

ent hostilities and sixty days thereafter; amending Mason's Supplement 1940, Section 1933-53 (g).

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

Section 1. **Law amended.**—Mason's Supplement 1940, Section 1933-53 (g) is amended to read as follows:

(g) **May make rules for police department—temporary employment.**—Temporary employment without examination, with the consent in each case of the commission, in cases of emergency but no such temporary employment shall continue more than 30 days nor shall successive temporary employments be permitted for the same position. *Provided, however, that until 60 days after cessation of hostilities in the present war as declared by proper federal authority, whenever there are no names upon the eligible register, temporary appointment may be made for employment to continue until the position is filled by a candidate from the eligible register under the provisions of the rules, provided that persons on the eligible list at the time of induction into the Armed Forces of the United States shall retain their position on the eligible register.*

Approved April 14, 1943.

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CHAPTER 442—H. F. No. 1077.

(AMENDING SECTIONS 46.08 AND 49.24 MINNESOTA STATUTES 1941.)

*An act relating to the Commissioner of Banks, providing for necessary employees thereof, providing for reimbursement of salaries and expenses of certain employees from assets of banks in liquidation, and amending Mason's Minnesota Statutes of 1927, Section 5327, and Mason's Supplement 1940, Section 7689 as amended by Laws 1941, Chapter 183.*

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

Section 1. **Law amended.**—Mason's Minnesota Statutes of 1927, Section 5327, is hereby amended to read as follows:

5327. *Subdivision 1. Employees.*—The commissioner of banks may appoint a deputy commissioner, such examiners, assistant examiners, one chief clerk, such assistant clerks, stenographers and other employees as are needed to discharge in the proper manner the duties imposed by law upon the commissioner of banks. Such deputy and examiners shall each give bond to the state in the sum of Ten thousand (\$10,000.00) Dollars, and the clerks and

other *employees*, whenever so provided, shall each give bond to the state in such sum as may be designated by the *commissioner* of banks; all such bonds to be approved by the *commissioner* of banks and filed in the office of the secretary of state. During the absence or disability of the *commissioner* of banks, said deputy *commissioner* shall have charge of the office and administer its affairs. The *deputy commissioner*, the examiners and assistant examiners so to be appointed shall have had at least three years active experience in the banking business, or at least five years experience in the Department of Banking of the State of Minnesota, and shall furnish such evidence of their qualifications as expert accountants and general fitness for their duties as may be demanded by the *commissioner* of banks. Such examiners shall confine their work to the examination of state banks, savings banks, trust companies and other financial corporations located within the districts to which they shall be appointed as hereinafter provided, save and except that any such examiner may be temporarily transferred from his district to some other district by the *commissioner* of banks when it shall appear that the interest of the department shall be better served by so doing; and whenever it shall appear that the number of such banks and other financial corporations within any such examiner's district is more than can be properly examined twice during each year by the examiner, he shall be provided with such clerks or assistants as may be considered necessary by the *commissioner* of banks.

**Subd. 2. May appoint examiner in charge of liquidation.—**

*The commissioner of banks may appoint an examiner in charge of liquidation and such special deputy examiners and other employees as are needed by him in the liquidation of banks. The certificates of appointment of the examiner in charge of liquidation, and of such special deputy examiners shall be filed in the office of the commissioner of banks and a certified copy thereof shall be filed in the office of the secretary of state and in the office of the clerk of the district court of the county in which the principal office of the bank concerned was located. The qualifications of such examiner in charge of liquidation and special deputy examiners shall be the same as prescribed in subdivision 1 of this section for examiners. The commissioner of banks may from time to time authorize any such special deputy examiner to perform such duties connected with such liquidation and distribution as he may deem proper. The commissioner of banks shall require from the examiner in charge of liquidation and each special deputy examiner such bond for the faithful discharge of his duties as he may deem proper. The commissioner of banks may procure such expert assistance as may be necessary in the liquidation and distribution of the assets of such bank and may retain such of its officers or employees as he may deem necessary.*

*Subd. 3. Examiners not to examine institutions in which they have a financial interest.*—No examiner shall have the right to examine any bank, savings bank or other financial corporation in which he may have an interest, either directly or indirectly.

**Sec. 2. Law amended.**—Mason's Supplement 1940, Section 7689, as amended by Laws 1941, Chapter 183, is hereby amended to read as follows:

7689: *Subdivision 1. Commissioner to make inventory.*—Upon taking possession of the property and assets of such bank the commissioner of banks shall make an inventory of the assets of such bank, in duplicate, one to be filed in the office of the commissioner of banks and one in the office of the clerk of the district court of the county in which the principal office of such bank was located.

*Subd. 2. Liquidation and distribution of assets.*—The commissioner of banks shall collect all debts due and all claims belonging to such bank, and upon the order of the district court may sell or compound all bad or doubtful debts, and on like order may sell all the real and personal property of such bank on such terms as the court shall direct, and may, if necessary to pay the debts of such bank, enforce the individual liability of the stockholders.

*Subd. 3. Special attorney general.*—Upon the request of the commissioner of banks in writing the attorney general shall employ a special attorney to act as counsel in all matters relating to the liquidation of each bank, which appointment shall be made according to the provisions of the statutes regulating the employment by the attorney general of special attorneys for state boards and officers, and the payment of such attorney shall be made in the manner provided in subdivision 7 hereof for the payment of compensation and expenses in liquidation of banks.

*Subd. 4. Notice to file claims.*—The commissioner of banks shall cause notice to be given by advertisement in a legal newspaper in the city or village where such bank is located, or, if none in such city or village, then in the county, weekly for five (5) consecutive weeks, calling on all persons who may have claims against such bank to present the same to the commissioner of banks, and make legal proof thereof at a place and within a time not earlier than one week after the last day of publication, which time and place shall be specified in said notice. The commissioner of banks shall mail a similar notice to all persons whose names appear as creditors upon the books of the bank.

*Subd. 5. Duties of Commissioner in regard to claims.*—If the commissioner of banks doubts the justice and validity of any claim, he may reject the same and serve notice of such rejection upon the claimant, either by mail or personally. An affidavit of

the service of such notice made according to law shall be filed with the commissioner of banks. An action upon a claim so rejected must be brought within sixty days after such service and the filing of proof thereof. The venue of such action shall be in the county in which such bank is located, and such action shall be brought jointly against the bank and the commissioner of banks as statutory liquidator of said bank. Any person having a claim against such bank and not presented and filed within the time fixed in the notice to creditors may present the same and the commissioner of banks shall allow or reject the same in whole or in part as hereinbefore provided, and suit on such rejected claim not filed within the time fixed by the notice shall be brought within thirty days after the service and filing of proof of such rejection. Any claim not filed within the time fixed in the notice to creditors but received and filed as by this section provided and duly allowed, shall participate and share in such dividends only as shall be paid from the proceeds of those assets remaining undistributed at the time of filing of such claim. No interest shall be allowed or paid on any deposit or other claim from and after the closing of the bank and the taking over of the same by the commissioner of banks for purposes of liquidation.

*Subd. 6. Shall make list of claims.*—Upon the expiration of the time fixed for the presentation of claims, the commissioner of banks shall make in duplicate a complete list of the claims presented, including and specifying such claims as have been rejected by him, one such list to be filed in his office and one in the office of said clerk of district court. Such inventory and list of claims shall be open at all reasonable times to inspection.

*Subd. 7. Expenses of liquidation.*—All expenses of supervision and liquidation shall be fixed by the commissioner of banks, subject to the approval of the district court of the county in which said bank is located, after notice fixing the time and place when the commissioner of banks will hear and fix the amount of all such expenses, and the amount so fixed and the compensation of legal counsel as fixed by the attorney general, shall be paid upon the certificates of the commissioner of banks and the attorney general respectively, out of the funds of such bank in the hands of the commissioner of banks. *The commissioner of banks shall determine monthly the amount of compensation paid to each employee for services in connection with the liquidation of each bank and of all other expenses in connection therewith and thereupon shall pay to the state treasurer from the assets of each such bank the amount so determined which shall be deposited in the general revenue fund. When the commissioner of banks deems it advisable, he may certify the amount so determined to the state auditor who shall transfer to the general revenue fund the amount so certified from the unclaim-*

*ed moneys made available to the commissioner of banks by Laws 1941, Chapter 183.*

*Subd. 8. Deposit of funds.*—The money collected by the commissioner of banks shall be from time to time deposited in one or more state banks or trust companies, and, in case of a suspension or insolvency of the depository, such deposit shall be preferred before all of the deposits.

*Subd. 9. May declare dividends.*—At any time after the expiration of a date fixed for the presentation of claims the commissioner of banks may, out of the funds remaining *on hand* after the payment of expenses, declare one or more dividends, and after the expiration of one year from the first publication of notice to creditors he may declare a final dividend, such dividends to be paid to such persons in such amounts and upon such notice as may be directed by the said district court.

*Subd. 10. Objections to claims by interested parties.*—Objections to any claim not rejected by the commissioner of banks may be made by any party interested by filing a copy of such objections with the commissioner of banks, who shall present the same to the district court at the time of the next application to declare a dividend.

*Subd. 11. Appeal to District Court.*—Whenever any such bank of whose property and business the commissioner of banks has taken possession as aforesaid, deems itself aggrieved thereby it may at any time within ten days after such taking possession apply to the district court of the county in which such bank is located to enjoin further proceedings, and said court, after citing the commissioner of banks to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties in determining the facts, may upon the merits, dismiss such application or enjoin the commissioner of banks from further proceedings and direct him to surrender such business and property to such bank.

*Subd. 12. Proceedings after payment of claims.*—Whenever the commissioner of banks shall have paid each and every depositor and creditor of such bank (not including stockholders) whose claim or claims as such creditor or depositor shall have been duly approved and allowed, the full amount of such claims, and shall have made proper provisions for unclaimed and unpaid deposits or dividends and shall have paid all the expenses of the liquidation, the commissioner of banks shall call a meeting of the stockholders of such corporation by giving notice thereof for ten days by publishing such notice in one or more newspapers of the county where the bank is located. At such meeting the stockholders shall

determine whether the commissioner of banks shall be continued as liquidator and shall wind up the affairs of such bank, or whether an agent or agents shall be elected for that purpose, and in so determining the said stockholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock shall be necessary to a determination. In case it is determined to continue the liquidation under the commissioner of banks he shall complete the liquidation of the affairs of such corporation, and after paying the expenses thereof, if there are proceeds of liquidation as yet undistributed he shall reimburse those stockholders who paid their stock assessments pursuant to the order for assessment to the extent that each has paid, and if the proceeds are insufficient to reimburse such paying stockholders in full, then in just proportion. Any proceeds remaining undistributed after such paying stockholders have been reimbursed as by this act provided shall be distributed among all the stockholders in proportion to their several holdings of stock in such manner and upon such notice as may be directed by the district court. In case it is determined to appoint an agent or agents to liquidate, the stockholders shall thereupon select such agent or agents by ballot, a majority of the stock present and voting, in person or by proxy, being necessary to a choice. Such agent or agents shall execute and file with the commissioner of banks a bond to the state of Minnesota, in such amount, with such sureties, and in such form as shall be approved by the commissioner of banks, conditioned for the faithful performance of all the duties of his or their trust, and thereupon the commissioner of banks shall transfer and deliver to such agent or agents all the undivided or uncollected or other assets of such corporation then remaining in his hands, and upon such transfer and delivery the said commissioner of banks shall be discharged from any and all further liability to such bank and its creditors. Such agent or agents shall convert the assets coming into his or their possession into cash and shall account for and make distribution of the property of such bank as is herein provided in the case of distribution by the commissioner of banks, except that the expenses thereof shall be subject to the direction and control of the said district court. In case of the death, removal or refusal to act of any such agent or agents, the stockholders, on the same notice as that after which they were elected, and in the same way may elect a successor who shall have the same powers and be subject to the same liabilities and duties as the agent originally elected.

**Subd. 13. Unclaimed funds to be paid into State Treasury.**— Upon the liquidation of any bank, trust company, or financial institution liquidated by the commissioner of banks as statutory liquidator, if any dividends or any moneys set apart for the payment of claims remain unpaid, and the places of residence of the owners

thereof are unknown to the commissioner of banks, he may pay same into the state treasury as hereinafter provided. Whenever the commissioner of banks shall be satisfied that the process of liquidation should not be further continued he may make and certify triplicate lists of any such unclaimed dividends or other moneys, specifying the name of each owner, the amount due him and his last known address. Upon one of such lists, to be retained by the commissioner of banks he shall endorse his order that such unclaimed moneys be forthwith deposited in the state treasury. When so deposited, one of said lists shall be delivered to the state treasurer and another to the state auditor and the commissioner of banks shall retain in his office such records and proofs concerning said claims as he may have, which shall thereafter remain on file in his office. The treasurer shall execute upon the list retained by the commissioner of banks a receipt for such money, which shall operate as a full discharge of the commissioner of banks on account of such claims. At any time within six years after such receipt, but not afterward, the claimant may apply to the commissioner of banks for the amount so deposited for his benefit, and upon proof satisfactory to the governor, the attorney general and the commissioner of banks, or to a majority of them, they shall give an order to the auditor to issue his warrant upon the treasurer for such amount, and such warrant shall thereupon be issued. If no such claim be presented within six years the commissioner of banks shall so note upon his copy of said list and certify the fact to the auditor and treasurer who shall make like entries upon the corresponding lists in their hands; and all further claims to said money shall be barred. Provided, however, that the state treasurer shall pay to the commissioner of banks not to exceed 50 per cent of the amount so turned over to the state treasurer by the commissioner of banks to be used to partially defray expenses in connection with the liquidation of closed banks; in such amounts and at such times as the commissioner of banks shall request.

Approved April 14, 1943.

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CHAPTER 443—H. F. No. 1123.

*An act to legalize certain powers of attorney given by a husband to his wife and any deeds made pursuant thereto.*

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

Section 1. **Certain powers of attorney legalized.**—Whenever a husband has given his wife a power of attorney to convey lands in this state and such wife conveys said lands by deed, naming herself