

2 LAWS OF SPECIAL SESSION 1933-34—CH. 2.

brewer, bottler, wholesaler, or retailer liable for payment of the tax imposed in this section shall, on or before the tenth day of the month following the month in which this act becomes effective, file a report with the state treasurer giving such information as the state treasurer may require to determine the amount of tax due under this section, and shall make payment of such tax at the time of filing such report. All provisions of chapter 139 of the statutes relating to procedure in collecting the tax therein imposed and penalties for evasion or violation of said provisions shall apply and govern as to the tax imposed in this section.

SECTION 5. It is the intent of sections 3 and 4 of this act to make the tax on fermented malt beverages, imposed in chapter 139 of the statutes, applicable to such beverages of an alcoholic content greater than three and two-tenths per centum by weight, on the same basis as those containing not more than three and two-tenths per centum of alcohol by weight, and to make this provision retroactive to December 5, 1933, when the sale of beverages of more than three and two-tenths per centum of alcohol by weight again became legal.

SECTION 6. The several terms and provisions of this act shall be deemed severable, and if any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provisions to other persons or circumstances shall not be affected thereby.

SECTION 7. This act shall take effect upon passage and publication.

Approved December 22, 1933.

No. 15, A.]

[Published January 3, 1934.

**CHAPTER 2.**

AN ACT to create section 220.083 and paragraph (d) of subsection (3) of section 221.04; and to amend subsection (19) of section 220.07 of the statutes, authorizing banks which have put into effect stabilization and readjustment plans, to qualify for membership in the temporary federal deposit insurance fund and to become class A stockholders of the federal deposit insurance corporation and providing procedure for determining the rights of depositors and creditors of such banks, and making an appropriation.

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

SECTION 1. Any bank organized or doing business under the laws of this state is hereby authorized to become a member of the temporary federal deposit insurance fund and to subscribe for the class A stock of the federal deposit insurance corporation, as provided by section 12 B of the Federal Reserve Act.

SECTION 2. A new section is added to the statutes and a new paragraph is added to subsection (3) of section 221.04 of the statutes to read: 220.083 STABILIZED BANKS; PROCEDURE TO QUALIFY FOR FEDERAL DEPOSIT INSURANCE AND TO DETERMINE THE RIGHTS OF DEPOSITORS AND CREDITORS. (1) At any time within one year after the effective date of this section any bank, which has put into effect a stabilization and readjustment plan and pursuant thereto has assigned any portion of its assets to trustees for liquidation for the benefit of any or all of its depositors and creditors, with the approval of the banking commission, may institute proceedings under this section in the circuit court of the county in which the principal office of such bank is situated to qualify such bank for admission to and continued membership in the temporary federal deposit insurance fund, and to become a class A stockholder of the federal deposit insurance corporation and to determine the rights of its depositors and creditors as herein provided. If no regular or special term of such court is held in such county within thirty days, such proceedings may be heard and determined in any other county in the same judicial circuit. Such proceedings may be heard and determined in term time or vacation. In such proceedings the bank may apply to the court for a decree requiring the depositors and creditors, or their trustees in their behalf, to accept the assets assigned to the trustees in full payment of the amounts of their deposits or claims assigned to trustees or the amounts by which their deposits or claims were reduced in such stabilization and readjustment agreement, and releasing the bank from any further liability for the amounts so assigned and the amounts of such reduction, whether in the event of subsequent liquidation of the bank or otherwise. The court shall take evidence thereon and if it finds that the application is fair and equitable to the depositors and creditors whose claims are affected thereby and that the assets so set aside fairly represent the interest allocable to such claims of such persons out of all of the assets of the bank, it may enter its decree granting

such application, and in such decree may amend or may authorize and direct the bank and the trustees to amend any provision in any such stabilization and readjustment plan or agreement or any depositors' or trustees' agreement executed in connection therewith, which may be inconsistent with such decree; or it may deny such application, with or without prejudice.

(2) The banking commission shall provide counsel to represent the bank in such proceeding, the cost thereof to be paid out of the assets of such bank in the manner provided by paragraph (c) of subsection (16) of section 220.07. All receipts to defray such cost shall be credited to the appropriation made available to the banking commission under section 20.53.

(3) Notice of the pendency of such application shall be published in manner and form and for such period of time, not exceeding twenty days, as the court may direct, which shall be not less than once in a newspaper of general circulation in the county in which such bank has its place of business, and a copy of such notice shall be mailed postage prepaid to each depositor and creditor whose claim is affected thereby, and to each of the trustees under the trust agreement, at least ten days before the date fixed for hearing such application. Such notice shall state that a proceeding has been commenced by (name of bank) under section 220.083 of the statutes of Wisconsin (chapter . . . . ., laws of special session 1933), the purpose of which proceeding is to determine the rights of depositors and creditors (and their trustees) who assigned to trustees the amounts by which their claims were reduced in connection with the stabilization and readjustment of the bank, by requiring them to accept assets assigned by the bank to such trustees in connection with such stabilization and readjustment, in full payment of the amounts of their deposits and claims so assigned and so reduced, so as to enable said bank to qualify for admission to and continued membership in the temporary federal deposit insurance fund and to become a class A stockholder of the federal deposit insurance corporation; and shall state that all such persons whose claims are so affected by such application and who desire to contest the same may appear at a time and place to be stated therein and show cause why such application should not be granted, and that all such persons not so appearing shall be deemed to have consented to the decree of the court entered in such proceeding. All depositors, creditors, and trustees, so no-

tified, shall thereupon become and be parties respondent to such proceeding, and shall be bound by any decree entered by the court therein in the same manner as a party to any civil action. Such notice shall be issued by the clerk of the court in which the application is filed and copies of such notice shall be mailed by the bank or one of its officers to the addresses of such depositors and creditors and the trustees, as the same appear in the bank's records, and failure of any persons to receive such notice shall not affect the validity of the decree. Affidavits of publication and mailing shall be filed with the court. If any depositor or creditor affected by such application is a minor, incompetent or is under disability and has no general guardian, or if deceased and no administrator of his estate has been appointed, the court may appoint a guardian ad litem or a special administrator, as the case may be, for the purpose of said proceeding. The provisions of section 269.47 shall not apply to such proceeding.

(4) Any party aggrieved by the decree of the court may appeal to the supreme court as in other cases, but notice of such appeal shall be given and served within ten days after the entry of the decree or order appealed from, such notice to be served only on those parties who appeared in the proceedings. The party appealing shall perfect the appeal and secure the transmittal of the record to the clerk of the supreme court within thirty days after the entry of the decree or order appealed from; otherwise such appeal may be dismissed upon application of any interested party. Such appeals shall be placed on the state calendar of the then pending term and shall be assigned and brought to a hearing in the same manner as other causes on the state calendar.

(5) At the time fixed for the hearing, the court shall consider any objections to the application which may be interposed in writing, and if thirty-three and one-third per cent or more in interest of the depositors and creditors whose claims are affected thereby shall interpose such objections, the court shall deny such application forthwith.

(6) In its decree the court, in its discretion, may make special provision for settlement of the claims of any objectors, in any manner which will preserve their fair proportionate interest in the assets of the bank, including the assets so set aside and any assets, assessments, earnings, or dividends which the bank or its stockholders may have agreed to set aside or pay over to such trustees,

which may be allocable to their claims, and may enjoin the enforcement of their claims in any manner other than that provided for in such decree.

(7) All proceedings under this section shall be entitled to precedence over all other actions or proceedings pending in the court.

(8) If any such stabilization or readjustment plan or agreement contained any provisions requiring the bank to deliver to the trustees, for the benefit of any of the bank's depositors or creditors, the proceeds of any assessment against the stockholders of such bank, or other assets of the bank in lieu thereof, or requiring the bank or its stockholders to pay over any of its future earnings or dividends to such trustees, except as to the claims of creditors or depositors as to whom the court shall have made special provision as provided in subsection (6), no provision to the contrary shall be included in the court's decree and such provisions shall continue in full force and effect for the benefit of the depositors and creditors interested therein.

(221.04) (3) (d) Any bank, in consideration of its admission to membership in the temporary federal deposit insurance fund or acceptance of its subscription for the class A stock of the federal deposit insurance corporation, with the approval of the banking commission, may enter into an agreement with the federal deposit insurance corporation limiting the insurance benefits and coverage to be extended, to certain classes of its deposits, or excluding certain classes of its deposits, or limiting the period of its membership in such temporary federal deposit insurance fund, and the provisions of such agreement shall be binding upon all depositors in such bank, with the same force and effect as if they had executed the same. The president or any other executive officer of such bank shall have the power to execute such an agreement in its name and behalf, and the execution thereof by such officer shall be the corporate act and deed of the bank, notwithstanding any provision of the articles or by-laws of the bank. In the event the court, in which proceedings under section 220.083 are had, denies the application of the bank, any membership granted pursuant to any agreement made in accordance with the provisions of this paragraph, shall immediately terminate, and any insurance previously effected by virtue of such membership or such agreement shall cease and terminate forthwith, notwithstanding any provision in any such agreement fixing the date of termination of such membership or such insurance.

SECTION 3. Subsection (19) of section 220.07 of the statutes (created by chapter 6, laws of 1933) is amended to read: (220.07) (19) Any plan entered into by any bank for the purpose of stabilizing or rehabilitating such bank shall be subject to the approval of the \* \* \* banking *commission* and the administration of its provisions shall be under \* \* \* *said commission's* supervision. *The commission may direct such bank to release all or any part of the deposits or any class of deposits which were deferred under such plan, upon such terms and conditions as the commission may impose.*

SECTION 4. It is declared that the provisions of this act are made necessary by a public emergency arising from the taking effect of the Banking Act of 1933 which provides for insurance of bank deposits, and the necessity for legislation to enable banks in this state which would otherwise be ineligible, to qualify for provisional membership in the temporary federal deposit insurance fund in the manner herein provided, and to continue as members thereof unconditionally and to the full extent provided in said act; and to secure the benefits provided by said act for members of such temporary fund and for holders of class A stock of the federal deposit insurance corporation.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held unconstitutional, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 6. This act shall take effect upon passage and publication.

Approved January 4, 1934.

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No. 2, S.]

[Published January 12, 1934.

### CHAPTER 3.

AN ACT to create sections 139.25 to 139.29, subsection (6) of section 20.05 and subsection (5) of section 20.07; and to repeal subdivision 11 of paragraph (a) of subsection (10) of section 66.05; and to amend said subsection (10) of section 66.05 and sections 139.01 to 139.10 of the statutes, relating to an occupational tax on intoxicating liquors and an occupational tax on