

CHAPTER 224.

MISCELLANEOUS BANKING PROVISIONS.

<p>224.01 Definitions.</p> <p>224.02 Banking, defined.</p> <p>224.03 Banking, unlawful, without charter; penalty.</p> <p>224.04 State banks; time limited for reincorporation.</p>	<p>224.05 Municipality not preferred creditor.</p> <p>224.06 Fidelity bonds for bank officers and employees.</p>
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224.01 Definitions. The term "bank," as used in this chapter, shall be construed to mean any incorporated banking institution which shall have been incorporated under the laws of this state as they existed prior to the passage of this chapter, and to such banking institutions as shall hereafter become incorporated under the provisions of this chapter. The term "mutual savings bank" shall be construed to mean any corporation organized pursuant to the provisions of the act for the organization of savings banks and savings societies, as such act existed prior to the passage of this chapter, or to such corporations as shall hereafter incorporate as mutual savings banks under this chapter. The term "lawful money," as used in this chapter shall be construed to mean all coin, United States notes, treasury notes, gold certificates, silver certificates, national bank notes, and all other forms of money issued by or which may hereafter be issued by or under the authority of the United States as a circulating medium, and shall also be construed to mean any form of certificate which is now or may hereafter be declared to be lawful money by any law of the United States.

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

Note: Soliciting and receiving of payments by investment association and its issuance of income reserve contracts as part of employer's plan for payment of unemployment benefits was not doing of prohibited "banking business" by investment company. *State ex rel. Rohn Shoe Mfg. Co. v. Industrial Commission, 217 W 133, 258 NW 449.*

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

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

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

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

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

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

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

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

224.03 Banking, unlawful, without charter; penalty. It shall be unlawful for any person, copartnership, association, or corporation to do a banking business without having been regularly organized and chartered as a national bank, a state bank, a mutual savings bank, or a trust company bank. Any person or persons violating any of the provisions of

this section, either individually or as an interested party in any copartnership, association, or corporation shall be guilty of a misdemeanor and on conviction thereof shall be fined in a sum not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than sixty days nor more than one year, or by both such fine and imprisonment.

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

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

224.06 Fidelity bonds for bank officers and employes. (1) Every person appointed or elected to or employed in any position the duties of which include the receipt, payment or custody of money or other personal property for or in behalf of any bank shall, within thirty days after such appointment, election or employment, give an adequate fidelity bond executed by a surety company licensed to do business in Wisconsin (or a personal bond with sufficient sureties) for the honest performance of his duties and conditioned so as to indemnify the bank from loss, up to the limits of the bond, caused by his embezzlement or any dishonest or fraudulent act on his part while employed by the bank. Such bond shall be in a form approved by the banking commission, and in such amount as the directors of the bank shall require and approve. In lieu of individual bonds the commission may accept a schedule or blanket bond which covers all of the officers and employes of any bank whose duties include the receipt, payment or custody of money or other personal property for or on behalf of the bank. All bonds required by this section shall be filed with the banking commission within forty days after such appointment, election or employment. Receipts for the annual premium on such surety bonds, after the first year, shall be filed with the banking commission within ten days after the renewal date. A record of each bond executed, received and approved shall be entered in the minute book of the bank.

(2) If such bond shall not be furnished and filed within the time prescribed in subsection (1) of this section, the officer or employe in question shall immediately be dismissed from the service of the bank unless the banking commission shall extend the time on application of the bank. If the time is extended, then such officer or employe must be dismissed if the bond is not furnished and filed within the time as extended. If after such time prescribed for the furnishing and filing of such bond, the bank permits such officer or employe to continue in such position or employment, the bank shall be subject to a penalty of ten dollars a day for each day during which it has unlawfully permitted said officer or employe to continue in such position and it shall be the duty of the attorney-general to recover any such penalties by action for and in behalf of the state. [*Spl. S. 1931 c. 10 s. 14; 1937 c. 284 s. 3*]

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