

No. 93. S.]

[Published June 16, 1909.]

CHAPTER 396.

AN ACT to repeal sections 2022, 2023, and 2024; to create one new section to be numbered section 2022; and to amend sections 2021 and 2024—23 of the statutes, relating to liquidation of delinquent banks or banking corporations.

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

SECTION 1. Sections 2022, 2023, and 2024 of the statutes are repealed.

SECTION 2. There is added to the statutes one new section to read: Section 2022. 1. Whenever it shall appear to the commissioner of banking that any bank or banking corporation to which this chapter is applicable has violated its charter or any law of the state, or is conducting its business in an unsafe or unauthorized manner, or if the capital of any such bank or banking corporation is impaired, or if any such bank or banking corporation shall refuse to submit its books, papers, and concerns to the inspection of any examiner, or if any officer thereof shall refuse to be examined upon oath touching the concerns of any such bank or banking corporation, or if any such bank or banking corporation shall suspend payment of its obligations, or if from any examination or report provided for by this chapter the commissioner shall have reason to conclude that such bank or banking corporation is in an unsound or unsafe condition to transact the business for which it is organized, or that it is unsafe and inexpedient for it to continue business, or if any such bank or banking corporation shall neglect or refuse to observe an order of the commissioner, specified in section 2021 of the statutes, the commissioner may forthwith take possession of the property and business of such bank or banking corporation, and retain such possession until such bank or banking corporation shall resume business, or its affairs be finally liquidated as herein provided.

2. On taking possession of the property and business of any such bank or banking corporation, the commissioner shall forthwith give notice of such fact to any and all banks or banking corporations holding or in possession of any assets of such bank or banking corporation. No bank or banking corporation knowing of such taking possession by the commissioner, or notified as aforesaid, shall have a lien or charge for any payment, advance, or clearance thereafter made, or liability there-

after incurred, against any of the assets of the bank or banking corporation of whose property and business the commissioner shall have taken possession as aforesaid. Such bank or banking corporation may, with the consent of the commissioner, resume business upon such conditions as may be approved by him.

3. Upon taking possession of the property and business of such bank or banking corporation, the commissioner is authorized to collect moneys due to such bank or banking corporation, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof, as hereinafter provided. The commissioner shall collect all debts due and claims belonging to it, and upon the order of the circuit court may sell or compound all bad or doubtful debts, and on like order may sell all the real and personal property of such bank or banking corporation on such terms as the court direct; and may, if necessary to pay the debts of such corporation, enforce the individual liability of the stockholders.

4. The commissioner may, under his hand and official seal, appoint one or more special deputy commissioners, as agent or agents, to assist him in the duty of liquidation and distribution, the certificate of appointment to be filed in the office of the commissioner of banking, and a certified copy in the office of the clerk of circuit court for the county in which such bank or banking corporation is located. The commissioner may from time to time authorize a special deputy commissioner to perform such duties connected with such liquidation and distribution as the commissioner may deem proper. The commissioner may employ such counsel and procure such expert assistance and advice as may be necessary in the liquidation and distribution of the assets of such bank or banking corporation, and may retain such of the officers or employees of such bank or banking corporation as he may deem necessary. The commissioner shall require from a special deputy commissioner and from such assistants such security for the faithful discharge of their duties, as he may deem proper.

5. The commissioner shall cause notice to be given by advertisement, in such newspapers as he may direct, weekly for three consecutive months, calling on all persons who may have claims against such bank or banking corporation, to present the same to the commissioner, and make legal proof thereof at a place and within a time, not earlier than the last day of publication, to be therein specified. The commissioner shall mail a similar notice to all persons whose names appear as creditors

upon the books of the bank or banking corporation. If the commissioner doubts the justice and validity of any claim, he may reject the same, and serve notice of such rejection upon the claimant either by mail or personally. An affidavit of the service of such notice, which shall be prima facie evidence thereof, shall be filed with the commissioner. An action upon a claim so rejected must be brought within six months after such service. 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 in the hands of the commissioner equitably applicable thereto.

6. Upon taking possession of the property and assets of such bank or banking corporation, the commissioner shall make an inventory of the assets of such bank or banking corporation, in duplicate, one to be filed in the office of the commissioner, and one in the office of the clerk of circuit court for the county in which such bank or banking corporation is located; upon the expiration of the time fixed for the presentation of claims, the commissioner shall make in duplicate a full and complete list of the claims presented, including and specifying such claims as have been rejected by him, one to be filed in the office of the commissioner, and one in the office of the clerk of circuit court for the county in which such bank or banking corporation is located. Such inventory and list of claims shall be open at all reasonable times to inspection.

7. The compensation of the special deputy commissioners, counsel, and other employees and assistants, and all expenses of supervision and liquidation, shall be fixed by the commissioner subject to the approval of the circuit court for the county in which such bank or banking corporation is located, on notice to such bank or banking corporation, and shall upon the certificate of the commissioner be paid out of the funds of such bank or banking corporation in the hands of the commissioner. The moneys collected by the commissioner shall be from time to time deposited in one or more state banks, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits.

8. At any time after the expiration of the date fixed for the presentation of claims, the commissioner may out of the funds remaining in his hands after the payment of expenses declare one or more dividends, and after the expiration of one year from the first publication of notice to creditors, he may declare a final dividend, such dividends to be paid to such persons, and in such amounts, and upon such notice, as may be

directed by the circuit court for the county in which such bank or banking corporation is located. Objections to any claim not rejected by the commissioner may be made by any party interested by filing a copy of such objections with the commissioner, who shall present the same to the circuit court at the time of the next application to declare a dividend. The court may make proper provision for unproved or unclaimed deposits.

9. Whenever any such bank or banking corporation, of whose property and business the commissioner has taken possession, as aforesaid, deems itself aggrieved thereby, it may, at any time within ten days after such taking possession, apply to the circuit court for the county in which such bank or banking corporation is located to enjoin further proceedings; and said court, after citing the commissioner to show cause why further proceedings should not be enjoined and hearing the allegations and proofs of the parties and determining the facts may, upon the merits dismiss such application or enjoin the commissioner from further proceedings, and direct him to surrender such business and property to such bank or banking corporation.

10. Whenever the commissioner shall have paid to each and every depositor and creditor of such bank or banking corporation (not including stockholders), whose claim or claims as such creditor or depositor shall have been duly proved and allowed, the full amount of such claims, and shall have made proper provision for unclaimed and unpaid deposits or dividends, and shall have paid all the expenses of the liquidation, the commissioner shall call a meeting of the stockholders of such bank or banking corporation by giving notice thereof for thirty days in one or more newspapers published in the county where such bank or banking corporation is located. At such meeting the stockholders shall determine whether the commissioner shall be continued as liquidator and shall wind up the affairs of such bank or banking corporation, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination.

11. In case it is determined to continue the liquidation under the commissioner, he shall complete the liquidation of the affairs of such bank or banking corporation, and after paying the expenses thereof, shall distribute the proceeds among

the stockholders in proportion to the several holdings of stock in such manner and upon such notice as may be directed by the circuit court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the commissioner a bond to the people of the state in such amount, with such sureties and in such form as shall be approved by the commissioner, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the commissioner shall transfer and deliver to such agent or agents all the undivided or uncollected or other assets of such bank or banking corporation then remaining in his hands; and upon such transfer and delivery, the said commissioner shall be discharged from any and all further liability to such bank or banking corporation and its or their creditors.

12. Such agent or agents shall convert the assets coming into his or their possession into cash, and shall account for and make distribution of the property of said bank or banking corporation, as is herein provided in the case of distribution by the commissioner, except that the expenses thereof shall be subject to the direction and control of the circuit court. In case of the death, removal, or refusal to act of any such agent or agents, the stockholders, on the same notice, to be given by the commissioner upon proof of such death, removal, or refusal to act being filed with him, and by the same vote hereinbefore provided, may elect a successor, who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected.

13. Dividends and unclaimed deposits remaining unpaid in the hands of the commissioner for six months after the order for final distribution shall be by him deposited in one or more state banks, to the credit of the commissioner of banking, in his name of office, in trust for the several depositors with and creditors of the liquidated bank or banking corporations from which they were received entitled thereto. The commissioner shall report to the governor annually in his report the names of banks or banking corporations so taken possession of and liquidated and the sums of unclaimed and unpaid deposits or dividends with respect to each of them respectively.

14. The commissioner may pay over the moneys so held by him to the persons respectively entitled thereto, upon being furnished satisfactory evidence of their right to the same. In

cases of doubt or conflicting claims, he may require an order of the circuit court authorizing and directing the payment thereof. He may apply the interest earned by the moneys so held by him towards defraying the expenses in the payment and distribution of such unclaimed deposits or dividends to the depositors and creditors entitled to receive the same, and he shall include, in his annual report to the governor, a statement of the amount of interest earned by such unclaimed dividends.

SECTION 3. Sections 2021 and 2024—23 of the statutes are amended to read: Section 2021. Whenever the commissioner of banking shall become satisfied that the capital of any bank is impaired or reduced below the amount required by law or the articles of incorporation, or below the amount certified to the commissioner of banking as paid in, he shall have the power to require such bank under his hand and seal of office to make good such impairment or deficiency * * * *within sixty days after the date of such requisition.* In any case, where the capital of a bank shall have become impaired or reduced below the amount required by law or the articles of incorporation, the board of directors of such bank shall have the power to make a pro rata assessment upon all of the stock of said bank to make good such deficiency, and may provide that the amount of such deficiency shall be due and payable at a time to be fixed by such board of directors, which time shall be not less than ten days after notice of said assessment; and if any stockholder shall fail or neglect to pay the amount of the assessment against his stock for ten days after the same shall have become so due and payable, the directors of such bank may offer said stock for sale, and sell the same at public sale upon ten days' notice to be given by posting copies of such notice of sale in five public places in the town, village, or city where such bank is located. Upon such sale, the purchaser shall forthwith pay the amount of the assessment against said stock. The amount received from the sale of said stock, less the cost and expenses of such sale, shall be paid to the original owner of such stock.

Section 2024—23. Whenever any officer in charge of a bank shall refuse to submit the books, papers, and concerns of such bank to the inspection of the commissioner of banking, his deputy, or examiner appointed hereunder, or refuse to be examined on oath touching the concerns of the bank, the commissioner of banking may inform the attorney-general whose duty it shall be to institute * * * *an action to procure a judgment dissolving such corporation.*

SECTION 4. In order to carry out the provisions of this act the commissioner of banking is hereby authorized to commence and maintain in his own name as commissioner of banking any and all actions necessary or proper to enforce any of the provisions of this act.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved June 14, 1909.

No. 299, A.]

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CHAPTER 397.

AN ACT to amend section 1319 of the statutes, relating to county aid for bridges.

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

SECTION 1. Section 1319 of the statutes is amended to read: Section 1319. 1. Whenever any town board shall file its petition with the proper county board setting forth the fact that said town has voted to construct or repair any bridge wholly or partly within such town, designating as near as may be the location of such bridge, and further stating that such town has provided for the payment of * * * *such proportion of the cost of such construction or repairs * * * as is required by this section*, the said county board shall appropriate * * * *such sum as is required by this section to be paid by the county and shall cause such sum to be levied upon the taxable property of the county as will, with the amount provided by said town, be sufficient to defray the expense of erecting or repairing * * * such bridge so petitioned for, and such money, when collected, shall be paid out on the order of the chairman of the county board and county clerk whenever the said town board and the commissioners hereinafter provided for shall notify them that the work has been completed and accepted.*

2. When such bridge to be constructed or repaired is located wholly or partly within a town having a total valuation of six hundred thousand dollars or more according to the last assessment as equalized by the county board, the county shall pay the cost in excess of six hundred dollars until the cost is twelve hundred dollars. When the cost exceeds twelve hundred dollars the town and county shall each pay one-half the cost of such construction or repair.

3. When such bridge to be constructed or repaired is located wholly or partly within a town having a total valuation of less