

CHAPTER 48

BANKING DIVISION; BANKS AND TRUST COMPANIES

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48.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2 to 4, for the purposes of sections 48.52 to 48.56, shall be given the meanings subjoined to them; the meaning of the term defined in subdivision 5, for the purposes of sections 48.55, 48.57, 48.58, and 48.59, shall be given the meaning subjoined to it; and the term defined in subdivision 6, for the purposes of this chapter, shall have the meaning subjoined to it.

Subdivision 2. **Person.** "Person" includes partnerships, associations, and corporations as well as a natural person. *R1943-620*

Subdivision 3. **Banking institution.** The term "banking institution" includes every state bank, trust company, and other banking institutions within this state, including institutions that have been, or are being, liquidated. *R1943-620-1*

Subdivision 4. **Managing officer.** "Managing officer" includes, in the case of a banking institution in the process of liquidation, the person acting as its agent, receiver, conservator, or liquidator and, in the case of a banking institution the *R1943-620-2*

liquidation of which has been completed, the commissioner of banks, in the case of state institutions, and the comptroller of the currency of the United States, in the case of federal institutions.

Subdivision 5. **Banking institution.** The term "banking institution" means any bank, trust company, bank and trust company, or mutual savings bank which is now or may hereafter be organized under the laws of the state.

Subdivision 6. **Commissioner.** "Commissioner" means the commissioner of banks of the banking division of the department of commerce of the State of Minnesota.

[1935 c. 319 s. 1; ~~1937 c. 358 s. 6~~] (7658-6) (7658-26)

48.02 CAPITAL AND SURPLUS; PREPAYMENT OF CAPITAL. The capital of every bank of discount and deposit hereafter organized shall be at least \$20,000 and a surplus of at least \$4,000 in a municipality of not over 1,000 population, and at least \$25,000 and a surplus of at least \$5,000 in one over 1,000 and not over 5,000, and at least \$40,000 and a surplus of at least \$8,000 in one over 5,000 and not over 100,000, and at least \$50,000 and a surplus of at least \$10,000 in one over 100,000; provided, that the department, in its discretion, may permit the organization of a bank with \$10,000 capital and a surplus of \$2,000 in a municipality with a population of less than 500 wherein there is no bank; and payment thereof shall be made in full, in cash, and certified to the commissioner, under oath of the president and cashier, before it shall be authorized to commence business.

[R. L. s. 2983] (7659)

48.03 STOCK LIST; FILING; TRANSFER; LIABILITY OF STOCKHOLDERS. The president and cashier of any bank of discount and deposit shall, at all times, keep an accurate verified list of all its stockholders, with the amount of stock held by each, the dates of all transfers and names of transferees, and on May first, annually, file a copy thereof with the register of deeds and the commissioner. The stockholders in each bank of discount and deposit shall be individually liable in an amount equal to the amount of stock owned by them for all the debts of the bank and for all transactions prior to any transfer thereof. Every person becoming a stockholder shall succeed, in proportion to his interest, to all the rights and become subject to all the liabilities of his transferrers; but the liability of the latter shall continue for one year after the entry of the transfer, and shall be over and above the stock owned by the stockholders in the corporation and any amount paid thereon. Any bank heretofore organized under this chapter may come under the provisions of this section as to the liability of its stockholders by amending its articles so as to declare that it adopts and agrees to be subject to this chapter as to all of its liabilities. This amendment shall be adopted and published in the same manner as the original articles. All banks of discount and deposit which do not so amend their articles and become subject to this section within six months after its passage shall thereafter use upon their letterheads and all stationery and advertising matter the words: "Stockholders in this bank subject to single liability only."

[R. L. s. 2985; 1907 c. 137 s. 1] (7669)

48.04 INCREASE AND REDUCTION OF CAPITAL. No increase or reduction of the capital of any such bank shall be valid until the entire new capital has been paid in cash, and certified to the commissioner under oath of the president, vice-president, or cashier. The commissioner shall thereupon issue his certificate of that fact and of his approval thereof. No reduction shall affect the liability of any stockholder for any indebtedness incurred prior thereto.

[R. L. s. 3003] (7691)

48.05 CAPITAL NOT TO BE WITHDRAWN; DIVIDENDS. No portion of the capital of any such bank shall ever be withdrawn by any person or in any way, either in dividends or otherwise, except upon reduction as provided by law. No dividend shall ever be made except out of net profits after deducting all indebtedness, losses, and amounts receivable more than one year overdue and not well secured.

[R. L. s. 2997] (7681)

48.06 DIRECTORS; QUALIFICATIONS. When the number of directors shall exceed nine, they may designate, semiannually, by resolution, nine of their number, a majority of whom shall constitute a quorum for the transaction of business. Every director of a bank whose capital is \$25,000 or more shall actually own at least \$1,000 of full paid stock, and in those with a capital less than that sum at least \$500.00, and shall take and subscribe an oath that he is the owner in good faith and

in his own right of such amount of stock, that the same is not in any way pledged for any loan or debt, and that he will faithfully perform his official duties, and not knowingly violate, or permit to be violated, any provision of law. The taking of this oath shall be duly certified in the minutes of the records of the bank, and the oath immediately transmitted to the commissioner of banks and filed in his office.

[R. L. s. 2986; 1927 c. 260 s. 1] (7670)

48.07 OFFICERS; APPOINTMENT, REMOVAL. The board of directors of a bank or trust company organized under the laws of this state shall have full power and authority at any time to appoint and remove any officer or employee.

[1927 c. 259 s. 1] (7699-4)

48.08 DIRECTORS AND OFFICERS, RESTRICTED USE OF BANK FUNDS; DEALINGS WITH BANK. No director shall, directly or indirectly, in any manner, use the funds of the bank, or any part thereof, except in its regular business transactions, and every loan made to any of its directors, officers, servants, or agents shall be upon the same security required of others and in strict conformity to its rules and regulations. Every such loan shall be made by the board and acted upon in the absence of the applicant. No cashier or other officer or employee of a bank shall sell to the bank, directly or indirectly, any mortgage, bond, note, stock, or other security without the written approval of the board of directors, filed in the office of the bank or embodied in a resolution adopted by the board. A copy of this written approval or resolution shall immediately be sent to the commissioner of banks.

[R. L. s. 2989; 1925 c. 305] (7673)

48.09 DIVIDENDS; SURPLUS. At the end of each dividend period, after deducting all necessary expenses, losses, interest, and taxes due or levied, the remaining net profits for the period shall be set aside as a surplus fund until it equals one-fifth of the capital stock. The directors may then declare a dividend of so much of the remainder as they may think expedient. When in any way impaired the surplus fund shall be raised to this percentage in like manner.

[R. L. s. 2987; 1939 c. 38 s. 1] (7671)

48.10 EXAMINING COMMITTEE. The board of directors shall annually appoint from its members an examining committee, which shall examine the condition of the bank semiannually, and oftener if required. The examining committee shall forthwith make, in duplicate, a verified detailed report of all assets carried on the books in excess of the actual value thereof, specifying the latter, and deliver the same to the cashier, who shall forthwith transmit one copy to the commissioner and duly record the other.

[R. L. s. 2988] (7672)

48.11 CONTRACTS, HOW MADE. Every contract made by any bank, except routine business, shall be first duly authorized by resolution of its board of directors, signed by the president or vice-president and by the cashier or some other officer specially designated by the board, and have its corporate seal impressed thereon.

[R. L. s. 2994] (7678)

48.12 BONDS OF OFFICERS AND EMPLOYEES. Every state bank shall be protected against loss by reason of the unlawful act of any of its officers or employees by a bond with good and sufficient sureties, or by a contract of insurance written by a solvent insurance corporation in good standing authorized to do business in this state. This shall not require the bonding or insuring of officers or directors of a bank not having active management or control thereof, or employees of a bank not holding positions of trust.

[1925 c. 351 s. 1] (7699-1)

48.13 BONDS OF OFFICERS AND EMPLOYEES, REQUISITES AND CONDITIONS. If a bond is given, it shall be in favor of the bank and shall have one corporate surety, which shall be a solvent insurance corporation in good standing authorized to do business in Minnesota, or at least five individual sureties, not one of whom shall be an officer, director, or stockholder of the bank, and each of whom shall justify in a sum equal to the penalty of the bond and, in addition thereto, each individual surety shall furnish to the bank, in connection with the bond, a verified financial statement showing his solvency and responsibility, which statement shall be renewed and revised annually by each surety. If a contract of insurance is secured, it shall be in favor of the bank and shall be executed by some insurance company possessing the qualifications heretofore specified.

[1925 c. 351 s. 2] (7699-2)

48.14 EXAMINATIONS, REPORTS TO SHOW NAMES OF BONDED OFFICERS AND EMPLOYEES. When an examination is made of a bank by the commissioner, or his examiner, the report of the examination made to the commissioner shall state the names of all the officers and employees of the bank so bonded or insured, and the penalty of the bonds or the amount of the insurance covering them; and, when the commissioner, after an investigation, finds as a fact that any bank is not adequately protected against loss by reason of the unlawful act of any officer or employee thereof, whether through the omission to secure any bond or contract of insurance, or through the insufficiency of the sureties or the insurer on the bond or policy given, or otherwise, he may require, by written order, that such bonds or contracts of insurance in favor of the bank be obtained as in his opinion would adequately protect the bank against loss by reason of the unlawful act of any of its officers or employees, and shall thereupon notify the bank, by registered mail, of his order; and, if the same is not complied with within 30 days after the date of the mailing of the order, the bank may be closed by him and, if closed, shall not be permitted to resume business until the order has been fully complied with. All such bonds or contracts of insurance shall remain in the custody of the bank protected thereby and shall be available for examination and inspection by the commissioner.

[1925 c. 351 s. 3] (7699-3)

48.15 SPECIAL POWERS. In addition to the inherent and granted powers of corporations in general, any such bank shall have power to exercise, by its board of directors, or duly authorized officers and agents, subject to law, all such powers as shall be necessary to carry on the business of banking by discounting bills, notes, and other evidences of debt, by receiving deposits, by buying and selling gold and silver bullion, foreign coin, promissory notes, mortgages, and other evidences of debt, and foreign and inland bills of exchange, by lending money on real and personal securities and receiving interest on any of the same in advance, and by exercising all the usual and incidental powers and privileges belonging to the business; but it shall not transact any business, except such as is incidental and necessarily preliminary to its establishment, until authorized by the commissioner to commence business.

[R. L. s. 2984] (7660)

48.16 BANKS MAY NOT PLEDGE ASSETS; EXCEPTIONS. No bank or trust company shall pledge, hypothecate, assign, transfer, or create a lien upon or charge against any of its assets except to the state or to secure public deposits or to secure money borrowed in good faith from other banks or trust companies, or from any financial agency created by an act of congress; provided, that this section shall not be construed to permit the use of any assets as security for public deposits other than the securities made eligible by law for that purpose.

[1927 c. 257 s. 1; 1931 c. 341; 1933 c. 149 s. 1; 1939 c. 46] (7699-14)

48.17 OFFICERS OR EMPLOYEES, POWERS TO BORROW MONEY, MAKE GUARANTIES, ENDORSE, PLEDGE OR HYPOTHECATE NOTES, BONDS, OTHER OBLIGATIONS. No officer or employee of a bank or trust company shall have power or authority to borrow money, execute guaranties or endorse, otherwise than without recourse, pledge or hypothecate any note, bond, or other obligation belonging to the bank or trust company unless the power and authority shall have been given the officer or employee by the board of directors and a written record thereof made in the minute book of the bank and a certified copy of the record delivered to the creditor, guarantee, pledgee, or endorsee of the note, bond, guaranty, or other obligation.

[1927 c. 257 s. 2] (7699-15)

48.18 PLEDGES OR LIENS OF ASSETS SUBJECT TO PRIOR LIENS. No bank or trust company shall pledge or hypothecate or create a lien upon or charge against any of its assets subject to a prior lien, hypothecation, or charge.

[1927 c. 257 s. 3] (7699-16)

48.19 LOANS ON REAL ESTATE RESTRICTED. No bank or trust company shall make any loan upon the security of real estate unless it is a first lien thereon. Before any such loan is made the value of the real estate shall be determined by an appraisal made by a committee appointed by the board of directors, which appraisal shall be made a matter of record; provided, that a bank or trust company may take a junior lien upon real estate to secure a loan previously contracted.

[1927 c. 257 s. 4] (7699-17)

48.20 UNAUTHORIZED PLEDGES, NOTES, LIENS VOID. Any note, endorsement, guaranty, pledge, hypothecation, lien or other obligation given contrary to the provisions of sections 48.16 to 48.18 shall be null and void.

[1927 c. 257 s. 5] (7699-18)

48.21 MAY HOLD REAL ESTATE; RESTRICTIONS. Such bank may purchase, hold, and convey real estate for the following purposes:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking office other apartments to rent as a source of income, which investment shall not exceed 40 per cent of its paid-in capital stock and permanent surplus.

(2) Such as is acquired through foreclosure of any mortgage given to it in good faith by way of security for loans made or money due to such bank.

(3) Such as is conveyed to it in satisfaction of debts previously contracted in good faith in the course of its dealings.

(4) Such as it acquires by sale on execution or judgment of any court in its favor.

It shall not purchase, hold, or convey real estate in any other case or for any other purpose whatever. No real estate acquired in the cases contemplated in clauses 2, 3, and 4, shall be held for a longer period than five years, unless such time has been extended by certificate of the commissioner of banks.

[R. L. s. 2995; 1919 c. 85 s. 1; 1921 c. 258 s. 1; 1929 c. 54] (7679)

48.22 CASH RESERVE IN BANKS. It shall always keep a reserve equal to 15 per cent of its demandable liabilities and five per cent of its time deposits if located in a reserve city; if not located in a reserve city, it shall always keep a reserve equal to 12 per cent of its demandable liabilities and five per cent of its time deposits; which shall be in cash and balance due from solvent banks. No bank shall act as reserve agent for another without the approval of the commissioner if its capital and surplus are less than \$25,000. When its reserve shall become impaired, it shall make no new loans or discounts except upon sight bills of exchange, nor declare any dividend until the same has been fully restored. The term "reserve city," as used herein, shall be taken to mean such cities as are designated as reserve cities by act of congress or other federal authority.

[R. L. s. 2996; 1915 c. 362 s. 1; 1931 c. 93] (7680)

48.23 BANK NOT TO LEND ON ITS OWN STOCK OR PURCHASE SAME.

Any such bank shall make no loan or discount on the security of its own capital stock, nor be the purchaser or holder thereof, unless necessary to prevent loss upon a debt previously contracted in good faith, and all stock so acquired shall be disposed of, at public or private sale, within six months after it is so acquired.

[R. L. s. 2992] (7676)

48.24 RESTRICTIONS UPON TOTAL LIABILITY OF INDIVIDUALS TO BANK; FIRST MORTGAGE SECURITY; LIABILITY OF OFFICERS; DISCOUNTS; EXCESS LIABILITY; PENALTY AND CIVIL LIABILITY. The total liabilities to any such bank, as principal, surety, or endorser of any person, corporation, or copartnership, including the liability of the several members thereof, shall never exceed 15 per cent of its capital actually paid in cash and of its actual surplus fund; provided, that for the purposes of this section the members of a family living together in one household shall be regarded as one person and the total liabilities of the members of the family shall be limited as herein provided. Loans not exceeding 25 per cent of such capital and surplus made upon first mortgage security on improved real estate in the state or in an adjoining state within 20 miles of the place where the bank is located, shall not constitute a liability of the maker of the notes secured by these mortgages within the meaning of the foregoing provision limiting liability, but shall be an actual liability of the maker. These mortgage loans shall be limited to, and in no case exceed, 40 per cent of the cash value of the security covered by the mortgage. Commercial paper actually owned by the person negotiating the same, not exceeding 15 per cent of the capital stock and surplus, taken from any one person shall not constitute a liability within the meaning of this chapter, but shall be an actual liability of the maker. The total liability of any officer or director shall never exceed ten per cent of the same aggregate amount. The discount of the following classes of paper shall not be regarded as creating liability within the meaning of the section:

(1) Bonds, orders, warrants, or other evidences of indebtedness of the United States, of federal land banks, of this state or of any county, town, village, or school

district in this state, or of the bonds of any other state in the United States, or bonds and obligations of the federal home loan banks established by act of congress known as the federal home loan bank act, approved July 23, 1932, and acts amendatory thereto, and in bonds and obligations of the home owners' loan corporation established by act of congress, known as the home owners' loan act of 1933, and acts amendatory thereto, in exchange for mortgages on homes, or contracts for deed, or real estate held by it.

(2) Bills of exchange drawn in good faith against actually existing values.

(3) Paper based upon the collateral security of warehouse receipts covering agricultural or manufactured products stored in elevators or warehouses under either of the following conditions:

First—When the actual market value of the property covered by such receipts at all times exceeds by at least ten per cent the amount loaned thereon.

Second—When the full amount of every such loan is at all times covered by fire insurance in duly authorized companies, within the limit of their ability to cover such amounts, and the excess, if any, in companies having sufficient paid-up capital to authorize their admission, and payable, in case of loss, to the bank or holder of the warehouse receipt, unless accompanied by a certificate of the railroad and warehouse commission declaring the warehouse issuing the same to be fireproof.

When a bank shall allow any person, copartnership, or corporation to become indebted to it, directly or indirectly, in excess of the amount, exclusive of interest, permitted by the laws of this state, the officer or employee of the bank wilfully permitting or approving the loan shall be guilty of a gross misdemeanor and, in addition thereto, shall be personally liable to the bank for the amount of the loan in excess of the statutory limit.

[R. L. s. 2993; 1907 c. 156; 1911 c. 160 s. 1; 1919 c. 103 s. 1; 1927 c. 258 s. 1; 1931 c. 9 s. 1; Ex. 1934 c. 70] (7677)

48.25 RATE OF INTEREST ON SAVINGS DEPOSITS. No state bank or trust company shall pay interest on deposits at a greater rate than four per cent per annum; provided, that interest at that rate per annum may be credited or paid on savings accounts quarterly or semiannually, and interest at that rate per annum may be paid on certificates of deposit not oftener than every six months.

[1929 c. 144 s. 1] (7699-13½)

48.26 APPLICATION. The provisions of this chapter shall not apply to any existing contract or to mutual savings banks.

[1929 c. 144 ss. 3, 4] (7699-13½b) (7699-13½c)

48.27 NO DEPOSITS IN EXCESS OF 25 TIMES AMOUNT OF CAPITAL AND ACTUAL SURPLUS. No bank or trust company organized under the laws of this state shall accept deposits in a sum exceeding 25 times the amount of its capital stock and its actual surplus.

[1927 c. 325 s. 1] (7699-12)

48.28 COMMISSIONER TO TAKE POSSESSION AND LIQUIDATE UNLESS DEPOSITS ARE REDUCED. If any such bank or trust company shall violate the provisions of section 48.27, the commissioner may take possession thereof and liquidate the corporation in accordance with law, unless the bank shall, within 90 days after notice from the commissioner, reduce its deposits to the amount allowed by law, or increase its capital stock accordingly.

[1927 c. 325 s. 2] (7699-13)

48.29 PAYMENT OF FORGED OR RAISED CHECK; LIABILITY; NOTICE TO DEPOSITOR. No bank which has paid and charged to the account of a depositor any money on a forged or raised check issued in the name of the depositor shall be liable to the depositor for the amount paid thereon, unless either (1) within six months after notice to the depositor that the vouchers representing payments charged to the account of the depositor for the period during which the payment was made are ready for delivery, or (2) in case no such notice has been given, within six months after the return to the depositor of the voucher representing the payment, the depositor shall notify the bank that the check so paid is forged or raised. This notice may be given by mail to the depositor at his last known address, with postage prepaid.

[1911 c. 305 ss. 1, 2] (7698) (7699)

48.30 DEPOSITS BY MINOR OR IN TRUST; JOINT DEPOSITS. Any deposit made in any bank or savings bank, by or in the name of a minor, shall be held for the exclusive right and benefit of the minor, free from the control or lien of

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all other persons, except creditors, and, together with the dividends or interest thereon, shall be paid to him, and his receipt, check, or acquittance in any form shall be a sufficient release and discharge to the bank for the deposit, or any part thereof, until a guardian appointed in this state for the minor shall have delivered to the bank a certificate of his appointment. When any deposit shall be made by any person in trust for another, and no other written notice of the existence and terms of any legal and valid trust shall have been given to the bank, in case of the death of the trustee, the same, or any part thereof, and the dividends or interest thereon, may be paid to the person for whom the deposit was made. When any deposit shall be made by or in the names of two or more persons upon joint and several account, the same, or any part thereof, and the dividends or interest thereon, may be paid to either of these persons or to a survivor of them, or to a personal representative of the survivor.

[R. L. s. 3019; 1907 c. 468 s. 6] (7711)

48.31 STATE BANKS ORGANIZED FROM NATIONAL BANKS. When any national bank authorized to dissolve has taken the necessary steps for that purpose, a majority of its directors, upon authority, in writing, of the owners of two-thirds of the capital stock and the approval of the commissioner, may execute a certificate of incorporation under the provisions of this chapter, which, in addition to the other requirements of law, shall state the authority derived from the stockholders of the national bank; and, upon recording and publishing this certificate, as provided by law, it shall become a legal state bank. Thereupon the assets, real and personal, of the dissolved bank, subject to its liabilities not liquidated under the federal law before this incorporation, shall vest in and become the property of the state bank.

[R. L. s. 3006] (7695)

48.32 STATE BANKS OR TRUST COMPANIES MAY BE MEMBERS OF FEDERAL RESERVE BANKS. Any incorporated state bank or trust company may become a member of the federal reserve bank of the federal reserve district in which the bank or trust company is located, and may invest in and hold stock therein.

[1915 c. 28 s. 1] (7649)

48.33 EXECUTION OF TRUST. When any state bank shall reorganize as a national bank, this national bank shall be regarded as continuing the existence of the state bank, and any officer of the bank elected to a corresponding office in this national bank shall be regarded as holding over as such state bank officer, for the purpose of carrying out any duty or trust reposed in the person holding such office or his successor in the state bank as executor of a will or trustee of any trust; and his successors in office in the national bank shall be regarded as his successors in office in such state bank for the purpose of executing such will or performing such trust; and the executor of any will, or any trustee thereunder, who by such will has been directed or recommended to deposit the money of such estate or trust in this state bank, may deposit the same in the national bank under the same conditions as he might have deposited them in the state bank, and with the same immunity from responsibility for its safety.

[R. L. s. 3007] (7696)

48.34 BRANCH BANKS PROHIBITED. No bank or trust company organized under the laws of this state shall maintain a branch bank or receive deposits or pay checks within this state, except at its own banking house, and the commissioner shall take possession of and liquidate the business and affairs of any state bank or trust company violating the provisions of this section, in the manner prescribed by law for the liquidation of insolvent state banks and trust companies.

[1923 c. 170 s. 1] (7693)

48.35 CLEARING HOUSES. Clearing houses may make and enforce suitable provisions for effecting, at one place, daily exchanges and the settlement and adjustment of accounts between banks in the same locality and, under appropriate regulations, may issue clearing house certificates for those purposes only, and may otherwise act in maintaining and enforcing uniformity of methods and harmonious action in banking business.

[R. L. s. 3008] (7697)

48.36 APPLICATION. Any state bank having a capital of not less than \$50,000 and having its principal place of business in any municipality of less than 25,000 inhabitants; and any state bank having a capital of not less than \$75,000 and having its principal place of business in a municipality of 25,000 or more, but less than 100,000 inhabitants; and any state bank having a capital of not less than \$100,000

and having its principal place of business in a municipality of 100,000 or more, but less than 200,000 inhabitants; and any state bank having a capital of not less than \$200,000 and having its principal place of business in a municipality of 200,000 inhabitants or more, may exercise the powers and privileges conferred by sections 48.36 to 48.43, in addition to all other powers granted by law, upon complying with the conditions and requirements of those sections.

[1923 c. 274 s. 1] (7661)

48.37 CERTIFICATES FROM COMMISSIONER. In order to exercise the powers herein conferred, any such bank shall invest and keep invested in one or more of the first, second, third, fourth, seventh, and eighth classes of authorized securities, at least 50 per cent of its capital if its capital be less than \$200,000, or at least 25 per cent of its capital if its capital be \$200,000 or more, which securities in the amounts above provided shall be duly assigned, transferred to, and deposited with the commissioner, and shall be maintained unimpaired as a guaranty fund for the integrity of its trusts and for the faithful discharge of its duties, in connection therewith, with the right to the bank to collect the income thereof and to substitute other like authorized securities of equal amount and value. The commissioner shall carefully examine the securities offered for deposit and, if they comply with all the provisions of law applicable thereto, and, if the bank making such deposit shall possess the qualifications stated in section 48.36, he shall issue to the bank a certificate stating that it is qualified to exercise the powers herein conferred, and, upon the issuance of this certificate and while the same remains in force, the bank may exercise the powers and privileges conferred by sections 48.36 to 48.43.

In case of any increase in the capital of any bank which has qualified hereunder, this certificate shall be and become revoked and the bank shall not thereafter exercise the powers herein conferred until it shall have deposited the required proportion of its capital in authorized securities and received a new certificate that it is qualified hereunder.

[1923 c. 274 s. 2] (7662)

48.38 POWERS AND DUTIES. Any such bank which has complied with the terms of sections 48.36 to 48.43, and holds a certificate as above provided, may exercise the following powers and privileges:

(1) It may take and hold in trust any real or personal property, wherever situated, by order, judgment, or decree of any court, or by gift, grant, assignment, transfer, devise, legacy, or bequest from, or by lawful contract with, any public or private corporation or any individual or copartnership, and manage the same upon the terms and conditions therein declared or imposed; it may act as agent for the signatures, countersignatures, registration, transfer, or redemption of certificates of stock, bonds, coupons, or other evidences of indebtedness, and as trustee under mortgages in the form of trust deeds, and may otherwise act as general or special agent or attorney in fact in the acquisition, management, sale, assignment, transfer, encumbrance, conveyance, or other disposition of any real or personal property, in the collection of rents, payment of taxes, and generally as the representative of any person, corporation, or copartnership; it may guarantee the title to securities sold and transferred by it.

(2) It may take and hold on deposit or for safe-keeping, money, bonds, stocks, or other securities, or personal property, which any public officer or any trustee or other legal representative or any public or private corporation or any person may desire, or may be authorized, ordered, or otherwise required by law to deposit in a safe depository or to pay into any court of record, and the same may, instead thereof, be deposited with such bank, and where the deposit is made pursuant to order of court in such bank as the court shall designate and depositor takes the receipt of such bank therefor, thereupon the depositor and his sureties shall be relieved from liability thereafter accruing on account thereof, so long as the deposits continue.

(3) It may act as assignee under any assignment for the benefit of creditors, or be appointed as a trustee, receiver, guardian, executor, or administrator, and may accept and perform any other lawful trust conferred by any court or by any corporation or individual. In the acceptance and performance of any such trust no oath or security shall be required.

(4) When any judge or court having jurisdiction deems it expedient, the judge or court may direct any executor, administrator, guardian, assignee, receiver, or other trustee to deposit with the bank any securities belonging to the trust subject

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to the order of the trustee when countersigned by the judge of the court, and the court may fix the security to be given by the trustee with reference only to the remainder of the trust estate. No such securities shall be withdrawn nor any part of the principal or interest thereof collected, except by an officer of the bank, without the order of a judge of the court duly entered and certified, upon satisfactory proof that additional security has been furnished by the trustee or that the estate or fund has been so reduced that the deposit is no longer required.

(5) It may invest all moneys received by it in trust, in authorized securities, and shall be responsible to the owner or cestui que trust for the validity, regularity, quality, value, and genuineness of these investments and securities at the time made and for the safe-keeping of these securities and the evidences thereof. When special directions are given in any order, judgment, decree, will, or other written instrument as to the particular manner or the particular class or kind of securities or property in which any investment shall be made, it shall follow this direction and, in such case, it shall not be further responsible by reason of the performance of the trust.

It may, in its discretion, retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. For the faithful discharge of its duties and the discharge of its trust, it shall be entitled to reasonable compensation or such amount as has been or may be agreed upon by the parties and all necessary expenses, with legal interest thereon.

No compensation or commission paid or agreed to be paid to it for the negotiation of any loan or the execution of any trust shall be deemed interest within the meaning of the law, nor shall any excess thereof over the legal rate be deemed usury.

(6) Any amount not less than \$100.00 received by it as representative or trustee or by order of the court, not required for the purposes of the trust and not to be accounted for within one year, it shall invest, as above provided, in authorized securities then held by it or specially procured by it.

(7) It may invest its funds in authorized securities, as defined by law, and the provisions of section 48.24 limiting the amount of liability of any person, corporation, or copartnership, with reference to a percentage of the capital and surplus of the bank, shall not apply to its investments in authorized securities.

[1923 c. 274 s. 3] (7663)

48.39 TRUST ACCOUNTS RECORDED. Besides its general books of account, such state bank shall keep separate books of account for all trust accounts. All funds and property held by it in a trust capacity shall at all times be kept separate from its own funds and property, and all trust funds deposited or held in trust by the bank awaiting investment shall be carried in a separate account, and shall not be used by the bank in the conduct of its business, and all deposits made by it of such trust funds in any other banking institution shall be deposited as trust funds, to its credit as trustee, and not otherwise. Every security in which trust funds are invested shall at once, upon receipt thereof, be endorsed or transferred to it as executor, administrator, guardian, receiver, assignee, or other trustee, as the case may be, and not in blank or otherwise, and immediately entered in the proper books as belonging to the particular trust whose funds have been invested therein. Any change in the investment shall be fully specified in and under the account of the particular trust to which it belongs, so that all trust funds and property can be readily identified at any time by any person. It shall be unlawful for any bank to lend any officer, director, or employee any funds held in trust, under the powers conferred by this chapter. Any officer, director, or employee to whom such a loan is made shall be guilty of larceny of the amount of the loan from the time of the making thereof.

[1923 c. 274 s. 4] (7664)

48.40 SUBJECT TO ORDERS OF COURT. Every such bank shall be subject at all times to the orders of any court from which it shall have accepted any trust or appointment and shall render to the court such itemized and verified accounts and reports as may be required by law or the court. In addition to other reports required by law, it shall render to the commissioner, at such times as he may direct, full and itemized reports of investments, trust funds, and other business performed under the provisions hereof, and a condensed statement of the report, either separately stated or consolidated with the other reports required of it by law, shall be published as required by law.

[1923 c. 274 s. 5] (7665)

48.41 CORPORATE NAME. Any such bank which has qualified and obtained a certificate, as provided in sections 48.36 to 48.43, may use in its corporate name or title, in addition to the word "bank" or other words now permitted by law, the words "trust" or "trust company," and may display and make use of signs, symbols, tokens, letterheads, cards, circulars and advertisements stating or indicating that it is authorized to transact the business authorized by said sections, and any such bank using the words "trust" or "trust company" is not required to use the word "state" in its corporate name.

[1923 c. 274 s. 6] (7666)

48.42 BANK MAY BE DESIGNATED AS SAVINGS BANK. Any state bank which has qualified under sections 48.36 to 48.43 and obtained the certificate therein provided, and which has established and maintains a savings department, may use in its name or title, in addition to other words permitted by law, the words "savings" or "savings bank." Savings deposits received by any such state bank using the words "savings" or "savings bank" in its corporate name or title, shall be invested only in authorized securities, as defined by law, and the bank shall keep in hand at all times, in addition to the securities required to be deposited under the provisions of section 48.37, such securities as deposits in savings banks may be invested in to an amount at least equal to the savings deposits, and these securities to the amount of these deposits shall be representative of and the fund for and applicable first and exclusively to the payment of the savings deposits. Deposits received by the bank subject to its right to require notice of withdrawal evidenced by pass books, shall be deemed savings deposits.

[1923 c. 274 s. 7] (7667)

48.43 BANKS MAY CEASE OPERATIONS; DUTIES OF COMMISSIONER. Any state bank which has qualified hereunder may at any time notify the commissioner, in writing, that it intends to cease to operate under the provisions of sections 48.36 to 48.43, and thereupon the certificate issued to it, as provided therein, shall be canceled and revoked, and the bank shall thereafter exercise no power or privilege except those permitted to state banks which have not qualified hereunder, and the securities deposited with the commissioner, as provided in section 48.37, shall forthwith be reassigned and returned to the bank; provided, that no part of the deposited securities shall be so returned until the bank shall have eliminated from its corporate name the words "trust," "trust company," or "savings," nor until it has ceased to hold any trust or trust office authorized by sections 48.36 to 48.43, nor until all its accounts in any such trust shall have been settled and allowed and all property held in trust by it delivered to the persons entitled thereto, nor until all liabilities incurred by it as trustee, agent, or otherwise, under the provisions of sections 48.36 to 48.43, and which it could not have incurred unless qualified thereunder, shall have been discharged; provided, further, that if the amount of all these liabilities, or the maximum limit thereof, has been or can be definitely ascertained, the commissioner may retain only such part of the deposited securities as shall be at least equal to and as shall be in his opinion sufficient to liquidate the same. If any such bank so surrendering its powers hereunder shall have heretofore used the word "savings" in its corporate name, the provisions of section 48.42, relating to the investment of savings deposits and the rights of such depositors, shall remain operative as to all savings deposits on hand at the date of surrendering such certificate and until the savings deposits shall have been paid to the persons entitled thereto.

[1923 c. 274 s. 8] (7668)

48.44 BANKS MAY ORGANIZE AS TRUST COMPANY. Hereafter state banks which may be organized in the manner now provided by law may be organized with the additional authority to exercise the fiduciary powers and privileges set out in section 48.38; provided, that the capital of any such bank shall not be less than \$50,000, if its principal place of business is to be located in a municipality of less than 25,000 inhabitants, and that the capital of any such bank shall not be less than \$75,000, if its principal place of business is to be located in a municipality of 25,000 or more but less than 100,000 inhabitants, and that the capital of any such bank shall not be less than \$100,000, if its principal place of business is to be located in a municipality of 100,000 or more but less than 200,000 inhabitants, and that the capital of any such bank shall not be less than \$200,000, if its principal place of business is to be located in a municipality of 200,000 or more inhabitants.

[1931 c. 267 s. 1] (7661-1)

48.45 CORPORATE NAMES. Any such bank may be organized with a corporate name which may include the words "trust" or "trust company," in addition to the word "bank" or other words now permitted by law, and the word "state" shall not be a required part of the corporate name of any such state bank.

[1931 c. 267 s. 2] (7661-2)

48.46 AUTHORIZED SECURITIES PURCHASED. No state bank hereafter organized with authority to exercise fiduciary powers pursuant to the provisions of sections 48.44 to 48.46, the corporate name of which contains the words "trust" or "trust company," shall transact any banking or trust company business until it shall have invested in and assigned, transferred to, and deposited with the commissioner the authorized securities described in and required by section 48.37, relating to the authorization of existing state banks to exercise such fiduciary powers, and until the commissioner of banks has issued the certificate provided by section 47.16, and a certificate stating that such bank is qualified to exercise the fiduciary powers set forth in section 48.38.

[1931 c. 267 s. 3] (7661-3)

48.47 BANKING AND TRUST COMPANY BUSINESS CARRIED ON. After the application of the corporation shall have been favorably acted on by the department in compliance with section 45.03, and upon compliance with the terms hereof and the issuance of such certificates, the bank may commence the transaction of banking and trust company business and may exercise, in addition to all the powers and privileges conferred by law on state banks, the powers and privileges set forth in section 48.38, and the bank shall thereafter comply with and be subject to all of the provisions of law relating to state banks exercising such fiduciary powers and privileges.

[1931 c. 267 s. 4] (7661-4)

48.48 REPORTS TO COMMISSIONER. At least four times in each year, and at any other time when so requested by the commissioner, every bank shall, within seven days, make and transmit to him, in such form and within such time as he shall prescribe, a report, verified by its president or vice-president and by its cashier, and attested by at least two of its directors, stating in detail, under appropriate heads, its assets and liabilities at the close of business on the day specified in the request, if upon special request; otherwise on the last business day of the preceding month. This statement shall be published once at the expense of the bank in a newspaper of the county of its location, and proof thereof filed immediately with the commissioner.

[R. L. s. 2990] (7674)

48.49 BOOKS TO BE KEPT. Every such bank shall open and keep such books and accounts as the commissioner may prescribe, for the purpose of keeping accurate and convenient records of its transactions; and every bank refusing or neglecting so to do shall forfeit \$10.00 for every day of such neglect or refusal.

[R. L. s. 2991] (7675)

48.50 DEMAND DEPOSITS; INTEREST, WHEN NOT PAID ON. No bank shall, directly or indirectly, by any device, pay any interest on any deposit which is payable on demand; provided, that nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract entered into in good faith prior to the passage of this section; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this section, and every bank shall take such action as may be necessary to conform to this section as soon as possible consistently with its contractual obligations.

[1937 c. 403 s. 1] (7697-10)

48.51 DEMAND DEPOSITS, WHAT ARE. For the purpose of sections 48.50 and 48.51, all deposits are payable on demand except:

(1) Those deposits which are evidenced by a negotiable or non-negotiable instrument which provides on its face that the amount of the deposit is payable:

(a) on a certain date, specified in the instrument, not less than 30 days after the date of the deposit; or (b) at the expiration of a specified period not less than 30 days after the date of the instrument; or (c) upon written notice to be given not less than 30 days before the date of repayment.

(2) Those deposits which may not be withdrawn within 30 days of the making thereof.

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(3) Those deposits which may not be withdrawn within 30 days of the giving of notice of an intended withdrawal.

[1937 c. 403 s. 2] (7697-11)

R 943-620-9
48.52 DEPOSITS, WHEN CONSIDERED ABANDONED. When any person who shall have on deposit or otherwise with any banking institution any fund, funds or property of any kind, and shall not have dealt therewith for a period of 20 years by adding to or withdrawing therefrom, or in any other manner, and shall not have asserted any claim to the fund, funds or property for that period, shall be presumed to have abandoned the same.

[1937 c. 358 s. 1] (7658-21)

R 943-620-9
48.53 BANKS TO NOTIFY ATTORNEY GENERAL. Subdivision 1. **Notice, when given.** It shall be the duty of every banking institution which holds on deposit or otherwise any fund, funds or property of any kind, known by the banking institution to have been abandoned, as above set forth, to inform the attorney general of that fact within 30 days after it becomes known to the banking institution.

Subdivision 2. **Annual reports to secretary of state.** The cashier or managing officer of every banking institution shall, within 30 days after the first of January, annually return to the secretary of state a sworn statement, in duplicate, showing the names of persons who have left on deposit or otherwise any fund, funds or property of the value of \$10.00, or more, and has abandoned the same, as above set forth, unless the person is known to the officer to be living. This statement shall show the amount of the deposit, including interest, or the value and nature of the property, and the depositor's or owner's last known place of residence or business. The subscribing officer shall certify that the report is a complete and correct statement of the unclaimed funds and property to the best of his knowledge, after diligent inquiry. The duplicate copy of the report shall be delivered by the secretary of state to the attorney general immediately upon its receipt.

Subdivision 3. **Statements every five years.** The cashier or managing officer of any banking institution shall, within 30 days after the first day of January, every five years commencing January 1, 1938, return to the secretary of state a sworn statement showing the names of persons who have left on deposit or otherwise any fund, funds or property of the value of \$10.00, or more, and have not dealt with respect thereto for a period of ten years by adding to or withdrawing therefrom, or asserting any claim to the fund, funds or property for that period. This statement shall show the amount of the deposit, including interest, or the value and nature of the property, and the depositor's or owner's last known place of residence or business; the subscribing officer shall certify that the report is a complete and correct statement of all these unclaimed funds and property to the best of his knowledge, after diligent inquiry.

Subdivision 4. **Reports indexed and bound; inspection.** The secretary of state shall have these reports permanently bound with an alphabetical index of the depositors, or owners, with an appropriate reference to the bound reports, and the bound reports and index shall be open to public inspection.

Subdivision 5. **Copy of reports displayed.** A copy of the reports required by subdivisions 3 and 2, together with a notice directed to whom it may concern, stating that these deposits or property have been unclaimed for a period of ten or 20 years, as the case may be, and requesting all persons having knowledge or information relative to the whereabouts of these depositors or other possible claimants to give such information to the subscribing officer, shall be displayed in a prominent place in the bank for a period of 30 days from the date of the filing of the report.

[1937 c. 358 s. 2] (7658-22)

R 943-620-9
48.54 FUNDS TURNED OVER TO STATE; NOTICE. Subdivision 1. **Procedure.** If, upon investigation, the attorney general shall conclude or have reason to believe that any such fund, funds or other property have been abandoned, as above set forth, he shall institute proper proceedings, under the provisions of sections 48.52 to 48.57, to have such funds or property turned over to the state treasurer, by filing a petition under oath, in the name of the State of Minnesota, in the district court of Ramsey County, stating the name and last known place of residence or business of the depositor or owner of the funds or property and that the owner or depositor has abandoned the same, and the names and residences of other persons, whether members of the depositor's or owner's family or otherwise, of whom inquiry may be made, whether or not the owner or depositor is a citizen of the United States, and if not, of what country he is a citizen or native, and containing a

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schedule of the amount of the deposit, including interest, or the value and nature of the property, and praying that the property may be taken possession of by the state treasurer.

Subdivision 2. **Sheriff to take property.** The court may thereupon issue a warrant directed to the sheriff or his deputy, which may run throughout the state, commanding him to take possession of the deposit, including interest, or such other property as it may be, and hold it subject to the order of the court and make return of the warrant as soon as may be, with his doings thereon, with a statement of the amount of the deposit, including interest, or a schedule of the property so taken. He shall receive such fees for serving the warrant as the court allows, but not more than those established by law for similar service upon a writ of attachment.

Subdivision 3. **Hearing, notice, service.** Upon the return of the warrant, the court may issue a notice reciting the substance of the petition, warrant, and officer's return, which shall be addressed to the depositor or owner and the banking institution having the deposit or other property, and to all persons who claim an interest in the deposit or property, and to all whom it may concern, citing them to appear at a time and place named, and show cause why the deposit or property named in the return of the sheriff should not be paid to the state treasurer, and shall serve a copy of the notice upon each person named in the petition in the same manner as provided for the service of summons in a civil action, at least 30 days before the return day of the notice.

Subdivision 4. **Publication of notice.** The return day of the notice shall be not less than 30, nor more than 60, days after its date. The court shall order the notice to be published once in each of three successive weeks in one or more newspapers within the county wherein the banking institution is located and to be posted in a prominent place in the banking institution, and in the event the banking institution has been or is being liquidated, that the notice be posted in three public places within the county in which the bank was located, and a copy to be mailed to the last known address of the depositor or owner. In all cases where the depositor or owner is not a citizen of the United States, then a copy of the notice shall be ordered by the court to be served within that time, by mail, on the consular representative of the foreign country of which the depositor or owner is a citizen, if there be one in this state, otherwise on the secretary of state, who shall forward the same to the chief diplomatic representative of that country, at Washington. The court may order other and further notice to be given within or without the state.

Subdivision 5. **Order of court.** The owner or depositor and the banking institution having the deposit or other property, or any person who claims an interest in the deposit or any of the property, may appear and show cause why the prayer of the petition should not be granted. The court may, after hearing, dismiss the petition and order the deposit or property in possession of the officer to be returned to the person entitled thereto, or, in case it finds there is no person entitled thereto, it shall find that the same has been abandoned and order the deposit or the property or the percentage thereof remaining after liquidation turned over to the state treasurer. If the court orders the deposit turned over to the state, the same shall be credited to the general revenue fund, or if other property, the state treasurer shall sell the same at the best price obtainable, and the fund or the proceeds of the property sold by the state treasurer may be used as other revenue deposited to the general revenue fund of the state.

[1937 c. 358 s. 3] (7653-23)

48.55 OWNERS MAY RECLAIM DEPOSITS. If at any time after the deposit or property has been turned over to the state treasurer the depositor or owner of the property appears, or an administrator, executor, assignee in insolvency, or trustee in bankruptcy of the depositor or owner is appointed, the depositor or owner, administrator, executor, assignee, or trustee may apply to the court in which the petition was heard to determine whether the petitioner is entitled to the deposit or property and the court shall thereupon make such determination, and if the court determines that the petitioner is entitled to the deposit or property, it shall make an order for the payment of the money or the proceeds of the property sold, as the case may be, to the petitioner. In case there are no funds in the state treasury out of which the payment can be made, the state treasurer shall so notify the state auditor and it shall be the duty of the state auditor to recommend an appropriation by the legislature for the repayment or reimbursement of this money to the person found entitled thereto by the court. The petitioner shall serve a copy of his petition

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for the determination of the ownership of the funds upon the attorney general at least 20 days before the date of hearing on the petition, and the attorney general shall appear at the hearing in behalf of the state.

[1937 c. 358 s. 4] (7658-24)

48.56 BANKING INSTITUTIONS MAY TAKE ADVANTAGE OF FEDERAL BANKING ACT. Any banking institution now or hereafter organized under the laws of this state is hereby empowered, on the authority of its board of directors, or a majority thereof, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, receivers, or liquidators, by virtue of those provisions of Section 8 of the federal "Banking Acts of 1933" [Sec. 12B of the federal reserve act, as amended (Mason's U. S. Code Anno., title 12, s. 264)], which establish the federal deposit insurance corporation and provide for the insurance of deposits, or of any other provisions of that or of any other act or resolution of congress to aid, regulate, or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; and to subscribe for and acquire any stock, debentures, bonds, or other types of securities of the federal deposit insurance corporation, and to comply with the lawful regulations and requirements from time to time issued or made by such corporation.

[1935 c. 319 s. 2] (7658-7)

48.57 FEDERAL DEPOSIT INSURANCE CORPORATION MAY ACT AS A RECEIVER OR LIQUIDATOR. The Federal Deposit Insurance Corporation created by Section 12B of the Federal Reserve Act, as amended, upon appointment by the commissioner, is hereby authorized and empowered to act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by this corporation, and which shall have been closed on account of inability to meet the demands of its depositors.

Notwithstanding any other provision of law the appropriate state authority having the right to appoint a receiver or liquidator of a banking institution may, in the event of such closing, tender to the corporation the appointment as receiver or liquidator of the banking institution; and, if the corporation accepts the appointment, the corporation shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of a banking institution, its depositors, and other creditors.

[1939 c. 301 s. 1] (7690-31)

48.58 RIGHT OF SUBROGATION. When any banking institution shall have been closed, and the federal deposit insurance corporation shall have paid or made available for payment the insured deposit liabilities of the closed institution, the corporation, whether or not it has or shall thereafter become a liquidating agent of the closed institution, as hereinafter provided, shall be subrogated, by operation of law with like force and effect as if the closed institution were a national bank, to all rights of the owners of these deposits against the closed banking institution in the same manner and to the same extent as now or hereafter necessary to enable the federal deposit insurance corporation under federal law to make insurance payments available to depositors of closed insured banks; provided, that the rights of depositors and other creditors of the closed institution shall be determined in accordance with the laws of this state. The commissioner may, in his discretion, in the event of the closing of any banking institution by reason of inability to meet the demands of its depositors, the deposits of which banking institution are to any extent insured by the corporation, tender to the corporation the appointment as liquidating agent of this banking institution and, if the corporation accepts the appointment, it shall have and possess all the powers and privileges provided by the laws of this state with respect to a special deputy examiner of the banking division of the department in the management and liquidation of this institution, and be subject to all of the duties of the special deputy examiner; provided, that nothing herein contained shall be construed as a surrender of the right of the commissioner to liquidate banking institutions under his supervision pursuant to the statute in such case made and provided; and the commissioner is hereby authorized

and empowered to waive the filing of a bond by the corporation as such special deputy examiner.

[1935 c. 319 s. 3; 1937 c. 404 s. 1] (7658-8)

48.59 COMMISSIONER MAY ACCEPT EXAMINATIONS AND REPORTS OF CORPORATION. The commissioner is authorized to accept, in his discretion, in lieu of any examination authorized by the laws of this state to be conducted by his department of a banking institution, the examination that may have been made of same within a reasonable period by the federal deposit insurance corporation, provided a copy of this examination is furnished to the commissioner. The commissioner may also, in his discretion, accept any report relative to the condition of a banking institution which may have been obtained by the corporation within a reasonable period, in lieu of a report authorized by the laws of this state to be required of the institution by his department, provided a copy of this report is furnished to the commissioner.

The commissioner may furnish to the corporation, or to any official or examiner thereof, a copy or copies of any or all examinations made of any such banking institutions any deposits of which are insured by the corporation and of any or all reports made by same, and shall give access to and disclose to the corporation, or any official or examiner thereof, any and all information possessed by the office of the commissioner with reference to the conditions or affairs of any such insured institution.

Nothing in this section shall be construed to limit the duty of any banking institution in this state, deposits of which are to any extent insured under the provisions of Section 8 of the "Banking Act of 1933" [Section 12B of the federal reserve act, as amended (Mason's U. S. Code Anno., title 12, s. 264)], or of any amendment of or substitution for the same, to comply with the provisions of that act, its amendments or substitutions, or requirements of the corporation relative to examinations and reports, nor to limit the powers of the commissioner with reference to examinations and reports under any law of this state.

[1935 c. 319 s. 4] (7658-9)

48.60 COMMISSIONER MAY BORROW MONEY. With respect to any banking institution which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the commissioner or of a court or by action of its directors, or, in the event of its insolvency or suspension, the commissioner may borrow from the corporation and furnish any part or all of the assets of the institution to the corporation as security for a loan from same. The order of a court of record of competent jurisdiction shall be first obtained approving this loan. The commissioner, upon the order of a court of record of competent jurisdiction, may sell to the corporation any part or all of the assets of the institution.

The provisions of this section shall not be construed to limit the power of any banking institution, or the commissioner, to pledge or sell assets in accordance with any other law of this state.

[1935 c. 319 s. 5] (7658-10)

48.61 AUTHORIZED INVESTMENTS FOR STATE BANKS. Any bank organized under the laws of this state is authorized to invest not to exceed ten per cent of its capital in the capital stock of any agricultural credit corporation organized under the laws of this state, and entitled to discount privileges with any federal intermediate bank organized under the laws of the United States.

[1935 c. 174] (7677-1)

48.62 BANKS MAY ISSUE NOTES OR DEBENTURES. With the approval of the commissioner any banking institution may, at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures. These capital notes or debentures shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors.

In determining whether the capital of any banking institution is impaired, outstanding capital notes or debentures, legally issued by the institution and sold by it to the reconstruction finance corporation, shall not be considered as liabilities of the institutions, but for all other purposes they shall be, and shall be considered as, liabilities of the institution.

No capital notes, or debentures, shall be retired or paid by any such institutions if this retirement or payment would impair the capital of the institution.

These capital notes or debentures shall in no case be subject to any assessment. The holders of the capital notes or debentures shall not be held individually responsible, as holders, for any debts, contracts, or engagements of the institutions, and shall not be held liable for assessments to restore impairments in the capital of the institution.

[1935 c. 305 s. 1] (7697-7)

48.63 BANKS NEED NOT GIVE SECURITY FOR DEPOSITS. Notwithstanding any provisions of law of this state requiring security for deposits in any bank or trust company in the form of collateral, surety bond or any other form, security for such deposits shall not be required to the extent the deposits are insured under the provisions of Section 12B of the federal reserve act, as amended (Mason's U. S. Code Anno., title 12, s. 264), or any amendments thereto.

[1935 c. 317 s. 1] (7697-8)

48.64 DEPOSITS OF TRUST FUNDS. Any person, firm, or corporation appointed by a court of competent jurisdiction as representative of the estate of a deceased person, or as guardian, or any trustee of a firemen's relief association, or any referee, receiver, or trustee appointed by a court of record in this state, may deposit the funds coming into his or its possession for safe-keeping and disbursing, unless otherwise directed by the court, in any bank or trust company, however organized, the deposits of which are insured, in whole or in part, by the federal deposit insurance corporation, to the extent that the funds so deposited are fully insured.

[1935 c. 318 s. 1] (7697-9)

48.65 TRUST COMPANIES TO COMPLY WITH CERTAIN LAWS. No trust company of this state shall conduct a banking business, as defined in section 47.02, without fully complying with the provisions of section 48.22 relating to the reserve requirements of the state banks.

[1919 c. 117 s. 1] (7726)

48.66 NATIONAL BANKS MAY ACT AS TRUSTEES. Any national bank in this state granted a special permit by the federal reserve board to act in a fiduciary capacity under the provisions of sub-section K of section 11 of the federal reserve act, as amended by the act of September 26, 1918, may assign, transfer to, and deposit with the commissioner, and procure his certificate therefor, the kinds and amounts of authorized securities required of a trust company in a city or village wherein the national bank is located, by section 48.67; provided, that such national bank which has a capital of \$500,000 or over shall not be required to deposit these securities for more than ten per cent of this capital. The securities so deposited shall be held and maintained as a guaranty fund for the national bank for the performance of its duties in such fiduciary capacity.

When such national bank has complied with section 48.67, no oath or security shall be required of it in the acceptance and performance of any such trust, as provided in section 48.79.

[1921 c. 490 s. 1] (7727)

48.67 CAPITAL OF TRUST COMPANIES. The capital of every trust company hereafter organized, having its principal place of business in any city of less than 25,000 inhabitants, shall not be less than \$50,000; the capital of every trust company hereafter organized, having its principal place of business in a city of more than 25,000 inhabitants and less than 100,000 inhabitants, shall not be less than \$75,000; the capital of every trust company hereafter organized, having its principal place of business in a city of more than 100,000 and less than 200,000 inhabitants, shall be not less than \$100,000; and the capital of every trust company hereafter organized, having its principal place of business in a city of more than 200,000 inhabitants, shall be not less than \$200,000; but the capital stock of any trust company shall not be in excess of \$2,000,000. No trust company hereafter organized shall transact any business until all of its authorized capital stock has been paid in, in cash, or, if the authorized capital be more than \$200,000, until at least \$200,000 thereof has been paid in, in cash, and at least 50 per cent of the capital of all trust companies of less than \$200,000 and 25 per cent of the capital of all trust companies of \$200,000 or more, hereafter organized, has been invested in one or more of the first, second, third, and fourth classes of authorized securities and railroad bonds, as described by that statute, and also in the farm loan bonds issued by the federal land banks duly assigned and transferred to and deposited with the state treasurer, or, if its capital stock be more than \$200,000, until at least one-fourth thereof has been so

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invested, assigned, transferred, and deposited. The state treasurer shall submit the securities deposited to the commissioner, who shall carefully examine the securities offered for deposit and ascertain that they comply with all the provisions of law applicable thereto. Upon receipt of an order of the commissioner, the state treasurer shall issue his receipt therefor. This deposit shall be maintained unimpaired as a guaranty fund for depositors and creditors and for the faithful discharge of its duties, with the right to collect the income thereof and to substitute other like authorized securities, of equal amount and value, upon approval and order of the commissioner.

If the securities comply with the law, the commissioner shall issue his certificate of authorization for the trust company to commence business.

The capital stock of any trust company may be reduced with the approval of the commissioner, but not below the respective minimum amounts aforesaid, and no assets shall be returned to the stockholders unless its deposits of authorized securities after such return equal one-fourth of the reduced capital, in no event less than \$25,000; nor shall the liability of any stockholder upon any existing contract be affected thereby.

When two or more trust companies have been or shall hereafter be consolidated under and pursuant to the provisions of sections 49.34 to 49.41, the capital of the consolidated trust company shall be considered as substituted for the capital of the several trust companies entering into the consolidation, and the aggregate of the securities of these trust companies on deposit with the state treasurer, pursuant to the provisions of this section, shall be increased or diminished accordingly; provided, that any company may hereafter be organized, with its principal place of business at any place within the state, with a capital of not less than \$10,000, to be paid in cash, of which 50 per cent shall be invested in authorized securities and deposited with the state treasurer, as provided in this section. The powers and business of the company so organized shall be to act as assignee under any assignment for the benefit of creditors, or be appointed and act as a trustee or receiver, as a guardian, as executor of any will, or administrator of any estate, and the company so organized may accept and perform any other lawful trust over which any court, either state or federal, has jurisdiction. This company, before entering upon the duties of its trust, shall give a corporate surety bond in such sum as the court directs, with sufficient surety, conditioned for the faithful performance of its duties. The business of any company so organized shall be limited to the above matters; provided, that the company so organized with a capital stock of \$10,000 shall not use the word "trust" in the title or name of the company.

[R. L. s. 3033; 1907 c. 225; 1911 c. 314 s. 1; 1927 c. 323; 1931 c. 375; 1935 c. 339] (7728)

48.68 DIRECTORS; QUALIFICATIONS; VACANCIES, HOW FILLED. Each director of a trust company shall own at least ten shares of its capital stock, and a majority of them shall be residents of this state. Each shall take and subscribe an oath that he will diligently and honestly perform his official duties and will not knowingly violate, or permit to be violated, any provision of law relating to trust companies and that he is the owner in good faith of the stock above specified standing in his name on the books of the corporation; the taking of this oath to be noted on the minutes of the records of the corporation and filed with the commissioner. Failure of any person selected as director to qualify shall create a vacancy in the board, and all vacancies in the board shall be filled by the qualified members; provided, that not more than one-third of the membership of the board may be so filled in any one year.

[R. L. s. 3034; 1919 c. 30 s. 1] (7729)

48.69 CERTAIN TRUST COMPANIES MAY ASSUME POWERS OF STATE BANKS. Any trust company organized under the laws of this state, and having a capital of not less than \$50,000, may exercise the powers and privileges conferred by sections 48.69 to 48.73, in addition to all other powers granted by law, upon complying with the conditions and requirements specified in sections 48.69 to 48.73.

[1929 c. 90 s. 1] (7733-1)

48.70 CERTIFICATES TO BE AMENDED. In order to exercise such powers as may be granted in sections 48.69 to 48.73, any such trust company may amend its certificate of incorporation so as to assume the additional powers of a state bank-

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ing corporation. This amendment shall include the change of the corporate name of the trust company so as to include the words "state bank" therein.

[1929 c. 90 s. 2] (7733-2)

48.71 DEPARTMENT TO APPROVE CERTIFICATES. Amendments to the certificate of incorporation shall be made in accordance with section 300.45 and before becoming effective these amendments must be approved by the department and the approval endorsed upon the certificate of amendment.

[1929 c. 90 s. 3] (7733-3)

48.72 APPLICATION. In considering the application of a trust company to assume the powers of a state bank, the department shall proceed in the same manner and be governed by the same laws which are now applicable to application for charters for new state banks.

[1929 c. 90 s. 4] (7733-4)

48.73 POWERS AND DUTIES. Upon complying with the terms of sections 48.69 to 48.73, the trust company shall have all the powers and privileges of a state bank not heretofore granted to trust companies, and shall become subject to and comply with all the provisions of the laws of this state in relation to state banks.

[1929 c. 90 s. 5] (7733-5)

743-339-1 **48.74 TRUST ACCOUNTS KEPT SEPARATE; SECURITIES, HOW DEPOSITED.** Besides its general books of account, any trust company shall keep separate books for all trust accounts. All funds and property held by it in a trust capacity shall at all times be kept separate from the funds and property of the corporation, and all deposits by it of such funds in any banking institution shall be deposited as trust funds, to its credit and as trustee, and not otherwise. Every security in which trust funds or property are invested shall at once, upon receipt thereof, be endorsed and transferred to it as trustee, executor, administrator, guardian, receiver, assignee, or other trustee, as the case may be, and not in blank or otherwise, and immediately entered in the proper books as belonging to the particular trust whose funds have been invested therein. Any change in such investment shall be fully specified in and under the account of the particular trust to which it belongs, so that all trust funds and property can be readily identified at any time, by any person.

[R. L. s. 3044] (7739)

48.75 PROHIBITED DEALINGS AND INDEBTEDNESS. Trust companies shall not engage in any banking, mercantile, manufacturing, or other business, except such as is herein expressly authorized for such a corporation. It shall not lend its funds, moneys, capital, trust funds, or any other property whatsoever, to any director, officer, agent, or employee, nor shall any such director, officer, agent, or employee become in any manner indebted to it by means of any overdraft, promissory note, account, endorsement, guaranty, or any other contract; and any such director, officer, agent, or employee who shall become so indebted to it shall be guilty of larceny of the amount of such indebtedness from the time of its creation.

[R. L. s. 3045] (7740)

48.76 POWERS OF COURT; ANNUAL REPORT TO THE COURT AND TO THE COMMISSIONER. Every such corporation shall be subject at all times to the further orders, judgments, and decrees of any court of record from which it shall have accepted any trust, appointment, or commission as to such trust, and shall render to such court such itemized and verified accounts, statements, and reports as may be required by law, or as the court shall order as to a particular trust. Every such corporation shall also be subject to the general jurisdiction and authority of the district court of the county of its principal place of business. On or before June 30 in each year, every such corporation shall render to the commissioner a full and detailed account of its condition, and such further accounts, either in full or in part, or in relation to any particular investments, trusts, funds, or other business, as the commissioner may, from time to time, direct or request; and a condensed statement of the annual account, together with a list of its board of directors, approved by the commissioner, shall be published by the corporation in a newspaper of the county of its principal place of business.

[R. L. s. 3046] (7741)

48.77 PROCEDURE UPON VIOLATION OF LAW OR INSOLVENCY. The directors and managing officers of any such corporation, when satisfied that it is, or is about to become, insolvent, shall immediately report that fact to the commissioner;

and when the commissioner shall be satisfied from that report, or from any examination made by him, that it is conducting its business in an unlawful or unsafe manner, or that it is insolvent, he may at once take possession of its books, records, and assets, which shall not be subject to any levy or attachment, nor shall any application for a receiver be entertained by any court, during such reasonable time as may be necessary for further examination. If, upon this examination, it shall appear to the commissioner that its business is being conducted in a safe and lawful manner and that all creditors, except those represented by stock, can be paid in full from the assets, he may relinquish possession of its assets to its directors and officers; otherwise he shall apply to a court for the appointment of a receiver, who shall take possession of all its books, records, and assets, and close up its affairs under the direction of the court; provided, that if at any stage of the proceedings the directors or stockholders shall satisfy the court that the corporation is able to pay all creditors, other than themselves, if the showing is approved, after investigation by the commissioner, the court may order the return of the assets to the company for liquidation or such other course as the stockholders, in compliance with law, may determine; and in such case the receiver shall be discharged.

[R. L. s. 3047] (7742)

48.78 AGENT OR ATTORNEY IN FACT, ACTING AS. Any trust company may take and hold in trust any real or personal property, wherever situated, by order, judgment, or decree of any court of record, or by gift, grant, assignment, transfer, devise, legacy, or bequest from, or by lawful contract with, any public or private corporation or individual, and manage the same upon the terms, conditions, limitations, and restrictions therein declared or imposed. The trust company may also act as agent for the signature, countersignature, registration, transfer, or redemption of certificates of stock, bonds, coupons, or other evidences of indebtedness of any such corporation or individual, or otherwise act as general or special agent or attorney in fact in the acquisition, management, sale, assignment, transfer, incumbrance, conveyance, or other disposition of any real or personal property, the collection of rents, payment of taxes, and generally as the representative of any such corporation or individual.

[R. L. s. 3036] (7731)

48.79 ACTING AS ASSIGNEE, RECEIVER, OR EXECUTOR. Any trust company may act as assignee under any assignment for the benefit of creditors, or be appointed and act as a trustee or receiver, as a guardian, as executor of any will, or administrator of any estate, and may accept and perform any other lawful trust conferred by any court, or by any corporation or individual. In the acceptance and performance of any such trust, no oath or security shall be required.

[R. L. s. 3038] (7733)

48.80 COMPENSATION; COMMISSION NOT DEEMED INTEREST. For the faithful performance of its duties and discharge of its trust, any trust company shall be entitled to reasonable compensation, or such amount as has been or may be agreed upon by the parties, and all necessary expenses, with legal interest thereon, unless otherwise agreed upon. No compensation or commission paid or agreed to be paid by it for the negotiation of any loan, or the execution of any trust, shall be deemed interest within the meaning of the law, nor shall any excess thereof over the legal rate be deemed usury.

[R. L. s. 3042] (7737)

48.81 INVESTMENTS, HOW LIMITED. Any trust company may acquire, use, and improve, and for that purpose mortgage, lease, sell, and convey, such real and personal property as may be necessary for the transaction of its business. Any estate or interest in real estate which it may acquire by virtue of the foreclosure of any mortgage, trust deed, or other security, or by the settlement of any obligation or otherwise, in the course of its legitimate business, it may sell or continue to hold and use as deemed for its interests or those of the estate or trust to which the same belongs, and to that end it may become the purchaser at any foreclosure or judicial sale to which it is a party as trustee or otherwise. It may also accept or make any deed, mortgage, or other instrument necessary for the transaction of its business, may loan money and secure such loans by mortgage, trust deed or pledge, purchase notes, bonds, mortgages, and other evidences of indebtedness, and securities, and sell and assign the same, and convert them into cash or into other authorized securities, or securities and property not herein expressly prohibited. It may guarantee a title to securities sold and transferred by it; may become sole surety

upon any bond without justification; and may maintain and operate safe deposit vaults. It shall invest none of its capital or surplus in real estate except as herein authorized, nor any of its deposits, trust funds or property therein except as so authorized, or under or by virtue of an express contract, judgment, or other instrument conferring or imposing special power and authority so to do.

[R. L. s. 3035] (7730)

48.82. DEPOSITS OF TRUST AND OTHER FUNDS RECEIVED. Any trust company may take and hold on deposit or for safe-keeping money, bonds, stocks, and other securities or personal property which any public officer, or any trustee or other legal representative, or any public or private corporation or person, may desire or shall be authorized, ordered, or otherwise required by law to deposit in a bank or other safe depository, or to pay into any court of record; and the same may, instead thereof, be paid into or deposited with any such trust company, and, where the deposit is made pursuant to order of court, in such as the court shall designate, and take the receipt of the trust company therefor; and thereupon the depositor and his sureties shall be relieved from liability thereafter accruing so long as these deposits continue.

[R. L. s. 3037] (7732)

48.83. DEPOSIT WITH TRUST COMPANY INSTEAD OF A LARGER BOND. When new or additional security shall be required from any executor, administrator, guardian, assignee, receiver, or other trustee, if the judge or court having jurisdiction deems it expedient, because of the magnitude of the estate or fund or otherwise, to require the maximum security prescribed by law, it may direct any securities belonging thereto to be deposited with any trust company, subject to the order of the trustee, when countersigned by the judge, and fix the amount of the security with reference only to the remainder. No such security shall be withdrawn, nor any part of the principal or interest thereof collected, except by an officer of the company, without the order of the judge duly entered and certified, upon satisfactory proof that additional security has been furnished, or that the estate or fund has been so reduced that the deposit is no longer required.

[R. L. s. 3039] (7734)

48.84 CORPORATE TRUSTEE; INVESTMENT OF TRUST FUNDS; COMMINGLING FUNDS. Any trust company may invest all moneys received by it in trust in authorized securities, and shall be responsible to the owner or cestui que trust for the validity, regularity, quality, value, and genuineness of these investments and securities so made, and for the safe-keeping of the securities and evidences thereof. When special directions are given in any order, judgment, decree, will, or other written instrument as to the particular manner or the particular class or kind of securities or property in which any investment shall be made, it shall follow such directions, and in such case it shall not be further responsible by reason of the performance of such trust. In all other cases it may invest funds held in any trust capacity in authorized securities using its best judgment in the selection thereof, and shall be responsible for the validity, regularity, quality, and value thereof at the time made, and for their safe-keeping. Whether it be the sole trustee or one of two or more co-trustees, it may invest in fractional parts of, as well as in whole, securities, or may commingle funds for investment. If it invests in fractional parts of securities or commingles funds for investment, all of the fractional parts of such securities, or the whole of the funds so commingled shall be owned and held by the trust company in its several trust capacities, and it shall be liable for the administration thereof in all respects as though separately invested; provided, that not more than \$25,000, at the cost price of such investments, shall be so invested for any one trust at any one time in fractional parts or as commingled funds for investment, unless the authority to invest in fractional parts or as commingled funds be given in the order, judgment, decree, will, or other written instrument governing such trust. Funds so commingled for investment shall be designated collectively as a common trust fund. It may, in its discretion, retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. The foregoing shall apply as well whether a corporate trustee is acting alone or with an individual co-trustee.

[R. L. s. 3040; 1941 c. 298] (7735)

48.85 TRANSFER OF TRUSTS TO COMPANY; CONDITION. The trustees of any estate or property may surrender and resign such trust in favor of such trust company which will accept the same, and convey and deliver to it all property and

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assets of such trust, upon condition that the grantor, cestui que trust, and all parties in any manner interested in the execution and performance of such trust shall execute, acknowledge, and deliver an instrument in writing, whereby they shall consent to such transfer and the release and discharge of the original trustee, and the appointment of such trust company as his successor. If either party to the original trust is dead, or does not join in such written consent, or if such original trust was created under a last will, or an order or decree of a court of record, then such transfer shall not be valid except upon the judgment or decree of such court as would have jurisdiction of an action to remove the acting trustee, and full compliance with the terms and conditions of such judgment or decree.

[R. L. s. 3041] (7736)

48.86 TRUST FUNDS; INVESTMENT OF ACCUMULATIONS. Any amount not less than \$100.00 received by any trust company as executor, administrator, guardian, or other trustee, or by order of court, not required for the purposes of such trust, or not to be accounted for within one year, it shall invest as soon as practicable in authorized securities either then held by it or specially procured by it; and the income, less its proper charges, shall become part of the trust estate, and the net accumulations thereon shall be likewise invested, accounted for, and allowed in the settlement of such trust.

[R. L. s. 3043] (7738)

48.87 DEPOSIT OF SECURITIES. All securities, moneys, mortgages, bonds, notes, receipts, statements, record, and all papers relating thereto, of annuity, safe deposit and trust companies heretofore required by law to be deposited with the state auditor or the state treasurer, shall be deposited with the commissioner.

[1905 c. 49 ss. 1, 2, 3; 1909 c. 495 ss. 1, 2] (7743) (7744) (7745) (7746) (7747)

48.88 VIOLATIONS; PENALTIES. Subdivision 1. Any officer or employee of a bank or trust company who violates the provisions of sections 48.15 to 48.20, or who consents thereto or connives thereat, shall be guilty of a gross misdemeanor.

Subdivision 2. Any person or officer of a state bank or trust company who knowingly or wilfully accepts deposits with an agreement or understanding, either directly or indirectly, on the part of the bank or trust company to pay a larger rate of interest than that provided in section 48.25 shall be guilty of a misdemeanor.

Subdivision 3. Any banking institution which shall violate any of the provisions of sections 48.52 to 48.55 shall ~~forfeit to the state interest in the amount of 15 per cent per annum upon all such deposits in the custody of the institution as come within the provisions of those sections.~~ This subdivision shall not apply to banking institutions which have been or are being liquidated. *181913-6211*

[1927 c. 257 s. 6; 1929 c. 144 s. 2; 1937 c. 358 s. 5] (7658-25) (7699-13½a) (7699-19)