

CHAPTER 222

MUTUAL SAVINGS BANKS

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222.01 Mutual savings banks. Any number of persons, not less than 9 nor more than 50, may associate for the purpose of organizing a corporation to be known as a mutual 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 mutual 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 mutual 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 ss. 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 mutual savings bank, and is free from the disqualification specified in s. 222.07.

222.02 Corporate existence; conditions for commencing business. Upon the filing of such articles of agreement with the commissioner of banking, the corporate existence of the mutual savings bank shall begin, and it may exercise all the powers necessary to the completion of its organization. But the mutual 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 s. 222.021, and, if the commissioner shall so require, shall have entered into the agreement or undertaking with the commissioner 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 s. 222.022, and, if the commissioner shall so require, shall have entered into an agreement or undertaking with the commissioner and shall have filed the surety bond securing the same, as prescribed in said section.

(3) It shall have transmitted to the commissioner the name, residence and post-office address of each officer of the corporation.

(4) The commissioner shall have duly issued to it a certificate of authority under his hand and official seal that such bank is authorized to commence business.

222.021 Initial guaranty fund; agreement of incorporators to contribute; bond. Before any mutual savings bank orga-

nized after June 17, 1933 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 mutual savings bank as hereinafter required.

(2) The incorporators shall deposit to the credit of the mutual savings bank in cash as an initial guaranty fund at least \$5,000. They shall also enter into such agreement or undertaking with the commissioner of banking as trustee for the depositors with the mutual savings bank as he requires, to make such further contributions in cash to the guaranty fund of such mutual savings bank as may be necessary to maintain the solvency of the mutual savings bank and to render it safe for it to continue business. Such agreement or undertaking to an amount approved by the commissioner 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 commissioner of banking. Such agreement or undertaking and such surety bond need not be made or furnished unless the commissioner requires the same.

(3) Prior to the liquidation of any mutual 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 10 per cent 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 mutual savings bank, except as hereinafter provided, and any losses sustained by the mutual savings bank in excess of that portion of the guaranty fund created from earnings may be charged against such contributions proportionally.

History: 1979 c. 110 s. 60 (12)

222.022 Expense fund; agreement of incorporators to contribute; bond. (1) Before any mutual savings bank organized after June 17, 1933 shall be authorized to do business in this state, its incorporators shall create an expense fund from which the expense of organizing such mutual 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 the mutual savings bank in cash as an expense fund the sum of \$5,000. They shall also enter into such an agreement or undertaking with the commissioner of banking as trustee for the depositors with the mutual savings bank as he requires, to make such further contributions in cash to the expense fund of such mutual 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 commissioner, 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 commissioner of banking. Such agreement or undertaking and such surety bond need not be made or furnished unless the commissioner requires it.

(3) The amounts contributed to the expense fund of such mutual savings bank by the incorporators or trustees shall not constitute a liability of such mutual savings bank, except as hereinafter provided.

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 6 per cent per year not compounded, may be repaid proportionally to the contributors from that portion of the guaranty fund created from earnings, whenever such payments will not reduce the guaranty fund below 5 per cent of the total amount due depositors. In case of the liquidation of the mutual 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 proportionally.

(2) Whenever the contributions of the incorporators or trustees to the expense fund of such mutual savings bank have been returned to them, the contributions made to the guaranty fund, plus interest thereon from the date of contribution thereof at 6 per cent per year not compounded, by incorporators or trustees may be returned to them proportionally, from that portion of the guaranty fund created from the earnings of the mutual savings bank, provided that such repayments will not reduce the earned portion of the guaranty fund of such mutual savings bank below 5 per cent of the amount due depositors. In case of the liquidation of the mutual 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 proportionally.

History: 1979 c. 110 s. 60 (12), (13).

222.024 Certificate. When the incorporators have fully complied with ss. 222.01, 222.021 and 222.022 the commissioner of banking shall forthwith give to such savings bank a certificate of authority under his hand and official seal that such bank is authorized to commence business.

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 2 successive years, such nonattendance may be deemed equivalent to a resignation and his place may be filled

in the usual manner. The corporators may fill vacancies and add to their number from time to time as they may desire.

222.04 Bylaws and regulations. Such corporation shall have the power to enact bylaws, not inconsistent with the laws of this state or of the United States, for the government of its affairs, and such bylaws 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 bylaws, 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 corporators 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 9, who shall be divided into 3 classes as follows: One-third shall be elected for one year, one-third for 2 years, and one-third for 3 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 3 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 corporators shall constitute a quorum for the lawful transaction of business at any annual or special meeting of the corporators.

222.06 Officers, how elected. The trustees or directors, within 10 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 who need not be trustees or directors; 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 30 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 commissioner of banking, in such sums 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 handling its money or property. All fidelity bonds required by this section shall be filed with the commissioner within 10 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 10 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.

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89-90 Wis. Stats. 3244

222.09 Compensation of officers. No corporator, trustee, director or 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, but when the deposits exceed \$1,000,000, the president, trustee, or any other officer of the bank who performs the duties required of his office or position, shall receive such compensation as the board of trustees determines.

222.10 Director not to borrow fund; exception. (1) 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 violates this section shall forfeit to the state \$1,000.

(2) Notwithstanding sub. (1), a trustee or director may be a borrower as provided for loans to state bank officers under s. 221.31.

History: 1973 c. 95.

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. (2) Every mutual savings bank may 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 90 days before repaying deposits, in which event no deposit shall be due or payable until 90 days after notice of intention to withdraw the same shall have been personally given by the depositor, and such deposits if not withdrawn within 15 days after the expiration of the 90 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 90 days' notice. But no mutual savings bank shall hereafter agree with its depositors in advance to waive said 90 days' notice nor shall it in the case of deposits hereafter made require a longer notice than the 90 days aforesaid. If at any time, in the opinion of the commissioner of banking, 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 commissioner, 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 ch. 34.

History: 1973 c. 12, 95, 291; 1979 c. 211; 1987 a. 189.

222.13 Investment of deposits. (1) Any mutual savings bank organized hereunder may invest:

(a) 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, vocational, technical and adult education district or of the direct obligation bonds of other municipalities in the aforesaid states of the United States. The investment in obligations of any single state, city, village, town, county, school district, vocational, technical and adult education district or other municipality of the same class and issue shall not exceed 50% of the guaranty fund and undivided profits.

(b) In notes, securities and bonds of one or more federal home loan banks, securities of the banks for cooperatives, securities of one or more federal land banks, notes and securities of the federal national mortgage association, securities of the federal intermediate credit banks, but investment in any one of the aforesaid of the same class and issue shall not exceed 50% of the guaranty fund and undivided profits. Investment in bonds of the international bank for reconstruction and development, bonds of the inter-American development bank, bonds of the African development bank and bonds of the Asian development bank shall be limited to 10% of the guaranty fund and undivided profits; in bankers' acceptances eligible for purchase by federal reserve banks, investment shall not exceed 50% of the guaranty fund and undivided profits; and in stock in a federal home loan bank or stock in a federal reserve bank, investment shall not exceed an amount that will qualify such mutual savings bank for membership in the federal home loan bank or federal reserve bank.

(c) In general obligations of or obligations fully guaranteed as to both principal and interest by Canada or any province of Canada. Any investment by a mutual savings bank in a Canadian obligation shall be subject to the limitations and conditions that such obligation is payable in United States funds, and that immediately upon the making of such investment, not more than 10% of the bank's deposits will be invested in Canadian obligations and if the investment is in an obligation of a province of Canada, that not more than 5% of the bank's deposits will be invested in the obligations of such

province. Investment in said Canadian obligations and obligations of a province of Canada of the same class and issue shall not exceed 25% of the guaranty fund and undivided profits.

(d) In bonds, debentures and commercial paper of recognized bank investment quality issued by any corporation organized under the laws of the United States or any state, in banker's acceptances and in certificates of deposit in depositories approved by the commissioner of banking, subject to the further limitations and conditions that at the time of investment the aggregate of the reserves and undivided profits of the bank is at least equal to 5% of the deposits of the bank and that immediately upon the making of any investment under this paragraph, the aggregate amount of all investments under this paragraph does not exceed 50% of its deposits, and the quantity of the investments of the same class and issue then held by the bank does not exceed 25% of the bank's guaranty fund and undivided profits.

(e) In unsecured federal funds, subject to the same rules as the commissioner of banking prescribes for investment in unsecured federal funds by state banks.

(2) All other loans, except as provided in s. 222.14, shall be secured by mortgage on real estate. No loan shall be made upon real estate to any amount exceeding 80% of the value thereof as determined 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 their best judgment, and such report shall be filed and preserved with the records of the corporation. All loans shall be completely amortized within 30 years. The total amount of any first real estate loan or mortgage loan secondary to federal housing administration loans may exceed the limit stated in this subsection when the excess is guaranteed under the servicemen's readjustment act of 1944, P.L. 78-346, and acts amendatory thereto and supplemental thereto.

History: 1971 c. 154; 1973 c. 95, 114; 1977 c. 244; 1987 a. 252

222.14 Loans. (1) No mutual savings bank may loan any money upon any obligation unless the loan is secured by collateral in which the bank might invest its funds or on which it might loan its money to the extent authorized by s. 222.13, but personal obligation loans may be made not supported by such collateral to an extent of 15% of the assets of the bank. No such loan may exceed 5% of the mutual savings bank's guaranty fund created under s. 222.021. Such loans shall be payable in not to exceed 10 years at the maximum interest allowed by the law under ch. 138 or 422 as applicable, except any loan in excess of \$1,000 shall be fully secured or supported by a current signed financial statement.

(2) Any mutual savings bank organized hereunder may make any loans secured by a life insurance policy, not exceeding the cash surrender value of such policy.

(3) Any mutual savings bank organized hereunder may make loans on the security of its savings accounts or time deposits, whether or not the borrower is the owner of such account, if the bank obtains a pledge of such deposit as security therefor. No such loan, together with accrued interest, may exceed the withdrawable amount of the pledged savings account or time deposit.

(4) Any mutual savings bank organized hereunder may make loans secured by chattel on a mobile home to be maintained as a residence of the borrower or a relative of the borrower if that loan will not exceed 80% of the purchase price or appraised market value of the mobile home including fixtures, furniture and appliances. The loan shall be fully amortized in substantially equal monthly instalments, up to 12 years in the case of a new mobile home or up to 8 years in

the case of a used mobile home. The aggregate amount of mobile home loans made by any mutual savings bank may not at any time exceed 5% of the assets of the bank.

History: 1971 c. 239; 1973 c. 95; 1977 c. 244; 1981 c. 194; 1983 a. 440; 1987 a. 252.

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 earnings of every mutual savings bank after deduction of all reasonable expenses and reserves incurred in the management thereof, and the amounts reserved for a guaranty fund, shall be divided among the depositors or their legal representatives not less than quarterly at the times approved by its trustees. Every mutual savings bank shall, before making any disbursement of earnings, reserve as a guaranty fund from the net earnings which have accumulated during the period then next preceding, a sum equal to not less than 6% of the net earnings for the preceding period, until the sum total of the guaranty fund and undivided profits is equal to 8% of the year end deposits of the bank as provided in s. 220.075 (2) (b) and so that the guaranty fund is not less than 6% of year end deposits.

History: 1973 c. 95; 1977 c. 244; 1987 a. 252.

222.17 Ordinary dividends. (1) Ordinary dividends shall be paid for the period immediately preceding the date of dividend, only from net earnings and undivided profits.

(2) A mutual savings bank may classify its depositors on such bases as the commissioner of banking finds equitable, may agree with its depositors in advance to pay an additional dividend on deposits based on such classification, and may regulate such dividend in such manner that each depositor receives the same ratable portion of dividends as all others of his class.

222.18 Extra dividends, when divided. Once in every term of 3 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 and personalty; limitations. It is lawful for mutual savings banks to purchase, lease, hold and convey the real estate that banks are authorized to purchase, lease, hold and convey under s. 221.14. No mutual savings bank may invest in furniture, equipment, fixtures, land and buildings which include quarters for the transaction of its business an amount in excess of 50% of its guaranty fund, unless the investment is approved by the commissioner.

History: 1987 a. 252.

222.20 Reserves. (1) In this section:

(a) "Municipal obligation" has the meaning given under s. 67.01 (6).

(b) "Short-term" means maturing within 18 months or less.

(2) Every mutual savings bank shall maintain sufficient reserves to meet anticipated withdrawals, commitments and loan demand. Every mutual savings bank shall maintain at least the level of reserves required for it by the federal reserve system. The commissioner of banking may prescribe addi-

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tional reserve requirements for an individual mutual savings bank based on examination findings or other reports available to the commissioner.

(3) Reserves of a mutual savings bank shall consist of any of the following:

- (a) Cash.
- (b) Cash items in the process of collection.
- (c) Short-term obligations of or demand balances with other insured financial institutions in the United States.
- (d) Short-term obligations of or guaranteed by the federal government.
- (e) Short-term obligations of this state.
- (f) Short-term municipal obligations.
- (g) Short-term obligations approved by rule of the commissioner of banking.
- (h) Balances with federal reserve banks.

History: 1983 a. 440; 1985 a. 332 s. 253.

222.21 General powers and liabilities. (1) (a) Every mutual savings bank formed under this chapter shall possess the powers and be subject to the general laws relating to corporations, so far as applicable, and shall be subject to all of the provisions of ss. 220.04, 220.05, 220.07, 220.08 to 220.086, 220.10, 221.04 (1) (jm) and (k) and (3), 221.045, 221.046, 221.08 (9m) and 221.31.

(b) In addition to the foregoing general powers, a mutual savings bank may borrow money under par. (c), or if par. (c) is not applicable 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.

(d) A mutual savings bank in existence on May 8, 1980 may establish and service checking accounts and may exercise the powers incidental to that service.

(2) When authorized by the commissioner of banking, 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 commissioner of banking 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 \$500,000 or having less than the guaranty fund required by law.

(3) When authorized by the commissioner of banking, any mutual savings bank having aggregate deposits in excess of \$2,000,000 may exercise trust powers according to the provisions of ch. 223 upon making a deposit with the state treasurer in the sum of \$100,000 in cash or securities eligible for trust investments under ch. 881 and approved by the commissioner. Before authorization, the commissioner shall take into consideration the total amount of the guaranty fund, the amount of aggregate deposits, the needs of the community to be served and any other facts or circumstances including public convenience and welfare.

History: 1971 c. 41 s. 12; 1973 c. 95; 1975 c. 389 s. 3; 1977 c. 244; 1979 c. 211; 1989 a. 29, 180, 308, 359.

222.22 Examining auditors. The incorporators shall annually elect not less than 2 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 commissioner of banking on or before the first day of February of each year.