

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

491.908 Default in payment under subscription agreement; powers of stock association; rights and duties cumulative; limiting and adding to rights and remedies.

Sec. 908. (1) In case of default in payment of an installment, call, or other amount due under a subscription agreement, including an amount which may become due as a result of a default in performance of a provision of a subscription agreement, a stock association may do any of the following:

(a) Collect the amount due in the same manner as any other debt owing to the association. At any time before full satisfaction of the claim or a judgment, the association may proceed as provided in subdivision (b).

(b) Sell the shares in a reasonable manner. Notice of the time and place of a public sale or of the time after which a private sale may be had, together with a statement of the amount due upon each share, shall be given in writing to the subscriber personally or by registered or certified mail not less than 20 days before a time stated in the notice. Any excess of net proceeds realized over the amount due plus interest shall be paid to the subscriber. If the sale is made in good faith, in a reasonable manner, and upon notice, the association may recover the difference between the amount due plus interest and the net proceeds of the sale. A good faith purchaser for value shall acquire title to the sold shares free of any right of the subscriber even though the association fails to comply with 1 or more of the requirements of this subdivision.

(c) Rescind the subscription as provided in section 906, and recover damages for breach of contract. Unless special circumstances show proximate damages of a different amount, the measure of damages shall be the difference between the market price at the time and place of tender of the shares and the unpaid contract price. Liquidated damages may be provided for in the subscription agreement in any amount which is reasonable, taking into consideration any estimated difficulties of proof of loss. The subscriber may have restitution of the amount by which the sum of the subscriber's payments exceed the damages for breach of the contract, whether fixed by agreement or judgment.

(2) The rights and duties provided in this section shall be interpreted as cumulative so far as is consistent with entitling the association to a full and single recovery of the amount due or the association's damages. The subscription agreement may limit the rights and remedies of the association provided in this section, and may add to them as provided in this subsection.

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