

1981 Assembly Bill 212

Date published: **May 6, 1982**

CHAPTER 319 , Laws of 1981

AN ACT to amend 186.113 (6), 452.09 and 757.293; and to create 186.113 (6) (a) and (b) and (17) and 215.13 (48) and (49) of the statutes, relating to the authorization of savings and loan associations and credit unions to maintain trust accounts for attorneys and real estate brokers, to contract for trust services and to provide certain services to members regarding pension savings and deferred income accounts.

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

SECTION 1. 186.113 (6) of the statutes is amended to read:

186.113 (6) Provide pension savings programs and deferred income accounts. The guaranty on any pension savings account provided under this subsection shall be \$100,000 on each separate account, and shall not be limited by the maximum protection afforded a member under s. 186.35 (2) (a). In order to carry out its authority under this subsection, a credit union may:

SECTION 2. 186.113 (6) (a) and (b) of the statutes are created to read:

186.113 (6) (a) Contract for the provision of trust services to its members with a trust company or other organization with trust powers authorized to do business in this state. For this purpose, the trust company or other organization with trust powers may serve credit union members at credit union facilities on a full-time or part-time basis.

(b) Act as trustees of member funds permitted by federal law to be deposited in a credit union as a deferred compensation or tax-deferral device.

SECTION 3. 186.113 (17) of the statutes is created to read:

186.113 (17) Maintain real estate broker trust accounts under s. 452.09 for brokers otherwise eligible for membership in the credit union and attorney trust accounts under s. 757.293 for attorneys otherwise eligible for membership in the credit union.

SECTION 4. 215.13 (48) and (49) of the statutes are created to read:

215.13 (48) TRUST ACCOUNTS. Maintain real estate broker trust accounts under s. 452.09 and attorney trust accounts under s. 737.293.

(49) Contract for the provision of trust services to its members with a trust company or other organization with trust powers authorized to do business in this state. For this purpose, the trust company or other organization with trust powers may serve association members at association facilities on a full-time or part-time basis.

SECTION 5. 452.09 of the statutes is amended to read:

452.09 Trust accounts. All downpayments, earnest money deposits or other trust funds received by a broker or salesperson on behalf of the broker's or salesperson's principal or any other person shall be deposited in a common trust account, maintained by the broker for that purpose in a bank, savings and loan association or credit union which is authorized to do business in this state and is designated by the broker, pending the consummation or termination of the transaction, except as the moneys may be paid to one of the parties pursuant to the contract or option. The name of the bank, savings and loan association or credit union shall at all times be registered with the examining board, along with a letter authorizing the examining board to examine and audit the trust account when the examining board deems it necessary.

SECTION 6. 757.293 of the statutes is amended to read:

757.293 Trust accounts required. (1) A member of the state bar shall not commingle the money or other property of a client with his or her own, and he or she shall promptly report to the client the receipt by him or her of all money and other property belonging to the client. Unless the client otherwise directs in writing, whenever an attorney collects any sum of money upon any action, claim or proceeding, either by way of settlement or after trial or hearing, he or she shall promptly deposit his or her client's funds in a bank ~~or~~, trust company, credit union or savings and loan association, authorized to do business in this state, in a ~~bank~~ an account separate from his or her own account and clearly designated as "Clients' Funds Account" or "Trust Funds Account", or words of similar import. The attorney, with the written consent of the client, may deposit the client's funds in a segregated client's trust account with all interest accruing thereon to the client. Unless the client otherwise directs in writing, securities of a client in bearer form shall be kept by

the attorney in a safe deposit box at a bank ~~or~~, trust company, credit union or savings and loan association authorized to do business in this state, which safe deposit box shall be clearly designated as "Clients' Account" or "Trust Account", or words of similar import, and be separate from the attorney's own safe deposit box.

(2) A member of the state bar shall maintain and preserve for at least 6 years complete records pertaining to client's funds or assets received by him or her which are required to be distributed or segregated by sub. (1). The records shall include his or her trust fund checkbooks and the stubs or copies thereof, ~~bank~~ statements of the account, vouchers and canceled checks or share drafts thereon and his or her account books showing dates, amounts and ownership of all deposits to and withdrawals by check or share draft or otherwise from the accounts, and all of the records shall be deemed to have public aspects as related to such member's fitness to practice law. Upon request of the board of attorneys professional responsibility, or upon direction of the supreme court, the records shall be submitted to the board for its inspection, audit, use and evidence under such conditions to protect the privilege of clients as the court may provide. The records, or an audit thereof, ~~must~~ shall be produced at any disciplinary proceeding involving the attorney wherever material. Failure to produce the records shall constitute unprofessional conduct and grounds for disciplinary action.

(3) A member of the state bar of Wisconsin shall file with the state bar annually, with payment of the member's state bar dues or upon such other date as approved by the supreme court, a certificate stating whether the member is engaged in the private practice of law in Wisconsin and, if so, the name of each bank, trust company, credit union or savings and loan association in which the member maintains a trust account, safe deposit box, or both, as required by this section. A partnership or professional legal corporation may file one certificate on behalf of its partners, associates, or officers who are required to file under this section. The failure of a member to file the certificate required by this section is grounds for automatic suspension of the member's membership in the state bar in the same manner as provided in section 6 of rule 2 of the Rules of the State Bar of Wisconsin for nonpayment of dues. The filing of a false certificate is unprofessional conduct and is grounds for disciplinary action. The state bar shall supply to each member, with the annual dues statement or at such other time as directed by the supreme court, a form on which the certification must be made and a copy of this section.
