49.04 INVOLUNTARY LIQUIDATION OF FINANCIAL INSTITUTIONS.

Subdivision 1. **Commissioner taking possession; grounds for; rights of third parties.** When it shall appear to the commissioner that any financial institution has violated its charter, or any law of the state, or is conducting its business in an unsafe or unauthorized manner, or that its capital is impaired, or if it or any of its controlling officers shall refuse to submit its books, papers, and concerns to the inspection of the commissioner, or any duly authorized assistant, or if any of its officers shall refuse to be examined upon oath touching its concerns, or if it shall suspend payment of its obligations, or furnish reason for the commissioner concluding that it is in an unsound or unsafe condition to transact the business for which it was organized, or that it is unsafe and inexpedient for it to continue business, or if it shall neglect or refuse to observe a proper order of the commissioner, the commissioner may forthwith take possession of its property and business including forfeiture of its certificate of authorization and retain this possession until it shall resume business or its affairs be finally liquidated, as herein provided. On taking possession of the property and business of any such financial institution, the commissioner shall forthwith give notice of that fact to any and all financial institutions or other corporations, associations, partnerships, and individuals holding, or in possession of, any of its assets. No financial institution or other corporation, association, partnership, or individual knowing of such taking possession by the commissioner, or notified, as aforesaid, shall have a lien or charge for any payment, advance, or clearance thereafter made, or liability thereafter incurred against any of the assets of the financial institution of whose property and business the commissioner shall have taken possession, as aforesaid. The financial institution may, with the consent of the commissioner, resume business upon such conditions as may be approved by the commissioner. Upon taking possession of the property and business of the financial institution, the commissioner is authorized to collect money due to it and to do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof, if in the commissioner's opinion it cannot safely resume business, as hereinafter provided.

Subd. 2. **Application to enjoin liquidation.** Whenever any such financial institution of whose property and business the commissioner 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 to enjoin further proceedings, and said court, after citing the commissioner 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 from further proceedings and direct the commissioner to surrender such business and property to such financial institutions.

Subd. 3. **Actions stayed.** When the commissioner shall take possession of the business and property of any financial institution, any action at law pending against it shall be stayed, upon motion to the court in which such action is pending setting forth said fact, so long as such possession continues, unless otherwise ordered by the court, pursuant to the provisions of subdivision 5.

Subd. 4. **Garnishments, attachments, levies vacated.** All garnishments, attachments, and levies in any action against the financial institution shall likewise be set aside and vacated upon motion.

Subd. 5. **Judgments vacated.** Any judgment for money only entered against such financial institution within 30 days preceding the date when the commissioner takes possession shall be vacated and set aside upon motion, and the judgment creditor shall be entitled to file a claim with the commissioner; all other judgments entered within that period of 30 days shall be vacated upon the application of the commissioner to the court wherein such judgment is entered, when it appears to the court that the judgment is detrimental to the interest of the creditors of the financial institution.

Subd. 6. **Subsequent levies and attachments unlawful.** It shall be unlawful for any officer or other person to levy upon, seize, or attach any of the assets of any financial institution to the possession of which the commissioner is entitled, after the commissioner has taken possession, and so long as this possession continues.

History: *(7688, 7699-25, 7699-26, 7699-27, 7699-28) 1909 c 179 s 2; 1927 c 261 s 1-4; 1945 c 128 s 5; 1986 c 444; 1987 c 349 art 1 s 23*