

MAINE STATE LEGISLATURE

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CHAPTER 167

INSOLVENCY AND LIQUIDATION

Sec.

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§ 2031. Voluntary liquidation

Whenever in the opinion of the commissioner and a majority of the directors of any association it is inexpedient for any reason for that savings and loan association to continue the further prosecution of its business, the directors may join with the commissioner in an application to the Superior Court for the liquidation of the affairs of such association. If, after notice and hearing on such application, the court is of the opinion that it is inexpedient for that savings and loan association to continue the further prosecution of its business, it may make such orders and decrees in the premises as seem proper for liquidating the affairs of that association, the distribution of its assets and the protection of its members.

1961, c. 198, § 1; 1963, c. 414, § 54.

§ 2032. Conservatorship

1. Commissioner may order association to discontinue any unsafe or illegal practice. If the commissioner, as a result of any examination or from any report made to him, shall find that any association is violating its certificate of incorporation, bylaws or the laws of this State or of the United States, or any lawful order of the commissioner, he shall, by a formal written order delivered to the association as aforesaid, state any alleged violation therein, together with a statement of the facts alleged to be such violation, and direct discontinuance of such violation and conformance with all requirements of law.

2. Conservator. If within a reasonable time satisfactory corrective action has not been taken pursuant to subsection 1, the commissioner, if he believes that the public interest may be served by the appointment of a conservator, is authorized, acting through the Attorney General, to apply to the Superior Court

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in the county where such association has its principal office for the appointment of a conservator. Such court is authorized to appoint a conservator if it finds that such association is in an impaired condition; is in substantial violation of any valid and applicable law or regulation; or is concealing any of its assets, books or records. The commissioner or his deputy or another person may be appointed by the court as conservator, and a certified copy of the order of the court making such appointment shall be evidence thereof, and such conservator shall have the power and authority provided in chapters 141 to 167 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 in the petition for his appointment. Within 6 months of the date of such appointment, or within 12 months if the court shall extend such 6 months' period, such association shall be returned to its board of directors and thereafter shall be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as hereinafter provided. If the commissioner or his deputy is appointed conservator, he shall receive no additional compensation, but if another person is appointed, then 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 its directors shall be sufficient evidence thereof.

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

4. Conservator, with approval of court, may remove any 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 court.

5. 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, in his discretion, may permit shareholders to withdraw their accounts from the association pursuant to chapters 141 to 167 or under and subject to such rules and regulations as the commissioner may

prescribe. The conservator shall have power to accept share 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.

1961, c. 198, § 1.

§ 2033. Receivership

If irregularities complained of in an order of the commissioner are not corrected, or if any irregularities complained of in a petition for the appointment of a conservator are not corrected, or in the case of any emergency, the commissioner may, if in his judgment the public interest requires it, acting through the Attorney General, apply to the Superior Court in the county of the principal office of any association for the appointment of a receiver. Such court is authorized to appoint a receiver if it finds that such association is in an impaired condition; is in substantial violation of any valid and applicable law or regulation; or is concealing any of its assets, books or records. The commissioner or his deputy or other person may be appointed by the court as receiver, and a certified copy of the order of the court making such appointment shall be evidence thereof, and such receiver shall have the power and authority provided in chapters 141 to 167 and such other power and authority as may be expressed in the order of the court. If the commissioner or his deputy is appointed receiver, he shall receive no additional compensation, but if another person is appointed, then the compensation of the receiver, as determined by the court, shall be paid from the assets of the association.

1961, c. 198, § 1.

§ 2034. Solvent corporation protected

No conservator or receiver shall be appointed, or private property seized, with respect to an association which is solvent in that its assets are equal to or more than its obligations to its creditors, including the members and others, if the alleged wrong-

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doing can be otherwise corrected as is provided in chapters 141 to 167 or otherwise as provided by law.

1961, c. 198, § 1.

§ 2035. Status of members; no preference

The owners of all classes of shares and accounts shall have the same status as to the assets of the association, and in the case of liquidation, one class of shares or accounts shall not have preference over any other class of shares or accounts.

1961, c. 198, § 1.