

CHAPTER 216.

INVESTMENT ASSOCIATIONS.

216.01 Regulation.
 216.02 Laws applicable.
 216.03 Penalty.

216.04 Investment corporations.
 216.05 Participation in federal legislation;
 conversion into federal associa-
 tions.

216.01 Regulation. No person and no copartnership, association or corporation, whether local or foreign, heretofore organized or which may hereafter be organized, doing business as a so-called investment, loan, benefit, co-operative, home, trust or guarantee company, for the licensing, control and management of which there is no law now in force in this state, and which such person, copartnership, association or corporation, shall solicit payments to be made to himself or itself either in a lump sum, or periodically, or on the instalment plan, issuing therefor so-called bonds, shares, coupons, certificates of membership or other evidences of obligation or agreement, or pretended agreement to return to the holder or owners thereof money or anything of value at some future date, shall solicit or transact any business in this state unless such person, copartnership, association or corporation, shall have first complied with all the provisions prescribed in chapter 215 of the statutes required of foreign building and loan associations authorized to do business in this state.

Note: The mere fact that a corporation engaged in the business of buying, selling and dealing in stocks, bonds and other securities, did not make it an "investment company". Wisconsin Investment Co. v. Skinner, 220 W 537, 265 NW 681.

216.02 Laws applicable. All provisions of said chapter 215 with respect to the supervision, control and conditions upon which foreign building and loan associations are permitted to do business in this state are hereby made applicable to and imposed upon persons, copartnerships, associations or corporations described in the first section of this act, the same as though they were foreign building and loan associations under said act, so far as such supervision, control and conditions can be made applicable to the particular business done by such persons, copartnerships, associations or corporations.

216.03 Penalty. Any person, copartnership, association or corporation who or which shall act as principal or agent in doing such business or in soliciting business for, or membership or participation in, any such copartnership, association or corporation, or solicit business for such person or persons doing business as such companies, not authorized to do business in this state, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by fine of not less than one hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail of not less than three months, nor more than one year, or by both such fine and imprisonment.

216.04 Investment corporations. (1) APPLICATION TO ORGANIZE. When authorized by the banking commission, as provided in this section, five or more persons may form a corporation to be known as an investment company. Such persons shall subscribe and acknowledge and submit to the banking commission at its office an organization certificate in duplicate which shall specifically state:

- (a) The name by which the investment company is to be known.
- (b) The location of such corporation in some city or village in this state.
- (c) The amount of its capital stock and the number of shares and kinds of shares into which said capital stock is divided, which capital stock shall amount to not less than one hundred fifty thousand dollars.
- (d) The full name, residence and post-office address of each of the incorporators and the number of shares subscribed for by each, which incorporators shall be its directors until the first annual meeting of the stockholders.
- (e) The number of its directors which shall not be less than five.

(f) The purposes for which the investment company is being formed. Such certificate may provide for the manner in which the stock of the corporation may be transferred and for the number of directors necessary to constitute a quorum.

(2) INVESTIGATION BY COMMISSION; DECISION; APPEAL. Upon receipt of said organization certificate in duplicate, the banking commission shall thereupon ascertain from the best sources of information at its command, and by such investigation as it may deem necessary, whether the character, responsibility and general fitness of the persons named in the organization certificate are such as to command confidence, and to warrant the belief that the business of the investment company will be honestly and efficiently conducted in accordance with the intent and purpose of this section, and whether public convenience

and advantage will be promoted by allowing such investment company to qualify under this section. Should the result of the investigation satisfy the banking commission that the facts as ascertained justify it in authorizing the organization of the investment company, and that the public will be benefited thereby, it shall indorse on each of the duplicate original organization certificates the word "approved" over its official signature, but if the banking commission is not so satisfied or believes that the public interests will be endangered it will indorse the word "disapproved" thereon. One of the duplicate originals shall be filed in its office and the other returned by mail to the applicants. In the event that the banking commission shall refuse to approve the organization certificates, and the applicants for such certificates feel aggrieved at such decision, they may appeal to the board of review constituted by section 221.01 of the [1931] statutes, applicable to the incorporation of state banks, and such board of review shall have the same jurisdiction and such section shall have the same application to investment companies to be organized under this section as to state banks, and a determination made under such section shall be as binding as if made in respect to a state bank.

(3) **CONDITIONS OF DOING BUSINESS; CERTIFICATE OF AUTHORITY.** When the banking commission shall have indorsed its approval on the organization certificates, as provided by subsection (2), the corporate existence shall begin, but it shall not transact any of the business in this section authorized to be transacted by investment companies until it shall have complied with the provisions of subsections (4) and (5) of this section, and shall have furnished to the banking commission a complete list of the stockholders of the proposed investment company, showing the number of shares and kinds of shares held by each, the post-office address of each stockholder, and shall have demonstrated to the banking commission that one hundred fifty thousand dollars in lawful money shall have been paid on said shares of stock issued and outstanding, and subscriptions to the capital stock. When the conditions imposed by this subsection shall have been fulfilled, and the deposit approved by the banking commission, it shall then issue to the investment company a certificate authorizing it to transact business under all the provisions of this section.

(4) **DEPOSITS WITH STATE TREASURER.** Any investment company organized under this section shall have and keep on deposit with the state treasurer in trust for the benefit and security of all its creditors, one hundred thousand dollars to be held in trust as aforesaid until all the obligations of such investment company shall have been fully redeemed and paid off, and until its contracts and obligations shall have been fully performed and discharged; the securities comprising such deposit shall first be approved by the banking commission under the same rules and regulations governing the approval of securities of trust company banks; and upon such deposit the state treasurer shall issue a certificate therefor.

(5) **CHARACTER OF DEPOSITS; SUBSTITUTION; COLLECTIONS; REVOCATION OF AUTHORITY.** Such deposit to be made with the state treasurer by any investment company organized under this section may consist of bonds or treasury notes of the United States, or bonds of this or any other state, or any city, town or county of this state, or of any other state having authority to issue the same, or first mortgages on improved real estate located in this state, not exceeding sixty per cent of the appraised value of the mortgaged property, or bonds secured by first mortgage on real estate located in this state, when the total of bonds secured by the mortgage does not exceed sixty per cent of the appraised value of the mortgaged property. All dividends and interest which may accrue on mortgages held by the state treasurer may be collected and retained by the investment company depositing such securities or mortgages so long as such investment company remains solvent and performs all the obligations entered into by virtue of having exercised any of the powers conferred by this section. Any securities on deposit, as provided herein, if approved by the banking commission, may from time to time be withdrawn if others of equal value and of the character named in this section are substituted therefor. If any such securities shall depreciate in value new ones must be added, so that the deposit may at all times be kept good and of the value of one hundred thousand dollars, and it shall be the duty of the banking commission to revoke the certificate of authority of any such investment company whenever there exists an impairment of such deposit for a period of more than thirty days after due notice to the investment company given by such commission.

(6) **WITHDRAWAL OF DEPOSITS.** Any investment company organized under this section, having made the deposit of securities required by this section, and desiring to withdraw the same or any of them without depositing securities of like character and amount, or desiring to discontinue its business, may do so by complying with the following provisions: File with the banking commission a statement reciting the reasons for desiring to withdraw such securities and the amount to be withdrawn; and the commission shall thereupon examine such investment company and determine the amount of its liabilities on account of all certificates, securities, contracts or other choses in action evidenced by writing, and if convinced that no holder of any certificate, security, contract or other chose

in action evidenced by writing will be injured or jeopardized by such withdrawal, shall cause to be published in three newspapers in this state for three weeks, at the expense of the investment company, notice of such request for the withdrawal of such security, and if no written objection is filed by any such holder within one week after the last date of the publication of such request, the banking commission shall issue a certificate certifying to the state treasurer the amount of its liabilities, if any, and the amount of security such investment company shall be permitted to withdraw, and upon filing a receipt for such amount the investment company shall be permitted to withdraw the same; provided, that there shall remain at all times a sufficient deposit to protect such holders, and that such deposit shall decrease only as the liabilities of such investment company decrease.

(7) **POWERS OF INVESTMENT COMPANY.** In addition to the powers conferred by the general corporate laws of this state, and as stated in its articles of organization, an investment company organized under this section, shall, subject to the limitations herein contained and subject to the supervision and control of the banking commission as prescribed in subsections (8), (9), (10) and (11), have the following powers:

(a) To receive payments to be made to itself either in a lump sum, or on the installment plan, and issue therefor its certificates, securities, contracts or other choses in actions evidenced by writing, or to issue in connection therewith, a contract based upon payments being made upon instalments or single payments under which all or part of the total amount received is to be repaid at some future time, with or without profit. All such moneys so received shall at all times be held or invested separate from other funds or property held by the investment company, and in case of insolvency or liquidation, all such funds and investments made therefrom shall be primarily liable and used for the repayment of such moneys. An administrator, executor, guardian or trustee, authorized to invest trust funds, may acquire and hold said certificates, securities, contracts or other choses in action evidenced by writing, but shall in no event exceed the limitations prescribed in section 320.02 of the statutes, and in issuing the same to an administrator, executor, guardian or trustees, the trust represented shall be specifically named. Nothing contained in this subsection shall be construed to give to an investment company organized under this section the power to solicit, receive or accept money or its equivalent on deposit as a regular business, provided this limitation shall not apply to or include money left with the investment company as agent pending investment in securities for or on account of its principal.

(b) To act as trustee for any person, firm or corporation in the acceptance of any mortgage, deed of trust or other instrument securing the payment of any bond, note or other instrument.

(c) To invest its funds received under paragraph (a) of subsection (7) of this section, in debentures, bonds or other securities of or guaranteed by the government of the United States, or of any state thereof, or of any subdivision of any state thereof; and to lend said moneys on the security of: 1. Debentures, bonds or other securities of or guaranteed by the government of the United States, or of any state thereof, or of any subdivision of any state thereof. 2. First mortgages on village, city or suburban real estate, which is improved or on which improvements are to be made with such loan, but any mortgage in excess of twenty thousand dollars shall not exceed sixty per cent of the appraised value of the mortgaged property. Such mortgages shall have priority over all liens upon the mortgaged premises and the buildings and improvements thereon which shall be filed subsequently to the recording of such mortgages. 3. First mortgages on improved farm lands, not exceeding sixty per cent of the appraised value of the mortgaged property, located in this state or in states immediately adjoining, to wit: Michigan, Illinois, Iowa and Minnesota. 4. Certificates, securities, contracts or other choses in actions evidenced by writing issued by it, any such loan not to exceed seventy-five per cent of the investment company's liability to the holder of any such certificate, security, contract or other chose in action evidenced by writing.

(8) **ANNUAL EXAMINATION BY COMMISSION.** At least once in each year, and whenever the banking commission deems it to be prudent for the protection of investors, it shall visit personally, or by competent examiners, any investment company organized under this section, and thoroughly inspect and examine its affairs, and ascertain its financial condition, and whether it has complied with the law. The proper charges incurred in the examination, including the expenses and compensation of its assistants employed therein, shall be paid by the investment company. For the purposes aforesaid, the banking commission or the person making the examination shall have free access to all books and papers of the investment company which relate to its business, and to the books and papers kept by any of its agents; and may examine and administer oath to, and examine as witnesses, the directors, officers and agents of said corporation, and any other person, relative to its affairs, transactions and condition.

(9) **ANNUAL REPORT BY COMPANY; FILING FEES.** Every investment company organized under this section shall annually, on or before January fifteenth, file with the banking commission a statement of its financial condition on December thirty-first of the previous year, and its business of that year. For cause, the banking commission may extend the time for filing said statement to a date not later than February fifteenth. The statement shall be in the form required by the banking commission, and shall be sworn to by the president or secretary, or in the absence of either, by one of the principal officers of the corporation. The fee for filing such annual statement shall be twenty-five dollars.

(10) **PENALTY FOR NOT REPORTING AND FOR FALSE REPORT.** Any investment company organized under this section neglecting to file its annual statement within the time required shall forfeit one hundred dollars for each day during which such neglect continues; and, upon notice by the banking commission to that effect, its authority to do any business authorized by this section shall cease while such default continues. For wilfully making a false annual statement the investment company shall upon conviction thereof be punished by a fine of not less than five hundred dollars nor more than five thousand dollars; any person making oath to or subscribing to such false annual statement shall upon conviction thereof be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the state penitentiary for not less than one year or more than ten years.

(11) **BANKING LAWS APPLY; DEPOSITS DEFINED.** All provisions of law relating to the closing and liquidation of banks and to stabilization and readjustment agreements affecting banks shall apply to associations or companies organized under this section. The word, "deposit," as used in such provisions of law affecting banks shall refer to and include certificates, securities, contracts or other choses in action evidenced by writing, maturing within any one calendar month, and the word, "depositors," as therein used shall refer to and include the holders thereof.

(12) **DIVIDENDS, CONTINGENT FUND.** Before any investment company doing business under this section shall declare, credit or pay a dividend to its stockholders upon its capital stock, at least five per cent annually of the net profits shall be set aside as a fund for the payment of contingent losses, until such fund together with the capital stock reaches at least five per cent of the total amount of liability of the investment company on account of certificates, securities, contracts or choses in action evidenced by writing, issued by it and outstanding. All losses shall first be paid out of such fund, and whenever said fund together with the capital stock falls below five per cent of the certificates, securities, contracts or other choses in actions evidenced by writing issued and outstanding, it shall be replenished by regular appropriations of at least five per cent of the net earnings annually as hereinbefore provided, until it again reaches said amount.

(13) **CORPORATIONS MAY BECOME INVESTMENT COMPANIES.** Any corporation organized under the corporate laws of the state of Wisconsin, whose corporate purpose includes the transaction of any part of the business of an investment company, and which desires to qualify as an investment company with the powers and limitations as outlined in this section, may become an investment company under its former name in the following manner:

(a) It shall call a meeting of its stockholders upon not less than ten days' notice to each stockholder, which notice shall be served personally or by mail, postage prepaid, directed to each stockholder at his last known post-office address, and shall contain a statement of the purpose for which such meeting is called. Proof by affidavit of the due service of such notice shall be filed in the office of the corporation at or before the time of such meeting.

(b) At the meeting so called the stockholders of such corporation may by a vote of at least two-thirds of the entire capital stock issued and outstanding direct that such corporation shall be transformed into an investment company with the powers and limitations contained in this section. In the event that such action is taken by the prescribed vote, a resolution may be adopted directing not less than five of the stockholders of such corporation, who shall be designated by name in such resolution, to execute an organization certificate in the form and manner required by subsection (1). The proceedings of such meeting shall be entered in the minutes of such corporation.

(c) Said organization certificate shall be subscribed and acknowledged in duplicate by the persons named in such resolution, and there shall be attached thereto copies of the minutes of such meeting, duly verified by the president and secretary of the meeting, copies of the articles of organization and by-laws of the investment company, and duplicates of the affidavits of service of the notice of such meeting, both of which duplicate certificates shall be submitted to the banking commission at its office for its approval, as provided in subsection (2).

(d) When the banking commission shall have indorsed its approval on the organization certificates as provided by subsection (2), such corporation shall be held and re-

garded as an investment company subject to the provisions of this section, but it shall not transact any of the business in this section authorized to be transacted by investment companies until it shall have fulfilled all of the requirements outlined in subsection (3). When the conditions imposed by subsection (3) shall have been fulfilled, and the deposit approved by the banking commission, it shall then issue to the investment company, a certificate authorizing it to transact business under all provisions of this section.

(e) At the time when the corporate existence of such investment company begins, all the property of such corporation shall immediately by act of law and without any conveyance or transfer, be vested in and become the property of such investment company, but such reincorporation shall not be construed as a ratification of any ultra vires contracts theretofore entered into by such corporation. The persons named in such organization certificate shall be the directors of such investment company until the first annual election of directors thereafter, and shall have powers to take all necessary measures to perfect its organization, and to adopt such regulations concerning its business and management as may be proper and not inconsistent with law.

(14) LIMIT OF EFFECT ON EXISTING CORPORATIONS. This section shall not apply to any corporation engaged in the business of making loans previous to the time of the taking effect of this section, as to the transaction of such business. [1933 c. 6 s. 1, 4; 1937 c. 284 s. 3; 1939 c. 513 s. 46]

216.05 Participation in federal legislation; conversion into federal associations.

Any investment association organized under this chapter may be eligible for and participate in the benefits of any federal legislation made available to building and loan associations. Any such investment association may convert itself into a federal savings and loan association in the same manner and subject to the same conditions as building and loan associations under the provisions of section 215.52 which section, so far as applicable, shall apply to investment associations. [1939 c. 240]