

between counties and local taxing districts subsequent to the effective date of this act.

Approved April 21, 1945.

No. 44, S.]

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CHAPTER 65.

AN ACT to repeal 220.08 (3m), 221.03 (7) (c), 221.29 (4) and 221.42; to renumber 224.06 (5) to be 224.06 (7); to amend 116.13 (3), 220.075 (1) and (2), 220.08 (3), and (7), 221.02, 221.03 (7) (d), 221.08 (7), and (9), 221.09 and 221.15 (1); to repeal and recreate 221.29 (2) and (5), 221.37, 221.38 and 224.06 (4), and to create 220.08 (2a), (9a), (19) (e) and (20a), 220.192, 220.194, 220.196, 221.01 (12m), 221.29 (1) (e), 221.29 (6) and (7), 224.06 (5) and (6) and 267.025 of the statutes, relating to the banking commission, banks and banking, liquidation of banks, garnishment in certain cases, negotiable instruments and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 116.13 (3) of the statutes is amended to read:

116.13 (3) When it is payable to the order of a fictitious or nonexisting or living person not intended to have any interest in it, and such fact was known to the person making it so payable, or known to his employe or other agent who supplies the name of such payee; or

SECTION 2. 220.075 (1) and (2) of the statutes are amended to read:

220.075 (1) Whenever the daily average of the aggregate deposits for a period of one year in any bank shall be in excess of an amount equal to 15 times the capital lawfully paid in and unimpaired plus * * * 15 times the undistributed surplus, such surplus to be computed after eliminating all items classified by the banking commission as doubtful or loss, such bank shall within one year, after notice to this effect from the banking commission, increase its capital or surplus so that such daily average of its aggregate deposits will no longer exceed such amount; provided that no stock dividend shall be declared out

of surplus that will reduce the surplus to less than 10 per cent of the capital as increased.

(2) * * * For the purpose of computing such daily average of aggregate deposits for any such period under this section there shall be deducted from the actual average of deposits an amount equal to the excess of the daily average for the same period of the combined total of cash on hand (including clearings), cash on deposit in approved reserve banks and the par value of direct obligations of the United States and obligations guaranteed as to principal and interest by the United States owned by said bank over 20 per cent of such daily average of aggregate deposits for such yearly period.

SECTION 3. 220.08 (2a) of the statutes is created to read:

220.08 (2a) The banking commission on taking possession of a bank for liquidation shall, with the approval of the circuit court, withdraw from the general fund of such bank an amount of money deemed adequate by the commission and the circuit court for the payment of current monthly expenses and set up a working fund. Such working fund shall be deposited by the banking commission in one or more state banks in an account known as "bank liquidation account" together with like funds from other banks in liquidation. Once each month the expenses so paid from the working fund shall be approved by the circuit court. Upon such approval, the working fund of each liquidating bank shall be reimbursed from the general fund of said liquidating bank so that the balance of each working account, in said bank liquidation account shall always be the amount approved by the circuit court. When a liquidating bank is ready to pay the final dividend and final expenses, the working fund assigned to the bank liquidation account shall be reassigned back to the general account of such bank.

SECTION 4. 220.08 (3) of the statutes is amended to read:

220.08 (3) Upon taking possession of the property and business of such bank or banking corporation, the commission is authorized to collect moneys due to such bank or banking corporation, and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof, as hereinafter provided. The commission shall collect all debts due and claims belonging to it, and, upon the order of the circuit court, may sell or compound all bad or doubtful debts, and on like order may sell all the real and personal

property of such bank or banking corporation on such terms as the court shall direct * * *

SECTION 5. 220.08 (3m) of the statutes is repealed.

SECTION 6. 220.08 (7) of the statutes is amended to read:

220.08 (7) The compensation of the special deputy commissioners, counsel, and other employes and assistants, and all expenses of supervision and liquidation, shall be fixed by the commission subject to the approval of the circuit court for the county in which such bank or banking corporation is located, on notice of such bank or banking corporation, and shall upon the certificate of the commission be paid out of the funds of such bank or banking corporation in the hands of the commission. Expenses of supervision and liquidation shall include the cost of * * * services rendered by the * * * banking department to the bank or banking corporation being liquidated and the commission shall * * * *the first of each month determine * * * such cost * * * in the manner hereinafter provided, which cost shall be charged to each bank in liquidation and the same shall be paid to the banking department as other expenses of liquidation are paid. The amount of the aforesaid supervision cost to be paid by each bank in liquidation shall be determined by taking that portion of the total supervision cost of all banks in liquidation for the preceding month, which the total book value of the unliquidated book assets of each said bank bears to the total book value of all the unliquidated book assets of every bank in liquidation. In making computations for each month the total supervision cost and all book values of unliquidated assets shall be determined as of the last business day of the preceding month.* The moneys collected by the commission shall be from time to time deposited in one or more state banks, and, in case of the suspension or insolvency of the depository, such deposits shall be preferred before all other deposits.

SECTION 8. 220.192 of the statutes is created to read:

220.192 TIME LIMIT ON STOP PAYMENT. (1) No revocation, countermand or stop payment order relating to the payment of any check or draft against an account of a depositor in any bank or trust company doing business in this state shall remain in effect for more than 6 months after the service thereof on the bank, unless the same be renewed, which renewals shall be in

writing and which renewals shall be in effect for not more than 6 months from date of service thereof on the bank or trust company, but such renewals may be made from time to time.

(2) No notice affecting a check upon which revocation, countermand or stop payment order has been made at the time of the taking effect of this section shall be deemed to continue for a period of more than 6 months thereafter, but renewals may be had in the manner and for periods as provided in subsection (1).

SECTION 9. 220.194 of the statutes is created to read:

220.194 NONPAYMENT OF CHECK THROUGH ERROR. No bank or trust company doing business in this state shall be liable to a depositor because of the nonpayment through mistake or error and without malice of a check which should have been paid unless the depositor shall allege and prove actual damage by reason of such nonpayment and in such event the liability shall not exceed the amount of damage so proved.

SECTION 10. 220.196 of the statutes is created to read:

220.196 FINAL ADJUSTMENT OF STATEMENTS OF ACCOUNT. When a statement of account has been rendered by a bank to a depositor accompanied by vouchers, if any, which are the basis for debit entries in such account, or the depositor's passbook has been written up by the bank showing the condition of the depositor's account and delivered to such depositor with like accompaniment of vouchers, if any, such account shall, after the period of 5 years from the date of its rendition, in the event no objection thereto has been theretofore made by the depositor, be deemed finally adjusted and settled and its correctness conclusively presumed and such depositor shall thereafter be barred from questioning the correctness of such account for any cause.

SECTION 12. 221.02 of the statutes is amended to read:

221.02 No individual, partnership or corporation shall directly or indirectly receive or contract to receive any commission, compensation, bonus, right or privilege of any kind for organizing any banking corporation in this state, or for securing a subscription to the original capital stock of any banking corporation in this state * * *. This section shall not be construed as prohibiting an attorney or attorneys at law from receiving reasonable compensation for legal service in connection therewith. *It shall be lawful for a bank to pay a*

brokerage fee of not in excess of 2-1/2% for the sale of any increase in the capital of a banking corporation in this state provided that such fee is charged to the current expense account of said bank and such increase in capital is carried on the bank's books in a sum not less than the par value thereof. Each and every individual, partnership or corporation violating the provisions of this section shall forfeit to the state \$1,000 for each and every such violation and in addition thereto double the amount of such commission, compensation or bonus.

SECTION 13. 221.03 (7) (c) of the statutes is repealed.

SECTION 14. 221.03 (7) (d) of the statutes is amended to read:

221.03 (7) (d) That * * * 100 per cent of each stock subscription has been paid in lawful money.

SECTION 16. 221.08 (9) of the statutes is amended to read:

221.08 (9) The board of directors shall meet at the bank at least once each month. At such monthly meeting they shall generally investigate the affairs of such bank and determine whether the assets are of the value at which they are carried on the books of the bank. Such directors shall name a loan committee of 3 or more of its members, a majority of whom shall be other than active executives, except when a majority of the directors are actively engaged in the bank's management, who shall meet at * * * *least once each month* and shall determine policies as to renewals and applications for new loans. Any director who shall be found to be lax in attendance may be removed by the commission and such vacancy shall be filled within a reasonable time as the commission may direct.

SECTION 17. 221.09 of the statutes is amended to read:

221.09 The board of directors of each bank shall annually appoint from its members or stockholders an examining committee, whose * * * *duty* it shall be to examine * * * *and study the report of each examination made by bank supervising authorities.* The examining committee shall report to the board, * * * *within 45 days after receipt of the report of the examination relative to criticisms and suggestions contained in the report rendered by the supervising authorities and shall be charged with the duty of commenting on any matter relative to the affairs of the bank which in their judgment should be known to the directors.* The board shall cause * * * *such*

report to be recorded in the minute books of the bank, and a duly authenticated copy thereof transmitted to the banking commission.

SECTION 18. 221.15 (1) of the statutes is amended to read:

221.15 (1) Every bank shall make to the banking commission not less than * * * 2 reports during each calendar year, at such times as the said commission shall require the same, according to the forms which it shall prescribe and furnish. Such forms shall conform as nearly as practicable to that now required of national banks, including the schedules.

SECTION 19. 221.29 (1) (e) of the statutes is created to read:

221.29 (1) (e) Such liabilities as are created before April 1, 1949, in the form of notes or bonds secured by mortgage or trust deeds insured by the federal housing administrator, may exceed the limitation stated in paragraph (a), provided that the excess shall not exceed 20 per cent in addition to that stated in paragraph (a).

SECTION 20. 221.29 (2) and (5) of the statutes are repealed and recreated to read:

221.29 (2) (a) Except as otherwise provided in this subsection, the total liabilities of any municipal corporation to any bank for money borrowed shall at no time exceed 25 per cent of the capital and surplus of such bank.

(b) Where such liabilities are in the form of bonds, notes or other evidences of indebtedness which are a general obligation of any city, town, village, county or school district in this state the total liability of any such municipality shall at no time exceed 50 per cent of the capital and surplus of such bank. The total amount of temporary borrowings of any such municipality maturing within one year from date of issue shall not exceed 60 per cent of the capital and surplus of such bank. Temporary borrowings and longer term Wisconsin general obligation borrowings of a single municipal corporation may be considered separately in arriving at the limitations provided in this subsection.

(c) Liabilities in the form of revenue obligations of any municipality of this state are subject to the limitations provided in subsection (2) (a) but in addition thereto any bank is permitted to invest in any general obligation of such municipality an amount which will bring the combined total of such general

obligations and such revenue obligations of a single municipality to a sum not in excess of 50 per cent of the capital and surplus of such bank.

(5) No bank shall make or renew any loan or loans, the aggregate total of which exceeds the amounts prescribed in this subsection without being supported by a sworn financial statement unless the loan is secured by collateral having a value in excess of the amount of the loan, but no sworn financial statement is required if the loan is not in excess of:

(a) Two per cent of the combined capital and surplus if such bank has a capital and surplus of less than \$25,000;

(b) \$500 if such bank has a capital and surplus of \$25,000 and less than \$100,000; or

(c) \$1,000 if such bank has a capital and surplus of \$100,000 or more.

SECTION 21. 221.29 (4) of the statutes is repealed.

SECTION 22. 221.29 (6) and (7) of the statutes are created to read:

221.29 (6) A sworn financial statement furnished by the borrower to a bank in compliance with subsection (5) must be renewed annually as long as the loan or any renewal thereof remains unpaid and is subject to the provisions of subsection (5).

(7) A loan or a renewal of a loan made by any bank in compliance with subsection (5), without sworn financial statement, may be treated by such bank as entirely independent of any secured loan made by the same borrower providing such loan does not exceed the loan limitations provided in this section.

SECTION 23. 221.37 of the statutes is repealed and recreated to read:

221.37 SURPLUS FUND. (1) Before the board of directors of a bank may declare and pay a cash dividend, a sum equivalent to not less than one-fifth of the net profits of the bank for the preceding half year, or for such period as is covered by the dividend, shall be carried to a surplus fund, until such surplus fund shall amount to 100 per cent of the capital stock, except that whenever the daily average of the aggregate deposits for a period of one year in any bank shall be less than an amount equal to 10 times the unimpaired capital and surplus; such surplus shall be computed after eliminating all items classified by the banking commission as doubtful or loss; such bank may, with the ap-

proval of the banking commission, be exempt from the requirement of this section.

(2) Any losses sustained by any bank in excess of its undivided profits may be charged to its surplus account; provided that its surplus fund shall thereafter be reimbursed from its earnings, and no cash dividends shall be declared or paid by any such bank in excess of one-half its net earnings until its surplus fund shall be fully restored to the amount which was in said fund immediately preceding such charge off.

(3) When the surplus fund of a bank is in excess of 100 per cent of its capital stock and losses charged against it do not reduce said surplus fund to an amount less than 100 per cent of its capital stock, the bank will not be subject to the provisions of subsection (2) with respect to reimbursement to surplus and restricted dividends.

SECTION 24. 221.38 of the statutes is repealed and recreated to read:

221.38 DIVIDENDS. (1) Except as provided in subsection (2), the board of directors of a bank may declare and pay a dividend from so much of its undivided profits as they shall deem expedient, but only after:

(a) Provision has been made for all expenses, losses, required reserves, taxes, and interest accrued or due from said bank;

(b) Compliance has been made with the provisions of section 221.37; except that, if a bank has had, during the immediate preceding 2 years, insufficient net profits to declare and pay a dividend out of current earnings and has paid a dividend out of undivided profits accrued during prior years, such bank shall not declare and pay a second dividend either in part or in full out of undivided profits accrued during prior years except with the written consent of the banking commission.

(2) No dividend shall be declared by the directors of a bank to the stockholders except out of net profits applicable thereto, and which shall not in any way impair or diminish the capital; and if any such shall be paid, every stockholder receiving the same shall be liable to restore the full amount thereof unless the capital be subsequently made good; and if the directors of any bank shall pay such dividend when the corporation is insolvent or in danger of insolvency, or not having reason to believe that there were sufficient net profits properly applicable thereto, to pay the same without impairing or diminishing the capital, they

shall be jointly and severally liable to the creditors of the corporation at the time of declaring such dividends to double the amount thereof. Interest unpaid, although due or accrued, on debts owing to any bank, shall not be included in calculation of its profits previous to a dividend; nor shall any bank, except with the previous written consent of the banking commission, enter or at any time, carry on its books any of its assets at a valuation exceeding its actual cost to such bank.

SECTION 25. 221.42 of the statutes is repealed.

SECTION 26. 224.06 (4) of the statutes is repealed and re-created to read:

224.06 (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 banking commission. 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 banking commission, 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 banking commission at Madison, Wisconsin, a copy of all riders and endorsements executed subsequently to the effective date of this bond.

SECTION 27. 224.06 (5) of the statutes is renumbered to be 224.06 (7).

SECTION 28. 224.06 (5) and (6) of the statutes are created to read:

224.06 (5) For reasons which it deems valid and sufficient the banking commission 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 its 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 dis-

covery by the bank of any dishonest act on the part of such person.

SECTION 29. 267.025 of the statutes is created to read:

267.025 PROPERTY IN SAFE DEPOSIT BOX. Property in a safe deposit box in any bank or safe deposit company is not property in the possession or control of such bank or safe deposit company within the meaning of this chapter.

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CHAPTER 66.

AN ACT to amend 75.03 (3) of the statutes, relating to the redemption of lands of minors, idiots or insane persons from tax liens.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

75.03 (3) of the statutes is amended to read:

75.03 (3) When the purchaser of such lands at tax sale or the owner of tax certificates thereon is the owner and holder of delinquent tax certificates issued upon tax sales for 5 or more * * * years, and the time for issuance of a deed upon any of such certificates has not expired * * * the owner and holder of such certificates may foreclose by action pursuant to section 75.19; or a tax deed may be issued to him as provided by this chapter and he may foreclose any right of redemption or interest of any minor, idiot or insane person by separate action pursuant to section 75.19, which he may also do if the tax deed was issued prior to the effective date of this amendment. In such action the minor, idiot or insane person must appear by guardian ad litem as provided by law, and his guardian, if he has one, shall be joined as a party defendant. *This subsection as amended in 1945 is retroactive January 1, 1946. The postponement of the effective date of the retroactive provision is to afford an opportunity to all persons having an interest in lands affected to redeem such lands from the lien of tax certificates prior to such effective date.*

Approved April 21, 1945.