

Preliminary Draft.

March 31, 1926.

COMPILATION OF THE LAWS OF THE SEVERAL STATES RELATING TO
SEGREGATION OF THE ASSETS OF SAVINGS DEPARTMENTS OF BANKS
AND TRUST COMPANIES.CALIFORNIA.

The laws of California authorize banks to carry on a departmental business, transacting the business of savings banks, trust companies and commercial banks.

Segregation of Capital.

"When a bank desires to do a departmental business, it shall first obtain the consent of the superintendent of banks, and in its application therefor, file a statement making a segregation of its capital and surplus for each department. Such capital and surplus, when so apportioned and approved by the superintendent of banks, shall be considered and treated as the separate capital and surplus of such department as if each department was a separate bank. Thereafter a bank may, from time to time, with the previous consent and approval of the superintendent of banks and subject to the provisions of section nineteen of this act, change any segregation and apportionment of capital and surplus previously made and make a new segregation and apportionment of its capital and surplus.

Segregation of Reserves.

"Every bank shall maintain for each department total reserves equal in amount to that required by this act for the respective business conducted, and shall keep separate and distinct the total reserves of any department from that of any other department; and all deposits made with other banks, whether temporary or otherwise, shall be assets of the respective departments by which they were made, and shall be so carried on the books of such other banks, and shall be repaid only upon the order of the department to whose credit they stand. No department shall receive deposits from any other department of the same corporation; except that a trust department, in proper cases, may make deposits of trust or any other funds, under its control with the savings department or the commercial department of the same corporation; provided, however, that any bank having departments shall have the right to sell and transfer any bonds, securities or loans from one department to

another upon receipt of the actual value thereof, if such bonds, securities or loans are, under the provisions of this act, a legal investment for the department purchasing the same."

Segregation of Assets.

"Every bank having different departments shall keep separate books of account for each department of its business, and shall be governed as to all deposits, reserves, investments and transactions relating to each department by the provisions in this act specifically provided for the respective kind of business.

"It shall keep all investments relating to the savings department entirely separate and apart from the investments of its other department or departments.

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"Every bank shall keep entirely separate and apart in each department the cash, securities and property belonging to such department, and shall not mingle the cash, securities and property of one department with that of another.

"All money and assets belonging to each department whether on hand or with other banks, and the investments made, shall be held solely for the repayment of the depositors and other claimants of each such department, as herein provided, until all depositors and other claimants of each such department shall have been paid, and the overplus then remaining shall be applied to any other liabilities of such bank."

This Act was enacted in 1909.

The Banking Laws of 1925, Sections 23, 25, 26 and 27;

Hemingway's General Laws, 1920, Act 409, Sections 23, 25, 26 and 27.

COLORADO

Segregation of Savings Deposits. Any person, co-partnership or corporation conducting a savings department in connection with banking or other business shall keep the books, funds, securities and all other assets of such savings department separate and apart, and such assets shall constitute a trust fund for the payment of savings depositors. No department of any bank shall receive deposits from another department or borrow from or loan to the same.

This law was passed in 1911.

Banking Laws of 1923, Sec. 46; Comp. Laws of 1921, Sec. 2701.

Law repealed. The act above set out was repealed by Act of March 21, 1923, so that there is now no law in Colorado requiring the segregation of savings deposits.

CONNECTICUT.

Segregation of Assets. The laws of Connecticut require all banks and trust companies receiving savings deposits to invest such deposits according to the requirements of the laws concerning investments of deposits in bonds. Said investments shall be segregated and not mingled with other assets of such bank or trust company and shall be for the exclusive protection of depositors in the savings department and shall not be held for or used to pay any other obligation of the bank or trust company until after the payment of all depositors in the savings department.

This law was passed as early as 1891.

Banking Laws of 1923, Sec. 3928; General Statutes 1918,
Chap. 202, Sec. 3928.

GEORGIA.

Separate records. The laws of Georgia require banks doing both a commercial and savings business to keep separate records of its savings deposits.

This law was passed in 1919.

Banking Laws of 1923, p. 85; Park's Annotated Code of Georgia, 1922 Supp. Vol. 8, Sec. 2280 (u.u.)

ILLINOIS.

There is no provision in the laws of Illinois requiring banks receiving savings deposits to segregate the assets of its savings department from its other assets, but it is understood that the Auditor requires banks to segregate savings deposits from their commercial deposits.

KENTUCKY.

Separate Records. The laws of Kentucky require any bank combining the business of a commercial and savings bank to keep separate books for each kind of business.

This law was passed in 1909. Under special charters, however, banks were required to keep separate books at an earlier date.

Banking laws of 1924, p. 22; Ky. Code 1922, Sec. 590.

MAINE.

Segregation of Assets. Every trust company receiving savings deposits or using the term "savings" in connection with its business, shall segregate and at all times keep on hand so segregated assets at least equal to the aggregate amount of its savings deposits and in the case of a trust company which also acts as surety upon bonds or other obligations the amount of its assets so segregated shall be at least 15% in excess of the aggregate amount of its savings deposits. The Bank Commissioner may require all such assets as appear to be carried in excess of their true value to be charged down to the true value.

Assets segregated and held for security of savings Deposits.

Assets so segregated shall be held in trust for the security and payment of savings deposits and shall not be mingled with other assets of the trust company, or be liable for the obligations thereof until after the savings depositors shall have been paid in full. All other assets of the company shall be held equally and ratably for the payment of all claims including any balance to savings depositors after applying to their payment the assets segregated.

How segregated assets shall be held and segregated. Assets segregated for the benefit of the savings department shall be so held and recorded as to identify them as the assets held for the security of such deposits. All securities representing such assets shall be plainly stamped "savings department", provided, however, that in lieu thereof it shall be lawful to record in the investment book a description of assets so held

sufficient to identify them.

This law was passed in 1911.

Banking Laws of 1923, pages 55 and 56; Public Laws of Maine 1923, Chap. 144, Secs. 89, 90 and 91.

MASSACHUSETTS.

Segregation of Savings Deposits of Foreign Banks.

"Every foreign banking association or corporation which was on June tenth, nineteen hundred and six, transacting business in this commonwealth and which receives any deposits or transacts any business in the manner of a savings bank, or in such a manner as might lead the public to believe that its business is that of a savings bank, shall have a savings department in which all business transacted in such manner in this commonwealth shall be done. All money received in said manner shall be a special deposit and shall be placed in said savings department, and all loans or investments thereof shall be made in accordance with the laws governing the investment of deposits in savings banks.

"Such funds and the investments or loans thereof shall be appropriated solely to the security and payment of such deposits, and shall not be mingled with the investments of the capital stock or other money or property belonging to such association or corporation or be liable for the debts or obligations thereof. The accounts and transactions of said savings departments shall be kept separate and distinct from the general business of the association or corporation."

Segregation of Deposits in Savings Departments.

"Every such corporation (trust company) soliciting or receiving deposits (a) which may be withdrawn only on presentation of the pass book or other similar form of receipt which permits successive deposits or withdrawals to be entered thereon; or (b) which at the option of such corporation may be withdrawn only at the expiration of a stated period after notice of intention to withdraw has been given; or (c) in any other way which might lead the public to believe that such deposits are received or invested under the same conditions or in the same manner as deposits in savings banks; shall have a savings department in which

"all business relating to such deposits shall be transacted. Every such corporation subject to this section shall have an investment committee of not less than three members, elected by and from the board of directors, and such committee shall hold meetings at least once in each month.

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"Such deposits and the investments or loans thereof shall be appropriated solely to the security and payment of such deposits, shall not be mingled with the investments of the capital stock or other money or property belonging to or controlled by such corporation, or be liable for the debts or obligations thereof until after the deposit in said savings department have been paid in full. The accounts and transactions of said savings department shall be kept separate and distinct from the general business of the corporation."

The Law relating to Foreign Corporations was enacted in 1907 and the Law relating to Trust Companies was enacted in 1908.

Banking Law 1923, pages 13 and 29. General Laws of Mass. 1921, Ch. 167, Secs. 41, 42 and Chapter 172, Secs. 60 and 62.

MICHIGAN.

Segregation of Savings Deposits.

"Any bank combining the business of a commercial bank and a savings bank shall keep separate books of account for each kind of business: Provided, That all receipts, investments and transactions relating to each of said classes of business shall be governed by the provisions and restrictions herein specifically provided for the respective kinds of banks: Provided, further, That all the investments relating to the savings department shall be kept entirely separate and apart from the other business of the bank, and that the twelve per cent reserve required by the provisions of this act to be kept on the savings deposits, shall be kept separate and distinct on the books of the bank from the reserve required on the commercial deposits, and that such portion of said savings deposits as are on hand unloaned or deposited

"with other banks or reserve agents and the investments made with the funds deposited by savings depositors shall be held solely for the payment of the depositors of said funds."

Penalty for failure to segregate savings deposits.

"Any bank combining the business of a commercial bank and a savings bank which shall not keep separate accounts as required by the preceding section or shall not keep the investments of the savings department separate or shall not in every respect comply with the requirements of such section, shall be liable to the state in the penalty of fifty dollars for each and every failure, neglect or refusal to comply with the provisions of said section, to be recovered in a suit to be brought by the attorney general in the name of the people of the state of Michigan in the circuit court of any county in which such bank may be situated."

This law was enacted in 1887.

Banking Laws of 1925, pages 31 and 32. Compiled Laws of Michigan. Ann. Supp. 1922, sec. 7998.

MINNESOTA.

Lien on Investments. A State bank or trust company incorporated and authorized to do business under the laws of Minnesota may establish and maintain a savings department and may solicit and receive deposits in any department. Savings deposits received by such bank or trust company using the word "savings" or "savings bank" in its title shall be invested only in authorized securities as defined by the law of Minnesota and such bank or trust company shall keep on hand at all times such securities as deposits in savings banks may be invested in to an amount at least equal to the amount of such deposits and these securities shall be representative of and the fund for,

applicable first and exclusively to the payment of such deposits.

This law was passed as to trust companies in 1915 and State Banks in 1923.

Banking Law of 1925, pages 13 and 37. General Statutes of Minn. 1923, secs. 7651 and 7667.

MISSISSIPPI.

There is no law in Mississippi requiring banks receiving savings deposits to segregate such deposits from its commercial deposits, but it is understood that the Bank Commissioner requires such segregation.

NEW HAMPSHIRE.

Separate Departments. Loan and trust companies, loan and banking companies, and other similar corporations receiving savings deposits or transacting the business of a savings bank shall conduct the business as a separate department and that department shall be amenable to the laws governing savings bank.

This law was passed in 1891.

Banking laws of 1921, p. 58. Acts of 1915, Ch. 109, Sec. 20.

NEW MEXICO.

Separate Accounts. Banks are authorized to operate commercial departments and savings departments and also trust departments; and every bank having different departments is required to keep separate accounts for each department of its business.

This law was passed in 1915.

Banking Laws of 1923, p. 20; laws of 1915, Ch. 67, Sec. 53.

NEW YORK.

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The laws of New York give a preference to deposits in banks and trust companies made by savings bank, savings and loan associations, State land banks and Credit Unions. Banks and trust companies, however, are not authorized to receive savings deposits as such.

Birdseye, Cummings and Gilbert's Cons. Law, 2nd Ed. Vol. 1, p. 711, Sec. 278, p. 783, sec. 414, p. 791, sec. 437, Vol. 12, p. 74, sec. 279 and p. 82, sec. 456.

OHIO.

Separate Books of Account. The laws of Ohio authorize banks to operate commercial, trust and savings departments and require a bank operating such departments to keep separate books of account for each department.

This law was passed in 1908.

Banking Laws 1925, p. 49; Acts of 1919, Vol. 108, p. 110, sec. 116.

OKLAHOMA.

The laws of Oklahoma authorize trust companies to establish savings departments, but before such departments may be established a trust company is required to set aside a portion of its capital stock, the amount of which shall in no case be less than the amount of the capital stock required to organize a State bank in the city or town in which the trust company is located, as a primary protection to the depositors in its savings department.

Segregation of Assets.

"The Capital stock set aside for the Savings Department, and all deposits and all investments and loans and securities held in the Savings Department shall be appropriated solely to the security and payment of the deposits in the Savings Department, and shall not be mingled with the investment of the remaining capital stock or other money or property be-

"longing to or controlled by such trust company, or be liable for the debts or obligations thereof until after the deposits in said Savings Department have been paid in full. The accounts and transactions of said Savings Department shall be kept separate and distinct from the general business of the corporation.

"The capital stock of said trust company appropriated to the Savings Department, together with the stockholders' liability thereunder, shall be held as security for the payment of all deposits made in the Savings Department, and in addition thereto, the persons making such deposits, or entitled to said deposits, shall have an equal claim with the other creditors of such trust company upon the remaining capital and other property of the corporation, together with the stockholders' liability thereunder."

This law was passed in 1919.

Laws of Oklahoma, (1919) p. 242.

OREGON.

Segregation of capital.

"When a bank or trust company desires to do a departmental business it shall first obtain the consent of the superintendent of banks, and in its application therefor shall file a statement making a segregation of its capital and surplus for the commercial and savings departments. Such capital and surplus, when so apportioned and approved by the superintendent of banks, shall be considered and treated as the separate capital and surplus of such department as if each department was a separate bank. Thereafter a bank or trust company may, from time to time, with the previous consent and approval of the superintendent of banks and subject to the provisions of section 40 of this act, change any segregation and apportionment of capital and surplus previously made and make a new segregation and apportionment of its capital and surplus."

Separate books to be kept.

"Any state bank or trust company combining any of the business of a commercial bank, trust company and savings bank shall keep separate books or accounts for each department of its business and shall be governed as to all deposits, reserves, investments and transactions relating to each department by the provisions of this act specifically provided for the respective kind of

"business, and shall keep all moneys received as such savings deposits and the funds and securities in which the same are invested at all times segregated from and unmingled with the other moneys and funds of such bank or trust company and treated as if such department were a separate bank, and all bonds, warrants, notes, mortgages, deeds and other securities of every nature of such savings department shall be marked, stamped or labeled 'savings department' or some similar words, and the same shall be held solely for the repayment of the depositors of such department. * * *."

Savings deposits given prior lien on savings assets. In the event of the insolvency or liquidation of a bank or trust company maintaining a savings department, the depositors of the savings department of such bank or trust company shall have a first and exclusive lien on all assets of such savings department and in the distribution of such assets the same shall be first applied to satisfy the amount due such depositors after the payment of expenses of liquidation of the savings department of such bank or trust company, and the assets of such savings department shall be held and liquidated for the exclusive benefit of such depositors and the assets of such savings department shall not be applied for the benefit of depositors or creditors of any other department of such bank or trust company; provided, that after the depositors of such savings department shall have been paid in full and the remaining assets of such department may be used for the payment of depositors of the commercial department of such bank or trust company.

This law was passed in 1911.

Banking Laws of 1925, pages 16, 51 and 57; laws of Oregon 1925, Ch. 207, Secs. 44, 133 and 143.

PENNSYLVANIA.

There is no law in Pennsylvania requiring the segregation of assets of the savings departments of banks, but it is understood that

the Bank Commissioner requires such segregation.

RHODE ISLAND.

Segregation of savings deposits. Every bank or trust company which receives savings deposits shall invest all deposits so received according to the requirements of the laws of Rhode Island and such deposits invested or uninvested shall be set apart for the exclusive protection of the savings depositors and shall not be held for or be used to pay any other obligation of the bank or trust company until after the payment of all savings deposits. Uninvested funds of the savings department of such bank or trust company shall be kept in a separate distinct deposit account in such manner that the same can be readily identified as clearly belonging to the segregated assets of the savings deposit. Every bank or trust company shall keep an accurate account wherein shall appear a complete list of the assets set apart for the exclusive protection of savings deposits held by it, showing the par value, book value and as often as a report is made to the Bank Commission shall enter into such account the fair market value of each of the investments of said assets.

This law was passed in 1908.

Banking Laws of 1925, p. 43; General Laws of 1923, Ch. 272, Sec. 4000 (Clause XVI) Sec. 1 (a) (e) and (f).

TEXAS.

Segregation of Savings Deposits. All State banks or banking and trust companies establishing or maintaining a savings department or using the words "savings" as part of its corporate title shall keep the business of such department entirely separate and distinct from

the general business of such bank or banking and trust company and shall keep all moneys received as savings deposits and securities in which the same may be invested at all times segregated from and unmingled with the other accounts and funds of the bank or banking and trust company.

Lien on Assets of Savings Department. In the case of the insolvency or liquidation of any State bank or banking and trust company which shall establish or maintain a savings department its savings depositors shall have an exclusive prior lien upon all the assets of such savings department and shall be first paid and the remainder of such assets, after they have been paid in full, shall be applied to the payment of claims of general creditors.

This law was passed in 1909.

Banking Laws of 1923, pages 21 and 23; Texas Revised Statutes 1911, p. 116, Ch. 4, Art. 431 and 437.

WASHINGTON.

Separate Books of Account. Any bank or trust company combining the business of a commercial banking and a savings bank shall keep with the separate departments separate books of account for each kind of business.

This law was passed in 1907.

Banking Laws of 1921, p. 35. Remington's Compiled Statutes of Washington 1922, Sec. 3246.

WEST VIRGINIA.

There is no provision in the laws of West Virginia specifically requiring the assets of savings departments of banks to be kept separately, but it is understood that the Commissioner of banking requires banks receiving savings deposits to keep separate books of record.

WYOMING.

Segregation of deposits. Any bank or trust company organized under the laws of Wyoming may operate a savings department, provided that such bank or trust company which maintains a savings department shall keep separate books of accounts for each kind of its business and provided further that all investments relating to the savings department shall be kept entirely separate and apart from the other business of the bank and that such portion of said savings deposits as are on hand unloaned or deposited with other banks and the investments made with the funds deposited by savings depositors shall be held solely by such bank or trust company for the payment of depositors of said funds.

This law was passed in 1915.

Laws of Wyoming, 1925, p. 212, sec. 30.