

1971 Assembly Bill 518

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CHAPTER 229, Laws of 1971

AN ACT to repeal 215.07 (19) and (20); to amend 215.07 (2), 215.08 (6) (title) and (a), 215.13 (1), 215.16 (title), 215.27 (1) and 215.28 (1); to repeal and recreate 215.01, 215.07 (1), (3) and (4), 215.09 (2) and 215.14 (1) and (2); and to create 215.075, 215.185, 215.186 and 215.285 of the statutes, relating to incorporation of mutual savings and loan associations and capital stock savings and loan associations and granting rule-making authority.

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

SECTION 1. 215.01 of the statutes is repealed and recreated to read:

215.01 DEFINITIONS. In this chapter:

(1) "Association" means a savings and loan association, a building and loan association or a savings association, utilizing either mutual or capital stock.

(2) "Board" means the board of directors of an association.

(3) "Branch office" means a place of business other than the home office where the business of an association as described in this chapter is carried on.

(4) "Capital" of a capital stock association organized under this chapter means the aggregate of the nonwithdrawable shares of capital stock owned by stockholders of the association.

(5) "Commissioner" means the commissioner of savings and loan.

(6) "Earnings" means the return paid on savings accounts, and may be designated as earnings, dividends or interest.

(7) "Federal savings and loan association" means a savings and loan association organized pursuant to an act of congress, approved June 30, 1933, entitled "Home Owners' Loan Act of 1933", and any acts amendatory thereof and supplementary thereto.

(8) "Foreign association" means a savings and loan association organized under the laws of any other state or territory.

(9) "Guaranteed mortgage loans" means loans wholly or partially guaranteed by the administrator of veterans' affairs of the U.S. veterans administration under the servicemen's readjustment act of 1944, P.L. 78-346, and acts amendatory thereof and supplementary thereto.

(10) "Capital stock" means stock issued by a capital stock association which cannot be withdrawn or the value paid to the holder thereof until all liabilities of the association have been fully liquidated and paid.

(11) "Home office" means the principal place of business of an association.

(12) (a) "Impairment of capital" in a mutual association means that the assets of the association do not have an aggregate appraised value equal to the savings capital and other liabilities of the association.

(b) "Impairment of capital" in a capital stock association means that the assets of the association do not have an aggregate appraised value equal to the savings capital, other liabilities and capital of the association.

(13) "Insured association" means an association whose members' savings accounts are insured by the federal savings and loan insurance corporation.

(14) "Insured loans" mean loans wholly or partially insured by the federal housing administrator or any other state or federal agency.

(15) "Legal reserve" means the required statutory reserve, irrevocably established out of the association's net income, for the sole purpose of absorbing losses.

(16) (a) "Member" of a mutual association means a person holding a savings account, a borrower or an obligor.

(b) "Member" of a capital stock association means a person who is a stockholder.

(17) "Net income" means the gross income for any period, less the aggregate of the following:

(a) Operating expenses;

(b) Real estate expenses;

(c) Losses sustained on the sale of securities, real estate and other assets that were not charged to reserves;

(d) Interest paid or accrued on all borrowed money;

(e) Other nonoperating charges;

(f) State and federal income taxes.

(18) "Net operating income" means the gross operating income for an accounting period less the operating expenses.

(19) "Office" means the office of the commissioner of savings and loan.

(20) "Operating expenses" mean all expenses paid or accrued during an accounting period exclusive of interest charged on borrowed money, losses sustained on the sale of assets, and other non-recurring charges.

(21) "Operating income" means all income received during an accounting period, exclusive of nonrecurring income.

(22) "Review board" means the savings and loan review board.

(23) "Savings account" means the monetary interest of the holder thereof in the savings capital of an association and consists of the withdrawal value of the interest.

(24) "Savings capital" means the aggregate savings accounts authorized by rules of the commissioner and earnings credited

thereto, less withdrawals, redemption or depreciation charges made under this chapter.

(25) "Savings liability" means the aggregate of members' savings accounts in a capital stock association.

(26) "State chartered savings and loan association" means an association organized under this chapter for the purpose of raising money to be loaned.

(27) "Stockholder" means all persons owning stock in a capital stock association.

(28) "Withdrawal value of savings accounts" means the aggregate of deposits made thereon and earnings credited thereto, less withdrawal payments and depreciation charges.

SECTION 2. 215.07 (1), (3) and (4) of the statutes are repealed and recreated to read:

215.07 INCORPORATION OF MUTUAL SAVINGS AND LOAN ASSOCIATION. (1) **USE OF NAME.** A corporation organized under this section shall be a mutual savings and loan association. The words "savings and loan association" or "savings association" shall form part of the name of every such association organized, and any corporation not organized under this chapter shall not use a name embodying those words, except that associations now existing may continue their present names. The name adopted by any association shall not be the same as that of any other association, nor so similar as to be misleading.

(3) **WHO MAY ORGANIZE.** Adult citizens of this state, hereinafter referred to as incorporators, desiring to organize a mutual association under this section shall make application to the commissioner as prescribed on forms furnished by the commissioner.

(4) **APPLICATION TO ORGANIZE A MUTUAL ASSOCIATION.** The application to organize a mutual association shall be in duplicate and shall set forth:

- (a) The name of the proposed association.
- (b) The location of the proposed association.
- (c) The full name, residence and occupation of each incorporator.
- (d) The need of an association in the locality in which the proposed association intends to locate.
- (e) Such other information as the commissioner requires.

SECTION 3. 215.07 (2) of the statutes is amended to read:

215.07 (2) The commissioner ~~and review board~~ shall determine the minimum membership required to organize a mutual savings and loan association in any locality, the minimum amount of capital to be paid into the association by subscribers for savings accounts, the length of time for which the incorporators shall guarantee or pay the association's operating expenses, and such other requirements as ~~they may deem~~ are deemed necessary or desirable.

SECTION 4. 215.07 (19) and (20) of the statutes are repealed.

SECTION 5. 215.075 of the statutes is created to read:

215.075 INCORPORATION OF A CAPITAL STOCK SAVINGS AND LOAN ASSOCIATION. (1) **USE OF NAME.** A corporation organized under this section shall be known as a capital stock association. The words "savings and loan association" or "savings association" shall form part of the name of every association so organized, and any corporation not organized under this chapter shall not use a name embodying those words. The name adopted by any association shall not be the same as that of any other association or so similar as to be misleading.

(2) **MINIMUM SAVINGS ACCOUNTS; CAPITAL AND STOCK-HOLDERS.** The commissioner by rule shall determine the minimum number of stockholders required to organize a capital stock association in any locality, the minimum amount of capital stock and paid-in surplus, the minimum amount of savings accounts to be paid into the association by the subscribing members and such other requirements as are deemed necessary or desirable.

(3) **WHO MAY ORGANIZE.** Adult citizens of this state, hereinafter referred to as incorporators, desiring to organize a capital stock association under this section shall make application to the commissioner on forms furnished by the commissioner.

(4) **APPLICATION TO ORGANIZE A CAPITAL STOCK ASSOCIATION.** The application to organize a capital stock association shall set forth:

- (a) The name of the proposed association.
- (b) The location of the proposed association.
- (c) The name, residence and occupation of each incorporator.
- (d) The amount of initial capital stock and paid-in surplus.
- (e) The amount of initial savings accounts.
- (f) The need for an association in the locality in which the proposed association intends to locate.
- (g) The name and addresses of the initial directors.
- (h) Such other information as the commissioner requires.

(5) **APPLICATION FEE.** The incorporators shall pay to the commissioner a \$500 fee, which sum shall be paid by him into the general fund to the credit of the office. Applicants shall also be liable for any other direct costs incurred by the commissioner or review board for any transcripts of hearings, per diems and travel expenses.

(6) **NOTICE OF APPLICATION AND HEARING THEREON.** Upon receipt of a properly executed application, the commissioner shall, within 30 days, assign a date and place for hearing on the application and notice thereof shall be given as provided in s. 215.07 (7).

(7) **CERTIFICATE OF AUTHORITY; WHEN ISSUED.** If the application to organize a capital stock association is approved, the commissioner shall issue to the incorporators a certificate of authority to effect a temporary organization, consisting of a chairman, a secretary and a treasurer; to adopt articles of incorporation; to adopt bylaws; to adopt rules for the procedure of the incorporators; to conduct meetings; and to open subscription books for the sale of capital stock and also open subscription books for savings accounts.

(8) **POWERS OF INCORPORATORS.** The incorporators of a capital stock association shall, until the completion of the organization, exercise such other powers as are conferred upon the incorporators of other corporations so far as such powers are not in conflict with this chapter.

(9) **SURETY BONDS OF OFFICERS.** The incorporators of a capital stock association shall provide a surety bond in a suitable amount from the treasurer and other officers who may handle funds of the temporary organization.

(10) **CERTIFICATE OF AUTHORITY, WHEN VOIDED.** The certificate of authority as described in sub. (7) shall be void after 180 days from its date, but the commissioner may, for cause, extend the life of the certificate for such time as he deems advisable.

(11) **CERTIFICATE OF COMPLIANCE.** (a) Within the time prescribed in sub. (10), the incorporators of the proposed capital stock association shall file with the commissioner a certificate stating:

1. That articles of incorporation have been executed, filed with the commissioner and approved by him and recorded;

2. That a meeting of stockholders was held and that directors and officers acceptable to the commissioner were elected at the meeting;

3. That bylaws were adopted, filed with the commissioner and approved by him;

4. That the minimum number of required stockholders subscribing for capital stock was obtained, and that such stockholders, in the aggregate, paid to the association the required amount of initial capital stock and paid-in surplus;

5. That the funds, representing the initial sale of capital stock and paid-in surplus, have been deposited in the association's designated depository bank;

6. That the minimum number of required members subscribing for savings accounts was obtained, and that such members, in the aggregate, paid to the association the required amount of initial savings liability;

7. That the funds, representing the initial savings liability, have been deposited in the association's designated depository bank;

8. That ground floor, independent office quarters have been obtained for the proposed association;

9. That insurance of savings accounts has been obtained from the federal savings and loan insurance corporation; and

10. That a competent person, fully conversant with savings and loan laws and regulations, has been engaged to handle the affairs of the proposed association.

(b) No business, other than that of completing the organization of the proposed capital stock association, may be transacted until such time as the commissioner issues a certificate of incorporation to the association to commence business.

(12) **CERTIFICATE OF INCORPORATION, WHEN ISSUED.** Upon receipt of the certificate of compliance from the incorporators, described in sub. (11), and after all fees have been paid, the

commissioner may within 90 days issue a certificate of incorporation to the association under his hand and seal authorizing such association to commence business. The date appearing on the certificate of incorporation shall be the date of the corporate existence of the association.

(13) CERTIFICATE OF INCORPORATION, WHEN VOIDED. Any capital stock association failing to commence business within 6 months from the date of the certificate of incorporation shall have its corporate existence terminated, and its articles of incorporation and certificate of incorporation shall be voided, but the commissioner may for cause, extend the life of such certificate for such time as he deems advisable.

(14) DISCRETIONARY AUTHORITY OF COMMISSIONER. The commissioner shall have the discretionary power in the granting of certificates of authority to incorporators desiring to organize capital stock associations. He may refuse to issue certificates of incorporation to the incorporators of a capital stock association to commence business when, in his opinion, the incorporators or any of them are not of such character and general fitness as to warrant belief that the association will be conducted for the best interests of the public; the location of the proposed association is so close to an existing association that undue harm might result, or the support of the new association might not be such as to assure its success; or when other good and sufficient reasons exist for such refusal.

(15) APPEAL BY APPLICANTS. If the commissioner refuses to grant a certificate of authority or a certificate of incorporation and the applicants feel aggrieved thereby, they may appeal to the review board to review the commissioner's determination.

(16) MORATORIUM ON INCORPORATING CAPITAL STOCK ASSOCIATIONS. Notwithstanding subs. (1) to (15), the commissioner shall not issue any certificate of authority nor certificate of compliance to any incorporators or applicants nor permit any conversions under s. 215.186 until one year has elapsed after the effective date of this section (1971), or prior thereto if the commissioner makes an affirmative finding that all mutual associations domiciled in this state have the privilege of converting to capital stock associations under this section or appropriate regulations of the federal home loan bank board and retain the insurance of their savings accounts by the federal savings and loan insurance corporation. Nothing herein shall prevent the commissioner from accepting for filing applications for new capital stock associations or applications for conversion to capital stock associations, except that no action shall be taken on such applications by the commissioner until the moratorium herein provided has expired. The provisions of s. 215.02 (9) shall not commence to run on any application so filed until after the moratorium has expired.

SECTION 6. 215.08 (6) (title) and (a) of the statutes are amended to read:

215.08 (6) (title) Voting rights in mutual associations. (a) Each member shall have one vote for each \$100 or fraction thereof of the withdrawal value of his savings accounts. Each borrowing member ~~;- as such, shall have one vote, and~~ such number of votes to which he may be entitled as a holder of a savings account.

SECTION 7. 215.09 (2) of the statutes is repealed and recreated to read:

215.09 (2) QUALIFICATION OF DIRECTORS. (a) Mutual association. In order to qualify as a director of a mutual association, a member must be a resident of this state and must have a savings

account, the withdrawal value of which is at least \$500, during his term of office. A director automatically ceases to be a director when he ceases to be a member, or when the withdrawal value of his savings account is less than \$500.

(b) Capital stock association. The directors of a capital stock association shall consist of stockholders who are residents of this state and own capital stock of not less than \$1,000 and a savings account the withdrawal value of which is at least \$500. A director automatically ceases to be a director when his holding of capital stock is less than \$1,000 or the withdrawal value of his savings account is less than \$500.

SECTION 8. 215.13 (1) of the statutes is amended to read:

215.13 (1) (title) SAVINGS CAPITAL. Raise savings capital by accepting payments ~~from members for~~ on savings accounts in accordance with s. 215.14.

SECTION 9. 215.14 (1) and (2) of the statutes are repealed and recreated to read:

215.14 SAVINGS CAPITAL. (1) DEFINITION. The savings capital of any association is unlimited and shall consist of the aggregate of payments upon all savings accounts and earnings credited thereto, less withdrawals, redemptions or depreciation charges made pursuant to this chapter.

(2) SAVINGS ACCOUNT. "Savings account" means the monetary interest of the holder thereof in the savings capital of an association and consists of the withdrawal value of such interest.

SECTION 10. 215.16 (title) of the statutes is amended to read:

215.16 (title) DISTRIBUTION OF EARNINGS ON SAVINGS CAPITAL.

SECTION 11. 215.185 and 215.186 of the statutes are created to read:

215.185 CAPITAL AND STOCKHOLDERS OF CAPITAL STOCK ASSOCIATIONS. (1) DEFINITION OF CAPITAL. The capital of an association, organized under this chapter as a capital stock association, shall be the aggregate of the required amount of nonwithdrawable shares of the capital stock owned by the stockholders of the association. The minimum amount of capital stock shall be prescribed by the commissioner.

(2) VOTING RIGHTS. (a) Each stockholder shall have one vote for each share of capital stock owned by him.

(3) PURPOSE. The capital stock of the association shall be used solely for the payment of losses, and cannot be withdrawn until all liabilities of the association have been fully liquidated and paid.

(4) PAR VALUE. The par value of each share of capital stock shall be fixed by the incorporators or board of directors.

(5) PAID-IN SURPLUS. Each stockholder purchasing one or more shares of capital stock may, in addition to the par value thereof, be required to pay to the association an amount into the association's paid-in surplus account as prescribed by the commissioner.

(6) **PURPOSE OF PAID-IN SURPLUS.** Any association at the close of any period may use any portion of its paid-in surplus to meet any part of the operating expenses of the period just closed, required transfers to its legal reserve and federal insurance reserve, or for distribution of earnings to the members holding savings accounts, or for such other purpose as the commissioner authorizes.

(7) **CAPITAL STOCK EXEMPT FROM REGISTRATION.** Section 551.22 (4) which exempts any security issued by a savings and loan association from registration with the office of the commissioner of securities shall not apply to capital stock issued by an association.

(8) **MINIMUM AMOUNT OF CAPITAL STOCK.** Notwithstanding the requirement of the commissioner for the initial amount of capital stock of an association organized under s. 215.075, such association shall not be required to sell any additional shares of capital stock until the ratio of capital stock to withdrawable savings accounts is less than specified by the commissioner.

(9) **EARNED SURPLUS AND DIVIDENDS ON CAPITAL STOCK.**
(a) Earned surplus. The board may, by resolution, authorize all or any part of the residual net income of any period, after payment of operating expenses, income taxes, allocations to general reserves and distribution of earnings on savings accounts, to earned surplus.

(b) Dividends on capital stock. The board may, subject to rules of the commissioner, declare dividends out of the earned surplus to the owners of capital stock. Dividends may be paid in stock or cash.

(11) Any preemptive rights of a stockholder may be limited or denied to the extent provided in the articles of incorporation.

(12) The provisions of ch. 180 not in conflict with this chapter shall apply to all capital stock associations.

215.186 CONVERSION FROM A MUTUAL SAVINGS AND LOAN ASSOCIATION TO A CAPITAL STOCK ASSOCIATION; PROCEDURE TO EFFECT CONVERSION. (1) Any state chartered mutual savings and loan association may convert itself to a capital stock association under this chapter as set forth in this section.

(2) The board shall, by resolution, adopt a plan of conversion in accordance with this chapter and the rules of the commissioner including the following:

(a) The record date for determining the respective interests of savings account holders, which record date shall be that last fixed by the commissioner.

(b) The proposed restated articles of incorporation.

(c) A certification that each savings account holder shall have a savings account in the capital stock association equal in amount to his savings account in the mutual association and shall suffer no loss of dividends or interest because of such conversion.

(c) A certification that the amount of stock and scrip, if any, to which a savings account holder is entitled shall be determined on the basis of the ratio his savings with the association on the record date bears to the total savings of the association on the record date, as applied to the initial issuance of capital stock.

(d) A statement as to whether or not any stock in addition to the initial issuance thereof as provided under par. (c) shall be issued, its price to the savings account holders, the time in which

they may elect to purchase the same, which shall not be less than 20 nor more than 45 days, and the manner in which those shares not so purchased shall be disposed of.

(3) The resolution under sub. (2) including the proposed restated articles of incorporation shall be forthwith filed with the commissioner together with any other information in regard to the plan of conversion that the commissioner requires.

(4) Upon approval by the commissioner of the resolution, its proposed restated articles of incorporation and its plan of conversion, a shareholders meeting shall be called for the purpose of voting on the conversion of the association to a capital stock association. Notice of such meeting shall be sent to each member at least 10 days prior to such meeting, stating the time, place and purpose of such and shall set forth the plan of conversion as approved by the commissioner, the restated articles of incorporation and such other information as the commissioner requires.

(5) At the meeting of the members a vote shall be taken on the proposed plan of conversion and restated articles of incorporation. They shall be approved upon receiving the affirmative vote of members, in person or by proxy, holding 60% of the dollar value of the savings accounts of the association.

(6) Within 10 days following the meeting, a copy of the minutes thereof, certified by the secretary or president, showing that by an affirmative vote as required under sub. (5) the members by resolution declared to convert the association to a capital stock association and adopted the restated articles of incorporation, along with proof of compliance with this section and the rules of the commissioner, shall be filed with the commissioner.

(7) The commissioner, upon being satisfied that such plan of conversion and restated articles of incorporation were adopted in accordance with this section and his rules, shall issue to the association the certificate setting forth the conversion of the mutual association into a stock association. The date of the certificate shall be the date of the conversion of the association from a mutual to a capital stock association.

(8) Upon issuance of such certificate, the association shall proceed to put into effect the plan of conversion and restated articles of incorporation.

(9) Upon conversion of a mutual association, the legal existence of the association shall not terminate, but the capital stock association shall be a continuation of the entity of the mutual association, and all property of the mutual association, including its rights, titles and interests in and to all property of whatever kind, whether real, personal or mixed, or things in action, and every right, privilege, interest and asset of every conceivable value or benefit then existing or pertaining to it, or which would inure to it, immediately, by act of law and without any conveyance or transfer and without any further act or deed shall remain and vest in the capital stock association into which the mutual association has converted itself. The capital stock association shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held and enjoyed by the mutual association. The capital stock association upon the taking effect of the conversion shall continue to have and succeed to all the rights, obligations and relations of the mutual association. All pending actions and other judicial proceedings to which the mutual association is a party shall not be abated or discontinued by reason of the conversion but may be prosecuted to final judgment, order or decree in the same manner as if the conversion had not been made and the capital stock association resulting from the conversion

may continue the actions in its corporate name as a mutual association. Any judgment, order or decree may be rendered for or against it which might have been rendered for or against the mutual association theretofore involved in the proceedings. The directors of the mutual association shall continue to serve as directors of the capital stock association for the term to which they had been elected. Upon conversion all provisions of this chapter relating to capital stock associations shall apply.

(10) The commissioner may issue rules including procedures he deems necessary governing conversion of associations, the fixing of a record date for determining the respective interests of savings account holders, the provisions of the plan of conversion and the restated articles of incorporation, voting rights, the composition, qualification, experience of principal officers and members of the board, voting trust agreements, employment contracts, the disposition of the general reserves and undivided profits, the distribution, issuance, sale and subscription for capital stock and paid-in surplus and all other requirements for converting a mutual association to a capital stock association.

(11) The commissioner may refuse to approve the plan of conversion and decline to issue a certificate and file the restated articles of incorporation if he has reason to believe that the plan of conversion is not fair and equitable to all members or that sufficient provision is not made to protect the interest of depositors and savings account holders of the prospective capital stock association.

SECTION 12. 215.27 (1) of the statutes is amended to read:

215.27 (1) With the commissioner's consent and subject to such conditions as he prescribes and by the affirmative vote of at least two-thirds of each board of directors, associations organized and operating under this chapter, may absorb or be absorbed by each other. The absorbed association shall transfer its assets and liabilities to the absorbing association but not to defeat or defraud creditors.

SECTION 13. 215.28 (1) of the statutes is amended to read:

215.28 (1) With the approval of the commissioner and subject to such conditions as he prescribes, associations organized and operating under this chapter, may consolidate. To effect a consolidation, the board of each association shall, by resolution, propose the consolidation, and such consolidation must be ratified by an affirmative vote of the holders of 51 ~~per cent~~ % of the dollar value of the savings accounts outstanding of each mutual association, or 51% of the outstanding capital stock of a stock association at a meeting called by the boards and held at least 30 days after a notice of the time, place and object of the meeting has been sent to each member of record by mail, directed to him at his ~~last-known~~ last-known post-office address.

SECTION 13m. 215.285 of the statutes is created to read:

215.285 STOCK CONTROL OF ASSOCIATION BY HOLDING COMPANIES. (1) (a) In this section, a savings and loan holding company includes any person, corporation, partnership, trust, joint stock company, association, state or federal savings and loan association or state or national bank, which owns, holds or in any manner controls, directly or indirectly, 10% of the stock in a savings and loan association.

(b) A savings and loan holding company shall be deemed to be engaged in the savings and loan business and shall be subject to the supervision and control of the office of the commissioner. Such

savings and loan holding company shall file reports of its financial condition when requested by the commissioner, and the commissioner may order an examination of its solvency and economic condition whenever, in his opinion, an examination is required. The cost of the examination shall be paid by the savings and loan holding company. Whenever in the opinion of the commissioner, the condition of the savings and loan holding company shall endanger the safety of the savings capital of any savings and loan association which it owns or in any manner controls, or the operation of such savings and loan holding company shall be carried on in a manner which endangers the safety of such savings and loan association or its savers, or is contrary to the public interest, the commissioner may order the savings and loan holding company to remedy such condition or policy within 90 days. If the commissioner's order is not complied with, he shall have the power to fully direct the operation of such savings and loan association or savings and loan holding company until the order is complied with, and may withhold all dividends from the institution whose operation he directs during the period in which he exercises such authority.

(2) Subsection (1) shall apply to any foreign corporation, association, investment trust, or other form of trust which shall be authorized to do business in Wisconsin.

(3) All of the foregoing provisions of this section relating to companies shall apply equally to all other forms of organization, whether so specifically stated or not, but nothing contained in this section shall be construed to prohibit any trust company bank, or state or national bank, authorized to administer or execute trusts, to accept and carry out the provisions of any personal trust, or any trust created by will where the owner of savings and loan association stock shall create a trust for his own benefit during his lifetime, or shall provide by will a trust in savings and loan association stock for the benefit of his heirs, and trusts so created shall not be deemed to come within the provisions of this section.

SECTION 14. Wherever the reference to section "215.01 (19)" appears in section 272.18 (22) of the statutes, the reference "215.01 (23)" is substituted.
