

CHAPTER 54

BANKING DIVISION; FARM MORTGAGE DEBENTURE COMPANIES; CERTAIN INVESTMENT COMPANIES; AND MORTGAGE LOAN AND LAND COMPANIES

Sec.		Sec.	
54.01	Farm mortgage debenture companies	54.18	Real estate held only five years
54.02	Capital; "debenture" in name	54.19	Commissioner, powers and duties
54.03	Name submitted to commissioner	54.20	Reports
54.04	By-laws, copy filed	54.21	Failure to report
54.05	Mortgages must be first lien	54.22	Execution of instruments
54.06	Debentures, how issued and negotiated	54.23	Insolvency; receiver; debentures
54.07	Debentures; reinvestment	54.24	Annual fee
54.08	Reports; mortgages in excess of debentures	54.25	Misstatements
54.09	Defaults in mortgages; new debentures	54.26	Investment companies, control
54.10	Impairment of capital	54.27	Supervision; powers; fees
54.11	Books open for inspection	54.28	Soliciting business without authority
54.12	Other indebtedness forbidden	54.29	Plan to be submitted; permit
54.13	Restriction on officers and stockholders	54.30	Mortgage loan and land companies
54.14	Debentures, when lawful investments	54.31	Statement filed with banking division
54.15	Sale of mortgages	54.32	Capital to be paid in; deposit with trustee
54.16	Reserve fund; dividends	54.33	Duties and powers of commissioner; fees
54.17	Mortgages in default	54.34	Powers

54.01 FARM MORTGAGE DEBENTURE COMPANIES. Any three or more persons may form a corporation for the purpose of loaning its money on first mortgages on improved farm lands, and of buying such mortgages and of issuing and negotiating its debentures thereon; the corporation to have the power of executing all contracts, encumbrances, transfers, releases, and other instruments necessary to the transaction of this business.

[1905 c. 93 s. 1] (7797)

54.02 CAPITAL; "DEBENTURE" IN NAME. The corporation shall have a paid-up capital of at least \$40,000 and the word "debenture" shall be a part of its corporate name.

[1905 c. 93 s. 2; 1907 c. 238] (7798)

54.03 NAME SUBMITTED TO COMMISSIONER. Before the execution of the certificate of incorporation of any such corporation, its proposed name shall be submitted to the commissioner of banks, who shall compare it with those of corporations operating in this state, and if it is likely to be mistaken for any of them, or to confuse the public as to the character of its business, or is otherwise objectionable, additional names shall be submitted until a satisfactory one is selected, whereupon he shall issue his certificate of approval thereof.

[1905 c. 93 s. 3] (7799)

54.04 BY-LAWS, COPY FILED. Within 90 days after the adoption of its by-laws, or of any amendment thereof, a certified copy of the same shall be filed with the commissioner of banks.

[1905 c. 93 s. 4] (7800)

54.05 MORTGAGES MUST BE FIRST LIEN. The mortgages taken by the corporation in each instance must be a first lien upon the land described therein, the major portion of which land shall be tillable, the whole thereof in actual use for farming purposes; and worth at least twice the amount of the mortgage taken thereon.

[1905 c. 93 s. 5] (7801)

54.06 DEBENTURES, HOW ISSUED AND NEGOTIATED. The corporation may issue and negotiate its debentures in the following manner:

(1) The debentures may be issued in series of not less than \$10,000 each, the respective series to be identified by a common serial letter, and the debentures of a given series to be numbered consecutively;

(2) As security for the total amount of any given series of debentures, there shall be set apart, in the manner provided by sections 54.01 to 54.25, mortgages aggregating in amount at least ten per cent more than the total amount of such debentures;

(3) The corporation shall file for record, in the office of the register of deeds in each county in which the mortgages securing any given series of debentures

are recorded, an instrument of transfer, which shall contain a description of each of these mortgages in the county, and recite that these mortgages are held by the corporation as security for a certain series of its debentures, giving the date, amount, serial letter and number of each debenture; when so recorded the instrument shall have the effect to transfer and assign every such mortgage to the corporation as trustee, to be thereafter held by it for the use and benefit of the holders of these debentures;

(4) The corporation shall file with the commissioner of banks, before any series of debentures are negotiated, an instrument giving the description of the series, showing the date, serial letter, number, amount, and terms of each debenture, a description of each mortgage held to secure the same, the appraised value of each tract of land described therein, and the date and place of record of the instrument of transfer required by clause (3).

A record of this instrument shall be made by the commissioner of banks in a book to be kept for that purpose; at the time the record is made the commissioner of banks shall certify on each of the debentures that the provisions of this section have been fully complied with.

[1905 c. 93 s. 6] (7802)

54.07 DEBENTURES; REINVESTMENT. All debentures may be made for such length of time as the corporation may fix, but they shall be subject to call and payment as the mortgages securing the same are paid, upon the conditions following:

In case of the payment of a mortgage securing any debentures before their maturity, the money so received may be reinvested in same manner as provided in section 54.05, and the mortgage or mortgages so received shall take the place of the mortgage so paid; or, mortgages aggregating a like amount or more, belonging to the company which are not otherwise pledged and not belonging to its reserve fund, may be substituted for the mortgage so paid; and in either case the same instrument shall be executed and filed and the same record shall be made in the office of the register of deeds and in the office of the commissioner of banks, as provided in section 54.06; and until the reinvestment is made the money received in payment of any mortgage held as security for any debentures shall not be mingled with the fund otherwise belonging to the corporation, but shall at all times be kept separate and distinct, and if the funds are not reinvested within six months after the receipt thereof, then and thereupon debentures to the amount of the payment shall be called in and paid upon such terms as may be provided therein.

[1905 c. 93 s. 7] (7803)

54.08 REPORTS; MORTGAGES IN EXCESS OF DEBENTURES. All payments of principal on mortgages securing any series of debentures made during any quarter year shall be reported to the commissioner of banks on or before the tenth day of the following quarter, unless oftener required by the commissioner of banks, which report shall show what reinvestments have been made thereof, and in like manner, report shall be made of the payment and discharge of all debentures during the quarter. If the aggregate of the mortgages securing any series of debentures shall, at any time, exceed more than ten per cent of the total of the debentures, the corporation may retain from any payment on the principal of any such mortgages the amount of the excess.

[1905 c. 93 s. 8] (7804)

54.09 DEFAULTS IN MORTGAGES; NEW DEBENTURES. No new debenture shall be negotiated while any default exists in any of the mortgages held as security for any previous issue of debentures, without first complying with all requirements of sections 54.01 to 54.25 concerning mortgages in default, nor while default exists in the payment of any portion of the interest or principal due on any debenture previously issued.

[1905 c. 93 s. 9] (7805)

54.10 IMPAIRMENT OF CAPITAL. If there shall, at any time, be an impairment of the capital of any such corporation, no debenture shall be thereafter issued until the stockholders have paid into the treasury of the corporation the amount necessary to restore the capital, and a certificate showing that the same has been done shall be given to the corporation by the commissioner of banks.

[1905 c. 93 s. 10] (7806)

54.11 BOOKS OPEN FOR INSPECTION. The books, records, and papers of the corporation pertaining to any series of debentures shall be open for the inspec-

tion of the holder of any debenture of that series, and the corporation shall, at the request of the holder, furnish a statement giving a complete description of all mortgages held as security for these debentures.

[1905 c. 93 s. 11] (7807)

54.12 OTHER INDEBTEDNESS FORBIDDEN. Such corporation shall not at any time incur any indebtedness, except upon its debentures, and for the usual and necessary expenses incident to the transaction of its business.

[1905 c. 93 s. 12] (7808)

54.13 RESTRICTIONS ON OFFICERS AND STOCKHOLDERS. No officer, director, stockholder, agent, or servant of the corporation shall, directly or indirectly, in any manner, use any of the funds of the corporation, except in its regular business transactions; neither shall any loan be made to any such officer, director, stockholder, agent, or servant, nor shall they, or either of them, become surety in any manner for any debt due or payable to the corporation.

[1905 c. 93 s. 13] (7809)

54.14 DEBENTURES, WHEN LAWFUL INVESTMENTS. The debentures of the corporation shall be lawful investments for any trust company, life or fire insurance company organized under the laws of this state, and for trust funds in charge of any trustee unless expressly restricted by the person creating the trust; provided, that not more than 20 per cent of the capital of any such company, or of any such trust funds, may be so invested.

[1905 c. 93 s. 14] (7810)

54.15 SALE OF MORTGAGES. The corporation may sell, and for that purpose assign, transfer, and deliver any of its mortgages not pledged as security for any of its debentures, and not belonging to its reserve fund.

[1905 c. 93 s. 15] (7811)

54.16 RESERVE FUND; DIVIDENDS. At the end of each dividend period, after deducting all necessary expenses, losses, interest, and taxes due or levied, and after setting apart, out of the net profits, a sum sufficient to cover any amount then in default on any of the mortgages securing any series of debentures, one-fifth of the remaining net profits for that period shall be set aside as a reserve fund until the same equals one-half of the capital stock. The directors may then declare a dividend of so much of the remainder as they may deem expedient. When in any way impaired, this reserve fund shall be raised to such percentage in like manner. The reserve fund may be invested in the manner provided in section 54.05, but no debentures shall be issued on these mortgages.

[1905 c. 93 s. 16] (7812)

54.17 MORTGAGES IN DEFAULT. In case default shall be made in the payment of the principal or interest due on any mortgage securing any series of debentures, for the period of 60 days, that fact shall thereupon be reported to the commissioner of banks and, if the default shall not be removed within 30 days thereafter, the amount so in default shall be charged to the reserve fund, and mortgages or cash belonging to the reserve fund aggregating the amount so in default shall be transferred from the reserve fund to the debenture fund, and if there be not mortgages or funds in the reserve fund sufficient for this purpose, the balance remaining shall be taken from any funds belonging to the corporation. All cash so transferred to the debenture fund shall be treated as a payment on the default mortgage, and shall be governed by the provisions of section 54.07 concerning reinvestments, and the same instruments shall be filed and records made in the case of the reinvestment of these funds as is provided in section 54.07. When the transfers shall have been so made, proof thereof shall be furnished the commissioner of banks in such manner as he may prescribe, whereupon the commissioner of banks shall issue a certificate for record releasing the default mortgage from the lien of the series of debentures.

[1905 c. 93 s. 17] (7813)

54.18 REAL ESTATE HELD ONLY FIVE YEARS. The corporation may purchase, hold, or convey land sold upon foreclosure of mortgages owned by it or held by it as security for its debentures, or upon judgments or decrees in its favor or in the settlement of debts or received in exchange as a part of the consideration of real estate held by it; but no item of real estate shall be carried upon the books of the corporation at a greater sum than the actual cost thereof, and all real estate acquired by the corporation shall be sold within five years after its acquirement, unless the time is extended by the commissioner of banks on application of the

board of directors. The corporation may acquire and hold the title to such land as may be necessary for an office building for its use, but not more than ten per cent of the capital of the corporation may be so invested. The corporation may change its location, dispose of its place of business and acquire another, upon the written approval of the commissioner of banks.

[1905 c. 93 s. 18] (7814)

54.19 COMMISSIONER, POWERS AND DUTIES. Every such corporation shall at all times be under the supervision and subject to the control of the commissioner of banks. At least annually, and as much oftener as he deems it necessary without previous notice, the commissioner of banks, his deputy or assistant, may visit and examine the business and office of every such corporation, verify its books, vouchers, and papers, and ascertain its financial condition and ability to perform its functions and fulfill its obligations, and wherein, if at all, it has violated any provision of law, and determine what, if any, further action shall be taken in the premises. For the purpose of making this examination he is authorized to enforce the attendance of witnesses, of persons whose testimony is desired, and the production of books and papers, by subpoena or attachment, and may administer oaths to witnesses and compel them to testify. If the commissioner of banks is of the opinion that the further operation of the corporation is hazardous to public interests, he shall forthwith take possession of its property and report the matter to the governor for appropriate action.

[1905 c. 93 s. 19] (7815)

54.20 REPORTS. At least four times in each year, and at any other time when so required by the commissioner of banks, every such corporation shall promptly make and transmit to him, in such form and within such time as he shall prescribe, a report, verified by its president, vice-president, secretary, or assistant secretary, and attested by at least one of its directors, stating in detail under appropriate heads its liabilities and assets at the close of business on the date 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 corporation in a newspaper of the county of its location, and proof thereof filed immediately with the commissioner of banks.

[1905 c. 93 s. 20] (7816)

54.21 FAILURE TO REPORT. Every such corporation which shall fail to make and transmit to the commissioner of banks, within ten days after the time prescribed by law therefor, any report required by the provisions of sections 54.01 to 54.25, or by any other lawful authority, or fail to include therein any matter required by the commissioner of banks, shall forfeit to the state the sum of \$100.00 for every day that the report is withheld or delayed, or that it shall fail to report any such omitted matter, and every such corporation which shall so fail twice in succession to make and transmit any such report shall forfeit its corporate rights and franchises.

[1905 c. 93 s. 21] (7817)

54.22 EXECUTION OF INSTRUMENTS. All instruments of every character required by sections 54.01 to 54.25 to be made on behalf of the corporation, except as therein otherwise provided, shall be signed by its president or vice-president and attested by its secretary or assistant secretary under the seal of the corporation.

[1905 c. 93 s. 22] (7818)

54.23 INSOLVENCY; RECEIVER; DEBENTURES. No such corporation shall make an assignment by reason of existing or probable insolvency. The board of directors, if satisfied that it is, or is about to become, insolvent, shall immediately report that fact to the commissioner of banks, who, if satisfied from the report, or any other source, that the corporation has failed or refused to pay, either the interest or principal due on any of its debentures, has become insolvent, that its books of account are falsely or fraudulently kept, or that it has violated any provisions of law, shall forthwith take possession of its books, records, and property. Its property shall not be subject to attachment or levy, nor shall a receiver be appointed during such reasonable time as he may require for an examination and to apply for a receiver. When appointed, the receiver shall take possession, under the direction of the court, of such books, records, and other property belonging to the corporation, together with all mortgages and other property held by it as security for any of its debentures, and collect all debts due the corporation, sell or compound bad or doubtful debts and sell all corporate property on such terms as the court shall direct, and when necessary pay corporate debts and enforce the

individual liability of stockholders. He shall pay over all moneys received by him and make report of his doings to the commissioner of banks at such times and in such manner as he may prescribe. The moneys received from the securities belonging to any series of debentures shall be applied to the payment of these debentures, and any excess remaining may be applied, on the order of the court, to the payment of any unsecured indebtedness. When, after report by the directors and before the appointment of a receiver, the commissioner of banks shall find the corporation in such condition that all creditors, aside from the stockholders, can be paid in full from its assets, he may relinquish possession of its property to its proper officers; and when, at any stage of the proceedings, the stockholders of the corporation show the court that it is able to pay all other creditors, and this showing is approved by the commissioner of banks, the court may order the property turned over to the stockholders for liquidation or other arrangement and discharge the receiver.

[1905 c. 93 s. 23] (7819)

54.24 ANNUAL FEE. Every such corporation shall pay to the commissioner of banks an annual fee based on the amount of debentures outstanding on the first day of December in each year, as follows: On the first \$200,000, or part thereof, at the rate of \$1.00 per \$1,000; on all in excess of \$200,000, at the rate of 50 cents per \$1,000, the minimum fee to be not less than \$100.00 in any year; which amount shall be paid by the commissioner of banks into the state treasury.

[1905 c. 93 s. 24] (7820)

54.25 MISSTATEMENTS. Any wilful misstatement of any fact required by sections 54.01 to 54.25 to be made by any officer, agent, or servant of the corporation, shall be deemed perjury, and be subject to the prosecutions and punishments prescribed by law for that offense. Each and every officer, agent, or servant of the corporation and every other individual, who shall knowingly or wilfully do or omit anything, the doing or omissions of which on the part of the corporation is a violation of the provisions of sections 54.01 to 54.25, and who continues or repeats the act or omission for or during more than ten successive days, shall be guilty of a felony.

[1905 c. 93 s. 25] (7821)

2nd 11/3 659 - **54.26 INVESTMENT COMPANIES, CONTROL.** No person and no copartnership, association, or corporation, whether local or foreign, heretofore organized or which may hereafter be organized, doing business as a so-called investment, loan, thrift, benefit, cooperative, home, securities, trust, or guarantee company for the licensing, control, and management of which there is no law now in force in this state, and which such persons, copartnership, association, or corporation shall solicit payments to be made to himself or itself, either in a lump sum or periodically, or on the instalment plan, issuing therefor so-called bonds, debentures, shares, coupons, thrift certificates, certificates of membership, or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date, shall solicit or transact any business in this state, unless such person, copartnership, association, or corporation shall, at all times, keep and maintain a paid-up capital or capital and surplus of \$100,000, or keep on deposit with the commissioner of banks authorized securities in an amount equal to the cash surrender value of all investment contract liabilities on investment contracts held by residents of this state, and submit to the commissioner of banks, on the first day of each month, a verified report, in writing, which shall set forth the total amount of the cash surrender value of all investment contract liabilities on investment contracts held by residents of this state; the deposit at no time shall be less than \$50,000. Every such person, copartnership, association, or corporation, whether local or foreign, which shall be hereafter authorized to do business with an original paid-in capital of less than \$100,000, shall at all times be required to maintain and keep on deposit with the commissioner of banks authorized securities in an amount equal to the cash surrender value of all investment contract liabilities on investment contracts held by residents of this state; and shall have first complied with the provisions of section 54.29; provided, that existing permits heretofore issued under section 54.29 shall continue in full force and effect.

[1909 c. 333 s. 1; 1911 c. 321 s. 1; 1937 c. 271 s. 1; 1939 c. 109 s. 1] (7771)

54.27 SUPERVISION; POWERS; FEES. The persons, copartnerships, associations, and corporations mentioned or enumerated in section 54.26 are hereby put under the supervision of the commissioner of banks. The powers, authority,

privileges, and duties conferred upon him for the purpose of examining, supervising, controlling, and regulating the action of, and for the liquidation of, each and every class of financial institutions to the full extent to which he may at any time lawfully exercise them, shall each and all, so far as applicable, be exercised by him personally or by deputy in the examination, supervision, control, regulation, and liquidation of the persons, copartnerships, associations, and corporations first hereinbefore mentioned. The fees for examination shall be determined as follows: For each examination, a minimum fee of \$50.00, plus an amount equal to five cents for each \$1,000 of assets in excess of \$150,000, and not exceeding \$500,000; a minimum fee of \$75.00, where the assets exceed \$500,000 and do not exceed \$2,000,000, plus five cents on each \$1,000 of assets in excess of \$150,000; a minimum fee of \$100.00, where the assets exceed \$2,000,000 and do not exceed \$5,000,000, plus five cents on each \$1,000 of assets in excess of \$150,000; a minimum fee of \$150.00, where the assets exceed \$5,000,000, plus five cents on each \$1,000 of assets in excess of \$150,000 and not exceeding \$5,000,000, plus four cents on each \$1,000 of assets in excess of \$5,000,000 and not exceeding \$20,000,000, and plus three cents on each \$1,000 of assets in excess of \$20,000,000 and the actual necessary expenses incurred by the commissioner of banks in and tending toward the performance of his duties and the exercise of his powers herein referred to shall be paid by the persons, copartnerships, associations, and corporations examined and supervised.

[1909 c. 333 s. 2; 1911 c. 321 s. 2; 1927 c. 215; 1937 c. 271 s. 2] (7772)

54.28 SOLICITING BUSINESS WITHOUT AUTHORITY. Any person, copartnership, association, or corporation who or which shall act as principal or agent in doing such business, or in soliciting such business for, or membership or participation in any such copartnership, association, or corporation, or solicit business for such person or persons doing business as such companies, not authorized to do business in this state, shall be guilty of a misdemeanor; and, upon conviction thereof, punished by a fine of not less than \$100.00, nor more than \$1,000, or by imprisonment in the county jail of not less than three months, nor more than one year, or by both such fine and imprisonment; provided, that nothing contained in sections 54.26 to 54.29 shall apply to domestic mortgage loan companies.

[1909 c. 333 s. 3] (7773)

54.29 PLAN TO BE SUBMITTED; PERMIT. The persons, copartnerships, associations, and corporations referred to in sections 54.26 to 54.28 are hereby required to lay before the commissioner of banks a comprehensive plan of their intended business; and the commissioner of banks shall consider the same and, if he finds that the same contains no feature or essential proposition which is likely to be injurious to or defraud the public, he shall issue a permit for such person or institution to begin business according to such plan, otherwise such person or institution shall not engage in such business in this state.

[1911 c. 321 s. 3; 1937 c. 271 s. 3] (7774)

54.30 MORTGAGE LOAN AND LAND COMPANIES. Corporations may be formed for the purpose of loaning money, either for themselves or as agents for others, upon mortgages or other securities, and for the purchase and sale of lands, and of money obligations secured upon real or personal property, with power to execute all contracts, incumbrances, transfers, releases, and other documents necessary or convenient to the transaction of such business.

[R. L. s. 2845] (7436)

54.31 STATEMENT FILED WITH BANKING DIVISION. Before any corporation which heretofore has been organized, or which hereafter may be organized, under the laws of the state for any of the purposes mentioned in section 54.30 shall sell, offer for sale, or negotiate any bonds, notes, certificates of indebtedness, or other evidences of debt which are secured to be paid by the deposit or pledge with a trustee of any notes or other obligations secured by mortgages on real estate in Minnesota or elsewhere, or by the deposit or pledge of other evidences of indebtedness owned, issued, negotiated, or guaranteed by it, the corporation shall file in the office of the division of banking of the department of commerce a statement showing the aggregate amount of the bonds, notes, certificates of indebtedness, or other evidences of debt then proposed to be sold or offered for sale, the name of the trustee to whom the securities for the payment of the same are to be pledged or assigned, together with a statement of the face value and the corporation's estimate of the actual value of the securities so to be pledged or assigned.

[1913 c. 442 s. 1] (7437)

54.32 CAPITAL TO BE PAID IN; DEPOSIT WITH TRUSTEE. No such corporation shall sell or offer for sale any such bonds, notes, certificates of indebtedness, or other evidences of debt, until at least \$100,000 has been actually paid into the treasury of the corporation on account of the capital stock thereof and until there have been deposited and pledged with the trustee notes secured by such real estate mortgages or such other securities, or both, of an aggregate par value at least equal to the principal sum of the obligations to be secured thereby, and bearing annual interest amounting in the aggregate to at least the annual interest upon the obligations so secured.

[1913 c. 442 s. 2] (7438)

54.33 DUTIES AND POWERS OF COMMISSIONER; FEES. Upon the filing, by any such corporation, of any such statement, if a trust company organized under the laws of this state is not designated as the trustee, then the commissioner of banks shall inquire into and determine the financial responsibility of the person, firm, or corporation proposed as the trustee, and he may approve or disapprove the trustee so named, and unless the trustee be approved by him it shall not be lawful for any such corporation transacting the business described in section 54.31 to sell or offer for sale any such bonds, notes, certificates of indebtedness, or other evidences of debt.

The commissioner of banks shall, at all times, have the power, and upon the request of any such corporation it shall be his duty, to examine the same by inspecting and verifying the assets and liabilities thereof, and so far investigate the character and value of the assets of the corporation as to ascertain with reasonable certainty that the values are correctly carried upon its books, and may also investigate its methods of operation and conduct to ascertain whether the same are in accordance with law.

The corporation shall pay into the state treasury the same fees for the examination as trust companies are required to pay under section 46.13.

[1913 c. 442 s. 3] (7439)

54.34 POWERS. Mortgage loan companies may acquire, hold, sell, hypothecate, assign, transfer, and convey any obligations thereof, or of any person or other corporation, which are secured by mortgage or other real estate security, and collect, foreclose, compound, compromise, release, satisfy, and discharge the same of record.

[R. L. s. 3072] (7796)