

CHAPTER 224

MISCELLANEOUS BANKING PROVISIONS

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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 "mutual savings bank" means any corporation organized pursuant to the laws of this state for the organization of savings banks and savings societies.

(3) 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.

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 his 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 his 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.

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, a mutual savings 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 by both such fine and imprisonment.

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, 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 pro rata, 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.

224.06 Fidelity bonds for bank officers and employes. (1) As a condition precedent to qualification or entry upon the discharge of his 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 in some responsible corporate surety company, licensed 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 his duties until his bond shall have been approved by a majority of the board of directors. Such bond shall be filed with the commissioner within 10 days next after approval thereof by 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 his opinion, the bonds then executed and approved are insufficient.

(4) Every such bond shall also include the following provisions:

(a) No cancellation or other termination of this bond shall be effective unless the surety gives in advance at least 10 days' written notice by registered mail to the commissioner. If this bond is canceled or terminated at the request of the insured (employer) this provision nevertheless shall apply, it being the duty of the surety to give the required written notice to the commissioner, such notice to be given promptly and in any event within 10 days after the receipt of such request.

(b) The surety agrees to furnish the commissioner of banking at Madison, Wisconsin, a copy of all riders and indorsements executed subsequently to the effective date of this bond.

(5) For reasons which he 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 subsection (4) (a) and may give his 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 subsection (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 subsections (1) and (2) shall subject the bank to a fine of \$10 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.

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.

224.10 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 said trustees and approved by the commissioner of banking.

(2) EXAMINATION BY THE OFFICE OF THE COMMISSIONER OF BANKING. (a) Indian loan funds under this section shall be examined by the office of the commissioner of banking under s. 220.04, and shall be subject to said section in the same manner as the institutions designated therein, and shall pay the cost of such examination and assessments as provided in s. 220.05.

(b) The commissioner of banking, with the approval of the banking review board, shall

establish rules governing the management and operation of Indian loan funds. Such rules shall establish the purposes for which loans may be made; permissible interest rates and fees; security requirements; time and manner of repayment; general procedures to be followed in making loans; action which shall be taken in the event borrowers default on loans; maximum amount which may be loaned to any one borrower; the manner in which the moneys in said fund shall be deposited and invested; the manner in which the records of the fund will be kept; and the bond requirements of any member or employee of the board of trustees authorized to

receipt for or disburse Indian loan funds; but the board of trustees shall have the sole authority to approve or disapprove loans in accordance with such rules.

(c) Indian loan funds shall also be subject to other applicable rules of the office of the commissioner of banking.

(3) RULES OF BOARD OF TRUSTEES. The board of trustees of an Indian loan fund may establish rules for the administration of the fund which are not in conflict with the rules of the office of the commissioner of banking.

History: 1975 c. 422 s. 163.