

1985 Senate Bill 267

Date of enactment: **March 12, 1986**  
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## 1985 Wisconsin Act **127**

AN ACT *to repeal* 220.025, 220.05 (4), 220.087, 220.11 and 220.196; and *to amend* 138.09 (11), 186.03, 186.119 (1), 220.02 (1), 220.02 (6), 220.05 (6), 220.06 (1) and (2), 220.08 (4) and 220.28 of the statutes, *relating to* eliminating requirements that certain bank and credit union employees furnish surety bonds, revising obsolete terminology in statutes governing banks, eliminating the authority of the commissioner of banking to increase bank examination fees, eliminating a provision regulating interest paid by state banks on instalment

savings accounts, eliminating the authority of the commissioner of banking to order banks to relocate and eliminating the time limit for challenging statements of account rendered by banks (suggested as remedial legislation by the office of the commissioner of banking).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the office of the commissioner of banking, and introduced by the law revision committee under s. 13.83 (1) (c) 4, stats. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 138.09 (11) of the statutes is amended to read:

138.09 (11) The commissioner ~~shall have power to~~ may employ necessary examiners or ~~clerks other personnel~~ from time to time and fix their compensation.

NOTE: This amendment deletes an obsolete reference to "clerks", a term no longer used to describe personnel in the office of the commissioner of banking.

SECTION 1m. 186.03 of the statutes is amended to read:

**186.03 Use of name exclusive.** No person, partnership, association or corporation, except corporations formed under this chapter, ~~shall hereafter~~ may transact within this state the business authorized by this chapter, ~~nor~~ or any other business whatever under any name or title which includes the 2 words "credit" and "union", except that any organization whose membership is made up of credit unions may use the name, with the consent of the commissioner. ~~Violation~~ Violations of this section may be enjoined at the instance of the commissioner or of any credit union, ~~and shall in addition be a misdemeanor punishable as provided in s. 224.03. A violator of this section may be fined not less than \$300 nor more than \$1,000 or imprisoned for not less than 60 days nor more than one year in the county jail or both.~~

SECTION 2. 186.119 (1) of the statutes is amended to read:

186.119 (1) The commissioner shall employ in the office of the commissioner of credit unions one or more competent persons for the organization and examination of credit unions, who shall be under the direction and control of the commissioner. No person ~~shall be~~ is eligible for such appointment unless ~~he~~ she ~~shall have had~~ the person has at least 3 years' actual experience in the business of conducting a credit union, or has served an equal length of time in the office of the commissioner of credit unions, in connection with the credit union movement, of this or some other state, ~~and who shall furnish corporate surety bonds in accordance with s. 220.025.~~

SECTION 3. 220.02 (1) of the statutes is amended to read:

220.02 (1) The commissioner shall appoint a deputy subject to s. 15.04 (2) and (3). The deputy shall possess all powers and perform the duties attached to the

office of commissioner during a vacancy thereof and during the absence or inability of the commissioner. The commissioner may also employ such examiners and ~~clerks other personnel~~ to assist him or her and the deputy in the discharge of the several duties imposed upon the commissioner by this chapter as he or she finds necessary, and who shall perform such other duties as the commissioner directs.

SECTION 4. 220.02 (6) of the statutes is amended to read:

220.02 (6) The commissioner shall employ in the office of the commissioner of banking, a competent person as supervisor for the supervision and examination of all consumer credit agencies over which the commissioner has ~~jurisdiction, other than credit unions~~. Such supervisor shall be subject to ch. 230, and shall not be eligible for such position unless he ~~shall have had~~ she has at least 5 years' actual experience either in the sales finance or loan business, or serving in the supervisory department having supervision over consumer credit agencies of this or some other state, or a combination of both. ~~He shall at the discretion of the commissioner, furnish such corporate surety bond and in such amount as the commissioner may determine.~~

NOTE: The reference to credit unions is deleted as surplusage, since the office of the commissioner of banking does not have jurisdiction over credit unions.

The provision relating to surety bonds is deleted since the state is a self-insurer for risks associated with agency employees.

SECTION 5. 220.025 of the statutes is repealed.

NOTE: Current s. 220.025, stats., requires the commissioner of banking and the deputy commissioner to furnish surety bonds in the amount of \$25,000. Bonds in the amount of \$10,000 must be furnished by division supervisors, bank examiners, special deputy commissioners and special assistants to the commissioner.

This statute is repealed because the requirement to furnish a bond is unnecessary. The state is a self-insurer for risks associated with agency employees.

SECTION 6. 220.05 (4) of the statutes is repealed.

NOTE: Current s. 220.05 (4), stats., authorizes the commissioner of banking, if aggregate fees for bank examinations are less than \$160,000 in any year, to increase the annual examination fees for all banks by not more than 10%. This statute is repealed because the aggregate fees always exceed \$160,000 per year.

SECTION 7. 220.05 (6) of the statutes is amended to read:

220.05 (6) Any bank or trust company holding any property in trust or in any fiduciary capacity or as custodian or bailee shall pay in addition to said fees and assessments provided for in ~~subs. sub. (2) and (4)~~ the actual reasonable cost of any and all examinations (whether or not they are in excess of 2 in any one year) conducted by the office of the commissioner of banking of the books, records and business of said bank or

trust company insofar as they relate to said property held in trust or other fiduciary capacity or as custodian or bailee, said cost to include a fair charge for time of assistants and office overhead and to be determined by the commissioner within a reasonable time after each said examination has been completed. A statement of such charge shall be promptly sent to said bank or trust company. Each such bank or trust company shall pay such charge within 10 days after receipt of such statement. Said cost shall include the cost of furnishing copy to the bank or trust company. ~~If an examination or part thereof is charged and fully paid for under sub. (4) such examination or part thereof shall not be again charged for under this subsection.~~

SECTION 8. 220.06 (1) and (2) of the statutes are amended to read:

220.06 (1) No commissioner of banking, deputy, assistant deputy or examiner may examine a bank in which such person is interested as a stockholder, officer, employe or otherwise. No commissioner, deputy, assistant deputy or examiner may examine a bank located in the same village, city or county with any bank in which such person is so interested. The commissioner of banking, deputy, assistant deputies and every ~~clerk~~ employe in the office of the commissioner, and each member and employe of the banking review board, shall be bound by oath to keep secret all facts and information obtained in the course of examinations or from reports not under s. 221.15 filed by a bank with the office of the commissioner of banking, except so far as the public duty of the officer requires reporting upon or taking special action regarding the affairs of any bank, and except when called as a witness in any criminal proceeding or trial in a court of justice. Any such person referred to in this subsection may under rules and regulations prescribed by the commissioner exchange information as to names of borrowers, lines of credit and other matters affecting a bank with a national bank examiner, a clearing house examiner or an examiner for an insurer authorized to do business in this state to insure or guarantee depositors or deposits in banks or trust companies and having such insurance in force. The commissioner may furnish to the federal deposit insurance corporation or to any official or examiner thereof a copy of any examination made of any such bank or of any report made by such bank and may give access to and disclose to the corporation or to any official or examiner thereof any information possessed by the commissioner with reference to the conditions or affairs of any such insured bank.

(2) If any commissioner, deputy, assistant deputy, examiner or ~~clerk~~ other employe in such office or any member of the banking review board or any employe thereof discloses the name of any debtor of any bank, or anything relative to the private account or transactions of such bank, or any fact obtained in the course of any examination of any bank, except as herein pro-

vided, he or she shall be subject, upon conviction thereof, to forfeiture of office, or position and to the payment of a fine of not less than \$100 nor more than \$1,000, or imprisonment in the Wisconsin state prisons not less than 6 months nor more than 2 years, or both.

SECTION 9. 220.08 (4) of the statutes is amended to read:

220.08 (4) The commissioner may, under his or her hand and official seal, appoint one or more special deputy commissioners, as agent or agents, to assist ~~him~~ the commissioner in the duty of reorganization, consolidation, liquidation and distribution, the certificate of appointment to 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 bank or banking corporation is located. Such special deputy commissioners may execute, acknowledge and deliver any and all deeds, assignments, releases or other instruments necessary and proper to effect any sale and transfer or ~~incumbrance~~ encumbrance of real estate or personal property after the same has been approved by the commissioner, and an order obtained from the circuit court of the county in which the bank concerned is located. The commissioner may from time to time authorize a special deputy commissioner to perform such duties connected with such reorganization, consolidation, liquidation and distribution as the commissioner ~~may deem~~ deems proper. The commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the reorganization, consolidation, liquidation and distribution of the assets of such banks or banking corporations. The commissioner may retain such of the officers or employes of such banks or banking corporations as he ~~may deem~~ or she deems necessary. ~~The commissioner shall require from special deputy commissioners and from such assistants corporate surety bonds in accordance with s. 220.025.~~

NOTE: This amendment reflects the repeal of s. 220.025, stats., by this act.

SECTION 10. 220.087 of the statutes is repealed.

NOTE: Current s. 220.087, stats., permits state banks to pay additional interest, not exceeding one percent per year, for "consistent and regular payments" on instalment deposits. The interest paid by a bank is a matter of contract between the bank and its depositors. This statute serves no purpose and is, therefore, repealed.

SECTION 11. 220.11 of the statutes is repealed.

NOTE: Current s. 220.11, stats., authorizes the commissioner of banking to order a bank to remove its office to another location if it is doing business on the same floor of a building as another bank and the proximity of the banks will "interfere with the proper examination of either bank". This statute is repealed as unnecessary. The commissioner of banking has general authority to assure that bank records are kept separate for examination purposes.

SECTION 12. 220.196 of the statutes is repealed.

NOTE: Current s. 220.196, stats., provides that a statement of account rendered by a bank to a depositor is "deemed finally adjusted and settled and its corrections conclusively presumed" after 5 years if the depositor does not question the

correctness of the statement before the 5-year period expires. This statute is repealed as unnecessary since a depositor can file a civil action based on an incorrect statement of account and such action would be subject to current statutes of limitation.

SECTION 12m. 220.28 of the statutes is amended to read:

**220.28 Destruction of obsolete records by state banks.** Any state bank ~~or credit union~~ may destroy or dispose of such of its records as may have become obsolete after first obtaining the written consent of the commissioner of banking.

**SECTION 13. Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
14.011 (intro.)	220.025 (1)	none

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