

## CHAPTER 214

## SAVINGS BANKS

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## SUBCHAPTER I

## GENERAL PROVISIONS

**214.01 Definitions.** (1) In this chapter:

(a) "Affiliate" means a company that controls, is controlled by or is under common control with a savings bank.

(c) "Bank" means a commercial bank chartered by the U.S. comptroller of the currency or organized under ch. 221.

(d) "Branch office" means a place of business, other than the home office, where the business of the savings bank is conducted. "Branch office" does not include a remote service unit, a limited office or an extended office.

(e) "Capital" includes net worth, paid-in-surplus, capital stock equity, undivided profits, earnings and other forms of capital considered to be qualifying capital by a deposit insurance corporation.

(f) "Commissioner" means the commissioner of savings and loan.

(g) "Deposit account" means any monetary interest that a depositor maintains in a savings bank, including a demand, time, money market, savings, certificate or negotiable order of withdrawal account.

(h) "Deposit insurance corporation" means the federal deposit insurance corporation or other instrumentality of or corporation chartered by the United States that is supported by the full faith and credit of the U.S. government as stated in a congressional resolution.

(ig) "Director" means a member of a board of directors of a savings bank. "Director" does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a director.

(ip) "Extended office" means a place of business located within 1,000 feet of a home office or a branch office of the same savings bank.

(jg) "Fiduciary" means a trustee, executor, administrator, guardian, agent, receiver, trustee in bankruptcy, assignee for creditors, or any holder of a similar position of trust.

(jn) "Financial institution" means a bank, a savings bank, a savings and loan association, a trust company, or a credit union, whether chartered under the laws of this state, another state or territory or under the laws of the United States.

(k) "Geographic area" means the states of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri and Ohio.

(L) "Home office" means the office of the savings bank that is designated as such in its bylaws.

(m) "Impairment" means a condition in which the aggregate appraised value of the savings bank's assets is less than the aggregate amount of the savings bank's deposit accounts and liabilities to other creditors and the aggregate value of its stock.

(p) "Interest" means dividends, earnings, interest, return or rate of return paid on a deposit account.

(pm) "Investment" includes consumer, residential, agricultural and commercial loans, purchases of corporate debentures, securities, bonds and joint venture shares, and purchases of mutual fund shares subject to the rules of the commissioner.

(q) "Limited office" means a place of business at which a savings bank provides lending and other services, but at which a savings bank may not accept deposits except through a remote service unit.

(qm) "Marketable investment securities" means investment grade marketable obligations evidencing indebtedness of any person in the form of bonds, notes or debentures, rated in one of the 4 highest categories by at least one nationally recognized rating service and of a type customarily sold on recognized exchanges or traded over the counter, but does not include stocks.

(r) "Net profit" means the remainder of all earnings from current operations plus actual recoveries on loans, investments and other assets after deducting all current expenses, including interest on deposit accounts, additions to reserves that are required by the commissioner, actual losses, accrued dividends on preferred stock and all state and federal taxes.

(rm) "Person" includes an individual, corporation, partnership, joint venture, trust, estate, governmental entity or unincorporated association.

(s) "Principal place of business" means the state in which the total deposits of a savings bank, or of a savings bank holding company from all offices of all subsidiaries, are the greatest as shown by the most recent reports of condition filed with a state or federal regulatory authority.

(sm) "Remote service unit" means a terminal or other facility or installation, attended or unattended, which is not located at the home office or at another office of a savings bank and through which customers and savings banks may engage, by means of either the direct transmission of electronic impulses to and from a savings bank or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a savings bank, in transactions which are incidental to the conduct of the business of a savings bank and which are otherwise permitted by law. "Remote service unit" includes all equipment, regardless of location, that is interconnected with a remote service unit and that is necessary to transmit, route and process electronic impulses in order to enable the remote service unit to perform any function for which it is designed.

(sr) "Review board" means the savings bank review board.

(t) "Savings bank" means a financial institution organized under this chapter.

(tm) "Savings bank holding company" means a company that directly or indirectly, or acting in concert with one or more other persons or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing more than 25% of the voting shares or rights of a savings bank or savings bank holding company or controls in any manner whether by the holding of proxies or otherwise, the election of a majority of the directors of a savings bank or savings bank holding company.

(u) "Service corporation" means a corporation that is more than 50% owned by one or more savings banks, or by savings banks and other financial institutions, whose purposes are reasonably incident to the accomplishment of the express or incidental powers conferred upon savings banks by this chapter.

(um) "Subsidiary" means a company that is controlled by a person or by a company.

(v) "Value" means the present worth of all rights to future benefits arising from ownership.

(2) Any of the following persons shall be considered to be a person affiliated with a savings bank:

(a) A director, officer or controlling person of a savings bank.

(b) A spouse of a director, officer or controlling person of a savings bank.

(c) A member of the immediate family of a director, officer or controlling person of a savings bank, who has the same home as that person or who is a director or officer of any subsidiary of the savings bank or of any holding company affiliate of the savings bank.

(d) A corporation or organization, other than the savings bank or a corporation or organization through which the savings bank operates, of which a director, officer or controlling person of the savings bank is any of the following:

1. Chief executive officer, chief financial officer or a person performing similar functions.

2. A general partner.

3. A limited partner who, directly or indirectly either alone or with a spouse and the members of the person's immediate family who are also affiliated persons, owns an interest of 10% or more in the partnership, based on the value of the person's contribution, or who, directly or indirectly with other directors, officers and controlling persons and their spouses and their immediate family members who are also

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affiliated persons, owns an interest of 25% or more in the partnership.

4. A person who, directly or indirectly either alone or with a spouse and the members of the person's immediate family who are also affiliated persons, owns or controls 10% or more of any class of equity securities or owns or controls, with other directors, officers and controlling persons of the savings bank and their spouses and their immediate family members who are also affiliated persons of the savings bank, 25% or more of any class of equity securities.

(3) (a) A person is considered to have control of a savings bank, savings bank subsidiary, affiliate or savings bank holding company if the person, acting alone or in concert with one or more persons, owns, holds, or directs with power to vote or holds proxies representing, 10% or more of the voting shares or rights of a savings bank, savings bank subsidiary, affiliate or savings bank holding company; or has the ability to achieve in any manner the election or appointment of a majority of the directors of a savings bank, savings bank subsidiary, affiliate or savings bank holding company.

(b) A person shall not be considered to have control of a savings bank or savings bank holding company because of any of the following:

1. Ownership or control of shares in a fiduciary capacity arising in the ordinary course of its business.

2. Ownership or control of shares acquired in connection with its underwriting of securities that are held only for that period of time that will permit the sale of the shares upon a reasonable basis.

3. Holding shares as collateral taken in the ordinary course of securing a debt or other obligation.

4. Ownership or control of shares acquired in the ordinary course of collecting a debt or other obligation previously contracted for in good faith, until 2 years after the date acquired.

5. Voting rights acquired in the course of a proxy solicitation in the case of a company formed and operated for the sole purpose of participating in a proxy solicitation.

6. Voting rights acquired by proxy if the proxies are obtained from depositors and the proxies are voted as directed by a majority of the board of directors of the savings bank or savings bank holding company, or of a committee of directors if the committee's composition and powers may be revoked by a majority vote of the board of directors.

History: 1991 a. 221

**214.015 Administration.** This chapter shall be administered by the commissioner.

History: 1991 a. 221

**214.02 Applicability. (1)** This chapter applies to a savings bank.

(2) A person who is not a savings bank may not transact business within the scope of this chapter or do business under any name or title or circulate or use any advertising or make any representations or give any information to anyone using any media, including electronic media, that indicates or implies the operation of a business within the scope of this chapter.

History: 1991 a. 221

**214.025 Insurance of accounts.** A savings bank shall secure insurance of its deposit accounts by a deposit insurance corporation before commencing business and may, subject to rules of the commissioner, obtain insurance of deposits in excess of the amount eligible for insurance by a deposit insurance corporation.

History: 1991 a. 221

**214.03 Parity. (1)** Subject to the regulation of the commissioner and in addition to the powers granted by this chapter, a savings bank may, directly or through a subsidiary, undertake any activity, exercise any power or offer any financially related product or service in this state that any other provider of financial products or services may undertake, exercise or provide or that the commissioner finds to be financially related.

(2) The activities, powers, products and services that may be undertaken, exercised or offered by a savings bank under sub. (1) are limited to those specified by rule of the commissioner. The commissioner may direct a savings bank to cease any activity, the exercise of any power or the offering of any product or service authorized by rule under this subsection. Among the factors that the commissioner may consider in so directing a savings bank are the savings bank's net worth, assets, management rating, liquidity ratio and ratio of net worth to assets.

(3) This section does not authorize a savings bank, directly or through a subsidiary, to engage in the business of underwriting insurance.

History: 1991 a. 221

**214.035 Use of name. (1)** An institution organized under this chapter shall be known as a state savings bank and shall adopt a name that identifies it as such and that includes the term "savings". The commissioner shall approve the name of a savings bank.

(2) Notwithstanding sub. (1), an association, as defined in s. 215.01 (1), that converts to a savings bank may use a name that does not include the term "savings" in its name if that name was approved for use by the association by the commissioner under ch. 215 before February 12, 1992, and that name is approved by the commissioner under this subsection as appropriate to identify the converted association as a savings bank.

History: 1991 a. 221

**214.04 General corporate powers.** A savings bank shall be a body corporate and shall have all of the specific powers conferred by this chapter and all of the following general powers:

(1) To sue and be sued in its corporate name and to have a seal, which it may alter or renew.

(2) To obtain and maintain insurance by a deposit insurance corporation.

(3) To act as a fiscal agent for the United States, this state or any department, office, agency, board, commission or authority of this state or any county, city, village, town or school district in the state, if designated for that purpose, and as agent to perform reasonable functions as may be required of it.

(4) With the approval of the commissioner, to become a member of, purchase stock or securities in, deposit money with, or comply with any other conditions of membership or credit for any corporation or agency of the United States or of this state, to the extent that such agency assists in furthering or facilitating the purposes or powers of the savings bank.

(5) To make donations in reasonable amounts for the public welfare or for charitable, scientific, religious or educational purposes.

(6) To adopt and operate reasonable insurance, bonus, profit sharing, and retirement plans for officers and employees and for directors who are not officers or employees.

(7) To reject any application for membership and to close deposit accounts as provided in this chapter and its bylaws; and to limit the issuance of, or payments on, deposit accounts, subject to contractual obligations.

(8) To purchase stock in service corporations and to invest in any form of indebtedness of any service corporation, subject to rules of the commissioner.

(9) With the approval of the commissioner, to purchase stock of a corporation whose principal purpose is to operate a safe deposit or escrow service business, if the purchase is necessary to utilize the services of that business.

(10) To exercise all the powers necessary to qualify as a trustee or custodian under the federal self-employed individuals tax retirement act of 1962, as amended, and invest any funds held in that capacity in a deposit account if the trust or custodial retirement plan authorizes and directs the investment.

(12) Subject to rules of the commissioner, to make contracts, incur obligations, make investments, pledge assets or take other action necessary to do any of the following:

(a) Enable it to act as agent for the sale of obligations of the United States.

(b) Secure deposits of public funds.

(c) Secure deposits of money if required by the federal bankruptcy act.

(d) Qualify as a fiduciary under ch. 112.

(e) Secure trust funds if acting as a corporate fiduciary. A savings bank may not commingle trust funds under this paragraph with the savings bank's funds, whether deposited by the savings bank or an affiliate.

(13) To accept for payment at a future date, not to exceed one year from the date of acceptance, drafts drawn upon it by its customers; and to issue, advise or confirm letters of credit authorizing holders to draw drafts upon it or its correspondents.

(14) Subject to rules of the commissioner, to own and lease personal property acquired by the savings bank at the request of a prospective lessee and, upon the agreement of that person, to lease the personal property.

(15) To indemnify its officers, directors, employes and agents to the extent authorized for mutual savings and loan associations under ss. 215.512 to 215.525 if a mutual savings bank, or to the extent authorized under ss. 180.0850 to 180.0859 if a stock savings bank.

(16) To provide data processing services to others and to act as a custodian of records for others on a for-profit basis.

(17) With prior written approval of the commissioner, to acquire all or any part of the assets of a financial institution or to sell all or any part of its assets to another financial institution.

(18) To borrow money and issue its obligations for the borrowed money, including but not limited to obligations, bonds, notes or other debt securities. Except as otherwise provided by this chapter or by rules of the commissioner, the aggregate amount borrowed may not exceed 50% of the savings bank's total assets, except with the prior written approval of the commissioner. An obligation, bond, note or other debt security may include a written provision subordinating the debt to claims of other creditors or of depositors.

(19) To utilize data processing services and place records of the savings bank for storage and safekeeping with another person for a fee.

(20) Upon receiving approval from the commissioner, to act as an authorized agent for its customers in the business and functions under ch. 217. A savings bank that applies to function as a seller of checks shall meet the application requirements under ch. 217. The commissioner may not charge a license or investigation fee for an application under this subsection. The seller of checks function of a savings bank shall be under the jurisdiction and supervision of the commissioner. The commissioner shall enforce ch. 217 as it

applies to savings banks. The commissioner shall determine what records shall be maintained and shall require the segregation of funds that are necessary for a savings bank to operate as a seller of checks under this subsection and ch. 217.

(21) (a) Directly or indirectly, to acquire, place and operate, or participate in the acquisition, placement and operation of, at locations other than its home office and branch offices, remote service units, in accordance with rules established by the commissioner.

(b) The rules of the commissioner shall provide that any remote service unit shall be available for use, on a nondiscriminatory basis, by any state or federal savings bank which has its principal place of business in this state, by any other state or federal savings bank obtaining the consent of a state or federal savings bank that has its principal place of business in this state and is using the terminal and by all customers designated by a savings bank using the unit. This paragraph does not authorize a savings bank which has its principal place of business outside this state to conduct business as a savings bank in this state. A remote service unit shall be available for use, on a nondiscriminatory basis, by any credit union, state or national bank or state or federal savings and loan association, whose home office is located in this state, if the credit union, bank or savings and loan association requests to share its use, subject to joint rules established by the commissioner of banking, the commissioner of credit unions and the commissioner. The rules of the commissioner and the joint rules shall each prohibit any advertising with regard to a shared remote service unit which suggests or implies exclusive ownership or control of the shared unit by any savings bank or group of savings banks operating or participating in the operation of the unit. The commissioner by order may authorize the installation and operation of a remote service unit in a mobile facility, after notice and hearing upon the proposed service stops of the mobile facility.

(c) If any person primarily engaged in the retail sale of goods or services owns or operates a remote service unit on such person's premises and allows access to the unit by any financial institution, group of financial institutions or their customers, nothing in this paragraph or in rules established by the commissioner shall require such person to accept any connection to or use of the unit on its premises for any other purpose or function or to accept any connection to the unit on its premises by any other financial institution.

(d) If a person primarily engaged in the retail sale of goods or services owns or operates a remote service unit on such person's premises and allows access to the unit by any financial institution, group of financial institutions or their customers for any purpose or function, laws governing such institutions or rules established by the commissioner shall not apply to such person other than those laws or rules directly related to the particular function performed by the unit on such person's premises for a financial institution.

(e) Information transmitted from a remote service unit, either identified as to particular transactions or aggregate information, shall only be used for purposes of effecting the financial transactions for which such information was received, for any other purpose lawfully authorized by contract, or for any other purpose permitted by statute and rules pertaining to the dissemination and disclosure of such information.

(22) To maintain real estate broker trust accounts under s. 452.13, attorney trust accounts under s. 757.293, burial trust accounts under s. 445.125 and care funds and preneed trust funds under s. 157.19.

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(23) To contract for the provision of trust services to its customers with a trust company or other organization with trust powers authorized to do business in this state. For this purpose, the trust company or other organization with trust powers may serve savings bank customers at savings bank facilities on a full-time or part-time basis.

(25) Subject to rules of the commissioner, to issue credit cards, extend open-end credit and otherwise engage in or participate in credit card operations.

(26) With the prior approval of the commissioner, establish a limited office.

(27) After giving notice to the commissioner, establish an extended office.

(28) To exercise any power reasonably related or incident to the purposes of the savings bank.

History: 1991 a 221, 315

**214.045 Status as internal revenue service qualified thrift lender.** A savings bank shall qualify for and maintain either the 60% asset test of section 7701 (a) (19) of the internal revenue code, or an asset test prescribed by rule of the commissioner that is not less than the percentage prescribed by section 7701 (a) (19) of the internal revenue code.

History: 1991 a 221

**214.06 Branch offices.** (1) With the prior written approval of the commissioner, a savings bank may establish one or more branch offices. A branch office may be located in any of the following:

(a) This state.

(b) The geographic area, subject to subch. III.

(2) A savings bank may operate a branch office outside this state to the same extent that a savings bank holding company or savings bank that has its principal place of business outside this state is allowed to operate in this state under subch. III.

(3) A savings bank may establish a branch office as the result of a merger or consolidation, or of the bulk sales of facilities in the case of a relocation.

(4) A savings bank that purchases or assumes all or any part of the assets or liabilities of another financial institution may retain and maintain the home office or branch offices purchased from that financial institution, as branch offices of the acquiring savings bank.

History: 1991 a 221

**SUBCHAPTER II****HOLDING COMPANIES**

**214.07 Authorized activities.** A savings bank holding company may engage in activities that are authorized by the commissioner.

History: 1991 a 221

**214.08 Registration.** A savings bank holding company and each subsidiary of a savings bank holding company shall register with the commissioner within 180 days after May 7, 1992, or within 90 days after becoming a savings bank holding company or subsidiary, whichever is later. A savings bank holding company and each subsidiary of a savings bank holding company shall register on forms prescribed by the commissioner. A registration form shall include information with respect to the financial condition, ownership, management, and intercompany relations of the holding company and its subsidiaries and such related matters as the commissioner considers necessary.

History: 1991 a 221

**214.085 Reporting requirements.** (1) A savings bank holding company and each subsidiary of a savings bank holding company shall do all of the following:

(a) File with the commissioner reports as required by the commissioner. A report shall be on a form prescribed by the commissioner and may require whatever information the commissioner considers to be necessary concerning the operations of each savings bank holding company and subsidiary.

(b) Maintain such books and records as may be prescribed by the commissioner.

(c) Be subject to examination by the commissioner.

(2) The commissioner shall assess a savings bank holding company fees and charges as necessary to cover the cost of the commissioner's examination and supervision under this chapter. The commissioner may promulgate rules to establish fees and payment schedules to support registration, examination and supervision under this chapter.

History: 1991 a 221

**214.09 Acquisitions.** Subject to rules of the commissioner, a savings bank holding company may acquire control of a savings bank or of a savings bank holding company upon application to and with the prior written approval of the commissioner. The application shall be in a form prescribed by the commissioner. The commissioner shall approve the application if the commissioner determines that the acquisition is consistent with the interest of maintaining a sound financial system and that the proposed acquisition does not afford a basis for supervisory objection.

History: 1991 a 221

**214.095 Reorganization as a holding company.** (1) A savings bank may reorganize as a savings bank holding company by doing all of the following:

(a) Organizing one or more subsidiary savings banks, the ownership of which shall be evidenced by stock shares, to be owned by the organizing parent savings bank.

(b) Transferring a substantial portion of its assets and all of its insured deposits and part or all of its other liabilities to one or more subsidiary savings banks.

(c) Preparing articles of incorporation and bylaws for the savings bank holding company.

(2) In order to effect a reorganization under sub. (1), the board of directors of the original savings bank shall approve a plan providing for the reorganization. The plan shall be submitted for approval by a majority of the voting members or stockholders of the savings bank at a meeting held in accordance with the savings bank's articles of incorporation and bylaws.

(3) The commissioner shall promulgate rules to regulate the formation of and the ongoing business of the subsidiaries and the savings bank holding company, including the rights of members or stockholders, levels of investment in holding company subsidiaries, and stock sales.

History: 1991 a 221

**SUBCHAPTER III****INTERSTATE ACQUISITION AND MERGER**

**214.15 Definitions.** In this subchapter:

(1) "In-state institution" means a savings bank or savings and loan association organized under the laws of this state or federal law and having its home office in this state.

(2) "In-state holding company" means a savings and loan holding company, as defined in s. 215.01 (24m), or savings bank holding company that has its principal place of business

in this state and is not owned or controlled by a company having its principal place of business outside of this state.

(3) "Regional institution" means a foreign savings bank, foreign association, federal savings and loan association or federal savings bank that has its accounts insured by a deposit insurance corporation, and which has its home office located in the geographic area and that, if owned or controlled by a company, is owned or controlled by a regional holding company or by an in-state holding company.

(4) "Regional holding company" means a savings and loan holding company or savings bank holding company that has its principal place of business in the geographic area and is not owned or controlled by a company having its principal place of business outside of the geographic area.

History: 1991 a 221.

**214.155 In-state institutions.** (1) A savings bank may do any of the following:

(a) Acquire direct or indirect ownership or control of voting shares of one or more regional institutions or acquire an interest in, or some or all of the assets and liabilities of, one or more regional institutions.

(b) Merge with one or more regional institutions.

(2) A savings bank proposing any action under sub. (1) shall file an application with the commissioner for approval of the transaction and shall provide the commissioner with copies of all applications and materials filed with a federal agency or agency of another state in seeking approval of the transaction.

History: 1991 a 221.

**214.16 In-state holding companies.** (1) An in-state savings bank holding company may do any of the following:

(a) Acquire direct or indirect ownership or control of voting shares of one or more regional institutions or regional holding companies or acquire an interest in, or some or all of the assets of, one or more regional institutions or regional holding companies.

(b) Merge with one or more regional holding companies.

(2) An in-state savings bank holding company proposing any action under sub. (1) shall file an application with the commissioner for approval of the transaction and shall provide the commissioner with copies of all applications and materials filed with a federal agency or agency of another state in seeking approval of the transaction.

History: 1991 a 221.

**214.165 Regional institutions and regional holding companies.** Except as provided in s. 214.17, a regional institution or regional holding company may do any of the following:

(1) Acquire direct or indirect ownership or control of voting shares of one or more savings banks or in-state savings bank holding companies or acquire an interest in, or some or all of the assets and liabilities of, one or more savings banks or in-state savings bank holding companies.

(2) Merge with one or more in-state savings bank holding companies.

History: 1991 a 221.

**214.17 Limitations.** A regional institution or regional holding company may not take any action under s. 214.165 until all of the following conditions have been met:

(1) The commissioner finds that the statutes of the state in which the regional institution or regional holding company has its principal place of business permit all of the following:

(a) Wisconsin savings banks to acquire one or more regional institutions in the state.

(b) In-state savings bank holding companies both to acquire one or more regional institutions and to acquire and

merge with one or more regional holding companies in the state.

(2) The commissioner has not disapproved the acquisition of the savings bank or the acquisition or merger with the in-state savings bank holding company under s. 214.18.

(3) The commissioner publishes under ch. 985 a class 3 notice, in the official state newspaper, of the application to take an action under s. 214.165 and of the opportunity for a hearing and, if at least 25 residents of this state petition for a hearing within 30 days of the final notice or if the commissioner on the commissioner's own motion calls for a hearing within 30 days of the final notice, the commissioner holds a public hearing on the application, except that a hearing is not required if the commissioner finds that an emergency exists and that the proposed action under s. 214.165 is necessary and appropriate to prevent the probable failure of an in-state savings bank that is closed or in danger of closing.

(4) The commissioner is provided a copy of any application seeking approval by a federal agency of the acquisition of an in-state savings bank or acquisition of or merger with an in-state savings bank holding company and of any supplemental material or amendments filed with the application.

(5) The applicant has paid the commissioner a fee of \$1,000 together with the actual costs incurred by the commissioner in holding any hearing on the application.

(6) If an acquired savings bank is organized on or after May 7, 1992, the savings bank has been in existence for at least 5 years before the date of its acquisition.

History: 1991 a 221.

**214.175 Condition on acquisition.** If a regional holding company acquires an in-state savings bank holding company that owns one or more in-state savings banks organized on or after May 7, 1992, and that have been in existence for less than 5 years, the regional holding company shall divest itself of those in-state savings banks within 2 years after the date of acquisition of the in-state savings bank holding company by the regional holding company.

History: 1991 a 221.

**214.18 Standards for disapproval.** The commissioner may disapprove any action under s. 214.165 if the commissioner finds any of the following:

(1) Considering the financial and managerial resources and future prospects of the applicant and of the in-state savings bank or in-state savings bank holding company concerned, the action would be contrary to the best interests of the stockholders or customers of the in-state savings bank or in-state savings bank holding company.

(2) The action would be detrimental to the safety and soundness of the applicant or of the in-state savings bank or in-state savings bank holding company concerned, or to a subsidiary or affiliate of the applicant or of the in-state savings bank or in-state savings bank holding company.

(3) Because the applicant, its executive officers, directors or principal stockholders have not established a record of sound performance, efficient management, financial responsibility and integrity, the action would be contrary to the best interest of the depositors, customers, creditors or stockholders of the applicant or of the in-state savings bank or in-state savings bank holding company or contrary to the best interests of the public.

(4) The applicant has failed to provide adequate and appropriate services required by the community reinvestment act of 1977, 12 USC 2901 to 2906, to the communities in which the applicant is located.

(5) The applicant has failed to propose to provide adequate and appropriate services required by the community reinvest-

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ment act of 1977, 12 USC 2901 to 2906, in the community in which the in-state savings bank which the applicant proposes to acquire or in-state savings bank holding company which the applicant proposes to acquire or merge with is located.

(6) The applicant has failed to enter into an agreement prepared by the commissioner to comply with laws and rules of this state regulating consumer credit finance charges and of the charges and related disclosure requirements, except to the extent preempted by federal law or regulation.

(7) Any condition under s. 214.17 (1), (3), (4), (5) or (6) has not been met.

(8) The applicant fails to meet any other standard established by rule of the commissioner.

History: 1991 a. 221

**214.185 Exceptions.** (1) This subchapter does not prohibit a regional institution or regional holding company from acquiring up to 5% of the voting shares of one or more in-state savings banks or savings bank holding companies.

(2) This subchapter does not prohibit an in-state savings bank or savings bank holding company from acquiring up to 5% of the voting shares of one or more regional savings banks or savings bank holding companies.

History: 1991 a. 221

**214.19 Branching not limited.** This subchapter does not limit the authority to establish branch offices under s. 214.06.

History: 1991 a. 221

**214.195 Subchapter severability.** (1) Except as provided in sub. (2), if any part of ss. 214.15 to 214.18 is held to be unconstitutional, then all of ss. 214.15 to 214.18 shall be invalid.

(2) If any part of ss. 214.15 to 214.18 is held to be unconstitutional with respect to a savings bank holding company, ss. 214.15 to 214.18 shall remain in effect with respect to in-state savings banks and regional institutions.

History: 1991 a. 221

**214.20 Divestiture.** A savings bank holding company that ceases to be an in-state savings bank holding company or regional holding company shall immediately notify the commissioner of the change in its status and shall, as soon as practical and no later than 2 years after the event causing it to no longer be one of these entities, divest itself of control of all in-state savings banks and in-state savings bank holding companies. A savings bank holding company that fails to immediately notify the commissioner shall be subject to a forfeiture of \$500 per day, beginning on the day its status changes and ending on the day the commissioner receives notification.

History: 1991 a. 221

**SUBCHAPTER IV****INCORPORATION AND ORGANIZATION**

**214.24 Application for permission to organize.** (1) An adult resident of this state may, with the approval of the commissioner, organize a savings bank.

(2) For stock savings banks, the commissioner shall determine the minimum required capital which shall be at least the minimum required to obtain insurance of accounts from a deposit insurance corporation and may include additional amounts as the commissioner may require, based on rules promulgated by the commissioner.

(3) For mutual savings banks, the commissioner shall determine the aggregate minimum amount of funds to be paid into the savings bank's deposit accounts by persons

subscribing for deposit accounts and the length of time for which the incorporators shall guarantee payment of savings bank operating expenses. The minimum amount of capital required shall be at least the minimum required to obtain insurance of the accounts from a deposit insurance corporation and may include additional amounts as the commissioner may require, based on rules promulgated by the commissioner.

(4) An incorporator shall submit a nonrefundable \$1,000 application fee with an application.

History: 1991 a. 221

**214.245 Content of application to organize.** The incorporators shall file an application for a certificate to organize a savings bank on forms prescribed by the commissioner. The application shall include any information the commissioner considers necessary but shall include at least all of the following:

(1) The name, address, social security number, date of birth, place of birth, business address, home address and occupation of each incorporator.

(3) The name of the proposed savings bank.

(4) The address of the home office and branch offices, if known, of the proposed savings bank. The application shall include information about any real estate interests of an incorporator if that real estate may be involved with any of these locations.

(5) The anticipated duration of the proposed savings bank, which may be perpetual.

(6) An audited financial statement of each incorporator.

(7) The proposed articles of incorporation and bylaws.

(8) The number of shares of capital stock; the number of shares and classes of preferred stock, if any; the number of shares to be sold; and the per share initial offering price of each share.

(9) The total amount and number of the initial deposit accounts.

(10) The names and addresses of the initial directors.

History: 1991 a. 221

**214.25 Articles of incorporation.** (1) The commissioner shall approve the articles of incorporation of a savings bank.

(2) Duplicate originals of the articles of incorporation executed by the incorporators, and any subsequent amendments to the articles that are adopted by the members or stockholders of the savings bank shall be filed with and approved by the commissioner.

(3) Upon their approval by the commissioner, articles of incorporation and amendments to the articles shall be recorded in the office of the register of deeds in the county in which the home office of the savings bank is located.

(4) Amendments to the articles of incorporation may be made at any annual or special meeting of the members or stockholders called for that purpose, provided that a statement of the nature of the proposed amendment is included in the notice of meeting. The proposed amendment shall be adopted if it receives the affirmative vote of a majority of all votes entitled to be cast.

(5) The effective date of the articles of incorporation and amendments to the articles shall be the date of recording in the office of the register of deeds or a later date if the document provides for a different date. The register of deeds shall forward a certificate of recording to the commissioner.

History: 1991 a. 221

**214.255 Bylaws.** (1) The commissioner shall approve the bylaws of a savings bank.

(2) Duplicate originals of the bylaws and any subsequent amendments to the bylaws shall be filed with and approved by the commissioner.

(3) The effective date of the bylaws and amendments to the bylaws shall be the date on which they are approved by the commissioner or a later date if the document provides for a different date.

(4) A savings bank shall furnish a copy of its bylaws to any member or stockholder upon request.

(5) The bylaws of the savings bank may be amended as prescribed in the bylaws.

History: 1991 a. 221.

**214.26 Application review.** (1) The commissioner may require additional information and shall conduct whatever investigation necessary, including subpoenaing books and records, taking public testimony and conducting hearings, to determine if the commissioner should issue a certificate to organize. The incorporators shall share jointly and severally the expense of an investigation.

(2) If a mutual savings bank, the incorporators shall, in addition to their initial deposit account subscription, create an expense fund in an amount not less than 50% of the total minimum required amount of deposit accounts. The mutual savings bank may use the expense fund for organization expenses, operating deficits, losses and interest on deposit accounts.

(a) The expense fund shall be an asset of the proposed mutual savings bank if the commissioner approves the application, and shall be reflected on the books as a liability under the caption "subsidy by incorporators".

(b) If the income of a period is insufficient to pay expenses or pay interest on deposit accounts, the mutual savings bank shall make appropriate charges to the expense fund account.

(c) After 3 years of corporate existence, the board of directors may petition the commissioner for authority to repay the incorporators, on a proportional basis, any unused portion remaining in the expense fund. If the commissioner determines that the operations of the mutual savings bank at that point are of such degree as so enable the mutual savings bank to operate without the subsidy, the commissioner may authorize repayment.

(d) After the 4th year of corporate existence, and each subsequent year, the board of directors of the mutual savings bank may petition the commissioner for authority to pay out of current income of any period to the incorporators on a proportional basis, the amount remaining after payment of expenses, provision for taxes and the provision for distribution of earnings as a recovery of previous charges made to the expense fund account. The commissioner may approve or deny the petition for recovery payments. Recovery payments may not exceed the total of the charges made to the expense fund account.

(e) The expense fund may not earn interest.

(3) (a) Within 30 days after receiving a completed application, the commissioner shall furnish a notice of application to the incorporators and to each savings bank authorized to operate an office within 4 miles of the proposed home office if it is to be located in Milwaukee county, or within 20 miles of the proposed home office if it is to be located outside of Milwaukee county. The notice shall describe the location and nature of the proposed home office and any other proposed office and shall solicit written comments on the application. If a hearing on the application has been scheduled, the notice shall indicate the time and place of the hearing. If a hearing has not been scheduled, the notice shall describe the right of interested persons to request a hearing.

(b) The incorporators shall publish the notice of application as a class 3 notice under ch. 985 in the city, town or village where the home office is to be located and shall provide the commissioner with proof of publication.

(4) The commissioner shall conduct a public hearing on the application if any of the following occurs:

(a) The incorporator requests a hearing at the time of filing.

(b) Within 3 days after publication of the final notice of application any person planning to participate in a hearing on the application files with the commissioner a request for hearing.

(5) If a hearing date is not indicated in the notice of application and a hearing is subsequently required, the commissioner shall give written notice of the time and place of the hearing to the incorporators and to anyone who has requested a hearing, at least 10 days before the hearing.

(6) A person may not directly or indirectly receive or contract to receive any commission, salary, compensation, bonus, rights or privileges for organizing a mutual savings bank or for securing a subscription for the original deposit accounts of the mutual savings bank. An attorney may receive reasonable compensation for legal services in connection with the organization of the mutual savings bank.

(7) To approve an application, the commissioner must find, based on the record of the application, the commissioner's investigation and the public hearing, if any, that all of the following conditions exist:

(a) The proposed management, business plan and capitalization meets regulatory requirements.

(b) The application information is accurate.

(c) The proposed name is not deceptively similar to that of another financial institution within an area defined by rule of the commissioner.

(d) The proposed business plan and capitalization serves the needs of the community and its residents.

(e) The insurance of accounts is effective before issuance of a certificate.

(8) The commissioner shall have discretionary authority to grant a certificate of authority. The commissioner may refuse to issue a certificate of authority to the incorporators to commence business if, in the commissioner's opinion, any incorporator is not of such character and general fitness as to warrant belief that the savings bank will be conducted for the best interest of its members or stockholders or if other sufficient reasons exist for a refusal to issue a certificate of authority.

History: 1991 a. 221.

**214.265 Temporary organization and capital subscriptions.** (1) (a) If the commissioner approves an application to organize, the commissioner shall issue to the incorporators a certificate of authority to effect a temporary organization.

(b) Under a temporary organization, the incorporators shall do all of the following:

1. Elect directors and a chairperson, secretary and treasurer.

2. Conduct meetings.

3. If a stock savings bank open subscription books for the sale of stock.

4. Open subscription books for deposit accounts.

(2) During the temporary organization, incorporators of a savings bank may exercise such other powers as are conferred upon the incorporators of other corporations, if those powers are not in conflict with this chapter.

(3) The incorporators of a savings bank shall obtain a surety bond in a suitable amount that covers the treasurer

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and other officers who may handle funds of the temporary organization

(4) If a stock savings bank, the officers and directors shall secure subscriptions for capital in the form of pledges to purchase stock.

(5) The directors shall prepare articles of incorporation, bylaws, and other documents and items as required by rule of the commissioner.

(6) The directors shall apply for insurance of accounts with a deposit insurance corporation and provide the commissioner with a copy of each filing and additional documents filed or received in connection with the filing.

(7) The officers and directors may take any other actions necessary to complete organization.

(8) If a stock savings bank, the officers and directors shall furnish the commissioner with the names and addresses of all investors who subscribe to purchase stock.

(9) No business, other than that of completing the organization of the proposed savings bank, may be transacted until the commissioner issues certificate of incorporation.

(10) A temporary certificate of authority issued under sub. (1) (a) shall be effective for 180 days after the date issued. The commissioner may, for cause, extend the effective period of the certificate for such time as the commissioner considers to be advisable.

History: 1991 a 221.

**214.27 Completion of organization.** (1) In addition to the organization requirements of this subchapter, the commissioner may require additional assurances, information, capital or agreements from the officers, directors or employees of the savings bank. If the requirements of this subchapter, rules promulgated under this subchapter, federal law and the commissioner's requests are completed, the incorporators shall provide the commissioner with a certificate of compliance in a form prescribed by the commissioner, together with a \$500 fee.

(2) Within 90 days after receipt of the certificate of compliance and receipt of all required fees, the commissioner shall issue a certificate of incorporation authorizing the savings bank to commence business. The certificate of incorporation shall specify the date of the corporate existence of the savings bank.

(3) The commissioner shall terminate the corporate existence and void the articles of incorporation and certificate of incorporation of a savings bank if the savings bank fails to commence business within 6 months after the date on the certificate of incorporation. The commissioner may, in writing, extend the time period to commence business for such time as the commissioner considers to be advisable.

History: 1991 a 221.

**214.275 Appeal of denial.** If the commissioner does not grant a certificate of organization, the incorporators may appeal to the review board to review the determination.

History: 1991 a 221.

**SUBCHAPTER V****MEMBERSHIP**

**214.30 Membership.** (1) A holder of a deposit account issued by a mutual savings bank shall be a member of the mutual savings bank. Joint ownership of an account constitutes one membership.

(2) An owner of stock in a stock savings bank shall be an owner of the stock savings bank. Joint ownership of stock constitutes one ownership.

History: 1991 a 221.

**214.305 Annual and special meetings.** The date of the annual meeting of members or stockholders shall be specified in the bylaws. Failure to hold an annual meeting may not cause a dissolution of the savings bank. Special meetings may be called by the board of directors, by stockholders of not less than 20% of the outstanding stock, by members constituting not less than 20% of the eligible votes or by any other person designated in the bylaws. The commissioner may call a special meeting with not less than 7 days' written or oral notice. An annual or special meeting shall be held at the home office of the savings bank or in another place within the same county if specifically designated in the notice of the meeting.

History: 1991 a 221.

**214.31 Notice of meetings.** (1) Notice of an annual meeting shall be provided not fewer than 10 days nor more than 40 days before the date of the meeting in the manner provided in the bylaws. The notice shall be displayed at each office of the savings bank in a manner prescribed by rule of the commissioner. The notice shall state the time, place and purpose of the meeting.

(2) For a special meeting or for an annual meeting that is to consider any proposition that requires an affirmative vote of two-thirds of the members or stockholders, the notice shall be provided to each member or stockholder by mail, post-marked between 10 and 40 days before the date of the meeting, and shall be displayed at each of the savings bank's offices as if for an annual meeting, beginning on the date notice is given. The notice shall state the time, place and purpose of the meeting.

History: 1991 a 221.

**214.315 Quorum for annual or special meetings.** The articles of incorporation may specify a quorum requirement, but that requirement may not be less than one-third of the total number of votes entitled to vote at a meeting. A meeting, including one at which a quorum is not present, may be adjourned to a specified date without future notice.

History: 1991 a 221.

**214.32 Voting.** (1) A member or stockholder may vote at a meeting in person or by proxy.

(2) To determine who is entitled to vote and the number of outstanding shares, the following rules apply:

(a) The date of determination shall be the record date for voting under s. 214.325.

(b) A person holding one or more deposit accounts in a mutual savings bank shall have one vote for each \$100 of the aggregate withdrawal value of the deposit accounts and one vote for any fraction of \$100.

(c) A stockholder shall have one vote for each share held.

(d) Stock owned by the savings bank may not be counted or voted.

(e) A stock savings bank shall state in its articles of incorporation that voting rights shall be vested exclusively in stockholders.

History: 1991 a 221.

**214.325 Record date for voting and other purposes.** (1) To determine the stockholders or members entitled to notice of or to vote at any meeting or in order to make a determination of members, stockholders, or other persons for any other purpose, the bylaws may provide for a record date, not fewer than 10 days nor more than 60 days before the meeting or

other event or transaction with regard to which the determination is to be made. The determination shall be made as of the close of business on the record date.

(2) If the bylaws do not provide for a record date, the board of directors may fix a record date for each determination to be made within the time limits under sub. (1). If the board of directors fails to fix a record date, the record date for a meeting shall be the date on which the first notice of meeting is given.

(3) Stock sold or deposit accounts withdrawn after the record date may not be voted or counted in determining the number of shares outstanding.

History: 1991 a. 221.

**214.33 Proxies.** (1) A proxy may be executed in writing by a member or stockholder or by the member's or stockholder's authorized representative.

(2) A proxy is not valid in any of the following circumstances:

(a) Eleven months after the date of its execution, unless otherwise provided in the proxy.

(b) Unless executed in an instrument separate from other forms or documents relating to the member's deposit accounts.

(c) For any meeting at which the member or stockholder who gave a proxy is present, provided that before the taking of any vote, notice of the member's or stockholder's attendance is given by that person to an official whom the savings bank shall identify at the meeting as having responsibility for maintaining a record of attendance.

History: 1991 a. 221.

**214.335 Directors.** The business and affairs of the savings bank shall be exercised by its board of directors. The board of directors may consist of the number of directors fixed by the bylaws, but may not be fewer than 5. At least two-thirds of the directors shall be residents of this state. A director shall have a fiduciary relationship with the savings bank.

History: 1991 a. 221.

**214.34 Bonds of officers and directors.** (1) Every person appointed or elected to any position requiring the receipt, payment, management or use of savings bank money, or whose duties permit or require access to or custody of savings bank money or securities, or whose duties permit the regular making of entries in the books or other records of the savings bank, shall be bonded by a trust or company authorized to issue bonds in this state or by a fidelity insurance company licensed to do business in this state. A bond shall be in a form prescribed by the commissioner and in an amount fixed by the board of directors. A bond shall be payable to the savings bank to indemnify the savings bank for any loss the savings bank may sustain through any dishonest or criminal act or omission by the bonded person, whether committed alone or in concert with others. A bond shall provide that cancellation of the bond by the surety or by the insured is not effective before 30 days' written notice is given to the commissioner, unless the commissioner approves an earlier cancellation.

(2) Notwithstanding sub. (1), the commissioner may proceed against a savings bank if the commissioner believes that the business of the savings bank is being conducted in an unsafe or unsound manner or that the form or amount of bonds approved by the board of directors is inadequate to give reasonable protection to the savings bank.

History: 1991 a. 221.

**214.342 Officers.** The officers of a savings bank shall be elected by the board of directors in accordance with the bylaws. The officers shall consist of a president, one or more

vice-presidents, a secretary, a treasurer and any other officer the board designates by resolution. Officers shall have the duties and functions described in the articles of incorporation and bylaws and shall perform other duties that are designated by the board of directors.

History: 1991 a. 221.

**214.345 Conduct of directors and officers.** (1) Upon election, a director shall take an oath that the director will diligently and honestly perform the duties of that office and will not knowingly violate or willingly permit to be violated this chapter, any rules of the commissioner, the articles of incorporation or bylaws under which the savings bank operates or any other state or federal law applicable to a savings bank.

(2) The commissioner may require disclosure by directors, officers and employes of their personal interest, directly or indirectly, in any business or transaction on behalf of or involving the savings bank and of their control of or active participation in enterprises having activities related to the business of the savings bank.

(3) An officer, director and employe shall avoid conflict of interest situations in which a person in a decision-making position must decide between his or her personal financial interests and those of the savings bank. The board of directors shall establish written policies and procedures reasonably calculated to identify potential conflicts of interest and to avoid placing an officer, director or employe in such a position.

(4) All of the following restrictions govern the conduct of directors and officers of savings banks:

(a) An officer or director of a mutual savings bank may not act as a director or officer of another mutual savings bank.

(b) A director may receive as remuneration reasonable fees, which may include deferred compensation arrangements, for services as a director or for service as a member of a committee of directors. A director who is also an officer or employe of the savings bank may receive compensation for service as an officer or employe, including deferred compensation arrangements.

(c) A director or officer may not have any interest, direct or indirect, in the purchase at less than its face value of a deposit account of the savings bank.

(d) A savings bank or director or officer of the savings bank may not directly or indirectly require, as a condition to the granting of a loan or the extension of any other service by the savings bank or its affiliates, that the borrower or any other person undertake a contract of insurance or any other agreement or understanding with respect to the direct or indirect furnishing of any other goods or services with a specific person.

(e) An officer or director acting as proxy for a member of a mutual savings bank may not exercise, transfer or delegate that right for a private benefit or advantage, direct or indirect, that accrues to the officer or director nor surrender control or pass the officer's or director's office to any other for a private benefit or advantage, direct or indirect.

(f) A director or officer may not solicit, accept or agree to accept, directly or indirectly, from any person other than the savings bank any gratuity, compensation or other personal benefit for any action taken by the savings bank or for attempting to procure any action by the savings bank.

(5) Subject to the approval of the commissioner, a savings bank's bylaws shall provide for reasonable indemnification to its officers, directors and employes in connection with the faithful performance of their duties for the savings bank.

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(a) For stock savings banks, such provisions shall be consistent with those under ss. 180.0850 to 180.0859.

(b) For mutual savings banks, such provisions shall be consistent with those under ss. 215.512 to 215.525, except that indemnification may not extend to any of the following:

1. A proceeding brought against an officer or director under ss. 214.74, 214.765, 214.90, 214.91 or 214.925 to 214.935.

2. A civil or criminal proceeding brought by or on behalf of any governmental unit, authority or agency.

3. A proceeding brought by any person for a violation of state or federal law where the proceeding is brought pursuant to an express private right of action created by state or federal law.

(c) Paragraph (b) 2 and 3 does not apply to a proceeding brought by a governmental unit, authority or agency in its capacity as a private party or contractor.

History: 1991 a 221.

**214.37 Access to books and records; communication with members and stockholders.** (1) In this section, "financial records" means an original, copy or summary of any document or item containing information pertaining to any relationship established in the ordinary course of business between a savings bank and a customer.

(2) Except as provided in this section, no person may have access to the books and records of a savings bank or receive a list of the members or stockholders.

(3) A person shall have the right to inspect books and records of the savings bank that pertain to the person's deposit accounts or loans.

(4) This section does not prohibit any of the following:

(a) The preparation, examination, handling or maintenance of financial records by any officer, employe or agent of a savings bank having custody of records or examination of records by a certified public accountant engaged by the savings bank to perform an independent audit.

(b) The examination of financial records by, or the furnishing of financial records by a savings bank to, any officer, employe or agent of the commissioner or a deposit insurance corporation for use solely in the exercise of that person's duties as an officer, employe or agent.

(c) The publication of data furnished from financial records if the data cannot be identified to any person, deposit account or loan file.

(d) The making of reports or returns required under the internal revenue code.

(e) The furnishing of information concerning the dishonor of a negotiable instrument permitted to be disclosed under the uniform commercial code.

(f) The exchange in the regular course of business of credit information between a savings bank and another financial institution or a mortgage banker or between a savings bank and a consumer reporting agency.

(g) The furnishing of information to the appropriate law enforcement authorities if the savings bank reasonably believes a crime involving the savings bank has been committed.

(h) The furnishing of information pursuant to ch. 177.

(i) The furnishing of information pursuant to the currency and foreign transactions reporting act, 31 USC 5311 to 5326.

(j) The furnishing of information pursuant to any other statute which by its terms or by rules promulgated under that statute requires the disclosure of financial records other than by subpoena, summons, warrant or court order.

(k) The disclosure of the current balance of a depositor's account and the identification of the account to any person who submits all of the following:

1. An affidavit stating that the person has standing under s. 867.01 (3) or 867.02 (2) to petition for summary settlement or assignment of a decedent's estate or that the person is an heir who may obtain transfer of property of a decedent under s. 867.03.

2. A certified copy of the depositor's death certificate. If the savings bank already possesses a certified copy of the depositor's death certificate, this subdivision does not apply.

(L) The disclosure of information relating to the financial records of a customer if authorized by that customer.

(m) The disclosure of financial records under a subpoena, summons, warrant or court order, if the savings bank mails a copy of the subpoena, summons, warrant or court order to the customer, if living, or the customer's personal representative, if known, at that person's last-known address by 1st class mail, postage prepaid, unless the savings bank is specifically prohibited from notifying the person under a state or federal law or by order of the court.

(5) If a member or stockholder desires to communicate with other members or stockholders of the savings bank with reference to any question pending or to be presented at an annual or special meeting, the savings bank shall give that person, upon written request, a written statement of the approximate number of members or stockholders entitled to vote at the meeting and an estimate of the cost of preparing and mailing the communication. The requester shall submit the communication to the commissioner who, if finding it to be appropriate and accurate, shall direct the savings bank to prepare and mail the communication to the members or stockholders upon the requester's payment or adequate provision for payment of the expenses of preparation and mailing.

(7) A savings bank may sell or otherwise make use of a complete or partial list of customers if all of the following apply:

(a) The list does not classify customers by individual financial criteria and contains only the names and addresses of customers.

(b) The savings bank gives each customer prior written notice of the savings bank's intent to furnish information about the customer and informs the customer that the customer has the right to prohibit the release by notifying the savings bank in writing on a form provided by the savings bank.

(c) The person who is furnished a list agrees in writing not to furnish the list to another person.

History: 1991 a 221.

**214.375 Closing books.** A savings bank shall close its books at least once annually and at such other times as the commissioner may require. The date of the annual closing may be March 31, June 30, September 30 or December 31 or as otherwise provided by rule of the commissioner.

History: 1991 a 221.

**SUBCHAPTER VI****CAPITAL**

**214.40 Minimum capital.** (1) A savings bank may be organized to exercise the powers conferred by this chapter with minimum capital, surplus and reserves for operating expenses as determined by the commissioner. The commissioner may not establish requirements for savings banks at a level less than that required for insurance of accounts. For a savings bank other than one resulting from the conversion from an existing financial institution, the commissioner may establish

capital requirements at least as stringent as those required under s. 214.43 (1).

(2) A stock savings bank may not commence business until it has a paid-in surplus equal to 20% of its capital. The commissioner may waive this requirement for a financial institution that converts to a savings bank.

(3) A stock financial institution seeking to convert to a savings bank under s. 214.66 shall, before declaring a dividend on its capital stock, transfer not less than 50% of its net profits of the preceding half year to its paid-in surplus until it has paid-in surplus equal to 20% of capital stock.

History: 1991 a. 221.

**214.405 Evidence of capital.** (1) The capital of a stock savings bank shall be evidenced by stock and noncumulative perpetual preferred stock as authorized by the articles of incorporation.

(2) Stock is personal property and may be transferred as provided in this chapter and the bylaws of the savings bank.

History: 1991 a. 221.

**214.41 Capital stock; nature.** Capital stock shall constitute a secondary reserve out of which losses shall be paid after all other available reserves have been exhausted. The shares shall be nonwithdrawable, except as provided in s. 214.42, until all liabilities of the savings bank have been satisfied in full, including payment of the withdrawal value of all deposit accounts.

History: 1991 a. 221.

**214.42 Retirement or reduction of capital stock.** (1) The board of directors of a stock savings bank may propose an amendment to the articles of incorporation providing for the retirement of all of the capital stock and a detailed plan for effectuating the amendment. The resulting capital of the savings bank may not be less than the minimum initial capital that is required to organize a savings bank. The proposal shall be subject to the commissioner's approval.

(2) If the commissioner approves the proposal, the savings bank's board of directors may request in writing an appraisal of the value of the capital stock. The commissioner shall order an appraisal to be made at the expense of the savings bank.

(3) The proposal shall be submitted to the stockholders at an annual or special meeting. It shall be adopted if it receives the affirmative vote of the holders of two-thirds or more of the outstanding shares of stock. The proposal takes effect upon completion of the procedure under s. 214.25 for the amendment of articles of incorporation.

(4) A savings bank may amend its articles of incorporation in accordance with the procedure under s. 214.25 to reduce its capital stock, but may not reduce its capital stock to an amount less than the minimum initial capital stock required to organize a savings bank.

History: 1991 a. 221.

**214.43 Capital maintenance.** (1) A savings bank shall maintain total capital of not less than 6% of total assets. This is the minimum capital level acceptable for a savings bank that is well-managed and whose overall financial condition is fundamentally sound. If the commissioner determines that the financial condition or history, management or earnings prospects of a savings bank are not adequate, the commissioner may require a higher minimum capital level for the savings bank.

(2) A savings bank shall maintain total capital necessary to ensure the continuation of insurance of its deposit accounts by a deposit insurance corporation.

(3) The board of directors may establish and maintain specific reserves, as it considers to be advisable, to provide for losses or liabilities. Losses may be charged to those reserves as the board of directors may determine.

History: 1991 a. 221.

**214.435 Dividends.** (1) Subject to the restrictions in this section and the savings bank's bylaws, the board of directors from time to time may declare dividends on stock.

(2) The board of directors may not declare dividends if the total capital of the savings bank is less than that required under s. 214.43.

(3) The board of directors may quarterly, semiannually or annually declare a dividend on capital stock of so much of the net profits of the savings bank that the board determines to be expedient, except that until the paid-in surplus of the savings bank equals its capital stock, a dividend may not be declared unless there has been transferred to paid-in surplus not less than 10% of the net profits of the preceding half year in the case of quarterly or semiannual dividends, or not less than 10% of the net profits for the preceding year in the case of annual dividends. A stock dividend may be declared out of retained earnings with the written approval of the commissioner.

(4) The written approval of the commissioner is required before any dividends on stock that exceed 50% of the savings bank's net profits of that year may be declared in any calendar year.

History: 1991 a. 221.

**214.44 Loans or discounts on capital stock.** A savings bank may not make a loan or discount on the security of or be the purchaser or holder of the shares of its own stock or preferred stock or on the security of its own debentures or evidences of its debt that are convertible to stock or are junior or subordinate in rights of payment to deposits or other liabilities of the savings bank, unless the security or purchase is necessary to prevent a loss on a debt previously contracted in good faith; and the stock or evidence of indebtedness acquired or purchased shall, within 6 months after the date of its acquisition, be sold or disposed of at public or private sale.

History: 1991 a. 221.

## SUBCHAPTER VII

### INVESTMENTS

**214.48 General provisions.** (1) In this subchapter, "underwriting" means the process of compiling information to support a determination as to whether an investment or extension of credit shall be made by a savings bank. "Underwriting" includes evaluating a borrower's creditworthiness, determination of the value of the underlying collateral, market factors, and the appropriateness of the investment or loan for the savings bank. "Underwriting" does not include an agreement to purchase unsold portions of public offerings of stocks or bonds as commonly used in corporate securities issuances and sales.

(2) A savings bank may not make a loan or investment authorized by this subchapter unless the savings bank first determines that the type, amount, purpose and repayment provisions of the loan or investment in relation to the borrower's or issuer's resources and credit standing support the reasonable belief that the loan or investment will be financially sound and will be repaid according to its terms and that the loan or investment is not unlawful.

(3) Each loan or investment that a savings bank makes or purchases, in whole or in part, shall be adequately underwrit-

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ten and reserved against as necessary in accordance with its payment performance, and in accordance with rules of the commissioner.

(4) Every appraisal or reappraisal of property that a savings bank is required to make shall be made by one of the following:

(a) An independent qualified appraiser, designated by the board of directors, who is properly licensed and certified by the department of regulation and licensing or by another entity authorized to govern appraisal licensure and certification and who meets the requirements of title XI of the financial institutions reform, recovery and enforcement act of 1989, 12 USC 3331 to 3351 and regulations adopted pursuant to those sections.

(b) If an insured or guaranteed loan, an appraiser appointed by any lending, insuring or guaranteeing agency of the United States or this state that insures or guarantees the loan, in whole or in part.

(4m) (a) Each appraisal shall be in writing, prepared at the request of the lender for the lender's use, and shall include all of the following information:

1. The market value of the security offered.
2. Sufficient information and data concerning the appraised property to substantiate the market value.
3. The certification and signature of the appraiser.
4. A statement that the appraiser has personally examined the described property.

(b) An appraisal shall be prepared and reported in accordance with the uniform standards of professional appraisal practice, as described under s. 458.24.

(c) An appraisal shall be retained by the savings bank.

(5) If an appraisal of real estate securing a savings bank's loan is obtained as part of an examination by the commissioner, the cost of the appraisal shall promptly be paid by the savings bank to the appraiser.

History: 1991 a 221.

**214.485 Investment in loans.** Subject to rules of the commissioner, a savings bank may lend funds under any of the following conditions or for any of the following purposes:

(1) On the security of deposit accounts, but such a loan may not exceed the withdrawal value of the pledged account and each deposit account loan shall be evidenced by a note and a pledge of the deposit account.

(2) On the security of real estate if all of the following conditions exist:

(a) The value of the real estate is sufficient to provide security for the loan.

(b) Evidence of title is established.

(c) The security interest in the real estate is evidenced by an appropriate written instrument and the loan is evidenced by a note, bond or similar written instrument.

(d) The mortgage loan does not exceed 40 years.

(3) For the purpose of repair, improvement, rehabilitation or furnishing of real estate.

(4) For the purpose of financing or refinancing an existing ownership interest in certificates of stock, certificates of beneficial interest, other evidence of an ownership interest in, or a proprietary lease from a corporation, trust, or partnership formed for the purpose of the cooperative ownership of real estate, secured by the assignment or transfer of certificates or other evidence of ownership of the borrower.

(5) Through the purchase in whole or in part of loans that, at the time of purchase, the savings bank could make under this chapter and its bylaws.

(6) Through the purchase of an instalment contract for the sale of real estate and title to the real estate that is subject to

the contract if the savings bank, at the time of purchase, could make a mortgage loan of the same amount and for the same length of time on the security of the real estate.

(7) Through loans guaranteed or insured, in whole or in part, by the United States or any of its instrumentalities.

(8) Through secured or unsecured loans for business, corporate, commercial or agricultural purposes if the total of all loans granted under this subsection does not exceed 10% of the savings bank's total assets, unless a greater amount is authorized in writing by the commissioner.

(9) Through secured or unsecured loans for personal, family or household purposes if the total of all loans granted under this subsection does not exceed 10% of the savings bank's total assets.

(10) For the purpose of mobile home financing.

(12) Through issuance of letters of credit or other similar arrangements as provided for by rules of the commissioner with regard to aggregate amounts permitted, take-out commitments for stand-by letters of credit, underlying documentation and underwriting, legal limitations on loans of the savings bank, control and subsidiary records and other procedures considered to be necessary by the commissioner.

(13) For the purpose of automobile financing.

(14) For the purpose of financing educational expenses.

(15) Through revolving lines of credit on the security of a first or junior lien on the borrower's personal residence, or on other residential real estate based primarily on the borrower's equity, the proceeds of which may be used for any purpose.

(16) As secured or unsecured credit to cover the payment of checks, drafts or other funds transfer orders in excess of the available balance of an account on which they are drawn.

(17) For any other purpose authorized by rule of the commissioner.

History: 1991 a 221.

**214.49 Other investments.** Subject to rules of the commissioner, a savings bank may invest funds in any of the following:

(1) In deposit accounts or insured obligations of any financial institution the accounts of which are insured by a deposit insurance corporation.

(2) In obligations of, or obligations that are fully guaranteed by, the United States and in stocks or obligations of any federal reserve bank, federal home loan bank, the student loan market association, the government national mortgage association, the federal national mortgage association, the federal home loan mortgage corporation or the federal deposit insurance corporation.

(3) In bonds or other direct obligations of, or obligations guaranteed as to principal and interest by, this state.

(4) In bonds, notes or other evidences of indebtedness which are a general obligation of any city, town, village, county, vocational, technical and adult education district or school district in this state. The total liability of any such local governmental unit may not at any time exceed 50% of the capital of the savings bank. The total amount of temporary borrowings of any such local governmental unit maturing within one year from the date of issue may not exceed 60% of the capital of the savings bank. Temporary borrowings and longer-term general obligation borrowings of a single local governmental unit may be considered separately in arriving at the limitations under this subsection.

(5) With the prior written consent of the commissioner, a savings bank may invest in the initial purchase and development, or the purchase or commitment to purchase after completion, of home sites and housing for sale or rental, including projects for the reconstruction, rehabilitation or

rebuilding of residential properties to meet the minimum standards of health and occupancy prescribed by a local governmental unit, the provision of accommodations for retail stores, shops and other community services that are reasonably incident to that housing, or in the stock of a corporation that owns one or more of those projects and that is wholly owned by one or more financial institutions. The total investment in any one project may not exceed 15% of the savings bank's capital, nor may the aggregate investment under this subsection exceed 50% of its capital. A savings bank may not make an investment under this subsection unless it is in compliance with the capital requirements under s. 214.43 and with the capital maintenance requirements of its deposit insurance corporation. The commissioner may approve the investment only if the savings bank shows all of the following:

(a) That the savings bank has adequate assets available for the investment.

(b) That the proposed investment does not exceed the reasonable market value of the property or interest in the property as determined by appraisal that meets the requirements of s. 214.48 (4) and (4m).

(c) That all other requirements of this subsection have been met, except that a savings bank may develop or build on land it acquired under any other provision of this chapter and may complete construction of buildings in accordance with any construction loan contract if the borrower fails to comply with the terms of the contract.

(6) In stocks or obligations of a corporation organized for business development by this state or by the United States or by an agency of this state or the United States.

(7) In obligations of an urban renewal investment corporation organized under the laws of this state or of the United States.

(8) In short-term commercial paper having a maturity from 2 to 270 days issued by a financial institution, corporation or other borrower. An investment under this subsection shall be in securities rated in one of the 4 highest categories by a nationally recognized rating service.

(9) A savings bank may purchase shares of, or otherwise acquire an equity interest in, an insurance company and in an insurance holding company organized to provide insurance for savings banks and persons affiliated with savings banks solely to the extent that ownership is a prerequisite to obtaining directors' and officers' blanket bond insurance through the company.

(10) In equity or debt securities or instruments of a service corporation subsidiary of the savings bank.

(11) In advances of federal funds.

(12) In financial futures transactions, financial options transactions, forward commitments or other financial products for the purpose of reducing, hedging or otherwise managing its interest rate risk exposure.

(13) In a subsidiary organized to exercise corporate fiduciary powers under ch. 112.

(14) In marketable investment securities, if the total amount of those securities of any one issuer or obligor does not exceed 5% of the savings bank's capital and the aggregate amount of investments under this subsection does not exceed 15% of capital.

(15) In any other investment authorized by rule of the commissioner

History: 1991 a 221

**214.495 Lien priority; advances.** (1) A mortgage taken and recorded by a savings bank shall have priority over all liens, except tax and special assessment liens, upon the mortgaged

premises and the buildings and improvements thereon, that are filed after the recording of the mortgage.

(2) Any additional advance made to a borrower, if the mortgage and mortgage note provides for additional advances, may not exceed an amount specified in the mortgage.

History: 1991 a 221.

**214.50 General loan contract provisions.** A loan and an agreement for securing the loan shall be evidenced by one or more written instruments, consistent with sound lending practices. A savings bank shall record an instrument if it is necessary to establish priority over the claim of any 3rd party.

History: 1991 a 221.

**214.505 Modification agreements.** Except as provided in a loan contract, a savings bank may enter into a written agreement with a borrower to modify the terms of a loan that describe the amount, time or method of the payments, the interest rate or any other provision of the loan contract. The loan contract, security instrument and lien priority are not affected by the modification, even if the modification was not provided for in the loan contract, unless the modification increases the total amount to be loaned under the loan contract.

History: 1991 a 221.

**214.51 Sale, assignment, and servicing of loans and contracts.** (1) A savings bank may sell a loan or a participating interest in a loan with or without recourse. The commissioner may by rule adopt limitations on the sale of loans except loans sold to agencies of the United States or this state or to another government-sponsored agency if approved by the commissioner.

(2) A savings bank may contract to service a loan or a participating interest in a loan, subject to rules of the commissioner.

(3) A savings bank may sell and assign, with or without recourse, any certificate of sale, defaulted loan or defaulted real estate contract to any person eligible to purchase it.

History: 1991 a 221.

**214.515 Purchase of real estate at forced sale.** A savings bank may purchase at any sheriff's or other judicial sale any real estate upon which the savings bank has any mortgage, lien or other encumbrance, or in which the savings bank has any other interest. The savings bank may repair, insure, improve, sell, lease, preserve, mortgage or dispose of that real estate.

History: 1991 a 221

**214.52 Purchase of real estate for office and rental purposes.** (1) A savings bank may acquire and hold real estate on which a building exists or may be built that is suitable for the transaction of the savings bank's business. A savings bank may own all or part of the stock, shares or interest in a corporation, association or trust engaged solely in holding all or part of that real estate. A savings bank may derive rents from any portion of a building not required for the savings bank's own use.

(2) The amount invested under sub. (1) may not exceed 100% of a savings bank's capital.

(3) Unless prior written approval of the commissioner is obtained, a savings bank may not purchase, lease or acquire a site for an office building or an interest in real estate from an officer, director, employe, from a stockholder holding more than 10% of the stock of the savings bank, or from any firm, corporation, entity, or family in which an officer, director,

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employe or stockholder holding more than 10% of the stock of a savings bank has a direct or indirect interest.

History: 1991 a 221.

**214.525 Prohibited loans.** A savings bank may not make a loan to a person owning 10% or more of its stock, an affiliated person, agent, or attorney of the savings bank, either individually or as an agent or partner of another, except under rules of the commissioner and regulations of a deposit insurance corporation.

History: 1991 a 221.

**214.53 Effect of unauthorized investments. (1)** If a savings bank makes a loan or other investment that is not authorized under this subchapter, it shall be due and payable according to its terms and the obligation of the loan is not impaired.

**(2)** A director or officer of a savings bank may not knowingly participate in or assent to, or knowingly permit an officer, employe or agent of the savings bank to make, an investment that is not authorized by this subchapter.

**(3)** The commissioner may require a director or officer of a savings bank who knowingly participates in or assents to, or who knowingly permits an officer, employe or agent of the savings bank to make, an investment that is not authorized by this subchapter to obtain an indemnity bond, insurance, or collateral sufficient to indemnify the savings bank against damages that the savings bank may sustain as a result of the investment. If an unauthorized investment, the amount considered sufficient to indemnify the savings bank shall be the difference between the book value and the market value of the investment at the time the commissioner determines that the investment is unauthorized. If an unauthorized loan, the amount considered sufficient to indemnify the savings bank shall be the difference between the book value of the loan and the amount of the loan that could have been made under this subchapter. If an unauthorized investment is sold or disposed of without recourse, the commissioner shall release all or part of the indemnity after deducting any loss. If the balance of an unauthorized loan is reduced to an amount that would permit the loan to be made under this subchapter, the indemnity shall be released. In making a determination under this subsection, the commissioner may order an independent appraisal at the savings bank's expense.

History: 1991 a 221.

**214.54 Loans to one borrower. (1)** Except as provided in sub. (2) and s. 214.49 (4), the total of outstanding loans and extensions of credit, both direct and indirect, made by a savings bank to a single person shall be subject to limits established by rule of the commissioner, but may not exceed 15% of the savings bank's capital.

**(2)** Total outstanding loans and extensions of credit, both direct and indirect, made by a savings bank to a single person may exceed the 15% limit under sub. (1), but may not exceed 25% of the savings bank's capital, if all loans or extensions of credit that exceed the 15% limit are at least 100% secured by readily marketable collateral having a market value that may be determined by reliable and continuously available price quotations.

**(3)** Notwithstanding subs. (1) and (2), a savings bank may make loans to one borrower under any of the following circumstances:

(a) For any purpose if the total amount loaned does not exceed \$500,000.

(b) To develop domestic residential housing units if the total amount loaned does not exceed the lesser of \$30,000,000 or 30% of the savings bank's capital and if all of the following conditions are met:

1. The purchase price of each single-family dwelling unit in a development financed under this paragraph does not exceed \$500,000.

2. The savings bank is in compliance with the capital requirements under s. 214.43.

3. Loans made under this paragraph to all borrowers do not, in aggregate, exceed 150% of the savings bank's capital.

4. Loans under this paragraph comply with all applicable loan-to-value requirements.

**(4)** A savings bank's loans to one borrower to finance the sale of real property acquired in satisfaction of debts may not exceed 50% of the savings bank's capital.

**(5)** A loan or extension of credit granted to one person, the proceeds of which are used for the direct benefit of a 2nd person, shall be considered to be a loan or extension of credit to the 2nd person as well as the first person.

**(6)** The total liabilities of a partnership, pool, syndicate or joint venture shall include the liabilities of the members of the entity.

**(7)** For a loan authorized under sub. (2), a savings bank shall institute procedures to ensure that collateral fully secures an outstanding loan or extension of credit at all times.

**(8)** If collateral values fall below 100% of an outstanding balance of a loan or extension of credit to the extent that the loan or extension of credit does not comply with subs. (1) and (2), the savings bank shall bring the loan into conformance within 15 business days unless a judicial proceeding or other extraordinary occurrence prevents the savings bank from taking action.

**(9)** This section does not apply to loans or extensions of credit to the United States or its agencies or to this state or its agencies.

History: 1991 a 221.

**214.545 Rules.** The commissioner shall promulgate rules to determine permissible levels of investment and permissible concentrations of assets for savings banks that apply to all lending and investment authority under this subchapter. The rules shall give due regard to capital adequacy, operating income, underwriting standards, risk inherent in the investment or loan, and competitive parity with other financial institutions.

History: 1991 a 221.

**SUBCHAPTER VIII****DEPOSIT ACCOUNTS**

**214.57 Deposit accounts.** A savings bank may establish deposit accounts. Deposit accounts shall be payable without notice, unless the contract of deposit provides otherwise.

History: 1991 a 221.

**214.575 Deposit accounts subject to liens. (1)** A deposit account shall be subject to a lien for the payment of charges that may accrue on the account under this chapter.

**(2)** A deposit account shall be subject to a debt offset for the debts of the deposit account holder to the savings bank.

**(3)** Deposit accounts may not be assessed for any debts or losses of the savings bank.

History: 1991 a 221.

**214.58 Payment of interest. (1)** The board of directors shall determine the rate and amount of interest to be paid on or credited to deposit accounts. The board of directors may establish reasonable classifications of accounts based on the types of accounts, the length of time accounts are continued in effect, the size of initial deposits into accounts, the mini-

mum balances of accounts required for payment of interest, the frequency and extent of the activity on accounts, or on other classifications the commissioner may approve.

(2) The board of directors shall determine by resolution the method of calculating the amount of interest on deposit accounts and the date on which interest is to be paid or credited.

History: 1991 a 221

**214.585 Holders of deposit accounts.** Deposit accounts may be held as follows:

(1) By an individual in his or her own right, regardless of age, or by 2 or more individuals.

(2) By a fiduciary if authorized by law.

(3) By a government or governmental instrumentality if authorized by law.

(4) By a corporation or other person.

(5) In any other form receiving the prior written approval of the commissioner.

History: 1991 a 221.

**214.59 Prohibited activities.** (1) A savings bank may not participate, directly or indirectly, in the sale or transfer of any equity or debt security or instrument of an affiliate, its parent savings bank holding company or an affiliate of the savings bank holding company.

(2) A shareholder, director, officer, employe or agent of the savings bank may not participate, directly or indirectly, in any sale or transfer described in sub. (1), nor may that person allow any other person to do so at an office of the savings bank or any office of the savings bank's subsidiaries or service corporations.

History: 1991 a 221.

**214.592 Financially related services tie-ins.** In any transaction conducted by a savings bank, a savings 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 savings bank, savings bank holding company or subsidiary), is related to (insert name and address of savings bank, savings 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 at (insert address).

History: 1991 a 221

**214.595 Account disclosures.** (1) A savings bank shall provide a disclosure statement, which may include a separate interest rate table or fee schedule or both, for each deposit account offered by the savings bank. A disclosure statement shall include all of the following information:

(a) A description of the deposit account.

(b) The conditions on which the deposit account is offered.

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

(d) All fees charged for the deposit account.

(2) A savings bank shall provide a disclosure statement under sub. (1) to each account holder at the time of the account holder's initial deposit into the deposit account and if any of the information under sub. (1) that is applicable to an

account holder's account changes, except a change in the interest rate of a variable interest rate deposit account, if the variability of the interest rate was disclosed at the time of initial deposit.

(3) A savings bank shall provide a disclosure statement under sub. (1) to any person requesting the disclosure statement for a deposit account.

(4) A disclosure statement provided under sub. (2) or (3) shall be accompanied by a brief description of all other deposit accounts offered by the savings bank and a statement that more detailed information is available on request.

History: 1991 a 221

## SUBCHAPTER IX

### VOLUNTARY CORPORATE CHANGES

**214.62 Merger; adoption of plan.** (1) A financial institution may merge into a savings bank. The board of directors of the merging financial institution and of the savings bank, by resolution adopted by a vote of at least two-thirds of the members of each board, shall approve the plan of merger.

(2) The plan of merger shall include all of the following:

(a) The name of each merging financial institution, the name of the resulting savings bank, the location of the resulting home office and the location of other resulting offices.

(b) With respect to the resulting savings bank, the amount of capital, surplus, and reserve for operating expenses; the classes and the number of shares of stock, if a stock savings bank; the articles of incorporation and bylaws of the resulting savings bank; and a detailed financial statement showing the assets and liabilities after the proposed merger.

(c) The method, terms and conditions of effecting the merger, including the manner of converting shares of each merging financial institution into cash, shares of stock or other securities or properties to be received by the stockholders of each merging stock financial institution.

(d) Provisions governing the manner of disposing of any shares of stock of the resulting savings bank that are not taken by dissenting stockholders of a merging financial institution.

(e) Other provisions necessary or desirable or that the commissioner requires.

(3) After approval by the board of directors of the merging financial institution and of the savings bank, the merger agreement shall be submitted to the commissioner for approval, together with a certified copy of the authorizing resolution of each board of directors. Before issuing approval, the commissioner may examine the affairs of each merging financial institution and its affiliates and subsidiaries, the expense of which is to be paid by the merging financial institution.

(4) The commissioner may approve or disapprove the proposed merger agreement. The commissioner may not approve a merger agreement unless the commissioner finds all of the following:

(a) The resulting savings bank meets the requirements of this chapter for the formation of a new savings bank.

(b) The merger agreement is fair to all persons affected.

(c) The resulting savings bank will be operated in a safe and sound manner.

(5) If the commissioner fails to approve a proposed merger, the commissioner shall state the objections in writing and give the merging financial institutions a stated period of time in which to amend the plan of merger.

History: 1991 a 221

**214.625 SAVINGS BANKS**

**214.625 Merger; vote of approval.** If approved by the commissioner, the plan of merger shall be submitted to the members or stockholders of each merging financial institution for approval. A meeting of the members or stockholders of a savings bank shall be called and held in accordance with ss. 214.305 and 214.31. The plan is approved if it receives the affirmative vote of the majority of the total votes entitled to be cast.

History: 1991 a. 221.

**214.63 Merger; commissioner's certificate.** The executed merger agreement, together with a certified copy of the minutes of the meeting of members or stockholders of each merging financial institution approving the merger agreement, shall be filed with the commissioner. The commissioner shall issue to the resulting savings bank a certificate of merger, setting forth the name of each merging financial institution, the name of the resulting savings bank and the date on which the commissioner approves the articles of incorporation and bylaws of the resulting savings bank. The merger takes effect on the date of the recording of the certificate or a later date if the certificate provides for a different date. Recording shall be completed in the same manner as required for savings bank articles of incorporation, in each county in which the home office of any of the merging financial institutions was located and in the county in which the home office of the resulting savings bank is located. The certificate shall be conclusive evidence of the merger and of the correctness of the merger proceedings except against this state.

History: 1991 a. 221

**214.635 Effect of merger.** The resulting savings bank shall be considered the same business and corporate entity as each merging financial institution, with all the property, rights, duties and obligations of each merging institution, except as otherwise provided by the articles of incorporation of the resulting savings bank. All liabilities of each of the merging institutions shall be liabilities of the resulting savings bank. All of the rights, franchises and interests of each of the merging institutions in and to every kind of property shall vest automatically in the resulting savings bank. A reference to any of the merging institutions in any writing, whether executed or effective before or after the merger, shall be considered to be a reference to the resulting savings bank if not inconsistent with other provisions of the writing. A pending action or other judicial proceeding to which a merging institution is a party may not be abated or dismissed because of the merger, but may be continued in the same manner as if the merger had not occurred.

History: 1991 a. 221

**214.64 Merger; commissioner's expenses.** The merging financial institutions shall pay the expenses of any examination made by or at the direction of the commissioner in connection with a proposed merger.

History: 1991 a. 221

**214.645 Sale of assets.** Subject to rules of the commissioner, a savings bank may, in a transaction not in the usual course of business, sell all or substantially all of its assets, with or without its name and goodwill, to another financial institution, in consideration of money, capital or obligations of the purchasing institution. A savings bank may sell an office or facility and equipment subject to rules of the commissioner.

History: 1991 a. 221.

**214.65 Procedure to effect sale of all assets. (1)** The procedure in this section applies to a sale authorized under s. 214.645 or 214.67.

(2) (a) The board of directors shall adopt by a two-thirds majority vote of all directors a resolution setting forth the terms of the proposed sale and shall submit the plan to the commissioner for preliminary approval. Upon receipt of approval by the commissioner, the plan shall be submitted to a vote of the members or stockholders at a special or annual meeting.

(b) The proposed sale is approved by the members or stockholders if it receives an affirmative vote from a majority of the total number of votes that are entitled to cast. A proposal for the voluntary liquidation of the savings bank may be submitted to the members or stockholders at the same meeting or at any later meeting called for that purpose. A certified summary of proceedings setting forth the terms of the proposed sale, the form and timing of the notice given, the vote on the proposal and the total number of votes entitled to cast shall be filed with the commissioner.

(3) If the commissioner finds that the deposit insurance corporation has approved the sale, the proposed sale is fair to all members, stockholders, creditors and other persons concerned and provision has been made for the disposition of the remaining assets, if any, of the savings bank, the commissioner shall issue to the savings bank a certificate of authorization for the sale with a copy of the filed report of proceedings attached to the certificate.

(4) After the savings bank records the certificate of authorization in the same manner as the savings bank's articles of incorporation, the savings bank may complete the sale.

(5) If the sale includes the name of the savings bank, the purchaser shall have the exclusive right to that name for 5 years.

History: 1991 a. 221

**214.655 Authority to form interim institution. (1)** A savings bank may form an interim institution to effect a corporate restructuring, a voluntary corporate change or other transformation that does not in reality create an additional new financial institution, but that moves insured deposits from one financial institution to another pursuant to a change in control, change in method of ownership, merger or other organizational change that results in no new insurable deposits. The interim institution may become or receive the continuing or surviving financial institution or may be a conduit through which an existing financial institution's assets, liabilities, fixtures, personnel, rights and property are passed to effect a corporate change. In connection with formation of an interim institution, an existing savings bank may amend its articles of incorporation and bylaws to remove any depository function and to remove any deposits that would require insurance of accounts by a deposit insurance corporation.

(2) A savings bank shall apply to the commissioner for authority to form an interim institution. The application shall be made on forms prescribed by the commissioner and shall be accompanied by a nonrefundable \$1,000 fee. The commissioner shall promulgate rules governing the formation of, and the standards and supervisory considerations to be applied to, interim institutions. An application shall contain all of the following:

- (a) The name and address of the savings bank.
- (b) A copy of all filings required by other regulatory authorities.
- (c) A statement from the savings bank's certified public accountant describing and analyzing the method to effect the transaction.

(d) A 5-year plan for the resulting financial institution and for any corporate remnant of the original savings bank regarding the disposition, acquisition or expansion of assets; capital enhancement; disposition of earnings and profits; and geographic or other expansion or contraction.

(e) The purpose of the resulting financial institution.

(f) Whether deposit accounts will be expanded to require increased insurance of accounts together with copies of the appropriate filings.

(g) Ownership structure including any contemplated sales of stock of subsidiaries, affiliates or savings bank holding companies, as well as of the resulting financial institution.

(h) Articles of incorporation and bylaws of the original savings bank, interim institution and resulting financial institution.

History: 1991 a 221

**214.66 Conversion of an existing institution to a savings bank.** A savings and loan association organized under ch. 215, a federal savings and loan association with its home office in this state or a federal savings bank with its home office in this state may become a savings bank by doing all of the following:

(1) Applying to the commissioner for authority to organize as a savings bank.

(2) Obtaining insurance of accounts from a deposit insurance corporation.

(3) Making any necessary application to its regulatory authority and paying all outstanding supervisory fees, examination fees, membership fees, other fees, penalties and assessments.

(5) Obtaining the commissioner's approval to convert to a savings bank.

(6) Recording the savings bank's articles of incorporation in the county in which its home office is located.

(7) After obtaining the commissioner's approval, giving notice to its previous regulatory authority.

History: 1991 a 221

**214.665 Emergency merger.** (1) With the prior approval of the commissioner, which shall state that the proposed merger is necessary for the protection of depositors and other creditors, a savings bank that is in default or in danger of default may, by a majority vote of its board of directors and without a vote of its members or stockholders, merge with another savings bank, a state or federal savings and loan association, a state bank or a federal bank. The other entity shall be the resulting or continuing savings bank, savings and loan association or bank.

(2) The commissioner shall by rule establish standards for determining if a savings bank is in default or in danger of default.

History: 1991 a 221

**214.67 Emergency sale of assets.** (1) With the prior approval of the commissioner, which shall state that the proposed sale is necessary for the protection of depositors and other creditors, a savings bank may, by a majority vote of its board of directors and without a vote of its members or stockholders, sell all or any part of its assets to another savings bank, a state or federal savings and loan association, a state bank or a national bank if the savings bank, savings and loan association or bank assumes in writing all of the liabilities of the selling savings bank or to a deposit insurance corporation.

(2) A savings bank may sell to a savings bank, state or federal savings and loan association, state bank or federal bank an insubstantial portion of its total deposits as de-

scribed in 12 USC 1815 5 (d) (2) (D). Approval of the sale shall be by a majority vote of the board of directors and, with approval of the commissioner, may be without a vote of its members or stockholders.

History: 1991 a 221

**214.675 Acquisition of control.** (1) A person, whether acting directly or indirectly, alone or with one or more persons, shall give the commissioner 60 days' written notice of intent to acquire control of 10% or more of a savings bank, affiliate, savings bank subsidiary, savings bank holding company or service corporation.

(2) A person, whether acting directly or indirectly, alone or with one or more persons, shall apply to the commissioner 60 days before any proposed change in control. A change in control occurs if any change of ownership of stock, or of rights related to stock, would result in a person, whether acting directly or indirectly, alone or with one or more persons, owning, directly or indirectly, 25% or more of the voting shares or rights in a savings bank, affiliate, savings bank subsidiary, savings bank holding company or service corporation or such lesser amount that would entitle the person to elect one member to the board of directors of the entity.

(3) The commissioner may examine the books and records of a person filing notice of intent under sub. (1) or an application under sub. (2).

(4) The commissioner's decision on a filing under sub. (1) or (2) shall be issued within 30 days after the date of receipt of a complete initial application or the date of receipt of additional information requested by the commissioner that is necessary for making the decision. The commissioner shall make a request for additional information within 30 days of the date of the commissioner's receipt of an initial filing.

(5) The commissioner shall promulgate rules to implement this section.

History: 1991 a 221

**214.68 Jurisdictional conversion.** (1) A federal savings bank or federal savings and loan association may convert itself into a savings bank, and a savings bank may convert itself into a federal savings bank, by following the procedures under pars. (a) to (e).

(a) A meeting of the members or stockholders shall be held after not less than 10 days' written notice to each member or stockholder, served either personally or by mail to the last-known post-office address. The notice shall state the date, time, place and purpose of the meeting.

(b) At the meeting the members or stockholders may, by affirmative vote of not less than two-thirds of the eligible votes, resolve to convert the savings bank into a federal savings bank, or if a federal institution, into a savings bank. A verified copy of the minutes of the meeting shall be filed with the commissioner within 10 days after the date of the meeting.

(c) If the members or stockholders vote to convert, the secretary shall, within 30 days after the date of the meeting serve notice on all members or stockholders, either personally or by mail to the last-known post-office address.

(d) Within 6 months after the date of the meeting to convert, the savings bank shall take all steps necessary to complete the conversion. Within 10 days after receipt of federal authorization, the savings bank shall file with the commissioner a copy of its federal authorization. Upon filing, the savings bank shall cease to be a savings bank and shall be a federal savings bank.

(e) Within 6 months after the date of the federal institution's meeting to convert, the commissioner shall examine the federal institution and shall determine the action necessary to

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qualify the federal institution to convert to a savings bank. Upon complying with the necessary requirements, the commissioner shall approve the conversion.

(2) Upon conversion, the corporate existence of the converting institution shall not terminate and the resulting institution shall be a continuance of the converting institution. All of the property and rights of the converted institution shall vest in the resulting institution as of the time of conversion and all of its obligations become those of the resulting institution. Actions and other judicial proceedings to which the converting institution is a party may be prosecuted and defended as if conversion had not taken place.

(3) Before any conversion under this section is effective, the commissioner shall issue a certificate of conversion.

History: 1991 a. 221

**214.685 Organizational conversion of mutual savings bank to stock savings bank.**

(1) A mutual savings bank may convert to a stock savings bank under this section. The board of directors of the mutual savings bank shall adopt a plan of conversion that complies with this section and the rules of the commissioner. The plan of conversion is subject to the approval of the commissioner.

(2) Conversion of a mutual savings bank shall be effective only if it is accomplished according to a plan of conversion approved by the commissioner under sub. (1) and if the plan is approved by an affirmative vote of the majority of all votes entitled to be cast by members. Notice of a meeting to vote on the plan of conversion shall be sent to each member at least 10 days before the meeting. The notice shall state the date, time, place and purpose of the meeting, provide a summary of the plan of conversion and include any other information the commissioner requires.

(3) Within 10 days after the date of a meeting at which a plan of conversion is adopted, the board of directors shall submit to the commissioner all of the following:

(a) A certified copy of the minutes of the meeting at which the plan is adopted.

(b) Any additional information pertaining to the plan of conversion that the commissioner may require.

(4) The commissioner may approve a plan of conversion if the commissioner finds that the plan meets all of the following conditions:

(a) Is fair and equitable to all depositors in the converting mutual savings bank.

(b) Protects the interest of depositors of the resulting stock savings bank.

(c) Complies with any standard which the commissioner may promulgate by rule.

(5) The commissioner may issue to a mutual savings bank a certificate of conversion to a stock savings bank, if the commissioner determines the plan of conversion has been implemented as approved and the savings bank has complied with this section and any conditions to the approval. The date specified in the certificate is the effective date of the conversion. The certificate shall be recorded with the register of deeds in the county in which the home office of the savings bank is located.

(6) Unless the plan of conversion provides otherwise, the directors of the converted mutual savings bank shall continue to serve as directors of the stock savings bank for the duration of the term to which they were elected.

(7) Upon conversion of a mutual savings bank, the legal existence of the stock savings bank shall be a continuation of the mutual savings bank, and all property and every right, privilege, interest and asset of the mutual savings bank vests in the stock savings bank. The stock savings bank shall have,

hold and enjoy the same in its own right to the same extent as the mutual savings bank. The resulting stock savings bank shall succeed to all the obligations and relations of the mutual savings bank. A pending action or judicial proceeding to which the mutual savings bank is a party may not be abated or discontinued because of the conversion. An action or proceeding may be prosecuted to final judgment, order or decree in the same manner as if the conversion had not been made and the resulting stock savings bank may continue the action in its corporate name. Any judgment, order or decree may be rendered for or against the stock savings bank which might have been rendered for or against the mutual savings bank. Each owner of a deposit account in the mutual savings bank continues ownership of the account in the stock savings bank under the same terms applicable to the account before conversion.

(8) The commissioner shall issue rules governing the conversion of mutual savings banks, including:

(a) Procedural rules.

(b) The fixing of a record date for determining member voting rights.

(c) Provisions of the plan of conversion and restated articles of incorporation.

(d) Voting rights.

(e) The composition, qualification and experience of principal officers and directors.

(f) Voting trust agreements.

(g) Employment contracts.

(h) The disposition, if any, of retained earnings.

(i) The distribution, issuance, sale and subscription of capital stock and additional paid-in capital.

(j) Any other requirements for converting a mutual savings bank to a stock savings bank that the commissioner considers to be necessary.

History: 1991 a. 221

**SUBCHAPTER X****SUPERVISION**

**214.715 Powers of commissioner.** (1) The commissioner shall do all of the following:

(a) Supervise and control savings banks and savings bank holding companies.

(b) Employ persons necessary to administer this chapter.

(c) Exercise the rights, powers and duties under this chapter or any related chapter.

(d) Promulgate rules.

(e) Submit an annual report to the governor and the legislature regarding the work of the commissioner's office under this chapter.

(f) Commence an action in the commissioner's name to enforce any law of this state that applies to savings banks, service corporations, savings bank subsidiaries, affiliates or savings bank holding companies, including the enforcement of any obligation of the officers, directors, agents or employees of these entities.

(g) Prescribe a uniform manner for maintaining the books and records of a savings bank.

(h) Establish a reasonable fee structure, subject to approval of the review board, for savings banks and savings bank holding companies and for their service corporations and subsidiaries. The fees may include annual fees, application fees, regular and special examination fees and other fees that relate to the commissioner's responsibilities under this chapter and that are directly attributable to the entities operating under this chapter. The commissioner may assess,

bill and collect fees established under this paragraph. The amounts collected by the commissioner shall be used for the expenses of the office of the commissioner.

(2) The commissioner may not be subject to any civil liability or penalty, or to any criminal prosecution, for any error in judgment or discretion made in good faith and upon reasonable grounds in any action taken or omitted by the commissioner in an official capacity.

(3) If it appears to the commissioner that a savings bank is conducting its business in violation of this chapter, the commissioner may report the facts to the department of justice which may bring an action to revoke the certificate of incorporation of the savings bank.

(4) (a) A savings bank that intends to move its home office or a branch office to some other location not more than one mile from its current location shall make an application to the commissioner. The commissioner may approve or deny the application for relocation.

(b) A savings bank that intends to move its home office or a branch office to some other location more than one mile from its current location shall make an application to the commissioner. The commissioner shall give notice and provide an opportunity for hearing as provided in s. 214.26 (3) to (5). In approving or denying the application for relocation, the commissioner shall determine the need for relocation and determine whether undue harm or injury would be caused to any savings bank doing business in the area or vicinity of the proposed relocation.

History: 1991 a. 221.

**214.72 Prohibited business relationships.** (1) In this section:

(a) "Business relationship" means a financial interaction with a savings bank, including obtaining and renegotiating a loan; maintaining a deposit account or escrow account; obtaining and using a credit card; being a trustee or beneficiary of an estate or trust held by the savings bank; and renting a safe deposit box.

(b) "Financial regulator" means the commissioner, deputy commissioner, administrator of examination and supervision, supervisor of data processing, legal counsel and a savings bank examiner and includes any member of a financial regulator's immediate family, as defined in s. 19.42 (7).

(2) (a) A financial regulator may not request, accept or enter into a business relationship with a savings bank unless the business relationship is in the savings bank's ordinary course of business, is negotiated at arms' length and the terms are no more favorable than those available to members of the general public in like circumstances.

(b) A financial regulator may not be an officer, director, employe or agent of a savings bank.

(c) A financial regulator may not voluntarily acquire equity securities in a savings bank or a savings bank holding company. A financial regulator shall transfer equity securities which he or she owns within 90 days after commencement of employment as a financial regulator or within 90 days after acquiring ownership by inheritance or gift.

(d) Notwithstanding par. (a), a financial regulator may not obtain a new loan from or renegotiate, refinance, renew, extend or modify an existing loan with a savings bank. A financial regulator may exercise contract rights under an existing variable rate, escalator or balloon-type mortgage. A financial regulator is not required to terminate a loan existing at the time he or she becomes a financial regulator.

(3) Within 30 days after commencing employment as a financial regulator and at least once each year, each financial regulator, for himself or herself and covering his or her

immediate family, shall complete a written, sworn report disclosing the nature of all business relationships with savings banks on forms prescribed by the commissioner. Each report shall be reviewed by the commissioner, except that the commissioner's and deputy commissioner's report shall be reviewed by the review board. The reviewers shall determine if any business relationship is or appears improper and, if so, may direct the termination of that business relationship within a reasonable, prescribed time period.

History: 1991 a. 221.

**214.725 Examination.** (1) At least once every 18 months and more often if necessary, the commissioner shall examine the books, records, operations and affairs of a savings bank. In the course of the examination, the commissioner may also examine in the same manner any entity, company or individual that the commissioner determines may have a relationship with the savings bank or a savings bank holding company, savings bank subsidiary, service corporation or affiliate of the savings bank, if the relationship may adversely affect the affairs, activities and safety and soundness of the savings bank.

(2) The commissioner shall consider it to be necessary to conduct an examination more often than every 18 months if a required report from a savings bank indicates a material change in financial condition or a material violation of a state or federal law, of a federal regulation or of a rule of the commissioner. If that condition is grounds for taking custody of the savings bank under s. 214.76, the examination shall be initiated within 10 business days.

(3) An examination shall include a review of all of the following:

(a) Quality of financial condition, including safety and soundness and investment and loan quality.

(b) Compliance with this chapter and other applicable state laws and rules and federal laws and regulations.

(c) Management policies.

(d) Overall safety and soundness of the savings bank, its parent savings bank holding company, savings bank subsidiaries, service corporations and affiliates.

(e) Remedial actions required to correct and to restore compliance with applicable statutes, regulations, rules and orders.

(f) Any other matter the commissioner considers to be appropriate.

(4) If a savings bank, its savings bank holding company or any of its savings bank subsidiaries or service corporations has not been audited at least once in the 12 months before the commissioner's examination, the commissioner shall order an audit of the entity's books and records to be made by an independent certified public accountant, selected by the commissioner, who has experience in financial institution audits. The cost of the audit shall be paid for by the entity being audited.

(5) The commissioner, employes of the office of the commissioner or other designated agents may administer oaths and examine and take and preserve testimony under oath as to anything in the affairs or ownership of the savings bank or the entity examined.

(6) An examination report may contain directives to correct violations or to perform acts to ensure the safety and soundness of the savings bank or the entity examined.

(7) If a savings bank fails to submit to an examination, the commissioner shall report that failure to the attorney general, who shall institute proceedings to revoke its certificate of incorporation.

History: 1991 a. 221.

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**214.735 Examination report.** Upon completion of an examination, the commissioner shall provide an examination report to the board of directors of the savings bank or other entity examined. Each director shall read the report and shall sign an affidavit affirming that the director has read and understands the report. The affidavits shall be retained by the savings bank or entity examined and may be examined by the commissioner.

History: 1991 a. 221.

**214.74 Orders of the commissioner.** (1) If the affairs of the savings bank, savings bank subsidiary, service corporation or affiliate or savings bank holding company are not being conducted in accordance with this chapter, the commissioner may require the directors, officers and employes to take necessary corrective action. If the necessary corrective action is not taken, the commissioner may issue an order to the directors of the entity, to be served personally or by certified mail, specifying a date for the performance of the corrective action.

(2) If the order contains a finding that the business of the savings bank or savings bank holding company is being conducted in a fraudulent, illegal, unsafe or unsound manner or that the violation or the continuance of the practice to be corrected may cause insolvency, substantial dissipation of assets or earnings or the impairment of capital, the savings bank or savings bank holding company shall comply with the order immediately, unless the order is modified or withdrawn by the commissioner or modified or terminated by a court. Notwithstanding sub. (3), the commissioner may apply to the circuit court in the county in which the home office of the savings bank or savings bank holding company is located for enforcement of an order.

(3) If a hearing before the review board has not been requested within 20 days after service of an order, the commissioner may, at any time within 90 days after the date specified in the order for an action to be taken or discontinued, commence an action in the circuit court of the county in which the home office of the savings bank or savings bank holding company is located to compel the directors, officers or employes to take required corrective action. If a hearing is requested pursuant to s. 214.78, the commissioner may institute suit within 90 days after a determination by the review board.

(4) This section is in addition to the enforcement authority of the commissioner under subch. XII.

History: 1991 a. 221.

**214.745 Commissioner's notice to members or stockholders.** The commissioner may prepare a statement of the condition of the savings bank, affiliate, savings bank subsidiary, service corporation or savings bank holding company and may mail the statement to the members or stockholders or may publish the statement as a class 1 notice under ch. 985. The expense of a mailing or publication shall be paid by the savings bank, affiliate, savings bank subsidiary, service corporation or savings bank holding company.

History: 1991 a. 221.

**214.75 Record keeping and retention.** (1) A savings bank shall maintain books and records, as required by the commissioner, in accordance with generally accepted accounting principles and the requirements of its deposit insurance corporation. All books and records shall be current, complete, organized and accessible to the commissioner, the commissioner's agents and examiners and to the savings bank's auditors and accountants.

(2) A savings bank employing an outside data processing service shall inform the commissioner at the initiation, renewal or changing of a contract for data processing services with an outside data processing service. The contract shall be submitted to the commissioner at least 60 days before its implementation. The contract shall provide that the records maintained shall at all times be available for examination and audit by the commissioner. A savings bank shall implement internal control and security measures for its data processing activities.

(3) The commissioner may examine any data processing center that provides data processing or related services to a savings bank as often as the commissioner examines the savings bank it serves.

(4) The commissioner shall by rule prescribe periods of time for which savings banks must retain records and after the expiration of which, the savings bank may destroy those records. Liability may not accrue against the savings bank, the commissioner or this state for destruction of records according to rules of the commissioner promulgated under this subsection. In an action in which records of the savings bank may be called in question or demanded, a showing of the expiration of the retention period shall be sufficient excuse for failure to produce the records.

(5) (a) A savings bank may cause records kept by the savings bank to be recorded, copied or reproduced by any photostatic, photographic or miniature photographic process or by optical imaging if the process employed correctly, accurately and permanently copies, reproduces or forms a medium for copying, reproducing or recording the original record on a film or other durable material. A savings bank may thereafter dispose of the original record after obtaining the written consent of the commissioner. This subsection, except that part requiring written consent of the commissioner, is applicable to federal savings banks if it does not contravene federal law.

(b) Any photographic, photostatic or miniature photographic copy or reproduction or copy reproduced from a film record or any copy of a record generated by optical disk storage of a savings bank record shall be considered to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of a photographic copy or reproduction, copy reproduced from a film record or copy generated from optical disk storage of a record shall, for all purposes, be considered to be a facsimile, exemplification or certified copy of the original record.

History: 1991 a. 221, 280.

**214.755 Disclosure of examination reports and other records.** (1) The commissioner, employes of the office of the commissioner and members of the review board may not disclose information gathered by examination of or obtained through reports from a savings bank or from a state or federal financial institution regulatory authority except to any of the following:

(a) Directors, officers or employes of the savings bank if required to administer this chapter.

(b) A state or federal financial institution regulatory authority if the regulatory authority agrees to keep the information confidential.

(c) Law enforcement or prosecutorial agencies or a court.

(d) The savings bank's independent certified public accountants.

(e) The savings bank's deposit insurance corporation.

(2) An individual who violates sub. (1) shall forfeit his or her office or position.

History: 1991 a. 221

**214.76 Annual audit.** (1) At least once in each year and not more than 12 months after its last audit, a savings bank shall cause its books, records and accounts to be audited by an independent certified public accountant not connected with the savings bank. The certified public accountant shall conduct the audit to produce a certified financial statement. The commissioner may require additional information to be included in an audit report.

(2) The accountant shall deliver the audit report to a committee composed of 3 or more members of the board of directors, none of whom may be an officer, employe or agent of the savings bank. The committee shall present the nature, extent and conclusions of the report at the next meeting of the board of directors. A written summary of the committee's presentation, together with a copy of the audit report and a list of all criticisms made by the accountant conducting the audit and any response of any member of the board of directors or any officer of the savings bank, shall be personally served or sent by certified mail to all members of the board of directors.

(3) A copy of the audit report, including a balance sheet of the savings bank on the date of the audit and a statement of income and expenses of the savings bank during the year ending with the date of the audit and the written summary prepared for the board of directors shall be filed with the commissioner within 60 days after the date on which the savings bank received the audit report. The commissioner may, for good cause shown, extend the filing date for up to 60 additional days.

(4) The audit report filed with the commissioner shall be certified by the accountant conducting the audit. If a savings bank fails to cause an audit to be made, the commissioner shall order an audit to be made by an independent certified public accountant at the savings bank's expense. Instead of the audit required under sub. (1), the commissioner may accept an audit or portion of an audit made exclusively for a deposit insurance corporation or for a financial regulator of another state if the home office of the savings bank is located in that state.

(5) (a) Annually, no later than February 1, a savings bank shall file with the commissioner a report of its activities of the preceding calendar year, upon forms prescribed by the commissioner. The report shall include all of the following:

1. A verified copy of a statement of condition as of the close of December 31 of the preceding calendar year.
2. A statement of its operations during the preceding calendar year.
3. Any other information that the commissioner requires.

(b) A savings bank shall include with its annual report a copy of a statement of condition and operations as of the end of the savings bank's most recent fiscal year, which shall be available to the public. The savings bank shall publish a printed statement containing such information as the commissioner requires as a class 1 notice under ch. 985 in each municipality in which the savings bank operates an office. Proof of publication shall be furnished to the commissioner within 60 days after the date of the report.

History: 1991 a. 221, 315.

**214.765 Unsafe and unsound practices; orders of prohibition and removal.** (1) A violation of subch. VI or VII or s. 214.34, 214.59 or 214.76, or the failure to comply with recommendations of an examination report of the commissioner within 60 days after the date of issuance of the report

or within any other period the commissioner specifies, shall be considered an unsafe and unsound practice and creates an unsafe and unsound condition in the savings bank. A savings bank or a person affiliated with a savings bank who violates these provisions shall be subject to a forfeiture under s. 214.935 and to other enforcement powers of the commissioner under this subchapter, subch. XII and rules of the commissioner.

(2) Continued violation of any provision in sub. (1) after the commissioner issues an order to correct shall subject the members of the board of directors of the savings bank to removal from the board and to a permanent order of prohibition under s. 214.91.

(3) The commissioner shall promulgate rules to implement this section.

History: 1991 a. 221

**214.772 Foreign savings banks.** (1) In this section, "foreign savings bank" means a savings bank organized under the laws of another state or territory. "Foreign savings bank" does not include a federal savings bank.

(2) A foreign savings bank is doing business in this state if it accepts funds for deposit accounts in this state, takes loan applications in this state in the regular course of business or otherwise engages in any activity which would, if engaged in by a domestic entity, require that entity to be organized under this chapter as a savings bank. A foreign savings bank is not considered to be doing business in this state solely because it does one or more of the following:

- (a) Makes a mortgage loan in this state, purchases a loan secured by real property located in this state or otherwise acquires an interest in real property located in this state.
- (b) Holds or disposes of any interest in real property located in this state.
- (c) Pursues its rights or remedies in this state as the owner of real estate or under the terms of a real estate mortgage or similar security interest.
- (d) Advertises in this state.

(3) The activities in this state that a foreign savings bank may engage in are limited to those activities that a savings bank may engage in, and are subject to the laws of this state to the same extent as those activities conducted by a savings bank. A foreign savings bank may not do business in this state without a certificate of authority issued under this section.

(4) (a) An application by a foreign savings bank for a certificate of authority to do business in this state shall be accompanied by a nonrefundable \$500 application fee and shall contain all of the following:

1. A certified copy of the foreign savings bank's articles of incorporation and bylaws.
2. The name and address of the person in this state who will serve as the foreign savings bank's agent under sub. (6).
3. Satisfactory evidence that the foreign savings bank is in good standing with the regulatory authority responsible for its supervision in the jurisdiction in which the foreign savings bank is organized.
4. Satisfactory evidence of insurance by a deposit insurance corporation.
5. Any other information the commissioner requires.

(b) Upon receipt of a completed application and the required fee, the commissioner may issue a certificate of authority. The certificate of authority may be subject to specific conditions that the commissioner believes necessary to adequately safeguard the interests of the residents of this state. The commissioner may not issue a certificate of author-

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ity to do business in this state unless all of the following conditions are met:

1. The foreign savings bank is in sound financial condition and entitled to public confidence, and the commissioner is satisfied that the foreign savings bank will conduct its business in this state in accordance with the laws of this state.

2. The deposit accounts of the foreign savings bank are insured by a deposit insurance corporation.

(c) The commissioner may revoke a certificate of authority issued under this section if any of the following occurs:

1. The foreign savings bank fails to conduct its business in this state in accordance with the laws of this state.

2. The foreign savings bank refuses to permit the commissioner to conduct an examination, or fails to pay applicable fees.

3. The commissioner determines that the foreign savings bank is in an unsafe condition or that its continued operation in this state is otherwise inconsistent with the best interests of the residents of this state.

(5) A foreign savings bank doing business in this state shall be examined by the commissioner as provided under s. 214.725, audited under s. 214.76 and assessed fees as provided under s. 214.715 (1) (h), together with any out-of-state travel expenses incurred in the course of an examination or audit. The commissioner may accept all or part of an examination or audit prepared on behalf of the regulatory authority responsible for the supervision of the foreign savings bank in the jurisdiction in which the foreign savings bank is organized.

(6) A foreign savings bank doing business in this state shall maintain on file with the commissioner the name and address of a person in this state who is authorized to receive legal process on behalf of the foreign savings bank. The commissioner shall maintain a current record of each person so designated. The record of the commissioner shall be conclusive evidence of the authority of the person whose name appears in the record to receive process on behalf of the foreign savings bank.

(7) If the laws of another jurisdiction prohibit a savings bank from doing business in that jurisdiction, a foreign savings bank organized under the laws of that jurisdiction may not be authorized to do business in this state. If the laws of another jurisdiction require the posting of securities or impose other additional requirements as a condition of permitting a savings bank to do business in that jurisdiction, the commissioner may impose similar requirements on a foreign savings bank organized under the laws of that jurisdiction before issuing the foreign savings bank a certificate of authority to do business in this state.

History: 1991 a. 221

**214.775 Procedure upon the impairment of capital.** If the commissioner finds from a report, examination or other source that a savings bank's capital is impaired, the commissioner may do any of the following:

(1) Direct the board of directors to do any of the following:

(a) Require stockholders to contribute an amount at least sufficient to eliminate the impairment.

(b) Reduce the amount of additional paid-in capital by at least the amount of the impairment and allocate the reduction to undivided profits or reserves to absorb the loss that created the impairment.

(2) Take custody of the savings bank under subch. XI, establish a conservatorship and proceed to merge, sell or otherwise dispose of the savings bank in a manner that will remove the capital impairment, remove operating losses and restore compliance with capital requirements.

(3) Declare the stock worthless and order the directors to cancel the stock or order the directors to sell, merge or otherwise restructure the savings bank in a manner that will remove the capital impairment, eliminate operating losses and restore compliance with capital requirements.

History: 1991 a. 221

**214.78 Review board.** (1) The review board shall do all of the following:

(a) Advise the commissioner on matters related to this chapter.

(b) Review the acts, orders and determinations of the commissioner.

(c) Act on matters pertaining to this chapter that may be submitted to it by the commissioner.

(d) Perform other review functions relating to this chapter.

(e) Conduct hearings and take testimony, and subpoena and swear witnesses at such hearings. The review board shall have the subpoena powers under s. 885.01 (4).

(2) An interested party may appear at a proceeding of the review board and may participate in the examination of witnesses and present evidence.

(3) A person who subpoenas a witness shall advance the fees and mileage of the witness. Witness fees shall be the same as fees under s. 814.67 (1) (b) and (c). The fees of witnesses who are called by the review board in the interests of the state shall be paid by the state upon presentation of proper vouchers approved by the chairperson of the review board and charged to the appropriation under s. 20.175 (1) (g).

History: 1991 a. 221

**214.785 Review of acts, orders or determinations.** (1) Any interested person or a savings bank aggrieved by any act, order or determination of the commissioner, which relates to savings banks may, within 20 days after receipt or service of a copy of the act, order or determination, file a written notice requesting the review board's review of the commissioner's act, order or determination. The sole review of the commissioner's decision shall be to determine if the commissioner acted within the scope of the commissioner's authority, has not acted in an arbitrary or capricious manner and that the act, order or determination of the commissioner is supported by substantial evidence in view of the entire record as submitted. The review of applications for new savings banks, branch offices or relocation of offices shall be based exclusively on the record and new evidence may not be taken by the review board. Applications under this subsection shall be considered and disposed of as speedily as possible.

(2) A determination of the review board shall be subject to review under ch. 227. If an act, order or determination of the commissioner is reversed or modified by the review board, the commissioner shall be considered to be a person aggrieved and directly affected by the decision under s. 227.53 (1).

(3) A member of the review board may not act on any matter involving a savings bank or savings bank holding company of which the member is an officer, director, employe or agent.

History: 1991 a. 221

## SUBCHAPTER XI

### CUSTODY AND CONSERVATORSHIP

**214.82 Commissioner's authority to take custody and appoint a conservator or a receiver.** (1) The commissioner may take custody of and appoint a conservator for the property, liabilities, books, records, business and assets of a

savings bank for any of the purposes under s. 214.825 if any of the following conditions exists:

(a) The savings bank fails to produce an annual audited financial statement, after receiving one extension from the commissioner.

(b) The savings bank's books and records, after at least 2 consecutive notices from the commissioner spanning at least 2 consecutive calendar quarters, are in an inaccurate and incomplete condition to the extent that the commissioner is unable to determine the financial condition of the savings bank or the details or purpose of any transaction that may materially affect the savings bank's financial condition.

(c) The savings bank fails to meet its capital requirement and may not meet its requirements or restore its capital without assistance from its deposit insurance corporation.

(d) The savings bank is insolvent in that its assets are less than its obligations to its creditors, including its depositors.

(e) The savings bank has experienced substantial dissipation of assets due to a violation of a state or federal law, regulation, rule or order of the commissioner or due to any unsafe or unsound practice.

(f) There is a likelihood that the savings bank will not be able to meet the demands of its depositors or pay its obligations in the normal course of business.

(g) Losses have occurred or are likely to occur that have or will deplete all or substantially all of the savings bank's capital and that there is no reasonable prospect for restoring its capital without federal assistance.

(h) The savings bank or its officers, directors or employees are violating a state or federal law, regulation, rule or supervisory order of the commissioner or of another regulatory authority.

(i) The savings bank is in an unsafe or unsound condition likely to cause insolvency or a substantial dissipation of assets or earnings that will weaken the condition of the savings bank and will prejudice the interests of its depositors.

(j) The directors, officers, trustees or liquidators have neglected, failed or refused to take any action that the commissioner considers necessary for the protection of the savings bank, including production of an annual audited financial statement after an extension was granted, have continued to maintain the savings bank's books and records in an inaccurate and incomplete condition for 2 consecutive quarters after 2 notices from the commissioner or have impeded or obstructed an examination.

(k) The deposit accounts of the savings bank are impaired to the extent that the realizable value of its assets is insufficient to pay in full its creditors and deposit accounts holders or meet its obligations in the normal course of business or that its stock is impaired.

(L) The savings bank is unable to continue operation.

(m) The business of the savings bank or savings bank in liquidation is being conducted in a fraudulent, illegal or unsafe or unsound manner.

(n) The officers, employees, trustees or liquidators assume duties or perform acts without providing a bond.

(2) The commissioner may postpone taking custody of a savings bank pending a satisfactory resolution of the condition permitting custody as suggested by the deposit insurance corporation, if the savings bank has sufficient liquidity and has adopted and implemented an operating plan considered prudent by the commissioner.

(3) The commissioner shall promulgate rules to govern the determination of a need for a conservator, the selection and appointment of a conservator and the conduct of a conservatorship, including allocation of the payment of costs.

History: 1991 a. 221, 315

**214.825 Purposes of taking custody.** The purposes of taking custody of a savings bank may include examination; production of an audited financial statement; reconstruction of books and records; conservation of assets; restoration of impaired capital; the making of any necessary or equitable adjustment, including changes in officers and management, considered necessary by the commissioner under any plan of reorganization or liquidation; restructuring of the savings bank through a merger or formation of a interim institution; establishment of a conservatorship to operate and manage a savings bank as an ongoing concern until the grounds for custody and conservatorship are remedied; or the maturing of an obligation of the deposit insurance corporation.

History: 1991 a. 221.

**214.83 Commissioner's powers during custody.** During the period in which the commissioner has custody of a savings bank, the commissioner shall have all powers necessary to accomplish the purposes of custody of the savings bank and the authority to call meetings of the members, stockholders, former officers and directors, liquidators or trustees to consider and act upon matters considered by the commissioner to be of sufficient importance to obtain the views of those persons.

History: 1991 a. 221.

**214.835 Custody of savings banks.** If the commissioner takes custody of a savings bank, in addition to powers conferred under ss. 214.825 and 214.83, the commissioner may do any of the following:

(1) Notify the deposit insurance corporation of the custody and the reasons for that action, including a copy of the commissioner's report of examination and condition of the savings bank, and to appoint the deposit insurance corporation or its designee as receiver or conservator for the savings bank.

(2) Permit the deposit insurance corporation to submit any plan or proposal for the reorganization, merger or liquidation of the savings bank that it considers to be feasible.

(3) Determine and declare the savings bank to be in default, find from the commissioner's examination and from reports of the savings bank the amount of insured deposits and make any necessary orders that may be required for the purpose of making deposit insurance available to depositors.

History: 1991 a. 221.

**214.84 Notice of custody; action to enjoin.** On the date the commissioner takes custody of a savings bank, the commissioner shall provide by 1st class mail a written notice of that action to the president or secretary and to 2 or more directors of the savings bank or to 2 or more of the trustees of any trust or to 2 or more of the liquidators if the savings bank is in liquidation. If the parties receiving notice believe the commissioner does not have authority to take custody, the savings bank, the directors or officers of the savings bank or the trustees or liquidators, within 20 days after the mailing of the notice, or within further periods of time as the commissioner may extend up to an additional 60 days, may file a complaint in the circuit court of the county in which the savings bank is located to enjoin custody. The court shall require the commissioner to show cause why custody should not be enjoined. If, upon hearing, the court finds that grounds do not exist for the commissioner's custody, it may enter an order enjoining further custody.

History: 1991 a. 221.

**214.845 Segregation of collections during custody.** All payments received on deposit accounts on depositors' unpledged accounts during custody of the savings bank shall be

**214.845 SAVINGS BANKS**

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segregated in a separate account until the savings bank is redelivered to the directors, trustees or liquidators or delivered to a conservator or receiver. A depositor whose payments have been segregated may request the return of those payments and the commissioner shall repay them without interest or dividends. Before delivery of the savings bank or its assets to any trustee, liquidator, receiver or conservator, the commissioner shall return the money segregated in the separate account.

History: 1991 a. 221.

**214.85 Redelivery of possession.** If, after examination of the savings bank and consideration of all conditions affecting its affairs, the commissioner finds that the cause for taking custody has been removed, the commissioner shall relinquish custody of the savings bank, remove any conservator appointed and redeliver the savings bank and all assets, books and records to its qualified directors, trustees or liquidators.

History: 1991 a. 221.

**214.855 Limitations upon custody.** The custody of a savings bank by the commissioner, including a conservatorship, may be continued for a reasonable period not to exceed 12 months, unless a longer time period is approved by a vote of two-thirds of the directors of the savings bank or ordered by a court.

History: 1991 a. 221.

## SUBCHAPTER XII

## ENFORCEMENT POWERS

**214.90 Action to correct conditions.** The commissioner may issue an order requiring a savings bank, savings bank subsidiary, service corporation, affiliate, savings bank holding company or a party affiliated with a savings bank to take action to correct any condition resulting from a violation or practice identified in the order. The commissioner may by order require the savings bank, savings bank subsidiary, service corporation, affiliate, savings bank holding company or party affiliated with a savings bank to do any of the following:

(1) Make restitution or provide reimbursement, indemnification or guarantees for or against losses if any of the following conditions occurs:

(a) The person was unjustly enriched or received direct or indirect personal benefit in connection with the violation or practice.

(b) The violation or practice involved a reckless disregard for applicable state or federal laws, regulations, rules or orders of the commissioner or other appropriate regulator.

(2) Restrict the savings bank's growth or institute appropriate operating restrictions.

(3) Dispose of any loan or asset involved.

(4) Rescind an agreement or contract.

(5) Submit candidates for future directors, employees or officers to the commissioner for approval.

(6) Take any other action the commissioner considers necessary.

History: 1991 a. 221.

**214.905 Books and records corrective orders.** (1) If an order under s. 214.90 specifies that the books and records of a savings bank are so incomplete and inaccurate that the commissioner is unable to determine the financial condition of the savings bank or unable to determine the nature, details or purpose of any transaction that may have a material effect

on the savings bank's financial condition, the commissioner shall issue an order that requires all of the following:

(a) Specific steps to restore, reconstruct or adjust the books and records to accuracy and compliance.

(b) Rescission or cessation of transactions or activities that led to the incomplete or inaccurate condition of the books and records.

(c) Establishment of reserves for any losses that the commissioner finds were incurred due to the condition of the books and records.

(2) An order under sub. (1) shall be effective until the commissioner determines through an examination that the condition has been corrected and rescinds the order.

History: 1991 a. 221.

**214.91 Removal and prohibition authority.** (1) The commissioner may remove from a savings bank any employe, agent or person affiliated with the savings bank if the commissioner finds that the person has done any of the following:

(a) Directly or indirectly violated any state or federal law, regulation, rule or order or any agreement between the savings bank and the commissioner or between the savings bank and the deposit insurance corporation.

(b) Breached fiduciary or professional responsibilities to the savings bank.

(2) The commissioner may serve upon a savings bank employe, agent or person affiliated with the savings bank a written notice of the commissioner's intention to remove or suspend the person from office in the savings bank or to prohibit any further participation in any manner by that person in the conduct of the affairs of a savings bank or of a savings and loan association organized under ch. 215, if the commissioner finds that, because of a violation permitting removal under sub. (1), any of the following conditions exists:

(a) A savings bank has or probably will suffer financial loss or other damage.

(b) The interests of the savings bank's depositors have been or could be prejudiced.

(c) The person received financial gain or other benefit by reason of the violation.

(d) The violation or breach involves personal dishonesty on the part of the person or demonstrates wilful or continuing disregard by the person for the safety and soundness of the savings bank.

History: 1991 a. 221.

**214.915 Participation prohibition.** (1) Except as provided in rules of the commissioner, any person who has been removed or suspended from office in a savings bank or prohibited from participating in the conduct of the affairs of a savings bank under s. 214.90 may not, while an order is in effect, hold any office in or participate in any manner in the conduct of the affairs of another savings bank, savings bank subsidiary, affiliate, service corporation, savings bank holding company or state savings and loan association.

(2) A violation of sub. (1) by any person who is subject to an order described in that subsection shall be treated as a violation of the order.

History: 1991 a. 221, 315.

**214.92 Effect of termination or resignation.** The resignation, termination of employment, or separation of a person affiliated with a savings bank from the savings bank does not affect the authority of the commissioner to issue an order under s. 214.90, 214.91 or 214.915 if the order is issued within 6 years after the person ceases to be a person affiliated with the savings bank.

History: 1991 a. 221.

**214.925 Unauthorized participation by convicted individual.** (1) Except with the prior written consent of the commissioner, a person who has been convicted of a criminal offense involving dishonesty or a breach of trust may not participate, directly or indirectly, in any manner in the conduct of the affairs of a savings bank.

(2) The directors or officers of a savings bank may not permit a person described in sub. (1) to participate in the conduct of the affairs of the savings bank.

History: 1991 a. 221.

**214.93 False statements.** A person may not knowingly make, cause, or allow another person to make or cause to be made, a false statement, under oath if required by this chapter or on any report or statement required by the commissioner or by this chapter.

History: 1991 a. 221.

**214.935 Civil forfeitures.** In addition to the enforcement authority granted to the commissioner, the following forfeiture provisions apply:

(1) Except as provided in sub. (2), any person who violates this chapter, any rule promulgated under this chapter or an order of the commissioner may be required to forfeit not more than \$10,000. Each day of continued violation constitutes a separate offense.

(2) Any person who fails to comply with a reporting requirement under this chapter may be required to forfeit not more than \$1,000 for the first offense and may be required to forfeit not more than \$2,500 for the 2nd or any later offense.

History: 1991 a. 221.