

Statutes, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void; and no attachment, injunction, or execution, shall be issued against such association or its property before final judgment in any suit, action, or proceeding, in any State, county, or municipal court.

(R.S. § 5242.)

#### REFERENCES IN TEXT

Chapter 4 of title 62 of the Revised Statutes, referred to in text, was in the original "this chapter", meaning chapter 4 of title 62 of the Revised Statutes, consisting of R.S. §§ 5220 to 5244, which are classified to this section and sections 16, 43, 93, 93a, 181, 182, 192 to 194, 196, and 481 to 485 of this title. See, also, section 709 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§ 5220 to 5244 to the Code, see Tables.

#### CODIFICATION

R.S. § 5242 derived from act June 3, 1864, ch. 106, § 52, 13 Stat. 115, which was the National Bank Act, and act Mar. 3, 1873, ch. 269, § 2, 17 Stat. 603. See section 38 of this title.

### § 92. Acting as insurance agent or broker

In addition to the powers now vested by law in national banking associations organized under the laws of the United States any such association located and doing business in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, may, under such rules and regulations as may be prescribed by the Comptroller of the Currency, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State in which said bank is located to do business in said State, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent: *Provided, however*, That no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal: *And provided further*, That the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 753; amended Pub. L. 97-320, title IV, § 403(b), Oct. 15, 1982, 96 Stat. 1511.)

#### CODIFICATION

Section is based on the eleventh par. of section 13 of act Dec. 23, 1913, as amended. The eleventh par. constituted the ninth par. of section 13 in 1916 (39 Stat. 752, 753), became the tenth par. in 1923 (42 Stat. 1478), and became the eleventh par. in 1932 (47 Stat. 715). For further details, see Codification notes under sections 342 to 344 of this title.

For decision by U.S. Supreme Court that, despite faulty placement of quotation marks, act Sept. 7, 1916, placed within section 13 of act Dec. 23, 1913, each of the ten pars. located between the phrases that introduced the amendments to sections 13 and 14 of said act, that only the seventh par. (rather than seventh to tenth pars.) comprised the amended R.S. § 5202, and that section 20 of act Apr. 5, 1918 (40 Stat. 512) (which amended R.S. § 5202 comprised of a single par.), did not amend

section 13 of said act so as to repeal the eighth to tenth pars., see *United States National Bank of Oregon v. Independent Insurance Agents of America, Inc., et al.*, 508 U.S. 439, 113 S.Ct. 2173, 124 L.Ed. 2d 402 (1993). As the result of subsequent amendments, such seventh to tenth pars. of section 13 now constitute the ninth to twelfth pars. The ninth par. amended former section 82 of this title, and the tenth to twelfth pars. are classified to sections 361, 92, and 373, respectively, of this title.

#### AMENDMENTS

1982—Pub. L. 97-320 struck out “; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission” after “may act as agent” and “guarantee either the principal or interest of any such loans or” after “shall in any case”.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-320 effective upon the expiration of 180 days after Oct. 15, 1982, see section 403(c) of Pub. L. 97-320, set out as a note under section 371 of this title.

#### MORATORIUM

Pub. L. 100-86, title II, § 201(a), (b)(5), Aug. 10, 1987, 101 Stat. 581, 583, provided that, during period beginning Mar. 6, 1987, and ending Mar. 1, 1988, national banks and Federal branches or agencies of foreign banks could not expand their insurance agency activities pursuant to this section into places where they were not conducting such activities as of Mar. 5, 1987.

### § 92a. Trust powers

#### (a) Authority of Comptroller of the Currency

The Comptroller of the Currency shall be authorized and empowered to grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located.

#### (b) Grant and exercise of powers deemed not in contravention of State or local law

Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this section.

#### (c) Segregation of fiduciary and general assets; separate books and records; access of State banking authorities to reports of examinations, books, records, and assets

National banks exercising any or all of the powers enumerating<sup>1</sup> in this section shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State bank-

<sup>1</sup> So in original. Probably should be “enumerated”.