

CHAPTER 222.

SAVINGS BANKS.

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222.01 Savings banks. Any number of persons, not less than nine nor more than fifty, may associate for the purpose of organizing a corporation to be known as a savings bank. Such persons shall be citizens of the United States and at least three-fourths of them shall be residents of the county wherein the proposed savings bank is to be located. They shall subscribe and acknowledge an organization agreement in duplicate, which shall specifically state:

- (1) The name by which the savings bank is to be known.
- (2) The place where its business is to be transacted.
- (3) The name, occupation, residence and post-office address of each incorporator.
- (4) The sums which each incorporator will contribute in cash to the initial guaranty fund and the expense fund, respectively, as provided in 222.021 and 222.022.
- (5) A declaration that each incorporator will accept the responsibilities and faithfully discharge the duties of a trustee of the savings bank, and is free from the disqualification specified in section 222.07. [1933 c. 259 s. 3]

Note: Section 221.02, relating to commission, is applicable to the organization of savings banks. *Guardian Agency v. Guardian Mut. Savings Bank*, 227 W 550, 279 NW 79. Savings bank having definite and fixed place of business, as provided by 222.01 (2), Stats. 1937, may not sell securities in form of deposit contracts with annuity features by means of salesmen throughout state. 26 Atty. Gen. 279.

222.02 Corporate existence; conditions for commencing business. Upon the filing of such articles of agreement with the banking commission, the corporate existence of the savings bank shall begin, and it may exercise all the powers necessary to the completion of its organization. But the savings bank shall transact no business other than that relating to its organization until:

- (1) The incorporators shall have made the deposit of the initial guaranty fund required by section 222.021, and, if the banking commission shall so require, shall have entered into the agreement or undertaking with the commission and shall have filed the surety bond securing the same, as prescribed in said section.
- (2) The incorporators shall have made the deposit of the expense fund required by section 222.022, and, if the commission shall so require, shall have entered into an agreement or undertaking with the commission and shall have filed the surety bond securing the same, as prescribed in said section.
- (3) It shall have transmitted to the commission the name, residence and post-office address of each officer of the corporation.
- (4) The commission shall have duly issued to it a certificate of authority under its hand and official seal that such bank is authorized to commence business. [1933 c. 259 s. 3; 1937 c. 284 s. 3]

222.021 Initial guaranty fund; agreement of incorporators to contribute; bond. Before any savings bank hereafter organized shall be authorized to do business in this state, its incorporators shall create a guaranty fund for the protection of its depositors against losses upon its investments whether arising from depreciation in the market value of its securities or otherwise.

- (1) Such guaranty fund shall consist of payments in cash made by the original incorporators and of sums credited thereto from the earnings of the savings bank as hereinafter required.
- (2) The incorporators shall deposit to the credit of such savings bank in cash as an initial guaranty fund at least five thousand dollars. They shall also enter into such agree-

ment or undertaking with the banking commission as trustee for the depositors with the savings bank as it may require, to make such further contributions in cash to the guaranty fund of such savings bank as may be necessary to maintain the solvency of the savings bank and to render it safe for it to continue business. Such agreement or undertaking to an amount approved by the commission shall be secured by a surety bond executed by a domestic or foreign corporation authorized to transact within the state the business of surety, and shall be filed in the office of the banking department. Such agreement or undertaking and such surety bond need not be made or furnished unless the commission shall require the same.

(3) Prior to the liquidation of any savings bank, such guaranty fund shall not be in any manner encroached upon, except for losses and the repayment of contributions made by incorporators or trustees as hereinafter provided, until it exceeds ten per centum of the amount due depositors.

(4) The amounts contributed to such guaranty fund by the incorporators or trustees shall not constitute a liability of the savings bank, except as hereinafter provided, and any losses sustained by the savings bank in excess of that portion of the guaranty fund created from earnings may be charged against such contributions pro rata. [1933 c. 259 s. 3; 1937 c. 284 s. 3]

222.022 Expense fund; agreement of incorporators to contribute; bond. (1) Before any savings bank hereafter organized shall be authorized to do business in this state, its incorporators shall create an expense fund from which the expense of organizing such savings bank and its operating expenses may be paid until such time as its earnings are sufficient to pay its operating expenses in addition to such dividends as may be declared and credited to its depositors from its earnings.

(2) The incorporators shall deposit to the credit of such savings bank in cash as an expense fund the sum of five thousand dollars. They shall also enter into such an agreement or undertaking with the banking commission as trustee for the depositors with the savings bank as it may require, to make such further contributions in cash to the expense fund of such savings bank as may be necessary to pay its operating expenses until such time as it can pay them from its earnings in addition to such dividends as may be declared and credited to its depositors. Such agreement, or undertaking, to an amount approved by the commission shall be secured by a surety bond executed by a domestic or foreign corporation authorized to transact within this state the business of surety, and shall be filed in the office of the banking department. Such agreement or undertaking and such surety bond need not be made or furnished unless the commission shall require the same.

(3) The amounts contributed to the expense fund of such savings bank by the incorporators or trustees shall not constitute a liability of such savings bank, except as hereinafter provided. [1933 c. 259 s. 3; 1937 c. 284 s. 3]

222.023 Return of initial guaranty fund and expense fund. (1) Contributions made by the incorporators or trustees to the guaranty fund, plus interest thereon from the date of contribution thereof at six per cent per annum not compounded, may be repaid pro rata to the contributors from that portion of the guaranty fund created from earnings, whenever such payments will not reduce the guaranty fund below five per centum of the total amount due depositors. In case of the liquidation of the savings bank before such contributions to the expense fund have been repaid, any contributions to the expense fund remaining unexpended after the payment of the expenses of liquidation may be repaid to the contributors pro rata.

(2) Whenever the contributions of the incorporators or trustees to the expense fund of such savings bank have been returned to them, the contributions made to the guaranty fund, plus interest thereon from the date of contribution thereof at six per cent per annum not compounded, by incorporators or trustees may be returned to them pro rata, from that portion of the guaranty fund created from the earnings of the savings bank, provided that such repayments will not reduce the earned portion of the guaranty fund of such savings bank below five per centum of the amount due depositors. In case of the liquidation of the savings bank before such contributions to the guaranty fund have been repaid, any portion of such contribution not needed for the payment of the expenses of liquidation and the payment of depositors in full and the repayment of contributions to the expense fund may be repaid to the contributors pro rata. [1933 c. 259 s. 3]

222.024 Certificate. When the incorporators have fully complied with sections 222.01, 222.021 and 222.022 the banking commission shall forthwith give to such savings bank a certificate of authority under its hand and official seal that such bank is authorized to commence business. [1933 c. 259 s. 3; 1937 c. 284 s. 3]

222.025 Provisions not to apply to applications filed with banking commission prior to January 1, 1933. The preceding provisions of this chapter shall not apply to an appli-

ation filed with the banking commission by the filing of articles of incorporation prior to January 1, 1933, under section 222.03. [1933 c. 259 s. 3; 1937 c. 284 s. 3]

222.03 Election of membership in. Every such bank may, at any annual meeting by a majority of at least two-thirds of those present, elect by ballot any citizen of the county wherein the bank is located, or of any adjoining county, to be a member thereof. Any member failing to attend the annual meeting for two successive years, such nonattendance may be deemed equivalent to a resignation and his place may be filled in the usual manner. The incorporators may fill vacancies and add to their number from time to time as they may desire. [1933 c. 259 s. 2]

222.04 By-laws and regulations. Such corporation shall have the power to enact by-laws, not inconsistent with the laws of this state or of the United States, for the government of its affairs, and such by-laws may prescribe the conditions on which deposits shall be made, and the terms on which payments of such deposits shall be made to the depositors by such institution, and the depositors shall be bound by the regulations enacted in such by-laws, which regulations shall be printed and conspicuously posted in the office of such corporation, so as to be visible and accessible to all persons visiting the business office of the corporation.

222.05 Board of trustees or directors; quorum. The incorporators shall, at their first annual meeting, elect by ballot from their own number, a board of trustees or directors which shall consist of not less than nine, who shall be divided into three classes as follows: One-third shall be elected for one year, one-third for two years, and one-third for three years. After the election of the first board of trustees or directors, all subsequent trustees or directors shall be elected at the annual meeting for the full term of three years unless elected to fill a vacancy, when they shall be elected to serve the unexpired portion of the term they fill. Forty per centum of the incorporators shall constitute a quorum for the lawful transaction of business at any annual or special meeting of the incorporators.

222.06 Officers, how elected. The trustees or directors, within ten days after their election, shall elect from the members of their own board, a president, one or more vice presidents, a treasurer, a secretary and a finance or executive committee and may also elect one or more persons as assistant treasurers and assistant secretaries; provided that the same person may act as treasurer and secretary or as assistant treasurer and assistant secretary. The trustees may also appoint such other officers and employes as they shall deem necessary. All said officers shall hold their offices until others are elected and qualified to fill their places.

222.07 Qualifications. No more than one officer of any mutual savings bank shall at the same time be an officer of any bank or trust company; and no stockholder of a bank shall be treasurer of any mutual savings bank.

222.08 Savings bank officers bonded. (1) Every person appointed or elected to any position requiring the receipt, payment or custody of money or other personal property belonging to any mutual savings bank shall, within thirty days after such appointment or election, give an adequate fidelity bond executed by a surety company licensed to do business in Wisconsin, for the faithful performance of his duties, in a form prescribed by the banking commission, in such sums as the directors shall require and approve. In lieu of individual bonds, the commission may accept a schedule or blanket bond which covers all of the officers and employes of any bank handling its money or property. All fidelity bonds required by this section shall be filed with the banking commission within ten days after approval by the board of directors, as shall also the receipts for the annual premium on such bonds, after the first year, which shall be filed within ten days after the renewal date. A record of each bond executed and approved shall be entered in the minute book of the bank.

(2) Each mutual savings bank shall carry adequate insurance coverage against loss by robbery, burglary or holdup. [1937 c. 284 s. 3]

222.09 Compensation of officers. No incorporator, trustee, director, nor any other officer, except the treasurer, the assistant treasurer, and the members of the finance committee, shall receive any compensation for his services in the management of such bank, nor derive any emolument therefrom; provided, however, that the president may receive for his services a sum not exceeding five hundred dollars per annum, when the deposits shall exceed five hundred thousand dollars. When the deposits shall exceed one million dollars, the president, trustee, or incorporator elected or appointed an officer or employe of the bank who shall perform the duties required of his office or position, shall receive such compensation as the board of trustees may determine.

222.10 Director not to borrow fund. No trustee or director of such mutual savings bank shall be a borrower; or surety for a borrower, of any of its funds, nor receive any money or valuable thing for negotiating, procuring or recommending any loan from such mutual savings bank, nor for selling or aiding in the sale of any stocks, bonds or securities

to or by such savings bank, and any such officer who shall violate any provision of this section shall forfeit to the state one thousand dollars.

222.11 Not to issue circulating currency. Such mutual savings bank shall not make and issue any bill or promissory note to circulate as currency.

222.12 Limit of deposits. (1) The aggregate amount of deposits to the credit of any individual or any copartnership, corporation or society at any time, shall not exceed five thousand dollars. Additional accounts may, however, be maintained in the name of a parent as trustee for a dependent, or minor child, in the name of a child as trustee for a dependent parent, and in the name of any corporation as trustee for an employe under any system of pensioning, provided that any mutual savings bank with aggregate deposits exceeding one million dollars, may receive from any one individual or any copartnership, corporation or society, a deposit not exceeding one per cent of the total amount of deposits.

(2) Every mutual savings bank may further limit the aggregate amount which an individual or any copartnership, corporation or society may deposit, to such sum as it may deem expedient to receive and may in its discretion, refuse to receive a deposit or at any time return all or any part of any deposit.

(3) The sums deposited with any mutual savings bank, together with any dividends credited thereto, shall be repaid to the depositors thereof respectively, or to their legal representatives, after demand, in such manner and at such times, and under such regulations, as the board of trustees shall prescribe, subject to the provisions of this section. Such regulations shall be posted in a conspicuous place in the room where the business of such mutual savings bank shall be transacted, and shall be printed in the pass books or other evidences of deposit furnished by it, and shall be evidence between such mutual savings bank and the depositors holding the same, of the terms upon which the deposits therein acknowledged are made. The mutual savings bank may at any time by a resolution of its board of trustees require a notice of ninety days before repaying deposits, in which event no deposit shall be due or payable until ninety days after notice of intention to withdraw the same shall have been personally given by the depositor, and such deposits if not withdrawn within fifteen days after the expiration of the ninety days' notice, shall not then be due or payable under such notice or by reason thereof. Nothing herein contained, however, shall, before January 1, 1932, be construed as impairing contracts heretofore made between mutual savings banks and their depositors as to notice of withdrawal or as prohibiting any mutual savings bank from making payments of deposits before the expiration of said ninety days' notice. But no mutual savings bank shall hereafter agree with its depositors in advance to waive said ninety days' notice nor shall it in the case of deposits hereafter made require a longer notice than the ninety days aforesaid. If at any time, in the opinion of the banking commission, any mutual savings bank is solvent and doing business according to law, and that it is necessary in order to prevent a run on such bank, such mutual savings bank, with the written consent of said banking commission, may make any and all changes deemed necessary in regard to the time and the amount of such withdrawal for which notice may be given by the depositors for the withdrawal of their deposits, and also extend the time that notices shall be given by the depositors, for the withdrawal of their deposits, and also extend the time that notices shall be given by the depositors, for the withdrawal of any and all deposits. But a mutual savings bank may make contracts with the depositors to repay deposits of fixed sums made at regular intervals at a given time with all accumulations of dividends thereon, or to repay said deposits when together with dividends credited thereon they shall equal a specific sum and may issue as evidence of such contract a certificate setting forth the given sum to which such deposits shall accumulate or the given time during which the deposits and the dividends thereon shall be accumulated. Upon the maturity of such contract the bank may, at its option, pay the amount due from it pursuant to such contract, by check. Such contract shall not provide for any forfeiture of the sums deposited in the event of the discontinuance of the regular payments therein provided, but may require the depositor, in that event, to forfeit dividends credited or accrued prior to such discontinuance; provided that, notwithstanding the provisions herein, public deposits shall be subject to the provisions of chapter 34.

(4) Except as provided in subsections (3) and (5) of this section, a mutual savings bank shall not pay any dividend or deposit, or portion of a deposit, or any check drawn upon it by a depositor, unless the pass book of the depositor be produced, and the proper entry be made therein at the time of the payment.

(5) The board of trustees of any savings bank may by its by-laws provide for making payments in cases of loss of pass book, or other exceptional cases where the pass books cannot be produced without loss or serious inconvenience to depositors, the right to make such payments to cease when so directed by the banking commission, upon it being satisfied that such right is being improperly exercised by such mutual savings bank; but payments may be made upon the judgment or order of a court.

(6) If any person shall die leaving in a mutual savings bank an account on which the balance due him shall not exceed five hundred dollars, and no executor of his last will and testament or no administrator of his estate shall be appointed, the mutual savings bank may in its discretion pay the balance of his account to his widow (or if the decedent was a married woman, to her surviving husband) next of kin, funeral director or other creditor who may appear to be entitled thereto. As a condition of such payment the mutual savings bank may require proof by affidavit as to the parties in interest, the filing of proper waivers, the execution of a bond of indemnity, with sureties, by the person to whom the payment is to be made, and a proper receipt and acquittance for such payment. For any such payment made pursuant to this subdivision the mutual savings bank shall not be held liable to the decedent's executor or administrator thereafter appointed, unless the payment shall have been made within one year after the decedent's death and an action to recover the amount shall have been commenced within one year after the date of payment.

(7) When any deposit shall be made by or in the name of any minor, the same shall be held for the exclusive right and benefit of such minor, and free from the control or lien of all other persons, except creditors, and shall be paid, together with the dividends thereon, to the person in whose name the deposit shall have been made, and the receipt or acquittance of such minor shall be a valid and sufficient release and discharge to such savings bank for such deposit or any part thereof.

(8) When any deposit shall be made by any person in trust for another, and no other or further notice of the existence and terms of a legal and valid trust shall have been given in writing to such mutual savings bank, in the event of the death of the trustee, the deposit or any part thereof, together with the dividends thereon, may be paid to the person for whom the deposit was made.

(9) When a deposit shall be made by any person in the names of such depositor and another person and in form to be paid to either or the survivor of them, such deposit and any additions thereto made, either of such persons after the making thereof, shall become the property of such persons as joint tenants, and the same together with all dividends thereon shall be held for the exclusive use of such persons and may be paid to either during the lifetime of both or to the survivor after the death of one of them, and such payment and the receipt or acquittance of the one to whom such payment is made shall be a valid and sufficient release and discharge to such mutual savings bank for all payments made on account of such deposit prior to the receipt by such mutual savings bank of notice in writing not to pay such deposit in accordance with the terms thereof. The making of the deposit in such form shall, in the absence of fraud or undue influence, be conclusive evidence, in any action or proceeding to which either such mutual savings bank or the surviving depositor is a party, of the intention of both depositors to vest title to such deposit and the additions thereto in such survivor. [1933 c. 259 s. 4; 1933 c. 435 s. 2; 1933 c. 491 s. 7; 1937 c. 284 s. 3]

222.13 Investment of deposits. Any mutual savings bank organized hereunder may invest in obligations of the United States and obligations guaranteed by the United States and may further employ not exceeding one-half of its deposits in the purchase of the bonds of the states of the United States or of the authorized bonds of any incorporated city, village, town, county, school district or of the direct obligation bonds of other municipalities in the aforesaid states of the United States or of first mortgage bond of any railroad company, which has paid annual dividends of not less than 4 per cent regularly on its entire capital stock for a period of at least 5 years next preceding the investment, and in the consolidated mortgage bonds of any such company issued to retire the entire bonded debt of such company, or in farm loan bonds issued by the federal land bank in the federal land bank district of which the state of Wisconsin is a part in accordance with the provisions of an act of congress approved July 17, 1916, or in interest-bearing notes of any building and loan association organized under the laws of this state and insured by the federal savings and loan insurance corporation, or in bonds of the home owner loan corporation or in bonds of the federal farm mortgage corporation. All other loans, except as provided in section 222.14, shall be secured by mortgage on unincumbered real estate lying and being in the state of Wisconsin and states immediately adjoining the state of Wisconsin, to wit: Michigan, Illinois, Iowa and Minnesota. No mutual savings bank shall invest any part of its deposits in the stock of any corporation nor loan on, nor invest in any mortgage on real estate, except such real estate as lies in the state of Wisconsin, and states immediately adjoining, to wit: Michigan, Illinois, Iowa and Minnesota. No loan shall be made upon real estate to any amount exceeding 60 per cent of the value thereof as determined upon by not less than a majority of the members of the finance committee who shall duly certify to the value of the premises to be mortgaged, according to the best of their judgment, and such report shall be filed and preserved with the records

of the corporation, except that the amount shall not exceed 70 per cent when the loan is to be completely amortized within 15 years by monthly payments. [1931 c. 27; 1935 c. 245; 1943 c. 28]

222.14 Single personal obligation must be supported by collateral. No such mutual savings bank shall loan any money upon any obligation unless the same be secured by collateral in which the bank might invest its funds or on which it might loan its money to the extent authorized by section 222.13.

222.15 Applications for loans, how made. All applications for loans shall be made in writing, through the treasurer of the corporation, who shall keep a record thereof, showing the date, name of applicants, amount asked for, and security offered, and he shall cause the same to be presented to the finance committee.

222.16 Income, how divided; guaranty fund. The income or profits of every mutual savings bank after deduction of all reasonable expenses incurred in the management thereof, and the amounts reserved for a guaranty fund, shall be divided among the depositors or their legal representatives semiannually at the times fixed by its by-laws. Every such mutual savings bank shall, before making any semiannual dividend, reserve as a guaranty fund from the net profits which have accumulated during the six months then next preceding, a sum equal to not less than one-fourth of one per cent nor more than one per cent of the whole amount of deposits, until such fund amounts to ten per cent of the whole amount of deposits, which fund shall be thereafter maintained and held in that ratio to meet losses in its business from depreciation of the securities or otherwise.

222.17 Ordinary dividends. Ordinary dividends shall be made every six months if the profits are sufficient to warrant it. On all sums which have been on deposit for less than six months immediately preceding the date of dividend, dividends shall be paid pro rata at the same rate as for the semiannual period, except that no dividend shall be paid for the fractional part of a month or of a dollar.

222.18 Extra dividends, when divided. Once in every term of three years if the net profits accumulated over and above said guaranty fund and ordinary dividends amount to one per cent of the deposits which have remained in such mutual savings bank for one year next preceding, such net profits may be divided among the depositors whose deposits remain therein for one year at least then next preceding, as an extra dividend.

222.19 Real estate held for what purposes. It shall be lawful for such mutual savings bank to purchase, hold and convey such real estate as banks are authorized by the law of this state to purchase, hold and convey, except that such mutual savings bank may purchase or build a building in which to carry on its own business, but shall not invest in the land and building a sum exceeding ten thousand dollars, except upon the consent and approval of the banking commission. [1937 c. 284 s. 3]

222.20 Deposit to be kept on hand. Every such mutual savings bank shall keep on hand or on deposit in banks approved by the banking commission as reserve banks, at least five per cent of its total deposit. [1937 c. 284 s. 3]

222.21 General powers and liabilities. (1) (a) Every mutual savings bank formed hereunder shall possess the powers and be subject to the provisions of the general laws relating to corporations, so far as the same may be applicable, and shall be subject to all of the provisions of sections 220.04, 220.05, 220.07, 220.08, 220.081, 220.082, 220.085, 220.086, 220.10, 221.045 and 221.046, and subsection (3) of section 221.04 relating to fees, reports, examinations, liquidations, powers, liabilities and forfeitures, so far as the same may be applicable, except as herein provided. Any corporation now organized and doing business as a mutual savings bank shall continue business under this chapter and shall be subject to all of its provisions.

(b) In addition to the foregoing general powers, such savings bank may borrow money in an emergency upon such terms and for such periods as the board of trustees or directors shall determine, for the purpose of repaying depositors and to pledge or hypothecate securities as collateral for loans so obtained.

(c) Any mutual savings bank may subscribe for stock in the federal home loan bank and become a member thereof and participate in the benefits provided for members under the acts of congress establishing the federal home loan bank system.

(2) When authorized by the banking commission, any mutual savings bank may accept and execute the offices of executor of any will, administrator or trustee of the estate of any deceased person, guardian of the estate of any minor, insane or incompetent person, lunatic or any other person subject to guardianship, and is permitted to act in all cases in which application shall be made to any court for the appointment of any person in such capacities. When so appointed such mutual savings bank is authorized and shall be required to execute a surety bond in such amount and in other respects as shall be directed or approved by the court exercising jurisdiction of the trust. In passing upon

applications for permission to exercise such fiduciary powers, the banking commission may take into consideration the amount of the aggregate deposits and the total amount of the guaranty fund of the applying bank, whether such total deposits and guaranty fund are sufficient under the circumstances, the needs of the community to be served, and any other facts and circumstances that seem to him material, and may grant or refuse the application accordingly. No such authorization shall be issued to any mutual savings bank having aggregate deposits of less than five hundred thousand dollars or having less than the guaranty fund required by law. [1933 c. 259 s. 2, 3, 4; 1933 c. 484 s. 2; 1935 c. 245; 43.08 (2); 1937 c. 284 s. 3]

Note: 222.21 (2) supersedes 223.10 to extent that two are in conflict; mutual savings banks may, when authorized by commis- sioner of banking, exercise fiduciary powers enumerated in 222.21 (2). 30 Atty. Gen. 81.

222.22 Examining auditors. The incorporators shall annually elect not less than two auditors, who shall not be directors, managers or trustees of the corporation, who shall examine the books, accounts and securities belonging to such bank, and make a sworn statement showing the true condition thereof, the total amount of deposits, the whole number of depositors, the largest amount due to any one depositor, the amount invested in loans on real estate securities, the amount invested in stocks and bonds, the amount of funds on hand, the names of the incorporators, trustees, and of the other officers of such institution, on the first day of January of each year, which statement shall be kept on file in the office of such mutual savings bank, and an attested copy of the same shall be forwarded to the banking commission on or before the first day of February of each year. [1937 c. 284 s. 3]