

Banking

CHAPTER 46

BANKING DIVISION

CONSTITUTIONALITY. This chapter is constitutional even though the title does not refer to the penalties therein provided. They are germane to the general subject expressed. *State v Sharp*, 121 M 381, 141 NW 536.

Action of commissioner of banks in approving plan of reorganization proposed by bank and consented to by required number of depositors, on the record here presented is not arbitrary, unjust, or fraudulent. Laws 1933, Chapter 55, as amended by Laws 1933, Chapter 277, does not impair the obligation of contracts so as to violate Minnesota Constitution, Article I, Section 11. *Baltrusch v Citizens State Bank*, 211 M 77, 300 NW 201.

46.01 POWERS.

HISTORY. 1909 c. 201 s. 1; G.S. 1913 s. 4624; G.S. 1923 s. 5320; M.S. 1927 s. 5320.

46.03 SEAL OF DIVISION.

HISTORY. 1909 c. 201 s. 3; G.S. 1913 s. 4626; G.S. 1923 s. 5322; M.S. 1927 s. 5322.

46.04 COMMISSIONER; POWERS, AUTHORITY, AND PRIVILEGES.

HISTORY. 1909 c. 201 s. 4; G.S. 1913 s. 4627; G.S. 1923 s. 5323; M.S. 1927 s. 5323; 1943 c. 12 s. 1.

PROPERTY CHARGED OFF. It is the duty of the commissioner to supervise the management of property of a state bank which has been charged off from its book assets. 1912 OAG 20.

MISJOINDER OF CAUSES OF ACTION. The commissioner of banks could maintain an action against the directors of an insolvent bank only for the recovery of assets. He could have no interest in a deceit action and therefore it was misjoinder to join an action for unlawful payment of dividends and for accepting depositors' funds when they knew the bank was insolvent. *Frederick v McRae*, 157 M 366, 196 NW 270.

Upon the banking department rests the duty to "investigate the methods of operation and conduct" of the defendant and "to ascertain whether such methods and systems are in accordance with law." *Equitable v Equitable*, 202 M 535, 279 NW 736.

Within the provisions of the applicable statutes and the certificate of incorporation the number and terms of the directors should be fixed definitely by charter or by-laws, and any vacancy should be filled promptly. 1938 OAG 3, June 2, 1937 (29a-13).

46.05 SUPERVISION OVER FINANCIAL CORPORATIONS.

HISTORY. 1909 c. 201 s. 5; G.S. 1913 s. 4628; G.S. 1923 s. 5324; M.S. 1927 s. 5324.

SUBJECT TO REGULATION. The business of banking is clearly affected with a public interest and is subject to reasonable statutory regulations. *Hoff v First St. Bank of Watson*, 174 M 36, 218 NW 238; *Liquidation of Farm. St. Bank*

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of North Branch, 174 M 583, 219 NW 916; German-Am. Fin. Corp. v Mer. & Mech. St. Bank, 177 M 529, 225 NW 891.

POWER OF COMMISSIONER. The legislature has conferred on him general power of control, leaving it to him to determine in what manner it may best be exercised. Harriet St. Bank v Samels, 164 M 265, 204 NW 938.

46.06 REFUSAL TO OBEY DIRECTIONS OF EXAMINER; PENALTY.

HISTORY. 1909 c. 201 s. 6; G.S. 1913 s. 4629; G.S. 1923 s. 5325; M.S. 1927 s. 5325.

CONSTRUCTION. To withhold information within the meaning of the statute consists in knowingly, intentionally, or negligently failing to report known facts, or in knowingly, intentionally, or negligently deceiving or misleading the commissioner as to the true condition of the bank. State v Johnson, 179 M 217, 228 NW 926, overruling State v Sharp, 121 M 381, 141 NW 526.

46.07 RECORDS; BIENNIAL REPORT.

HISTORY. 1909 c. 201 s. 7; G.S. 1913 s. 4630; 1921 c. 250 s. 1; G.S. 1923 s. 5326; M.S. 1927 s. 5326.

46.08 EMPLOYEES.

HISTORY. 1909 c. 201 s. 8; G.S. 1913 s. 4631; 1919 c. 121; 1921 c. 42; 1923 c. 371 s. 1; G.S. 1923 s. 5327; M.S. 1927 s. 5327; 1943 c. 442 s. 1.

46.09 STATE BANK EXAMINERS OR EMPLOYEES NOT TO HOLD BANK STOCK.

HISTORY. 1915 c. 164 s. 1; G.S. 1923 s. 5328; M.S. 1927 s. 5328; 1931 c. 43 s. 1.

46.10 PENALTY FOR VIOLATION.

HISTORY. 1931 c. 43 s. 2; M. Supp. s. 5328-1.

46.11 EXAMINERS' DISTRICTS.

HISTORY. 1909 c. 201 s. 9; G.S. 1913 s. 4632; G.S. 1923 s. 5329; M.S. 1927 s. 5329.

46.12 REPORTS OF EXAMINERS.

HISTORY. 1909 c. 201 s. 10; G.S. 1913 s. 4633; G.S. 1923 s. 5330; M.S. 1927 s. 5330.

46.13 FEES FOR EXAMINATION OF FINANCIAL INSTITUTIONS.

HISTORY. 1909 c. 201 s. 14; G.S. 1913 s. 4635; 1917 c. 299; 1919 c. 136; 1923 c. 247 s. 1; G.S. 1923 s. 5332; M.S. 1927 s. 5332; 1937 c. 246 s. 1; 1941 c. 488.

46.14 EXAMINERS' POWERS ENLARGED.

HISTORY. 1931 c. 137; M. Supp. s. 5332-1.

46.15 CERTAIN SECURITIES DEPOSITED WITH STATE TREASURER.

1923 c. 155 s. 1; G.S. 1923 s. 5334; M.S. 1927 s. 5334.

Securities deposited with the commissioner of banks must be redeposited with the state treasurer. 1934 OAG 41, Jan. 13, 1934 (32j).

46.16 SALARIES.

HISTORY. 1913 c. 400 s. 1; 1921 c. 499; 1923 c. 252; G.S. 1923 s. 252 subd. 9; M.S. 1927 s. 252 subd. 9; 1933 c. 252 s. 2.

46.17 SALARY OF EXAMINER IN CHARGE OF LIQUIDATION.

HISTORY. 1913 c. 400 s. 1; G.S. 1923 s. 252 subd. 9; M.S. 1927 s. 252 subd. 9; 1933 c. 232 s. 2.