

(5); 1955 c. 10 s. 148; 1965 c. 280; 1969 c. 276 s. 592 (7).

222.13 History: 1903 c. 234 c. III s. 13; Supl. 1906 s. 2024—68; 1911 c. 260; 1917 c. 226; 1921 c. 400 s. 3; 1923 c. 291 s. 3; Stats. 1923 s. 222.13; 1931 c. 27; 1935 c. 245; 1943 c. 28; 1945 c. 434; 1947 c. 411 s. 6 (215.30 (5)); 1947 c. 612 s. 1; 1965 c. 280; 1969 c. 391.

222.14 History: 1903 c. 234 c. III s. 14; Supl. 1906 s. 2024—69; 1911 c. 260; 1923 c. 291 s. 3; Stats. 1923 s. 222.14; 1925 c. 292 s. 2; 1965 c. 280; 1967 c. 92 s. 22.

Mutual savings banks may loan on personal security so long as more than one person or firm is bound upon the note. 11 Atty. Gen. 194.

222.15 History: 1903 c. 234 c. III s. 15; Supl. 1906 s. 2024—70; 1923 c. 291 s. 3; Stats. 1923 s. 222.15.

222.16 History: 1903 c. 234 c. III s. 16; Supl. 1906 s. 2024—71; 1923 c. 291 s. 3; Stats. 1923 s. 222.16; 1947 c. 112; 1965 c. 280.

222.17 History: 1903 c. 234 c. III s. 17; Supl. 1906 s. 2024—72; 1923 c. 291 s. 3; Stats. 1923 s. 222.17; 1965 c. 280; 1969 c. 276 s. 592 (7).

222.18 History: 1903 c. 234 c. III s. 18; Supl. 1906 s. 2024—73; 1923 c. 291 s. 3; Stats. 1923 s. 222.18.

222.19 History: 1903 c. 234 c. III s. 19; Supl. 1906 s. 2024—74; 1923 c. 291 s. 3; Stats. 1923 s. 222.19; 1937 c. 284 s. 3; 1947 c. 411 s. 11 (220.02 (5)); 1957 c. 121.

222.20 History: 1903 c. 234 c. III s. 20; Supl. 1906 s. 2024—75; 1923 c. 291 s. 3; Stats. 1923 s. 222.20; 1937 c. 284 s. 3; 1947 c. 411 s. 11 (220.02 (5)); 1965 c. 280; 1969 c. 276 s. 592 (7).

222.21 History: 1903 c. 234 c. III s. 21; Supl. 1906 s. 2024—76; 1911 c. 663 s. 410; 1923 c. 291 s. 3; Stats. 1923 s. 222.21; 1927 c. 381; 1933 c. 259 s. 2, 3, 4; 1933 c. 484 s. 2; 1935 c. 245; 1937 c. 284 s. 3; 1945 c. 106; 1947 c. 411 s. 11 (220.02 (5)); 1961 c. 592; 1969 c. 276 s. 592 (7).

Mutual savings banks are subject to the fee requirements of sec. 2019, Stats. 1921. 11 Atty. Gen. 455.

222.22 History: 1903 c. 234 c. III s. 22; Supl. 1906 s. 2024—77; 1923 c. 291 s. 3; Stats. 1923 s. 222.22; 1937 c. 284 s. 3; 1947 c. 411 s. 11 (220.02 (5)); 1969 c. 276 s. 592 (7).

CHAPTER 223.

Trust Company Banks.

223.01 History: 1909 c. 186; Stats. 1911 s. 2024—77i; 1923 c. 291 s. 3; Stats. 1923 s. 223.01.

See note to sec. 31, art. IV, and note to sec. 4, art. XI, citing *Roane Iron Co. v. Wisconsin Trust Co.* 99 W 273, 74 NW 818.

223.02 History: 1909 c. 186; Stats. 1911 s. 2024—77j; 1919 c. 228; 1923 c. 291 s. 3; Stats. 1923 s. 223.02; 1931 c. 389; 1937 c. 284; 1941 c. 278; 1947 c. 411 s. 11 (220.02 (5)); 1961 c. 592; 1969 c. 276 s. 592 (7).

It is the absolute duty of the state treasurer to hold securities as long as the corporation continues to have legal existence. Such duty ceases upon the recording of the resolution of dissolution in the proper register's office. After such dissolution and during the period of winding-up the corporate affairs the duty of the state treasurer regarding such securities is that of a trustee. State ex rel. *Sheldon v. Dahl*, 150 W 73, 135 NW 474.

The state treasurer receiving securities under sec. 2024-77j, Stats. 1911, is, as respects equities of third parties, a holder for value in good faith of a mortgage deposited with him in the regular course of his official business in exchange for other securities of equal value. Such treasurer is not chargeable with secret equities which may exist against a trust company depositing securities. *Maas v. Hess*, 173 W 74, 180 NW 245.

See note to 223.11, citing *First Wisconsin T. Co. v. Johnson*, 173 W 564, 181 NW 828.

A deposit made by a bank with the state treasurer pursuant to 223.02, Stats. 1931, is held, in view of the language and legislative history, not intended to protect a cestui que trust whose rights do not arise under a court appointment but are solely by virtue of a private trust agreement with the bank. Nor do the stipulated facts support a finding that the funds of the plaintiff, intrusted to the bank for investment, constituted a preferred claim against the bank's assets on its insolvency because they were invested by the bank in securities not legal for the investment of a trust fund. *Mahan v. Herreid*, 211 W 79, 247 NW 468.

The state treasurer is not authorized to accept, in exchange for other securities deposited with him by a trust company bank, a certificate of deposit made payable to the commissioner of banking, which certificate is not indorsed. 3 Atty. Gen. 22.

So-called "concurrent mortgages" are not legal security for deposit by trust companies with the state treasurer. 5 Atty. Gen. 654.

223.02, Stats. 1927, does not require assignment of mortgages deposited with the state treasurer. 16 Atty. Gen. 826.

Trust agreements cannot be substituted for securities deposited by trust company banks with the state treasurer. 17 Atty. Gen. 214.

When securities eligible for deposit have a market value below par the commissioner of banking may approve such securities only to the extent of their market value. 20 Atty. Gen. 100.

Securities deposited with the state treasurer by a bank to secure the faithful execution of any trust imposed upon or accepted by the bank may be released under 223.02 (2), Stats. 1931. 21 Atty. Gen. 554.

The banking commission may require trust companies depositing securities with the state treasurer to furnish appraisals by disinterested parties to substantiate value before approving securities. 24 Atty. Gen. 336.

The order of preference in the matter of deposit of registered U.S. government bonds under 223.02, Stats. 1937, is: (1) Assignment on back of bond, (2) assignment by separate instrument, and (3) merely depositing without assignment. All 3 methods are acceptable. Registered savings bonds are acceptable only

when registered in the name of the state treasurer in trust for the depositing bank. 28 Atty. Gen. 254.

223.03 History: 1909 c. 186; Stats. 1911 s. 2024—77k; 1913 c. 749; 1915 c. 440; 1923 c. 291 s. 3; Stats. 1923 s. 223.03; 1937 c. 284 s. 3; 1947 c. 411 s. 11 (220.02 (5)); 1969 c. 276 s. 592 (7).

Sec. 1791h, Stats. 1898, relates solely to the investing of funds owned by a trust company in its corporate capacity and does not include money held by it in trust as executor, administrator or any other trust relation. *Allis v. Allis*, 123 W 223, 101 NW 365.

Where each cestui que trust is entitled to an aliquot part of an ascertained and definite trust fund, any one of them may sue the trustee for his own portion thereof without making the other cestuis que trust parties to the action. *Graf v. Seymour State Bank*, 221 W 122, 266 NW 222.

Where a bank had violated its duty as testamentary trustee by selling mortgages, owned by it, to the trust, without even applying for permission from the county court, the bank as trustee would have been subject to having the investment in the mortgages excluded from the trust investment if the distributees of the trust fund had requested such relief at the hearing on the trustee's final account, but an order of the county court, approving the final account as submitted and assigning the mortgages to the distributees, was only erroneous and was remediable only by appeal in the absence of fraud practiced on the court. *Will of Cosgrove*, 236 W 554, 295 NW 784.

A trust company bank may issue time certificates of deposit and passbooks and pay interest on deposits. 1908 Atty. Gen. 118.

Trust company banks have no power to issue debentures secured by pledging their assets. 1 Atty. Gen. 39.

A trust company bank is authorized to purchase and hold such real estate as may be reasonably necessary for the conduct of its business. It is not limited, in building upon such real estate, to merely such space as it utilizes for its own business, but may put up or purchase such building as a good businessman, not in the banking business, would erect thereon, and lease to others space not needed by it. 11 Atty. Gen. 361.

A trust company bank cannot lend money on obligations secured by warehouse receipts. A certificate of deposit bearing a clause reserving the right to time notice cannot be computed as part of legal cash reserve of trust company bank. 19 Atty. Gen. 270.

223.04 History: 1909 c. 186; Stats. 1911 s. 2024—77L; 1915 c. 186; 1923 c. 291 s. 3; Stats. 1923 s. 223.04; 1937 c. 284.

223.05 History: 1909 c. 186; Stats. 1911 s. 2024—77m; 1923 c. 291 s. 3; Stats. 1923 s. 223.05; 1941 c. 243, 247; 1951 c. 315.

Trust account cash of trust company banks operating under ch. 223, Stats. 1937, should not be included as assets or liabilities in computing the ratio of quick assets to deposits or in computing legal reserves of such companies. Neither is such cash to be included in determining resources of trust company for pur-

pose of levying assessment provided by 220.05 (2). 26 Atty. Gen. 520.

223.055 History: 1943 c. 274; Stats. 1943 s. 223.055; 1953 c. 487; 1965 c. 252, 433; 1969 c. 280.

Editor's Note: For foreign decisions construing the "Uniform Common Trust Fund Act" consult Uniform Laws, Annotated.

223.056 History: 1969 c. 280; Stats. 1969 s. 223.056.

223.057 History: 1969 c. 280; 1969 s. 223.057.

223.06 History: 1909 c. 186; Stats. 1911 s. 2024—77n; 1923 c. 291 s. 3; Stats. 1923 s. 223.06.

223.08 History: 1909 c. 186; Stats. 1911 s. 2024—77p; 1923 c. 291 s. 3; Stats. 1923 s. 223.08; Spl. S. 1931 c. 26 s. 1; 1947 c. 534.

A foreign corporation, having the word "trust" as a part of its corporate name, cannot be authorized to do business in this state. 3 Atty. Gen. 32.

A trust company may use word "savings" as part of its corporate name. 20 Atty. Gen. 99.

223.09 History: 1909 c. 186; Stats. 1911 s. 2024—77q; 1915 c. 604 s. 35; 1923 c. 291 s. 3; Stats. 1923 s. 223.09.

223.10 History: 1919 c. 180; Stats. 1919 s. 2024—77r; 1923 c. 291 s. 3; Stats. 1923 s. 223.10; 1927 c. 265; 1943 c. 275 s. 56.

A national bank may be appointed executor of an estate. The prohibition of such appointments by sec. 2024-77r, Stats. 1919, must yield to the act of Dec. 23, 1913, (38 U.S. Stats. at Large, 251, ch. 6), establishing the federal reserve board and authorizing such board to permit national banks to act as fiduciaries when not in contravention of state law, and to the amendment of that law allowing such permits to national banks where state banks may lawfully exercise fiduciary powers. *Estate of Stanchfield*, 171 W 553, 178 NW 310.

223.11 History: 1919 c. 382; 1919 c. 671 s. 33; Stats. 1919 s. 2024—77rr; 1923 c. 291 s. 3; Stats. 1923 s. 223.11.

On the consolidation of 2 trust company banks the new corporation takes the place of the old companies, and, succeeding to their assets and assuming their liabilities, succeeds to the ownership of the securities deposited by them, with the state treasurer, and need not deposit additional securities, but may withdraw from those previously deposited all in excess of \$100,000. *First Wisconsin T. Co. v. Johnson*, 173 W 564, 181 NW 828.

223.12 History: 1919 c. 585; Stats. 1919 s. 2024—77s; 1921 c. 424; 1923 c. 291 s. 3; Stats. 1923 s. 223.12; 1937 c. 284 s. 3; 1941 c. 250; 1947 c. 411 s. 11 (220.02 (5)); 1969 c. 276 s. 592 (7); 1969 c. 283 s. 22.

After a New York corporation has complied with the statutes of this state, including the requirement as to deposit of bonds with the state treasurer, it may do business in Wisconsin. 8 Atty. Gen. 612.

Under the laws of Illinois a banking corporation may be a trustee and as such may be named as trustee in the will of a resident of this state in cases and as required by 223.12,

Stats. 1925, but not otherwise; under 223.12 (2) if such corporation is duly appointed as trustee under a will in Illinois it may act as trustee of such property in Wisconsin the same as a natural person. 15 Atty. Gen. 373.

A foreign trust company may not sell securities in Wisconsin through the medium of one of its agents licensed as a Wisconsin dealer. Except as permitted by 223.12 (1), Stats. 1937, a foreign trust company may not qualify to do business in this state. 27 Atty. Gen. 235.

CHAPTER 224.

Miscellaneous Banking Provisions.

224.01 History: 1903 c. 234 c. IV s. 1; Supl. 1906 s. 2024-78; 1911 c. 663 s. 410; 1923 c. 291 s. 3; Stats. 1923 s. 224.01; 1955 c. 10.

224.02 History: 1909 c. 285; Stats. 1911 s. 2024-78L; 1923 c. 291 s. 3; Stats. 1923 s. 224.02; Spl. S. 1931 c. 10 s. 13.

Any person engaged in business carried on by banks of deposit or of discount or of circulation is doing a banking business, although but one of these functions may be exercised. Where a department store opened "a deposit purchase department" where it received money from anyone desiring to deposit it, issued passbooks, paid interest and paid the principal sum with interest on demand in money or goods, it was doing a banking business within the meaning of ch. 285, Laws 1909. *MacLaren v. State*, 141 W 577, 124 NW 667.

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

An employer who permits his employees and others to leave their wages and earnings with him and issues an acknowledgment therefor, in which he agrees to repay the sums left on demand (subject to 30 days' notice if desired) with 6% interest, is "doing a banking business" as defined by sec. 2024-78L, Laws 1913. 3 Atty. Gen. 23.

Issuing receipts by a public utility, for deposits required of its patrons, to secure it against nonpayment of its bills for service, and agreeing to pay interest on such deposits, is not doing a "banking business." 8 Atty. Gen. 255.

Banking business covers more than the acts named in sec. 2024-78L, Stats. 1919. 8 Atty. Gen. 750.

A corporation whose sole business is loaning its own funds, derived from the sale of its capital stock, is not engaged in banking business. Such corporation is a building and loan association and must submit to regulation as such, where it makes loans only to its own members. 10 Atty. Gen. 466.

One who solicits, through newspaper advertising, periodical "depositing" of money with him in payment for property to be sold by him on the instalment plan, is engaging in banking business within sec. 2024-78L, Stats. 1921. 11 Atty. Gen. 88.

Money left with a cashier of a bank, who

placed it in an envelope and put it in the bank's vault under agreement that it was to be loaned out on real estate mortgages, was not a bank deposit and the transaction was not a banking transaction, although the bank's name was signed to the receipt by the cashier who afterwards embezzled the money. 13 Atty. Gen. 272.

A scheme whereby a coal company solicits and receives deposits of money on a passbook on which a company agrees to pay interest of 3% per annum if applied against coke purchases under stipulated conditions, the coal company agreeing to deposit the money in a certain bank and to issue a check to the depositor for any unused balance on April 15 of each year, is doing a banking business as defined by 224.02, Stats. 1923, in conflict with the banking laws of the state. 13 Atty. Gen. 393.

The banking law is violated by an insurance company issuing bonds maturing in a certain number of years or on death of the holder, the price of the bonds being dependent upon the maturity date and age of the purchaser. 17 Atty. Gen. 406.

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

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

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

A life insurance contract permitting an insured to deposit money with an insurance company, such money not being definitely committed to payment of premiums, so that it is possible to withdraw the same with interest, constitutes banking business in violation of ch. 224, Stats. 1937. 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 the case of banks, they may accept and accumulate deposits with interest to pay future premiums and, in the event of death, maturity or surrender of policy, pay out unused portion of accumulation as part of the benefit provided in the policy. 26 Atty. Gen. 603.

A contract providing for weekly payments to be made to a furniture firm up to a specified amount, the sum so paid to apply as first payment on merchandise to be selected and which gives the customer no right to demand return of all or any part of the money so paid in, does not constitute unlawful banking under 224.02 and 224.03, Stats. 1937. 27 Atty. Gen. 556.

A plan for sale of aluminum ware, whereby customers may buy stamps for 10 cents each, which are placed in a book and which are redeemable only in goods, wares and merchan-