CHAPTER 224

MISCELLANEOUS BANKING PROVISIONS

224.01 Definitions. As used in chs. 220 to 224:

(1) Unless the context requires otherwise, the term "bank" means any banking institution incorporated under the laws of this state.

(2) The term "lawful money" means all forms of money issued by or under the authority of the United States as a circulating medium, and includes any form of certificate declared to be lawful money by any law of the United States.

History: 1983 a. 189; 1991 a. 221.

224.02 Banking, defined. The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business by any person, copartnership, association, or corporation, shall be deemed to be doing a banking business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass book, a note, a receipt, or other writing, provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of the agent's principal. Provided, however, that if money so left with an agent for investment shall not be kept in a separate trust fund or if the agent receiving such money shall mingle same with the agent's own property, whether with or without the consent of the principal, or shall make an agreement to pay any certain rate of interest thereon or any agreement to pay interest thereon other than an agreement to account for the actual income which may be derived from such money while held pending investment, the person receiving such money shall be deemed to be in the banking business.

History: 1991 a. 316.

Junior achievement bank would be a banking business and violates 224.03. 62 Atty. Gen. 254.

224.03 Banking, unlawful, without charter; penalty. It shall be unlawful for any person, copartnership, association, or corporation to do a banking business without having been regularly organized and chartered as a national bank, a state bank or a trust company bank. Any person or persons violating any of the provisions of this section, either individually or as an interested party in any copartnership, association, or corporation shall be guilty of a misdemeanor and on conviction thereof shall be fined in a sum not less than $300 nor more than $1,000, or by imprisonment in the county jail not less than 60 days nor more than one year, or both.

History: 1991 a. 221.

224.04 Control of limited service banking institutions. (1) DEFINITIONS. In this section:

(a) "Bank" means any company that accepts deposits in this state that are insured under the provisions of the federal deposit insurance act, 12 USC 1811 to 1832.

(b) "Bank holding company" has the meaning given under 12 USC 1841 (a).

(c) "Company" has the meaning given under 12 USC 1841 (b).

(d) "Control" has the meaning given under 12 USC 1841 (a) (2) and (3).

(2) PROHIBITED ACTS. (a) A bank holding company may not control a bank unless the bank both accepts deposits that the depositor has a legal right to withdraw on demand and engages in the business of making commercial loans.

(b) A company that is not a bank holding company may not control a bank.

History: 1985 a. 325.

224.05 Municipality not preferred creditor. If any bank, banking institution or trust company, being indebted to the state of Wisconsin, or indebted to any county, city, town or other municipality therein, for deposits made or indebtedness incurred after April 23, 1899, becomes insolvent or bankrupt, except as provided in s. 34.07, the state, county, city, town or other municipality shall not be a preferred creditor and shall have no preference or priority of claim whatever over any other creditor or creditors thereof; but a just and fair distribution of the property of such bank, banking institution or trust company, and of the proceeds thereof, shall be made among the creditors thereof proportionally, according to the amount of their respective claims. Nothing herein contained shall in any manner affect the provisions of law as they existed on said date providing for the payment of unpaid taxes and assessments, laborer's claims, expenses of assignment and execution of the trust.

History: 1979 c. 110 s. 60 (12); 1985 a. 257.

224.06 Fidelity bonds for bank officers and employes. (1) As a condition precedent to qualification or entry upon the discharge of his or her duties, every person appointed or elected to any position requiring the receipt, payment or custody of money or other personal property owned by a bank or in its custody or control as collateral or otherwise, shall give a bond from an insurer qualified under s. 610.11 to do business in this state, in such adequate sum as the directors shall require and approve. In lieu of individual bonds the commissioner may accept a schedule or blanket bond which covers all of the officers and employes of any bank whose duties include the receipt, payment or custody of money or other personal property for or on behalf of the bank. All such bonds shall be in the form prescribed by the commissioner of banking.

(2) No officer or employe who is required to give bond shall be deemed qualified nor shall be permitted to enter upon the discharge of duties until the bond is approved by a majority of the board of directors. The minute books of each bank shall contain a record of each bond executed and approved.

(3) Such bond shall be sufficient in amount to protect the bank from loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction or misapplication on the part of the person, directly or

through connivance with others. At any time the commissioner may require additional bond or security, when in the commissioner's opinion, the bonds then executed and approved are insufficient.

(4) Every such bond shall provide that no cancellation or other termination of the bond shall be effective unless the surety gives in advance at least 10 days' written notice by registered mail to the commissioner. If the bond is canceled or terminated at the request of the insured (employer), the surety shall give the written notice to the commissioner within 10 days after the receipt of such request.

(5) For reasons which the commissioner deems valid and sufficient the commissioner may waive as to the cancellation or termination of any such bond the 10-day written notice in advance required by sub. (4) and may give written consent to the termination or cancellation being made effective as of a date agreed upon and requested by the surety and the bank.

(6) The provisions required by sub. (4) to be in every such bond shall not in any way modify, impair or otherwise affect or render invalid a provision therein to the effect that the bond shall terminate as to any person covered thereby upon the discovery by the bank of any dishonest act on the part of such person.

(7) Any violation of the provisions contained in subs. (1) and (2) shall subject the bank to a fine of $100 per day for each consecutive day of such violation and it shall be the duty of the attorney general to recover any such penalties by action for and in behalf of the state.

History: 1983 a. 119, 538; 1987 a. 252; 1989 a. 359; 1991 a. 316.

224.07 Checks to clear at par. Checks drawn on any bank or trust company, organized under the laws of this state, shall be cleared at par by the bank or trust company on which they are drawn. Any bank or trust company, or officer or employe thereof, who violates the provisions of this section shall be guilty of a misdemeanor and punished as provided in s. 939.61.

224.075 Financially related services tie-ins. In any transaction conducted by a bank, bank holding company or a subsidiary of either with a customer who is also a customer of any other subsidiary of any of them, the customer shall be given a notice in 12-point boldface type in substantially the following form:

NOTICE OF RELATIONSHIP

This company, ... (insert name and address of bank, bank holding company or subsidiary), is related to ..... (insert name and address of bank, bank holding company or subsidiary) of which you are also a customer. You may not be compelled to buy any product or service from either of the above companies or any other related company in order to participate in this transaction.

If you feel that you have been compelled to buy any product or service from either of the above companies or any other related company in order to participate in this transaction, you should contact the management of either of the above companies at either of the above addresses or the office of the commissioner of banking at ..... (insert address).

History: 1985 a. 325.

224.08 Account disclosures. (1) Every bank shall provide a disclosure statement, which may include a separate interest rate table or fee schedule or both, for each account offered by the bank, setting forth all of the following information:

(a) A description of the account.

(b) The conditions, if any, on which the account is offered.

(c) The terms of interest offered for the account.

(d) All fees charged for the account.

(2) Every bank shall provide the appropriate disclosure statement under sub. (1) to each depositor upon all of the following occasions:

(a) At the time of the depositor's initial deposit into the account.

(b) Upon any change in any of the information under sub. (1) (a) to (d) applicable to a depositor's account, other than a change in the interest rate of a variable interest rate account if the variability of the interest rate was disclosed at the time of initial deposit.

(3) Every bank shall provide the appropriate disclosure statement under sub. (1) to any person requesting the disclosure statement for an account.

(4) Disclosure statements provided under subs. (2) and (3) shall be accompanied by a brief description of all other accounts offered by the bank and a statement that more detailed information is available on request.

History: 1985 a. 325.

224.092 Customer access to appraisals. If requested by an individual who is a customer, loan applicant or credit applicant, a financial institution, as defined in s. 705.01 (3), shall provide that individual 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.

History: 1991 a. 78.

224.10 Indian loan funds. (1) ADMINISTRATION IN TRUST AS A LOAN FUND. The loan funds of any Indian tribe which are transferred to the custody of such tribe by the United States, including any outstanding loan accounts, shall be administered as follows:

(a) The funds shall be held in trust by the tribe or a legal entity thereof as an Indian loan fund, for the purpose of making loans to members of the tribe.

(b) Management of an Indian loan fund shall be vested in a board of trustees, which may hire necessary personnel to administer the loan fund. The board of trustees shall consist of 5 members of the tribe and shall be appointed annually by the governing body of the tribe.

(c) The Indian loan fund in custody of the Menominee Indian Tribe and administered by a board of trustees appointed by that tribe shall, at the termination of federal control, be administered, subject to this section, by a board of 5 trustees appointed annually by the stockholders of the corporation described in s. 710.05, 1973 stats., and shall be used for making loans to those who were enrolled tribal members as proclaimed by the secretary of the interior as of June 17, 1954, and their spouses and descendants and to any additional classes recommended by the trustees.

(3) RULES OF BOARD OF TRUSTEES. The board of trustees of an Indian loan fund may establish rules for the administration of the fund.

History: 1975 c. 422 s. 163; 1987 a. 252.