

**SAVINGS AND LOAN ACT OF 1980 (EXCERPT)**  
**Act 307 of 1980**

ARTICLE 10

**491.1000 Unsafe or unsound practices or violation or threatened unsafe or unsound practices or violation; notice of charges; hearing; consent to issuance of cease and desist order; final or temporary cease and desist order; injunction.**

Sec. 1000. (1) If the supervisor has reasonable cause to believe that an association, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association is engaging, has engaged or is about to engage in an unsafe or unsound practice in conducting the business of the association, or has violated, is about to violate, or is violating a law, rule, regulation, charter, or any condition imposed in writing by the supervisor in connection with the granting of any application or other request by the association or any written agreement entered into with the supervisor, the supervisor may issue and serve upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association a notice of charges concerning the alleged unsafe or unsound practices or violation or threatened unsafe or unsound practices or violation, which shall contain a statement of the facts constituting the alleged unsafe or unsound practices or violation, and shall fix a time and place at which a hearing shall be held to determine whether an order to cease and desist from conduct causing the alleged unsafe or unsound practices or violation should be issued against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of the association. The hearing shall be not earlier than 30 days nor later than 60 days after service of the notice unless another date is set by the supervisor at the request of the association. Unless the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of the association is represented at the hearing by a duly authorized representative, the association or person shall be considered to have consented to the issuance of the cease and desist order. In the event of the consent, or if upon the record made at the hearing, the supervisor finds that any unsafe or unsound practice or violation specified in the notice of charges has been established, the supervisor may issue and serve upon the association, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association an order to cease and desist from conduct causing the unsafe or unsound practice or violation. By provisions which may be mandatory or otherwise, the order may require the association and its directors, officers, employees, agents, or other person participating in the conduct of the affairs of the association to cease and desist from the conduct causing the unsafe or unsound practice or violation and to take affirmative action to correct the conditions resulting from the unsafe or unsound practice or violation.

(2) A cease and desist order shall become effective at the expiration of 30 days after the service of the order upon the association, or any director, officer, employee, agent or other person participating in the conduct of the affairs of the association, except in the case of an order issued upon consent which shall become effective at the time specified in the order, and shall remain effective and enforceable as provided in the order, except to the extent it is stayed, modified, terminated, or set aside by action of the supervisor or in a reviewing court.

(3) Whenever the supervisor determines that the violation or threatened violation, or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association pursuant to this section, or the continuation of the unsafe or unsound practice or practices, or violation, is likely to cause insolvency or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association, or is likely to otherwise seriously prejudice the interests of its depositors, the supervisor may issue a temporary order requiring the association or any director, officer, agent, or other person participating in the conduct of the affairs of the association, to cease and desist from conduct causing the unsafe or unsound practice or violation. A temporary cease and desist order shall become effective upon service upon the association and, unless set aside, limited, or suspended by a court in proceedings authorized by this section, shall remain effective and enforceable until the supervisor dismisses the charges specified in the notice, there has been a hearing held pursuant to this section as a result of which it was determined not to issue a final cease and desist order, or, if a final cease and desist order is issued against the association or any director, officer, agent, or other person participating in the conduct of the affairs of the association, until the effective date of the order.

(4) Within 10 days after an association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association has been served with a temporary cease and desist order, the association may apply to the circuit court for the county in which the home office of the association

is located for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the hearing pursuant to the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association under this section.

**History:** 1980, Act 307, Eff. Jan. 1, 1981;—Am. 1987, Act 106, Imd. Eff. July 7, 1987.

**491.1002 Report on violation or detrimental condition; directing discontinuance of violation; ordering correction of detrimental condition; appointment and duties of conservator; proceedings by attorney general; preparation and filing of report; return of association to board; liquidation and dissolution.**

Sec. 1002. (1) If the supervisor, as a result of an examination or from a report made to the supervisor, finds that an association appears to be violating the association's articles of incorporation or bylaws, or the laws of this state or of the United States, or a rule promulgated or order issued by the supervisor, or that the association's financial stability is impaired as a result of the association's conducting business in an unsafe, unsound, or illegal manner, the supervisor shall state by a formal written report to the board of the association any alleged violation or detrimental condition considered to exist, and may direct discontinuance of a violation or order the correction of the detrimental condition.

(2) If the board fails to correct the impaired financial stability, the supervisor may immediately appoint an individual as conservator for the association and order the conservator to take possession of all books, records, and assets of every description of the association and hold and retain possession pending further proceedings as specified in this act. If the board, secretary, or person in charge of the association refuses to permit the conservator to take possession, the supervisor shall communicate this fact to the attorney general, who shall immediately institute proceedings to place the conservator in possession of the property of the association. Upon taking possession of the effects of the association, the conservator shall prepare a full and true statement of the affairs and conditions of the association, including an itemized statement of the association's assets and liabilities, and shall file the report with the supervisor. The conservator shall endeavor promptly to remedy the situations complained of by the supervisor. Within 6 months after the date of the appointment of the conservator, or within any other length of time as directed by the supervisor, the association shall be returned to its board and thereafter shall be managed and operated as if a conservator had not been appointed. If the situation complained of has not been remedied, the supervisor shall proceed pursuant to this act toward liquidation and dissolution of the association.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.1004 Conservator; rights, powers, and privileges; retention of special counsel or other experts; expenses; liquidation of assets; removal of director, officer, or employee.**

Sec. 1004. A conservator appointed shall have all rights, powers, and privileges possessed by the officers, board, and members of an association over which the conservator has been appointed by the supervisor. The conservator may retain special counsel or other experts. However, the conservator shall not incur any expense other than normal operating expenses nor shall the conservator liquidate assets of the association except with the approval of the supervisor. The directors and officers shall remain in office and employees shall remain in their respective positions, but the conservator may remove a director, officer, or employee, if the order of removal of a director or officer is approved in writing by the supervisor, specifying the reasons for the removal.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

**491.1006 Association in charge of conservator; payments, withdrawals, and deposits; segregation of deposits; restrictions; return of deposits; revocation of segregation order; expenses of operation.**

Sec. 1006. If an association is in the charge of a conservator, the borrowers of, and all others who are indebted to, the association shall continue to make payments to the association pursuant to the terms and conditions of their contracts, and the conservator, subject to rules the supervisor may prescribe, may permit members to make withdrawals from their accounts under this act. The conservator may accept deposits to accounts, but a deposit accepted by a conservator shall be segregated if the supervisor orders the segregation in writing. If segregated, a deposit accepted by a conservator shall not be subject to offset in any manner and shall not be used to liquidate any indebtedness of the association existing at the time of the appointment of the conservator or any indebtedness subsequently incurred while the association is in the possession of the conservator or a receiver subsequently appointed under this act. A depositor whose deposits have been segregated may request the return of those deposits and the conservator shall repay the deposits without

interest or dividends. Before delivery of the association or the association's assets to any liquidators or to a receiver, the conservator shall return the money collected from depositors and segregated. The supervisor may revoke an order of segregation if it appears that the condition of an association justifies the action. If an order of segregation is revoked, the association may exercise all the powers the association could have exercised before the issuance of the order, and shall treat all deposits to accounts made by depositors during the period of segregation and all segregated credits in the same manner as all other deposits to accounts when made. The expenses of the operation of the association by the conservator shall be paid by the association including a per diem fee for the special services of the conservator in an amount to be established by the supervisor.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.1008 Injunction, appointment of receiver, and dissolution of association; grounds; report; proceedings.**

Sec. 1008. If irregularities complained of in an order by the supervisor under section 1002 are not corrected, or if irregularities complained of in a report of a conservator are not corrected, or if from the report of an examiner it appears to the supervisor that an association: is in an insolvent condition; is pursuing a course which threatens to result in the association's insolvency; is in violation of a valid and applicable law, rule, or regulation, or lawful order of the supervisor; or is concealing any of its assets, books, or records; and if it is in the best interests of the depositors and other creditors that the association liquidate and be dissolved, then the supervisor shall communicate that fact together with a copy of the pertinent report to the attorney general, who shall promptly institute necessary proceedings to enjoin the association from doing any further business, to appoint a receiver for the association, and to dissolve the association.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.1010 Receiver; appointment and qualifications; expenses; books, records, and assets; report.**

Sec. 1010. If the provisions of section 1008 apply, the supervisor shall request that the attorney general apply to the circuit court for the county in which the association is located, or to the circuit court for the county of Ingham, for the appointment of a receiver for the association. The court may appoint as receiver a competent and disinterested person recommended by the supervisor. The supervisor shall be reimbursed out of the assets of the receivership for all sums expended by the supervisor in connection with the receivership as expenses, compensation of the examiners, or otherwise. All expenses of a receivership, including those incurred by the supervisor in connection with the receivership, shall be paid out of the assets of the association upon the approval of the supervisor and upon order of the appointing court. The expenses shall be a first charge upon the assets and shall be fully paid before a final distribution or payment of liquidating dividends to creditors, depositors, or members. Pending action on the supervisor's application to the court, the supervisor may immediately take possession of the books, records, and assets of every description of the association and hold the books, records, and assets. The books, records, and assets shall not be subject to levy, attachment, execution, or other process available to creditors of the association. The receiver shall make a report to the supervisor of acts and proceedings instituted under this section.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.

#### **491.1012 Liquidation and dissolution; procedures; provisions governing appointment of receiver or other liquidating agent.**

Sec. 1012. The sole and exclusive procedures for the liquidation and dissolution of an association to which this act is applicable shall be the procedures prescribed in this act, and a receiver or other liquidating agent shall not be appointed for those purposes or for an association or the association's assets and property except as expressly provided in this act.

**History:** 1980, Act 307, Eff. Jan. 1, 1981.