51A.45 ENFORCEMENT AND CONSERVATORSHIP.

Subdivision 1. **Commissioner may order association to discontinue any illegal practice.** If the commissioner, as a result of any examination or from any report made, shall find that any association is violating the provisions of its certificate of incorporation or bylaws, or the laws of this state or of the United States, or any lawful order or rule of the commissioner, the commissioner shall, by a formal written order delivered to the association as aforesaid, state any alleged violation, together with a statement of the facts alleged to be such violation, and order discontinuance of such violation and conformance with all requirements of law. Such order shall specify the effective date thereof, which may be immediate or may be at a later date, and such order shall remain in effect until withdrawn by the commissioner or until terminated by a court order. Such order of the commissioner, upon application made on or after the effective date thereof by the commissioner to a court of general jurisdiction in the county in which the principal office of the association is located, shall be enforced ex parte and without notice by an order to comply entered by said court. Such proceedings shall be given precedence over other cases pending in such court, and shall in every way be expedited. Any association affected by such order of the commissioner shall, after receipt thereof, have the right to apply within 30 days to any such court for an immediate hearing and order suspending the order of the commissioner until such time as the hearing has been completed. The hearing of such application to the court shall be upon such notice to the commissioner as the court shall provide. Whether upon application by the commissioner or by the association, such court shall have power to and shall adjudicate the question and enter the proper order or orders and enforce the same.

Subd. 2. **Conservator.** If the commissioner, as a result of any examination or from any report made believes that the public interest may be served by the appointment of a conservator, and if the commissioner shall find that any association: (a) Is in an impaired condition; (b) is engaging in practices which threaten to result in an impaired condition; or (c) is in violation of an order of injunction, as authorized by this section, which has become final in that time to appeal has expired without appeal or a final order entered from which there can be no appeal, the commissioner may appoint a conservator for such association, which may be the commissioner, a deputy or any other person, and upon such appointment shall apply immediately to a court of general jurisdiction in the county in which the principal office of the association is located for confirmation of such appointment, and such court shall have exclusive jurisdiction to determine the issues and all related matters. Such proceedings shall be given precedence over other cases pending in such court, and shall in every way be expedited. Such court shall confirm such appointment if it shall find that one or more such grounds exist, and a certified copy of the order of the court confirming such appointment shall be evidence thereof. Such conservator shall have the power and authority provided in sections 51A.01 to 51A.57 and such other power and authority as may be expressed in the order of the court. Such conservator shall endeavor promptly to remedy the situations complained of by the commissioner in the application for confirmation of such appointment. Within six months of the date of such appointment, or within 12 months if the court shall extend the six-month period, such association shall be returned to the board of directors thereof and thereafter shall be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as hereinafter provided. The compensation of the conservator, as determined by the court, shall be paid by the association. A certified copy of the order of the court discharging such conservator and returning such association to the directors thereof shall be sufficient evidence thereof.

Subd. 3. **Conservator; powers.** Any conservator appointed shall have all the rights, powers, and privileges possessed by the officers, board of directors, and members of the association.

Subd. 4. **Conservator; expenses; prohibitions.** The conservator shall not retain special counsel or other experts, incur any expense other than normal operating expenses, or liquidate assets except in the ordinary course of operations.

Subd. 5. **Conservator; removal of officer or director.** The directors and officers shall remain in office and the employees shall remain in their respective positions, but the conservator may remove any director, officer, or employee, provided the order of removal of a director or officer shall be approved in writing by the commissioner.

Subd. 6. **Under conservator, association may be operated as a "going concern."** While the association is in the charge of a conservator, members of such association shall continue to make payments to the association in accordance with the terms and conditions of their contracts, and the conservator may permit savings account members to withdraw their accounts from the association pursuant to the provisions of sections 51A.01 to 51A.57 or under and subject to such rules as the commissioner may prescribe. The conservator shall have power to accept savings accounts and additions to savings accounts, but any such amounts received by the conservator may be segregated if the commissioner shall so order in writing; if so ordered, such amounts shall not be subject to offset and shall not be used to liquidate any indebtedness of such association existing at the time the conservator was appointed for it or any subsequent indebtedness incurred for the purposes of liquidating the indebtedness of any such association existing at the time such conservator was appointed. All expenses of the association during such conservatorship shall be paid by the association.

History: *1969 c 490 s 45; 1985 c 248 s 70; 1986 c 444; 1996 c 414 art 1 s 44; 1997 c 157 s 67; 1998 c 260 s 1*