



1995 ASSEMBLY BILL 872

February 13, 1996 - Introduced by Representatives KAUFERT, R. POTTER, WARD, HOVEN, ZIEGELBAUER, F. LASEE, MEYER, OURADA, BALDUS, LEHMAN, HANSON, HUEBSCH, JENSEN, MUSSER, KREIBICH, GARD, HANDRICK, OTT, GROTHMAN, HAHN, SERATTI, OLSEN, GRONEMUS, GOETSCH, PORTER, LORGE, JOHNSRUD, HUTCHISON, ZUKOWSKI, AINSWORTH, KLUSMAN, BRANDEMUEHL, FREESE, VRAKAS, GREEN, LADWIG, SILBAUGH, GUNDERSON, COLEMAN, TRAVIS, NASS, LA FAVE, TURNER and POWERS, cosponsored by Senators DARLING, DRZEWIECKI, BRESKE, ANDREA, PETAK, WELCH, HUELSMAN, GROBSCHMIDT, GEORGE, SHIBILSKI, MOEN, FITZGERALD, MOORE, BUETTNER, RUDE, ZIEN, BURKE, PANZER, FARROW, COWLES, ROSENZWEIG, C. POTTER and SCHULTZ. Referred to Committee on Financial Institutions.

1 **AN ACT to repeal** 180.1150 (3) (h), 219.08, 220.075, 223.025, 223.03 (10), 223.03
2 (11), 223.03 (12), 223.04, 223.12 (4) and (5), 224.075, 224.08 and 404.213 (4m);
3 **to renumber and amend** 138.052 (10), 223.11 and 224.092; **to amend** 34.09,
4 66.04 (2m) (a), 157.19 (2) (a), 180.1132 (2) (a), 186.113 (15) (a), 215.13 (46) (a)
5 1., 215.13 (51), 217.11 (1), 220.04 (6) (a), 220.04 (7) (b) 3., 220.04 (9) (a) 2., 220.04
6 (10), 220.06 (1m), 220.09, chapter 223 (title), 223.01, 223.03 (14), 223.07 (1),
7 223.07 (3), 223.08, 223.12 (title), 223.12 (1), 223.12 (2) and (3), 701.19 (2) (d) and
8 946.82 (4); **to repeal and recreate** 138.056 (8), chapter 221, 223.02 and 223.03
9 (6); and **to create** 138.052 (10) (b), 220.04 (11), 220.04 (12), 220.08 (3am),
10 subchapter I (title) of chapter 223 [precedes 223.01], subchapter II (title) of
11 chapter 223 [precedes 223.10], subchapter III (title) of chapter 223 [precedes
12 223.20] and 224.092 (2) of the statutes; **relating to:** state banking law, the

- 1 definition of public depository, residential and variable interest rate loans,
2 granting rule-making authority and providing a penalty.
-

Analysis by the Legislative Reference Bureau

STATE BANKS

This bill recodifies chapter 221 of the Wisconsin Statutes, governing state banks. In addition to recodifying this chapter, the bill makes a number of substantive changes relating to banks, including the following:

Organization of banks

Current law provides that any number of adult residents of the state, not less than 7 nor more than 20, who desire to organize a bank may apply to the division of banking (division) to organize the bank. This bill lowers the minimum number of applicants from 7 to 3. Similarly, current law requires that at least 7 but no more than 21 residents of the state must sign the articles of incorporation. Under the bill, the specific numeric requirement is eliminated. As under current law, however, a majority of the incorporators must sign the articles of incorporation and those who sign must be residents of the state.

Current law grants incorporators of a bank certain powers incidentally or necessarily preliminary to the organization of a banking corporation, but is silent on the manner in which these powers are to be exercised. This bill provides that actions of the incorporators of a bank must be taken by majority vote of the incorporators.

Current law limits the ability of a person to directly or indirectly receive any commission, compensation, bonus, right or privilege of any kind for organizing any banking corporation in this state, or for securing a subscription to the original capital stock of any banking corporation in this state. This bill repeals this provision.

Articles of incorporation and bylaws

Under current law, a bank may amend its articles of incorporation by a vote of its stockholders representing two-thirds of the capital stock taken at a meeting called for that purpose. Under the bill, the articles of incorporation may be amended by the vote of shareholders owning a majority of the stock of the bank who are entitled to vote, unless a greater number of votes are required under the bank's articles of incorporation or bylaws.

Current banking law does not contain any specific provision for restating a bank's articles of incorporation. This bill incorporates provisions from corporate law into the banking law. Under these provisions, a bank may restate its articles of incorporation, either with or without amendment, by filing the restated articles with the division along with a certificate that states certain information regarding the manner in which the restated articles were adopted.

Under current law, a bank may amend or repeal a bylaw only by the affirmative vote of two-thirds of the outstanding capital stock having voting power. The bill provides that the shareholders may adopt, repeal or amend bylaws by an affirmative

vote of shareholders owning a majority of the stock of the bank who are entitled to vote, unless the articles of incorporation or bylaws require a greater percentage. The bill also allows the board of directors of a bank to amend or repeal the bank's bylaws, or adopt new bylaws, subject to certain limitations. The board of directors cannot alter the bank's bylaws to the extent that the articles of incorporation reserve that power to the shareholders or to the extent that the shareholders in adopting, amending or repealing a particular bylaw, provided in the bylaws that that bylaw could not be altered by the board of directors. Certain other changes may not be made by the board of directors. For example, a bylaw that fixes a greater or lower quorum requirement or a greater voting requirement for shareholders cannot be adopted, amended or repealed by the board of directors.

Filing requirements and fees

Current law requires the payment of the following filing fees: \$2,500 with an application to organize a state bank, \$100 with the filing of the articles of incorporation, \$1,000 for reorganization of a national bank as a state bank, \$1,000 for the establishment or transfer of a branch bank, \$1,000 for an application to exercise trust powers, and \$5,000 for an application for consolidation or merger, unless more than 3 banks are to be consolidated, in which case the fee is \$5,000 plus \$1,000 for each bank after the 3rd bank. The bill retains the requirement that a fee be paid in these situations, but allows the division to determine the amount of the fee. The bill also adds a general provision authorizing the division to establish such fees as it determines are appropriate for documents filed with the division.

Current law requires certain bank documents to be filed with the register of deeds in the county in which the bank is located. These documents include the articles of incorporation, amendments to articles of incorporation and applications to exercise trust powers. Under the bill, these documents are only required to be filed with the division.

Issuance of capital stock, preferred stock and notes and debentures

Under current law, a bank may authorize an increase in the capital stock of a bank for certain specified purposes, with the approval of the division and with the vote of shareholders owning two-thirds of the stock of the bank entitled to vote. This bill changes the shareholder vote requirement to be a majority of the stock of the bank entitled to vote, or by such greater percentage provided in the bank's articles of incorporation or bylaws. The bill repeals certain specific shareholder voting requirements in order for a corporation to subscribe for, take or hold more than 10% of the bank's stock.

The bill also repeals certain specific restrictions on the ability of a state bank to grant stock options. Under current law, a state bank may grant options to purchase, sell or enter into agreements to sell shares of its capital stock to its employees, for a consideration of not less than 100% of the fair market value of the shares on the date the option is granted or, if pursuant to a stock purchase plan, 85% of the fair market value on the date the purchase price is fixed. Current law also requires that the stock options not extend beyond a period of 10 years and that the stock option plan be approved by the board of directors, by the holders of at least

two-thirds of the outstanding shares of the bank entitled to vote and by the division. This bill repeals these provisions.

The bill also modifies the provisions governing issuance of preferred stock by a bank. Under current law, an issuance of preferred stock must be provided for in the original articles of incorporation or by an amendment to these articles adopted by a two-thirds vote of the stock having voting power. This provision is changed to require only approval by the shareholders owning a majority of the stock of the bank that is entitled to vote, or such greater percentage as may be required in the articles of incorporation. Current law provides that a a bank having a capital stock of less than \$100,000 may not issue preferred stock unless it has outstanding capital stock in an amount equal to the minimum capital stock. This is requirement is eliminated. As under current law, the bill continues to require division approval of an issuance of preferred stock.

Current law authorizes banks to sell notes and debentures, if approved by the board of directors and the division. This bill amends these provisions so that the division may establish limits on the issuance of notes and debentures for a particular bank and so that the bank is not required to get division approval of a specific issuance of notes or debentures if the amount issued is within those limits. The bill also allows notes and debentures to be considered capital of the bank, if approved by the division.

Capital definition and requirements; reserve requirements

The bill eliminates statutorily specified minimum capital requirements for new banks. Under current law, the minimum capital stock of a bank depends on the population of the town, city or village in which the bank is to operate: \$50,000 in towns, cities and villages of less than 10,000 population; \$100,000 in towns, cities and villages having 10,000 or more and less than 25,000 population; and \$250,000 in cities having 25,000 or more population. Under the bill, the minimum capital is determined by the division, subject to review by the banking review board. The bill also changes the definition of capital to include undivided profits and to exclude intangible assets.

Current law provides that, if the division finds that the average of deposits for a fiscal year exceed an amount equal to 15 times the unimpaired capital and undistributed surplus of the bank, the division is required to order the bank to increase its capital or surplus or both. This bill repeals this provision.

Current law requires that banks maintain sufficient reserves to meet anticipated withdrawals, commitments and loan demand. The bill repeals state law requirements regarding minimum reserves.

Directors, officers and employes

Under current law, the affairs of the bank must be managed by a board of not less than 5 directors, at least two-thirds of whom must reside in this state. This bill provides that the director need not be a resident, unless required in the bank's articles of incorporation or bylaws. The bill allows banks to have a board with staggered terms and, if a bank has issued classes of shares, allows the articles of incorporation to authorize all or a specified number of directors to be elected by the

holders of one or more authorized classes of shares. Current law requires the board of directors to have monthly meetings; the bill changes this requirement to quarterly meetings. Under current law, the board is not authorized to appoint more than 2 persons to fill vacant director positions; under the bill there is no such restriction and the board is authorized to fill director vacancies even if no quorum exists, by a majority of those directors remaining in office.

Current law requires that a bank establish a loan committee composed of at least 3 directors to determine policies as to renewals and applications for loans. This bill repeals this specific requirement and allows the board to create such committees as it determines necessary; these committees must have at least 2 members.

Current law provides that bank officers must be elected each year; the bill repeals the specific term requirement. The bill also provides that any document required to be signed by an officer of the bank shall be signed by the officer designated by the bank's bylaws or board of directors.

Under current law, if a bank lends more than \$25,000 in the aggregate to any officer, director or employe of the bank, the loan must generally be approved by the board of directors or be within a line of credit approved by the board of directors and the amount of any loan in excess of \$25,000 must be secured in full by collateral security. The bill amends this provision to delete the collateral requirement and to require board approval only if the credit exceeds \$25,000 or 5% of the bank's capital, whichever is greater, except that approval is required by the board in all cases where the loan exceeds \$500,000.

Powers of banks

Under current law, a bank is permitted to contract with other depository institutions to provide banking and financially related products or services, subject to review of the contract by the division. This bill modifies that provision to provide that no contract is required for the acceptance of customer deposits at affiliated banks.

Current law contains a number of specific provisions regarding the acquisition of stock of a federal reserve bank, the federal home loan bank, the federal national mortgage association and certain other federal agencies. In addition, this bill creates a general provision which allows a bank to acquire, with the approval of the division, the stock of any state or federal agency or any similar institution approved by the division.

The bill grants to banks the authority, with the approval of the division, to securitize assets for sale to the public in accordance with rules promulgated by the division. The bill also adds a statutory prohibition on engaging in the business of underwriting insurance, either directly or through a subsidiary.

Current law contains certain restrictions on the amount that a bank may invest in bank building corporations and furniture, equipment and fixtures. These specific restrictions are removed, although banks remain subject to an overall limit on bank facilities, furniture, equipment, fixtures and investments in bank building corporations equal to 60% of the bank's capital. Current law contains certain specific provisions authorizing investments in real estate to provide parking and remote facilities. The bill repeals these provisions and replaces them with a general

authorization for banks to acquire real estate for such other purposes as may be approved by the division.

Current law contains certain provisions limiting bank liabilities to any one person. Two separate tests must be met in order to determine compliance with these provisions: under one test, all liabilities to one person may not exceed 20% of the bank's capital and under the other test, all liabilities to the person, with certain exclusions, may not exceed 15% of the bank's capital. This bill eliminates the 15% test. Under current law, certain types of liabilities, including direct obligations of the federal government and obligations of federal agencies that are guaranteed by the federal government, are exempt from these limitations entirely. This bill amends this provision to cover direct obligations of this state and state agency obligations that are guaranteed by the state government. The bill incorporates into the statutes certain banking rules regarding a bank's investment in time deposits and certificates of deposit of other banking institutions and in bonds issued by foreign governments and certain international banking institutions.

Current law also allows a bank to make loans and investments, subject to certain percentage limits of the bank's capital established by the division for the bank. Under current law, the percentage limitation of capital that is established by the division may not exceed 20% for loans and 10% for investments. This bill increases the maximum percentage limit for investments from 10% to 20%. In addition, current law provides for investments to be made directly by the bank; the bill permits the investment to be made directly or through a subsidiary. The bill also provides that these permitted investments may include investments in other financial institutions.

Under current law, a bank may generally not hold or purchase more than 5% of its capital stock, notes or debentures. This bill increases this authority from 5% to 10% and adds certain new provisions governing the status of these treasury shares.

Current law limits the situations in which a bank may pledge its assets as collateral. This bill amends this provision to allow a bank to secure deposits for a particular depositor where permitted or required by law and to secure repurchase agreements entered into by the bank.

The bill repeals certain provisions governing the situations in which a bank may relocate its principal office and repeals a provision specifically authorizing a bank to make charitable contributions. The bill repeals certain provisions dealing specifically with the ability of a bank to invest in partnership interests in farm operations; under the bill, these investments would be treated under the general provisions dealing with bank investments.

Incorporation of provisions from corporate law

The bill incorporates a number of provisions from the corporate law, with minor modifications, and specifically applies them to banks. These provisions include provisions that do the following:

1. Specify how notice may be provided to and by a bank and specify the date on which certain notices are effective.

2. Generally prohibit the use of a name by a bank, if the name is indistinguishable from another bank's name. The bill permits a bank to use the same name as another bank in certain specified instances involving mergers, acquisitions or reorganizations.

3. Specify quorum and voting requirements with respect to shareholder voting groups and specify methods of setting greater or lower quorum requirements or greater voting requirements.

4. Specify the method of counting shareholders.

5. Require that the bank have outstanding, at all times, shares that together have unlimited voting rights and are entitled to receive the net assets of the bank upon dissolution.

6. Govern the issuance of classes of stocks and different series of stock within a class, govern issuance and disposition of fractional shares and govern the issuance of share dividends.

7. Govern the form and content of share certificates.

8. Permit certain restrictions on the transfer of the shares and other securities of a bank.

9. Specify when preemptive rights exist for bank shares and specify how those rights may be exercised, waived or lapsed.

10. Regulate annual and special meetings of a bank's shareholders, including provisions regarding required notices and disclosures to shareholders, and allowing for action to be taken without a meeting in certain circumstances.

11. Establish the record date for determining the shareholders entitled to vote or take other action and requiring the preparation and inspection of shareholder lists prior to shareholder meetings.

12. Govern the use of proxies at shareholder meetings, including the method of appointing and revoking a proxy, the effective date of a proxy, the effect of the proxy and the effect of death or incapacity of a shareholder on the proxy; the recognition of shares registered in the name of a nominee; the use of voting trusts and agreements.

13. Govern the acceptance of instruments showing shareholder action.

14. Govern cumulative voting for directors.

15. Govern indemnification and insurance of directors, officers and employees; limit director liability; and govern director conflicts of interest.

16. Govern the resignation and removal of directors, notice requirements for board meetings, waiver of notice, board of director quorum and voting requirements, and committees of the board.

17. Permit directors and officers to rely on certain information, unless they have knowledge that makes the reliance unwarranted. The provisions cover information supplied by certain officers and employees, experts and board committees.

18. Allow directors do consider certain factors, other than shareholder interests, in taking action.

19. Allow officers to hold more than one office simultaneously, govern the resignation and removal of officers, and their duties.

20. Govern share exchanges and dissenters' rights. The dissenters' rights provisions govern the creation of these rights, the application of these rights to beneficial shareholders and after-acquired shares, the manner of exercising the rights, dissenters' notices, demands for payment, methods of payment and valuation, and appeal procedures.

Merger, consolidation, dissolution, liquidation and forfeiture of charter

Under current law, a consolidation or merger must be approved by shareholders owning two-thirds of the bank's stock; the bill requires a vote by the shareholders holding a majority of the outstanding capital stock and by the shareholders holding a majority of any preferred stock entitled to vote, unless greater percentages are required in the articles of incorporation or the bylaws. The bill removes the specific 30-day notice requirement for shareholder meetings to vote on mergers and consolidations. The bill also repeals the specific dissenter's rights provisions with more detailed dissenters' rights provisions incorporated from corporate law. Under current law, the charter of a bank that has been absorbed by another bank may be cancelled after publication of a class 3 notice and opportunity for rejection. This bill repeals these requirements and requires the division to cancel the charter of the absorbed bank upon consummation of the merger. Finally, the bill creates a new provision allowing banks to consolidate or merge into an interim bank, organized pursuant to rules promulgated by the division.

Under current law, a bank may be dissolved by the act of its shareholders owning two-thirds of its stock. This bill changes this to require only the vote of shareholders owning a majority of the stock entitled to vote, unless a greater percentage is specified in the articles of incorporation or bylaws. Similarly, the two-thirds vote requirement for liquidation is changed to the vote of shareholders owning a majority of the outstanding capital stock, unless a greater percentage is required under the articles of incorporation or the bylaws.

Other changes relating to state banks

The bill eliminates a requirement that prohibits banks from carrying any of its assets on its books at a valuation exceeding its actual cost to the bank, without the prior written consent of the division.

Current law requires that banks provide a customer, upon request, with a copy of any written appraisal report which is held by the financial institution, which relates to residential real estate that the individual owns or has agreed to purchase and for which a fee is imposed. This bill provides that compliance with certain appraisal disclosure requirements under federal law satisfies this requirement. The bill repeals certain state law funds availability requirements. The bill also repeals certain state law requirements relating to account disclosures and change in term notices for state banks, as well as requirements to give customers notice of all of their affiliated relationships in connection with a transaction conducted by a bank, bank holding company or subsidiary.

The bill allows banks to obtain reimbursement for expenses and costs incurred in searching for, reproducing and transporting books, papers, records and other data required to be produced by legal process, unless otherwise prohibited by law. Under

current law, a bank is required to make at least 2 reports to the division each year, on forms prescribed by the division; the most recent of these reports as of the last business day of the 4th calendar quarter shall be published by the bank as a class 1 notice. This bill repeals the publication requirement.

The bill expands the scope of services permitted to be provided by bank-owned banks to include certain correspondent banking services. Under current law, shareholders of a bank may file a declaration with the division agreeing to be individually responsible for the debts, demands and liabilities of the bank. This bill repeals these provisions.

TRUST COMPANY BANKS AND TRUST ACCOUNTS

The bill also makes a number of changes relating to trust company banks and to trust accounts. These changes include the following:

1. Modifying the provisions governing the liquidation of failed banks to permit the division to transfer trust accounts of a failed bank to a successor organization without having the successor assume liability for the past acts of the failed bank.

2. Repealing statutorily specified minimum capital requirements for trust company banks and allowing the division to establish, with the approval of the banking review board, minimum capital requirements for trust company banks.

3. Providing that trust company banks may not accept deposits, other than trust deposits.

4. Eliminating the ability of a trust company bank, with court approval, to transfer to trust estates any mortgages or other securities owned by the trust company bank.

5. Allowing trust service offices to be established at any insured depository institution, not just state or national banks as under current law.

6. Allows trust company banks to maintain adequate errors and omissions insurance coverage in lieu of making an indemnity fund deposit.

OTHER CHANGES

In addition to the changes regarding state banks and trust company banks, the bill modifies the definition of public depository to require that public depositories have main or branch offices in this state.

Current law contains certain provisions governing residential mortgage loans which regulate prepayments of these loans, escrow accounts, late payment charges on instalments, interest imposed after acceleration or the maturity of a loan and required disclosures. Current law also contains provision governing variable rate loans which regulate the maximum term of these loans, the use of approved indices, notice of interest payment changes and required disclosures. This bill amends these provisions to provide that they are not applicable to loans that are primarily for a business or agricultural purpose.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 34.09 of the statutes, as affected by 1995 Wisconsin Act 27, is
2 amended to read:

3 **34.09 Financial institutions eligible as public depositories.** Every
4 federal or state credit union, state bank, federal or state savings and loan
5 association, savings and trust company and federal or state savings bank and every
6 national bank located in this state which complies in all respects as to public deposits
7 with this chapter and will accept payments made by the state under s. 16.412 may
8 be designated as a public depository and may receive and hold public deposits,
9 subject to this chapter, if the financial institution has a branch or main office located
10 in this state, complies with this chapter with respect to public deposits and accepts
11 payments made by the state under s. 16.412. The division of banking shall have has
12 the same powers and duties with regard to making and continuing public deposits
13 in national banks, federal and state credit unions, federal and state savings banks
14 and federal and state savings and loan associations as the powers and duties
15 exercised and performed by the division of banking with regard to public deposits in
16 state banks.

17 **SECTION 2.** 66.04 (2m) (a) of the statutes is amended to read:

18 66.04 **(2m)** (a) The institution is authorized to exercise trust powers under s.
19 ~~221.04 (6)~~ 221.0316 or ch. 223.

20 **SECTION 3.** 138.052 (10) of the statutes is renumbered 138.052 (10) (intro.) and
21 amended to read:

1 138.052 (10) (intro.) This section does not apply to loans any of the following:

2 (a) A loan to corporations a corporation or a limited liability companies
3 company.

4 **SECTION 4.** 138.052 (10) (b) of the statutes is created to read:

5 138.052 (10) (b) A loan that is primarily for a business purpose or for an
6 agricultural purpose, as defined in s. 421.301 (4).

7 **SECTION 5.** 138.056 (8) of the statutes is repealed and recreated to read:

8 138.056 (8) APPLICABILITY. This section does not apply to any of the following:

9 (a) A loan or forbearance to a corporation or a limited liability company.

10 (b) A loan that is primarily for a business purpose or for an agricultural
11 purpose, as defined in s. 421.301 (4).

12 (c) A reverse mortgage loan, as defined in s. 138.058 (1) (b).

13 (d) A transaction initially entered into before November 1, 1981.

14 **SECTION 6.** 157.19 (2) (a) of the statutes is amended to read:

15 157.19 (2) (a) Except as provided in sub. (5) and the rules promulgated under
16 sub. (4), the cemetery authority may deposit care funds under s. 157.11 (9g), and
17 shall deposit care funds under s. 157.12 (3) and preneed trust funds under s. 440.92,
18 with a financial institution located in this state. The financial institution shall be
19 the trustee of the care funds and preneed trust funds. A bank need not comply with
20 s. ~~221.04 (6)~~ 221.0316 (1) or (2) or ch. 223 to accept or disburse deposits under this
21 section. The trustee shall invest the care funds and preneed trust funds as provided
22 under s. 881.01, except as provided in sub. (5) and the rules promulgated under sub.
23 (4).

24 **SECTION 7.** 180.1132 (2) (a) of the statutes is amended to read:

1 180.1132 **(2)** (a) A corporation if a business combination involving the
2 corporation is governed by s. 186.31, 215.53, 215.73, ~~221.25, 221.565~~ 221.0702 or
3 ~~223.11~~ 223.21.

4 **SECTION 8.** 180.1150 (3) (h) of the statutes is repealed.

5 **SECTION 9.** 186.113 (15) (a) of the statutes, as affected by 1995 Wisconsin Acts
6 27 and 55, is amended to read:

7 186.113 **(15)** (a) Directly or indirectly, acquire, place and operate, or participate
8 in the acquisition, placement and operation of, at locations other than its offices,
9 remote terminals, in accordance with rules established by the office of credit unions.
10 The rules shall provide that any remote terminal shall be available for use, on a
11 nondiscriminatory basis, by any state or federal credit union which has its principal
12 place of business in this state, by any other credit union obtaining the consent of a
13 state or federal credit union which has its principal place of business in this state and
14 is using the terminal and by all members designated by a credit union using the
15 terminal. This subsection does not authorize a credit union which has its principal
16 place of business outside the state to conduct business as a credit union in this state.
17 The remote terminals also shall be available for use, on a nondiscriminatory basis,
18 by any state or national bank, state or federal savings bank or state or federal savings
19 and loan association, whose home office is located in this state, if the bank, savings
20 bank or savings and loan association requests to share its use, subject to the joint
21 rules established under s. ~~221.04 (1) (k)~~ 221.0303 (2). The office of credit unions by
22 order may authorize the installation and operation of a remote terminal in a mobile
23 facility, after notice and hearing upon the proposed service stops of the mobile facility.

24 **SECTION 10.** 215.13 (46) (a) 1. of the statutes, as affected by 1995 Wisconsin Acts
25 27 and 55, is amended to read:

1 215.13 **(46)** (a) 1. Directly or indirectly, acquire, place and operate, or
2 participate in the acquisition, placement and operation of, at locations other than its
3 home or branch offices, remote service units, in accordance with rules established by
4 the division. Remote service units established in accordance with such rules are not
5 subject to sub. (36), (39), (40) or (47) or s. 215.03 (8). The rules of the division shall
6 provide that any such remote service unit shall be available for use, on a
7 nondiscriminatory basis, by any state or federal savings and loan association which
8 has its principal place of business in this state, by any other savings and loan
9 association obtaining the consent of a state or federal savings and loan association
10 which has its principal place of business in this state and is using the terminal and
11 by all customers designated by a savings and loan association using the unit. This
12 paragraph does not authorize a savings and loan association which has its principal
13 place of business outside this state to conduct business as a savings and loan
14 association in this state. The remote service units also shall be available for use, on
15 a nondiscriminatory basis, by any credit union, state or national bank or state or
16 federal savings bank, whose home office is located in this state, if the credit union,
17 bank or savings bank requests to share its use, subject to the joint rules established
18 under s. ~~221.04 (1) (k)~~ 221.0303 (2). The division by order may authorize the
19 installation and operation of a remote service unit in a mobile facility, after notice
20 and hearing upon the proposed service stops of the mobile facility.

21 **SECTION 11.** 215.13 (51) of the statutes, as affected by 1995 Wisconsin Acts 27
22 and 55, is amended to read:

23 215.13 **(51)** CONTRACT FOR FINANCIAL SERVICES. Contract with a bank that is
24 owned by a bank holding company which also owns the contracting association, to
25 provide products or services under s. ~~221.04 (1) (p)~~ 221.0301 (8). The bank shall be

1 subject to regulation and examination by the division with regard to services
2 performed under the contract to the same extent as if the services were being
3 performed by the association itself on its own premises.

4 **SECTION 12.** 217.11 (1) of the statutes is amended to read:

5 217.11 (1) Every check sold by any licensee shall bear the name of the licensee
6 clearly imprinted thereon, including the words authorized under s. ~~221.49 (2)~~
7 221.0402 (2) if applicable.

8 **SECTION 13.** 219.08 of the statutes is repealed.

9 **SECTION 14.** 220.04 (6) (a) of the statutes, as affected by 1995 Wisconsin Act 27,
10 is amended to read:

11 220.04 (6) (a) The division, with the approval of the banking review board, may
12 establish uniform savings rules which shall be adopted by every bank and trust
13 company bank. Such rules may provide the conditions under which banks or trust
14 company banks may accept time deposits and the methods of figuring interest. Such
15 rules may also provide the term of notice of withdrawal and the amounts which may
16 be withdrawn by depositors, which conditions the bank may put in force in times of
17 financial stress by action of its board of directors. The maximum rate of interest on
18 deposits paid by banks whose deposits are not insured by the federal deposit
19 insurance corporation, whether certificates of deposit or book savings deposits, shall
20 be the same as the rate set by the federal deposit insurance corporation for banks
21 whose deposits are insured by it.

22 **SECTION 15.** 220.04 (7) (b) 3. of the statutes is amended to read:

23 220.04 (7) (b) 3. Require the organization to maintain reasonable safeguards
24 to protect fiduciary property including the maintenance of an indemnity fund in the
25 same manner as that required of trust company banks under s. 223.02 (1).

1 **SECTION 16.** 220.04 (9) (a) 2. of the statutes, as affected by 1995 Wisconsin Act
2 27, is amended to read:

3 220.04 (9) (a) 2. "Regulated entity" means a bank, trust company bank and any
4 other entity which is described in s. 220.02 (2) or ~~221.56~~ 221.0526 as under the
5 supervision and control of the division.

6 **SECTION 17.** 220.04 (10) of the statutes, as affected by 1995 Wisconsin Act 27,
7 is amended to read:

8 220.04 (10) If it appears to the division that a person has engaged or is about
9 to engage in an act or practice constituting a violation of the laws of this state relating
10 to banks and banking, including this chapter, chs. 217, 218 and 221 to 224 and s.
11 138.09, or a rule promulgated or order issued under those laws, the division may
12 bring an action in the name of the state in the circuit court of the appropriate county
13 to enjoin the acts or practices and to enforce compliance with the laws, rules or
14 orders, or the division may refer the matter to the district attorney of the appropriate
15 county or, if the alleged violation may be enforced by the attorney general under sub.
16 (12) or s. 220.12, ~~221.18, 221.205, 221.28~~ 221.1005 or 224.06 (7) or is statewide in
17 nature, to the attorney general. Upon a proper showing, the court may grant a
18 permanent or temporary injunction or restraining order, appoint a receiver for the
19 defendant or the defendant's assets or order rescission of any acts determined to be
20 unlawful. The court may not require the division to post a bond.

21 **SECTION 18.** 220.04 (11) of the statutes is created to read:

22 220.04 (11) In order to carry out ss. 220.07, 220.08 and 221.1005, the division
23 may commence and maintain in the division's name any and all actions necessary
24 or proper to enforce any of said sections.

25 **SECTION 19.** 220.04 (12) of the statutes is created to read:

1 220.04 (12) If the division has information that causes the division to believe
2 that any bank, trust company bank, or any other person subject in whole or in part
3 to supervision or control by the division, or any officer, employe, member or manager
4 thereof, has violated any law, rule or order that subjects the person to prosecution
5 for a criminal offense or to a penalty, the division shall bring such information to the
6 attention of the banking review board, with the division's recommendation in writing
7 as to action to be taken. The banking review board shall, if in its judgment probable
8 cause exists for believing that a criminal offense has been committed, or a penalty
9 incurred, call the facts and information to the attention of the attorney general whose
10 duty it shall be to cause prosecution or other action to be instituted if, in the attorney
11 general's judgment, the facts warrant. This subsection does not prevent the
12 institution of any prosecution by any district attorney of this state with or without
13 any advice or act on the part of the attorney general. This subsection does not
14 preclude the division, in any case where the division deems it important to act
15 immediately, from causing any arrest and prosecution where the division is satisfied
16 that there is reason to believe the offense has been committed and that prosecution
17 should be immediately commenced.

18 **SECTION 20.** 220.06 (1m) of the statutes, as affected by 1995 Wisconsin Act 27,
19 is amended to read:

20 220.06 (1m) No division employe may examine a bank or licensee in which that
21 person is interested as a stockholder, officer or employe. No division employe may
22 examine a bank or licensee located in the same village, city or county with any bank
23 or licensee in which that person is so interested. Employees in the division, and each
24 member and employe of the banking review board, shall keep secret all facts and
25 information obtained in the course of examinations or from reports not under s.

1 ~~221.15~~ 221.1002 (1) filed by a bank or licensee with the division, except so far as the
2 public duty of the person requires reporting upon or taking special action regarding
3 the affairs of any bank or licensee, and except when called as a witness in any
4 criminal proceeding or trial in a court of justice. The division may furnish to the
5 federal deposit insurance corporation or to any regulatory authority for state or
6 federal financial institutions, insurance or securities a copy of any examination
7 made of any such bank or licensee or of any report made by such bank or licensee and
8 may give access to and disclose to the corporation or to any regulatory authority for
9 state or federal financial institutions, insurance or securities any information
10 possessed by the division with reference to the conditions or affairs of any such
11 insured bank or licensee if the regulatory authority agrees to treat all information
12 received with the same degree of confidentiality as applies to reports of examination
13 that are in the custody of the division.

14 **SECTION 21.** 220.075 of the statutes, as affected by 1995 Wisconsin Act 27, is
15 repealed.

16 **SECTION 22.** 220.08 (3am) of the statutes is created to read:

17 220.08 (**3am**) On taking possession of a bank for liquidation, the division may
18 transfer the trust accounts of the bank to another entity with fiduciary powers.
19 Neither the division nor the fiduciary to whom the trust accounts are transferred is
20 liable for the past acts of the bank relating to the trust accounts.

21 **SECTION 23.** 220.09 of the statutes, as affected by 1995 Wisconsin Act 27, is
22 amended to read:

23 **220.09 Indemnity fund, national bank.** Every national bank which has
24 ~~been granted a special permit by the federal reserve board~~ authority under federal
25 law to act in a fiduciary capacity ~~under the provisions of subsection (k) of section 11,~~

1 of the federal reserve act shall deposit with the state treasurer security, approved by
2 the division, in the manner which is required of trust company banks organized
3 under shall comply with s. 223.02. Such securities shall be of the same nature as the
4 security designated by the provisions of such section for the deposit by trust
5 companies organized under the laws of this state. Such national bank, so long as it
6 shall continue solvent and comply with the laws of this state applicable thereto, may
7 be permitted by the division to collect the interest on the security so deposited and
8 from time to time withdraw the said securities or any part thereof provided that
9 securities or cash of the amount and value required by this section shall at all times
10 be maintained on deposit.

11 **SECTION 24.** Chapter 221 of the statutes, as affected by 1995 Wisconsin Acts
12 27 and 55, is repealed and recreated to read:

13 **CHAPTER 221**

14 **STATE BANKS**

15 **SUBCHAPTER I**

16 **GENERAL PROVISIONS**

17
18 **221.0101 Title.** This chapter may be cited as the "Wisconsin banking law".

19 **221.0102 Definitions.** In this chapter:

20 (1) "Articles of incorporation" includes amended and restated articles of
21 incorporation.

22 (2) "Authorized shares" means the shares of all classes that a bank is
23 authorized to issue.

24 (3) "Capital stock" means the stock of a bank, other than preferred stock.

1 **(4)** “Capital” means, with respect to any bank, the sum of all of the following,
2 less the bank’s intangible assets:

3 (a) The bank’s capital stock.

4 (b) The bank’s preferred stock.

5 (c) The bank’s undivided profits.

6 (d) Outstanding notes and debentures of the bank that are legally issued and
7 sold by the bank and approved by the division under s. 221.0318 (2).

8 **(5)** “Record date” means the date on which a bank determines the identity of
9 its shareholders for purposes of this chapter.

10 **(6)** “Shareholder” means the person in whose name shares are registered in
11 the records of a bank or, to the extent of the rights granted by a nominee certificate
12 on file with a bank, the beneficial owner of the shares.

13 **(7)** “Subscriber” means a person who subscribes for shares in a bank, whether
14 before or after incorporation of the bank.

15 **(8)** “Treasury shares” means shares of a bank that have been issued, that have
16 been subsequently acquired by and belong to the bank, and that have not been
17 canceled or restored to the status of authorized but unissued shares.

18 **(9)** “Voting group” means any of the following:

19 (a) All shares of one or more classes or series that, under the articles of
20 incorporation or this chapter, are entitled to vote and be counted together collectively
21 on a matter at a meeting of shareholders.

22 (b) All shares that under the articles of incorporation or this chapter are
23 entitled to vote generally on a matter.

1 **221.0103 Notice. (1) APPLICABILITY.** This section applies to a notice that is
2 required under this chapter or that is made subject to this section by express
3 reference to this section.

4 **(2) WHEN ORAL NOTICE PERMITTED.** A person shall give notice in writing, except
5 that notices to or from a bank may be given orally, if permitted by the bank's articles
6 of incorporation or bylaws and not otherwise prohibited by this chapter.

7 **(3) METHOD OF PROVIDING WRITTEN NOTICE.** Unless otherwise provided in the
8 articles of incorporation or bylaws, notice may be communicated in person, by
9 telephone, telegraph, teletype, facsimile or other form of wire or wireless
10 communication, or by mail or private carrier. If these forms of personal notice are
11 impracticable, notice may be communicated by a newspaper of general circulation
12 in the area where published or by radio, television or other form of public broadcast
13 communication.

14 **(4) DATE NOTICE IS EFFECTIVE.** (a) Except as provided in par. (b) and ss.
15 221.0607 (2) and 221.0622 (1), written notice is effective on the earliest of the
16 following:

17 1. On the date received.

18 2. Five days after deposit of the notice in the U.S. mail, if mailed postpaid and
19 correctly addressed.

20 3. On the date shown on the return receipt, if the notice is sent by registered
21 or certified mail, return receipt requested, and if the receipt is signed by or on behalf
22 of the addressee.

23 4. On the effective date specified in the articles of incorporation or bylaws.

1 (b) Written notice by a bank to a shareholder of the bank is effective when
2 mailed. The notice may be addressed to the shareholder's address shown in the
3 bank's current record of shareholders.

4 (c) Oral notice is effective when communicated.

5 **221.0104 Applicability.** This chapter applies to all banks organized and
6 existing within this state. The powers, privileges, duties and restrictions conferred
7 and imposed upon a bank existing and doing business under the laws of this state
8 are hereby abridged, enlarged or modified, as each particular case may require, to
9 conform to this chapter.

10 **221.0105 Fees.** The division may establish such fees as it determines are
11 appropriate for documents filed with the division under this chapter and for such
12 other services as the division may provide under this chapter.

13 SUBCHAPTER II

14 BANK ORGANIZATION

15 **221.0201 Applicants.** Any number of adult residents of this state, not less
16 than 3 nor more than 20, who desire to associate for the purpose of organizing a
17 banking corporation under this chapter, may apply to the division to organize a bank.
18 The application shall be made on a form prescribed by the division.

19 **221.0202 Application. (1) CONTENTS.** An application under s. 221.0201 shall
20 be prepared and filed in duplicate, and shall include all of the following:

21 (a) The location of the proposed bank.

22 (b) The character of the business to be transacted by the proposed bank.

23 (c) The proposed capital of the proposed bank.

24 (d) The full name, residence, and occupation of each applicant.

25 (e) Other information required by the division.

1 **(2) NOTICE OF APPLICATION.** Upon receipt by the division of properly executed
2 application, the division shall, within 5 days, forward to the applicants a copy of a
3 notice of application for authority to organize a bank. The notice of application shall
4 contain the information required under sub. (1) and a date and place for hearing on
5 the application. The notice shall be published as a class 3 notice, under ch. 985, by
6 the applicants, at their own expense, in the city, village or town where the bank is
7 to be located. Proof of publication shall be filed with the division in such form as the
8 division requires. The division may waive the requirement of publication, if the bank
9 to be organized is to replace, absorb or consolidate one or more existing banks.

10 **(3) FEE.** The applicants shall pay to the division a fee in an amount determined
11 by the division, together with the actual costs incurred by the division in making an
12 investigation under sub. (4) of the application.

13 **(4) INVESTIGATION.** (a) At the hearing and by such investigation as the division
14 considers necessary, the division shall consider all of the following:

15 1. Whether the character, responsibility and general fitness of the persons
16 named in the application command confidence and warrant the belief that the
17 business of the proposed bank will be honestly and efficiently conducted in
18 accordance with this chapter.

19 2. Whether public convenience and advantage will be promoted by allowing the
20 bank to organize.

21 3. The character and experience of the proposed officers.

22 4. The adequacy of existing banking facilities and the need of further banking
23 capital.

24 5. The outlook for the growth and development of the area where the bank is
25 to be located.

1 6. The methods and banking practices of any existing banks in the area where
2 the bank is to be located; the interest rate that these existing banks charge to
3 borrowers; and the character of the service which these existing banks provide to the
4 community.

5 7. The prospects for the success of the proposed bank if efficiently managed.

6 (b) The division shall complete the investigation within 90 days after the filing
7 with the division of proof of publication under sub. (2) and the paying of the fee under
8 sub. (3), whichever is later. If a majority of the applicants and the division mutually
9 agree, the time may be extended for an additional period of 60 days.

10 **(5) DECISION.** After completing the investigation under sub. (4), the division
11 shall make a written report to the banking review board stating the results of the
12 investigation and the division's recommendation. The board shall consider the
13 matter, conduct any necessary hearing and promptly make its decision approving or
14 disapproving the application. The decision shall be final except pursuant to s.
15 220.035 (1) and (3). If the application is approved, the division shall endorse on each
16 of the original applications the word "Approved". If the application is disapproved,
17 the division shall endorse the word "Disapproved". One of the duplicate originals
18 shall be filed in the division's office and one shall be returned by mail to the
19 applicants.

20 **221.0203 Certificate of authority. (1) POWERS GRANTED BY CERTIFICATE.** If
21 an application for authority to organize a banking corporation is approved, the
22 division shall issue a certificate of authority to the applicants, who shall thereafter
23 be known as the incorporators. The certificate of authority shall grant the
24 incorporators such powers as are incidentally or necessarily preliminary to the
25 organization of a banking corporation. These powers include all of the following:

1 (a) Creating a temporary organization, consisting of a chairperson, a secretary
2 and a treasurer.

3 (b) Executing and filing articles of incorporation.

4 (c) Adopting rules for the conduct of meetings of the incorporators and of the
5 first meeting of the shareholders.

6 (d) Opening subscription books for stock.

7 (e) Securing an option on real estate to be used as a bank office.

8 (f) Fixing an amount at which the stock shall be sold.

9 (g) Collecting subscriptions to the stock.

10 (h) Selecting a depository for funds as may be collected.

11 (i) Appointing any agent or agents.

12 (j) Compiling a set of bylaws for submission to the shareholders.

13 **(2) VOTING REQUIREMENTS.** Following the incorporation of a bank, an action
14 permitted by this chapter to be taken by its incorporators may be taken by the
15 majority of its incorporators or the survivors of the incorporators.

16 **221.0204 Temporary organization.** The chairperson of the incorporators
17 shall preside at all meetings and shall exercise other duties that are ordinarily
18 performed by a chairperson. The secretary shall manage the correspondence of the
19 incorporators, record fully all proceedings of the meetings of the incorporators, file
20 and preserve all documents and papers of the organization, and file any necessary
21 papers with the division. The treasurer shall receive all moneys paid in on
22 subscriptions to stock or for other purposes, keep a true account thereof, deposit
23 these funds in the designated depository, and pay such valid orders as may be drawn
24 on the treasurer. The incorporators shall require a bond in a suitable amount from
25 the treasurer and from other officers and agents who may handle the funds of the

1 proposed bank. The incorporators shall audit claims against the proposed bank and
2 record of action on these claims in the minutes. If a claim is ordered paid, an order
3 shall be drawn upon the treasurer and signed by the chairperson and secretary.
4 Until the completion of the organization of the proposed bank, the incorporators may
5 exercise the powers conferred upon incorporators of corporations under ch. 180, to
6 the extent that these powers are not in conflict with this chapter.

7 **221.0205 Capital stock. (1) CAPITAL REQUIREMENTS.** Immediately following
8 a bank's organization under this chapter, the division shall determine the required
9 capital of the bank, subject to review by the banking review board. In addition to the
10 required capital stock, a contingent fund and paid-in surplus each in an amount
11 equal to at least 25% of the aggregate amount of the capital stock, shall be subscribed
12 at the time the subscription list of shareholders is prepared by the incorporators.

13 **(2) UNIMPAIRMENT OF CAPITAL STOCK.** The capital stock of a bank is unimpaired
14 when the amount of capital notes and debentures, as represented by cash or sound
15 assets, or the amount of such preferred stock, or both, equals or exceeds the capital
16 requirement established by the division under sub. (1).

17 **221.0206 Articles of incorporation. (1) TIME FOR FILING.** The incorporators
18 shall file articles of incorporation with the division within a reasonable time, as
19 determined by the division, from the date on which the division approved the
20 certificate of authority. If the incorporators do not file the articles of incorporation
21 within this period, all rights of the incorporators cease and the certificate of authority
22 to organize is void.

23 **(2) FORM AND CONTENTS. (a)** The articles of incorporation shall be executed in
24 duplicate, and shall be signed by the majority of the incorporators. All signers must

1 be residents of this state and must be subscribers to stock of the bank or of a bank
2 holding company of the bank.

3 (b) The articles of incorporation shall contain all of the following:

4 1. A declaration that the incorporators associate for the purpose of forming a
5 banking corporation under this chapter and stating whether the bank is a state bank
6 or a trust company bank.

7 2. The name of the bank.

8 3. The county and the village, town or city where the bank is to be located.

9 4. The amount of the bank's capital stock.

10 5. Before issuing more than one class of shares, all of the following:

11 a. The distinguishing designation of each class.

12 b. The number of shares of each class that the bank is authorized to issue.

13 c. The preferences, limitations and relative rights of that class.

14 6. Before the issuance of one or more series of shares within a class of shares,
15 all of the following:

16 a. The distinguishing designation of each series within a class.

17 b. The number of shares of each series that the bank is authorized to issue.

18 c. The preferences, limitations and relative rights of that series.

19 7. Any other lawful provisions defining and regulating the powers or business
20 of the bank, its officers or directors; the transfer of its stock; and the disposition of
21 new stock that may be created by amending the articles of incorporation to increase
22 the bank's capital.

23 **(3) APPROVAL OR DISAPPROVAL.** The division shall, in the division's discretion,
24 approve or disapprove the articles of incorporation. If approved, the division shall
25 endorse on each of the 2 duplicate originals the word "Approved". If disapproved, the

1 division shall endorse on each of the 2 duplicate originals the word "Disapproved".
2 The division shall file one of the originals and shall send the remaining original to
3 the incorporators, together with a certificate showing the date of filing, the approval
4 or disapproval and the date of the approval or disapproval. If the articles of
5 incorporation are approved, the copy sent to the incorporators shall be filed with the
6 records of the bank.

7 (4) FEES. The incorporators shall pay a fee to the division when the articles of
8 incorporation are filed. The fee shall be in an amount determined by the division.

9 **221.0207 Filed documents. (1) PROPOSED BYLAWS AND SHAREHOLDER LIST.**
10 Within 90 days after the filing of the articles of incorporation under s. 221.0206,
11 unless extended by the division, the incorporators shall file with the division, in
12 duplicate, the proposed bylaws and a complete list of the shareholders of the
13 proposed bank. The list of shareholders shall show the number of shares held by each
14 shareholder and the post-office address of each shareholder. On approval by the
15 division, the bylaws shall be submitted for consideration by the shareholders.

16 (2) SWORN DECLARATION. Within the period for filing under sub. (1), the
17 incorporators shall also file a declaration subscribed and sworn to by each of the
18 incorporators, stating that, to the best of their knowledge and belief, all of the
19 following are true:

20 (a) All shareholders have subscribed for the stock accredited to them in the list
21 of shareholders, in good faith and not as the representative or agent of any
22 corporation or other person.

23 (b) One hundred percent of each stock subscription has been paid in lawful
24 money.

1 (c) No incorporator has entered into any agreement or promise that the bank,
2 when open, shall loan to any shareholder funds for the purpose of paying any
3 indebtedness that may have been incurred by a shareholder to obtain funds to
4 purchase shares of the bank.

5 (d) All money received in payment of stock subscriptions, except such amount
6 as may have been paid out by order of the incorporators, is on deposit to the credit
7 of the incorporators in the designated depository.

8 **221.0208 Charter. (1) NOTICE REQUIRED.** (a) A bank organizing under this
9 chapter shall give notice in writing to the division that it is prepared to commence
10 business after it has done all of the following:

- 11 1. Adopted bylaws, approved by the division.
- 12 2. Obtained suitable banking quarters, and the necessary books, forms,
13 stationery, furniture and equipment for the proper and orderly transaction of the
14 business of banking.
- 15 3. Complied with any other requirements imposed by law or rules of the
16 division necessary to commence business.

17 (b) The notice under par. (a) shall be given to the division within a reasonable
18 time after the date of filing the articles of incorporation, as determined by the
19 division.

20 **(2) EXAMINATION AND ISSUANCE OF CHARTER.** After receiving a notice under sub.
21 (1) (a), the division shall make an examination of the organizing bank. If this
22 examination satisfies the division that the stock subscriptions have been fully paid
23 in lawful money and that the bank is lawfully entitled to commence business, the
24 division shall issue to the bank a certificate of authority for the bank to commence

1 business. The certificate of authority to commence business is the charter of the
2 bank. The division shall give each charter a charter number.

3 **(3) DENIAL OF CHARTER.** The division may, with the advice and consent of the
4 attorney general, deny the issuance of a charter if the division has reason to believe
5 that any of the following is true:

6 (a) The shareholders have formed the bank for any purpose other than the
7 legitimate business contemplated by this chapter.

8 (b) A fact stated in the declaration under s. 221.0207 (2) is untrue, or that other
9 reasons exist that would make the opening of the bank injurious to the public
10 interest.

11 **221.0209 Prohibition on transacting business.** A bank may not transact
12 any business, except such as is incidental or necessarily preliminary to its
13 organization until it has been issued a charter under s. 221.0208.

14 **221.0210 Publication of charter.** The bank shall cause the charter issued
15 under s. 221.0208, to be published as a class 1 notice, under ch. 985, in the city, village
16 or town where the bank is located. This notice shall be published within 15 days after
17 the division issues the charter. The bank shall file proof of publication with the
18 division. If a bank fails to comply with this section, the division shall cause the notice
19 to be published at the bank's expense and the bank shall forfeit \$100 to the division.

20 **221.0211 Amendment of articles of incorporation. (1) VOTING, FILING AND**
21 **APPROVAL REQUIREMENTS.** A bank may amend its articles of incorporation in any
22 manner not inconsistent with law. The amendment may be made at any time, by a
23 vote of its shareholders owning a majority of the stock of the bank who are entitled
24 to vote, unless the articles of incorporation or bylaws require a greater number of
25 affirmative votes of the capital stock. The vote shall be taken at a meeting called for

1 that purpose. The bank shall submit the amendment to the division. The
2 amendment is not effective unless approved by the division.

3 (2) FILING. The amendment, certified by an officer of the bank, shall be filed
4 with the division, as required for the articles of incorporation.

5 (3) INCREASE OF CAPITAL. An increase of the capital of the bank, by amending
6 the bank's articles of incorporation, is not valid until the amount of the increase has
7 been subscribed and actually paid in. The entire surplus fund of a bank, or as much
8 as may be required, may be declared and paid out as a stock dividend to apply on,
9 and be converted into, an increase of capital.

10 (4) REDUCTION OF CAPITAL. An amendment of the articles of incorporation may
11 not reduce the capital of the bank to an amount less than that required under this
12 chapter. A bank may not cancel stock certificates pursuant to an amendment to the
13 bank's articles of incorporation reducing the bank's capital, until the amendment has
14 been approved by the division. Any reduction in capital must be a proportional
15 reduction of all outstanding shares, unless the division determines that a reduction
16 in a different manner is in the best interests of the depositors.

17 **221.0212 Restated articles of incorporation.** (1) WHEN PERMITTED. A
18 bank's board of directors may restate the articles of incorporation at any time.
19 Except as provided in sub. (3), shareholder approval is not required.

20 (2) FORM OF RESTATED ARTICLES. The restated articles of incorporation shall
21 consist of the articles of incorporation, as amended to date, and shall contain a
22 statement that the restated articles of incorporation supersede and take the place
23 of the original articles of incorporation, any restated articles of incorporation
24 previously adopted, and all amendments to the original and any restated articles of
25 incorporation.

1 **(3) RESTATEMENTS INCLUDING AMENDMENTS.** In addition to the contents described
2 in sub. (2), the restatement may include one or more amendments to the articles of
3 incorporation. If the restatement includes an amendment, the restatement shall be
4 adopted in the manner provided under s. 221.0211.

5 **(4) REQUIRED FILING AND CERTIFICATE.** A bank restating its articles of
6 incorporation shall file articles of restatement, certified by an officer of the bank,
7 with the division. The articles of restatement shall include the name of the bank and
8 the text of the restated articles of incorporation. The articles of restatement shall be
9 filed with a certificate that includes all of the following information:

10 (a) A statement indicating whether the restatement contains an amendment
11 to the articles of incorporation requiring shareholder approval.

12 (b) If the restatement does not contain an amendment to the articles of
13 incorporation requiring shareholder approval, a statement that the board of
14 directors of the bank adopted the restatement.

15 (c) If the restatement contains an amendment to the articles of incorporation
16 requiring shareholder approval, the information required by s. 221.0211.

17 **(5) EFFECT OF RESTATEMENT.** The restated articles of incorporation supersede
18 the original articles of incorporation, any restated articles of incorporation
19 previously adopted, and all amendments to the original and any restated articles of
20 incorporation.

21 **221.0213 Bylaws. (1) VOTING REQUIREMENTS.** A bank may make, amend or
22 repeal its bylaws by an affirmative vote of shareholders owning a majority of the
23 stock of the bank who are entitled to vote, unless the articles of incorporation or
24 bylaws require a greater number of affirmative votes.

1 **(2) CONTENT.** The bylaws of a bank may contain any provision for managing
2 the business and regulating the affairs of the bank that is not inconsistent with its
3 articles of incorporation or with the laws of this state.

4 **221.0214 Amendment of bylaws by board of directors or shareholders.**

5 **(1) AMENDMENT BY BOARD OF DIRECTORS.** A bank's board of directors may amend or
6 repeal the bank's bylaws or adopt new bylaws, except to the extent that any of the
7 following applies:

8 (a) The articles of incorporation, s. 221.0503 or any other provision of this
9 chapter reserve that power exclusively to the shareholders.

10 (b) The shareholders, in adopting, amending or repealing a particular bylaw,
11 provided in the bylaws that the board of directors may not amend, repeal or readopt
12 that bylaw.

13 **(2) AMENDMENT BY SHAREHOLDERS.** A bank's shareholders may amend or repeal
14 the bank's bylaws or adopt new bylaws, even though the board of directors may also
15 amend or repeal the bank's bylaws or adopt new bylaws.

16 **221.0215 Authorized stock. (1) INCREASE IN CAPITAL STOCK.** A bank may
17 authorize an increase in the capital stock of the bank in the category of authorized
18 but unissued stock if approved by the division and if approved by a vote of
19 shareholders owning a majority of the stock of the bank entitled to vote, or by such
20 greater percentage provided in the bank's articles of incorporation or bylaws.

21 **(2) AUTHORIZED BUT UNISSUED STOCK.** A bank may issue authorized but
22 unissued stock in all of the following circumstances:

23 (a) To employees of the bank pursuant to a stock option or stock purchase plan.

24 (b) In exchange for convertible preferred stock and convertible capital
25 debentures, in accordance with the terms of the stock or debentures.

1 (c) For such other purposes and considerations as may be approved by both the
2 division and the board of directors of the bank.

3 **(3) CLASSES OF SHARES.** The articles of incorporation shall prescribe the classes
4 of shares and the number of shares of each class that the bank is authorized to issue.
5 If more than one class of shares is authorized, the articles of incorporation shall
6 prescribe a distinguishing designation for each class. Before the issuance of shares
7 of a class, the bank shall describe in its articles of incorporation the preferences,
8 limitations and relative rights of that class. All shares of a class shall have
9 preferences, limitations and relative rights identical with those of other shares of the
10 same class, unless the class is divided into series.

11 **(4) SERIES OF SHARES.** The articles of incorporation may create series of shares
12 within a class of shares. Before the issuance of shares of a series, the bank shall
13 describe in its articles of incorporation the number of shares of each series that the
14 bank is authorized to issue, a distinguishing designation for each series within a
15 class and the preferences, limitations and relative rights of that series. All shares
16 of a series shall have preferences, limitations and relative rights identical with those
17 of other shares of the same series and, except to the extent otherwise provided in the
18 description of the series, with those of other series of the same class.

19 **(5) ARTICLES OF INCORPORATION.** The articles of incorporation shall authorize
20 all of the following:

21 (a) One or more classes of shares that together have unlimited voting rights.

22 (b) One or more classes of shares, which may be the same class or classes as
23 those with voting rights under par. (a), that together are entitled to receive the net
24 assets of the bank upon dissolution.

1 **(6) TYPES OF PREFERENCES AND RIGHTS.** The articles of incorporation may
2 authorize one or more classes of shares that have designations, preferences,
3 limitations and relative rights that may include any of the following:

4 (a) Special, conditional or limited voting rights, or no right to vote, except to the
5 extent prohibited by this chapter.

6 (b) Subject to s. 221.0323, provisions for the redemption or conversion of the
7 shares under any of the following terms specified by articles of incorporation:

8 1. At the option of the bank, the shareholder or another person, or upon the
9 occurrence of a designated event.

10 2. For cash, indebtedness, securities or other property.

11 3. In a designated amount or in an amount determined in accordance with a
12 designated formula or by reference to extrinsic data or events.

13 (c) Provisions entitling the holders to distributions calculated in any manner,
14 including dividends that may be cumulative, noncumulative or partially cumulative.

15 (d) Preference over any other class of shares with respect to distributions,
16 including dividends and distributions upon the dissolution of the bank.

17 **(7) POWERS OF BOARD OF DIRECTORS WITH RESPECT TO CLASSES AND SERIES.** To the
18 extent provided in the articles of incorporation, the board of directors may, subject
19 to the limits of this section, do any of the following:

20 (a) Determine with respect to any class of shares the preferences, limitations
21 and relative rights, in whole or in part, before the issuance of any shares of that class.

22 (b) Create one or more series within a class, and, with respect to any series,
23 determine the number of shares of the series, the distinguishing designation and the
24 preferences, limitations and relative rights, in whole or in part, before the issuance
25 of any shares of that series.

1 **(8) ARTICLES OF AMENDMENT.** Articles of amendment to a bank's articles of
2 incorporation authorizing the issuance of shares of a class or series shall contain all
3 of the following and shall be delivered to the division before issuing any shares of the
4 class or series:

5 (a) The name of the bank.

6 (b) The text of the amendment determining the terms of the class or series of
7 shares.

8 (c) The number of shares of the class or series of shares created.

9 (d) A statement that none of the shares of the class or series has been issued.

10 (e) The date that the amendment was adopted.

11 (f) A statement that the amendment was adopted by the board of directors and
12 that shareholder action was not required. An amendment filed under this subsection
13 is not effective unless approved by the division.

14 **(9) RESOLUTIONS MODIFYING PREFERENCES, LIMITATIONS AND RELATIVE RIGHTS.**

15 After the articles of amendment are filed under sub. (8) and before the bank issues
16 any shares of the class or series that is the subject of the articles of amendment, the
17 board of directors may alter or revoke any preferences, limitations or relative rights
18 described in the articles of amendment, by adopting another resolution appropriate
19 for that purpose. The bank shall file with the division revised articles of amendment
20 that comply with sub. (8). A preference, limitation or relative right may not be
21 altered or revoked after the issuance of any shares of the class or series that are
22 subject to the preference, limitation or relative right.

23 **221.0216 Preferred stock. (1) ISSUANCE.** (a) Except as provided in sub. (2),
24 a bank may issue preferred stock of one or more classes by providing for the issuance
25 in the original articles of incorporation, or by providing for the issuance by an

1 amendment to these articles of incorporation that is approved by the division and by
2 shareholders owning a majority of the stock of the bank entitled to vote, or such
3 greater percentage as may be required in the bank's articles of incorporation or
4 bylaws. An issue of preferred stock is not valid until the par value of all preferred
5 stock is paid in.

6 (b) Preferred stock issued under par. (a) may be issued in such amount and with
7 such par value as may be approved by the division and may provide for any of the
8 following, subject to the approval of the division:

9 1. Payment of dividends at a specified rate on the preferred stock before
10 dividends are paid on the capital stock.

11 2. The cumulation of dividends under subd. 1.

12 3. A preference over the capital stock in the distribution of the assets of the
13 bank.

14 4. Conversion of the preferred stock into capital stock.

15 5. Redemption of the preferred stock.

16 6. Denying or restricting the voting power of the preferred stock.

17 **(2) NEWLY ORGANIZED BANKS.** The requirement for a vote of shareholders under
18 sub. (1) (a) does not apply to a newly organized bank that has not yet issued capital
19 stock.

20 **(3) CHANGES RELATING TO PREFERRED STOCK.** No change in relation to preferred
21 stock may be made except by an amendment to the articles of incorporation that is
22 approved by all of the following:

23 (a) A vote of the shareholders owning a majority of the preferred stock of the
24 bank who are entitled to vote or such greater percentage required under the articles
25 of incorporation or bylaws.

1 (b) A vote of the shareholders owning a majority of the capital stock of the bank
2 entitled to vote or such greater percentage required under the articles of
3 incorporation or bylaws.

4 (c) The division.

5 (4) LIABILITY OF HOLDERS OF PREFERRED STOCK. Preferred stock of a bank is not
6 subject to a assessment to restore an impairment in the capital of the bank. A holder
7 of preferred stock of a bank is not individually responsible, in the shareholder's
8 capacity as a shareholder, for any debt, contract or acknowledgment of a bank.

9 (5) DIVIDEND RIGHTS. A dividend may not be declared or paid on capital stock
10 if the cumulative dividends on the preferred stock have been paid in full. If the bank
11 is placed in liquidation, a payment may not be made to the holders of the capital stock
12 if the holders of the preferred stock have not been paid in full the par value of the
13 stock plus all cumulative dividends.

14 **221.0217 Reorganization of a state bank as a national bank.** A bank
15 organized under this chapter may reorganize under the laws of the United States as
16 a national bank. When the bank has obtained a certificate from the U.S. comptroller
17 of the currency authorizing it to commence business under the federal banking law,
18 the bank is reorganized as a national bank. The reorganized bank takes and holds
19 all of the assets, real and personal, of the bank organized under this chapter, subject
20 to all liabilities existing against the bank at the time of the reorganization. The
21 reorganized bank shall immediately notify the division of the reorganization.

22 **221.0218 Reorganization of a national bank as a state bank.** A national
23 bank that is authorized to dissolve and that has taken the necessary steps to effect
24 a dissolution, may reorganize as a state bank under this chapter, with the approval
25 of the division and upon the consent in writing of the shareholders owning a majority

1 of the stock of the bank entitled to vote or such greater percentage required in the
2 articles of incorporation or bylaws. The shareholders shall make, execute and
3 acknowledge articles of incorporation as required by this chapter. A national bank
4 seeking to reorganize under this section shall pay to the division a fee determined
5 by the division, plus the actual costs incurred by the division in investigating the
6 proposed reorganization. Upon the filing of articles of incorporation under this
7 chapter and upon the approval of the division, the bank is reorganized under this
8 chapter, and the assets, real and personal, of the dissolved national bank become the
9 property of the reorganized bank, subject to all liabilities of the national bank not
10 liquidated before the reorganization.

11 SUBCHAPTER III

12 PURPOSES AND POWERS

13 **221.0301 General powers.** Upon approval of the articles of incorporation by
14 the division, the bank is a body corporate and, except as provided in sub. (6), has
15 perpetual duration. In addition to those powers and all other powers granted under
16 this chapter, a bank has all of the following powers:

17 (1) **POWER TO CONTRACT.** To make contracts necessary and proper to effect its
18 purpose and conduct its business.

19 (2) **POWER TO SUE.** To sue and be sued, and to appear and defend in all actions
20 and proceedings under its corporate name to the same extent as a natural person.

21 (3) **CORPORATE SEAL.** To adopt and use a corporate seal and alter the same at
22 pleasure.

23 (4) **OFFICERS AND AGENTS.** To elect or appoint officers, agents and employees,
24 define their duties and obligations, require bonds of them, fix their compensation,
25 dismiss them and fill vacancies.

1 **(5) BUSINESS OF BANKING.** To exercise by its board of directors, or duly
2 authorized officers or agents, all incidental powers necessary to carry on the business
3 of banking. A bank may exercise the powers granted by this subsection to carry on
4 the business of banking at a branch bank. Powers granted under this subsection
5 include all of the following:

6 (a) Buying, discounting and negotiating promissory notes, bonds, drafts, bills
7 of exchange, foreign and domestic, and other evidences of debt.

8 (b) Buying and selling coin and bullion.

9 (c) Receiving commercial and savings deposits under such conditions as the
10 bank may establish.

11 (d) Buying and selling exchange.

12 (e) Making loans on personal and real security in accordance with this chapter.

13 **(6) SUCCESSION.** To have succession until any of the following occurs:

14 (a) The bank is dissolved by the act of its shareholders owning a majority of the
15 stock of the bank entitled to vote or such greater percentage required under its
16 articles of incorporation or bylaws.

17 (b) The bank's corporate existence becomes terminated by a provision in its
18 articles of incorporation.

19 (c) The bank's charter is forfeited under s. 220.08 (18) or 221.0803.

20 **(7) INTERMEDIARY OR PAYER BANK.** To establish and maintain facilities for the
21 receipt of checks and other transit items as an intermediary or payer bank in
22 bank-to-bank transactions.

23 **(8) SERVICES TO OTHER DEPOSITORY INSTITUTIONS.** To contract with one or more
24 depository institutions to provide banking and financially related products or
25 services on its behalf to its customers, except that no contract is required for the

1 acceptance of deposits of customers at affiliated banks. A bank that proposes to
2 enter into a contract under this subsection shall file with the division, at least 30 days
3 before the effective date of the contract, a notice of intention to enter into a contract
4 with a depository institution, a description of the services proposed to be performed
5 under the contract and a copy of the contract. A bank may not, pursuant to a contract
6 under this subsection, conduct any activity as an agent that it would be prohibited
7 from conducting as a principal under applicable state or federal law, or have an agent
8 conduct any activity that the bank as a principal would be prohibited from
9 conducting under applicable state or federal law. The division may order a bank or
10 any other depository institution subject to the division's enforcement powers to cease
11 acting as an agent or principal under any contract that the division finds to be
12 inconsistent with safe and sound banking practices.

13 (9) OTHER. To exercise such other powers as may be provided or permitted
14 under this chapter.

15 **221.0302 Branch banks and other facilities.** (1) ESTABLISHMENT. A bank
16 may establish and maintain a branch bank or joint branch bank with the approval
17 of the division.

18 (2) CONVERSION. A bank may be converted to a branch bank of the surviving
19 bank of a merger or consolidation under s. 221.0702. A branch of a bank converted
20 into a branch bank becomes a branch of the surviving bank.

21 (3) TRANSFER. A bank may transfer a branch bank to any other bank located
22 in this state with the approval of the division.

23 (4) OUT-OF-STATE BRANCHES. A bank may establish a branch bank in another
24 state with the approval of the division and the appropriate bank regulator in the
25 state where the branch is to be established.

1 **(5) ACTIVITIES NOT CONSIDERED BRANCH BANKING.** The following activities do not
2 constitute the establishment or maintenance of a branch bank or a joint branch bank:

3 (a) Picking up deposits and delivering money to bank customers at locations
4 designated by the bank.

5 (b) Establishing or maintaining a facility under s. 221.0301 (8).

6 (c) Acting as an agent, or having another bank act as agent, under a contract
7 under s. 221.0301 (9).

8 (d) Operating a trust service office under s. 221.0316 (4).

9 **(6) APPLICATION.** A bank shall apply for the establishment or transfer of a
10 branch bank under this section to the division on a form furnished by the division.
11 The application shall be accompanied by a fee determined by the division.

12 **(7) STANDARDS FOR APPROVAL.** The division shall approve the establishment of
13 a branch bank under sub. (1) or the conversion of a bank to a branch bank under sub.
14 (2) if the financial and managerial resources and future prospects of the bank
15 establishing a branch bank, or the surviving bank of a merger or consolidation, are
16 satisfactory to the division.

17 **(8) APPLICABILITY OF LAWS AND RULES GOVERNING BANKS.** Branch banks are
18 subject to all laws and rules applicable to banks generally.

19 **(9) CLOSURE OF BRANCH BANKS.** At least 30 days before closing a branch bank,
20 a bank shall notify the division in writing and post a notice of the closing in the lobby
21 of the bank and the lobby of the branch bank to be closed.

22 **(10) GRANDFATHERED BRANCH BANKS.** Every branch bank, branch office or bank
23 station existing on August 1, 1989, is considered to be a branch bank approved by the
24 division under this paragraph.

1 **221.0303 Customer bank communications terminals. (1)** In this section,
2 “customer bank communications terminal” means a terminal or other facility or
3 installation, attended or unattended, that is not located at the principal place of
4 business or at a branch or remote facility of a bank and through which customers and
5 banks may engage, by means of either the direct transmission of electronic impulses
6 to and from a bank or the recording of electronic impulses or other indicia of a
7 transaction for delayed transmission to a bank, in transactions which are incidental
8 to the conduct of the business of banking and which are otherwise permitted by law.
9 “Customer bank communications terminal” also includes all equipment, regardless
10 of location, which is interconnected with a customer bank communications terminal
11 and which is necessary to transmit, route and process electronic impulses in order
12 to enable the customer bank communications terminal to perform any function for
13 which it is designed.

14 **(2) OPERATION AND ACQUISITION OF CUSTOMER BANK COMMUNICATIONS TERMINALS.**

15 A bank may, directly or indirectly, acquire, place and operate, or participate in the
16 acquisition, placement and operation of, at locations other than its main or branch
17 offices, customer bank communications terminals, in accordance with rules
18 established by the division. The rules of the division shall provide that any such
19 customer bank communications terminal shall be available for use, on a
20 nondiscriminatory basis, by any state or national bank. This subsection does not
21 authorize a bank which has its principal place of business outside this state to
22 conduct banking business in this state. The customer bank communications
23 terminals also shall be available for use, on a nondiscriminatory basis, by any credit
24 union, savings and loan association or savings bank, if the credit union, savings and
25 loan association or savings bank requests to share its use, subject to rules jointly

1 established by the division of banking, the office of credit unions and the division of
2 savings and loan. The division by order may authorize the installation and operation
3 of a customer bank communications terminal in a mobile facility, after notice and
4 hearing upon the proposed service stops of the mobile facility.

5 **(3) TERMINALS OWNED OR OPERATED BY RETAILERS.** If a person who is primarily
6 engaged in the retail sale of goods or services owns or operates a customer bank
7 communications terminal on the person's premises and allows access to the terminal
8 by any financial institution, group of financial institutions, or their customers for
9 any purpose or function, then all of the following apply:

10 (a) The division may not require the person to accept any connection to or use
11 of the customer bank communications terminal on its premises for any other purpose
12 or function, or to accept any connection to the terminal on its premises by any other
13 financial institution.

14 (b) This chapter, and the rules promulgated by the division, do not apply to the
15 person, except for laws or rules directly related to the particular function performed
16 by the terminal on such person's premises for a financial institution.

17 **(4) USE OF TRANSMITTED INFORMATION.** Information transmitted from a customer
18 bank communications terminal, either identified as to particular transactions or
19 aggregate information, may be used only for purposes of effecting the financial
20 transactions for which the information was received, for any other purpose lawfully
21 authorized by contract or for any other purpose permitted by statute or rules
22 pertaining to the dissemination and disclosure of such information.

23 **221.0304 Safe deposits.** A bank may take and receive personal property from
24 any person for safekeeping and storage and may rent out the use of safes or other
25 receptacles upon its premises upon such compensation as may be agreed upon. The

1 bank has a lien for its charges on any property taken or received by it for safekeeping.
2 If the lien is not paid within 2 years after the date the charges accrue, or if the
3 property taken or received by the bank is not called for within 2 years after the date
4 the charges accrue, the bank may sell the property at public auction. The bank shall
5 provide such notice as is required for the sale of personal property on execution. After
6 retaining from the proceeds of such sale all the liens and charges due the bank and
7 the reasonable expenses of the sale, the bank shall pay the balance to the person who
8 deposited the property, or to the person's legal representatives or assignees.

9 **221.0305 Memberships and investments in federal reserve bank.** A
10 bank may purchase and hold, for the purpose of becoming a member of the federal
11 reserve bank, so much of the capital stock of the federal reserve bank as will qualify
12 it for membership under 12 USC 321 to 339 in the federal reserve bank. The bank
13 may become a member of the federal reserve bank, and may have and exercise all
14 powers, not in conflict with the laws of this state, that are conferred upon a member
15 bank. The member bank and its directors, officers and shareholders remain subject
16 to all liabilities and duties imposed upon them by the laws of this state.

17 **221.0306 Memberships and investments in federal home loan bank. (1)**
18 PERMITTED ACTIVITIES. Subject to review by the division under sub. (2), a bank may,
19 with the approval of its board of directors, purchase and hold capital stock of the
20 federal home loan bank for the purpose of becoming a member of the federal home
21 loan bank under 12 USC 1421 to 1449. A bank that becomes a member may exercise
22 borrowing privileges or use any other services offered to a member by the federal
23 home loan bank, if the privileges or services are not in conflict with the laws of this
24 state. Without becoming a member, a bank may exercise deposit privileges and use
25 other services offered to nonmembers by the federal home loan bank.

1 **(2) NOTICE AND REVIEW.** A bank that intends to become a member of the federal
2 home loan bank shall give the division written notice of its intention to apply for
3 membership. The division may prohibit a bank from becoming a member if the
4 bank's capital and undistributed surplus is less than the amount required for that
5 bank or if the division finds that the bank is in an unsafe or unsound condition. The
6 division shall have 30 days after the date on which the notice is received to issue a
7 prohibition under this subsection. The division may extend the time for issuing a
8 prohibition up to 30 additional days if the division notifies the bank before the initial
9 30-day period expires that the division is extending the time limit.

10 **221.0307 Memberships and investments in other state and federal**
11 **agencies.** A bank may, with the approval of the division and by action of the bank's
12 board of directors, acquire and hold the stock of any state or federal agency or of any
13 similar institution approved by the division. A bank that intends to make such an
14 investment shall give the division written notice of its intention. The division may
15 disallow the investment if it finds that the bank is in an unsafe or unsound condition
16 or that the transaction would be an unsafe or unsound investment for the bank. The
17 division shall have 30 days after the date on which notice is received to issue a
18 prohibition under this section. The division may extend the time for issuing the
19 prohibition to 30 additional days if the division notifies the bank before the initial
20 30-day period expires that the division is extending the time limit.

21 **221.0308 Benefits under federal law; Federal Deposit Insurance**
22 **Corporation.** A bank may, by action of its board of directors, enter into such
23 contracts, incur such obligations and perform such acts as may be necessary or
24 appropriate in order to take advantage of any and all memberships, loans,
25 subscriptions, contracts, grants, rights or privileges that may at any time be

1 available or inure to banking institutions or to their depositors, creditors,
2 shareholders, conservators, receivers or liquidators, by virtue of any federal law
3 establishing the Federal Deposit Insurance Corporation; providing for the insurance
4 of deposits; or regulating or safeguarding banking institutions and their depositors.
5 A bank may also subscribe for and acquire any stock, debenture, bond or other type
6 of security of the Federal Deposit Insurance Corporation. A bank that becomes a
7 member of the Federal Deposit Insurance Corporation shall comply with the lawful
8 regulations and requirements issued by the Federal Deposit Insurance Corporation.
9 The bank and its directors, officers and shareholders shall continue to be subject to
10 all liabilities and duties imposed upon them by any laws of this state.

11 **221.0309 Investments in international banking and financial**
12 **institutions.** A bank may, with the approval of the division, invest an amount not
13 exceeding in the aggregate 15% of its capital in one or more corporations principally
14 engaged in international or foreign banking, or banking in dependencies or insular
15 possessions of the United States, organized pursuant to 12 USC 611 to 631. A bank
16 may also invest, with the approval of the division, an amount not exceeding in the
17 aggregate 10% of its capital in the stock of one or more corporations principally
18 engaged in international or foreign financial operations other than banking, as well
19 as such financial operations in dependencies or insular possessions of the United
20 States, organized pursuant to 12 USC 611 to 631.

21 **221.0310 Federal national mortgage association.** A bank that has loans
22 secured by real estate mortgages may, with the approval of the division, sell all or any
23 portion of the loans to the federal national mortgage association, or any successor to
24 that association. In connection with this sale of loans, the bank may make payments
25 of any required capital contributions in the nature of subscriptions for stock of the

1 federal national mortgage association or any successor to that association, may
2 receive stock evidencing these capital contributions and may hold or dispose of this
3 stock.

4 **221.0311 Investments in agricultural credit corporations.** A bank may
5 invest, with the approval of the division, in an agricultural credit corporation.
6 Unless a bank owns at least 80% of the stock of the agricultural credit corporation,
7 the amount invested by the bank may not exceed 20% of the bank's capital.

8 **221.0312 Investments in development companies.** A bank is authorized
9 to invest, in an amount not to exceed in the aggregate 5% of its capital, in shares of
10 the Wisconsin Development Credit Corporation and in shares of small business
11 investment companies located in this state.

12 **221.0313 Information to division; stock holdings.** A bank that invests in
13 the capital stock of other banks or of corporations as provided in this chapter shall
14 furnish information concerning the condition of the other banks or corporations to
15 the division upon demand. If the division determines that the bank is not complying
16 with rules of the division regarding these investments, the division may institute an
17 investigation of the bank's investments. If the investigation establishes a violation
18 of division rules regarding permissible investments, the division may require the
19 bank to dispose of its investment in the other bank or corporation, upon reasonable
20 notice.

21 **221.0314 Sale of U.S. bonds.** A bank may, by resolution of its board of
22 directors authorizing such action, act as agent for the U.S. treasury or other
23 instrumentality of the United States in connection with the sale of bonds or other
24 obligations of the United States or an instrumentality of the United States, if
25 designated as agent by the secretary of the U.S. treasury or by the other

1 instrumentality. A bank may enter into contracts, incur obligations, make
2 investments, pledge assets or take other actions if necessary or appropriate in order
3 to act as agent under this section. A bank may exercise powers granted under this
4 section only upon express approval previously granted by the division, and only in
5 such manner and to such extent as the division may approve, and with such
6 limitations upon the exercise of those powers as the division may impose.

7 **221.0315 Insurance activities. (1) INSURANCE INTERMEDIARY ACTIVITIES**
8 PERMITTED. A bank, or an officer or salaried employe of a bank, may obtain a license
9 as an insurance intermediary, if otherwise qualified.

10 **(2) INSURANCE UNDERWRITING PROHIBITED.** A bank may not, directly or through
11 a subsidiary, engage in the business of underwriting insurance.

12 **221.0316 Trust powers. (1) GENERAL.** When authorized by the division, and
13 after the bank has in good faith complied with all requirements of law and fulfilled
14 all the conditions precedent to the exercise of trust powers imposed by law upon trust
15 company banks, a bank may act as trustee, executor, administrator, registrar of
16 stocks and bonds, guardian of estates, assignee, receiver, and in any other fiduciary
17 capacity in which trust company banks are permitted to act. A bank authorized by
18 the division to exercise trust powers under this section shall comply with s. 223.02
19 before exercising such authority. Upon compliance with s. 223.02, the bank is
20 entitled to the same exemption as to making and filing any oath or giving any bond
21 or security as is conferred on trust company banks by s. 223.03 (8).

22 **(2) APPLICATION AND APPROVAL. (a)** With its application for permission to
23 exercise trust powers under this section, a bank shall submit to the division a fee
24 determined by the division.

1 (b) In approving an application by a bank to exercise trust powers, the division
2 may take into consideration the amount of capital of the applying bank, whether the
3 capital is sufficient under the circumstances, the needs of the community to be
4 served, and any other facts and circumstances that may be material. The division
5 shall approve or disapprove the application within 6 months after the date on which
6 the application is filed. The division may approve an application under this
7 subsection if the division is satisfied that the bank has in good faith complied with
8 all the requirements of law and has fulfilled all the conditions precedent to the
9 exercise of these powers imposed by law.

10 (c) If the division approves the application, the division shall issue, in duplicate,
11 a special authorization certificate to the bank. The certificate shall state that the
12 bank has complied with the provisions of law applicable to banks exercising trust
13 powers and that the bank is authorized to exercise trust powers. One of the duplicate
14 special authorization certificates shall be transmitted by the division to the bank and
15 the other shall be filed with the division.

16 (d) In exercising trust powers, a bank shall comply with all the provisions of
17 law applicable to individuals acting in a trust or fiduciary capacity.

18 **(3) TRUST FUNDS; HOW KEPT.** A bank that exercises trust powers shall keep its
19 trust accounts in books separate from its other books of account. All funds and
20 property held by the bank in a trust capacity shall, at all times, be kept separate from
21 the other funds and property of the bank, except that uninvested trust funds may be
22 deposited in an account in the bank or in any other bank that is a member of the
23 Federal Deposit Insurance Corporation. All deposits of uninvested trust funds shall
24 be deposited as trust funds to its credit as trustee. In the event of insolvency or
25 liquidation of a bank in which the accounts are maintained, all bank accounts

1 comprising trust funds so deposited have preference and priority in all assets of the
2 bank over the bank's general creditors, without the necessity of tracing or identifying
3 the trust funds.

4 (4) TRUST SERVICE OFFICES. A state bank exercising trust powers may, with the
5 approval of the division, establish and maintain a trust service office at any office in
6 this state of any other depository institution, as defined under s. 221.0901 (2) i). A
7 state bank may, with the approval of the division, permit any other depository
8 institution, as defined under s. 221.0901 (2) (i), exercising trust powers or any trust
9 company bank organized under ch. 223 to establish and maintain a trust service
10 office at any of its banking offices. The establishment and operation of a trust service
11 office are subject to s. 223.07. This subsection does not authorize branch banking.

12 **221.0317 Securitization of assets.** A bank may, with the approval of the
13 division, securitize its assets for sale to the public in accordance with the rules which
14 shall be promulgated by the division under this section.

15 **221.0318 Notes and debentures. (1) ISSUANCE.** A bank may, by the action
16 of its board of directors, issue and sell its notes or debentures of one or more classes
17 in the amount, in the form and with the maturity determined by the board. The notes
18 and debentures may confer such rights and privileges upon the holders of the notes
19 and debentures as determined by the board.

20 (2) LIMITATION ON ISSUANCE. A bank may issue notes and debentures if the
21 amount issued is within limits previously established by the division for issuances
22 by the bank.

23 (3) STATUS AS CAPITAL OF BANK. Notes and debentures issued by a bank
24 constitute capital of the bank, only if approved by the division.

1 **(4) RETIREMENT OF NOTES AND DEBENTURES.** Before a bank may retire or pay
2 notes or debentures, any existing deficiency of the bank's capital, disregarding the
3 notes and debentures to be retired, must be paid in cash or in assets acceptable to
4 the division, so that the sound capital assets of the bank shall at least equal the
5 capital stock of the bank.

6 **(5) LIABILITY FOR ASSESSMENT.** A bank's notes or debentures are not subject to
7 any assessment. The holders of these notes or debentures are not liable for the debts,
8 contracts or engagements of the bank or for assessments to restore impairments in
9 the capital of the bank.

10 **221.0319 Real estate. (1) PURPOSES FOR WHICH REAL ESTATE MAY BE HELD.** A
11 bank may purchase, lease, hold and convey only the following types of real estate:

12 (a) Real estate necessary for the convenient transaction of its business,
13 including facilities connected with the office, furniture, equipment and fixtures. A
14 bank may include with its banking offices, other facilities to rent as a source of
15 income. A bank may also invest in the stocks, bonds or obligations of a bank building
16 corporation. A bank's investment under this paragraph or its liability for it may not
17 exceed in the aggregate 60% of the bank's capital.

18 (b) Real estate conveyed to the bank in satisfaction of debts previously
19 contracted in the course of the bank's business.

20 (c) Real estate purchased at sale on judgments, decrees or mortgage
21 foreclosures under securities held by the bank, but a bank may not bid at a sale a
22 larger amount than is necessary to satisfy its debts and costs.

23 (d) Subject to the approval of the division, real estate purchased and held for
24 the purpose of providing needed housing accommodations for its essential employees

1 who are relocated by the bank, including purchasing the former residence of the
2 relocated, essential employee.

3 (e) Real estate acquired or held for such other purposes as may be approved by
4 the division, subject to s. 221.0321.

5 **(2) TIME LIMITATION.** Real estate acquired under sub. (1) (b), (c) or (d) may not
6 be held for more than 5 years, unless an extension is granted by the division. If an
7 application for an extension is denied, the real estate must be sold at a private or
8 public sale within one year after the denial of the application. This section does
9 prevent a bank from lending money secured by real estate as provided by law. Real
10 estate may be conveyed under the signature of an officer of the bank.

11 **(3) HOLDING COMPANIES.** Subject to sub. (1) (a), a bank may convey real estate
12 to an entity engaged solely in holding property of the bank, to a bank holding
13 company, as defined in 12 USC 1841 (a), of which the bank is a subsidiary or to any
14 other subsidiary of that bank holding company. A liability of the entity holding
15 property of the bank, bank holding company or subsidiary of the bank holding
16 company to the bank that results from a conveyance under this subsection is not
17 subject to the limitation under s. 221.0320 (1).

18 **221.0320 Limit of loans and investments. (1) IN GENERAL.** Except as
19 provided in subs. (2) to (8) and s. 221.0319 (3), the total liabilities of any person, other
20 than a municipal corporation, to a bank for money borrowed may not, at any time,
21 exceed 20% of the capital of the bank. In determining compliance with this section,
22 the total liabilities of a partnership includes the liabilities of the general partners of
23 the partnership, computed individually as to each general partner on the basis of his
24 or her direct liability.

1 **(2) WAREHOUSE RECEIPTS AND CERTAIN BONDS AND NOTES.** The percentage
2 limitation under sub. (1) is 50% of the bank's capital, if the liabilities under sub. (1)
3 are limited to the following types of liabilities:

4 (a) A liability secured by warehouse receipts issued by warehouse keepers
5 licensed and bonded in this state under ss. 99.02 and 99.03 or under the federal
6 bonded warehouse act or holding a registration certificate under ch. 127, if all of the
7 following requirements are met:

- 8 1. The receipts cover readily marketable nonperishable staples.
- 9 2. The staples are insured, if it is customary to insure the staples.
- 10 3. The market value of the staples is not, at any time, less than 140% of the face
11 amount of the obligation.

12 (b) A liability in the form of a note or bond that meets any of the following
13 qualifications:

14 1. The note or bond is secured by not less than a like amount of bonds or notes
15 of the United States issued since April 24, 1917, or certificates of indebtedness of the
16 United States.

17 2. The note or bond is secured or covered by guarantees or by commitments or
18 agreements to take over, or to purchase the bonds or notes, and the guarantee,
19 commitment or agreement is made by a federal reserve bank, the federal small
20 business administration, the federal department of defense or the federal maritime
21 commission.

22 3. The note or bond is secured by mortgage or trust deeds insured by the federal
23 housing administrator.

24 **(3) OBLIGATIONS OF CERTAIN LOCAL GOVERNMENTAL UNITS.** (a) In this subsection,
25 "local governmental unit" has the meaning given in s. 16.97 (7).

1 (b) Except as otherwise provided in this subsection, the total liabilities of a local
2 governmental unit to a bank for money borrowed may not, at any time, exceed 25%
3 of the capital of the bank.

4 (c) Liabilities in the form of revenue obligations of a local governmental unit
5 are subject to the limitations provided in par. (b). In addition, a bank is permitted
6 to invest in a general obligation of that local governmental unit in an amount that
7 will bring the combined total of the general obligations and revenue obligations of
8 a single local governmental unit to a sum not in excess of 50% of the capital of the
9 bank.

10 (d) If the liabilities of the local governmental unit are in the form of bonds, notes
11 or other evidences of indebtedness that are a general obligation of a local
12 governmental unit in this state, the total liability of the local governmental unit may
13 not exceed 50% of the capital of the bank.

14 (e) The total amount of temporary borrowings of any local governmental unit
15 maturing within one year after the date of issue may not exceed 60% of the capital
16 of the bank. Temporary borrowings and longer-term general obligation borrowings
17 of a single local governmental unit in this state may be considered separately in
18 arriving at the limitations provided in this paragraph.

19 **(4) OBLIGATIONS OF CERTAIN INTERNATIONAL ORGANIZATIONS; OTHER FOREIGN BONDS.**
20 A bank may purchase bonds offered for sale by the International Bank for
21 Reconstruction and Redevelopment and the Inter-American Development Bank or
22 such other foreign bonds as may be approved under rules established by the division.
23 At no time shall the aggregate investment in any of these bonds issued by a single
24 issuer exceed 10% of the capital of such bank.

1 **(5) FOREIGN NATIONAL GOVERNMENT BONDS.** A bank may invest in general
2 obligation bonds issued by any foreign national government if the bonds are payable
3 in American funds. The aggregate investment in these foreign bonds may not exceed
4 3% of the capital of the bank, except that this limitation does not apply to bonds of
5 the Canadian government and Canadian provinces that are payable in American
6 funds.

7 **(6) DEPOSITS.** A bank may invest in time deposits and certificates of deposit of
8 other financial institutions in an amount not to exceed the following:

9 (a) In each domestic insured U.S. bank, including its offshore branches, and in
10 each domestic insured savings and loan association, savings bank or credit union,
11 20% of capital or, in domestic insured financial institutions including their offshore
12 branches designated by the board of directors, 50% of capital.

13 (b) In each uninsured bank or foreign bank, including its domestic branches,
14 and in any other savings and loan association, savings bank or credit union, 20% of
15 capital.

16 **(7) LIMITS ESTABLISHED BY BOARD.** (a) A bank may not make or renew a loan or
17 loans, the aggregate total of which exceeds the level established by the board of
18 directors without being supported by a signed financial statement unless the loan is
19 secured by collateral having a value in excess of the amount of the loan. A signed
20 financial statement furnished by the borrower to a bank in compliance with this
21 paragraph must be renewed annually as long as the loan or any renewal of the loan
22 remains unpaid and is subject to this paragraph.

23 (b) A loan or a renewal of a loan made by a bank in compliance with par. (a),
24 without a signed financial statement, may be treated by the bank as entirely

1 independent of any secured loan made to the same borrower if the loan does not
2 exceed the limitations provided in this section.

3 **(8) EXCEPTIONS.** This section does not apply to any of the following:

4 (a) A liability that is secured by not less than a like amount of direct obligations
5 of the United States which will mature not more than 18 months after the date such
6 liabilities to the bank are entered into.

7 (b) A liability that is a direct obligation of the United States or this state, or an
8 obligation of any governmental agency of the United States or this state, that is fully
9 and unconditionally guaranteed by the United States or this state.

10 (c) A liability in the form of a note, debenture or certificate of interest of the
11 Commodity Credit Corporation.

12 (d) A liability in the form of a note or debenture issued by the federal national
13 mortgage association or the export-import bank of Washington.

14 (e) A liability in the form of a note, debenture or bond issued by the federal home
15 loan bank.

16 (f) A liability created by the discounting of bills of exchange drawn in good faith
17 against actually existing values or the discounting of commercial or business paper
18 actually owned by the person negotiating the same.

19 **221.0321 Other loans and investments. (1) PERMITTED LENDING.** Except as
20 provided in sub. (3), a bank may lend under this subsection, through the bank or a
21 subsidiary of the bank, to all borrowers from the bank and all of its subsidiaries, an
22 aggregate amount not to exceed the percentage of its capital established by the
23 division under sub. (3). Neither a bank nor any subsidiary of the bank may lend to
24 any borrower, under this subsection and any other law or rule, an amount that would
25 result in an aggregate amount for all loans to that borrower that exceeds the

1 percentage of the bank's capital established under sub. (3). A bank or its subsidiary
2 may take an equity position or other form of interest as security in a project funded
3 through these loans. A transaction by a bank or its subsidiary under this subsection
4 requires prior approval by the board of directors of the bank or its subsidiary,
5 respectively. Except as provided in sub. (3), these loans are not subject to s. 221.0326
6 or to classification as losses, for a period of 2 years from the date of each loan.

7 **(2) PERMITTED INVESTMENTS.** Except as provided in sub. (3), a bank may invest
8 under this subsection, through the bank or subsidiary of the bank, amounts not to
9 exceed, in the aggregate, that percentage of its capital established by the division
10 under sub. (3) in equity positions, such as profit-participation projects. A bank may
11 take an investment position in a project with respect to which it is also a lender. The
12 bank shall limit its liability as an investor in a specific project under this subsection
13 to an amount not exceeding the amount of its investment in that project. For
14 purposes of calculating the bank's aggregate investment under this subsection, the
15 amount of each investment shall be established as of the date that the investment
16 is made. A transaction by a bank under this subsection requires prior approval by
17 the board of directors of the bank and shall be disclosed to the shareholders of the
18 bank prior to each annual meeting of the shareholders.

19 **(3) LIMITS ESTABLISHED BY THE DIVISION.** The division shall establish for each
20 bank the applicable percentage, not to exceed 20%, under sub. (1) and the applicable
21 percentage, not to exceed 20%, under sub. (2). The division may withdraw or suspend
22 a percentage established under this subsection and, in such case, may specify how
23 outstanding loans or investments shall be treated by the bank or its subsidiary.
24 Among the factors that the division may consider in establishing, withdrawing or

1 suspending a percentage under this subsection are the bank's capital, assets,
2 management and liquidity ratio, and capital ratio.

3 (4) RECORD-KEEPING REQUIREMENTS. At the time of making a loan or investment,
4 the bank or its subsidiary shall note in its records whether it is made under sub. (1)
5 or (2). The forms of security for loans under sub. (1) and the forms of investment
6 under sub. (2) shall be as approved by the division by rule.

7 (5) CERTAIN SECURED LOANS. A bank may make loans secured by assignment or
8 transfer of stock certificates or other evidence of the borrower's ownership interest
9 in a corporation formed for the cooperative ownership of real estate. Sections 846.10
10 and 846.101, as they apply to a foreclosure of a mortgage involving a one-family
11 residence, apply to a proceeding to enforce the lender's rights in security given for
12 a loan under this subsection. The division shall promulgate joint rules with the
13 division of credit unions and the division of savings and loan that establish
14 procedures for enforcing a lender's rights in security given for a loan under this
15 subsection.

16 (6) INVESTMENTS IN OTHER FINANCIAL INSTITUTIONS. In addition to the authority
17 granted under s. 221.1201 and subject to the limitations of sub. (3), a bank may invest
18 in other financial institutions.

19 **221.0322 Additional banking authority.** (1) OTHER PERMITTED ACTIVITIES
20 OR POWERS. Subject to any regulatory approval required by law and subject to sub.
21 (2) and s. 221.0315 (2), a bank, directly or through a subsidiary of the bank, may
22 undertake any activity, exercise any power or offer any financially related product
23 or service in this state that any other provider of financial products or services may
24 undertake, exercise or provide or that the division finds to be financially related.

1 **(2) DIVISION RULES.** The activities, powers, products and services that may be
2 undertaken, exercised or offered by banks under sub. (1) are limited to those
3 specified by rule of the division and, with respect to loans under s. 221.0321 (1) and
4 investments under s. 221.0321 (2), are subject to the limitations set forth in s.
5 221.0321. The division may direct any bank to cease any activity, the exercise of any
6 power or the offering of any product or service authorized by rule under this
7 subsection. Among the factors that the division may consider in so directing a bank
8 are the bank's capital, assets, management and liquidity ratio, and capital ratio.

9 **221.0323 Bank purchase of its own stock. (1) IN GENERAL.** A bank may be
10 the holder or purchaser of not more than 10% of its capital stock, capital notes or
11 debentures, except as provided in sub. (2).

12 **(2) DEBTS PREVIOUSLY CONTRACTED.** A bank may be the holder or purchaser of
13 more than 10% of its capital stock, capital notes or debentures if the purchase is
14 necessary to prevent loss upon a debt previously contracted in good faith. Stock,
15 notes or debentures purchased under this subsection may not be held by the bank
16 for more than 6 months if the stock, notes or debentures can be sold for the amount
17 of the claim of the bank against the same, and they must be sold for the best price
18 obtainable within one year, or they shall be canceled, and shall then amount to a
19 reduction of the capital stock, capital notes or debentures. If the reduction reduces
20 the capital stock below the minimum required by law, the bank's capital stock must
21 be increased to the amount required by law.

22 **(3) USE AS SECURITY.** A bank may not loan any part of its capital, surplus or
23 deposits on the capital stock, capital notes or debentures of its own bank as collateral
24 security.

1 (4) STATUS OF TREASURY SHARES. Treasury shares are issued shares but not
2 outstanding shares. All shares acquired by a bank after the effective date of this
3 subsection [revisor inserts date], constitute treasury shares unless any of the
4 following conditions exists:

5 (a) The articles of incorporation prohibit treasury shares.

6 (b) The board of directors, by resolution, cancels the acquired shares, in which
7 event the shares are restored to the status of authorized but unissued shares.

8 (5) PROHIBITION IN ARTICLES OF INCORPORATION. If the articles of incorporation
9 prohibit treasury shares, all of its own shares acquired by the bank shall be restored
10 to the status of authorized but unissued shares.

11 (6) SAVING CLAUSE. Treasury shares existing on the effective date of this
12 subsection [revisor inserts date], remain treasury shares until disposed of,
13 canceled or restored to the status of authorized but unissued shares by action of the
14 board of directors or shareholders.

15 **221.0324 Assets not to be pledged as security. (1) IN GENERAL.** A bank or
16 bank officer may not give preference to any depositor or creditor by pledging the
17 assets of the bank as collateral security, except to secure deposits where otherwise
18 permitted or required by law for a particular depositor, to secure repurchase
19 agreements entered into by the bank or as otherwise provided under this section.

20 (2) GOVERNMENT DEPOSITS. A bank may deposit with the treasurer of the United
21 States, or in the custody of federal reserve banks or branches of the federal reserve
22 banks designated by a court, so much of its assets, not exceeding its capital and
23 surplus, as may be necessary to do any of the following:

24 (a) To qualify as a depository for postal savings funds and other government
25 deposits.

1 (b) To qualify as a depository for bankrupt estates, debtors, corporations and
2 railroads under reorganization under federal bankruptcy laws and receivers,
3 trustees and other officers thereof appointed by any U.S. district court or by any
4 bankruptcy court of the United States. In acting as a depository under this
5 paragraph, a state bank has all the rights and privileges granted to banking
6 institutions under section 61 of the U.S. bankruptcy act, as amended.

7 **(3) TEMPORARY PURPOSES.** A bank may borrow money for temporary purposes,
8 and may pledge assets of the bank not exceeding 50% in excess of the amount
9 borrowed as collateral security for this borrowing, if the board of directors has
10 adopted a resolution designating the lender from which the money may be borrowed,
11 the maximum amount for which the bank may become indebted at any one time and
12 the names of the officers who may sign the promissory note evidencing the
13 indebtedness.

14 **(4) BOND REQUIREMENTS.** A bank that is authorized to exercise trust powers and
15 that complies with s. 223.02 is exempt from furnishing the bond specified in s.
16 221.0316 and is entitled to the same exemption as to making and filing any oath or
17 giving any bond or security as is conferred on trust company banks by s. 223.03 (8).

18 **(5) PLEDGES TO FEDERAL RESERVE BOARD.** A bank may pledge assets in an amount
19 not to exceed 4 times the amount of its capital to the federal reserve bank, as fiscal
20 agent of the United States, of the federal reserve district in which it is located, except
21 that no such pledge shall be made in excess of the amount of its capital without the
22 consent of the division.

23 **(6) BORROWING TO RELOAN.** If a bank is borrowing habitually for the purpose of
24 reloaning, the division may require the bank to repay money so borrowed.

1 **(7) REDISCOUNTING AND ENDORSING NEGOTIABLE NOTES.** This section does not
2 prevent a bank from rediscounting in good faith and endorsing its negotiable notes,
3 if authorized by a recorded resolution of the board of directors.

4 **(8) CERTIFICATES OF DEPOSIT.** A bank may not issue its certificate of deposit for
5 the purpose of borrowing money. A bank may not make partial payments upon
6 certificates of deposit.

7 **(9) PLEDGES TO AND LOANS FROM THE FEDERAL HOME LOAN BANK.** Notwithstanding
8 sub. (3), a bank that is a member of the federal home loan bank may borrow money
9 from the federal home loan bank for a term not to exceed 20 years and may pledge
10 bank assets having a value that does not exceed 2 times the amount of the loan as
11 collateral to secure the loan. Total assets pledged under this subsection may not
12 exceed 4 times the amount of the bank's capital.

13 **221.0325 Certified checks.** An officer, employe or agent of a bank may not
14 certify a check, draft or order drawn upon the bank unless the person, firm or
15 corporation drawing the check, draft or order has on deposit with the bank at the time
16 the check, draft or order is certified an amount of money equal to the amount
17 specified in the check, draft or order. A check, draft or order so certified by the duly
18 authorized officer, employe or agent is a valid obligation against the bank.

19 **221.0326 Bad debts.** All debts due a bank, on which interest is past due and
20 unpaid for a period of 12 months, shall be considered bad debts and shall be charged
21 off to the profit and loss account at the expiration of one year from the date on which
22 the debt became past due, unless the debts are well secured or in process of collection.

23 **221.0327 Surplus fund. (1) CHARGES TO SURPLUS ACCOUNT.** A loss sustained
24 by a bank in excess of its undivided profits may be charged to its surplus account, if
25 its surplus fund is thereafter reimbursed from its earnings. Cash dividends on

1 capital stock may not be declared or paid by the bank in excess of 50% of its net
2 earnings until its surplus fund is fully restored to the amount that was in the surplus
3 account immediately preceding the charge of the loss.

4 (2) REIMBURSEMENT OF SURPLUS AND RESTRICTED DIVIDENDS. If the surplus fund
5 of a bank is in excess of 100% of its capital stock and if losses charged against it do
6 not reduce the surplus account to an amount less than 100% of its capital stock, the
7 bank is not subject to sub. (1) with respect to reimbursement of the surplus account
8 and with respect to restricted dividends on capital stock.

9 **221.0328 Dividends. (1) WHEN PERMITTED.** Except as provided in sub. (2), the
10 board of directors of a bank may declare and pay a dividend from its undivided profits
11 in an amount they consider expedient. The board of directors shall provide for the
12 payment of all expenses, losses, required reserves, taxes, and interest accrued or due
13 from the bank before the declaration of dividends from undivided profits. If
14 dividends declared and paid in either of the 2 immediately preceding years exceeded
15 net income for either of those 2 years respectively, the bank may not declare or pay
16 any dividend in the current year that exceeds year-to-date net income except with
17 the written consent of the division.

18 (2) LIABILITY OF SHAREHOLDERS. A bank's dividends may not in any way impair
19 or diminish the capital of the bank other than by reducing undivided profits. If a
20 dividend is paid that does not comply with this section, every shareholder receiving
21 the dividend is liable to restore the full amount of the dividend unless the capital is
22 subsequently made good.

23 (3) LIABILITY OF DIRECTORS. If the board of directors of a bank pays dividends
24 when the bank is insolvent or in danger of insolvency, or not having reason to believe
25 that there were sufficient undivided profits to pay the dividends, the members of the

1 board of directors are jointly and severally liable to the creditors of the bank at the
2 time of declaring dividends in an amount equal to twice the amount of the dividends.

3 SUBCHAPTER IV

4 NAME

5 **221.0401 State bank.** Every bank incorporated under this chapter shall be
6 known as a state bank.

7 **221.0402 Use of “bank”.** (1) USE OF “BANK”. Except as provided in sub. (2),
8 a person who is engaged in business in this state, who is not subject to supervision
9 and examination by the division, and who is not required to make reports to the
10 division under this chapter, may not use the term “bank”, in any form upon any office
11 sign at the place where the business is transacted. Except as provided in sub. (2),
12 the person may not use or circulate letterheads, billheads, blank notes, blank
13 receipts, certificates, circulars, or any written or printed or partly written and partly
14 printed paper, containing an artificial or corporate name, or other words, that
15 indicates that the person’s business is the business of a bank.

16 (2) EXCEPTIONS. (a) A check sold by a bank chartered under the laws of another
17 state or a foreign country or a national bank authorized to do business in another
18 state may use any form of “bank”, if the bank is licensed under ch. 217.

19 (b) Mortgage bankers registered under s. 440.72 may use the designation
20 “mortgage banker”.

21 (c) A savings bank organized under ch. 214 may use the designation “savings
22 bank”.

23 (3) ENFORCEMENT. Violations of this section may be enforced by the division
24 under s. 220.02 (2).

1 SHARES AND SHAREHOLDERS

2 **221.0501 Quorum and voting requirements for voting groups. (1)**

3 QUORUM REQUIREMENT. Shares entitled to vote as a separate voting group may take
4 action on a matter at a meeting only if a quorum of those shares exists with respect
5 to that matter. Unless the articles of incorporation, the bylaws or this chapter
6 provide otherwise, a majority of the votes entitled to be cast on the matter by the
7 voting group constitutes a quorum of that voting group for action on that matter.

8 (2) METHOD OF DETERMINING QUORUM. If a share is represented for any purpose
9 at a meeting, other than for the purpose of objecting to holding the meeting or
10 transacting business at the meeting, the share is considered present for purposes of
11 determining whether a quorum exists for the remainder of the meeting and for any
12 adjournment of that meeting, unless a new record date is or must be set for that
13 adjourned meeting.

14 (3) SIMPLE MAJORITY VOTING. If a quorum exists, action on a matter by a voting
15 group is approved if the votes cast within the voting group favoring the action exceed
16 the votes cast opposing the action, unless the articles of incorporation, the bylaws or
17 this chapter require a greater number of affirmative votes.

18 **221.0502 Greater or lower quorum or greater voting requirements. (1)**

19 METHOD OF SPECIFYING DIFFERENT REQUIREMENTS. The articles of incorporation may
20 provide, or authorize the bylaws under s. 221.0503 to provide, for a greater or lower
21 quorum requirement or a greater voting requirement for shareholders or voting
22 groups of shareholders than is provided by this chapter.

23 (2) AMENDMENTS TO ARTICLES OF INCORPORATION TO CHANGE REQUIREMENTS. An
24 amendment to the articles of incorporation that adds, changes or deletes a greater
25 or lower quorum requirement or a greater voting requirement must meet the same

1 quorum requirement and be adopted by the same vote and voting groups required
2 to take action under the quorum and voting requirements then in effect.

3 **221.0503 Bylaw fixing quorum or voting requirements for**
4 **shareholders. (1) IN GENERAL.** If authorized by the articles of incorporation, the
5 shareholders may adopt or amend a bylaw that fixes a greater or lower quorum
6 requirement or a greater voting requirement for shareholders or voting groups of
7 shareholders than is provided by this chapter. The adoption or amendment of a
8 bylaw that adds, changes or deletes a greater or lower quorum requirement or a
9 greater voting requirement for shareholders must meet the same quorum
10 requirement and be adopted by the same vote and voting groups required to take
11 action under the quorum and voting requirement then in effect.

12 **(2) SHAREHOLDER APPROVAL.** A bylaw that fixes a greater or lower quorum
13 requirement or a greater voting requirement for shareholders under sub. (1) may not
14 be adopted, amended or repealed by the board of directors.

15 **221.0504 Number of shareholders. (1) METHOD OF COUNTING.** For purposes
16 of this chapter, any of the following constitutes one shareholder if identified as a
17 shareholder in a bank's current record of shareholders:

18 (a) Three or fewer coowners.

19 (b) An entity.

20 (c) The trustees, guardians, custodians or other fiduciaries of a single trust,
21 estate or account.

22 **(2) SUBSTANTIALLY SIMILAR NAMES.** For purposes of this chapter, shareholdings
23 registered in substantially similar names constitute one shareholder if it is
24 reasonable to believe that the names represent the same person.

1 **221.0505 Issued and outstanding shares.** (1) ISSUED AND OUTSTANDING
2 SHARES. A bank may issue the number of shares of each class or series authorized by
3 the articles of incorporation. Shares that are issued are outstanding shares until
4 they are reacquired, redeemed, converted or canceled.

5 (2) SHARE REQUIREMENTS. At all times that shares of the bank are outstanding,
6 there must be outstanding one or more shares that together have unlimited voting
7 rights and one or more shares, which may be the same share or shares as those with
8 unlimited voting rights, that together are entitled to receive the net assets of the
9 bank upon dissolution.

10 **221.0506 Fractional shares.** (1) ISSUANCE AND DISPOSITION. A bank may do
11 any of the following:

12 (a) Issue fractions of a share or pay in money the value of fractions of a share.

13 (b) Arrange for disposition of fractional shares by the shareholders.

14 (2) RIGHTS OF HOLDERS OF FRACTIONAL SHARES. The holder of a fractional share
15 may exercise the rights of a shareholder, including the right to vote, to receive
16 dividends and to participate in the assets of the bank upon liquidation.

17 **221.0507 Share dividends.** (1) DEFINITION. In this section, "share dividend"
18 means shares issued proportionally and without consideration to the bank's
19 shareholders or to the shareholders of one or more classes or series.

20 (2) POWER TO ISSUE SHARE DIVIDENDS. Except as provided in sub. (3) and unless
21 the articles of incorporation provide otherwise, a bank may issue share dividends.

22 (3) LIMITATIONS. (a) A bank may not issue shares of one class or series as a
23 share dividend in respect of shares of another class or series unless any of the
24 following is satisfied:

25 1. The articles of incorporation authorize the issuance.

1 2. A majority of the votes entitled to be cast by the class or series to be issued
2 approve the issuance.

3 3. There are no outstanding shares of the class or series to be issued, as
4 determined under par. (b).

5 (b) If a security is outstanding that is convertible into or carries a right to
6 subscribe for or acquire shares of the class or series to be issued, the holder of the
7 security is considered a holder of the class or series to be issued for purposes of
8 making the determination under par. (a) 3.

9 **(4) RECORD DATE.** If the board of directors does not fix the record date for
10 determining shareholders entitled to a share dividend, it is the date on which the
11 board of directors authorizes the share dividend.

12 **221.0508 Form and content of certificates. (1) CONTENTS.** At a minimum,
13 a share certificate shall state on its face all of the following:

14 (a) The name of the issuing bank and that the bank is organized under the laws
15 of this state.

16 (b) The name of the person to whom issued.

17 (c) The number and class of shares and the designation of the series, if any, that
18 the certificate represents.

19 **(2) CLASSES AND SERIES REQUIREMENTS.** If the issuing bank is authorized to issue
20 different classes of shares or different series within a class, the front or back of each
21 certificate shall contain any of the following:

22 (a) A summary of the designations, relative rights, preferences and limitations
23 applicable to each class, and the variations in rights, preferences and limitations
24 determined for each series and the authority of the board of directors to determine
25 variations for future series.

1 (b) A conspicuous statement that the bank will furnish the shareholder the
2 information described in par. (a) on request, in writing and without charge.

3 **(3) SIGNATURE.** (a) Each share certificate shall be signed either manually or
4 in facsimile, by the officer or officers designated in the bylaws or by the board of
5 directors.

6 (b) The validity of a share certificate is not affected if a person who signed the
7 certificate no longer holds office when the certificate is issued.

8 **221.0509 Restriction on transfer of shares and other securities. (1)**

9 DEFINITIONS. In this section:

10 (a) "Other securities" include securities that are convertible into or carry a right
11 to subscribe for or acquire shares.

12 (b) "Transfer restriction" means a restriction on the transfer or registration of
13 transfer of shares and other securities of a bank.

14 **(2) PERMITTED PURPOSES OF RESTRICTIONS.** (a) Except as provided in par. (b), the
15 articles of incorporation, the bylaws, an agreement among shareholders and holders
16 of other securities, or an agreement between shareholders and holders of other
17 securities and the bank, may impose a transfer restriction on shares and other
18 securities of the bank for any reasonable purpose, including any of the following:

19 1. Maintaining the bank's status under state or federal law when it is
20 dependent on the number or identity of its shareholders.

21 2. Preserving exemptions under federal or state securities law.

22 (b) A transfer restriction may not affect shares and other securities issued
23 before the restriction is adopted, unless the holders of the shares and other securities
24 are parties to the transfer restriction agreement or vote in favor of the transfer
25 restriction.

1 **(3) ENFORCEABILITY.** A transfer restriction is valid and enforceable against the
2 holder or a transferee of the holder if the transfer restriction is authorized by this
3 section and its existence is noted conspicuously on the front or back of the certificate.
4 Unless so noted, a transfer restriction is not enforceable against a person who does
5 not know of the transfer restriction.

6 **(4) TYPES OF PERMITTED TRANSFER RESTRICTIONS.** The transfer restrictions
7 permitted under this section include transfer restrictions that do any of the
8 following:

9 (a) Obligate the shareholder or holder of other securities first to offer the bank
10 or other persons, whether separately, consecutively or simultaneously, an
11 opportunity to acquire the restricted shares or other securities.

12 (b) Subject to the limitations of s. 221.0323, if applicable, obligate the bank or
13 other persons, whether separately, consecutively or simultaneously, to acquire the
14 restricted shares or other securities.

15 (c) Require the bank, the holders of a class of its shares or other securities or
16 another person to approve the transfer of the restricted shares or other securities,
17 if the requirement is not manifestly unreasonable.

18 (d) Prohibit the transfer of the restricted shares or other securities to
19 designated persons or classes of persons, if the prohibition is not manifestly
20 unreasonable.

21 **221.0510 Preemptive rights. (1) DEFINITION.** In this section, “other
22 securities” has the meaning given in s. 221.0509 (1) (a).

23 **(2) WHEN PREEMPTIVE RIGHTS EXIST.** The shareholders or holders of other
24 securities of a bank do not have a preemptive right to acquire the bank’s unissued
25 shares or other securities except to the extent provided in the articles of

1 incorporation. If the articles of incorporation state that “the bank elects to have
2 preemptive rights”, or words of similar meaning, subs. (3) to (6) govern the
3 preemptive rights, except to the extent that the articles of incorporation expressly
4 provide otherwise.

5 **(3) CONDITIONS FOR EXERCISE OF PREEMPTIVE RIGHTS.** Except as provided in sub.
6 (5), the shareholders or holders of other securities of the bank have a preemptive
7 right, granted on uniform terms and conditions prescribed by the board of directors
8 to provide a fair and reasonable opportunity to exercise the right, to acquire
9 proportional amounts of the bank’s unissued shares or other securities upon the
10 decision of the board of directors to issue the shares or other securities, subject to the
11 following conditions:

12 (a) Holders of shares or other securities with general voting rights have
13 preemptive rights with respect to shares and other securities of any class with
14 general voting rights.

15 (b) Holders of shares or other securities without preferential rights to
16 distributions or assets have preemptive rights with respect to shares and other
17 securities of any class without preferential rights to distributions or assets, except
18 that holders of shares or other securities without general voting rights have no
19 preemptive rights with respect to shares or other securities of any class with general
20 voting rights.

21 **(4) WAIVER.** A shareholder or holder of other securities may waive his or her
22 preemptive right. A written waiver is irrevocable even if it is not supported by
23 consideration.

24 **(5) EXEMPTIONS.** There is no preemptive right with respect to any of the
25 following:

1 (a) Shares or other securities issued as compensation to directors, officers or
2 employes of the bank or its affiliates.

3 (b) Shares or other securities issued to satisfy conversion or option rights
4 created to provide compensation to directors, officers or employes of the bank or its
5 affiliates.

6 (c) Shares or other securities authorized in articles of incorporation that are
7 issued within 6 months after the effective date of incorporation.

8 (d) Shares or other securities sold for other than money or an obligation to pay
9 money.

10 (e) Treasury shares.

11 **(6) LAPSE OF PREEMPTIVE RIGHTS.** If shares or other securities subject to
12 preemptive rights are not acquired by shareholders or holders of other securities, the
13 bank may issue the shares or other securities to any person for one year after being
14 offered to shareholders or holders of other securities, at a consideration set by the
15 board of directors that is not lower than the consideration set for the exercise of
16 preemptive rights. An offer at a lower consideration or after the expiration of one
17 year is subject to the preemptive rights of shareholders or holders of other securities.

18 **221.0511 Annual meeting. (1) WHEN HELD.** A bank shall hold a meeting of
19 shareholders annually at a time stated in or fixed in accordance with the bylaws.

20 **(2) WHERE HELD.** A bank may hold the annual shareholders' meeting in or
21 outside this state at the place stated in or fixed in accordance with the bylaws. If no
22 place is stated in or fixed in accordance with the bylaws, the bank shall hold the
23 annual meeting at its principal office.

24 **(3) EFFECT OF FAILURE TO COMPLY.** Failure to hold an annual meeting in one or
25 more years does not affect the validity of any bank action.

1 **221.0512 Special meeting. (1) WHEN REQUIRED.** A bank shall hold a special
2 meeting of shareholders if any of the following occurs:

3 (a) A special meeting is called by the board of directors or any person authorized
4 by the articles of incorporation or bylaws to call a special meeting.

5 (b) The holders of at least 10% of all the votes entitled to be cast on an issue
6 proposed to be considered at the proposed special meeting sign, date and deliver to
7 the bank one or more written demands for the meeting describing one or more
8 purposes for which it is to be held.

9 **(2) RECORD DATE.** If not otherwise fixed under s. 221.0517, the record date for
10 determining shareholders entitled to demand a special meeting is the date that the
11 first shareholder signs the demand.

12 **(3) WHERE HELD.** A bank may hold a special shareholders' meeting in or outside
13 this state at the place stated in or fixed in accordance with the bylaws. If no place
14 is stated in or fixed in accordance with the bylaws, the bank shall hold a special
15 meeting at its principal office.

16 **(4) LIMITATION ON BUSINESS CONDUCTED.** Only business within the purpose
17 described in the meeting notice required by s. 221.0514 (2) (b) may be conducted at
18 a special shareholders' meeting.

19 **221.0513 Action without meeting. (1) PERMITTED METHODS.** Action required
20 or permitted by this chapter to be taken at a shareholders' meeting may be taken
21 without a meeting in any of the following ways:

22 (a) Without action by the board of directors, by all shareholders entitled to vote
23 on the action.

24 (b) If the articles of incorporation so provide, by shareholders who would be
25 entitled to vote at a meeting those shares with voting power to cast not less than the

1 minimum number or, in the case of voting by voting groups, numbers of votes that
2 would be necessary to authorize or take the action at a meeting at which all shares
3 entitled to vote were present and voted, except action may not be taken under this
4 paragraph with respect to an election of directors for which shareholders may vote
5 cumulatively under s. 221.0522.

6 **(2) HOW DOCUMENTED.** Action under sub. (1) must be evidenced by one or more
7 written consents describing the action taken, signed by the number of shareholders
8 necessary to take the action under sub. (1) (a) or (b) and delivered to the bank for
9 inclusion in the bank records.

10 **(3) EFFECTIVE DATE.** Action taken under sub. (1) is effective when consents
11 representing the required number of shares are delivered to the bank, unless the
12 consent specifies a different effective date. Within 10 days after action taken under
13 sub. (1) (b) is effective, the bank shall give notice of the action to shareholders who,
14 on the record date determined under sub. (4), were entitled to vote on the action but
15 whose shares were not represented on the written consent. The notice shall comply
16 with s. 221.0103.

17 **(4) RECORD DATE.** If not otherwise fixed under s. 221.0518, the record date for
18 determining shareholders entitled to take action without a meeting is the date that
19 the first shareholder signs the consent under sub. (1).

20 **(5) EFFECT OF WRITTEN CONSENT.** A consent signed under this section has the
21 effect of a meeting vote and may be described as such in any document.

22 **(6) NOTICE REQUIREMENTS.** If this chapter requires that notice of proposed action
23 be given to shareholders who are not entitled to vote on the action and the action is
24 to be taken under this section, the bank shall give those nonvoting shareholders
25 written notice of the proposed action at least 10 days before the action becomes

1 effective. The notice shall comply with s. 221.0103 and shall contain or be
2 accompanied by the same material that, under this chapter, would have been
3 required to be sent to nonvoting shareholders in a notice of meeting at which the
4 proposed action would have been submitted to the shareholders for action.

5 **221.0514 Notice of meeting. (1) WHEN REQUIRED.** A bank shall notify
6 shareholders of the date, time and place of each annual and special shareholders'
7 meeting not less than 10 days nor more than 60 days before the meeting date, unless
8 a different time is provided by this chapter, the articles of incorporation or the
9 bylaws. The notice shall comply with s. 221.0103. Unless this chapter or the articles
10 of incorporation require otherwise, the bank is required to give notice only to
11 shareholders entitled to vote at the meeting.

12 **(2) CONTENT OF NOTICES.** (a) Unless this chapter or the articles of incorporation
13 require otherwise, notice of an annual meeting need not include a description of the
14 purpose for which the meeting is called.

15 (b) Notice of a special meeting shall include a description of each purpose for
16 which the meeting is called.

17 **(3) RECORD DATE.** If not otherwise fixed under s. 221.0517, the record date for
18 determining shareholders entitled to notice of and to vote at an annual or special
19 shareholders' meeting is the close of business on the day before the first notice is
20 given to shareholders.

21 **(4) ADJOURNMENT.** (a) Unless the bylaws require otherwise and except as
22 provided in par. (b), if an annual or special shareholders' meeting is adjourned to a
23 different date, time or place, the bank is not required to give notice of the new date,
24 time or place if the new date, time or place is announced at the meeting before
25 adjournment.

1 (b) If a new record date for an adjourned meeting is or must be fixed under s.
2 221.0517 (3), the bank shall give notice of the adjourned meeting under this section
3 to persons who are shareholders as of the new record date.

4 **221.0515 Disclosure to shareholders.** The bank shall include with each
5 notice of an annual meeting delivered to shareholders copies for the 2 preceding fiscal
6 years of the bank's balance sheets, statements of profit and loss and reconcilements
7 of the bank's loan loss reserve.

8 **221.0516 Waiver of notice. (1) WRITTEN WAIVER.** A shareholder may waive
9 any notice required by this chapter, the articles of incorporation or the bylaws before
10 or after the date and time stated in the notice. The waiver shall be in writing and
11 signed by the shareholder entitled to the notice and contain the same information
12 that would have been required in the notice under any applicable provisions of this
13 chapter, except that the time and place of meeting need not be stated. The
14 shareholder shall deliver the waiver to the bank for inclusion in the bank records.

15 **(2) WAIVER BY ATTENDANCE.** A shareholder's attendance at a meeting, in person
16 or by proxy, waives objection to all of the following:

17 (a) Lack of notice or defective notice of the meeting, unless the shareholder at
18 the beginning of the meeting or promptly upon arrival objects to holding the meeting
19 or transacting business at the meeting.

20 (b) Consideration of a particular matter at the meeting that is not within the
21 purpose described in the meeting notice, unless the shareholder objects to
22 considering the matter when it is presented.

23 **221.0517 Record date. (1) MANNER OF FIXING DATE.** The bylaws may fix or
24 provide the manner of fixing a future date as the record date for one or more voting
25 groups in order to determine the shareholders entitled to notice of a shareholders'

1 meeting, to demand a special meeting, to vote or to take any other action. If the
2 bylaws do not fix or provide for fixing a record date, the board of directors may fix a
3 future date as the record date.

4 (2) LIMIT ON DATE. A record date fixed under this section may not be more than
5 70 days before the meeting or action requiring a determination of shareholders.

6 (3) EFFECT OF ADJOURNMENT. (a) Except as provided in par. (b), a
7 determination of shareholders entitled to notice of or to vote at a shareholders'
8 meeting is effective for any adjournment of the meeting unless the board of directors
9 fixes a new record date, which it shall do if the meeting is adjourned to a date more
10 than 120 days after the date fixed for the original meeting.

11 (b) If a court orders a meeting adjourned to a date more than 120 days after the
12 date fixed for the original meeting, it may provide that the original record date
13 continues in effect or it may fix a new record date.

14 **221.0518 Shareholders' list for meeting.** (1) PREPARATION OF LIST. After
15 fixing a record date for a meeting, a bank shall prepare a list of the names of all its
16 shareholders who are entitled to notice of a shareholders' meeting. The list shall be
17 arranged by class or series of shares and show the address of and number of shares
18 held by each shareholder.

19 (2) AVAILABILITY PRIOR TO MEETING. The bank shall make the shareholders' list
20 available for inspection by any shareholder, beginning 2 business days after notice
21 of the meeting is given for which the list was prepared and continuing to the date of
22 the meeting, at the bank's principal office or at a place identified in the meeting
23 notice in the city where the meeting will be held. A shareholder or his or her agent
24 or attorney may, on written demand, inspect and copy the list, during regular

1 business hours and at his or her expense, during the period that it is available for
2 inspection under this subsection.

3 (3) AVAILABILITY AT MEETING. The bank shall make the shareholders' list
4 available at the meeting. A shareholder or his or her agent or attorney may inspect
5 the list at any time during the meeting or an adjournment.

6 (4) REFUSAL TO ALLOW INSPECTION. If the bank refuses to allow a shareholder
7 or his or her agent or attorney to inspect the shareholders' list before or at the
8 meeting, or to copy the list as permitted by sub. (2), on petition of the shareholder,
9 the circuit court for the county where the bank's principal office is located may, after
10 notice to the bank and an opportunity to be heard, order the inspection or copying
11 at the bank's expense. The court may also postpone the meeting for which the list
12 was prepared until the inspection or copying is complete.

13 (5) EFFECT OF FAILURE TO COMPLY. Refusal or failure to prepare or make
14 available the shareholders' list does not affect the validity of action taken at the
15 meeting.

16 **221.0519 Proxies. (1) EXERCISE OF VOTE.** A shareholder may vote his or her
17 shares in person or by proxy.

18 (2) METHOD OF APPOINTING A PROXY. A shareholder may appoint a proxy to vote
19 or otherwise act for the shareholder by signing an appointment form, either
20 personally or by his or her attorney-in-fact. An appointment of a proxy may be in
21 durable form as provided in s. 243.07.

22 (3) WHEN PROXY IS EFFECTIVE. An appointment of a proxy is effective when
23 received by an officer or agent of the bank authorized to tabulate votes. An
24 appointment is valid for 11 months from the date of its signing unless a different
25 period is expressly provided in the appointment form.

1 **(4) REVOCABILITY.** (a) An appointment of a proxy is revocable by the shareholder
2 unless the appointment form conspicuously states that it is irrevocable and the
3 appointment is coupled with an interest. Appointments coupled with an interest
4 include the appointment of any of the following:

5 1. A pledgee.

6 2. A person who purchased or agreed to purchase the shares.

7 3. An employe or officer of the bank whose employment contract requires the
8 appointment.

9 4. A party to a voting agreement created under s. 221.0524.

10 (b) An appointment made irrevocable under par. (a) is revoked when the
11 interest with which it is coupled is extinguished.

12 **(5) DEATH OR INCAPACITY OF SHAREHOLDER.** The death or incapacity of the
13 shareholder appointing a proxy does not affect the right of the bank to accept the
14 proxy's authority unless the officer or agent of the bank authorized to tabulate votes
15 receives notice of the death or incapacity before the proxy exercises his or her
16 authority under the appointment.

17 **(6) REVOCATION IN CERTAIN CASES INVOLVING TRANSFERS FOR VALUE.**
18 Notwithstanding sub. (4), a transferee for value of shares subject to an irrevocable
19 appointment may revoke the appointment if the transferee did not know of its
20 existence when he or she acquired the shares and the existence of the irrevocable
21 appointment was not noted conspicuously on the certificate representing the shares
22 or, if the shares are without certificates, on the information statement for the shares.

23 **(7) EFFECT OF PROXY.** Subject to s. 221.0521 and to any express limitation on
24 the proxy's authority appearing on the face of the appointment form, a bank may

1 accept the proxy's vote or other action as that of the shareholder making the
2 appointment.

3 **221.0520 Shares held by nominees. (1) ESTABLISHMENT OF PROCEDURES.** A
4 bank may establish a procedure by which the beneficial owner of shares that are
5 registered in the name of a nominee is recognized by the bank as the shareholder.
6 The extent of this recognition may be determined in the procedure.

7 **(2) SCOPE OF PROCEDURES.** The procedure may set forth all of the following:

- 8 (a) The types of nominees to which it applies.
9 (b) The rights or privileges that the bank recognizes in a beneficial owner.
10 (c) The manner in which the nominee selects the procedure.
11 (d) The information that must be provided when the procedure is selected.
12 (e) The period for which selection of the procedure is effective.
13 (f) Other aspects of the rights and duties created.

14 **221.0521 Acceptance of instruments showing shareholder action. (1)**
15 **WHEN NAME CORRESPONDS TO THAT OF A SHAREHOLDER.** If the name signed on a vote,
16 consent, waiver or proxy appointment corresponds to the name of a shareholder, the
17 bank, if acting in good faith, may accept the vote, consent, waiver or proxy
18 appointment and give it effect as the act of the shareholder.

19 **(2) WHEN NAME DOES NOT CORRESPOND TO THAT OF A SHAREHOLDER.** If the name
20 signed on a vote, consent, waiver or proxy appointment does not correspond to the
21 name of its shareholder, the bank, if acting in good faith, may accept the vote,
22 consent, waiver or proxy appointment and give it effect as the act of the shareholder
23 if any of the following applies:

- 24 (a) The shareholder is an entity and the name signed purports to be that of an
25 officer or agent of the entity.

1 (b) The name signed purports to be that of a personal representative,
2 administrator, executor, guardian or conservator representing the shareholder and,
3 if the bank requests, evidence of fiduciary status acceptable to the bank is presented
4 with respect to the vote, consent, waiver or proxy appointment.

5 (c) The name signed purports to be that of a receiver or trustee in bankruptcy
6 of the shareholder and, if the bank requests, evidence of this status acceptable to the
7 bank is presented with respect to the vote, consent, waiver or proxy appointment.

8 (d) The name signed purports to be that of a pledgee, beneficial owner, or
9 attorney-in-fact of the shareholder and, if the bank requests, evidence acceptable
10 to the bank of the signatory's authority to sign for the shareholder is presented with
11 respect to the vote, consent, waiver or proxy appointment.

12 (e) Two or more persons are the shareholder as cotenants or fiduciaries and the
13 name signed purports to be the name of at least one of the coowners and the person
14 signing appears to be acting on behalf of all coowners.

15 **(3) WHEN REJECTION PERMITTED.** The bank may reject a vote, consent, waiver
16 or proxy appointment if the officer or agent of the bank who is authorized to tabulate
17 votes, acting in good faith, has reasonable basis for doubt about the validity of the
18 signature on it or about the signatory's authority to sign for the shareholder.

19 **(4) EFFECT ON LIABILITY.** The bank and its officer or agent who accepts or rejects
20 a vote, consent, waiver or proxy appointment in good faith and in accordance with
21 this section are not liable in damages to the shareholder for the consequences of the
22 acceptance or rejection.

23 **(5) EFFECT ON VALIDITY OF ACTION.** Bank action based on the acceptance or
24 rejection of a vote, consent, waiver or proxy appointment under this section is valid
25 unless a court of competent jurisdiction determines otherwise.

1 **221.0522 Voting for directors; cumulative voting. (1)** PLURALITY VOTE
2 REQUIRED. Unless otherwise provided in the articles of incorporation, directors are
3 elected by a plurality of the votes cast by the shares entitled to vote in the election
4 at a meeting at which a quorum is present. In this subsection, “plurality” means that
5 the individuals with the largest number of votes are elected as directors up to the
6 maximum number of directors to be chosen at the election.

7 **(2) CUMULATIVE VOTING PERMITTED.** Shareholders do not have a right to
8 cumulate their votes for directors unless the articles of incorporation provide for
9 cumulative voting. If the articles of incorporation contain a statement indicating
10 that all or a designated voting group of shareholders are entitled to cumulate their
11 votes for directors, the shareholders so designated are entitled to multiply the
12 number of votes that they are entitled to cast by the number of directors for whom
13 they are entitled to vote and cast the product for a single candidate or distribute the
14 product among 2 or more candidates.

15 **(3) WHEN CUMULATIVE VOTING MAY BE USED.** (a) Except as provided in par. (b),
16 shares entitled under sub. (2) to vote cumulatively may not be voted cumulatively at
17 a particular meeting unless any of the following notice requirements is satisfied:

18 1. The meeting notice or proxy statement accompanying the notice states
19 conspicuously that cumulative voting is authorized.

20 2. A shareholder who has the right to cumulate his or her votes gives notice
21 that complies with s. 221.0103 to the bank not less than 48 hours before the time set
22 for the meeting of his or her intent to cumulate his or her votes during the meeting.

23 (b) If one shareholder gives notice under par. (a) 2., all other shareholders in
24 the same voting group participating in the election are entitled to cumulate their
25 votes without giving further notice.

1 **(4) EFFECT OF VOTES AGAINST A CANDIDATE.** For purposes of this section, votes
2 against a candidate are not given legal effect and are not counted as votes cast in an
3 election of directors.

4 **221.0523 Voting trusts. (1) CREATION.** One or more shareholders may create
5 a voting trust, conferring on a trustee the right to vote or otherwise act for them, by
6 signing an agreement setting out the provisions of the trust and transferring their
7 shares to the trustee. The voting trust agreement may include any provision
8 consistent with the voting trust's purpose. When a voting trust agreement is signed,
9 the trustee shall prepare a list of the names and addresses of all owners of beneficial
10 interests in the trust, together with the number and class of shares each transferred
11 to the trust, and deliver copies of the list and agreement to the bank's principal office.

12 **(2) EFFECTIVE DATE.** A voting trust becomes effective on the date that the first
13 shares subject to the trust are registered in the trustee's name.

14 **221.0524 Voting agreements. (1) CREATION.** Two or more shareholders may
15 provide for the manner in which they will vote their shares by signing an agreement
16 for that purpose. A voting agreement created under this section is not subject to s.
17 221.0523.

18 **(2) ENFORCEABILITY.** A voting agreement created under this section is
19 specifically enforceable.

20 **221.0525 Shares of stock, when not transferable.** The shares of stock of
21 a bank are personal property. The bank shall transfer the shares on the books of the
22 bank in such manner as the bylaws may direct. A transfer of capital stock is not valid
23 while the bank is under notice to make good the impairment of its capital, as provided
24 in s. 220.07, until the impairment is made good. A transfer of stock shall be certified
25 by an officer of the bank to the division within 3 days after the transfer, if the transfer

1 is of at least 5% of the outstanding shares or affects the holdings of the owner of
2 record or beneficial owner of at least 5% of the outstanding shares. A person who fails
3 to comply with this certification requirement may be fined not more than \$100.

4 **221.0526 Stock control of bank or trust company bank by other**
5 **corporation. (1) EFFECT OF OWNERSHIP.** A domestic corporation, investment trust,
6 or other form of trust or any out-of-state bank holding company that owns, holds or
7 in any manner controls a majority of the stock in a bank or trust company bank is
8 engaged in the business of banking and is subject to the supervision of the division.
9 The corporation, trust or company shall file reports of its financial condition or
10 activities when required by the division, and the division may order an examination
11 of its condition and solvency whenever in the division's opinion an examination is
12 required. The cost of this examination shall be paid by the corporation, trust or
13 company. Whenever the division determines that the condition of the corporation,
14 trust or company endangers the safety of the deposits in a bank that the corporation,
15 trust or company owns or controls, or that the operation of the corporation, trust or
16 company is carried on in such a manner as to endanger the safety of the trust
17 company bank or the bank or its depositors, the division may order the corporation,
18 trust or company to remedy the condition or policy within 90 days. If the corporation,
19 trust or company does not comply with the order, the division may direct the
20 operation of the bank or trust company bank until the order is complied with, and
21 may withhold all dividends from the corporation, trust or company, during the period
22 in which the division directs the operation of the bank or trust company bank.

23 **(2) APPLICABILITY TO FOREIGN ENTITIES.** Subsection (1) applies to a foreign
24 corporation, association, investment trust, or other form of trust that is authorized
25 to do business in this state.

1 **221.0603 Number and election of directors. (1) REQUIRED NUMBER.** A
2 board of directors shall consist of 5 or more natural persons, with the number
3 specified in or fixed in accordance with the articles of incorporation or bylaws.

4 **(2) CHANGE IN NUMBER.** The number of directors may be increased or, subject
5 to s. 221.0605 (2), decreased from time to time by amendment to, or in the manner
6 provided in, the articles of incorporation or the bylaws.

7 **(3) ELECTION.** Directors shall be elected at the meeting held before the bank
8 is authorized to commence business by the division, and at each annual meeting
9 thereafter unless their terms are staggered under s. 221.0606.

10 **221.0604 Election of directors by certain classes of shareholders.** If the
11 articles of incorporation authorize dividing the shares into classes, the articles of
12 incorporation may also authorize the election of all or a specified number of directors
13 by the holders of one or more authorized classes of shares. A class or classes of shares
14 entitled to elect one or more directors shall be a separate voting group for purposes
15 of the election of directors.

16 **221.0605 Terms of directors generally. (1) EXPIRATION OF TERM.** The terms
17 of the directors of a bank, including the initial directors, expire at the next annual
18 shareholders' meeting unless their terms are staggered under s. 221.0606.

19 **(2) EFFECT OF DECREASE IN NUMBER.** A decrease in the number of directors may
20 not shorten an incumbent director's term.

21 **(3) EFFECT OF EXPIRATION OF TERM.** Despite the expiration of a director's term,
22 the director shall continue to serve, subject to ss. 221.0607 and 221.0608, until his
23 or her successor is elected and, if necessary, qualifies or until there is a decrease in
24 the number of directors.

1 **221.0606 Staggered terms of directors.** The articles of incorporation, or
2 the bylaws if the articles of incorporation so provide, may provide for staggering the
3 terms of the directors by dividing the total number of directors into 2 or 3 groups.
4 In that event, the terms of directors in the first group expire at the first annual
5 shareholders' meeting after their election, the terms of the 2nd group expire at the
6 2nd annual shareholders' meeting after their election, and the terms of the 3rd
7 group, if any, expire at the 3rd annual shareholders' meeting after their election. At
8 each annual shareholders' meeting held thereafter, the number of directors equal to
9 the number of the group whose term expires at the time of the meeting shall be
10 chosen for a term of 2 years, if there are 2 groups, or a term of 3 years, if there are
11 3 groups.

12 **221.0607 Resignation of directors. (1) WRITTEN NOTICE.** A director may
13 resign at any time by delivering written notice that complies with s. 221.0103 to the
14 board of directors, to the chairperson of the board of directors or to the bank.

15 **(2) EFFECTIVE DATE.** A resignation is effective when the notice is delivered
16 unless the notice specifies a later effective date.

17 **221.0608 Removal of directors by shareholders. (1) WHEN REMOVAL**
18 **PERMITTED.** The shareholders may remove one or more directors with or without
19 cause, unless the articles of incorporation or bylaws provide that directors may be
20 removed only for cause.

21 **(2) CUMULATIVE VOTING.** If cumulative voting is authorized under s. 221.0522,
22 the shareholders may not remove a director if the number of votes sufficient to elect
23 the director under cumulative voting is voted against his or her removal. If
24 cumulative voting is not authorized under s. 221.0522, the shareholders may remove

1 a director only if the number of votes cast to remove the director exceeds the number
2 of votes cast not to remove him or her.

3 **(3) MEETING AND NOTICE REQUIREMENTS.** A director may be removed by the
4 shareholders only at a meeting called for the purpose of removing the director, and
5 the meeting notice shall state that the purpose, or one of the purposes, of the meeting
6 is removal of the director.

7 **221.0609 Vacancy on board. (1) HOW FILED.** Unless the articles of
8 incorporation provide otherwise, and except as provided in sub. (2), if a vacancy
9 occurs on the board of directors, including a vacancy resulting from an increase in
10 the number of directors, the vacancy may be filled by any of the following:

11 (a) A vote of the shareholders.

12 (b) A vote of the board of directors, except that if the directors remaining in
13 office constitute fewer than a quorum of the board, the directors may fill a vacancy
14 by the affirmative vote of a majority of all directors remaining in office.

15 **(2) VOTING GROUPS.** If the vacant office was held by a director elected by a voting
16 group of shareholders, only the holders of shares of that voting group may vote to fill
17 the vacancy if it is filled by the shareholders, and only the remaining directors elected
18 by that voting group may vote to fill the vacancy if it is filled by the directors.

19 **(3) VACANCIES AT A LATER DATE.** A vacancy that will occur at a specific later date,
20 because of a resignation effective at a later date under s. 221.0607 (2) or otherwise,
21 may be filled before the vacancy occurs, but the new director may not take office until
22 the vacancy occurs.

23 **221.0610 Meetings. (1) FREQUENCY OF MEETINGS.** The board of directors shall
24 meet at least once each calendar quarter.

1 **(2) DUTIES TO BE PERFORMED AT MEETINGS.** At each meeting the board of directors
2 shall generally investigate the affairs of the bank and determine whether the assets
3 are of the value at which they are carried on the books of the bank.

4 **(3) ATTENDANCE.** If the division determines that a director is lax in attending
5 board meetings, the division may remove the director. The vacancy shall be filled
6 within a reasonable time as the division may direct.

7 **(4) COMMUNICATION AT MEETINGS.** (a) Unless the articles of incorporation or
8 bylaws provide otherwise, the board of directors may permit any or all directors to
9 participate in a regular or special meeting or in a committee meeting, including a
10 loan committee or examining committee meeting, of the board of directors by, or to
11 conduct the meeting through the use of, any means of communication by which any
12 of the following occurs:

13 1. All participating directors may simultaneously hear each other during the
14 meeting.

15 2. All communication during the meeting is immediately transmitted to each
16 participating director, and each participating director is able to immediately send
17 messages to all other participating directors.

18 (b) If a meeting will be conducted through the use of any means described in
19 par. (a), all participating directors shall be informed that a meeting is taking place
20 at which official business may be transacted. A director participating in a meeting
21 by any means described in par. (a) is considered to be present in person at the
22 meeting. If requested by a director, a copy of the minutes of the meeting prepared
23 under sub. (5) shall be distributed to each director.

24 **(5) RECORDS OF MEETINGS.** (a) The board of directors shall elect a secretary, who
25 shall keep a correct record of the minutes of the meeting in a book kept for that

1 purpose. The minutes shall particularly disclose the date and location of the
2 meeting, and the names of the directors absent. The minutes shall be subscribed to
3 by the presiding officer. The minutes shall be approved at the next succeeding
4 meeting, by the board of directors, and the minutes of the next succeeding meeting
5 shall show this. The minute book shall be available at the bank when needed.

6 (b) The bank examiner shall examine the minute book at the time that he or
7 she examines the bank and shall include in his or her report of examination of the
8 bank, a statement of the dates on which the meetings were held since the last
9 examination of the bank by the bank examiner and the names of the directors in
10 attendance at each of these meetings.

11 (c) A person who makes a false entry in the minute book or changes or alters
12 an entry made in the minute book may be fined not less than \$100 nor more than
13 \$500, or imprisoned for not less than 30 days nor more than 6 months, or both.

14 **221.0611 Response to examination. (1) RESPONSE REQUIRED.** After receipt
15 by the board of directors of a bank of a report of examination of the bank by the
16 division, the board or an examining committee appointed under sub. (2) in
17 accordance with s. 221.0615, unless the division requires response by the board as
18 provided in s. 220.05 (5), shall do all of the following:

19 (a) Study the report of examination.

20 (b) Prepare a written report setting forth any recommended corrective action
21 to be taken by the board in response to criticisms and suggestions contained in the
22 report of examination.

23 **(2) EXAMINING COMMITTEE.** Upon receipt of a report of examination under sub.
24 (1), the board of directors may appoint an examining committee, consisting of not

1 fewer than 3 of its members, to perform the study and prepare the report under sub.
2 (1) (a) and (b).

3 **(3) DISTRIBUTION AND ACKNOWLEDGEMENT REQUIREMENTS.** Each member of the
4 board of directors shall obtain and review a copy of the report prepared under sub.
5 (1) (b) and shall prepare a written acknowledgment stating all of the following:

6 (a) That the board has received the report of examination under sub. (1).

7 (b) That the member of the board has obtained and reviewed a copy of the report
8 prepared under sub. (1) (b).

9 **(4) RECORDATION.** The secretary of the board of directors shall record the report
10 prepared under sub. (1) (b) in the minutes of the next meeting of the board following
11 completion of the report.

12 **(5) TRANSMISSION TO DIVISION.** The board of directors shall transmit the report
13 prepared under sub. (1) (b) and the acknowledgments prepared under sub. (3) to the
14 division within 45 days after receipt by the board of the report of examination under
15 sub. (1).

16 **221.0612 Notice of meeting. (1) REGULAR MEETINGS.** Unless the articles of
17 incorporation or bylaws provide otherwise, regular meetings of the board of directors
18 may be held without notice of the date, time, place or purpose of the meeting.

19 **(2) SPECIAL MEETINGS.** Unless the articles of incorporation or bylaws provide
20 for a longer or shorter period, special meetings of the board of directors shall be
21 preceded by at least 48 hours' notice of the date, time and place of the meeting. The
22 notice shall comply with s. 221.0103. The notice need not describe the purpose of the
23 special meeting unless required by the articles of incorporation or bylaws.

24 **221.0613 Waiver of notice. (1) WRITTEN WAIVER.** A director may waive a
25 notice required by this chapter, the articles of incorporation or the bylaws before or

1 after the date and time stated in the notice. Except as provided by sub. (2), the waiver
2 shall be in writing, signed by the director entitled to the notice and retained by the
3 bank.

4 (2) WAIVER BY ATTENDANCE OR PARTICIPATION. A director's attendance at or
5 participation in a meeting waives any required notice to him or her of the meeting,
6 unless the director at the beginning of the meeting or promptly upon his or her
7 arrival objects to holding the meeting or transacting business at the meeting and
8 does not thereafter vote for or assent to action taken at the meeting.

9 **221.0614 Quorum and voting.** (1) QUORUM REQUIREMENTS GENERALLY. (a)
10 Unless the articles of incorporation or bylaws require a greater or, under sub. (2), a
11 lesser number, and except as provided in par. (b) or in s. 221.0619 (4), a quorum of
12 a board of directors shall consist of a majority of the number of directors specified in
13 or fixed in accordance with the articles of incorporation or bylaws.

14 (b) When the number of directors specified or fixed in accordance with the
15 articles of incorporation or bylaws exceeds 9, the directors may, for a period of not to
16 exceed 6 months during any one year, designate by resolution 9 directors, any 5 of
17 whom shall constitute a quorum.

18 (c) Unless the articles of incorporation or bylaws require a greater, or under
19 sub. (2) a lesser number, and except as provided in s. 221.0619 (4), a quorum of a
20 committee of the board of directors created under s. 221.0615 consists of a majority
21 of the number of directors appointed to serve on the committee.

22 (2) MINIMUM QUORUM REQUIREMENTS. (a) The articles of incorporation or bylaws
23 may authorize a quorum of a board of directors to consist of no fewer than one-third
24 of the number of directors specified in or fixed in accordance with the articles of
25 incorporation or bylaws.

1 (b) The articles of incorporation or bylaws may authorize a quorum of a
2 committee of the board of directors created under s. 221.0615 to consist of no fewer
3 than one-third of the number of directors appointed to serve on the committee.

4 **(3) VOTING REQUIREMENTS GENERALLY.** Except as provided in ss. 221.0615 (3)
5 and (4), 221.0619 (4) and 221.0631 (1) and (2), if a quorum is present when a vote is
6 taken, the affirmative vote of a majority of directors present is the act of the board
7 of directors or a committee of the board of directors created under s. 221.0615, unless
8 the articles of incorporation or bylaws require the vote of a greater number of
9 directors.

10 **(4) WHEN ASSENT GIVEN.** (a) Except as provided in par. (b), a director who is
11 present and is announced as present at a meeting of the board of directors or a
12 committee of the board of directors created under s. 221.0615, when corporate action
13 is taken assents to the action taken unless any of the following occurs:

14 1. The director objects at the beginning of the meeting or promptly upon his or
15 her arrival to holding the meeting or transacting business at the meeting.

16 2. The director dissents or abstains from an action taken and minutes of the
17 meeting are prepared that show the director's dissent or abstention from the action
18 taken.

19 3. The director delivers written notice that complies with s. 221.0103 of his or
20 her dissent or abstention to the presiding officer of the meeting before its
21 adjournment or to the bank immediately after adjournment of the meeting.

22 4. The director dissents or abstains from an action taken, minutes of the
23 meeting are prepared that fail to show the director's dissent or abstention from the
24 action taken and the director delivers to the bank a written notice of that failure that
25 complies with s. 221.0103 promptly after receiving the minutes.

1 (b) A director who votes in favor of action taken may not dissent or abstain from
2 that action.

3 **221.0615 Committees. (1) IN GENERAL.** Unless the articles of incorporation
4 or bylaws provide otherwise, a board of directors may create one or more committees,
5 appoint members of the board of directors to serve on the committees and designate
6 other members of the board of directors to serve as alternates. Each committee shall
7 have 2 or more members. Unless otherwise provided by the board of directors,
8 members of the committee shall serve at the pleasure of the board of directors.

9 **(2) CREATION OF A COMMITTEE AND APPOINTMENT OF MEMBERS.** Except as provided
10 in sub. (3), the creation of a committee, appointment of members to it and designation
11 of alternate members, if any, shall be approved by the greater of the following:

12 (a) A majority of all the directors in office when the action is taken.

13 (b) The number of directors required by the articles of incorporation or bylaws
14 to take action under s. 221.0614.

15 **(3) VACANCIES.** The board of directors may provide by resolution that any
16 vacancies on the committee shall be filled by the affirmative vote of a majority of the
17 remaining committee members.

18 **(4) APPLICABILITY OF CERTAIN PROVISIONS.** Sections 221.0610 to 221.0613 apply
19 to committees of a board of directors and to committee members.

20 **(5) AUTHORITY WHICH MAY BE EXERCISED BY COMMITTEE.** To the extent specified
21 by the board of directors or in the articles of incorporation or bylaws, each committee
22 may exercise the authority of the board of directors, except that a committee may not
23 do any of the following:

24 (a) Authorize distributions.

1 (b) Approve or propose to shareholders action that this chapter requires be
2 approved by shareholders.

3 (c) Fill vacancies on the board of directors or, except as provided in sub. (3), on
4 any of its committees.

5 (d) Amend articles of incorporation under s. 221.0211.

6 (e) Adopt, amend or repeal bylaws.

7 (f) Approve a plan of merger not requiring shareholder approval.

8 (g) Authorize or approve reacquisition of shares, except according to a formula
9 or method prescribed by the board of directors.

10 (h) Authorize or approve the issuance or sale or contract for sale of shares, or
11 determine the designation and relative rights, preferences and limitations of a class
12 or series of shares, except that the board of directors may authorize a committee or
13 a senior executive officer of the bank to do so within limits prescribed by the board
14 of directors.

15 **(6) EMPLOYMENT OF CONSULTANTS.** Unless otherwise provided by the board of
16 directors in creating the committee, a committee may employ counsel, accountants
17 and other consultants to assist it in the exercise of authority.

18 **(7) EFFECT ON RESPONSIBILITY OF BOARD.** The creation of a committee, delegation
19 of authority to a committee or action by a committee does not relieve the board of
20 directors or any of its members of any responsibility imposed upon the board of
21 directors or its members by law.

22 **221.0616 Reliance by directors or officers.** Unless the director or officer
23 has knowledge that makes reliance unwarranted, a director or officer, in discharging
24 his or her duties to the bank, may rely on information, opinions, reports or
25 statements, which may be written or oral or formal or informal and which may

1 include financial statements, valuation reports and other financial data, if they are
2 prepared or presented by any of the following:

3 (1) OFFICERS AND EMPLOYEES. An officer or employe of the bank whom the director
4 or officer believes in good faith to be reliable and competent in the matters presented.

5 (2) EXPERTS. Legal counsel, public accountants or other persons as to matters
6 that the director or officer believes in good faith are within the person's professional
7 or expert competence.

8 (3) BOARD COMMITTEES. In the case of reliance by a director, a committee of the
9 board of directors of which the director is not a member if the director believes in good
10 faith that the committee merits confidence.

11 **221.0617 Consideration of interests in addition to shareholders'**
12 **interests.** In discharging his or her duties to the bank and in determining what he
13 or she believes to be in the best interests of the bank, a director or officer may, in
14 addition to considering the effects of an action on shareholders, consider the
15 following:

16 (1) The effects of the action on employees, suppliers and customers of the bank.

17 (2) The effects of the action on communities in which the bank operates.

18 (3) Other factors that the director or officer considers pertinent.

19 **221.0618 Limited liability of directors. (1) IN GENERAL.** Except as provided
20 in sub. (2) or s. 221.0803, a director is not liable to the bank, its shareholders, or any
21 person asserting rights on behalf of the bank or its shareholders, for damages,
22 settlements, fees, fines, penalties or other monetary liabilities arising from a breach
23 of, or failure to perform, any duty resulting solely from his or her status as a director,
24 unless the person asserting liability proves that the breach or failure to perform
25 constitutes any of the following:

1 (a) A wilful failure to deal fairly with the bank or its shareholders in connection
2 with a matter in which the director has a material conflict of interest.

3 (b) A violation of criminal law, unless the director had reasonable cause to
4 believe that his or her conduct was lawful or had no reasonable cause to believe that
5 his or her conduct was unlawful.

6 (c) A transaction from which the director derived an improper personal profit.

7 (d) Wilful misconduct.

8 **(2) ARTICLES OF INCORPORATION MAY LIMIT.** A bank may limit the immunity
9 provided under this section by its articles of incorporation. A limitation under this
10 subsection applies if the cause of action against a director accrues while the
11 limitation is in effect.

12 **221.0619 Director conflict of interest. (1) DEFINITION.** In this section,
13 “conflict of interest transaction” means a transaction with the bank in which a
14 director of the bank has a direct or indirect interest.

15 **(2) WHEN TRANSACTION NOT VOIDABLE.** A conflict of interest transaction is not
16 voidable by the bank solely because of the director’s interest in the transaction if any
17 of the following is true:

18 (a) The material facts of the transaction and the director’s interest were
19 disclosed or known to the board of directors or a committee of the board of directors
20 and the board of directors or committee authorized, approved or specifically ratified
21 the transaction under sub. (4).

22 (b) The material facts of the transaction and the director’s interest were
23 disclosed or known to the shareholders entitled to vote and they authorized,
24 approved or specifically ratified the transaction under sub. (5).

25 (c) The transaction was fair to the bank.

1 **(3) INDIRECT INTERESTS.** For purposes of this section, the circumstances in which
2 a director of the bank has an indirect interest in a transaction include but are not
3 limited to a transaction under any of the following circumstances:

4 (a) Another entity in which the director has a material financial interest or in
5 which the director is a general partner is a party to the transaction.

6 (b) Another entity of which the director is a director, officer or trustee is a party
7 to the transaction and the transaction is or, because of its significance to the bank,
8 should be considered by the board of directors of the bank.

9 **(4) AUTHORIZATION, APPROVAL OR RATIFICATION BY BOARD.** For purposes of sub. (2)

10 (a), a conflict of interest transaction is authorized, approved or specifically ratified
11 if it receives the affirmative vote of a majority of the directors on the board of directors
12 or on the committee acting on the transaction, who have no direct or indirect interest
13 in the transaction. If a majority of the directors who have no direct or indirect
14 interest in the transaction vote to authorize, approve or ratify the transaction, a
15 quorum is present for the purpose of taking action under this section. The presence
16 of, or a vote cast by, a director with a direct or indirect interest in the transaction does
17 not affect the validity of any action taken under sub. (2) (a) if the transaction is
18 otherwise authorized, approved or ratified as provided in this section.

19 **(5) AUTHORIZATION, APPROVAL OR RATIFICATION BY SHAREHOLDERS.** For purposes
20 of sub. (2) (b), a conflict of interest transaction is authorized, approved or specifically
21 ratified if it receives the vote of a majority of the shares entitled to be counted under
22 this subsection. Shares owned by or voted under the control of a director who has
23 a direct or indirect interest in the transaction, and shares owned by or voted under
24 the control of an entity described in sub. (3) (a), may not be counted in a vote of
25 shareholders to determine whether to authorize, approve or ratify a conflict of

1 interest transaction under sub. (2) (b). The vote of those shares shall be counted in
2 determining whether the transaction is approved under other sections of this
3 chapter. A majority of the shares, whether or not present, that are entitled to be
4 counted in a vote on the transaction under this subsection constitutes a quorum for
5 the purpose of taking action under this section.

6 **221.0620 Officers. (1) CREATION AND APPOINTMENT.** A bank shall have the
7 officers described in its bylaws or appointed by its board of directors by resolution not
8 inconsistent with its bylaws.

9 **(2) ELECTION OF OFFICERS.** The officers of the bank shall be elected by the board
10 of directors. However, a duly appointed officer may appoint one or more officers or
11 assistant officers if authorized by the bylaws or the board of directors.

12 **(3) SENIOR EXECUTIVE OFFICER.** The senior executive officer in charge of
13 conducting business shall be chosen from the board of directors.

14 **(4) MULTIPLE OFFICES.** An individual may simultaneously hold more than one
15 office in a bank.

16 **(5) INELIGIBILITY FOR OFFICE.** An individual who has been previously convicted
17 of any crime under federal or state banking laws may not be elected an officer of a
18 bank.

19 **221.0621 Duties of officers.** Each officer has the authority and shall perform
20 the duties set forth in the bylaws or, to the extent not inconsistent with the bylaws,
21 the duties prescribed by the board of directors or by direction of an officer authorized
22 by the bylaws or by the board of directors to prescribe the duties of other officers.

23 **221.0622 Resignation and removal of officers. (1) RESIGNATION.** An officer
24 may resign at any time by delivering to the bank notice that complies with s.
25 221.0103. The resignation is effective when the notice is delivered, unless the notice

1 specifies a later effective date and the bank accepts the later effective date. If a
2 resignation is effective at a later date, the bank's board of directors may fill the
3 pending vacancy before the effective date, if the board of directors provides that the
4 successor may not take office until the effective date.

5 **(2) REMOVAL.** The board of directors may remove an officer and, unless
6 restricted by the bylaws or by the board of directors, an officer may remove an officer
7 or assistant officer appointed by that officer under s. 221.0620 (2), at any time, with
8 or without cause and notwithstanding the contract rights, if any, of the officer
9 removed.

10 **221.0623 Contract rights of officers. (1) EFFECT OF APPOINTMENT.** The
11 appointment of an officer does not itself create contract rights.

12 **(2) EFFECT OF RESIGNATION OR REMOVAL.** Except as provided in s. 221.0622 (2),
13 an officer's resignation or removal is subject to any remedies provided by any
14 contract between the officer and the bank or otherwise provided by law.

15 **221.0624 Signature of officers.** Each document required by this chapter to
16 be signed by an officer or officers of the bank shall be signed by the officer or officers
17 designated in the bylaws or by the board of directors.

18 **221.0625 Loans to bank officials; penalty. (1) LOANS TO OFFICERS AND**
19 **DIRECTORS.** Except as otherwise provided in this subsection, a bank may not lend to
20 any officer or director of the bank an amount that, when aggregated with the amount
21 of all other extensions of credit to that person exceeds the higher of \$25,000 or 5%
22 of the bank's capital, without prior approval of the bank's board of directors. Prior
23 approval of the bank's board of directors is also required in all cases when a loan
24 aggregated with all other extensions of credit to the officer or director exceeds
25 \$500,000. A bank's board of directors may give prior approval to a line of credit to

1 an officer or director, and prior approval by the bank's board of directors is not
2 required for each advance made to the officer or director pursuant to the preapproved
3 line of credit.

4 (2) PENALTY. An officer or director of a bank who, in violation of this section,
5 directly or indirectly does any of the following may be imprisoned for not more than
6 10 years:

7 (a) Borrows or otherwise procures for personal use money, funds or property
8 of the bank.

9 (b) Procures money, funds or property of the bank through use of personal credit
10 or accommodation of another person.

11 (c) Procures money, funds or property of the bank by acceptance for discount
12 at the bank of any note, bond or evidence of debt that he or she knows or has reason
13 to know is worth less than the price at which it is accepted as an asset.

14 **221.0626 Definitions applicable to indemnification and insurance**
15 **provisions.** In ss. 221.0626 to 221.0635:

16 (1) "Director or officer" means any of the following:

17 (a) An individual who is or was a director or officer of a bank.

18 (b) An individual who, while a director or officer of a bank, is or was serving at
19 the bank's request as a director, officer, partner, trustee, member of any governing
20 or decision-making committee, manager, employe or agent of another bank,
21 corporation, limited liability company, partnership, joint venture, trust or other
22 enterprise.

23 (c) An individual who, while a director or officer of a bank, is or was serving an
24 employe benefit plan because his or her duties to the bank also impose duties on, or

1 otherwise involve services by, the person to the plan or to participants in or
2 beneficiaries of the plan.

3 (d) Unless the context requires otherwise, the estate or personal representative
4 of a director or officer of a bank.

5 (2) "Expenses" include fees, costs, charges, disbursements, attorney fees and
6 any other expenses incurred in connection with a proceeding.

7 (3) "Liability" includes the obligation to pay a judgment, settlement, penalty,
8 assessment, forfeiture or fine, including an excise tax assessed with respect to an
9 employe benefit plan, and reasonable expenses.

10 (4) "Party" includes an individual who was or is, or who is threatened to be
11 made, a named defendant or respondent in a proceeding.

12 (5) "Proceeding" means any threatened, pending or completed civil, criminal,
13 administrative or investigative action, suit, arbitration or other proceeding, whether
14 formal or informal, which involves foreign, federal, state or local law and which is
15 brought by or in the right of the bank or by any other person.

16 **221.0627 Mandatory indemnification.** (1) WHEN SUCCESSFUL IN DEFENSE
17 OF A PROCEEDING. A bank shall indemnify a director or officer, to the extent that he
18 or she has been successful on the merits or otherwise in the defense of a proceeding,
19 for all reasonable expenses incurred in the proceeding if the director or officer was
20 a party because he or she is a director or officer.

21 (2) WHEN UNSUCCESSFUL IN DEFENSE OF A PROCEEDING. (a) In cases not included
22 under sub. (1), a bank shall indemnify a director or officer against liability incurred
23 by the director or officer in a proceeding to which the director or officer was a party
24 because he or she is a director or officer, unless liability was incurred because the

1 director or officer breached or failed to perform a duty that he or she owes to the bank
2 and the breach or failure to perform constitutes any of the following:

3 1. A wilful failure to deal fairly with the bank or its shareholders in connection
4 with a matter in which the director or officer has a material conflict of interest.

5 2. A violation of a criminal law, unless the director or officer had reasonable
6 cause to believe that his or her conduct was lawful or had no reasonable cause to
7 believe that his or her conduct was unlawful.

8 3. A transaction from which the director or officer derived an improper personal
9 profit.

10 4. Wilful misconduct.

11 (b) Determination of whether indemnification is required under this
12 subsection shall be made under s. 221.0631.

13 (c) The termination of a proceeding by judgment, order, settlement or
14 conviction, or upon a plea of no contest or an equivalent plea, does not, by itself, create
15 a presumption that indemnification of the director or officer is not required under
16 this subsection.

17 **(3) HOW INDEMNIFICATION MAY BE SOUGHT.** A director or officer who seeks
18 indemnification under this section shall make a written request to the bank.

19 **(4) LIMITS ON MANDATORY INDEMNIFICATION.** (a) Indemnification under this
20 section is not required to the extent limited by the articles of incorporation under s.
21 221.0628.

22 (b) Indemnification under this section is not required if the director or officer
23 has previously received indemnification or allowance of expenses from any person,
24 including the bank, in connection with the same proceeding.

1 (c) Indemnification under this section is not required to the extent expressly
2 prohibited by other provisions of this chapter, ch. 220 or applicable federal law or in
3 connection with an administrative proceeding or action instituted under ch. 220
4 which results in a final order against the officer or director under s. 220.04 (4), (9)
5 or (10).

6 **221.0628 Bank may limit indemnification.** A bank's articles of
7 incorporation may limit its obligation to indemnify under s. 221.0627. Any provision
8 of the articles of incorporation relating to a banks power or obligation to indemnify
9 that was in existence on the effective date of this section [revisor inserts date],
10 does not constitute a limitation on the bank's obligation to indemnify under s.
11 221.0627. A limitation under this section applies if the first alleged act or omission
12 of a director or officer for which indemnification is sought occurred while the
13 limitation was in effect.

14 **221.0629 Allowance of expenses as incurred.** Upon written request by a
15 director or officer who is a party to a proceeding, a bank may pay or reimburse his
16 or her reasonable expenses as incurred if the director or officer provides the bank
17 with all of the following:

18 **(1) AFFIRMATION OF GOOD FAITH BELIEF.** A written affirmation of his or her good
19 faith belief that he or she has not breached or failed to perform his or her duties to
20 the bank.

21 **(2) UNDERTAKING TO REPAY.** A written undertaking, executed personally or on
22 his or her behalf, to repay the allowance and, if required by the bank, to pay
23 reasonable interest on the allowance to the extent that it is ultimately determined
24 under s. 221.0631 that indemnification under s. 221.0627 (2) is not required and that
25 indemnification is not ordered by a court under s. 221.0630 (2) (b). The undertaking

1 under this subsection shall be an unlimited general obligation of the director or
2 officer and may be accepted without reference to his or her ability to repay the
3 allowance. The undertaking may be secured or unsecured.

4 **221.0630 Court-ordered indemnification.** (1) APPLICATION FOR
5 INDEMNIFICATION. Except as provided otherwise by written agreement between the
6 director or officer and the bank, a director or officer who is a party to a proceeding
7 may apply for indemnification to the court conducting the proceeding or to another
8 court of competent jurisdiction. Application shall be made for an initial
9 determination by the court under s. 221.0631 (5) or for review by the court of an
10 adverse determination under s. 221.0631 (1), (2), (3), (4) or (6). After receipt of an
11 application, the court shall give any notice that it considers necessary.

12 (2) WHEN TO BE ORDERED BY COURT. The court shall order indemnification if it
13 determines any of the following:

14 (a) That the director or officer is entitled to indemnification under s. 221.0627.
15 If the court also determines that the bank unreasonably refused the director's or
16 officer's request for indemnification, the court shall order the bank to pay the
17 director's or officer's reasonable expenses incurred to obtain the court-ordered
18 indemnification.

19 (b) That the director or officer is fairly and reasonably entitled to
20 indemnification in view of all the relevant circumstances, regardless of whether
21 indemnification is required under s. 221.0627.

22 **221.0631 Determination of right to indemnification.** Unless otherwise
23 provided by the articles of incorporation or bylaws or by written agreement between
24 the director or officer and the bank, the director or officer seeking indemnification

1 under s. 221.0627 (2) shall select one of the following means for determining his or
2 her right to indemnification:

3 (1) BOARD OR COMMITTEE VOTE. By a majority vote of a quorum of the board of
4 directors consisting of directors who are not at the time parties to the same or related
5 proceedings. If a quorum of disinterested directors cannot be obtained, by majority
6 vote of a committee duly appointed by the board of directors and consisting solely of
7 2 or more directors who are not at the time parties to the same or related proceedings.
8 Directors who are parties to the same or related proceedings may participate in the
9 designation of members of the committee.

10 (2) INDEPENDENT LEGAL COUNSEL. By independent legal counsel selected by a
11 quorum of the board of directors or its committee in the manner prescribed in sub.
12 (1) or, if unable to obtain such a quorum or committee, by a majority vote of the full
13 board of directors, including directors who are parties to the same or related
14 proceedings.

15 (3) PANEL OF ARBITRATORS. By a panel of 3 arbitrators consisting of one
16 arbitrator selected by those directors entitled under sub. (2) to select independent
17 legal counsel, one arbitrator selected by the director or officer seeking
18 indemnification and one arbitrator selected by the 2 arbitrators previously selected.

19 (4) SHAREHOLDER VOTE. By an affirmative vote of shares as provided in s.
20 221.0501. Shares owned by, or voted under the control of, persons who are at the time
21 parties to the same or related proceedings, whether as plaintiffs or defendants or in
22 any other capacity, may not be voted in making the determination.

23 (5) COURT ORDER. By a court under s. 221.0630.

24 (6) OTHER METHODS. By any other method provided for in any additional right
25 to indemnification permitted under s. 221.0634.

221.0632 Indemnification and allowance of expenses of employes and

agents. (1) MANDATORY INDEMNIFICATION. Except as provided in sub. (3), a bank shall indemnify an employe who is not a director or officer, to the extent that he or she has been successful on the merits or otherwise in defense of a proceeding, for all reasonable expenses incurred in the proceeding if the employe was a party because he or she was an employe of the bank.

(2) PERMITTED INDEMNIFICATION. Except as provided in sub. (3), in addition to the indemnification required by sub. (1), a bank may indemnify and allow reasonable expenses of an employe or agent who is not a director or officer to the extent provided by the articles of incorporation or bylaws, by general or specific action of the board of directors or by contract.

(3) PROHIBITED INDEMNIFICATION. A bank may not indemnify or allow reasonable expenses of an employe or agent who is not a director or officer if the indemnification or allowance is expressly prohibited by s. 221.0803, by other provisions of this chapter or by applicable federal law or in connection with an administrative proceeding or action instituted under ch. 220 which results in a final order against an officer or director under s. 220.04 (4), (9) or (10).

221.0633 Insurance. Except as expressly prohibited by other provisions of this chapter or applicable federal law or in connection with an administrative proceeding or action instituted under ch. 220 which results in a final order against an employe, agent, director or officer under s. 220.04 (4), (9) or (10), a bank may purchase and maintain insurance on behalf of the employe, agent, director or officer against liability asserted against or incurred by the individual in his or her capacity as an employe, agent, director or officer or arising from his or her status as an employe, agent, director or officer, regardless of whether the bank is required or

1 authorized to indemnify or allow expenses to the individual against the same
2 liability under ss. 221.0627, 221.0629, 221.0632 and 221.0634.

3 **221.0634 Additional rights to indemnification and allowance of**
4 **expenses. (1) PROVISION FOR ADDITIONAL RIGHTS.** Except as provided in sub. (2) and
5 except as expressly prohibited by other provisions of this chapter or applicable
6 federal law or in connection with an administrative proceeding or action instituted
7 under ch. 220 which results in a final order against an officer or director under s.
8 220.04 (4), (9) or (10), ss. 221.0627 and 221.0629 do not preclude any additional right
9 to indemnification or allowance of expenses that a director or officer may have under
10 any of the following:

11 (a) The articles of incorporation or bylaws.

12 (b) A written agreement between the director or officer and the bank.

13 (c) A resolution of the board of directors.

14 (d) A resolution that is adopted, after notice, by a majority vote of all of the
15 bank's voting shares then issued and outstanding.

16 **(2) WHEN ADDITIONAL RIGHTS PROHIBITED.** Regardless of the existence of an
17 additional right under sub. (1), the bank may not indemnify a director or officer, or
18 permit a director or officer to retain any allowance of expenses, unless it is
19 determined by or on behalf of the bank that the director or officer did not breach or
20 fail to perform a duty that he or she owes to the bank which constitutes conduct under
21 s. 221.0627 (2) (a) 1., 2., 3. or 4. A director or officer who is a party to the same or
22 related proceeding for which indemnification or an allowance of expenses is sought
23 may not participate in a determination under this subsection.

1 **(3) REIMBURSEMENT OF CERTAIN EXPENSES.** Sections 221.0626 to 221.0635 do not
2 affect a bank's power to pay or reimburse expenses incurred by a director or officer
3 in any of the following circumstances:

4 (a) As a witness in a proceeding to which he or she is not a party.

5 (b) As a plaintiff or petitioner in a proceeding because he or she is or was an
6 employe, agent, director or officer.

7 **221.0635 Indemnification and insurance against securities law claims.**

8 **(1) IN GENERAL.** It is the public policy of this state to require or permit
9 indemnification, allowance of expenses and insurance for any liability incurred in
10 connection with a proceeding involving securities regulation described under sub. (2)
11 to the extent required or permitted under ss. 221.0626 to 221.0634.

12 **(2) APPLICABILITY.** Sections 221.0626 to 221.0634 apply, to the extent applicable
13 to any other proceeding, to any proceeding involving a federal law or regulation or
14 a state law or rule that regulates the offer, sale or purchase of securities, securities
15 brokers or dealers, or investment companies or investment advisors.

16 **221.0636 Theft. (1) THEFT PROHIBITED.** (a) An officer, director, employe or
17 agent of a bank may not do any of the following:

18 1. Steal, abstract or wilfully misapply money, funds, credits, or property of the
19 bank, whether owned by the bank or held in trust.

20 2. Without authority of the board of directors, issue or put forth a certificate of
21 deposit, draw an order or bill of exchange or make an acceptance, assign a note, bond,
22 draft, bill of exchange, mortgage, judgment or decree.

23 3. Make a false entry in a book, report or statement of the bank with intent to
24 injure or defraud the bank or any person, or to deceive an officer of the bank, an agent
25 appointed to examine the affairs of the bank, or any other person.

1 (b) A person may not intentionally aid or abet a violation of par. (a).

2 **(2) PENALTY.** Any person who violates sub. (1) may be imprisoned for not more
3 than 20 years.

4 **221.0637 Bank officers and employes not to take commissions. (1)**
5 **COMMISSIONS PROHIBITED.** An officer, director, agent or employe of a bank may not,
6 directly or indirectly, take, accept or receive, or offer or agree to take, accept or
7 receive, a commission, fee, compensation, or thing of material value, from any person
8 in consideration of the bank of which he or she is an officer, director, agent or employe,
9 doing any of the following:

10 (a) Loaning any money to a person.

11 (b) Buying or discounting a note, bond, draft, or bill of exchange from the
12 person.

13 (c) Accepting any draft for, or issuing any letter of credit to, the person.

14 **(2) PENALTIES.** Any person who violates sub. (1) may be fined not more than
15 \$10,000 or imprisoned for not more than 2 years or both.

16 **SUBSECTION VII**

17 **SHARE EXCHANGE, MERGER AND**

18 **CONSOLIDATION**

19 **221.0701 Share exchange.** A bank or other corporation may acquire all of the
20 outstanding shares of one or more classes or series of a bank organized under this
21 chapter, with the approval of the division, if the board of directors of the bank, by
22 resolution adopted by the board, approves a plan of share exchange and its
23 shareholders also approve a plan of share exchange pursuant to ss. 180.1102 to
24 180.1106. This section does not limit the power of a corporation or bank to acquire
25 all or part of the shares of one or more classes or series of a bank through a voluntary

1 exchange or otherwise. Application for approval of a share exchange shall be made
2 to the division on a form prescribed by the division. The application shall be
3 accompanied by a fee established by the division.

4 **221.0702 Consolidation or merger of banks. (1)** IN GENERAL. Any 2 or more
5 banks may, with the approval of the division, consolidate or merge into one bank
6 under the charter of either existing bank. The consolidation or merger shall be done
7 on such terms and conditions as may be lawfully agreed upon by a majority of the
8 board of directors of each bank proposing to consolidate or merge and as may be
9 ratified and confirmed by the affirmative vote of the shareholders of each of the
10 banks. The affirmative vote of the shareholders must be by shareholders owning a
11 majority of the outstanding capital stock entitled to vote of each bank, or any greater
12 percentage specified in the articles of incorporation or the bylaws, and by at least a
13 majority of any outstanding preferred stock entitled to vote of each bank, or any
14 greater percentage specified in the articles of incorporation or the bylaws. The vote
15 must be at a meeting called by the directors, after sending notice of the time, place
16 and object of the meeting to each shareholder of record in accordance with s.
17 221.0103. The capital stock of the consolidated or merged bank may not be less than
18 that required under existing law for the organization of a state bank in the place in
19 which it is located. If the consolidation or merger is approved by the division, a
20 shareholder of either of the banks who did not vote for the consolidation or merger
21 shall be given notice of the approval by the bank in which the shareholder holds an
22 interest.

23 **(2) ASSETS AND LIABILITIES OF THE CONSOLIDATING OR MERGING BANK.** The bank
24 or banks consolidating or merging with another bank under sub. (1) may not be
25 required to go into liquidation but their assets and liabilities shall be reported by the

1 bank with which they have consolidated or merged. The rights, franchises and
2 interests of the banks so consolidated or merged in and the property, personal and
3 mixed, and choses in action belonging to the banks, are transferred to and vested in
4 the consolidated or merged bank without any deed or other transfer. The
5 consolidated or merged bank holds all rights of property, franchises and interests in
6 the same manner and to the same extent as was held by the bank or banks so
7 consolidated or merged.

8 (3) **ROLE OF DIVISION.** After consultation with the banking review board, the
9 division may make recommendations to any bank within this state as to the
10 advisability of consolidation or merger with other banks and may make
11 recommendations as to terms for consolidation or merger of banks in order to avoid
12 a condition of oversupply of banks in any community or area of the state. The division
13 may also, if requested so to do, act as mediator or arbitrator to fix any of the terms
14 of any such consolidation or merger. The board of directors of any bank organized
15 under the laws of this state may use a reasonable amount of the assets of the bank
16 toward assisting in bringing about a consolidation or merger of banks or to aid in
17 reorganization or in avoiding the closing of a bank, if the board considers it to be in
18 the interests of safe banking and the maintenance of credit and banking facilities in
19 the county in which the bank is located.

20 (4) **TRANSFER OF RESOURCES AND LIABILITIES.** A bank, which is in good faith
21 winding up its business, for the purpose of consolidating or merging with another
22 bank, may transfer its resources and liabilities to the bank with which it is in process
23 of consolidation or merger. A consolidation or merger may not be made without the
24 consent of the division, and may not defeat or defraud any of the creditors in the
25 collection of their debts against the banks.

1 **(5) APPLICATION FOR CONSOLIDATION OR MERGER.** The banks shall apply for
2 approval of a consolidation or merger under sub. (1) on a form prescribed by the
3 division. The application shall be accompanied by a fee determined by the division.

4 **221.0703 Cancellation of charter of merged bank.** If a bank has merged
5 or consolidated with or been absorbed by another bank, the division shall cancel the
6 charter of the bank.

7 **221.0704 Interim banks.** Subject to the approval of the division, one or more
8 banks may consolidate or merge into or with an interim bank organized under this
9 chapter under the charter of either the existing bank or banks or the interim bank
10 in accordance with the provisions of this chapter for consolidation or merger of a
11 bank. The division shall promulgate rules providing for a simple process for the
12 organization of interim banks under this chapter. The rules shall permit the
13 organization of an interim bank with a minimum of one director.

14 **221.0705 Definitions.** In ss. 221.0705 to 221.0718:

15 **(1) "Bank"** means the issuer bank or, if a corporate action giving rise to
16 dissenters' rights under s. 221.0706 is a merger or share exchange that has been
17 effectuated, the surviving bank of the merger or the acquiring corporation or bank
18 of the share exchange.

19 **(2) "Beneficial shareholder"** means a person who is a beneficial owner of shares
20 held by a nominee as the shareholder.

21 **(3) "Dissenter"** means a shareholder or beneficial shareholder who is entitled
22 to dissent from corporate action under s. 221.0706 and who exercises that right when
23 and in the manner required by ss. 221.0709 to 221.0716.

24 **(4) "Fair value"**, with respect to a dissenter's shares, means the value of the
25 shares immediately before the effectuation of the corporate action to which the

1 dissenter objects, excluding any appreciation or depreciation in anticipation of the
2 corporate action unless the exclusion would be inequitable.

3 (5) "Interest" means interest from the effectuation date of the corporate action
4 until the date of payment, at a rate that is fair and equitable under all of the
5 circumstances.

6 (6) "Issuer bank" means a bank that is the issuer of the shares held by a
7 dissenter before the corporate action.

8 **221.0706 Right to dissent. (1) MANDATORY DISSENTERS' RIGHTS.** A shareholder
9 or beneficial shareholder may dissent from, and obtain payment of the fair value of
10 his or her shares in the event of, any of the following corporate actions:

11 (a) Consummation of a plan of merger to which the issuer bank is a party.

12 (b) Consummation of a plan of share exchange if the issuer bank's shares will
13 be acquired, and the shareholder or the shareholder holding shares on behalf of the
14 beneficial shareholder is entitled to vote on the plan.

15 (c) Except as provided in sub. (2), any other corporate action taken pursuant
16 to a shareholder vote to the extent that the articles of incorporation, the bylaws or
17 a resolution of the board of directors provides that the voting or nonvoting
18 shareholder or beneficial shareholder may dissent and obtain payment for his or her
19 shares.

20 (2) PERMISSIVE DISSENTERS' RIGHTS. The articles of incorporation may allow a
21 shareholder or beneficial shareholder to dissent from an amendment of the articles
22 of incorporation and obtain payment of the fair value of his or her shares if the
23 amendment materially and adversely affects rights in respect of a dissenter's shares
24 because it does any of the following:

25 (a) Alters or abolishes a preferential right of the shares.

1 (b) Creates, alters or abolishes a right in respect of redemption, including a
2 provision respecting a sinking fund for the redemption or repurchase, of the shares.

3 (c) Alters or abolishes a preemptive right of the holder of shares to acquire
4 shares or other securities.

5 (d) Excludes or limits the right of the shares to vote on any matter or to
6 cumulate votes, other than a limitation by dilution through issuance of shares or
7 other securities with similar voting rights.

8 (e) Reduces the number of shares owned by the shareholder or beneficial
9 shareholder to a fraction of a share if the fractional share so created is to be acquired
10 for cash under s. 221.0506.

11 **(3) RIGHTS OF DISSENTER.** A shareholder or beneficial shareholder entitled to
12 dissent and obtain payment for his or her shares under ss. 221.0701 to 221.0718 may
13 not challenge the corporate action creating his or her entitlement unless the action
14 is unlawful or fraudulent with respect to the shareholder, beneficial shareholder or
15 issuer bank.

16 **221.0707 Dissent by shareholders and beneficial shareholders. (1)**
17 **PARTIAL EXERCISE OF DISSENTERS' RIGHTS.** A shareholder may assert dissenters' rights
18 as to fewer than all of the shares registered in his or her name only if the shareholder
19 dissents with respect to all shares beneficially owned by any one person and notifies
20 the bank in writing of the name and address of each person on whose behalf he or she
21 asserts dissenters' rights. The rights of a shareholder, who asserts dissenters' rights
22 under this subsection as to fewer than all of the shares registered in his or her name,
23 are determined as if the shares as to which he or she dissents and his or her other
24 shares were registered in the names of different shareholders.

1 **(2) RIGHTS OF BENEFICIAL SHAREHOLDERS.** A beneficial shareholder may assert
2 dissenters' rights as to shares held on his or her behalf only if the beneficial
3 shareholder does all of the following:

4 (a) Submits to the bank the shareholder's written consent to the dissent not
5 later than the time that the beneficial shareholder asserts dissenters' rights.

6 (b) Submits the consent under par. (a) with respect to all shares of which he or
7 she is the beneficial shareholder.

8 **221.0708 Notice of dissenters' rights. (1) ACTION AT SHAREHOLDER MEETING.**
9 If proposed corporate action creating dissenters' rights under s. 221.0706 is
10 submitted to a vote at a shareholders' meeting, the meeting notice shall state that
11 shareholders and beneficial shareholders are or may be entitled to assert dissenters'
12 rights under ss. 221.0701 to 221.0718 and shall be accompanied by a copy of those
13 sections.

14 **(2) ACTION WITHOUT SHAREHOLDER VOTE.** If corporate action creating dissenters'
15 rights under s. 221.0706 is authorized without a vote of shareholders, the bank shall
16 notify, in writing and in accordance with s. 221.0103, all shareholders entitled to
17 assert dissenters' rights that the action was authorized and send them the
18 dissenters' notice described in s. 221.0710.

19 **221.0709 Notice of intent to demand payment. (1) METHOD OF ASSERTING**
20 **DISSENTERS' RIGHTS.** If proposed corporate action creating dissenters' rights under s.
21 221.0706 is submitted to a vote at a shareholders' meeting, a shareholder or
22 beneficial shareholder who wishes to assert dissenters' rights shall do all of the
23 following:

1 (a) Deliver to the issuer bank before the vote is taken written notice that
2 complies with s. 221.0103 of the shareholder's or beneficial shareholder's intent to
3 demand payment for his or her shares if the proposed action is effectuated.

4 (b) Refrain from voting his or her shares in favor of the proposed action.

5 **(2) FAILURE TO COMPLY.** A shareholder or beneficial shareholder who fails to
6 comply with sub. (1) is not entitled to payment for his or her shares under ss.
7 221.0701 to 221.0718.

8 **221.0710 Dissenters' notice. (1) WHEN REQUIRED.** If a proposed corporate
9 action creating dissenters' rights under s. 221.0706 is authorized at a shareholders'
10 meeting, the bank shall deliver a written dissenters' notice to all shareholders and
11 beneficial shareholders who satisfied s. 221.0709 (1).

12 **(2) TIMING AND CONTENT OF NOTICE.** The dissenters' notice shall be sent no later
13 than 10 days after the corporate action is authorized at a shareholders' meeting or
14 without a vote of shareholders, whichever is applicable, and all necessary regulatory
15 approvals are obtained. The dissenters' notice shall comply with s. 221.0103 and
16 shall include or have attached all of the following:

17 (a) A statement indicating where the shareholder or beneficial shareholder
18 must send the payment demand and where and when certificates for certificated
19 shares must be deposited.

20 (b) For holders of uncertificated shares, an explanation of the extent to which
21 transfer of the shares will be restricted after the payment demand is received.

22 (c) A form for demanding payment that includes the date of the first
23 announcement to news media or to shareholders of the terms of the proposed
24 corporate action and that requires the shareholder or beneficial shareholder

1 asserting dissenters' rights to certify whether he or she acquired beneficial
2 ownership of the shares before that date.

3 (d) A date by which the bank must receive the payment demand, which may
4 not be fewer than 30 days nor more than 60 days after the date on which the
5 dissenters' notice is delivered.

6 (e) A copy of ss. 221.0701 to 221.0718.

7 **221.0711 Duty to demand payment. (1) MANNER OF DEMANDING PAYMENT.** A
8 shareholder or beneficial shareholder who is sent a dissenters' notice described in s.
9 221.0710, or a beneficial shareholder whose shares are held by a nominee who is sent
10 a dissenters' notice described in s. 221.0710, must demand payment in writing and
11 certify whether he or she acquired beneficial ownership of the shares before the date
12 specified in the dissenters' notice under s. 221.0710 (2) (c). A shareholder or
13 beneficial shareholder with certificated shares must also deposit his or her
14 certificates in accordance with the terms of the notice.

15 **(2) EFFECT OF DEMAND ON HOLDERS OF CERTIFICATED SHARES.** A shareholder or
16 beneficial shareholder with certificated shares who demands payment and deposits
17 his or her share certificates under sub. (1) retains all other rights of a shareholder
18 or beneficial shareholder until these rights are canceled or modified by the
19 effectuation of the corporate action.

20 **(3) EFFECT OF FAILURE TO DEMAND.** A shareholder or beneficial shareholder with
21 certificated or uncertificated shares who does not demand payment by the date set
22 in the dissenters' notice, or a shareholder or beneficial shareholder with certificated
23 shares who does not deposit his or her share certificates where required and by the
24 date set in the dissenters' notice, is not entitled to payment for his or her shares under
25 ss. 221.0701 to 221.0718.

1 **221.0712 Restriction on uncertificated shares.** (1) WHEN TRANSFER
2 RESTRICTIONS PERMITTED. The issuer bank may restrict the transfer of uncertificated
3 shares from the date that the demand for payment for those shares is received until
4 the corporate action is effectuated or the restrictions released under s. 221.0714.

5 (2) EFFECT OF DEMAND ON HOLDERS OF UNCERTIFICATED SHARES. The shareholder
6 or beneficial shareholder who asserts dissenters' rights as to uncertificated shares
7 retains all of the rights of a shareholder or beneficial shareholder, other than those
8 restricted under sub. (1), until these rights are canceled or modified by the
9 effectuation of the corporate action.

10 **221.0713 Payment.** (1) WHEN PAYMENT MADE. Except as provided in s.
11 221.0715, as soon as the corporate action is effectuated or upon receipt of a payment
12 demand, whichever is later, the bank shall pay each shareholder or beneficial
13 shareholder who has complied with s. 221.0711 the amount that the bank estimates
14 to be the fair value of his or her shares, plus accrued interest.

15 (2) MATERIAL TO ACCOMPANY PAYMENT. The payment shall be accompanied by all
16 of the following:

17 (a) The bank's latest available financial statements, including a balance sheet
18 as of the end of a fiscal year ending not more than 16 months before the date of
19 payment, an income statement for that year, a statement of changes in shareholders'
20 equity for that year and the latest available interim financial statements, if any.

21 (b) A statement of the bank's estimate of the fair value of the shares.

22 (c) An explanation of how the interest was calculated.

23 (d) A statement of the dissenter's right to demand payment under s. 221.0716
24 if the dissenter is dissatisfied with the payment.

25 (e) A copy of ss. 221.0701 to 221.0718.

1 **221.0714 Failure to take action. (1) ACTION NOT TAKEN.** If an issuer bank
2 does not effectuate the corporate action within 60 days after the date set under s.
3 221.0710 for demanding payment, the issuer bank shall return the deposited
4 certificates and release the transfer restrictions imposed on uncertificated shares.

5 **(2) ACTION TAKEN AT A LATER DATE.** If, after returning deposited certificates and
6 releasing transfer restrictions, the issuer bank effectuates the corporate action, the
7 bank shall deliver a new dissenters' notice under s. 221.0710 and repeat the payment
8 demand procedure.

9 **221.0715 After-acquired shares. (1) WITHHOLDING FOR AFTER-ACQUIRED**
10 **SHARES.** A bank may elect to withhold payment required by s. 221.0713 from a
11 dissenter unless the dissenter was the beneficial owner of the shares before the date
12 specified in the dissenters' notice under s. 221.0710 (2) (c) as the date of the first
13 announcement to news media or to shareholders of the terms of the proposed
14 corporate action.

15 **(2) PAYMENT.** To the extent that the bank elects to withhold payment under sub.
16 (1) after effectuating the corporate action, the bank shall estimate the fair value of
17 the shares, plus accrued interest, and shall pay this amount to each dissenter who
18 agrees to accept it in full satisfaction of his or her demand. The bank shall send with
19 its offer a statement of its estimate of the fair value of the shares, an explanation of
20 how the interest was calculated, and a statement of the dissenter's right to demand
21 payment under s. 221.0716 if the dissenter is dissatisfied with the offer.

22 **221.0716 Procedure if dissenter is dissatisfied with payment or offer.**
23 **(1) RIGHTS OF DISSENTER.** A dissenter may, in the manner provided in sub. (2), notify
24 the bank of the dissenter's estimate of the fair value of his or her shares and the
25 amount of interest due, and demand payment of his or her estimate, less any

1 payment received under s. 221.0713, or reject the offer under s. 221.0715 and
2 demand payment of the fair value of his or her shares and interest due, if any of the
3 following applies:

4 (a) The dissenter believes that the amount paid under s. 221.0713 or offered
5 under s. 221.0715 is less than the fair value of his or her shares or that the interest
6 due is incorrectly calculated.

7 (b) The bank fails to make payment under s. 221.0715 within 60 days after the
8 date set under s. 221.0710 for demanding payment.

9 (c) The issuer bank, having failed to effectuate the corporate action, does not
10 return the deposited certificates or release the transfer restrictions imposed on
11 uncertificated shares within 60 days after the date set under s. 221.0710 for
12 demanding payment.

13 **(2) WAIVER OF RIGHTS.** A dissenter waives his or her right to demand payment
14 under this section unless the dissenter notifies the bank of his or her demand under
15 sub. (1) in writing within 30 days after the bank makes or offers payment for his or
16 her shares. The notice shall comply with s. 221.0103.

17 **221.0717 Court action. (1) WHEN SPECIAL PROCEEDING REQUIRED.** If a demand
18 for payment under s. 221.0716 remains unsettled, the bank shall bring a special
19 proceeding within 60 days after receiving the payment demand under s. 221.0716
20 and petition the court to determine the fair value of the shares and accrued interest.
21 If the bank does not bring the special proceeding within the 60-day period, it shall
22 pay each dissenter whose demand remains unsettled the amount demanded.

23 **(2) WHERE PROCEEDING TO BE BROUGHT.** The bank shall bring the special
24 proceeding in the circuit court for the county where its principal office or, if none in
25 this state, its registered office is located. If the bank is a foreign bank without a

1 registered office in this state, it shall bring the special proceeding in the county in
2 this state in which was located the registered office of the issuer bank that merged
3 with or whose shares were acquired by the foreign bank.

4 (3) PARTIES TO THE PROCEEDING. The bank shall make all dissenters, whether
5 or not residents of this state, whose demands remain unsettled parties to the special
6 proceeding. Each party to the special proceeding shall be served with a copy of the
7 petition as provided in s. 801.14.

8 (4) JURISDICTION. The jurisdiction of the court in which the special proceeding
9 is brought under sub. (2) is plenary and exclusive. The court may appoint one or more
10 persons as appraisers to receive evidence and recommend a decision on the question
11 of fair value. An appraiser has the power described in the order appointing him or
12 her or in any amendment to the order. The dissenters are entitled to the same
13 discovery rights as parties in other civil proceedings.

14 (5) JUDGEMENTS. Each dissenter made a party to the special proceeding is
15 entitled to judgment for any of the following:

16 (a) The amount, if any, by which the court finds the fair value of his or her
17 shares, plus interest, exceeds the amount paid by the bank.

18 (b) The fair value, plus accrued interest, of his or her shares acquired on or after
19 the date specified in the dissenters' notice under s. 221.0710 (2) (c), for which the
20 bank elected to withhold payment under s. 221.0715.

21 **221.0718 Court costs and counsel fees.** (1) ASSESSMENT OF AND LIABILITY
22 FOR COSTS. (a) Notwithstanding ss. 814.01 to 814.04, the court in a special proceeding
23 brought under s. 221.0717 shall determine all costs of the proceeding, including the
24 reasonable compensation and expenses of appraisers appointed by the court and
25 shall assess the costs against the bank, except as provided in par. (b).

1 (b) Notwithstanding ss. 814.01 and 814.04, the court may assess costs against
2 all or some of the dissenters, in amounts that the court finds to be equitable, to the
3 extent that the court finds the dissenters acted arbitrarily, vexatiously or not in good
4 faith in demanding payment under s. 221.0716.

5 **(2) WHEN LIABLE FOR FEES AND COSTS.** The parties shall bear their own expenses
6 of the proceeding, except that, notwithstanding ss. 814.01 to 814.04, the court may
7 also assess the fees and expenses of counsel and experts for the respective parties,
8 in amounts that the court finds to be equitable, as follows:

9 (a) Against the bank and in favor of any dissenter if the court finds that the
10 bank did not substantially comply with ss. 221.0708 to 221.0716.

11 (b) Against the bank or against a dissenter, in favor of any other party, if the
12 court finds that the party against whom the fees and expenses are assessed acted
13 arbitrarily, vexatiously or not in good faith with respect to the rights provided by this
14 chapter.

15 **(3) PAYMENT OF COUNSEL AND EXPERTS FROM RECOVERY.** Notwithstanding ss.
16 814.01 to 814.04, if the court finds that the services of counsel and experts for any
17 dissenter were of substantial benefit to other dissenters similarly situated, the court
18 may award to these counsel and experts reasonable fees to be paid out of the amounts
19 awarded the dissenters who were benefited.

20 SUBCHAPTER VIII

21 DISSOLUTION AND LIQUIDATION

22 **221.0801 Liquidation.** (1) **WHEN AUTHORIZED.** A bank organized or doing
23 business under this chapter may go into liquidation by a vote of its shareholders
24 owning a majority of the capital stock outstanding or such greater percentage
25 required under the articles of incorporation or bylaws. If a vote is taken to go into

1 liquidation, the board of directors shall give notice of this fact to the division, and the
2 notice shall be certified by an officer of the bank. A liquidating bank may not transfer
3 assets or liabilities to another bank until the transfer is approved by the division.

4 (2) NOTICE. The board of directors shall also give notice of this fact by certified
5 mail to all persons whose names appear as creditors upon the books of the bank and
6 by publication as a class 3 notice, under ch. 985. The notice shall direct all persons
7 who may have claims against the bank to file the claims.

8 **221.0802 Banks may be placed in hands of division.** A bank doing
9 business under this chapter may place its affairs and assets under the control of the
10 division by posting a notice on its front door, as follows: "This bank is in the hands
11 of the Division of Banking of the Department of Financial Institutions". Immediately
12 upon posting such notice, the bank shall notify the division of this action. The posting
13 of the notice, or the taking possession of a bank by the division, places the bank's
14 assets and property in the possession of the division, and bars any attachment
15 proceedings. For each day the division is placed in possession of the bank, and until
16 such time as a special deputy is appointed under s. 220.08 (4), the bank shall pay to
17 the division the actual cost of such liquidation proceedings. The division shall pay
18 the amounts to the state treasurer and the percentage specified in s. 20.124 (1) (g)
19 shall be credited to the appropriation account under s. 20.124 (1) (g).

20 **221.0803 Charter, how forfeited.** If the board of directors or a quorum
21 thereof or any committee of the board of any bank knowingly violates or knowingly
22 permits any of the officers, agents or employes of the bank to violate this chapter, the
23 directors are jointly and severally liable for the amount of the loss sustained by the
24 bank. If, after a warning from the division, the directors shall fail to make good any
25 loss or damage resulting from the violations, or continue such conduct, it shall

1 constitute a ground for the forfeiture of the charter of the bank, and the division shall
2 institute proceedings to enforce the forfeiture and to secure a dissolution and a
3 winding up of the affairs of the bank.

4 SUBCHAPTER IX

5 INTERSTATE BANKING AND

6 FOREIGN BANKS

7 **221.0901 Acquisitions of banks and bank holding companies. (1)**

8 **APPLICABILITY.** This section applies to acquisitions of an in-state bank or an in-state
9 bank holding company by any company.

10 **(2) DEFINITIONS.** In this section:

11 (a) "Affiliate" has the meaning set forth in 12 USC 1841 (k).

12 (b) "Bank" has the meaning set forth in 12 USC 1841 (c).

13 (c) "Bank holding company" has the meaning set forth in 12 USC 1841 (a), and
14 unless the context otherwise requires, includes an in-state bank holding company,
15 an out-of-state bank holding company and a foreign bank holding company.

16 (d) "Bank supervisory agency" means the U.S. office of the comptroller of the
17 currency, the federal deposit insurance corporation, the board of governors of the
18 federal reserve system, or any successor to these agencies, or any agency of another
19 state with primary responsibility for chartering and supervising banks.

20 (f) "Company" has the meaning set forth in 12 USC 1841 (b) and includes a bank
21 holding company.

22 (g) "Control" shall be interpreted consistently with 12 USC 1841 (a).

23 (h) "Deposit" has the meaning set forth in 12 USC 1813 (1).

24 (i) "Depository institution" means any insured depository institution under 12
25 USC 1813 (c) (2) and (3).

1 (j) "Foreign bank holding company" means a bank holding company that is
2 organized under the laws of a country other than the United States or any territory
3 or possession of the United States.

4 (k) "In-state bank" means a bank that is organized under this chapter, a trust
5 company bank organized under ch. 223 or a bank organized under federal law and
6 having its principal place of business in this state.

7 (L) "In-state bank holding company" means a bank holding company that has
8 its principal place of business in this state or a company that has control of a trust
9 company organized under ch. 223 and is not controlled by a bank holding company
10 other than an in-state bank holding company.

11 (m) "Out-of-state bank holding company" means a bank holding company that
12 is not an in-state bank holding company and, unless the context requires otherwise,
13 includes a foreign bank holding company.

14 (n) "Principal place of business" of a bank holding company means the state in
15 which the total deposits of its bank subsidiaries are the greatest.

16 (p) "State" means any state, territory or other possession of the United States,
17 including the District of Columbia.

18 (q) "Subsidiary" has the meaning set forth in 12 USC 1841 (d).

19 **(3) APPROVAL REQUIREMENTS.** (a) Except as otherwise expressly permitted by
20 federal law or par. (b), no company may do any of the following without the prior
21 approval of the division:

22 1. Merge or consolidate with an in-state bank holding company.

23 2. Assume direct or indirect ownership or control of:

1 a. More than 25% of any class of voting shares of an in-state bank holding
2 company or an in-state bank, if the acquiring company is not a bank holding
3 company prior to the acquisition.

4 b. More than 5% of any class of voting shares of an in-state bank holding
5 company or an in-state bank, if the acquiring company is a bank holding company
6 prior to the acquisition.

7 c. All or substantially all of the assets of an in-state bank holding company or
8 an in-state bank.

9 3. Take other action that results in the direct or indirect acquisition of control
10 of an in-state bank holding company or an in-state bank.

11 (b) The approval of the division is not needed under par. (a) in any of the
12 following transactions:

13 1. A transaction arranged by the division or a bank supervisory agency to
14 prevent the insolvency or closing of the acquired bank.

15 2. A transaction in which a bank forms its own bank holding company, if the
16 ownership rights of the former bank shareholders are substantially similar to those
17 of the shareholders of the new bank holding company.

18 (c) In a transaction under par. (b) in which the division's approval is not
19 required, the parties shall give written notice to the division at least 15 days before
20 the effective date of the acquisition, unless a shorter period of notice is required
21 under applicable federal law.

22 **(4) REQUIRED APPLICATION.** A company that requires the division's approval
23 under sub. (3) (a) shall do all of the following:

24 (a) File with the division an application in the form that the division requires.

25 (b) Pay to the division an application fee determined by the division.

1 (c) Reimburse the division for all actual costs incurred by the division in
2 making an investigation related to the application under par. (a) and in holding any
3 hearing on the application.

4 (d) Cause to be published a class 3 notice, under ch. 985, in the form prescribed
5 by the division, in the official state newspaper, of the application under par. (a) and
6 of the opportunity for a hearing under sub. (5). If the application is to acquire an
7 in-state bank, the notice also shall be published in a newspaper of general
8 circulation in the city, village or town where the home office of the in-state bank is
9 located.

10 (e) File with the division proof of publication of the notice under par. (d), upon
11 completion of the publication of the notice.

12 (f) If the applicant is an out-of-state bank holding company, submit to the
13 division with the application, proof that the applicant has complied with, or is
14 exempt from, the requirements of subch. XV of ch. 180.

15 **(5) HEARING.** (a) Except as provided in par. (b), the division shall hold a hearing
16 on the application under sub. (4) (a) if at least 25 residents of this state petition for
17 a hearing within 30 days after the notice under sub. (4) (d) or if the division, on its
18 own motion, calls for a hearing within 30 days after the notice under sub. (4) (d).
19 Except as provided in par. (b), the division may not approve any transaction under
20 sub. (3) (a) until the later of 30 days after the notice under sub. (4) (d) or 30 days after
21 any hearing required under this paragraph.

22 (b) Paragraph (a) does not apply to a proposed transaction if the division finds
23 that an emergency exists and that the proposed transaction is necessary and
24 appropriate to prevent the probable failure of an in-state bank.

1 **(6) STANDARDS FOR DISAPPROVAL.** The division may disapprove a transaction
2 under sub. (3) (a) if the division finds any of the following:

3 (a) Considering the financial and managerial resources and future prospects
4 of the applicant and of the in-state bank or in-state bank holding company, the
5 transaction would be contrary to the best interests of the shareholders or customers
6 of the in-state bank or in-state bank holding company.

7 (b) The action would be detrimental to the safety and soundness of the
8 applicant or of the in-state bank or in-state bank holding company, or to the safety
9 and soundness of a subsidiary or affiliate of the applicant, the in-state bank or the
10 in-state bank holding company.

11 (c) Because the applicant or its executive officers, directors or principal
12 shareholders have not established a record of sound performance, efficient
13 management, financial responsibility and integrity, the action would be contrary to
14 the best interests of the depositors, other customers, creditors or shareholders of the
15 applicant or of the in-state bank or in-state bank holding company or contrary to the
16 best interests of the public.

17 (d) The applicant has received a rating of “needs to improve record of meeting
18 community credit needs” under 12 USC 2906 (b) (2) (C) or “substantial
19 noncompliance in meeting community credit needs” under 12 USC 2906 (b) (2) (D)
20 by the bank supervisory agency.

21 (f) The applicant has failed to enter into an agreement prepared by the division
22 to comply with the laws and rules of this state regulating consumer credit finance
23 charges and other charges and related disclosure requirements, except to the extent
24 preempted by federal law or regulation.

1 (g) The applicant fails to meet any other standards established by rule of the
2 division.

3 **(7) STATE CONCENTRATION LIMIT.** The division may not approve any transaction
4 under sub. (3) (a) if, upon consummation of the transaction, the applicant would
5 control a greater percentage of the total amount of deposits of insured depository
6 institutions in the state than the percentage specified under 12 USC 1842 (d) (2) (B)
7 (ii).

8 **(8) AGE REQUIREMENT.** (a) Except as provided in pars. (b) and (c), the division
9 may not approve an application by an out-of-state bank holding company under sub.
10 (3) (a) unless the in-state bank to be acquired, or all in-state bank subsidiaries of
11 the in-state bank holding company to be acquired, have as of the proposed date of
12 acquisition been in existence and in continuous operation for at least 5 years.

13 (b) The division may approve an application for an acquisition of an in-state
14 bank holding company that owns one or more in-state banks that have been in
15 existence for less than 5 years, if the out-of-state bank holding company divests
16 itself of those in-state banks within 2 years after the date of acquisition of the
17 in-state bank holding company by the out-of-state bank holding company.

18 (c) Paragraphs (a) and (b) do not apply to an in-state bank that is the surviving
19 bank of a merger with an in-state bank that had been in existence and continuous
20 operation for at least 5 years at the time of the merger or would have been in existence
21 and in continuous operation for at least 5 years as of the proposed date of acquisition,
22 if the merger had not taken place.

23 **(9) REPORTS.** Each bank holding company that controls an in-state bank or an
24 in-state bank holding company shall submit to the division reports under s.
25 221.0526.

1 **(10)** PENALTIES. The division may enforce the provisions of this section
2 pursuant to s. 220.04 (9).

3 SUBCHAPTER X

4 RECORDS, REPORTS AND

5 LEGAL PROCESS

6 **221.1001 Stock book.** Every bank shall keep a stock book. The stock book
7 shall be subject to the inspection of officers, directors and shareholders of the bank
8 during the usual hours for transacting business. The stock book shall show the
9 name, residence and number of shares held by each shareholder. A refusal by the
10 officers of such bank to exhibit the stock book to any person rightfully demanding
11 inspection of the book, may be required to forfeit not more than \$50. In all actions,
12 suits and proceedings, the stock book is presumptive evidence of the facts contained
13 in the book.

14 **221.1002 Reports; proofs of publication.** **(1) REPORTING REQUIREMENTS.** A
15 bank shall make to the division not less than 2 reports during each calendar year.
16 The reports shall be made at the times required by the division on forms prescribed
17 and furnished by the division. The forms shall conform as nearly as practicable to
18 that required of national banks, including any schedules.

19 **(2) ATTESTATION.** The reports under sub. (1) shall be signed and verified by the
20 oath or affirmation of one of the officers of the bank, and shall be attested by at least
21 2 of the directors. If by reason of absence or other inability it is impracticable to
22 obtain the signature of 2 directors, the report shall specify the reason why it is
23 impracticable and the attestation by the director so absent or under disability is not
24 required.

1 **(3) RESOURCES AND LIABILITIES.** The report under sub. (1) shall exhibit in detail
2 and under the proper headings, the resources and liabilities of the bank at the close
3 of the business of any past day specified by the division. The bank shall transmit the
4 report to the division within 30 days after the receipt of request for the report from
5 the division.

6 **(4) LIST OF SHAREHOLDERS.** When requested by the division, any bank shall
7 report to the division a list of its shareholders, their residences, and the amount of
8 stock held by each. The shareholder list shall be signed and verified by the oath or
9 affirmation of one of the officers of the bank.

10 **(5) SPECIAL REPORTS.** The division may require special reports from a bank, if
11 the division determines that the reports are necessary to inform the division fully of
12 the bank's condition.

13 **221.1003 Forfeiture.** A bank failing to make and transmit to the division a
14 report or proof of publication required under this chapter may be required to forfeit
15 to the division not more than \$100 for each day after the report or proof of publication
16 was required. If a bank fails or refuses to pay the forfeiture under this section, the
17 division may institute proceedings for the recovery of the forfeiture.

18 **221.1004 False statements. (1) PROHIBITION.** An officer, director or employe
19 of a bank may not do any of the following:

20 (a) Wilfully and knowingly subscribe to or make, or cause to be made, any false
21 statement or false entry in the books of the bank.

22 (b) Knowingly subscribe to or exhibit false papers with the intent to deceive any
23 person authorized to examine the affairs of the bank.

24 (c) Knowingly make, state, or publish any false report or statement of the bank.

1 **(2) PENALTIES.** Any person who violates sub. (1) may be fined not less than
2 \$1,000 nor more than \$5,000, or imprisoned not less than one year nor more than 10
3 years, or both.

4 **221.1005 Refusal to permit inspection.** If an officer in charge of a bank
5 refuses to submit the books, papers and concerns of the bank to the inspection of the
6 division, or refuses to be examined under oath touching the concerns of the bank, the
7 division may inform the attorney general. The department of justice shall then
8 institute an action to procure a judgment dissolving the bank. In order to carry out
9 this section, the division may commence and maintain in the division's name any
10 action necessary or proper to enforce this section.

11 **221.1006 Fees for certified copies.** If a certified copy of a record filed in the
12 division is lawfully required to be furnished by the division, the division may assess
13 a reasonable fee as determined by the banking review board. These fees shall be
14 deposited in the general fund.

15 **221.1007 Legal process; how served.** Legal process against a bank may be
16 served upon the bank in the manner provided by law for service on other corporations
17 organized under the laws of this state.

18 **221.1008 Record search.** A bank is entitled to reimbursement for expenses
19 and costs incurred in searching for, reproducing and transporting books, papers,
20 records and other data required to be produced by legal process, unless otherwise
21 prohibited by law from collecting these expenses and costs. The expenses and costs
22 shall be paid by persons seeking such production, including governmental units as
23 defined in s. 108.02 (17). A bank may not be required to produce books, papers,
24 records and other data in response to legal process unless the expenses and costs,
25 identified in an itemized invoice to be provided by the bank, are paid or unless

1 payment is tendered to the bank in cash or by certified check or draft. This section
2 does not require the division to reimburse banks for expenses and costs incurred in
3 the exercise by the division of statutory authority to examine banks and enforce the
4 banking laws of this state.

5 SUBCHAPTER XI

6 BANK SERVICE CORPORATIONS

7 **221.1101 Bank service corporations. (1) DEFINITIONS.** In this subchapter:

8 (a) "Bank service corporation" means a corporation organized to perform bank
9 services for 2 or more banks, each of which owns part of the capital stock of the
10 corporation.

11 (b) "Bank services" means check and deposit sorting and posting, computation
12 and posting of interest and other credits and charges, preparation and mailing of
13 checks, statements, notices and similar items, or any other clerical, bookkeeping,
14 accounting, statistical or other similar functions performed for a bank.

15 (c) "Invest" includes any advance of funds to a bank service corporation,
16 whether by purchase of stock, the making of a loan, or otherwise, except a payment
17 for rent earned, goods sold and delivered, or services rendered prior to the making
18 of the payment.

19 **(2) INVESTMENTS IN BANK SERVICE CORPORATIONS.** (a) Two or more banks may
20 invest not more than 10% of the capital of each of the banks in a bank service
21 corporation.

22 (b) If stock in a bank service corporation is held by 2 banks, and one of the banks
23 ceases to utilize the services of the corporation and ceases to hold stock in it, and
24 leaves the other as the sole stock holding bank, the corporation may nevertheless

1 continue to function as a bank service corporation and the other bank may continue
2 to hold stock in it.

3 **(3) SERVICES TO COMPETITIVE BANKS.** (a) Except as provided in par. (b), if a bank,
4 referred to in this subsection as the “applying bank”, applies for a type of bank service
5 for itself from a bank service corporation that supplies the same type of bank service
6 to another bank, and the applying bank is competitive with a bank that holds stock
7 in the bank service corporation, the bank service corporation must offer to supply the
8 service by doing at least one of the following, at the option of the applying bank:

9 1. Issuing stock to the applying bank and furnishing the bank service to it on
10 the same basis as to the other banks holding stock in the bank service corporation.

11 2. Furnishing the bank service to the applying bank at a rate no higher than
12 necessary to fairly reflect the cost of the service, including the reasonable cost of the
13 capital provided to the bank service corporation by its shareholders.

14 (b) The bank service corporation need not offer to supply the bank service to
15 the applying bank under par. (a) if the service at competitive overall costs are
16 available to the applying bank from another source, or if the furnishing of the bank
17 service sought by the applying bank would be beyond the practical capacity of the
18 bank service corporation. In any action or proceeding to enforce the duty imposed
19 by this subsection, or for damages for the breach of this section, the bank service
20 corporation has the burden of showing the applicability of this paragraph.

21 **(4) PERMITTED ACTIVITIES OF BANK SERVICE CORPORATIONS.** A bank service
22 corporation may not engage in any activity other than the performance of bank
23 services for banks.

24 **(5) CONTRACTING FOR BANK SERVICES.** A bank may cause to be performed, by
25 contract or otherwise, any bank service for itself, whether on or off its premises, if

1 the bank and the party performing the service provide the division with assurances,
2 satisfactory to the division, that the performance of the service will be subject to
3 regulation and examination by the division to the same extent as if the service was
4 being performed by the bank itself on its own premises.

5 SUBCHAPTER XII

6 BANK-OWNED BANKS

7 **221.1201 Stock in bank-owned banks.** A bank, or, subject to the limitations
8 of s. 221.0901, a bank holding company, may, with the approval of the division,
9 acquire and hold stock, in an aggregate amount not exceeding 10% of its capital, in
10 one or more of the following:

11 (1) A bank chartered under s. 221.1202.

12 (2) A national bank chartered under 12 USC 27 (b).

13 (3) A bank holding company wholly owning a bank described under sub. (1) or
14 (2).

15 **221.1202 Bank-owned banks. (1) ESTABLISHMENT AND OWNERSHIP.** The
16 division may authorize the establishment of, and issue a charter to, a bank, all of the
17 stock of which is owned by 2 or more depository institutions or depository institution
18 holding companies. Notwithstanding any other requirement of this section, the
19 division may authorize, by rule, up to 10% of the stock to be held by other persons
20 to accommodate operational needs of the bank.

21 (2) STATUS AND POWERS. A bank established under sub. (1) is a state bank
22 chartered under this chapter for all purposes, except that its functions are limited
23 solely to doing the following:

24 (a) Providing banking and banking-related services to or for depository
25 institutions, subsidiaries of depository institutions, depository institution holding

1 companies, subsidiaries of depository institution holding companies and directors,
2 officers and employes of other depository institutions.

3 (b) Providing correspondent banking services at the request of other depository
4 institutions or depository institution holding companies, and to depository
5 institution trade associations.

6 **(3) STOCK ISSUANCE.** A bank established under sub. (1) may authorize and hold
7 authorized but not issued stock.

8 **SECTION 25.** Chapter 223 (title) of the statutes is amended to read:

9 **CHAPTER 223**

10 **TRUST COMPANY BANKS**

11 **AND OTHER FIDUCIARIES**

12 **SECTION 26.** Subchapter I (title) of chapter 223 [precedes 223.01] of the statutes
13 is created to read:

14 **CHAPTER 223**

15 **SUBCHAPTER I**

16 **TRUST COMPANY BANKS**

17 **SECTION 27.** 223.01 of the statutes is amended to read:

18 **223.01 Trust company banks, capital.** Trust company banks may be
19 organized pursuant to ch. 221, ~~entitled "State Banks,"~~ and shall be subject to all the
20 provisions, requirements, and liabilities of chs. 220 and 221, so far as applicable,
21 ~~except ss. 221.29 and 221.32, that trust company banks may not accept deposits~~
22 other than trust deposits and except as otherwise hereinafter provided. ~~The capital~~
23 ~~stock of any such corporation shall be fixed and limited by the articles of~~
24 ~~incorporation, and must be at least \$100,000, and not to exceed \$5,000,000, except~~
25 ~~that in cities of less than 100,000 inhabitants it may be less than \$100,000, but it~~

1 ~~shall not be less than \$50,000.~~ The division may, with the approval of the banking
2 review board, establish minimum capital requirements for a trust company bank.

3 **SECTION 28.** 223.02 of the statutes, as affected by 1995 Wisconsin Act 27, is
4 repealed and recreated to read:

5 **223.02 Indemnity fund deposit; errors and omissions insurance.** Before
6 any trust company bank may commence business in this state, the trust company
7 bank shall do one of the following:

8 (1) INDEMNITY FUND DEPOSIT. Deposit at least \$100,000 with the state treasurer
9 or the state treasurer's agent in accordance with the following provisions:

10 (a) The deposit may be securities eligible for trust investments under ch. 881
11 and approved by the division or be cash. The trust company bank may from time to
12 time withdraw securities or cash, if the value of the balance of the deposit remains
13 at least \$100,000.

14 (b) The state treasurer or the state treasurer's agent shall pay over to the bank
15 trust company the interest, dividends or other income on deposit or may authorize
16 the bank trust company to collect the interest, dividends or other income. The state
17 treasurer shall issue a certificate stating that a deposit has been made with the state
18 treasurer or the state treasurer's agent in the manner provided in this section.

19 (c) The state treasurer or the state treasurer's agent shall hold the deposit as
20 security for the faithful execution of any trust which may be lawfully imposed upon
21 and accepted by the trust company bank. The cash or securities shall remain in the
22 possession of the state treasurer or the state treasurer's agent until otherwise
23 ordered by a court of competent jurisdiction, unless released pursuant to par. (d).

24 (d) The securities and cash deposited by a trust company bank may be released
25 by the state treasurer or the state treasurer's agent and returned to the bank, if the

1 division certifies to the state treasurer that the bank no longer exercises trust powers
2 and that the division is satisfied that there are no outstanding trust liabilities.

3 (e) The state treasurer may designate a banking corporation, having an
4 authorized capital of \$1,000,000 or more, to act as an agent to hold the cash or
5 securities in safekeeping. The agent shall furnish to the state treasurer a
6 safekeeping receipt for all cash and securities received by it. The agent shall pay the
7 cash and securities to the state treasurer on demand without conditions.

8 **(2) ERRORS AND OMISSIONS INSURANCE POLICY.** Obtain and maintain adequate
9 insurance against loss, expense and liability resulting from errors, omissions or
10 neglect in the performance of any trust which may be lawfully imposed upon and
11 accepted by the trust company bank. The trust company bank shall file a copy of the
12 policy with the division.

13 **SECTION 29.** 223.025 of the statutes, as affected by 1995 Wisconsin Act 27, is
14 repealed.

15 **SECTION 30.** 223.03 (6) of the statutes is repealed and recreated to read:

16 223.03 **(6)** To act as trustee, executor, administrator, registrar of stocks and
17 bonds, custodian, agent, guardian of estates, assignee, receiver, and in any other
18 fiduciary capacity authorized by the division.

19 **SECTION 31.** 223.03 (10) of the statutes, as affected by 1995 Wisconsin Act 27,
20 is repealed.

21 **SECTION 32.** 223.03 (11) of the statutes is repealed.

22 **SECTION 33.** 223.03 (12) of the statutes is repealed.

23 **SECTION 34.** 223.03 (14) of the statutes, as affected by 1995 Wisconsin Act 27,
24 is amended to read:

1 223.03 (14) To establish and maintain a branch trust company bank with the
2 approval of the division. ~~Section 221.04 (1) (jm) 2. to 8., as it applies to bank branch~~
3 ~~offices under that paragraph, applies to trust company bank branch offices under~~
4 ~~this subsection to the same extent and in the same manner that a state bank may~~
5 ~~establish and maintain a branch bank under s. 221.0302.~~

6 **SECTION 35.** 223.04 of the statutes is repealed.

7 **SECTION 36.** 223.07 (1) of the statutes, as affected by 1995 Wisconsin Act 27,
8 is amended to read:

9 223.07 (1) Any trust company bank may, with the approval of the division,
10 establish and maintain a trust service office at any office in this state of a ~~state or~~
11 ~~national bank~~ depository institution, as defined in s. 221.0901 (2) (i), if the
12 establishment of the trust service office has been approved by the board of directors
13 of the state or national bank at a meeting called for that purpose.

14 **SECTION 37.** 223.07 (3) of the statutes, as affected by 1995 Wisconsin Act 27,
15 is amended to read:

16 223.07 (3) If the ~~state or national bank~~ depository institution at which a trust
17 service office is to be established has exercised trust powers, the trust company bank
18 and the ~~state or national bank~~ depository institution shall enter into an agreement
19 respecting those fiduciary powers to which the trust company bank shall succeed and
20 shall file the agreement with the division. The trust company bank shall cause a
21 notice of the filing, in a form prescribed by the division, to be published as a class 1
22 notice, under ch. 985, in the city, village or town where the ~~state or national bank~~
23 depository institution is located. After filing and publication, the trust company
24 bank establishing the office shall, as of the date the office first opens for business,
25 without further authorization of any kind, succeed to and be substituted for the ~~state~~

1 ~~or national bank~~ depository institution as to all fiduciary powers, rights, duties,
2 privileges and liabilities of the ~~bank~~ depository institution in its capacity as fiduciary
3 for all estates, trusts, guardianships and other fiduciary relationships of which the
4 ~~bank~~ depository institution is then serving as fiduciary, except as may be otherwise
5 specified in the agreement between the trust company bank and the ~~state or national~~
6 ~~bank~~ depository institution. The trust company bank shall also be deemed named
7 as fiduciary in all writings, including, but not limited to, wills, trusts, court orders
8 and similar documents and instruments naming the ~~state or national bank~~
9 depository institution as fiduciary, signed before the date the trust office first opens
10 for business, unless expressly negated by the writing or otherwise specified in the
11 agreement between the trust company bank and the ~~state or national bank~~
12 depository institution. On the effective date of the substitution, the ~~state or national~~
13 ~~bank~~ depository institution shall be released and absolved from all fiduciary duties
14 and obligations under such writings and shall discontinue its exercise of trust powers
15 on all matters not specifically retained by the agreement. This subsection does not
16 effect a discharge in the manner of s. 701.16 (6) or other applicable statutes and does
17 not absolve a ~~state or national bank~~ depository institution exercising trust powers
18 from liabilities arising out of any breach of fiduciary duty or obligation occurring
19 prior to the date the trust service office first opens for business at the ~~bank~~ depository
20 institution. This subsection does not affect the authority, duties or obligations of a
21 ~~bank~~ depository institution with respect to relationships which may be established
22 without trust powers, including escrow arrangements, whether the relationships
23 arise before or after the establishment of the trust service office.

24 **SECTION 38.** 223.08 of the statutes is amended to read:

1 **223.08 Name of corporation; penalty.** The word “trust” shall form part of
2 the name of every corporation organized under this chapter, but the word “bank”
3 ~~shall~~ may not be used as a part of the name. All persons, partnerships, associations,
4 or corporations not organized under the provisions of this chapter, except state banks
5 vested with trust powers under s. ~~221.04~~ ~~(6)~~ 221.0316 and nonprofit corporations
6 organized for the advancement of historic preservation or for the protection of land
7 for public conservation purposes, are prohibited from using the word “trust” in their
8 business, or as a portion of the name or title of ~~such~~ the person, partnership,
9 association, or corporation. ~~Any~~ A person who violates this section, either
10 individually or as an interested party in any partnership, association, or corporation,
11 may be fined not less than \$300 nor more than \$1,000 or imprisoned for not less than
12 60 days nor more than one year in the county jail or both.

13 **SECTION 39.** Subchapter II (title) of chapter 223 [precedes 223.10] of the
14 statutes is created to read:

15 **CHAPTER 223**

16 SUBCHAPTER II

17 OTHER ORGANIZATIONS

18 ACTING AS FIDUCIARIES

19 **SECTION 40.** 223.11 of the statutes is renumbered 223.21 and amended to read:

20 **223.21 Consolidation of trust company banks.** Any trust company bank
21 organized, continued or reorganized under this chapter may consolidate with any
22 other similar corporation in the manner provided for the consolidation of banks
23 under s. ~~221.25~~ 221.0702; and in the event of such consolidation the consolidated
24 corporation, by whatever name it may assume or be known, shall be a continuation
25 of the entity of each and all of the corporations so consolidated for all purposes

1 whatsoever, including holding and performing any and all trusts and fiduciary
2 relations of whatsoever nature of which the corporations so consolidating, or either
3 or any of them, was fiduciary at the time of the consolidation, and also including its
4 appointment in any fiduciary capacity by any court or otherwise, and the holding,
5 accepting and performing of any and all trusts and fiduciary relations whatsoever
6 as to or for which either or any one of the corporations so consolidating may have been
7 appointed, nominated or designated by any will or conveyance or otherwise, whether
8 or not the trust or fiduciary relation shall have come into being or taken effect at the
9 time of the consolidation.

10 **SECTION 41.** 223.12 (title) of the statutes is amended to read:

11 **223.12 (title) Foreign trust ~~company~~, companies and banks as executor**
12 **or trustee here, when in this state.**

13 **SECTION 42.** 223.12 (1) of the statutes, as affected by 1995 Wisconsin Act 27,
14 is amended to read:

15 223.12 (1) Any trust company or bank, incorporated under the laws of any other
16 state, named by any resident of this state, as executor or trustee, or both, under that
17 person's last will and testament or any codicil thereto, ~~may be appointed and may~~
18 ~~accept appointment and may act as executor of, or trustee under, the last will and~~
19 ~~testament of any such person in this state, or both, provided trust~~ if all of the
20 following conditions are met:

21 1. Trust companies and banks of this state are permitted to act as such executor
22 or trustee, or both, in the state where ~~such foreign corporation~~ the foreign trust
23 company or bank has its domicile, ~~and such foreign corporation shall have,~~

24 2. The foreign trust company or bank has executed and filed with the division
25 ~~of banking~~ a written instrument appointing the division its true and lawful attorney

1 upon whom all process may be served in any action or proceeding against such
2 executor or trustee, affecting or relating to the estate represented or held by such
3 executor or trustee, or the acts or defaults of ~~such corporation~~ the foreign trust
4 company or bank in reference to such estate, with the same effect as if it existed in
5 this state and had been lawfully served with process therein, ~~and shall also have,~~

6 3. The foreign trust company or bank has filed with the division a copy of its
7 charter, articles of organization and all amendments thereto certified to by the
8 secretary of state or other proper officer of said foreign state under the seal of office
9 together with the post-office address of its principal office ~~and shall further have,~~

10 4. The foreign trust company or bank has complied with s. ss. 223.02 and
11 701.16.

12 **SECTION 43.** 223.12 (2) and (3) of the statutes are amended to read:

13 223.12 (2) ~~Any A~~ trust company or bank, incorporated under the laws of any
14 other state, duly acting and qualified as executor or trustee under any foreign will,
15 ~~shall have~~ has the same rights and authority under such the will as to real estate
16 within this state ~~which that~~ any natural person who is duly acting as ~~such~~ foreign
17 executor or trustee may have under the laws of this state, without ~~such the~~ foreign
18 trust company or bank being required to do any act qualifying it to do business within
19 this state that is not required of a natural person acting as ~~such~~ foreign executor or
20 trustee.

21 (3) ~~No such foreign corporation~~ A trust company or bank, incorporated under
22 the laws of any other state, having authority to act as executor or trustee under the
23 last will and testament of any person, ~~shall~~ may not establish or maintain directly
24 or indirectly any branch office or agency in this state ~~or shall~~ and may not in any way
25 solicit directly or indirectly any business as executor or trustee ~~therein~~ in this state.

1 ~~If any such~~ A foreign corporation trust company or bank that violates this provision,
2 ~~such foreign corporation shall~~ may not thereafter be appointed or act as executor or
3 trustee in this state.

4 **SECTION 44.** 223.12 (4) and (5) of the statutes are repealed.

5 **SECTION 45.** Subchapter III (title) of chapter 223 [precedes 223.20] of the
6 statutes is created to read:

7 **CHAPTER 223**

8 **SUBCHAPTER III**

9 **TRUST COMPANY BANK**

10 **CONSOLIDATION AND REORGANIZATION**

11 **223.20 Reorganization of a trust company bank. (1)** CONVERSION INTO A
12 STATE BANK. A trust company bank may, by amendment to its articles of
13 incorporation, duly adopted by its stockholders and approved by the division, in the
14 manner provided under s. 221.0211, convert its corporate organization into that of
15 a state bank with all the powers of a state banking corporation under the statutes
16 under such name as shall be declared by such amendment and approved by the
17 division, which name may include the word "trust".

18 **(2) POWERS OF A CONVERTED TRUST COMPANY BANK.** The converted trust company
19 bank continues to have all the powers previously held by it as a trust company bank
20 and shall be a continuation, for all purposes, of the trust company bank so converted
21 into a state bank. These powers include holding and performing all trusts and
22 fiduciary relations for which the trust company bank was fiduciary at the time of the
23 conversion. These powers also include the converted trust company bank acting in
24 any fiduciary capacity by any court or otherwise, and the holding, accepting and
25 performing of trusts and fiduciary relations as to or for which the trust company bank

1 may have been appointed, nominated or designated by any will or conveyance or
2 otherwise, whether or not the trust or fiduciary relation came into being and took
3 effect at the conversion.

4 **(3) SURRENDER OF TRUST POWERS.** If a converted trust company bank has been
5 fully discharged of all trusts committed to it, it may, by amendment to its articles of
6 incorporation, duly adopted by its stockholders and approved by the division,
7 surrender its powers to act in a fiduciary capacity. A trust company bank that
8 surrenders its trust powers under this subsection shall eliminate from its corporate
9 name the word "trust;" and may thereupon withdraw from the state treasurer all
10 securities and cash that it has deposited with the state treasurer pursuant to s.
11 223.02.

12 **SECTION 46.** 224.075 of the statutes, as affected by 1995 Wisconsin Act 27, is
13 repealed.

14 **SECTION 47.** 224.08 of the statutes is repealed.

15 **SECTION 48.** 224.092 of the statutes is renumbered 224.092 (1) and amended
16 to read:

17 224.092 (1) If Except as provided in sub. (2), if requested by an individual who
18 is a customer, loan applicant or credit applicant, a financial institution, as defined
19 in s. 705.01 (3), shall provide that individual with a copy of any written appraisal
20 report which is held by the financial institution, which relates to residential real
21 estate that the individual owns or has agreed to purchase and for which a fee is
22 imposed.

23 **SECTION 49.** 224.092 (2) of the statutes is created to read:

24 224.092 (2) Subsection (1) does not apply to a financial institution that
25 complies with 12 CFR 202.5a.

1 **SECTION 50.** 404.213 (4m) of the statutes is repealed.

2 **SECTION 51.** 701.19 (2) (d) of the statutes is amended to read:

3 701.19 (2) (d) ~~Except as otherwise provided in s. 223.03 (10),~~ a Δ trustee may
4 not sell individually owned assets to the trust unless the sale is authorized in the
5 creating instrument, made with the written consent of all beneficiaries or made with
6 the approval of the court upon notice and hearing.

7 **SECTION 52.** 946.82 (4) of the statutes, as affected by 1995 Wisconsin Act 133,
8 is amended to read:

9 946.82 (4) “Racketeering activity” means any activity specified in 18 USC 1961
10 (1) in effect as of April 27, 1982 or the attempt, conspiracy to commit, or commission
11 of any of the felonies specified in: chs. 161 and 945 and ss. 49.49, 134.05, 139.44 (1),
12 180.0129, 181.69, 184.09 (2), 185.825, 215.12, ~~221.17, 221.31, 221.39, 221.40,~~
13 221.0625, 221.0636, 221.0637, 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3)
14 and (4), 553.52 (2), 940.01, 940.19 (3) to (6), 940.20, 940.203, 940.21, 940.30, 940.305,
15 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 943.01 (2) or (2g),
16 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (b) to (d),
17 943.23 (1g), (1m), (1r), (2) and (3), 943.24 (2), 943.25, 943.27, 943.28, 943.30, 943.32,
18 943.34 (1) (b) and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (b) and
19 (c), 943.60, 943.70, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03, 945.04,
20 945.05, 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49,
21 946.61, 946.64, 946.65, 946.72, 946.76, 947.015, 948.05, 948.08, 948.12 and 948.30.

22 **SECTION 53. Initial applicability.**

23 (1) BANK NAMES. The treatment of section 221.0403 of the statutes first applies
24 to banks that are created or that change their name on the effective date of this
25 subsection.

