted by the board of directors of an association and made available to the persons owning or opening savings accounts in such association.

(b) The board of directors may, by resolution, abolish any or all bonus plans, but all existing bonus agreements shall be honored and carried out to completion.

(8) COMPUTATION OF EARNINGS DISTRIBUTION. The distribution of earnings shall be computed by uniform methods prescribed by the commissioner.

(9) LOSSES BEFORE DECLARATION AND DISTRIBUTION OF EARNINGS. If at the time of such earning distribution period the estimated or anticipated losses exceed the total amount of net worth, no earnings distribution shall be declared, paid or credited until such losses have been paid or fully provided for.

(10) EXCEPTION. Any savings and loan association in which the majority of aggregate savings accounts is owned by the employes of a public utility may credit and pay earnings at any time.

History: 1971 c. 229; 1973 c. 205; 1975 c. 359.

215.17 Withdrawal of savings accounts.

(1) WHEN PERMITTED. The association may pay withdrawals on its savings accounts at any time upon receipt of written withdrawal requests therefor, and may pay to the owners of such savings accounts the withdrawal value thereof, except in the case of savings accounts which specify a fixed renewal, maturity or withdrawal date, the association may require the advance notice therein required.

(2) WITHDRAWAL VALUE. The withdrawal value of savings accounts is as defined in s. 215.14 (4).

(3) WITHDRAWAL REQUESTS OF MEMBERS. (a) A saver may at any time file with the association a written withdrawal request for the partial or complete withdrawal of a savings account.

(b) In a mutual association a saver who has filed a written withdrawal request remains a member of the association until paid, and does not become a creditor of the association by reason of filing such a withdrawal request.

(4) PAYMENT OF WITHDRAWAL REQUESTS. Upon receipt of the written withdrawal requests, the association shall number and file same in the order received, and shall, either:

(a) Pay the saver the withdrawal value of the savings account, in part or in full as requested; or

(b) After 30 days from the receipt of such written withdrawal requests, apply at least one-third of the preceding month's receipts, consisting of payments on savings accounts and repayments of loans, to the withdrawal of such savings accounts in numerical order.

(c) If the request is for the withdrawal of more than \$1,000, the saver shall be paid \$1,000 in order when reached, and the withdrawal request shall be charged with such amount and shall be renumbered and placed at the end of the list of unpaid withdrawal requests. When the withdrawal request is reached again the saver shall be paid a like amount, but not exceeding the withdrawal value of the savings account. Until paid in full, the withdrawal request shall be so paid, renumbered and placed at the end of the list of unpaid withdrawal requests.

(d) When a written withdrawal request is reached for payment, a written notice shall be sent to the saver by registered mail at the last recorded address. Unless the saver applies in person or in writing for such withdrawal payment within 30 days from the mailing date of such notice, no payment shall be made and such withdrawal request shall be canceled.

(e) This subsection shall not apply to savings accounts when advance notice to the association for withdrawal is required until after the expiration of the advance notice period.

(5) WITHDRAWALS NOT EXCEEDING \$100. The board may pay withdrawals not exceeding \$100 of any one savings account of any one person in any one month in any order, regardless of whether such saver has filed a written withdrawal request.

(6) EARNINGS DISTRIBUTION ON UNPAID REQUESTS. Whenever written withdrawal requests for the withdrawal of savings accounts have been received by the association, said savings

215.17 SAVINGS AND LOAN ASSOCIATIONS

3458

accounts shall be without right to earnings distribution from the time the withdrawal request was received, except as follows:

(a) For the first earning distribution period after receipt of the withdrawal request, said savings account shall not be entitled to earnings distribution.

(b) For the second earnings distribution period after receipt of the withdrawal request, such savings account shall be entitled to one-half of the rate of earnings distribution declared on savings accounts on which no withdrawal requests were filed.

(c) For the third earning distribution period after receipt of the withdrawal request and thereafter, such savings accounts shall be entitled to the rate of earnings distribution on savings accounts on which no withdrawal requests were filed.

(d) Such earnings distribution as allowed under pars. (b) and (c) shall be paid or credited only on savings accounts on the books of the association on earning distribution dates. No earnings shall be paid or credited on withdrawals made between earning distribution dates.

(7) **PROFIT ON SAVINGS ACCOUNT PURCHASES; PENALTY.** Any officer, director or employe of any association who profits through the purchase of savings accounts of said association and the subsequent sale or exchange thereof, or the subsequent withdrawal or redemption of said savings accounts by the association, or is interested as a stockholder in any corporation or as a partner in any partnership which, through purchases and sales of savings accounts of an association of which an officer, director or employe, makes a profit, shall be deemed guilty of a misdemeanor and upon conviction may be fined not exceeding \$1,000 or imprisoned not more than one year and restitution of the profits shall be made to the association.

History: 1975 c. 359 ss. 25 to 27, 51; 1975 c. 421; 1979 c. 175 s. 53.

See note to 215.13, citing *Wis. Bankers Ass'n v. Mut. Savings & Loan*, 96 W (2d) 438, 291 NW (2d) 869 (1980).

215.18 Redemption of savings accounts.

(1) **WHEN PERMITTED.** At any time funds are on hand for the purpose, the association with prior approval of the commissioner may redeem by lot or otherwise as the board determines, all or part of its savings accounts on an earning distribution date, by giving 30 days' notice by registered or certified mail addressed to the holders at their last recorded address.

(2) **WHEN NOT PERMITTED.** No association may redeem any savings accounts when there is an impairment of savings accounts or when it

has written applications for withdrawal of savings accounts on file more than 30 days and not reached for payment.

(3) **REDEMPTION PRICE.** The redemption price of savings accounts shall be the withdrawal value or such amount in excess of the withdrawal value as determined by the board of directors.

(4) **BONUS PAYABLE AT REDEMPTION.** If a savings account which is redeemed is entitled to participate in a bonus, the amount of such accrued bonus participation shall be paid as part of the redemption price.

(5) **EARNINGS DISTRIBUTION CEASE AFTER NOTICE OF REDEMPTION.** If the notice of redemption has been given, and if on or before the redemption date the funds necessary for redemption are available therefor, earnings distribution upon the savings accounts called for redemption shall cease to accrue after the redemption date, and all rights with respect to such savings accounts, except the right of the saver to receive the redemption price without interest, shall terminate after such redemption date.

(6) **APPLICABILITY OF SECTION 215.17 (7).** Section 215.17 (7) also applies to the redemption of savings accounts.

History: 1975 c. 359.

215.19 Loans on savings accounts. (1)

An association may make loans on the security of its savings accounts.

(2) In no event shall a savings account loan exceed the withdrawal value of the savings account pledged as security therefor.

(3) Each savings account loan shall be evidenced by a savings account loan note and a pledge of the savings account books or savings account certificates securing said loan.

(4) The maximum interest rate charged on savings account loans shall be determined by the commissioner and the review board subject to the provisions of s. 215.13 (30).

(5) Any corporation, owning savings accounts in an association, and whose officers, directors or employes are officers, directors or employes of said association, may obtain a savings account loan on the security of said saving accounts.

History: 1975 c. 359.

215.20 Property improvement loans. (1)

For the purpose of this section, a property improvement loan means a loan, the proceeds of which are used to repair, modernize, alter, furnish, equip or improve the real estate or the structure upon it, or both. As used in this section, loans made for the purpose of furnishing

or equipping a structure shall be made to the owners thereof only.

(2) An association may make, buy, sell and hold property improvement loans to such persons, for such purposes, in such individual and aggregate amounts, and upon such terms as the commissioner by rule prescribes.

History: 1975 c. 359; 1977 c. 140.

Second mortgage constitutes equivalent security interest when held by savings and loan association which holds first mortgage, and there are no intervening liens. Sections 428.101, 428.106 (5), 227.014 (2) (a) discussed 63 Atty. Gen. 557.

215.205 Other loans and investments.

Subject to such rules as the commissioner prescribes, an association may make, buy, sell and hold the following loans and investments:

(1) Loans or obligations, or interests therein, for the purpose of mobile home financing.

(2) Housing project loans or interests therein, having the benefit of any guaranty under sec. 221 of the foreign assistance act of 1961, as now or hereafter in effect, or loans or interests therein, having the benefit of any guaranty under sec. 224 of such act, or any commitment or agreement with respect to such loans or interests therein, made pursuant to either of such sections.

(3) Loans or obligations or interests therein, which the association has the benefit of any guaranty under Title IV of the housing and urban development act of 1968, as now or hereafter in effect, or of a commitment or agreement therefor.

(4) Loans or interests in loans to financial institutions with respect to which the United States, or any agency or instrumentality thereof, has any function of examination or supervision, or to any broker or dealer registered with the securities and exchange commission, secured by loans, obligations or investments in which it has any statutory authority to invest directly, subject to such rules as the commissioner may issue.

(5) Notwithstanding any other statutory provision relating to investments in or ownership of real property, an association may invest in, or in interests in, real property located within urban renewal areas as defined in the national housing act of 1949 as now or hereafter in effect, and in obligations secured by first liens on real property so located.

(6) Loans to building contractors for the purpose of the development and construction of residential property.

History: 1975 c. 11.

215.21 Mortgage loans. (1) BASIC SECURITY REQUIRED. Subject to such additional limitations as the commissioner may prescribe associations may make loans on the security of:

(a) A mortgage on real estate owned by the borrower in fee simple if the aggregate value of the mortgage and any current balance of any mortgage, lien and encumbrances does not exceed the appraised value of the real estate; or

(b) Leasehold interests extending or renewable automatically for a period of at least 15 years beyond the maturity of the debt.

(2) **LENDING AREA.** Except for loans made under s. 45.79, the lending area of an association is limited to that area within a radius of 100 miles of the association's office.

(3) **MORTGAGE AND MORTGAGE NOTE.** Every mortgage loan shall be secured by a mortgage upon the real estate security and evidenced by a mortgage note.

(4) **PRIORITY OF ASSOCIATION'S MORTGAGES.** (a) All mortgages described in this section shall have priority over all liens, except tax and special assessment liens, upon the mortgage premises and the buildings and improvements thereon, which shall be filed subsequent to the recording of such mortgage.

(b) Any additional advance made to a borrower, where the mortgage and mortgage note provides for such additional advances, shall not exceed an amount specified in said mortgage.

(5) **MAXIMUM AMOUNT OF LOANS TO ONE BORROWER.** (a) The aggregate of loans that an association may make to any one borrower is subject to such limits as determined and prescribed by the commissioner and review board, but not exceeding 10% of the aggregate savings accounts or the net worth of the association, whichever is less.

(b) The aggregate of loans to any one borrower shall consist of any loans made directly to him and to any corporation of which he is an officer, director or shareholder.

(6) **MAXIMUM PERIODS OF LOAN AMORTIZATION.** (a) *Direct reduction mortgage loans.* The total monthly contractual payment on a direct reduction mortgage shall appear in the mortgage note. The commissioner shall by regulation establish the maximum terms for the various types of direct reduction mortgages. The interest charges on loans of this type may be adjusted monthly or semiannually in accordance with the terms of the mortgage note.

(b) *Straight mortgage loans.* An association may make mortgage loans without the amortization of principal.

(7) **TYPES OF REAL ESTATE SECURITY.** An association may make loans on the following types of real estate security as defined by the commissioner:

(a) Home type properties;

(b) Combination home-and-business type properties;

215.21 SAVINGS AND LOAN ASSOCIATIONS

3460

(c) Commercial type properties, the aggregate of which shall be fixed by the commissioner;

(d) Vacant lands, subject to the limitations under sub. (16) (a).

(8) INSURANCE COVERAGE OF MORTGAGED PREMISES. (a) The borrower shall cause the buildings and improvements on any property on which the association has a mortgage to be insured and kept insured, unless the association maintains insurance under par. (b), up to the full insurable value during the life of the loan, for the benefit of the association, against loss by fire, windstorm and such other hazards as the association requires. The selection of the insurance agent or insurer through which the insurance covering such property is to be negotiated shall be made in accordance with ss. 134.10 and 628.34 (5).

(b) The insurance policies or evidence or certificate of the existence of such insurance policies shall remain on deposit with the association until the loan is paid. An association which carries adequate insurance, issued by a company licensed to write insurance protecting the association from losses under par. (a) at no cost to the borrower if the borrower fails to maintain his insurance, shall not be required to request or record future insurance policies of the borrower if at the time of closing the mortgage transaction the borrower deposited with the association an acceptable policy or evidence or certificate of the existence of such an insurance policy, with a mortgage clause protecting the interest of the association.

(c) War damage insurance shall not be required unless the directors of the association, by resolution, demand that same be provided by the borrower.

(9) APPRAISALS BY APPROVED APPRAISERS; WHEN REQUIRED. (a) Appraisals of the real estate security shall be made by appraisers, approved by the commissioner, when:

1. The loan is for the purpose of acquiring, developing and improving vacant lands for primarily residential use;

2. The loan is for the purpose of enabling a builder of homes to purchase fully-improved lots;

3. The loan is secured by a commercial-type property;

4. The loan exceeds \$50,000;

5. Required by the commissioner.

(b) Nothing in this subsection shall be deemed to prohibit any association from using the services of appraisers, approved by the commissioner on all loans.

(10) ADDITIONAL COLLATERAL. (a) Any association may accept, as additional collateral to

its mortgage note, any other real estate, personal property or a policy of insurance on the life of any person who is a party to or responsible for the payment of the mortgage note. The association may be named beneficiary as well as absolute assignee of such life insurance and, to protect its interests therein, advance premiums thereon.

(b) Upon written request of any borrower, any association may accept as additional collateral a policy of health and accident insurance on the life of any person responsible for the repayment of the mortgage loan, and may, in the event of the borrower's inability to pay premiums thereon, advance said premiums. Any premiums so advanced shall be added to the unpaid balance of the mortgage loan and become a part of the mortgage indebtedness.

(11) PENALTY INTEREST; WHEN CHARGED. When the aggregate of principal payments made by a borrower during any 12-month period exceeds 20 per cent of the original amount of the loan, the association may charge 90 days interest on that part of prepayment which exceeds 20 per cent of said original amount, provided the mortgage note makes express provision therefor.

(12) INSURED OR GUARANTEED LOANS. An association may make mortgage loans insured or guaranteed wholly or in part under the national housing act approved June 27, 1934, or the servicemen's readjustment act of 1944, (P.L. 78-346). All mortgage loans made under this section shall be in accordance with federal law and regulations and ch. 219.

(13) PURCHASING OF LOANS. Except as otherwise prescribed in s. 215.13 (21), an association may purchase mortgage loans from any person, provided that the association could have made such loans in the first instance. The association may enter into an agreement with the seller of such mortgages to service the loans.

(14) SELLING LOANS. Except as otherwise prescribed in s. 215.13 (22) an association may sell mortgage loans, without recourse, to any person, and service such loans for the purchaser in accordance with a duly executed servicing agreement. The aggregate of loans sold in any calendar year shall not exceed such limits as may be set by the commissioner and review board.

(15) PARTICIPATION LOANS. Any association may participate with other lenders in mortgage loans of any type that such association may otherwise make, subject to such rules as the commissioner issues, including the interest in participation loans to be retained by the originator. The normal lending area, prescribed in sub.

(2), shall not apply to any association purchasing a participating interest in such loan, provided the real estate securing such loan is located within the United States.

(16) UNACCEPTABLE TYPES OF SECURITY.

(a) An association may not make a mortgage loan on the security of vacant land, except:

1. A loan made to develop or to acquire and develop land for primarily residential purposes may be secured by the land to be developed.

2. A loan made to a builder to construct residential property may be secured by a lot suitable for the construction of a home.

3. A loan made to acquire a building site for future construction of a personal residence may be secured by the building site.

4. A loan made to acquire land for use in connection with a farm operated for profit may be secured by that land.

(b) An association may not make a mortgage loan on the security of real estate in which an officer, director or employe of the association or his or her spouse has an interest. This paragraph does not apply to home-type property containing 4 dwelling units or less personally used by the borrower as a place of residence.

(c) Nothing in this section shall prevent any property from being pledged as additional collateral for a loan as long as the value of the unacceptable security is not used to determine the appraised value of the real estate security upon which the loan is based.

(17) PROHIBITED LOANS. (a) No association may directly or indirectly make a mortgage loan to an officer, director or employe of the association.

(b) Without the prior written approval of the commissioner, no association may directly or indirectly make a mortgage loan to:

1. A business venture employing an officer, director or employe of the association.

2. Such other persons as the commissioner may by rule designate to avoid conflicts between the best interests of the association and the interests of its officers, directors or employes.

(c) In this subsection "business venture" means any partnership, joint venture, corporation or similar entity.

(d) This subsection does not apply to loans made:

1. On the security of home-type property containing 4 dwelling units or less and used by the borrower as his or her residence; or

2. To a nonprofit, religious, charitable or fraternal organization or a corporation in which the association has been authorized to invest by the commissioner.

(18) BASIS OF APPRAISALS. All appraisals of real estate securing mortgage loans, whether

made by the association's appraisal committee or independent appraisers approved by the commissioner, shall be based on the reasonable market value thereof.

(19) REPAYMENT OF LOANS. A borrower may repay his loan at any time by giving 30 days' written notice of his intention to do so, subject to sub. (11).

(21) PENALTY FOR GIVING OR ACCEPTING MONEY FOR LOANS. Every officer, director, employe or agent of any association, or any appraiser making appraisals for any association, who accepts or receives, or offers or agrees to accept or receive any thing of value in consideration of its loaning any money to any person; or any person who offers, gives, presents or agrees to give or present any thing of value to any officer, director, employe or agent of any association or to any appraiser making appraisals for any association in consideration of its loaning money to the person, shall be fined not to exceed \$10,000 or imprisoned in the Wisconsin state prisons not to exceed 2 years or both. Nothing in this subsection prohibits an association from employing an officer, employe or agent to solicit mortgage loans and to pay the officer, employe or agent on a fee basis.

(23) FALSE STATEMENT IN LOAN APPLICATIONS; PENALTY. Any person who makes or causes to be made any false written statement to any state or federal savings and loan association for the purpose of obtaining a loan for himself or for another, with intent to mislead, or which may mislead the association, may be imprisoned for not more than 6 months or fined not to exceed \$1,000.

(24) BOARD MAY WAIVE PRINCIPAL PAYMENT ON LOANS. Any association, in the discretion of its board, may accept only payments of interest on the loan and taxes on the mortgaged premises, and may waive the principal payments for periods not exceeding one year at a time.

(25) LOANS DUE, WHEN. Whenever a borrower is in arrears in any contractual payments, whether principal, interest, taxes or insurance, the board of directors may call his whole loan due and payable as provided in the mortgage note.

(28) LOANS OUTSIDE THE LENDING AREA. Subject to the rules issued by the commissioner and without regard to the limitation set forth in sub. (2), an association may make or invest its funds in loans, originated and serviced by or through an institution, the accounts or deposits of which are insured by the federal savings and loan insurance corporation or the federal deposit insurance corporation or by or through an approved federal housing administration mortgage, in an aggregate amount not exceeding 10%

215.21 SAVINGS AND LOAN ASSOCIATIONS

3462

of such association's assets on the security of real estate or leasehold interests.

History: 1971 c. 222; 1973 c. 205, 208; 1975 c. 11, 359; 1975 c. 371 s. 50; 1975 c. 387; 1977 c. 58, 140; 1979 c. 250, 287.

Cross References: See 138 053 for interest adjustment clauses and 138 055 for variable rate contracts.

See 706.11 (1) for provision as to priority of mortgages to federal savings and loan associations and the department of veterans affairs.

The limitation on loans to one borrower is intended to protect the assets of the lender; a violation does not create a cause of action in favor of anyone else who claims that the excess loan damaged him. *McNeill v. Jacobson*, 55 W (2d) 254, 198 NW (2d) 611.

Where money is advanced in reliance upon justifiable expectation that lender will have security equivalent to that which its advances have discharged, equity will treat the transaction as tantamount to an assignment of the original security provided no innocent 3rd party will suffer. *Rock River Lumber v. Universal Mortg Corp*, 82 W (2d) 235, 262 NW (2d) 114.

Prepayment penalty on mortgage loan may be exacted only in conformity with (11). 66 Atty. Gen 91.

Adjustable interest rates in home mortgages: a reconsideration. 1975 WLR 742.

215.22 Real estate owned by association.

(1) A savings and loan association may acquire such real estate, by purchase, exchange or otherwise; as may be necessary to protect or enforce its securities and to collect claims or debts due the association.

(2) All real estate acquired pursuant to this section shall be sold within 10 years from acquiring title thereto, unless the commissioner grants extensions of time within which such real estate shall be sold.

(3) All real estate owned by the association shall be assessed for taxation.

History: 1975 c. 359.

215.23 Limitations on investments in office buildings and related facilities.

An association's aggregate investment in the following may not exceed the association's net worth without the prior written approval of the commissioner:

(1) Land used or intended to be used as the site of an office of the association.

(2) Buildings used in whole or in part as an office of the association.

(3) Leasehold improvements to properties rented or leased by the association for use as an office of the association.

(4) Parking facilities used by the association in connection with an office of the association.

History: 1973 c. 205; 1975 c. 59; 1975 c. 359 ss. 36, 51; 1979 c. 287.

215.24 Legal reserve. (1) CLOSING BOOKS.

Each association shall close its books at least once annually and at such other times as the commissioner may require. The date of the annual fiscal closing may, subject to the rules of the commissioner, be March 31, June 30, September 30 or December 31.

(2) **DISPOSITION OF NET INCOME.** Out of the net income of any period, whether such period is an interval of 3 months or 6 months, the board of directors shall make appropriate transfers to the legal reserve and other designated reserves, declare the earnings rate and transfer any remaining portion thereof to either the legal reserve, undivided profits or earned surplus.

(3) **PURPOSE OF LEGAL RESERVE.** The legal reserve is irrevocably established for the sole purpose of absorbing losses.

(4) **ESTABLISHMENT OF LEGAL RESERVE.** A certain amount, as determined by the commissioner and review board shall be transferred to the legal reserve at the close of each period. The commissioner and review board shall not require an amount in excess of 10% of the sum of the net income of the period plus the amount of earnings distributed during the period.

(5) **REQUIRED PERIODIC ADDITIONS TO LEGAL RESERVE.** (a) 1. Transfers to the legal reserve shall be made as provided in sub. (4) until the net worth reaches such level as is from time to time prescribed by the commissioner.

2. Whenever the net worth falls below the level prescribed by the commissioner, the legal reserve shall be replenished by either periodic additions under sub. (4) or such lesser amounts as may be necessary to attain the prescribed level.

(b) Associations, whose savings accounts are insured by the federal insurance corporation, and have elected to establish a federal insurance reserve in addition to the legal reserve, may make periodic additions as required in par. (a) to the federal insurance reserve. Any periodic addition so made to the federal insurance reserve is deemed in compliance with this section.

(c) Any association whose savings accounts are insured by the federal insurance corporation may, by proper resolution of the board of directors, designate its legal reserve as the federal insurance reserve.

(d) Any other requirements, now in force or which may be imposed by the federal insurance corporation upon associations whose savings accounts are insured by said corporation, concerning amounts transferred to the legal reserve, designated as the federal insurance reserve or to a separate federal insurance reserve, shall be complied with, provided such transfers to reserves meet the basic minimum requirement of par. (a).

History: 1973 c. 205; 1975 c. 359.

215.25 Fiscal year audits. (1) AUDIT REQUIREMENTS. Each association shall be audited at least once in each fiscal year by auditors and in a manner satisfactory to the commissioner in accordance with the policies established by the

commissioner. The auditors are to be designated by the board of directors and must be independent, certified public accountants certified in this state. In lieu of audits by independent, certified public accountants, the board of directors may request an audit of the books and accounts to be made by the commissioner to check the assets of the association and to determine losses, which request the commissioner may refuse. The commissioner may at any time make or cause to be made an audit of any association, with appraisals, when deemed advisable. Associations shall promptly file with the commissioner a copy of the report of each audit, other than audits made by the commissioner. The cost of any audit made pursuant to this section shall be paid by the association audited.

(2) BOARD ACTION UPON RECEIPT OF ANNUAL AUDIT REPORT. Upon receipt of the annual audit or examination report, the board shall either charge off all losses so reported or determine whether the amount in the legal reserve is sufficient to absorb said losses. If the amount in the legal reserve, other required reserves, undivided profits and the net income for the period is not sufficient to absorb the reported losses, then the amount, representing the excess of losses not absorbed or provided for by said reserves, shall be apportioned to each member according to the withdrawal value of his savings accounts.

History: 1973 c. 205.

215.26 Miscellaneous provisions. (1) ACTION AGAINST AN ASSOCIATION. No action may be brought under ch. 776 against any association organized under this chapter.

(2) RETALIATORY TAXES AND RESTRICTIONS. When the laws of any other state or territory impose any taxes, fines, penalties, licenses, fees, deposits, money, securities or other obligations or prohibitions on associations of this state doing business in such other state or territory or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions shall be imposed upon all associations of such other state or territory and their agents in this state.

(3) OBSOLETE RECORDS. Any association may destroy or dispose of such of its records as may become obsolete after first obtaining the written consent of the commissioner.

(4) REPRODUCTION AND DESTRUCTION OF RECORDS. (a) Any association may cause any or all records kept by such association to be recorded, copied or reproduced by any photostatic, photographic or miniature photographic process which correctly, accurately and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a

film or other durable material, and such association may thereafter dispose of the original record after first obtaining the written consent of the commissioner. This section, excepting the part of it which requires written consent of the commissioner, is applicable to federal associations insofar as it does not contravene federal law.

(b) Any photographic, photostatic or miniature photographic copy or reproduction or copy reproduced from a film record made from association records shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of any such photographic copy or reproduction or copy reproduced from a film record shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

(5) LEGAL HOLIDAYS. No association shall transact business or be open for the purpose of transacting business on Sundays. The commissioner shall designate such of the legal holidays listed in s. 757.17 as days on which no association may transact business or be open for the purpose of transacting business. For purposes of this subsection, operation of a remote service unit as defined in s. 215.13 (46) (a) 1 or an unstaffed facility does not constitute the transaction of business.

(6) AGENT OF SAVINGS AND LOAN ASSOCIATION. Any person who acts as the agent for any unauthorized savings and loan association in this state, or sells or disposes of any savings accounts, certificates, bonds or other evidences of indebtedness of or for any such unauthorized association, not licensed to transact business in this state, and any person who acts for any such unauthorized association or in any manner aids in the transaction of the business of such association in this state shall be guilty of a misdemeanor and be fined not less than \$100 nor more than \$500 for each offense, and shall be personally liable for any sums received by him for or on behalf of such unauthorized association.

(7) FEDERAL ASSOCIATIONS LOCATED IN WISCONSIN. Federal savings and loan associations which have their home offices located in Wisconsin, and are incorporated pursuant to the home owners' loan act of 1933, as now or hereafter amended, are not foreign corporations or associations. Unless federal law or regulations provide otherwise, such federal savings and loan associations and members thereof shall possess all of the rights, powers, privileges, benefits, immunities and exemptions that are now provided or that may be hereafter provided by

215.26 SAVINGS AND LOAN ASSOCIATIONS

3464

the laws of this state for associations organized under the laws of this state and for the members thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to such federal savings and loan associations and the members thereof.

(8) ACCESS TO BOOKS AND RECORDS. (a) Every person shall have the right to inspect those books and records of an association which pertain to the person's loan or savings account.

(b) Except as provided under par. (a), the right of inspection and examination of the books and records of an association is limited to:

1. The commissioner or duly authorized representatives.

2. Persons duly authorized to act for the association.

3. Any federal agency authorized to inspect and examine books and records of an insured association.

(c) The books and records of an association pertaining to savings accounts and loans shall be kept confidential by the association, its directors, officers and employes, and, unless otherwise authorized under this subsection, no other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of borrowers or savings account owners.

History: 1971 c. 229; 1973 c. 291; 1975 c. 359 s. 16; 1975 c. 421; 1977 c. 140; 1977 c. 187 s. 135; 1979 c. 32 s. 92 (6).

215.32 Possession by commissioner; involuntary liquidation. (1) CONDITIONS FOR TAKING POSSESSION.

The commissioner may, with the approval of the review board and after giving 10 days' notice to the board, take possession of the business and property of any association to which this chapter is applicable whenever he finds that such association:

(a) Is conducting its business contrary to law; or

(b) Has violated its charter or any law; or

(c) Is conducting its business in an unauthorized or unsafe manner; or

(d) Is in an unsound or unsafe condition to transact its business; or

(e) Has an impairment of its savings accounts; or

(f) Cannot with safety and expediency continue business; or

(g) Has suspended payment of its obligations; or

(h) Has failed to comply with an order of the commissioner; or

(i) Has refused to submit its books, papers, records or affairs for inspection; or

(j) Has refused to be examined upon oath regarding its affairs.

(2) PROCEDURE UPON TAKING POSSESSION. Upon taking possession of the business and property of any association, the commissioner shall forthwith:

(a) Serve written notice upon the president and secretary of the association, setting forth therein that he has taken possession and control of the business and property of said association. (Said notice shall be executed in duplicate, and immediately after it has been served, one notice shall be filed with the clerk of the circuit court of the county where said association is located, with proof of service.)

(b) Give notice to all persons known to the commissioner to be in possession of any assets of such association.

(3) EMPLOYMENT OF COUNSEL; RETENTION OF OFFICERS AND EMPLOYEES OF ASSOCIATION. The commissioner may employ necessary counsel and experts in such liquidation, and may retain such officers and employes of such association as he deems necessary.

(4) APPOINTMENT OF SPECIAL DEPUTY COMMISSIONERS. The commissioner may appoint special deputy commissioners as agents to assist in the liquidation and distribution of the assets of associations whose business and property the commissioner has taken possession of. A certificate of such appointment shall be filed in the office of the commissioner and a certified copy in the office of the clerk of the circuit court for the county in which such association is located.

(5) SURETY BONDS OF SPECIAL DEPUTY COMMISSIONERS AND ASSISTANTS. Special deputy commissioners and assistants shall furnish surety bonds in accordance with s. 215.11.

(6) DUTIES OF SPECIAL DEPUTY COMMISSIONERS. (a) *Notice, allowance and payment of claims.* The special deputy commissioner shall publish a class 3 notice, under ch. 985, calling on all persons who have claims against the association, to present the same to him and make proof thereof at a place and time, therein specified. He shall mail a similar notice to all persons, at their last known addresses, who appear as creditors upon the books of the association. Proof of service of such notice shall be filed with the clerk of said court. The special deputy commissioner may reject any claim. Any interested party may file written objections to any claim with the special deputy commissioner. After notice by registered mail of such rejection, the claim shall be barred unless he commences an action thereon within 3 months. Claims presented after the expiration of the time fixed in the notice to creditors shall be entitled to share in the distribution only to the extent of the assets then in the hands of the special deputy commissioner equitably applicable thereto.

(b) *Inventory of assets and statement of liabilities.* Upon taking possession, the special deputy commissioner shall make an inventory of the assets of the association, in duplicate, one to be filed in the office of the commissioner and one in the office of the clerk of such circuit court. Upon the expiration of the time fixed for the presentation of claims, the special deputy commissioner shall make in duplicate a complete list of the claims presented, specifying claims rejected by him, one to be filed in the office of the commissioner and one in the office of the clerk of such circuit court. The inventory of assets and a list of claims shall be open to inspection.

(c) *Execution of legal documents; borrowing of money.* Such special deputy commissioner may execute, acknowledge and deliver all deeds, assignments, releases or other instruments necessary and proper to effect any sale or transfer or incumbrance of the property and may borrow money for use in the liquidation after the same has been approved by the commissioner and an order obtained from the circuit court of the county in which said association is located as hereinafter provided.

(d) *Conservation of assets; collection of claims; sale of assets and performance of any other acts upon petition and order of the court.* Upon taking possession, the special deputy commissioner may do such necessary acts to conserve its assets and business, and shall proceed to liquidate its affairs. He shall collect all claims belonging to it, and upon a petition approved by the commissioner and upon order of the circuit court, may sell or compound all bad or doubtful claims, or do any act or execute any necessary instruments and upon like petition and order may sell the property of such association on such terms as the court approves. The special deputy commissioner may, if necessary, enforce individual liability of the members to pay the debts of the association.

(e) *Depositing of moneys in one or more state banks.* The moneys collected by the special deputy commissioner shall be deposited in state banks, and in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits.

(f) *Liquidating dividends.* At any time after the date fixed for the presentation of claims, the special deputy commissioner may, upon petition approved by the commissioner and an order of the circuit court, out of the funds remaining, after the payment of expenses and debts, declare liquidating dividends, and may declare a final liquidating dividend, such dividend to be paid to the persons, and in amounts as directed by the court.

(g) *Notice prior to order for final distribution.* Prior to the order for final distribution, the

special deputy commissioner shall publish, as a class 3 notice, under ch. 985, and give such further notice as the court may direct, calling on all persons who have claims against the association arising during the liquidation proceedings, to present same to him and make proof thereof at a place and time specified. Proof of such notice shall be filed with the clerk of the circuit court. The special deputy commissioner may accept or reject any claim. Any interested party may file written objection to any claim with the special deputy commissioner, and such claim shall be determined by the court after such notice to all interested parties as the court prescribes. In the event of the rejection of any claim without objection thereto having been filed, such claim shall be barred unless suit thereon is brought within 3 months after notice of such rejection, by registered mail, has been given to the claimant by the special deputy commissioner.

(h) *Transfer of residual assets to commissioner.* After the order for final distribution has been made, the special deputy commissioner shall, with the approval of the commissioner and the circuit court, having jurisdiction thereof, assign all assets, claims and demands that have been written off and considered worthless, and all unknown assets, to the commissioner, who may accept and hold such assets, claims and demands, with the power to compound, compromise, settle and assign the same and execute and deliver any legal instrument incidental thereto without court approval. Any moneys received therefrom shall be paid into the general fund of the state after the commissioner has deducted the cost of his services, attorney fees and other expenses incidental thereto.

(7) UNCLAIMED LIQUIDATING DIVIDENDS AND UNCLAIMED FUNDS. (a) 1. The special deputy commissioner shall deliver to the commissioner:

a. Any unclaimed liquidating dividends and all funds remaining in the hands of the special deputy commissioner at the date of the order for final distribution.

b. All final liquidating costs.

2. The commissioner shall deposit moneys delivered under subd. 1 in state banks or state-chartered savings and loan associations, to the credit of the commissioner in trust for the persons entitled thereto.

3. The commissioner shall include in the annual report to the governor:

a. The names of associations liquidated.

b. The sums of unclaimed and unpaid liquidating dividends and unclaimed funds with respect to each liquidated association.

c. A statement of interest earned upon such funds.

215.32 SAVINGS AND LOAN ASSOCIATIONS

3466

(c) The commissioner may:

1. Pay the moneys so held to the persons entitled thereto, upon being furnished satisfactory evidence of their right to the same.

2. In case of doubt or conflicting claims, require an order of the circuit court directing the payment.

3. Apply the interest earned by the moneys so held towards defraying the expenses in the payment and distribution of unclaimed liquidating dividends and funds to the persons entitled to the same.

(d) At the time of the order for final distribution, the commissioner may make application to the circuit court having jurisdiction for an order determining what books and records are to be kept or destroyed, stating in such application his recommendations thereon. The court shall by order determine what books and records are to be kept or destroyed and fix an appropriate time in either event. All books and records ordered kept shall be kept in a manner and place ordered, subject to the further order of the court. The expense of keeping records shall be paid before final distribution. All books and records ordered destroyed shall be delivered to the commissioner to be so destroyed or to be kept for such further time as the commissioner directs.

(8) TITLE PASSES TO COMMISSIONER. Upon filing the notice under sub. (2), the possession of all property of the association shall be deemed to be transferred from the association to the commissioner; and filing of the notice mentioned herein shall of itself vest the title to such property in the commissioner. Such filing shall bar any attachment, garnishment, execution or other legal proceedings against the association or its property.

(9) EFFECT OF POSSESSION. No association shall have a lien or charge for any payment, advance or clearance made or liability incurred, against any of the assets of the association after the commissioner has possession.

(10) ACTION TO ENJOIN PROCEEDINGS. Whenever any association whose property the commissioner has taken possession of deems itself aggrieved thereby, it may, within 10 days after such taking, apply to the circuit court of Dane county to enjoin further proceedings; and said court after citing the commissioner to show cause why further proceedings should not be enjoined and hearing all allegations and proofs of the parties and determining the facts, may enjoin the commissioner from further proceedings, and direct him to surrender such business and property to such association.

(11) COMPENSATION AND EXPENSES IN CONNECTION WITH LIQUIDATION. The compensation of the special deputy commissioners, counsel

and other employes and assistants and all expenses of supervision and liquidation shall be fixed by the commissioner, subject to the approval of the circuit court, and shall upon the certificate of the commissioner be paid out of the funds of the association. Such expenses include the cost of the service rendered by the commissioner to the association and shall be determined from time to time by him and shall be paid to the commissioner from the assets of the association.

(12) DEPRECIATION OF SAVINGS ACCOUNTS.

(a) The withdrawal value of all savings accounts shall be determined as prescribed by the commissioner under s. 215.55 (2) and (3) or 215.75 (2) and (3), or in such other manner as the commissioner prescribes.

(b) Upon the approval of such determined value by the commissioner and the circuit court, the withdrawal value of each savings account shall be depreciated proportionately. The commissioner shall give each member or saver at least 5 days' written notice of such determination of value and of the time and place such value of the savings accounts will be submitted to the circuit court for approval.

(c) Upon a determination of such value by the circuit court the commissioner shall notify each member, saver and creditor of the association of the court's determination. Such notice shall be mailed to each member, saver and creditor at the last known address.

(d) Should any member, saver or creditor feel aggrieved by such determination of value, such person may within 15 days after the mailing of the notice under par. (c), appeal to the court of appeals.

(e) After the creditors of the association have been paid, a saver may, with the approval of the commissioner, apply the savings account toward the purchase price of real estate or toward the payment of the saver's loans, taxes, insurance or any other item owing the association.

(13) REINSTATEMENT. Whenever the commissioner has taken possession of the business and property of any association, the association may resume business when:

(a) In the case of a mutual association, the owners of at least two-thirds of such association's dollar value aggregate of outstanding savings accounts or, in the case of a capital stock association, the owners of at least two-thirds of the association's outstanding shares, execute a petition to such effect, in the form prescribed by the commissioner;

(b) Such members, savers or stockholders, or a committee selected by them, submit to the commissioner a plan for the reorganization and reinstatement of the association;

(c) The commissioner recommends that control of the business and property of the association be returned to the directors; and

(d) The court in which such liquidation is pending, upon application of the commissioner, finds that the association will be in a safe and sound condition when control is resumed by the directors.

(14) REINSTATEMENT UPON A RESTRICTED BASIS. Such association may resume business upon a restricted basis, and upon limitations and conditions prescribed by the commissioner when approved by the circuit court, upon application of the commissioner. Such restrictions and conditions may include a prohibition against the acceptance of payments on new savings accounts, reasonable restrictions upon withdrawals of savings accounts and the payment of other liabilities. Such associations shall thereupon be relieved from the control of the commissioner.

(15) PROCEDURE UPON TAKING POSSESSION OF ASSOCIATION WHOSE SAVINGS ACCOUNTS ARE INSURED BY FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION. (a) The commissioner may, if he takes possession of any association, the savings accounts of which are to any extent insured by the federal savings and loan insurance corporation, tender to said corporation the appointment as statutory liquidator of such association. If he does not make such tender, he shall tender to said corporation the appointment as statutory co-liquidator to act jointly with the commissioner, but such co-liquidatorship shall not be for more than one year from the date of such tender, at the expiration of which time the commissioner shall become the sole liquidator except as herein otherwise provided. The commissioner shall tender to said corporation the appointment as sole statutory liquidator of such association whenever said corporation has become subrogated to the rights of 90 per cent of the liability of such association on savings accounts. If the corporation becomes subrogated as to all the savings accounts in such association, it may then exercise all the powers and privileges herein conferred upon it without court approval.

(b) If the corporation accepts the appointment as sole liquidator it shall possess all the powers and privileges of the commissioner as statutory liquidator of a possessed savings and loan association, and be subject to all the duties of the commissioner as sole liquidator, except insofar as such powers and privileges or duties are in conflict with federal laws, and except as herein otherwise provided, unless such association resumes business, pursuant to subs. (13) and (14). If the corporation accepts the appointment as co-liquidator, it shall possess such

powers and privileges jointly with the commissioner and shall be subject to such duties jointly with said commissioner.

(c) In the event the corporation accepts the appointment as co-liquidator or liquidator, it shall file such acceptance with the commissioner and the clerk of the circuit court and it may act without bond. Upon the filing by the corporation of its acceptance of the appointment as sole liquidator, the possession of and title to all the assets, business and property of the association shall vest in the corporation without the execution of any conveyance, assignments, transfer or indorsement. Upon the filing by the corporation of its acceptance of the appointment as co-liquidator, such possession and title shall be vested in the commissioner and the corporation jointly. If the corporation does not qualify as sole liquidator at or before the time herein provided for the expiration of the co-liquidatorship, the corporation shall be wholly divested of and from such joint title and possession and the sole title and possession shall thereupon vest in the commissioner. The vesting of title and possession of the property of the association, under sub. (8), shall not render such property subject to any claims or demands against the federal corporation, except such as may be incurred by it with respect to such association and its property. Whether or not it serves as aforesaid, the corporation may make loans on the security of or may purchase with the approval of the court, except as herein otherwise provided, all or any part of the assets of any association, the savings accounts of which are to any extent insured by it, but in the event of such purchase, the corporation shall pay a reasonable price.

(d) Whether or not the corporation serves as liquidator, whenever it pays or makes available for payment the savings accounts of any such association in liquidation which are insured by it, it shall be subrogated upon the surrender and transfer to it of such savings accounts, with respect thereto, but such surrender and transfer shall not affect any right which the transferor has in such savings accounts which are not paid or made available for payment or any right to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association; provided, that the rights of the investors and creditors of such association shall be determined in accordance with the applicable laws of the state.

History: 1975 c. 359, 421; 1977 c. 187 s. 134

Cross Reference: See Chap. 177 for disposition of unclaimed funds.

215.33 Foreign associations. (1) DOING BUSINESS IN THIS STATE. A foreign association is

215.33 SAVINGS AND LOAN ASSOCIATIONS

3468

"doing business" in this state if it accepts funds for deposit in this state, takes loan applications in this state in the regular course of business, or otherwise engages in any activity which would, if engaged in by a domestic association or corporation, require it to be chartered under the laws of this state as a savings and loan association. However, a foreign association is not considered to be doing business in this state solely because it does one or more of the following:

(a) Makes a mortgage loan in this state, purchases a loan secured by real property located in this state, or otherwise acquires an interest in real property located in this state.

(b) Holds or disposes of any interest in real property located in this state.

(c) Pursues its rights or remedies in this state as the owner or real estate or under the terms of a real estate mortgage or similar security interest.

(d) Advertises in this state.

(2) LIMITATIONS ON THE ACTIVITIES OF FOREIGN ASSOCIATION. The activities in which a foreign association may engage in this state are limited to those in which an association chartered by this state may engage, and are subject to the laws of this state to the same extent as those activities of an association chartered by this state. No foreign association may do business in this state without a certificate of authority issued under this section.

(3) CERTIFICATE OF AUTHORITY TO DO BUSINESS. (a) *Application fee and contents.* Each application by a foreign association for a certificate of authority to do business in this state shall be accompanied by a \$500 application fee payable to the office and shall contain:

1. A certified copy of the association's current articles of incorporation and bylaws, or other similar governing documents.

2. The name and address of an individual in this state who will serve as the association's agent under sub. (5).

3. Satisfactory evidence that the association is in good standing with the authorities responsible for its supervision in the jurisdiction in which it is organized.

4. If the accounts of the association are insured, satisfactory evidence that the insurance is in force.

5. Such other information as the commissioner may require.

(b) *Approval of applications.* Upon receipt of a completed application and the required fee, the commissioner may issue a certificate of authority. The certificate of authority may be subject to specific conditions that the commissioner believes necessary to adequately safeguard the interests of the residents of this state.

A certificate of authority to do business in this state shall not be issued unless:

1. The association is in sound financial condition and entitled to public confidence, and the commissioner is satisfied that the association will conduct its business in this state in accordance with the laws of this state.

2. The accounts of the association are insured by the federal savings and loan insurance corporation or any other insurer acceptable to the commissioner, or that adequate and sufficient securities have been deposited with the state treasurer to assure that the association will meet its obligations to the residents of this state.

(c) *Revocation.* The commissioner may revoke a certificate of authority issued under this section if:

1. The association fails to conduct its business in this state in accordance with the laws of this state.

2. The association refuses to permit the commissioner to conduct a complete examination of the association, or fails to pay applicable costs or fees.

3. The commissioner determines that the association is in an unsafe condition or that its continued operation in this state is otherwise inconsistent with the best interests of the residents of this state.

(4) EXAMINATION OF FOREIGN ASSOCIATIONS. Each foreign association doing business in this state shall be examined by the commissioner as provided under s. 215.03, and shall be assessed fees and costs as provided under s. 215.02 (16), together with any out-of-state travel expenses incurred in the course of the examination. However, the commissioner may accept as all or part of the examination, all or any part of an examination made on behalf of the agency responsible for the supervision of the foreign association in the jurisdiction in which the association is organized.

(5) DESIGNATION OF REGISTERED AGENT. Each foreign association doing business in this state shall maintain on file with the commissioner the name and address of an individual in this state who is authorized to receive legal process on behalf of the association. The commissioner shall maintain a current record of each individual so designated. The record of the commissioner shall be conclusive evidence of the authority of the person whose name appears therein to receive process on behalf of the association.

(6) RECIPROCITY. If the laws of another jurisdiction prohibit an insured association chartered by this state from doing business in that jurisdiction, no association organized under the laws of that jurisdiction may be authorized

to do business in this state. If the laws of another jurisdiction require the posting of securities or impose other additional requirements as a condition of permitting an association chartered by this state to do business in that jurisdiction, the commissioner may impose similar requirements on an association organized under the laws of that jurisdiction before issuing the association a certificate of authority to do business in this state.

History: 1975 c. 56; 1979 c. 287.

SUBCHAPTER II

MUTUAL SAVINGS AND LOAN ASSOCIATIONS; ORGANIZATION AND MANAGEMENT

215.40 Incorporation of a mutual savings and loan association.

(1) **USE OF NAME.** (a) A corporation organized under this subchapter shall be known as a mutual savings and loan association. The words "savings and loan association" or "savings association" shall form part of the name of every mutual association so organized.

(b) No corporation other than a corporation organized under this subchapter or subch. III may use a name embodying those words. No association may adopt a name identical to that of any other association or so similar to an existing association name as to be misleading.

(2) **MINIMUM MEMBERSHIP AND SAVINGS ACCOUNTS.** The commissioner shall determine:

(a) The minimum number of persons required to organize a mutual savings and loan association in any locality.

(b) The aggregate minimum amount of savings accounts to be paid into the association by persons subscribing for savings accounts.

(c) The length of time for which the incorporators shall guarantee or pay the association's operating expenses.

(d) Such other requirements as the commissioner deems necessary or desirable.

(3) **WHO MAY ORGANIZE.** Adult citizens of this state, hereinafter referred to as incorporators, desiring to organize a mutual association under this section shall make application to the commissioner as prescribed on forms furnished by the commissioner.

(4) **APPLICATION TO ORGANIZE A MUTUAL ASSOCIATION.** The application to organize a mutual association shall be in duplicate and shall set forth:

(a) The name of the proposed association.

(b) The location of the proposed association.

(c) The full name, residence and occupation of each incorporator.

(d) The need of an association in the locality in which the proposed association intends to locate.

(e) Such other information as the commissioner requires.

(5) **APPLICATION FEE.** The applicants shall pay to the commissioner \$200 to defray the cost of investigation, which sum shall be paid by him into the general fund to the credit of the office.

(6) **EXPENSE FUND.** (a) Along with the application, the incorporators shall file an agreement with the commissioner that, in addition to their initial savings account subscriptions, they will create an expense fund in an amount not less than one-half of the total minimum required amount of savings accounts. The purpose of the expense fund shall be to take care of organization expenses, operating deficits, mandatory reserve requirements, earnings distributions on savings accounts and losses.

(b) This expense fund shall become a part of the assets of the proposed association if the commissioner approves the application and will be reflected on the books as a liability under the caption "Subsidy by incorporators."

(c) Whenever the income of any period is insufficient to pay expenses, provide the necessary additions to reserves or pay a competitive rate of earnings, appropriate charges shall be made to this liability account.

(d) At the end of 3 years of corporate existence, the board of directors may petition the commissioner for authority to repay the incorporators on a proportional basis, any unused portion remaining in the subsidy by directors. If the commissioner determines that the operations of the association at that point are of such degree as to enable the association to operate as an independent institution, requiring no further subsidy, the commissioner may authorize such repayment.

(e) At the end of the fourth year, and each year thereafter, the board of directors of the association may petition the commissioner for authority to pay out of current income of any period to the incorporators on a proportional basis, the amount remaining after payment of expenses, provision for taxes, required transfers to reserves, and the provision for distribution of earnings as a recovery of previous charges made to the subsidy by incorporators. The commissioner shall have discretionary authority to approve or deny such petition for recovery payments. In no event shall refunds of this type exceed the total of the charges made to the subsidy by incorporators.

(f) The contributions made to the expense fund shall be noninterest bearing.

215.40 SAVINGS AND LOAN ASSOCIATIONS

3470

(7) NOTICE OF APPLICATIONS; HEARINGS.

(a) Within 30 days after receiving a completed application the commissioner shall furnish a notice of application to the applicant and to each association authorized to operate an office within 4 miles of the proposed office if the office is to be located in Milwaukee county, or 20 miles of the proposed office if located elsewhere. The notice shall describe the location and nature of the proposed office and shall solicit written comments on the application. If a hearing on the application has been scheduled the notice shall also indicate the time and place of the hearing. If not, the notice shall notify interested persons of their right to request a hearing under par. (b) 2. The applicant shall publish the notice of application as a class 3 notice under ch. 985 in the city, town or village where the office is to be located and shall provide the commissioner with proof of its publication.

(b) The commissioner shall conduct a public hearing on the application if any of the following occur:

1. The applicant requests a hearing at the time of filing;

2. Within 3 days after publication of the notice of application any person planning to participate in a hearing on the application files with the commissioner a request for hearing; or

3. The commissioner determines that a hearing will be necessary or useful.

(c) If a hearing date was not indicated in the notice of application and a hearing is subsequently required, the commissioner shall give written notice of the time and place of the hearing to the applicant and to anyone who has requested a hearing, not later than 10 days in advance of the scheduled hearing.

(8) CERTIFICATION OF AUTHORITY, WHEN ISSUED. If the application is approved, the commissioner shall issue to the incorporators a certificate of authority to effect a temporary organization, consisting of a chairman, a secretary and a treasurer; to execute and file articles of incorporation; to adopt and file bylaws; to adopt rules for the procedure of the incorporators; to conduct the first meeting of members; and to open subscription books for savings accounts.

(9) POWERS OF INCORPORATORS. The incorporators shall, until the completion of the organization, exercise such other powers as are conferred upon the incorporators of other corporations so far as such powers are not in conflict with this chapter.

(10) SURETY BOND OF OFFICERS. The incorporators shall require a surety bond in a suitable amount from the treasurer and other officers

who may handle funds of the temporary organization.

(11) CERTIFICATE OF AUTHORITY, WHEN VOIDED. The certificate of authority shall be void after 90 days from its date, but the commissioner may for cause, after a hearing, extend the life of such certificate for such time as he deems advisable.

(12) COMPENSATION FOR ORGANIZING PROHIBITED. (a) No person may directly or indirectly receive or contract to receive any commission, salary, compensation, bonus, rights or privileges for organizing the association, or for securing a subscription for the original savings accounts of the association.

(b) This subsection does not prohibit an attorney from receiving reasonable compensation for legal services in connection therewith, after the association has been granted a certificate of incorporation.

(c) Whoever violates this subsection shall forfeit to the state \$1,000 for each violation, and in addition double the amount of the violator's commission, salary, compensation or bonus.

(13) CERTIFICATE OF COMPLIANCE. (a) Within the time prescribed in sub. (11), the incorporators shall file with the commissioner a certificate stating:

1. That articles of incorporation have been executed, filed with the commissioner and approved by him, and recorded; and

2. That the first meeting of members was held and that directors and officers were elected at such meeting; and

3. That bylaws were adopted at the first meeting of members, filed with the commissioner and approved by him; and

4. That the minimum number of required savers was obtained, and that said savers, in the aggregate, paid to the association the required initial amount of savings accounts; and

5. That funds, representing the initial amount of savings accounts, have been deposited in the association's designated depository bank; and

6. That the incorporators, in accordance with the requirement of sub. (6), paid to the association the moneys for an expense fund; and

7. That the moneys, representing the expense fund, have been deposited in the association's designated depository bank; and

8. That ground floor, independent office quarters have been obtained for the proposed association; and

9. That necessary action has been taken to obtain membership in the federal home loan bank, and insurance of savings accounts from the federal savings and loan insurance corporation.

(b) No business, other than that of completing the organization of the proposed association, may be transacted until such time as the commissioner issues a certificate of incorporation to the association to commence business.

(14) **CERTIFICATE OF INCORPORATION, WHEN ISSUED.** Upon receipt of the certificate of compliance from the incorporators, the commissioner may within 30 days issue a certificate of incorporation to the association under his hand and seal authorizing said association to commence business. The date appearing on the certificate of incorporation shall be the date of the corporate existence of the association.

(15) **FEE FOR CERTIFICATE OF INCORPORATION.** The incorporators shall pay to the commissioner a fee of \$50 for the certificate of incorporation, which sum shall be paid by him into the general fund to the credit of the office.

(16) **CERTIFICATE OF INCORPORATION, WHEN VOIDED.** Any association failing to commence business within one year from the date of the certificate of incorporation shall have its corporate existence terminated, and its articles of incorporation and certificate of incorporation shall be void.

(17) **DISCRETIONARY AUTHORITY.** The commissioner shall have discretionary power in the granting of certificates of authority to incorporators desiring to organize such associations. He may also refuse to issue certificates of incorporation to the incorporators to commence business when, in his opinion, the incorporators or any of them are not of such character and general fitness as to warrant belief that the association will be conducted for the best interest of its members; the location of the association is so close to an existing association that its business might be interfered with and the support of the new association would not be such as to assure its success; or when other good and sufficient reasons exist for such refusal.

(18) **APPEAL BY APPLICANTS AFTER BEING DENIED CERTIFICATE OF AUTHORITY.** If the commissioner refuses to grant a certificate of authority to organize an association, and the applicants feel aggrieved thereby, they may appeal to the review board to review the commissioner's determination under s. 215.04 (1) (d) and (4).

History: 1971 c. 229; 1975 c. 359 s. 10; 1975 c. 421; 1977 c. 140; 1979 c. 110 ss. 35, 60 (11).

215.41 Articles of incorporation for mutual associations. (1) **FORM AND CONTENT.** The articles of incorporation of a mutual association shall be in such form and contain such information as is determined by the commissioner with the approval of the review board.

(2) **FILING AND APPROVAL.** Duplicate originals of the articles of incorporation executed by

the incorporators, and any subsequent amendments thereto adopted by the members of the association, shall be filed with the commissioner and approved by him.

(3) **RECORDING.** Upon their approval by the commissioner, articles of incorporation and amendments thereto shall be recorded in the office of the register of deeds of the county in which the home office of the association is located.

(4) **AMENDMENT PROCEDURE.** Amendments to the articles of incorporation may be made at any annual or special meeting of the members duly called for that purpose, provided that a statement of the nature of the proposed amendment is included in the notice of meeting. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the total eligible votes thereon, pursuant to s. 215.43 (5).

(5) **EFFECTIVE DATE.** The effective date of articles of incorporation and amendments thereto shall be the date when left for record in the office of the register of deeds. The register of deeds shall forward a certificate of recording to the commissioner.

History: 1975 c. 359 s. 8; 1979 c. 287

215.42 Bylaws of mutual associations.

(1) **FORM AND CONTENT.** The bylaws of a mutual association shall be in such form and contain such information as the commissioner determines with the approval of the review board.

(2) **FILINGS AND APPROVAL.** Duplicate originals of the bylaws and any subsequent amendments thereto shall be filed with the commissioner and approved by him.

(3) **EFFECTIVE DATE.** The effective date of bylaws and amendments thereto shall be the date when approved by the commissioner.

(4) **BYLAWS AVAILABLE TO MEMBERS.** Each association shall have its bylaws prepared in convenient form and upon request shall furnish a copy to any member.

(5) **AMENDMENTS TO BYLAWS.** The bylaws of the association may be amended as prescribed therein.

History: 1975 c. 359 s. 9.

215.43 Members and voting rights in a mutual association. (1) **WHO MAY BECOME A MEMBER.** Any person, firm, corporation, fiduciary, association or federal agency may become a member of any mutual association by applying in writing for membership therein and by either the owning of a savings account in or by borrowing money from such association.

215.43 SAVINGS AND LOAN ASSOCIATIONS

3472

(2) **MAXIMUM OWNERSHIP OF SAVINGS ACCOUNTS.** Unless the board of directors determines otherwise, the aggregate amount of the withdrawal value of any member's savings account or savings accounts shall be unlimited.

(3) **OWNERSHIP OF SAVINGS ACCOUNTS BY MINORS.** With respect to any account created before July 1, 1975:

(a) Minors under 14 years of age may own savings accounts held by a trustee or guardian.

(b) Minors above the age of 14 years may own savings accounts, and shall then be subject to the same duties and liabilities as adult members. Payment for the withdrawal of savings accounts may, in the discretion of the board, be made to such minor, the parents or guardian, and the payments made on such withdrawals shall be valid, as well as payments on forfeited savings accounts or redeemed savings accounts.

(4) **MEETINGS OF MEMBERS.** Annual and special meetings of members shall be held in accordance with the method prescribed in the bylaws.

(5) **VOTING RIGHTS.** (a) Each saver in a mutual association shall have one vote for each \$100 or fraction thereof of the withdrawal value of the saver's savings accounts as they appear on the books of the association at the end of the 10th day preceding the date of the meeting at which the vote is taken. Each member as a borrower or obligor, shall have the number of votes to which entitled as an owner of a savings account.

(b) At any meeting of members, voting may be in person or by proxy. Every proxy shall be in writing and signed by the member or his duly authorized attorney in fact.

(c) If a member appears at a meeting, his proxy shall be void for that meeting.

(d) Any proxy, when filed with the secretary, shall, unless otherwise specified in the proxy, continue in force from year to year until revoked by a written notice delivered to the secretary or until superseded by subsequent proxies.

(6) **TERMINATION OF MEMBERSHIP.** (a) Any member who has filed a written request for the withdrawal of his savings account under s. 215.17 shall remain a member and be subject to and shall have all rights, privileges, duties as such, until the withdrawal value of such savings accounts has been paid to him.

(b) When any member's savings account, in the amount of less than \$100, remains inactive by the failure of said member to make any payments thereon for 3 years, the board may declare his membership forfeited and all his rights, privileges and duties, including the right to vote and to participate in the distribution of earnings, terminated. The withdrawal value of a

savings account declared forfeited shall be set aside in a separate liability account by the association and held for the benefit of such individual.

(7) **MEMBERSHIP CHARGES PROHIBITED.** No membership, admission, withdrawal or any other fee or sum shall be charged for the privilege of becoming, remaining or ceasing to be a member of the association.

History: 1971 c. 229; 1973 c. 291; 1975 c. 359 ss. 13, 47; 1975 c. 421; 1977 c. 140.

215.50 Directors of a mutual association.

(1) **MANAGEMENT RESPONSIBILITY.** The government and management of a mutual association shall be vested in a board of directors, who are charged with the responsibility of compliance with this chapter, orders of the commissioner, rules of the commissioner promulgated under ch. 227, the articles of incorporation and bylaws of the association, and other laws applicable to savings and loan operations.

(2) **QUALIFICATIONS OF DIRECTORS AND COMPOSITION OF THE BOARD.** (a) To qualify as a director of a mutual association, a member must have a savings account in the association, the withdrawal value of which is at least \$500. A director automatically ceases to be a director when the withdrawal value of his or her savings account is less than \$500.

(b) At least two-thirds of the directors shall reside in this state.

(3) **NUMBER OF DIRECTORS.** The board of directors shall consist of such number as designated in the bylaws.

(4) **ELECTION OF DIRECTORS.** The directors shall be elected by the members in accordance with the bylaws.

(5) **VACANCY ON BOARD OF DIRECTORS.** Any vacancy on the board of directors may be filled by the majority vote of the remaining directors in accordance with the bylaws.

(6) **OATH OF DIRECTORS.** Upon election, every director shall take and subscribe an oath that the director will diligently and honestly perform the duties of such office and will not knowingly violate or willingly permit to be violated this chapter, any rule of the commissioner, the articles of incorporation or bylaws under which the association operates, or any other law applicable to savings and loan operations.

(7) **DIRECTORS TO FIX COMPENSATION.** The compensation of officers, directors, employes and committee members shall be fixed by a majority vote of the board of directors in accordance with the bylaws. In addition, the board of directors may, by resolution, create a fund or join a pension system or enter into deferred compensation agreements for the retirement of its officers and employes, subject to specific,

prior approval of the commissioner and the review board.

(8) MAY ESTABLISH EXECUTIVE COMMITTEE. The board of directors may appoint and remove, by resolution, an executive committee, the members of which shall be directors, and which committee shall have the power of the board when not in session.

(9) MEETINGS OF THE BOARD OF DIRECTORS. The board of directors shall hold regular or special meetings in accordance with the bylaws.

(10) PROMULGATION OF RULES. The board of directors, may by resolution, adopt rules and regulations for the conduct of business, provided that they are consistent with this chapter, the rules of the commissioner, and the association's articles of incorporation and bylaws.

(11) REMOVAL OF OFFICERS OR DIRECTORS. The board of directors may remove from office any officer or director, after an opportunity afforded him for being heard, who violates this chapter, the rules of the commissioner, the articles of incorporation, the bylaws, orders of the commissioner or any other law applicable to savings and loan operations.

(12) DETERMINATION OF INTEREST RATES. The board of directors shall fix and determine the interest rate to be charged on all loans, provided such rates of interest conform to the general range of interest rates approved by the commissioner, but such rates of interest may not exceed the rates permitted by ch. 422 where applicable.

History: 1971 c. 229, 239; 1975 c. 11, 199; 1975 c. 357 ss 17, 19; 1975 c. 421, 422.

215.51 Officers of a mutual association.

(1) GENERAL OFFICERS. (a) The general officers of a mutual association shall be:

1. A president;
2. One or more vice presidents;
3. A secretary;
4. A treasurer; and
5. Such other officers as the directors by resolution designate.

(b) The president shall also be a director.

(2) WHEN ELECTED. Immediately following each annual meeting of members, the directors shall convene and elect general officers for the ensuing year, in accordance with the bylaws.

(3) DUTIES OF OFFICERS. The officers shall, in addition to the duties and functions prescribed in the articles of incorporation and the bylaws, perform such other duties as are delegated by the directors.

(4) FILLING VACANCIES. Whenever any vacancy occurs in any general office, the directors shall, as soon as practicable, fill such vacancy by an election for the then unexpired term.

(5) REMOVAL OF OFFICERS. Sections 215.02 (10) (a) and 215.50 (11) shall apply to the removal of officers of an association.

History: 1975 c. 359 ss. 20, 51.

215.52 General operation of a mutual association. The general operations of a mutual savings and loan association shall comply with this subchapter and the applicable provisions of subch. I.

History: 1975 c. 359

215.53 Absorption of other mutual association. **(1) CONDITIONS PRECEDENT.** With the commissioner's consent and subject to such conditions as the commissioner may prescribe, mutual associations organized and operating under this chapter may, by an affirmative vote of at least two-thirds of the board of each association, absorb or be absorbed by each other. The absorbed association shall transfer its assets and liabilities to the absorbing association but not to defeat or defraud creditors.

(2) EFFECT OF ABSORPTION. All the rights, franchises and property interests of the absorbed association shall be deemed to be transferred to the absorbing association, which shall hold and enjoy same and all rights of property, franchises and interest in the same manner and to the same extent as was held and enjoyed by the absorbed association; and the members of such absorbed association shall be members of the absorbing association and possess and be subject to all rights, privileges and duties as provided in the bylaws of the absorbing association.

(3) WITHDRAWAL REQUESTS OF OWNERS OF SAVINGS ACCOUNTS OF ABSORBED ASSOCIATION. Any saver in an absorbed association, who intends to file a written withdrawal request for savings accounts within one year after the date of approval of such absorption by the commissioner, may do so by giving 90 days' written notice of such intention, and the savings accounts shall be withdrawn as provided in s. 215.17. Any person who has filed such written withdrawal request shall remain a member and be subject to all rights, privileges and duties under this chapter and the bylaws and the rules and regulations of the absorbing association, until the withdrawal value of the savings accounts has been paid to the person.

History: 1971 c. 229; 1975 c. 359 s. 38; 1975 c. 421.

215.54 Consolidation with other mutual association. **(1) CONDITIONS PRECEDENT.** With the approval of the commissioner and subject to such conditions as the commissioner prescribes, mutual associations organized and operating under this chapter may consolidate.

To effect consolidation, the board of each association shall by resolution propose the consolidation. The consolidation must be approved by an affirmative vote of the owners of a majority of the dollar value of the savings accounts outstanding of each mutual association, at a meeting called by the boards and held at least 30 days after a notice of the time, place and purpose of the meeting has been sent by mail to each member of record to the last-known post office address.

(2) **EFFECT OF CONSOLIDATION.** Consolidating associations shall report to each other their respective assets and liabilities, and all rights, franchises and property of each association shall be deemed to be transferred to the consolidated association, which shall hold and enjoy the same and all rights of property, franchises and interest in the same manner and to the same extent as was held and enjoyed by the consolidating association; and the members of such consolidating association shall be members of such consolidated association and possess and be subject to all rights, privileges and duties as provided in the bylaws of the consolidated association.

(3) **WITHDRAWAL REQUESTS OF SAVERS IN CONSOLIDATING ASSOCIATIONS.** Any saver in the consolidating association, who intends to file a written withdrawal request for savings accounts within one year after the date of approval of the consolidation of the association, may do so by giving 90 days' written notice of such intention, and the savings accounts shall be withdrawn as provided in s. 215.17. Any person who has filed such written withdrawal request shall remain a member and be subject to all rights, privileges and duties under this chapter and the bylaws and rules and regulations of such consolidated association, until the withdrawal value of the savings accounts has been paid to the person.

History: 1971 c. 229; 1975 c. 359 s. 39; 1975 c. 421.

215.55 Mutual associations operating under restrictions imposed by the commissioner.

(1) **LOSSES IN EXCESS OF TWO-THIRDS OF NET WORTH; CESSATION OF EARNINGS DISTRIBUTION; REDEMPTION AND WITHDRAWAL OF SAVINGS ACCOUNTS.** Whenever the commissioner finds that the losses existing, or which may reasonably be anticipated in the near future, exceed two-thirds of the net worth of a mutual association, the commissioner may with the approval of the review board order that no further earnings be distributed on savings accounts and no moneys paid out for the redemption and withdrawal of savings accounts, until the commissioner orders otherwise.

(2) **IMPAIRMENT OF SAVINGS ACCOUNTS; APPOINTMENT OF APPRAISERS; APPRAISAL; AND DETERMINATION OF LOSSES.** (a) If it appears to the

commissioner that the savings accounts of any mutual association are impaired, or may in the near future become impaired, the commissioner may, with the approval of the review board, order the directors to forthwith appoint, subject to the commissioner's approval, 3 competent persons who are not affiliated with the association, who shall appraise such property owned by the association, or upon which such association has mortgage loans or judgments, as the commissioner designates.

(b) The appraisers shall fix the reasonable value of all such property and report their findings to the commissioner and the directors.

(c) The value as so found shall be the value from which all losses shall be determined.

(3) **DEPRECIATION OF SAVINGS ACCOUNTS AFTER DETERMINATION OF LOSSES.** After the commissioner has determined the losses existing or which he determines may reasonably be sustained in the near future, he shall order the withdrawal value of each savings account depreciated as stated in such order, and the officers shall forthwith depreciate the withdrawal value of all savings accounts as ordered. A record shall be made on the books showing the amount by which the withdrawal value of the savings account was depreciated, and a copy of such record shall be filed with the commissioner.

(4) **NOTICE OF DEPRECIATION TO OWNERS OF SAVINGS ACCOUNTS.** The board shall give notice by mail to each saver that the withdrawal value of the savings account has been depreciated. The notice shall indicate the date when such depreciation was charged and the withdrawal value of the savings account after such depreciation. The mailing of such notice to the last known address of the saver as last shown on the records of the association shall be deemed compliance with this subsection.

(5) **LOANS ON DEPRECIATED SAVINGS ACCOUNTS.** The board may, with the approval of the commissioner and upon such terms as the commissioner may order, make savings account loans to owners of savings accounts on the depreciated withdrawal value of such savings accounts. Such savings account loans shall be for provident purposes only, and not more than \$100 may be loaned to any one saver in any one month.

(6) **OPERATIONS SUBJECT TO COMMISSIONER'S APPROVAL.** Without the prior approval of the commissioner, the board of an association operating under this section may not:

(a) Make disbursements or contract to make disbursements for salaries, compensation, fees or any other expense.

(b) Pay withdrawals or redeem savings accounts.

(c) Declare a distribution of earnings on savings accounts.

(7) POWERS OF DIRECTORS. The board may, with the approval of the commissioner, sell, lease, transfer, exchange and convey any of the property of the association, and upon their order the proper officers shall execute and deliver necessary deeds, leases, assignments, bills of sale, transfers and conveyances.

(8) COMPROMISE SETTLEMENT OF CLAIMS, DEMANDS AND JUDGMENTS. The board may compromise and settle any claims, demands or judgments which are a part of the assets of the association, upon express consent of the commissioner.

(9) RULES TO BE PRESCRIBED BY THE COMMISSIONER. The commissioner shall prescribe reasonable rules not inconsistent with laws for the operation of associations under this section.

(10) OTHER PROVISIONS APPLICABLE. Except as otherwise provided in this section, such association shall be operated as provided in this chapter.

History: 1975 c. 359 ss 42, 44; 1975 c. 421

215.56 Voluntary liquidation of a mutual association. **(1) PROCEDURE FOR VOLUNTARY LIQUIDATION.** (a) A mutual association may go into liquidation by a majority vote of the dollar value of the outstanding savings accounts at a members' meeting held especially for that purpose, after 30 days' notice to each saver.

(b) When an association has voted to liquidate, the board shall cause notice of this fact to be:

1. Certified to the commissioner under the seal of the association by its president and secretary;

2. Published as a class 3 notice, under ch. 985, in each county in which an office of the association is located, calling on all persons who have claims against the association to present them to the association and make proof thereof at a specified place and time; and

3. Mailed to all persons who appear as creditors on its books.

(2) PERIOD OF LIQUIDATION. A mutual association so liquidating shall dispose of all its assets within 10 years from the date of liquidation, unless the commissioner orders otherwise.

(3) STATUS OF BOARD OF DIRECTORS. The board shall remain a body corporate until the association is fully liquidated.

(4) FILLING VACANCIES ON BOARD OF DIRECTORS. In case of a vacancy on the board, the remaining directors may fill the vacancy by electing a director from the association's savers.

(5) APPLICABILITY OF OTHER SECTIONS. Any association so liquidating shall be subject to ss. 215.02 (16) and 215.03 the same as an association in actual operation.

(6) RESUMPTION OF BUSINESS. Any mutual association in liquidation may with the approval of the commissioner resume business upon conditions approved by the commissioner.

(7) OPTIONAL ADOPTION OF PLAN PROVIDED IN SECTION 215.55. A mutual association liquidating under this section may adopt the plan provided in s. 215.55 in the following manner:

(a) Upon filing with the commissioner a petition, in the form prescribed by the commissioner and signed by members owning at least 60% of the dollar value of the outstanding savings accounts, in which petition such members agree to the reinstatement of such association upon the plan provided in s. 215.55, the commissioner shall order a special meeting of the members.

(b) There shall be submitted at such special meeting a resolution, in the form prescribed by the commissioner, rescinding the former action placing such association into voluntary liquidation. The resolution shall be adopted if the vote in its favor is at least equal to that which adopted the resolution placing such association into voluntary liquidation. If, in addition to the foregoing resolution, the members, by a majority vote of the dollar value of savings accounts outstanding, adopt a further resolution, the form of which has first been approved by the commissioner, providing that the association be operated as provided in s. 215.55, the association will be deemed to be reinstated.

(c) Upon such reinstatement the members shall fill all vacancies on the board. The board shall forthwith appoint the appraisers as provided in s. 215.55 (2) and operate the association as provided therein. Voting by proxy shall be permitted at all meetings of members as provided in s. 215.43 (5), but proxies may be voted only by members who are owners of savings accounts.

(8) DISPOSITION OF FUNDS. (a) Unclaimed liquidating dividends and all funds remaining unpaid in the hands of the association or its board of directors at or immediately prior to the date of final distribution, together with all final liquidating costs, shall be delivered by them to the commissioner to be deposited by him in one or more state banks or state-chartered savings and loan associations, to the credit of the commissioner in his name, in trust for the various members and creditors entitled thereto. The commissioner shall include in his annual report to the governor the names of the associations so

215.56 SAVINGS AND LOAN ASSOCIATIONS

3476

liquidated and the sums of unclaimed and unpaid liquidating dividends and unclaimed funds with respect to each of them respectively, including a statement of interest or dividends earned upon such funds.

(b) The commissioner may:

1. Pay the moneys so held to the persons respectively entitled thereto, upon being furnished satisfactory evidence of their right to the same.

2. In case of doubt or conflicting claims, require an order of the circuit court authorizing and directing the payment of such moneys.

3. Apply the interest and dividends earned by the moneys so held toward defraying the expenses of the office.

(9) RESERVED AUTHORITY OF COMMISSIONER. This section shall not prohibit the commissioner from proceeding against any association as provided in s. 215.32.

History: 1971 c. 164; 1975 c. 359 s. 45; 1975 c. 421

Cross Reference: See Chap. 177 for disposition of unclaimed funds.

215.57 Jurisdictional conversion of mutual associations. (1) PROCEDURE TO EFFECT CONVERSION. A state-chartered mutual association may convert itself into a federal association, and any federal mutual association may convert itself into a state-chartered association, as follows:

(a) A meeting of the members shall be held upon not less than 10 days' written notice to each member, served either personally or by mail, directed to him at his last known post-office address, stating the time, place and purpose of such meeting.

(b) At such meeting, by the affirmative vote, in person or by proxy, of not less than two-thirds of the dollar value of savings accounts of the association the members may by resolution declare to convert such association into a federal association or into a state-chartered association. A copy of the minutes of such meeting, verified by the affidavit of the chairman and the secretary of the meeting, shall be filed in the office of the commissioner within 10 days after the meeting.

(c) If the members vote to convert the association, the secretary shall, within 30 days after such meeting, serve notice on all members, either personally or by mail directed to them at their last known post office addresses. Within 30 days after service of the notice, any saver in the association may notify the association in writing that the saver desires to withdraw savings accounts. Each saver so notifying the association shall be entitled to the withdrawal value of the savings accounts, less any amount due the association.

(d) 1. Within 6 months after the adjournment of a meeting to convert into a federal association, the association shall do what is necessary to make it a federal association. Within 10 days after the receipt of the federal charter, the association shall file with the commissioner a copy of the federal charter certified by the federal home loan bank board. Upon such filing the association shall cease to be a state-chartered association and shall thereafter be a federal association.

2. Within 6 months after the adjournment of a meeting of the members of a federal mutual association called for the purpose of converting the association into a state-chartered association, the commissioner shall examine such association and shall determine the action necessary to qualify the converting federal mutual association for a state charter. Upon complying with the necessary requirements, a state charter shall be issued to such association.

(2) WHEN STATE SUPERVISION CEASES. When conversion from a state-chartered mutual association to a federal association becomes effective, the association shall cease to be supervised by this state.

(3) CORPORATE EXISTENCE OF ASSOCIATION DOES NOT TERMINATE UPON CONVERSION. Upon the conversion of any state-chartered mutual association into a federal association or vice versa, the corporate existence of the converting association shall not terminate, and the resulting association shall be a continuance of the converting association. All of the property and rights of the converted association shall by operation of law vest in the resulting association as of the time of the conversion, and all of its obligations become those of the resulting association. Actions and other judicial proceedings to which the converting association is a party may be prosecuted and defended as if the conversion had not been made.

(4) COMMISSIONER'S APPROVAL REQUIRED BEFORE CONVERSION BECOMES EFFECTIVE. Before any such conversion of any association shall be final and in effect, the written approval of the commissioner must be secured by such association.

History: 1975 c. 359 s. 41; 1975 c. 421.

Conversion from a federal to a state chartered association did not render moot action to set aside resolution of federal home loan bank board authorizing establishment of branch office. *Elm Grove Sav. & L. Ass'n v. Federal Home Loan Bk. Bd* 391 F Supp 1041.

215.58 Organizational conversion of mutual association into capital stock association. (1) CONVERSION INTO STOCK ASSOCIATION. Any state-chartered mutual association may convert into a capital stock association as provided under this subsection.

(a) The board shall, by resolution, adopt a plan of conversion in accordance with this section and the rules and other requirements of the commissioner. The plan of conversion shall include:

1. The record date or dates approved by the commissioner, for determining the rights of persons under the plan of conversion.

2. A copy of the proposed restated articles of incorporation.

3. A certification that:

a. Each owner of a savings account in the mutual association will become the owner of a savings account of equal amount in the capital stock savings and loan association and will not suffer any loss of earnings distribution thereon because of such conversion.

b. As applying to the initial issue, the amount of any capital stock or scrip to which a saver is initially entitled to receive or purchase be calculated on the basis of the ratio of the saver's savings accounts with the association to the aggregate of savings accounts of the association on a date or dates acceptable to the commissioner. The calculation herein prescribed may be adjusted by applying a time weight factor approved by the commissioner, if more than one date is used in computing the amount of capital stock to which a savings account owner is entitled to receive or purchase.

4. A statement indicating:

a. Whether any capital stock will be issued in addition to the initial issue under subd. 3.

b. The anticipated price of such additional stock.

c. The time in which savers may elect to purchase any such additional stock, if such a right is offered.

d. The manner in which those shares of additional capital stock offered to savers will be disposed of.

5. Such other information in regard to the plan of conversion that the commissioner may require.

(b) Upon the commissioner's approval of the proposed plan of conversion, the board shall call a meeting of members to vote on the proposed conversion to a capital stock association. Notice of such meeting shall be sent to each member at least 10 days prior to such meeting. The notice shall state the time, place and purpose of the meeting and shall set forth the plan of conversion approved by the commissioner and such other information as the commissioner requires.

(c) At the meeting called under par. (b) a vote shall be taken on the proposed plan of conversion, including the proposed restated articles of incorporation. The plan of conversion may not be adopted unless approved by the affirmative vote of members, in person or by

proxy, owning a majority of the dollar amount of the aggregate of savings accounts of the association.

(d) Within 10 days after a meeting of members at which a plan of conversion is adopted, the board shall submit to the commissioner:

1. A copy of the minutes of the meeting adopting the plan. The minutes shall be certified by the secretary or president, and shall show that, by an affirmative vote as required under par. (c), the members voted to convert the association to a capital stock association and adopted the restated articles of incorporation.

2. Such additional information pertaining to the plan of conversion as the commissioner may require.

(2) APPROVAL BY THE COMMISSIONER; CERTIFICATE OF AUTHORITY. Upon being satisfied that the plan of conversion and restated articles of incorporation were adopted in accordance with sub. (1) and the rules and guidelines promulgated thereunder, the commissioner shall issue to the association a certificate of authority authorizing the association to implement its plan of conversion, subject to such conditions as the commissioner may impose.

(3) CONVERSION PROCEEDINGS. Upon receiving a certificate of authority under sub. (2) the association shall proceed to put into effect the plan of conversion.

(4) CERTIFICATE OF CONVERSION; EFFECTIVE DATE. Upon receiving satisfactory evidence that the plan of conversion and any conditions of the certificate of authority have been complied with, the commissioner shall issue the association a certificate of conversion from a mutual association to a capital stock association, whereupon the association shall record the certificate of conversion and its restated articles of incorporation. The date of recording shall be the date of conversion.

(5) RETENTION OF DIRECTORS. The directors of the converted mutual association shall continue to serve as directors of the capital stock association for duration of the term to which they were elected, provided they meet the qualification requirements under s. 215.70 (2).

(6) CONTINUATION OF CORPORATE EXISTENCE AFTER CONVERSION; ASSUMPTION OF PRIVILEGES AND OBLIGATIONS. (a) Upon conversion of a mutual association, the legal existence of the association shall not terminate. The stock association shall be a continuation of the mutual association, and all property of the mutual association and every right, privilege, interest and asset of every conceivable value or benefit then existing or pertaining to it, or which would inure to it, shall immediately, without any conveyance, transfer or further act, remain and

vest in the stock association. The stock association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the mutual association.

(b) Upon such conversion, the stock association shall continue to have and succeed to all the rights, obligations and relations of the mutual association. No pending action or judicial proceeding to which the mutual association is a party shall not be abated or discontinued by reason of the conversion. Such an action or proceeding may be prosecuted to final judgment, order or decree in the same manner as if the conversion had not been made, and the stock association resulting from the conversion may continue the action in its corporate name as a mutual association. Any judgment, order or decree may be rendered for or against the stock association which might have been rendered for or against the mutual association theretofore involved in the proceedings.

(7) RESERVED AUTHORITY OF COMMISSIONER. The commissioner may issue rules governing the conversion of mutual associations, including:

- (a) Procedural rules.
- (b) The fixing of a record date or dates for determining the respective rights of owners of savings accounts.
- (c) Provisions of the plan of conversion and the restated articles of incorporation.
- (d) Voting rights.
- (e) The composition, qualification and experience of principal officers and directors.
- (f) Voting trust agreements.
- (g) Employment contracts.
- (h) The disposition, if any, of general reserves and undivided profits.
- (i) The distribution, issuance, sale and subscription of capital stock and paid-in surplus.
- (j) Such other requirements for converting a mutual association to a capital stock association as deemed necessary.

(8) COMMISSIONER'S DISAPPROVAL OF CONVERSION; GROUNDS. The commissioner may refuse to approve the plan of conversion or may decline to issue a certificate of conversion or to approve the restated articles of incorporation, if the commissioner has reason to believe that:

- (a) The plan of conversion is not fair and equitable to all savers in the converting association; or
- (b) The plan does not sufficiently protect the interest of depositors and owners of savings accounts of the prospective capital stock association.

History: 1975 c. 359, 421.

SUBCHAPTER III

CAPITAL STOCK SAVINGS AND LOAN ASSOCIATIONS; ORGANIZATION AND MANAGEMENT

215.60 Incorporation of a capital stock savings and loan association. (1) USE OF NAME.

(a) A corporation organized under this subchapter shall be known as a capital stock association. The words "savings and loan association" or "savings association" shall form part of the name of every capital stock association so organized.

(b) No corporation other than a corporation organized under this subchapter or subch. II may use a name embodying those words. No association may adopt a name identical to that of any other association or so similar to an existing association name as to be misleading.

(2) MINIMUM REQUIREMENTS. The commissioner by rule shall determine:

- (a) The minimum number of stockholders required to organize a capital stock association in any locality.
- (b) The minimum amount of capital stock and paid-in surplus.
- (c) The minimum number of subscribers for savings accounts.
- (d) The minimum aggregate amount of savings accounts to be paid by said subscribers for savings accounts.
- (e) Such other requirements as the commissioner deems necessary or desirable.

(3) WHO MAY ORGANIZE. Adult citizens of this state, hereinafter referred to as incorporators, desiring to organize a capital stock association under this section shall make application to the commissioner on forms furnished by the commissioner.

(4) APPLICATION TO ORGANIZE. The application to organize a capital stock association shall set forth:

- (a) The name of the proposed association.
- (b) The location of the proposed association.
- (c) The name, residence and occupation of each incorporator.
- (d) The amount of initial capital stock and paid-in surplus.
- (e) The amount of initial savings accounts.
- (f) The need for an association in the locality in which the proposed association intends to locate.
- (g) The name and addresses of the initial directors.
- (h) Such other information as the commissioner requires.

(5) APPLICATION FEE. The incorporators shall pay to the commissioner a \$500 fee, which sum shall be paid by him into the general fund to

the credit of the office. Applicants shall also be liable for any other direct costs incurred by the commissioner or review board for any transcripts of hearings, per diems and travel expenses.

(6) NOTICE OF APPLICATION AND HEARING THEREON. Upon receipt of a properly executed application, the commissioner shall, within 30 days, assign a date and place for hearing on the application and notice thereof shall be given as provided in s. 215.40 (7).

(7) CERTIFICATE OF AUTHORITY; WHEN ISSUED. If the application to organize a capital stock association is approved, the commissioner shall issue to the incorporators a certificate of authority to effect a temporary organization, consisting of a chairman, a secretary and a treasurer; to adopt articles of incorporation; to adopt bylaws; to adopt rules for the procedure of the incorporators; to conduct meetings; and to open subscription books for the sale of capital stock and also open subscription books for savings accounts.

(8) POWERS OF INCORPORATORS. Until completion of its organization, incorporators of a stock association may exercise such other powers as are conferred upon the incorporators of other corporations, if such powers are not in conflict with this chapter.

(9) SURETY BONDS OF OFFICERS. The incorporators of a capital stock association shall provide a surety bond in a suitable amount from the treasurer and other officers who may handle funds of the temporary organization.

(10) CERTIFICATE OF AUTHORITY, WHEN VOIDED. The certificate of authority as described in sub. (7) shall be void after 180 days from its date, but the commissioner may, for cause, extend the life of the certificate for such time as he deems advisable.

(11) CERTIFICATE OF COMPLIANCE (a). Within the time prescribed in sub. (10), the incorporators of the proposed capital stock association shall file with the commissioner a certificate stating:

1. That articles of incorporation have been executed, filed with the commissioner and approved by him and recorded;

2. That a meeting of stockholders was held and that directors and officers acceptable to the commissioner were elected at the meeting;

3. That bylaws were adopted, filed with the commissioner and approved by him;

4. That the minimum number of required stockholders subscribing for capital stock was obtained, and that such stockholders, in the aggregate, paid to the association the required minimum amount of capital stock and paid-in surplus;

5. That the funds, representing the initial sale of capital stock and paid-in surplus, have been deposited in the association's designated depository bank;

6. That the required minimum number of subscribers for savings accounts was obtained, and that such subscribers, in the aggregate, paid to the association the required minimum amount of savings accounts;

7. That the funds representing the payments on savings account subscriptions have been deposited in the association's designated depository bank;

8. That ground floor, independent office quarters have been obtained for the proposed association;

9. That insurance of savings accounts has been obtained from the federal savings and loan insurance corporation; and

10. That a competent person, fully conversant with savings and loan laws and regulations, has been engaged to handle the affairs of the proposed association.

(b) No business, other than that of completing the organization of the proposed capital stock association, may be transacted until such time as the commissioner issues a certificate of incorporation to the association to commence business.

(12) CERTIFICATE OF INCORPORATION, WHEN ISSUED. Upon receipt of the certificate of compliance from the incorporators, described in sub. (11), and after all fees have been paid, the commissioner may within 90 days issue a certificate of incorporation to the association under his hand and seal authorizing such association to commence business. The date appearing on the certificate of incorporation shall be the date of the corporate existence of the association.

(13) CERTIFICATE OF INCORPORATION, WHEN VOIDED. Any capital stock association failing to commence business within 6 months from the date of the certificate of incorporation shall have its corporate existence terminated, and its articles of incorporation and certificate of incorporation shall be voided, but the commissioner may for cause, extend the life of such certificate for such time as he deems advisable.

(14) DISCRETIONARY AUTHORITY OF COMMISSIONER. The commissioner shall have the discretionary power in the granting of certificates of authority to incorporators desiring to organize capital stock associations. He may refuse to issue certificates of incorporation to the incorporators of a capital stock association to commence business when, in his opinion, the incorporators or any of them are not of such character and general fitness as to warrant belief that the association will be conducted for

215.60 SAVINGS AND LOAN ASSOCIATIONS

3480

the best interests of the public; the location of the proposed association is so close to an existing association that undue harm might result, or the support of the new association might not be such as to assure its success; or when other good and sufficient reasons exist for such refusal.

(15) APPEAL BY APPLICANTS. If the commissioner refuses to grant a certificate of authority or a certificate of incorporation and the applicants feel aggrieved thereby, they may appeal to the review board to review the commissioner's determination.

(16) APPLICABILITY OF CHAPTER 180. The provisions of ch. 180 not in conflict with this chapter shall apply to all capital stock associations.

History: 1971 c. 229; 1975 c. 359 ss. 11, 30; 1975 c. 421.

215.61 Articles of incorporation for capital stock associations. (1) FORM AND CONTENT. The articles of incorporation of a capital stock association shall be in such form and contain such information as is determined by the commissioner with the approval of the review board.

(2) FILING AND APPROVAL. Duplicate originals of the articles of incorporation executed by the incorporators, and any subsequent amendments thereto adopted by the stockholders of the association, shall be filed with and approved by the commissioner.

(3) RECORDING. Upon their approval by the commissioner, articles of incorporation and amendments thereto shall be recorded in the office of the register of deeds of the county in which the association is located.

(4) AMENDMENT PROCEDURE. Amendments to the articles of incorporation may be made at any annual or special meeting of the stockholders duly called for that purpose, provided that a statement of the nature of the proposed amendment is included in the notice of the meeting. The proposed amendment shall be adopted upon receiving the affirmative vote of a majority of the eligible votes thereon, pursuant to s. 215.63.

(5) EFFECTIVE DATE. The effective date of the articles of incorporation and amendments thereto shall be the date when left for record in the office of register of deeds. The register of deeds shall forward a certificate of recording to the commissioner.

History: 1975 c. 359, 421; 1979 c. 287.

215.62 Bylaws of stock associations. (1) FORM AND CONTENT. The bylaws of a stock association shall be in such form and contain such information as the commissioner determines with the approval of the review board.

(2) FILING AND APPROVAL. Duplicate originals of the bylaws and amendments thereto shall be filed with and approved by the commissioner.

(3) EFFECTIVE DATE. The effective date of bylaws and subsequent amendments thereto shall be the date on which such bylaws or amendments are approved by the commissioner.

(4) BYLAWS AVAILABLE TO STOCKHOLDERS. Each stock association shall have its bylaws in convenient form and upon request shall furnish a copy to any stockholder.

(5) AMENDMENT TO BYLAWS. The bylaws of the association may be amended as prescribed in the association's bylaws or articles of incorporation.

History: 1975 c. 359, 421.

215.63 Voting rights in a stock association. (1) NUMBER OF VOTES. Each stockholder of a stock savings and loan association shall have one vote for each share of capital stock owned by the stockholder.

(2) PROXIES. (a) At any meeting of stockholders, voting may be in person or by proxy.

(b) Each proxy shall be in writing and signed by the stockholder or a duly authorized attorney in fact. If a stockholder appears at a meeting, the proxy shall be void for that meeting.

(c) No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy.

History: 1975 c. 359, 421.

215.64 Stock control of association by holding companies. (1) (a) In this section, a savings and loan holding company includes any person, corporation, partnership, trust, joint stock company, association, state or federal savings and loan association or state or national bank, which owns, holds or in any manner controls, directly or indirectly, 10% of the stock in a savings and loan association.

(b) A savings and loan holding company shall be deemed to be engaged in the savings and loan business and shall be subject to the supervision and control of the office of the commissioner. Such savings and loan holding company shall file reports of its financial condition when requested by the commissioner, and the commissioner may order an examination of its solvency and economic condition whenever, in his opinion, an examination is required. The cost of the examination shall be paid by the savings and loan holding company. Whenever in the opinion of the commissioner, the condition of the savings and loan holding company shall endanger the safety of the savings capital of any savings and loan association which it owns or in any manner controls, or the operation of such savings and loan holding company shall be carried on in a

manner which endangers the safety of such savings and loan association or its savers, or is contrary to the public interest, the commissioner may order the savings and loan holding company to remedy such condition or policy within 90 days. If the commissioner's order is not complied with, he shall have the power to fully direct the operation of such savings and loan association or savings and loan holding company until the order is complied with, and may withhold all dividends from the institution whose operation he directs during the period in which he exercises such authority.

(2) Subsection (1) shall apply to any foreign corporation, association, investment trust, or other form of trust which shall be authorized to do business in Wisconsin.

(3) All of the foregoing provisions of this section relating to companies shall apply equally to all other forms of organization, whether so specifically stated or not, but nothing contained in this section shall be construed to prohibit any trust company bank, or state or national bank, authorized to administer or execute trusts, to accept and carry out the provisions of any personal trust, or any trust created by will where the owner of savings and loan association stock shall create a trust for his own benefit during his lifetime, or shall provide by will a trust in savings and loan association stock for the benefit of his heirs, and trusts so created shall not be deemed to come within the provisions of this section.

History: 1971 c. 229; 1975 c. 359 s. 40.

215.65 Capital stock of a stock association. (1) PAR VALUE OF SHARES OF CAPITAL STOCK. The par value of each share of capital stock of a stock association shall be fixed by the incorporators or directors of the association.

(2) RATIO OF NET WORTH TO SAVINGS ACCOUNTS. The minimum ratio of net worth to assets and savings accounts and the mix of those items comprising net worth may be specified by the commissioner.

(3) SALE OF ADDITIONAL SHARES OF CAPITAL STOCK. Notwithstanding s. 215.60 (2), a stock association may not be required to sell any additional capital stock, unless it fails to meet those minimum standards specified by the commissioner under sub. (2).

(4) PREEMPTIVE RIGHTS OF STOCKHOLDERS. Any preemptive right of a stockholder may be limited or denied to the extent provided in the articles of incorporation.

(5) CAPITAL STOCK IS NOT EXEMPT FROM REGISTRATION. Capital stock of a stock association is subject to registration under ch. 551.

History: 1975 c. 359.

215.66 Paid-in surplus of a stock association. (1) HOW ESTABLISHED. Upon the issuance of shares of capital stock, other than those shares issued to effect a conversion from a mutual association to a stock association, an association shall allocate to a paid-in surplus account such portion of the amount received from the issuance of the shares as the commissioner shall direct.

(2) PURPOSE. A stock association may use any portion of its paid-in surplus:

(a) To meet any part of its operating expenses or required allocations to its legal reserve and federal insurance reserve.

(b) For distribution of earnings on savings accounts.

(c) For such other purposes as the commissioner may authorize.

History: 1975 c. 359.

215.67 Earned surplus; dividends on capital stock. (1) EARNED SURPLUS. The board of a stock association may by resolution transfer to earned surplus all or any part of the residual net income of any period, after paying all expenses, including distribution of earnings on savings accounts, and after making allocations to general reserves.

(2) DIVIDENDS ON CAPITAL STOCK. (a) Subject to the rules of the commissioner, the board of a stock association may declare and pay dividends out of earned surplus.

(b) Dividends may be paid in stock or in cash.

History: 1975 c. 359.

215.70 Directors of a stock association.

(1) MANAGEMENT RESPONSIBILITY. The management of a stock association shall be vested in a board of directors, who are charged with the responsibility of complying with this chapter, orders of the commissioner, rules of the commissioner promulgated under ch. 227, the articles of incorporation and bylaws of the association, and other laws applicable to savings and loan operations.

(2) QUALIFICATIONS OF DIRECTORS AND COMPOSITION OF THE BOARD. (a) To qualify as a director of a capital stock association a person must be the owner of a savings account in the association, the withdrawal value of which is at least \$500. A director automatically ceases to be a director when the withdrawal value of his or her savings account is less than \$500.

(b) At least two-thirds of the directors shall reside in this state.

(3) NUMBER OF DIRECTORS. The board shall consist of such number as designated in the bylaws.

215.70 SAVINGS AND LOAN ASSOCIATIONS

3482

(4) ELECTION OF DIRECTORS. The directors of a stock association shall be elected by the stockholders in accordance with the bylaws.

(5) VACANCY ON BOARD OF DIRECTORS. Any vacancy on the board may be filled by a majority vote of the remaining directors in accordance with the bylaws.

(6) OATH OF DIRECTORS. Upon election, every director shall take and subscribe an oath that the director will diligently and honestly perform the duties of the office and will not knowingly violate or permit to be violated any:

(a) Provision of this chapter

(b) Rule of the commissioner

(c) Articles of incorporation or bylaws under which the association operates.

(d) Any other law applicable to savings and loan operations.

(7) DIRECTORS TO FIX COMPENSATION. (a) The compensation of officers, directors, employes and committee members shall be fixed by a majority vote of the board of directors in accordance with the bylaws. Subject to the specific prior approval of the commissioner and the review board, the board of directors may by resolution, create a fund or join a pension system or enter into deferred compensation agreements for the retirement of its officers and employes.

(8) MAY ESTABLISH EXECUTIVE COMMITTEE. The board may by resolution appoint or remove an executive committee consisting of designated directors. The executive committee shall have the power of the board when the board is not in session.

(9) MEETINGS OF THE BOARD OF DIRECTORS. The board shall hold meetings in accordance with the bylaws.

(10) PROMULGATION OF RULES. The board may by resolution adopt rules for the conduct of business by the association, provided they are consistent with this chapter, the rules of the commissioner, and the articles of incorporation and bylaws of the association.

(11) REMOVAL OF OFFICERS AND DIRECTORS. (a) Upon affording the officer or director an opportunity to be heard, the board may remove from office any officer or director, who violates this chapter, the rules of the commissioner, the articles of incorporation, the bylaws, orders of the commissioner or any other law governing savings and loan operations.

(b) An officer or director of a stock association may also be removed by the commissioner under s. 215.02 (10).

(12) DETERMINATION OF INTEREST RATES. The board shall fix and determine the interest rates to be charged on all loans. Such rates shall be within the general range of interest rates approved by the commissioner. Such rates of

interest may not exceed the rates permitted by ch. 422, where applicable.

History: 1975 c. 11, 199; 1975 c. 359 ss. 18, 49; 1975 c. 421, 422.

215.71 Officers of stock association. (1) GENERAL OFFICERS. (a) The general officers of a stock association shall be:

1. A president;

2. One or more vice presidents;

3. A secretary;

4. A treasurer; and

5. Such other officers as the board of directors by resolution designate.

(b) The president shall also be a director.

(2) WHEN ELECTED. Immediately following each annual meeting of stockholders the directors shall convene and elect general officers for the ensuing year, in accordance with the bylaws.

(3) DUTIES OF OFFICERS. In addition to the duties and functions prescribed in the articles of incorporation and the bylaws, the officers shall perform such other duties as are delegated by the directors.

(4) FILLING VACANCIES. If a vacancy occurs in any general office, the directors shall, as soon as practicable, fill such vacancy by an election for the duration of the unexpired term.

(5) REMOVAL OF OFFICERS. Sections 215.02 (10) (a) and 215.70 (11) apply to removal of officers of an association.

History: 1975 c. 359.

215.72 General operations of a stock association. The general operation of a stock association shall comply with this subchapter and applicable provisions of subch. I.

History: 1975 c. 359.

215.73 Absorption of another stock association. (1) CONDITIONS PRECEDENT. With the commissioner's consent and subject to such conditions as the commissioner may prescribe, stock associations organized and operating under this chapter may, by an affirmative vote of at least two-thirds of each board of directors, absorb or be absorbed by each other. The absorbed association shall transfer its assets and liabilities to the absorbing association but not to defeat or defraud creditors.

(2) EFFECT OF ABSORPTION. (a) Upon absorption the rights, franchises and property interests of the absorbed stock association shall be deemed to be transferred to the absorbing stock association, which shall hold and enjoy same, in the same manner and to the same extent as the absorbed association.

(b) All stockholders of the absorbed association shall become stockholders of the absorbing association and possess and be subject to all

rights, privileges and duties as provided them in the bylaws of the absorbing association.

(c) All savers in the absorbed association shall be owners of savings accounts of the same withdrawal value in the absorbing association.

(3) WITHDRAWAL REQUESTS OF SAVERS IN ABSORBED STOCK ASSOCIATION. Any saver in an absorbed stock association, who intends to file a written withdrawal request for savings accounts within one year after the date of approval of such absorption by the commissioner, may do so by giving 90 days' written notice of such intention, and the savings accounts shall be withdrawn as provided in s. 215.17.

History: 1975 c. 359, 421.

215.74 Consolidation with other stock associations. **(1) CONDITIONS PRECEDENT.** With the approval of the commissioner and subject to such conditions as the commissioner prescribes, stock associations organized and operating under this chapter may consolidate. To effect consolidation, the board of each association shall by resolution propose the consolidation. The consolidation must be approved by an affirmative vote of stockholders owning a majority of the capital stock of each association at a meeting called by the boards and held at least 30 days after a notice of the time, place and purpose of the meeting has been sent by mail to each stockholder of record at the last-known post-office address.

(2) EFFECT OF CONSOLIDATION. Consolidating associations shall disclose to each other their respective assets and liabilities. All rights, franchises and property of each association shall be deemed to be transferred to the consolidated association, which shall hold and enjoy the same to the same extent as the consolidating associations. All stockholders of such consolidating association shall be stockholders of such consolidated association and possess and be subject to all rights, privileges and duties as provided in the bylaws of the consolidated association. All savers in the consolidating association shall become owners of savings accounts of the same withdrawal value in the consolidated association.

(3) WITHDRAWAL REQUESTS OF OWNERS OF SAVINGS ACCOUNTS OF CONSOLIDATING ASSOCIATIONS. Any saver in the consolidating stock association, who intends to file a written withdrawal request for savings accounts within one year after the date of approval of the consolidation of the association, may do so by giving 90 days' written notice of such intention, and the savings accounts shall be withdrawn as provided in s. 215.17.

History: 1975 c. 359, 421.

215.75 Stock associations operating under restrictions imposed by the commissioner. **(1) LOSSES IN EXCESS OF TWO-THIRDS OF NET WORTH; CESSATION OF EARNINGS DISTRIBUTION AND DIVIDENDS; REDEMPTION AND WITHDRAWAL OF SAVINGS ACCOUNTS.** Whenever the commissioner finds that the losses existing, or which may reasonably be anticipated in the near future, exceed two-thirds of the net worth of a stock association, the commissioner may with the approval of the review board order that no moneys be paid out for the withdrawal or redemption of savings accounts, until the commissioner orders otherwise.

(2) IMPAIRMENT OF SAVINGS ACCOUNTS; APPOINTMENT OF APPRAISERS; APPRAISALS; AND DETERMINATION OF LOSSES. (a) Whenever it appears to the commissioner that the savings accounts of any stock association are impaired, or may in the near future become impaired, the commissioner may with the approval of the review board order the directors to forthwith appoint, subject to the commissioner's approval, 3 competent persons who are not affiliated with the association, who shall appraise such property owned by the association, or upon which such association has mortgage loans or judgments, as the commissioner designates.

(b) The appraisers shall fix the reasonable value of all such property and report their findings to the commissioner and the directors.

(c) The value as so found shall be the value from which all losses shall be determined.

(3) DEPRECIATION OF SAVINGS ACCOUNTS AFTER DETERMINATION OF LOSSES. After the commissioner has determined the losses existing or which the commissioner determines may reasonably be sustained in the near future, the commissioner shall order the withdrawal value of each savings account to be depreciated as stated in such order, and the officers shall forthwith depreciate the withdrawal value of all savings accounts as ordered. A record shall be made on the books showing the amount by which the withdrawal value of the savings account was depreciated, and a copy of such record shall be filed with the commissioner.

(4) NOTICE OF DEPRECIATION TO OWNERS OF SAVINGS ACCOUNTS. The board shall give notice by mail to each saver that the withdrawal value of the savings account has been depreciated. The notice shall indicate the date when such depreciation was charged, and the withdrawal value of the savings account after such depreciation. The mailing of such notice to the last-known address of the saver as shown on the records of the association shall be deemed compliance with this subsection.

215.75 SAVINGS AND LOAN ASSOCIATIONS

3484

(5) NOTICE OF DEPRECIATION TO STOCKHOLDERS OF RECORD. The board of a stock association shall also notify each stockholder of record of the amount of losses in excess of the association's net worth, and the percentage used to depreciate the savings accounts of the association. Such notice shall be given by mail addressed to the stockholder at the last-known address.

(6) LOANS ON DEPRECIATED SAVINGS ACCOUNTS. The board may, with the approval of the commissioner and upon such terms as the commissioner orders, make savings account loans to owners of savings accounts on the depreciated withdrawal value of such savings accounts. Such savings account loans shall be for provident purposes only, and not more than \$100 may be loaned to any one saver in any one month.

(7) OPERATIONS SUBJECT TO COMMISSIONER'S APPROVAL. (a) Without the prior approval of the commissioner, the board of an association operating under this section may not:

1. Make disbursements or contract to make disbursements for salaries, compensation, fees or any other item of expense.

2. Pay withdrawals or redeem savings accounts.

3. Declare distribution of earnings on savings accounts.

4. Declare or pay dividends on the capital stock of the association.

(b) The board of an association operated under this section may, with the approval of the commissioner:

1. Sell, lease, transfer, exchange and convey any of the property of the association. Upon the order of the board and the approval of the commissioner, the proper officers shall execute and deliver the necessary deeds, leases, assignments, bills of sale, transfers and conveyances.

2. Compromise and settle any claims, demands or judgments which are a part of the assets of the association.

(8) RULES TO BE PRESCRIBED BY THE COMMISSIONER. The commissioner shall prescribe reasonable rules for the operation of associations under this section.

History: 1975 c. 359, 421.

215.76 Voluntary liquidation of a stock association. **(1) PROCEDURE FOR VOLUNTARY LIQUIDATION.** (a) A stock association may go into liquidation by a majority vote of the outstanding capital stock of the association at a stockholders' meeting held especially for that purpose, after 30 days' notice to each stockholder.

(b) When an association has voted to liquidate, the board shall cause notice of this fact to be:

1. Certified to the commissioner under the seal of the association, by its president and secretary.

2. Published as a class 3 notice, under ch. 985, in the county in which an office of the association is located, calling on all persons who have claims against the association to present them to the association and make proof thereof at a specified place and time.

3. Mailed to all persons who appear as creditors on the books of the association and to all savers in the association.

(2) PERIOD OF LIQUIDATION. A stock association so liquidating shall dispose of its assets within 10 years from the date of liquidation, unless the commissioner orders otherwise.

(3) STATUS OF BOARD OF DIRECTORS. The board shall remain a body corporate until the association is fully liquidated.

(4) FILLING VACANCIES ON BOARD OF DIRECTORS. In case of a vacancy on the board, the remaining directors may fill the vacancy by electing a director.

(5) APPLICABILITY OF OTHER SECTIONS. A stock association liquidating under this section shall be subject to ss. 215.02 (16) and 215.03, the same as an association in actual operation.

(6) RESUMPTION OF BUSINESS. A stock association in liquidation may resume business with the approval of the commissioner upon conditions approved by the commissioner.

(7) OPTIONAL ADOPTION OF PLAN PROVIDED IN SECTION 215.75. A stock association liquidating under this section may adopt the plan provided in s. 215.75 in the following manner:

(a) Upon filing with the commissioner a petition, in the form prescribed by the commissioner and signed by stockholders owning at least 60% of the outstanding capital stock of the association, in which petition such stockholders agree to the reinstatement of such association upon the plan provided in s. 215.75, the commissioner shall order a special meeting of the stockholders.

(b) There shall be submitted at such special meeting a resolution, in the form prescribed by the commissioner, rescinding the former action placing such association into voluntary liquidation. The resolution shall be adopted if the vote in its favor is at least equal to that which adopted the resolution placing such association into voluntary liquidation. If in addition to the foregoing resolution, the stockholders by a majority vote of the outstanding capital stock of the association adopt a further resolution, the form

of which has first been approved by the commissioner, providing that the association be operated as provided in s. 215.75, the association will be deemed to be reinstated.

(c) Upon such reinstatement the stockholders shall fill all vacancies on the board. The board shall forthwith appoint the appraisers as provided in s. 215.75 (2) and operate the association as provided therein. Voting by proxy shall be permitted at all meetings of stockholders as provided in s. 215.63, but proxies may be voted by stockholders only.

(8) DISPOSITION OF FUNDS. (a) Unclaimed liquidating dividends and all funds remaining unpaid in the hands of the association or its board at or immediately prior to the date of final distribution, together with all final liquidating costs, shall be delivered to the commissioner to be deposited in one or more state banks or state-chartered savings and loan associations, to the credit of the commissioner, in trust for the various stockholders, owners of savings accounts or creditors entitled thereto. The commissioner shall include in the annual report to the governor the names of the associations so liquidated and the sums of unclaimed and unpaid liquidating dividends and unclaimed funds with respect to each of them respectively, including a statement of interest or dividends earned upon such funds.

(b) The commissioner may:

1. Pay the moneys so held to the persons respectively entitled thereto, upon being furnished satisfactory evidence of their right to the same.

2. In case of doubt or conflicting claims, require an order of the circuit court authorizing and directing the payment of such moneys.

3. Apply the interest and dividends earned by the moneys so held toward defraying the expenses of the office.

(9) RESERVED AUTHORITY OF COMMISSIONER. This section does not prohibit the commissioner from proceeding against any association as provided in s. 215.32.

History: 1975 c. 359, 421.

215.77 Jurisdictional conversion of capital stock associations. **(1) PROCEDURE TO EFFECT CONVERSION.** A state-chartered stock association may convert itself into a federal association, and any federal stock association may convert itself into a state-chartered association, as follows:

(a) A meeting of the stockholders shall be held upon not less than 10 days' written notice to each stockholder, served either personally or by mail to the last-known post-office address. The notice shall state the time, place and purpose of such meeting.

(b) At such meeting, the stockholders may by the affirmative vote, in person or by proxy, of not less than two-thirds of the outstanding capital stock of the association the stockholders may by resolution declare to convert the association into a federal association, or in the case of a federal capital stock association into a state-chartered association. A copy of the minutes of the meeting, verified by the affidavit of the chairman and the secretary of the meeting, shall be filed in the office of the commissioner within 10 days after the meeting.

(c) If the stockholders vote to convert the association, the secretary shall, within 30 days after such meeting serve notice on all stockholders and savers of the association, either personally or by mail directed to them at their last-known post-office addresses. Within 30 days after service of the notice, any saver in the association may notify the association in writing that the saver desires to withdraw savings accounts. Each saver so notifying the association shall be entitled to the withdrawal value of the savings accounts, less any amount due the association.

(d) 1. Within 6 months after the adjournment of a meeting to convert into a federal association, the association shall do what is necessary to make it a federal association. Within 10 days after receipt of the federal charter, the association shall file with the commissioner a copy of the federal charter, certified by the federal home loan bank board. Upon such filing the association shall cease to be a state-chartered association and shall thereafter be a federal association.

2. Within 6 months after the adjournment of a meeting of the stockholders of a federal stock association called for the purpose of converting the association into a state-chartered association, the commissioner shall examine such association and shall determine the action necessary to qualify the converting federal stock association for a state charter. Upon complying with the necessary requirements, a state charter shall be issued to such association.

(2) WHEN STATE SUPERVISION CEASES. When conversion from a state-chartered stock association to a federal association becomes effective, the association shall cease to be supervised by this state.

(3) CORPORATE EXISTENCE OF ASSOCIATION DOES NOT TERMINATE UPON CONVERSION. Upon conversion of any state-chartered stock association into a federal association or vice versa, the corporate existence of the converting association shall not terminate, and the resulting association shall be a continuance of the converting association. All of the property and rights of the converted association shall by operation of law

215.77 SAVINGS AND LOAN ASSOCIATIONS

3486

vest in the resulting association as of the time of conversion, and all of its obligations become those of the resulting association. Actions and other judicial proceedings to which the converting association is a party may be prosecuted and defended as if the conversion had not been made.

(4) COMMISSIONER'S APPROVAL REQUIRED BEFORE CONVERSION BECOMES EFFECTIVE. Before any conversion under this section is final and in effect, the written approval of the commissioner must be secured by the converting association.

History: 1975 c. 359, 421.