

upon conviction thereof shall be punished by a fine in any sum not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail of the county where the misdemeanor is committed, not exceeding six months.

Passed the House March 9th, 1907.

Passed the Senate March 14th, 1907.

Approved by the Governor March 16th, 1907.

CHAPTER 225.

[H. B. 13.]

FORMATION OF BANKING CORPORATIONS AND REGULATION OF THE BUSINESS OF BANKING.

AN ACT to provide for the formation of banking corporations, and to regulate the business of banking and securing state supervision thereof; for the appointment of a state examiner, defining his duties, fixing his compensation and making an appropriation therefor; and prohibiting the use of the words "bank," "trust," and "savings," in advertising business by persons, firms and associations not hereby brought under state supervision, and fixing a penalty for its violation.

Be it enacted by the Legislature of the State of Washington:

Examiner—
Governor
shall ap-
point.

SECTION 1. The Governor shall appoint, by and with the advice of the Senate, a State Examiner for the State of Washington, whose term of office shall be four years, unless sooner removed, and until his successor is appointed and qualified. No person shall be appointed to such office who shall not be at the time of his appointment, and for at least two years previous thereto, a citizen of the State of Washington. Nor shall any person be eligible for such office who shall be interested in any bank as owner, officer or stockholder.

Qualifica-
tions.

Governor
to fill
vacancies.

SEC. 2. If a vacancy shall occur in the office of State Examiner, by death, resignation or otherwise, the same shall be filled by appointment of the Governor, and such appointee shall hold office until the next ensuing session of the Legislature.

SEC. 3. The State Examiner may appoint a deputy, and revoke such appointment at pleasure, who shall have the qualifications, and possess the powers, and perform the duties, attached by law to the office of the Examiner. He may also employ from time to time such clerical assistance as shall be necessary to the proper conduct of his office. But in no case shall the expense incident to the conduct of the office exceed the appropriation provided by Legislative action.

Deputy
examiner.Clerical
assistance.

SEC. 4. The State Examiner and his deputies shall, each before entering upon his office, take and subscribe an oath to faithfully discharge the duties of his office, and shall each execute to the State of Washington a bond in the sum of twenty-five thousand dollars, with some surety company authorized to do business in this State, to be approved by the Governor, as surety, conditioned that he will faithfully and impartially discharge the duties of his office and pay over to the person entitled by law to receive it, all moneys coming into his hands by virtue of his office. The cost of such bonds to be paid by the State.

Oath.

Bond.

SEC. 5. The State Examiner shall maintain an office at the State Capitol, and there shall be assigned to him suitable rooms in the State Capitol building for conducting the business of his office.

Office.

SEC. 6. The term "banking," within the meaning of this act, shall be deemed and taken to mean the negotiation for, the discounting of, promissory notes, drafts, bills of exchange and other evidences of indebtedness, receiving deposits, selling and buying exchange, coin and bullion, and loaning money on personal, real and other securities, and other kindred financial operations. The term "bank," used in this act, shall be taken to mean and include every corporation, domestic or foreign (except national banks and foreign banks not authorized to receive deposits), transacting banking business in this State. The term "branch bank," used in this act, shall be taken to mean a branch established in a town or city other than that in which its principal office is located.

Definitions.

SEC. 7. Any corporation, branch bank or foreign bank, who shall receive money on deposit, whether on certificate

Banking
business—
what con-
sidered.

Banks sub-
ject to act.

or subject to check, shall be considered as doing a banking business. And promissory notes, or receipts issued for money received on deposit shall be held to be certificates of deposit for the purposes of this act. And every such corporation, branch bank, or foreign bank receiving deposits, shall be subject to all the provisions of this act, and shall be subject to the same regulations, visitation and control. No bank excepting banks established prior to the passage of this act, shall carry on a banking business, except upon compliance with the provisions of this act: *Provided*, That the provisions of this act, so far as applicable, shall govern and apply to existing banks, branch banks, and foreign banks receiving deposits.

Incorporation of
banks.

SEC. 8. Any number of persons not less than three may become incorporated for the purpose of conducting and carrying on a general banking business, and also to establish banks to be known as savings banks, or to establish banks having departments for both classes of business, upon the terms and conditions of, and subject to the liabilities, prescribed in this act. It shall be unlawful for any corporation, to transact a banking business unless at the time of organization and commencement of such banking business, such corporation, has property of cash value as follows: In cities, villages and communities having a population of less than one thousand (1,000), ten thousand dollars (\$10,000); in cities, villages and communities having a population of one thousand (1,000) and less than two thousand (2,000) inhabitants, fifteen thousand dollars (\$15,000); in cities having a population of two thousand (2,000) and less than three thousand (3,000) inhabitants, twenty thousand dollars (\$20,000); in cities having a population of three thousand (3,000) and less than five thousand (5,000) inhabitants, twenty-five thousand dollars (\$25,000); in cities having a population of five thousand (5,000) and less than ten thousand (10,000) inhabitants, thirty thousand dollars (\$30,000); in cities having a population of ten thousand (10,000) and less than twenty-five thousand (25,000) inhabitants, fifty thousand dollars (\$50,000); in cities having a population of twenty-five thousand (25,000) and less than fifty thousand (50,000)

inhabitants, seventy-five thousand dollars (\$75,000); and in cities having a population of more than fifty thousand (50,000) inhabitants, one hundred thousand dollars (\$100,000). Such property shall be in lawful money as provided in section 12 of this act: *Provided*, That the provisions of this section as to the amount of capital shall not apply to any bank or trust company organized and doing business at the time of the passage of this act.

SEC. 9. The persons incorporating shall execute articles of incorporation, which shall specify:

Articles of incorporation—contents.

1. The name assumed by such bank.
2. The county and city or village where such bank is to be located and conduct its business.
3. The nature of its business, whether that of a commercial bank, savings bank or both.
4. The amount of its capital stock, which shall be divided into shares of one hundred dollars each.
5. The period for which such bank is organized, which shall not exceed fifty years.

Such articles shall be acknowledged before any officer authorized by the laws of this State to take acknowledgments.

SEC. 10. Such articles of incorporation shall be executed in quadruplicate, one copy of which shall be recorded in the office of the county auditor, in the county in which such bank is located; one filed with the State Examiner, one in the office of the Secretary of State, and one retained by the corporation. Such articles, or duly authenticated copies thereof, may be used as evidence in all courts of this State, for or against such bank.

Articles of incorporation—where filed.

SEC. 11. Upon making and filing the articles of incorporation as hereinbefore prescribed, such bank shall become a body corporate, and as such shall have power:

Powers of banks.

1. To adopt and use a corporate seal.
2. To have succession for the term of years mentioned in its articles of incorporation.
3. To make contracts.
4. To sue and be sued, the same as a natural person.

5. To elect directors, who shall have power to appoint such officers as may be necessary or convenient; to define their powers and duties, and to dismiss them at pleasure, and shall also have general superintendence and control of the affairs of such corporation.

6. To prescribe by its stockholders by-laws not inconsistent with law regulating the manner in which its stock shall be transferred, its directors and officers elected or appointed, its stockholders convened, for general or special meetings, its property transferred, its general business conducted, and the privileges granted to it by law, exercised and enjoyed.

7. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such powers as shall be necessary to carry on the business of banking, as defined and regulated by this act: *Provided*, That no such bank shall transact any business except such as is necessarily preliminary to its organization until it has been authorized by the State Examiner to commence the business of banking.

Capital
stock—
payment.

SEC. 12. At least fifty per cent of the capital stock of every incorporated bank shall be paid in before it shall be authorized to commence business, and the remainder of the capital of such bank shall be paid in in lawful money, in monthly installments of at least ten per cent. on the whole of the capital, payable at the end of each succeeding month from the time it shall be authorized to commence business, and the payment of each installment shall be certified to the State Examiner under oath by the president, cashier, or treasurer of such bank.

Sale of
stock for
non-pay-
ment.

SEC. 13. When any stockholder, or his assignee, shall fail to pay any installment on his stock when the same is required by the preceding section to be paid, the directors of such bank may sell the stock of such delinquent stockholder at public sale, having first given the delinquent stockholder twenty days' notice, personally or by mail, at his last known address. If no bidder can be found who will pay for such stock the amount due thereon, with costs incurred, the amount previously paid shall be for-

feited to the bank, and such bank stock shall be sold as the directors may order, within six months from the time of such forfeiture, and if not sold, it shall be cancelled and deducted from the capital of the bank. If sold before cancellation, any surplus over the amount due on such stock to said bank, less all costs incurred thereon, with interest for the time delinquent, shall be returned to the original stockholder, his heirs or assigns. If such cancellation shall reduce the capital of the bank below the minimum required by this act, the said capital shall, within thirty days thereafter, be increased to the required amount by original subscription, in default of which, a receiver may be applied for by the State Examiner, to close up the business of the bank.

SEC. 14. When articles of incorporation are filed with the State Examiner as provided by this act, and the bank transmitting the same notifies the State Examiner that at least fifty per cent of its capital stock has been paid in, and that such bank has complied with the conditions of this act, as required before the bank shall be authorized to commence business, the examiner shall examine into the condition of such bank, and if upon such examination, it appears that such bank is lawfully entitled to commence business, he shall within thirty days after receiving such notice, give to such bank a certificate under his hand and official seal, that it has complied with all the provisions of the law, and is duly authorized to transact business: *Provided, however,* That no foreign bank, or branch bank, except foreign banks now doing business in the State of Washington, shall do a banking business in the State until he or they shall have furnished to the State Examiner evidence satisfactory to him that such foreign bank, or branch bank, has invested in such foreign banks or branch banks an amount of capital equal to that required of corporations engaged in similar business, and shall have received from such Examiner a certificate authorizing him or them to do business as required in sections 8 and 12 of this act for corporations.

Bank may commence business, when.

Foreign banks.

Transfer
of shares.

SEC. 15. The shares of stock of such incorporated bank shall be deemed personal property, and shall be transferred on the books of the bank in such manner as the by-laws thereof shall direct. No bank shall be the purchaser of its own capital stock, or accept its capital stock, or any part of it, as security for loans.

Stock book.

SEC. 16. A book shall be provided and kept by every bank in which shall be entered the name and residence of the stockholders thereof, the number of shares held by each, the time when such person became a stockholder, and also all transfers of stock, stating the time when made, the number of shares, and by whom transferred. In all actions, suits and proceedings, said book shall be presumptive evidence of the facts therein stated.

Amendment
of articles of
incorporation.

SEC. 17. Any bank may amend its articles of incorporation, in any manner not inconsistent with the provisions of this act, by a vote of its stockholders representing two-thirds of the capital, at a regular meeting, or a special meeting duly called for that purpose. A certificate of the fact and terms of the amendment shall be executed by a majority of the directors, and filed as required for articles of incorporation, but no increase of capital stock shall be valid, until the amount thereof shall have been subscribed and actually paid in, and no reduction of the capital stock shall be made to an amount less than is required in section 8, for capital, nor be valid, nor warrant the cancellation of stock certificates, nor diminish the personal liability of the stockholders, until such reduction has been approved by the State Examiner.

Liability
of stock-
holders.

SEC. 18. The stockholders of every bank shall be individually liable, equally and ratably, and not one for another, for the benefit of the creditors of such bank, to the amount of their stock at par value thereof, in addition to the stock held by them; but persons holding stock as executors, administrators, guardians or trustees if such relation of trust shall appear in the stock certificate and on the books of the bank, or as collateral security or in pledge, shall not be personally liable as stockholders, but the assets and funds in the hands of such trustee constituting

the trust, shall be liable to the same extent as the testator, intestate, ward or person interested in such funds would be if living or competent to act, and the person pledging such stock shall be deemed a stockholder, and liable under this section. Such liability may be enforced by an action at law or suit in equity by any such bank in process of liquidation, or by any receiver or other person succeeding to the legal rights of such bank.

SEC. 19. The affairs of every such bank shall be managed by not less than three directors, who shall be elected by the stockholders, and hold office for one year, and until their successors are elected and have qualified. A majority of the board of directors shall constitute a quorum for the transaction of business. In the first instance the directors shall be elected at a meeting held before the bank is authorized to do business by the State Examiner, and afterwards at the annual meeting of the stockholders to be held on the second Tuesday in January in each year. If for any cause no election is held at that time, it may be held at an adjourned meeting, or at a subsequent meeting called for that purpose, of which due notice shall be given, as may be provided in the by-laws of such bank. At all the meetings of the stockholders, each share shall be entitled to one vote, and any stockholder may vote by proxy in writing signed by him. Every director must be the owner in his own right of at least five shares of stock. He shall take and subscribe an oath that he will faithfully and diligently perform the duties of such office, and will not knowingly violate or permit to be violated, any provisions of this act. Such oath shall be transmitted to the State Examiner, and filed in his office. Vacancies in the board of directors shall be filled by the board, and directors so appointed shall hold office until the next election, and until their successors shall have been elected and qualified.

Directors.

Oath.

Vacancies
in board—
how filled.

SEC. 20. The directors of any bank transacting business in this State may declare a dividend of so much of the net profits of the bank, after providing for all expenses, interest and taxes accrued, or due from such bank, as they shall judge expedient, but before any such dividend is

Dividends.

declared, not less than one-tenth of the net profits of the bank for the preceding half year, or for such period as is covered by the dividend, shall be carried to a surplus, until such surplus shall amount to twenty per cent. of its capital stock.

Banks may hold real estate, when.

SEC. 21. Any bank transacting business in this State, so far as not prohibited by the constitution of this State, may purchase, hold and convey real estate for the following purposes and no other:

1. Such as shall be necessary for the convenient transaction of its business, including with its banking offices, other apartments in the same building to rent as a source of income.

2. Such as shall be purchased by or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

3. Such as it shall purchase at sale under judgments, decrees, liens, or mortgage foreclosures, against securities held by it: *Providing*, That no such real estate, except that used in the transaction of its business, shall be carried as an asset on the books of the bank for a longer period than three years from the date of its purchase.

Receiving deposits when insolvent.

SEC. 22. The owners or officers of any bank who shall fraudulently receive any deposit, knowing that such bank is insolvent, shall be deemed guilty of a felony, and punished upon conviction thereof, by a fine not exceeding one thousand dollars, or imprisoned in the State Penitentiary not exceeding ten years, or both such fine and imprisonment, at the discretion of the court.

Penalty.

Re-organization as national bank—liabilities.

SEC. 23. Any state bank re-organized under the laws of the United States as a national bank, as soon as it shall have obtained a certificate from the Comptroller of the Currency authorizing it to commence business, under the United States banking laws, shall retain and hold all the assets, real and personal, which it acquired during its existence under this act, and shall hold the same subject to all existing liabilities against said bank at the time of its re-organization.

SEC. 24. Whenever any bank existing under the laws of the United States is authorized to dissolve, and shall have taken the necessary steps to effect dissolution, it shall be lawful for a majority of the directors of such bank, upon the authority, in writing, of the owners of three-fourths of its capital stock, with the approval of the State Examiner, to execute articles of incorporation, as provided in this act, which articles, in addition to the requirements above, shall set forth the authority derived from the stockholders of such dissolved national bank, and upon filing the same as hereinbefore provided for the organization of banks, the same shall become a bank under the laws of this State, and thereupon all assets of such dissolved national bank shall by act of law be vested and become the property of such State bank subject to all liabilities of such national bank not liquidated under the laws of the United States before such re-organization.

Reorgani-
zation of
national
banks
under act.

SEC. 25. Every transfer of its property or assets made by any bank in this State, after it shall have become insolvent, within the spirit of this act, with a view to the preference of one creditor over another, or to prevent the equal distribution of its property and assets among its creditors, shall be void.

Fraudulent
conveyances
void.

SEC. 26. No owner, officer, agent, clerk or employe of any bank shall certify a check unless the amount thereof actually stands to the credit of the drawer on the books of the bank, and any person who shall wilfully violate this provision, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding one thousand dollars. Any such check so certified by a duly authorized person shall be a good and valid obligation of the bank in the hands of an innocent holder.

Checks
shall not
be certified
unless
drawer has
funds.

SEC. 27. Any bank which shall designate its business as that of a savings bank shall have power to carry on the business of banking as prescribed and limited in this act, and may receive money on savings deposits, and such deposits shall be repaid to the depositor or his lawful representative, when required, at such time or times, and with such interest, as the regulations of the bank from time

Savings
banks.

to time prescribe. A pass-book shall be issued to each savings depositor, containing the rules and regulations prescribed by the bank governing such deposits, in which shall be entered each deposit made by and each payment to such depositor. And no payment made to such depositor, and no payment or check against any such savings account, shall be made, unless accompanied by and entered in the pass-book issued therefor, except for good cause and assurance, satisfactory, to the bank officers; but nothing in this section shall prevent savings banks from issuing time certificates of deposit or certificates of deposit specifically issued subject to the rules and regulations governing savings deposits.

Separate books to be kept, when.

SEC. 28. Any bank combining the business of a commercial bank and a savings bank shall keep with the respective depositors separate books of account for each kind of business.

Deposits by persons under disabilities—payment.

SEC. 29. Where any deposit is made in any bank in his or her own name by any minor, married woman, or other person under disability such bank may pay such money on a check or order of such person, the same as in other cases, and such payments shall be in all respects valid in law.

Use of names prohibited.

SEC. 30. No person or persons, association or body corporate, except banks, or trust companies incorporated under the laws of the United States, or the laws of the State of Washington, and existing foreign banks now doing business in the State of Washington, shall advertise or put forth a sign having thereon any of the following words: "Bank," "banking company," "trust" or "savings," or any other artificial or corporate name, or other words indicating that such person, persons, association or body corporate is a bank trust company, or savings bank, or shall in any way solicit or receive deposits as an incorporated bank. Every person, association, or body corporate, violating the provisions of this act, shall be fined not more than one thousand dollars (\$1,000). This act shall not prohibit firms or individuals doing business as private bankers or brokers under their own name or names, nor

Penalty.

prohibit them from soliciting or receiving deposits as such; providing that such private banks shall use the words "private bank" on all signs and stationery.

Private banks.

SEC. 31. Nothing in this act shall be construed to affect the legality of investments heretofore made, or of transactions heretofore had, pursuant to any provisions in force when such investments were made or transactions had.

Act shall not affect past transactions.

SEC. 32. No officer or employe of any corporation transacting a banking business in this State shall be permitted to loan to himself any of the funds of the bank upon his own note or obligation, without first having obtained the approval of a majority of the board of directors of the bank, and the approval, if obtained, shall be made a part of its records. And if the directors of any bank shall knowingly permit any of its officers, directors, or employes of such bank to borrow its funds in an excessive and dishonest manner, every director who participated in and assented to the same, shall be held liable in his personal and individual capacity for all damages which the corporation, its shareholders, or any other person shall have sustained in consequence of such violation.

Loans to officers—directors must approve.

Liability of directors.

SEC. 33. Every bank doing business under this act shall have on hand at all times, in available funds, not less than twenty per cent. of its demand liabilities; such sums may consist of balances due it from good, solvent banks located at commercial centers, and at such other points as the State Examiner may approve; and actual cash or checks on solvent banks located in the same city.

Banks shall keep funds on hand.

STATE EXAMINER.

SEC. 34. The State Examiner shall receive a salary of thirty-six hundred dollars a year, and the deputy State Examiner shall receive a salary of two thousand four hundred dollars a year; and the State Examiner shall be allowed an additional sum of three thousand six hundred dollars a year, or so much thereof as may be necessary, for clerical assistance in his office and traveling expenses; detailed vouchers for all of which shall be filed with his report.

Compensation and expenses.

Seal of
examiner.

SEC. 35. The State Examiner, with the approval of the Governor, shall devise a seal with a suitable inscription, for his office, a description of which, with a certificate of approval by the Governor, shall be filed in the office of the Secretary of State, with an impression thereof, which shall thereupon be and become the seal of office of the State Examiner. Every certificate, assignment and conveyance, executed by the said State Examiner in pursuance of the authority conferred upon him by law, and sealed with the seal of his office, shall be received as evidence and recorded in the proper recording offices, in the same manner and with like effect as a deed regularly acknowledged as required by law, and all copies of papers in the office of said Examiner, certified by him and authenticated by his seal, shall be received in evidence equally and in like manner as the originals.

Instruments
shall bear
seal.

Banks
shall report
to examiner.

SEC. 36. Every bank shall make at least three reports each year to the State Examiner on days designated by the Comptroller of the Currency, on which national banks shall make reports, according to forms to be prescribed by him, verified by the president, manager or cashier, and by two directors, which shall exhibit in detail, and under appropriate heads, the resources and liabilities of the bank, and shall be transmitted to the State Examiner within ten days of the receipt of a request therefor from him. And such report in condensed form shall be published once in a newspaper of general circulation published in the place where the bank is located, or if there be no newspaper published in such place, then in some newspaper published in the same county. Proof of publication shall be transmitted to the State Examiner, within twenty days from the day fixed for such report. The State Examiner shall also have power to call for special reports from any bank whenever in his judgment the same is necessary, in order to obtain a full knowledge of its conditions.

Publication
of report.

Penalty for
failure to
report.

SEC. 37. Every bank which fails to make, transmit and publish any report required under the preceding section shall be subject to a penalty of ten dollars (\$10.00) per

day for each day's delay after the period specified in said section.

SEC. 38. The State Examiner shall receive and place on file in his office the reports required to be made by banks under this act, prepare and furnish to all such banks the blank forms for such statements or reports as may be by this act required of them; make on or before the first day of February of each year, a report for the preceding year to the Governor of this State showing:

Annual report of examiner.

1. A summary of the conditions of the banks subject to his control at the date of their last report.

2. A list of banks which have been organized or closed during the year.

3. The amount of money collected and expended by him.

It shall be his duty to publish annually at the expense of the State, in pamphlet form at least five hundred copies of such report, and he shall furnish a copy of same free to each bank doing business under the provisions of this act, and shall furnish copies to any applicant upon payment of actual cost of printing thereof.

SEC. 39. It shall be the duty of the State Examiner, or his deputy, without previous notice to visit each and every bank doing business in this State, except national banks, at least once in each year and oftener if necessary, for the purpose of making a full and careful investigation and inquiry into the condition of affairs of such bank, and for that purpose the Examiner or deputy is hereby authorized and empowered to administer oaths and to examine under oath the owners and directors and all officers and employes and agents of such bank; and any wilfull false swearing in any such examination shall be deemed perjury and punished as such.

Examination of banks.

SEC. 40. The State Examiner shall collect from each bank for each complete examination of its condition, fifteen dollars (\$15.00) for each examination, and in addition thereto, one two-hundredths per cent. (1-200 p. c.) on all deposits, including those of banks and certificates of deposit at the time of the examination of the bank, but in

Fee for examination.

no case must the charge be more than two hundred dollars. All money collected under the provisions of this section shall be paid into the State's general fund: *Provided, however,* That no bank shall be required to pay for more than one examination in any one year.

Impairment
of capital.

SEC. 41. Whenever it shall appear from any report of any bank, or whenever the examiner shall have reason to believe that the capital of such bank is reduced by impairment or otherwise below the amount required by this act, or by its certificate or articles of incorporation, it shall be the duty of the Examiner to require such bank to make good the deficiency so appearing, or to reduce its capital in accordance with the provisions of section 17 of this act; and to give effect to such requisition he shall have the power to examine or cause to be examined any such bank, to ascertain the amount of any such impairment of capital, and whether his requirements have been complied with. And if such bank shall neglect for three months to comply with such requirements, the same shall be cause for the proceedings provided for in section 42 of this act.

Violation
of act.

SEC. 42. If the State Examiner, upon examination of the affairs of any bank governed by this act, shall find that such bank has been guilty of violating its charter or the provisions of this act, or is conducting its business in an unsafe manner, he shall, by an order addressed to the bank so offending, direct discontinuance of such illegal or unsafe practices, and if such bank shall refuse or neglect to comply with such order within a period of thirty days, he may immediately apply to the superior court of the county in which such bank has its principal place of business, for the appointment of a receiver of such bank, who, if he be appointed, shall proceed to administer the assets of the bank in accordance with law.

Appoint-
ment of
receiver.

Banks
under con-
trol of ex-
aminer.

SEC. 43. Any bank doing business under this act may place its affairs and assets under the control of the State Examiner by posting a notice on its front door as follows:

"This bank is in the hands of the State Examiner."
The posting of such notice, or the taking possession of

any bank by the State Examiner, shall be sufficient to place all its assets and property of whatever nature in the possession of the State Examiner, and shall operate as a bar to any attachment proceedings.

SEC. 44. If upon examination made by the Examiner or his deputy, or from any report made to the Examiner, it shall appear that any bank is insolvent, it shall be the duty of the Examiner to immediately take charge of such bank and all the property and effects thereof. Upon taking charge of any bank, the Examiner shall as soon as possible, ascertain by a thorough examination into its affairs, its actual condition, and whenever he shall become satisfied that such bank cannot resume business, or liquidate its indebtedness to the satisfaction of all its creditors, he shall report the fact of its insolvency to the Attorney General, who shall immediately upon receipt of such notice, institute proper proceedings in the proper court for the purpose of having a receiver appointed to take charge of such bank, and to wind up the affairs and business thereof for the benefit of its depositors, creditors and stockholders. The State Examiner may appoint a special deputy State Examiner to take charge of the affairs of an insolvent bank temporarily, until a receiver is appointed; such deputy shall qualify, give bond and receive compensation the same as a regular deputy; such compensation to be paid by such bank or allowed by the court in costs in the case of appointment of a receiver: *Provided*, That in no case shall any bank continue in charge of such special deputy for a longer period than ninety days: *Provided further*, That after a bank has been taken charge of by the State Examiner or a deputy, if it be ascertained upon examination, to the satisfaction of the Examiner, that the said bank is solvent, he may permit the same to be reopened, and it shall in that event repossess the officers of such bank with all of its funds and assets, after deducting therefrom the necessary expense incident to the charge and control thereof while in the hands of the Examiner.

SEC. 45. Receivers provided for in this act shall receive such compensation as shall be allowed by the court,

Examiner to take charge of banks, when.

Receivers.

Compensation of receivers.

but in no event to exceed the fees allowed executors and administrators in the administration of estates.

Examiner
to keep
record of
fees col-
lected.

SEC. 46. It shall be the duty of the State Examiner to keep a record of all fees collected by him or his deputy, together with a record of the expense incurred in making the examinations of all banks, and pay to the State Treasurer at the times and in the manner prescribed by law, all fees collected, together with all funds received by him officially from whatsoever source, and he shall file with the State Treasurer, quarterly, an itemized statement showing from whom collected.

Examiner
shall keep
records.

SEC. 47. The State Examiner shall keep proper books of record of all acts, matters and things done by him under the provisions of this act, as records of his office. Neither he nor his clerks shall disclose any fact or information obtained in the course of the business of the department, except so far as this act makes it their duty to make public records and publish the same, and any violation of this prohibition shall subject the offender to prosecution for misdemeanor in any court of competent jurisdiction, and to punishment by fine not exceeding one thousand dollars, with imprisonment in the county jail until the same is paid; and such conviction shall subject the offender to a forfeiture of his office or employment.

Distribution
of assets.

SEC. 48. In distributing the assets of any bank for which a receiver has been appointed under the provisions of this act, the claims of depositors shall be given preference over all other claims except claims for labor: *Provided*, That this section shall not be so construed as to impair the rights of secured creditors.

Attorney
General to
conduct
suits.

SEC. 49. The Attorney General of the State shall conduct all actions, suits or proceedings begun by the State Examiner under the authority of this act.

Auditor—
duties of
devolve
upon ex-
aminer.

SEC. 50. That all duties now required to be performed by and all responsibilities now imposed upon the Auditor of this State, under the laws regulating the business of banking shall hereafter be performed by the State Examiner, and all reports and documents now on file in the State Auditor's office pertaining to banks now in existence are

hereby transferred to the custody of the Bank Examiner. That all duties now required to be performed by and all responsibilities now imposed upon the Secretary of State under chapter 176 of the Laws of 1903, relating to the inspection and supervision of trust companies, shall hereafter be performed by the State Examiner, and all reports and documents now in existence are hereby transferred to the custody of the Bank Examiner.

Examiner shall inspect trust companies.

SEC. 51. There is hereby appropriated out of any moneys in the treasury not otherwise appropriated, the sum of twenty thousand dollars (\$20,000) or so much thereof as may be necessary, for the salary of a State Examiner and deputy, and the expenses of his office for the ensuing two years.

Appropriation \$20,000.

SEC. 52. All acts and parts of acts regulating the organization and management of banks inconsistent with this act are hereby repealed; but nothing herein shall be held to repeal any law regulating trust companies, foreign banks and foreign bankers doing business in this State.

Repeal.

SEC. 53. Any person or persons who shall wilfully and knowingly subscribe to or make or cause to be made any false statement or false entry in the books of any bank or corporation transacting a banking business or shall knowingly subscribe to or exhibit false or fictitious papers or securities with the intent to deceive any person or persons authorized to examine into the affairs of said bank or corporation, or shall make, state or publish any false statement of the amount of the assets or liabilities of any such bank or corporation, shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned in the State Penitentiary not less than one year nor more than ten years.

False entries—penalty for making.

Passed the House February 26th, 1907.

Passed the Senate March 11th, 1907.

Approved by the Governor March 16th, 1907.