

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

CHAPTER 6
RECEIVERSHIPS AND CONSERVATORSHIPS

487.3601 Receiver; appointment.

Sec. 601. (1) If a savings bank has refused to pay its deposits or obligations in accordance with the terms under which the deposits or obligations were incurred, or whenever a savings bank becomes insolvent, has refused to submit its books, papers, and records for inspection by the commissioner, appears to the commissioner to be in an unsafe or unsound condition, or the appointment of a conservator is required under section 204(5), the commissioner shall either appoint a conservator under section 605 with the attorney general representing the commission, or shall apply to the circuit court for the county in which the savings bank is located for the appointment of a receiver for the savings bank.

(2) In a proceeding for the appointment of a receiver, the commissioner shall request that the court appoint the federal deposit insurance corporation as the receiver if the deposits in the savings bank are insured to any extent by that corporation.

(3) The court may act upon the application without notice to any person but if at any time it appears to the court that none of the claimed reasons for receivership did in fact exist, the receivership shall be dissolved and the proceedings terminated.

(4) If the federal deposit insurance corporation accepts the appointment as receiver, it may act without bond.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3602 Receiver; powers; report to commissioner.

Sec. 602. (1) Subject to court approval, a receiver may do any of the following:

(a) Take possession of the books, records, and assets of the savings bank and collect all debts, dues, and claims belonging to the savings bank.

(b) Sue and defend, compromise, and settle all claims involving the savings bank.

(c) Sell any and all real and personal property.

(d) Exercise all fiduciary functions of the savings bank as of the date of the commencement of the receivership.

(e) Pay all expenses of the receivership, which expenses shall be a first charge upon the assets of the savings bank and be fully paid before any final distribution or payment of dividends to creditors or shareholders.

(f) Pay ratably any and all debts of the savings bank, except that debts not exceeding \$50.00 in amount may be paid in full but the holders of such debts shall not be entitled to interest on the debts.

(g) Repay, ratably, any amount which may have been paid in by a shareholder by reason of assessments made upon the stock of the savings bank by order of the commissioner in accordance with this act.

(h) Pay, ratably, to the shareholders or members of the savings bank in proportion to the number of shares or membership interests held and owned the balance of the net assets of the savings bank after payment or provision for payments as provided under subdivisions (e), (f), and (g).

(i) Borrow money as may be necessary or expedient in aiding the liquidation of the savings bank and to secure the borrowings by the pledge, hypothecation, or mortgage of the assets of the savings bank.

(j) Exercise other powers and duties as may be provided by the court under the laws of this state applicable to the appointment of receivers.

(2) The receiver from time to time shall report to the commissioner with respect to all of his or her acts and proceedings in connection with the receivership.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3603 Procedures for liquidation; limitation.

Sec. 603. The full and exclusive procedures for the liquidation of a savings bank under this act shall be the procedures prescribed in this act and a receiver or other liquidating agent shall not be appointed for such purpose or for any savings bank or its assets and property except as expressly provided in this act.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3604 Rights of depositors and creditors of closed savings bank.

Sec. 604. (1) If a savings bank has been closed and placed in receivership, and the federal deposit insurance corporation pays or makes available for payment the insured deposit liabilities of the closed savings

bank, the corporation, whether or not it has become receiver of the savings bank, subrogated to all of the rights of the owners of the deposits against the closed savings bank in the same manner and to the same extent as subrogation of the corporation is provided for in the federal reserve act, in the case of the closing of a national banking association.

(2) The rights of depositors and other creditors of the closed savings bank shall be determined in accordance with the applicable provisions of the laws of this state.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3605 Conservator; appointment; powers; duties.

Sec. 605. (1) If any of the grounds set forth in section 601 authorizing the appointment of a receiver exist or whenever the commissioner considers it necessary in order to conserve the assets of a savings bank for the benefit of the depositors and other creditors, the commissioner may appoint a conservator for the savings bank and require of him or her a bond and security as the commissioner considers necessary.

(2) The commissioner may appoint as conservator 1 of the bank examiners of the bureau or some other competent and disinterested person. The bureau shall be reimbursed out of the assets of the conservatorship for all sums expended by it in connection with the conservatorship as expenses or otherwise, and the funds shall be paid into the revolving fund provided for in section 607.

(3) A conservator appointed under this section shall become a member of the bureau. All expenses of a conservatorship shall be paid out of the assets of the savings bank, upon the approval of the commissioner. The expenses shall be a first charge upon the assets and shall be fully paid before any final distribution or payment of dividends to creditors, shareholders, or members.

(4) The conservator, under the direction of the commissioner, shall take possession of the books, records, and assets of the savings bank, and take such action as may be necessary to conserve the assets of the savings bank pending further disposition of its business as provided by law. The conservator shall have all the rights, powers, and privileges of receivers of banks appointed under this act and shall be subject to the obligations and penalties, not inconsistent with this act with respect to conservators, to which receivers are subject. During the time that the conservator remains in possession of the savings bank, the rights of all parties with respect to the savings bank, subject to other provisions of this act with respect to conservators, shall be the same as if a receiver had been appointed. The conservator may execute the discharge of any real estate mortgage held as part of the assets of the savings bank.

(5) While a savings bank is in the hands of the conservator appointed by the commissioner, the commissioner may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the commissioner may be used safely for that purpose. The commissioner may permit the conservator to receive deposits. Deposits received while the savings bank is in the hands of the conservator shall not be subject to any limitation as to payment or withdrawal. The deposits and any new assets acquired on account of the deposits shall be segregated and held especially for the new deposits and not be used to liquidate any indebtedness of the savings bank existing at the time that a conservator was appointed or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of the savings bank existing at the time the conservator was appointed. Deposits received while the savings bank is in the hands of the conservator shall be kept on hand in cash, invested in the direct obligations of the United States, or deposited in banks designated by the commissioner.

(6) With the prior approval of the commissioner, the conservator of a savings bank may borrow money as necessary or expedient in aiding the operation, reorganization, or liquidation of the savings bank, including the payment of liquidating dividends, and may secure the loans by the pledge, hypothecation, or mortgage of the assets of the savings bank.

(7) If the commissioner is satisfied that it may be done safely and that it would be in the public interest, he or she may terminate the conservatorship and permit the savings bank to resume the transaction of its business subject to such terms, conditions, restrictions, and limitations as he or she may prescribe.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3606 Affairs of savings bank turned back to board of directors; notice.

Sec. 606. (1) After 15 days from the date upon which the affairs of a savings bank have been turned back to its board of directors by the conservator, either with or without being reorganized, the provisions of section 605(5) with respect to the segregation of deposits shall no longer be effective.

(2) Before the conservator turns back the affairs of the savings bank to its board of directors, he or she shall publish a notice in form approved by the commissioner, stating the date on which the affairs of the savings bank will be returned to its board of directors and that the provisions of section 605(5) will not be

effective after 15 days from that date. On the date of the publication of the notice, the conservator shall immediately send to every person who deposited money in the savings bank after the appointment of a conservator, a copy of the notice by mail addressed to the last known address of the person as shown by the records of the savings bank. The conservator shall send similar notice in like manner to every person making deposit in the savings bank under section 605(5) after the date of the newspaper publication and before the time when the affairs of the bank are returned to its directors.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3607 Orders or declaratory rulings as to receivers and conservators; compensation and expenses to reimburse bureau.

Sec. 607. (1) The commissioner may issue orders or declaratory rulings he or she considers necessary in order to carry out the provisions of this chapter as to receivers and conservators.

(2) All compensation and expenses allowed to reimburse the bureau when a bank examiner acts as receiver or conservator and all expenses for state supervision of receiverships and conservatorships under this act shall be turned over to the state treasurer and credited to a revolving fund to be held for the bureau to reimburse the bureau in connection with the provisions of this act with respect to receivers and conservators of savings banks.

History: 1996, Act 354, Imd. Eff. July 1, 1996.

487.3608 Reorganization of savings bank.

Sec. 608. (1) In a reorganization of a savings bank under a plan of a kind that requires the consent of depositors and other creditors or of shareholders or members or of both depositors and other creditors and shareholders or members, the reorganization shall become effective when both of the following occur:

(a) The commissioner is satisfied that the plan of reorganization is fair and equitable as to all depositors, other creditors and shareholders or members and is in the public interest and has approved the plan subject to such conditions, restrictions, and limitations as he or she may require.

(b) After reasonable notice of the reorganization as determined by the commissioner, depositors and other creditors of the savings bank representing not less than 75% in amount of the sum of its total deposits and other liabilities as shown by the books of the savings bank, or shareholders owning at least 2/3 of its outstanding capital stock or 2/3 of the eligible voting members if it is a mutual savings bank as shown by the books of the savings bank, shall have consented in writing to the plan of reorganization. Claims of depositors or other creditors which will be satisfied in full under the plan of reorganization shall not be included among the total deposits and other liabilities of the savings bank in determining the 75% of total deposits. The term "reorganization" as used in this section may be construed to include the establishment of a new savings bank in conformity with a plan of reorganization.

(2) When the reorganization becomes effective, all books, records, and assets of the savings bank shall be disposed of in accordance with the plan and the affairs of the savings bank shall be conducted by its board of directors in the manner provided by the plan and under the conditions, restrictions, and limitations that may have been prescribed by the commissioner.

(3) In a reorganization which has been approved and become effective, all depositors and other creditors and shareholders or members of the savings bank, whether or not they have consented to the plan of reorganization, shall be subject to and bound by its provisions and claims of all depositors and other creditors shall be treated as if they had consented to the plan or reorganization. The state or any department, agency, or political subdivision of the state holding a claim against the savings bank is authorized to participate in a plan of reorganization as any other creditor and shall be subject to and bound by its provisions as any other creditor.

History: 1996, Act 354, Imd. Eff. July 1, 1996.