

PROTECTIVE COMMITTEES (EXCERPT)

Act 89 of 1933

451.303 Protective committees, depositaries and solicitors; license applications, fees, hearing, bonds; inactive committee or depositary; names, inspection.

Sec. 3. It shall be unlawful for any person to act as a member of a protective committee, as a depositary or as a solicitor in this state for the purpose of procuring the modification and/or amendment and/or foreclosure of any instrument in writing securing any issue of bonds, notes, debentures and all other similar evidences of indebtedness without first procuring a license and continuing to be licensed therefor. Any person desiring a license either as a member of a protective committee, as a depositary, or as a solicitor shall apply therefor to the commission upon application forms to be furnished by the commission. Such application shall, in the event that the applicant is a natural person, set forth the name, age, residence, business address, principal occupation and antecedent business experience of the applicant, the name of the security with respect to which the applicant desires to act, and such other facts as the commission shall require. In the event that the applicant is a non-natural person the application shall set forth such pertinent information as the commission may require including information and facts concerning the applicant's principal officers or members similar to those required of natural persons. The commission may require such further information as it shall deem necessary to satisfy it of the integrity and the financial responsibility of the applicant. Every application shall be under oath. An annual license fee of 5 cents for each 1,000 dollars par value of outstanding bonds or notes shall be charged each protective committee and each depositary, and an annual license fee of 25 dollars shall be charged each solicitor, for each issue, and these respective license fees shall accompany the application: Provided, however, That the commission, in its discretion, may provide that such respective license fees need not accompany the application, but the payment thereof may be deferred to such time as the commission shall designate. In case the payment of such respective license fees is deferred as above provided, such fees shall be a lien on the securities deposited. If the commission should conclude that a license should not issue, the application may be denied: Provided, That no order of denial shall be entered until the applicant has been given a hearing on the reasons for such denial. Any duly licensed member of a protective committee may act as a solicitor without procuring a license as such.

The commission may in its discretion require a sufficient bond to be filed by each of the members of the bondholder's committee. Such bonds shall be subject to the approval of the commission.

In case any protective committee or depositary which is in existence at the time this act shall take effect, shall fail to function, the commission, in its discretion, may grant to the protective committee or depositary whose application covering the same issue of securities has been granted under the provisions of this act, power to function as and in lieu of such inactive protective committee or depositary or the commission may designate a person or persons to act as a protective committee and/or the commission may designate a person or persons to act as a depositary under the provisions of this act, and/or the commission may designate a person or persons to act as conservator of the deposit agreement of the inactive protective committee and/or the deposited securities pledged or remaining or deposited under the emergency clause of this act. In all cases of inactive or delinquent protective committees or inactive or delinquent depositaries the commission shall have power to summon and compel such committees and/or depositaries to appear at a hearing before said commission, by giving 3 days notice to such inactive or delinquent committee and/or depositary. At such hearing, the commission shall take proofs and hear evidence as to the delinquency and/or inactivity complained of. In the event the commission shall decide that it is necessary for the safeguarding of the interests of the holders or owners of the particular security under control of delinquent and inactive committee and/or depositary it shall enter such order in the premises in accordance with its findings, and shall have power to compel the inactive or delinquent committee and/or depositary to surrender, deliver and yield up forthwith to the commission, or to any depositary nominated by said commission, all securities of every kind theretofore deposited with said inactive or delinquent committee or depositary whose license was revoked by this commission and make such other order and/or orders in the matter, as may be necessary or advisable in the judgment of the commission to safeguard and protect the interest of said security holders, and preserve any liens, attaching to such securities. The names and addresses of bondholders filed with the commission shall be open to the mortgagor, or successor to title of record upon proper application to the commission, but shall not be made public or subject to inspection by anyone not connected with the commission, except by order of the commission.

History: 1933, Act 89, Imd. Eff. May 25, 1933;—Am. 1933, Act 205, Imd. Eff. June 28, 1933;—Am. 1935, Act 218, Imd. Eff. June 8, 1935;—CL 1948, 451.303.