

SAVINGS BANK ACT (EXCERPT)
Act 354 of 1996

487.3217 Intent by commissioner to remove director or officer from office; notice; suspension or prohibition; effective date; service of copies of notice; statement of facts; hearing; issuance of order; effect and enforcement.

Sec. 217.

(1) If in the opinion of the commissioner a director or officer of a savings bank has committed a violation of law or rule or of a cease and desist order that has become final, or has engaged or participated in an unsafe or unsound practice in connection with the savings bank, or has committed or engaged in an act, omission, or practice that constitutes a breach of his or her fiduciary duty as a director or officer and the commissioner determines that the savings bank has suffered or will probably suffer substantial financial loss or other damage or that the interest of its depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty, the commissioner may serve upon the director or officer a written notice of his or her intention to remove him or her from office.

(2) If in the opinion of the commissioner a director or officer of a savings bank, by conduct or practice with respect to another savings bank or other business organization which resulted in substantial financial loss or other damage, has evidenced his or her personal unfitness to continue as a director or officer and if in the opinion of the commissioner, any other person participating in the conduct of the affairs of any savings bank, by conduct or practice with respect to such savings bank or other business organization which resulted in substantial financial loss or other damage, has evidenced his or her personal unfitness to participate in the conduct of the affairs of the savings bank, the commissioner may serve upon the director, officer, or other person a written notice of his or her intention to remove him or her from office or to prohibit his or her further participation in any manner in the conduct of the affairs of the savings bank.

(3) In addition to a notice sent under subsection (1) or (2), if the commissioner deems it necessary for the protection of the savings bank or the interests of its depositors that the director, officer, or other person be immediately suspended from office or prohibited from further participation in any manner in the conduct of the affairs of the savings bank, the commissioner may serve upon the director, officer, or other person a written notice suspending him or her from office or prohibiting him or her from further participation in any manner in the conduct of affairs of the savings bank. The suspension or prohibition shall become effective upon service of the notice and, unless stayed by a court in proceedings authorized by section 218, shall remain in effect pending the completion of the administrative proceedings under the notice served under subsection (1) or (2) and until such time as the commissioner may dismiss the charges specified in the notice or, if an order of removal or prohibition is issued against the director, officer, or other person, until the effective date of the order. Copies of the notice shall also be served upon the savings bank of the director or officer or in the conduct of whose affairs he or she has participated.

(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his or her participation in the conduct of the affairs of any savings bank shall contain a statement of the facts constituting grounds for the notice, and shall fix a time and place at which a hearing will be held. The hearing shall be held not earlier than 30 days nor later than 60 days after the date of service of the notice, unless another date is set by the commissioner at the request of the director, officer, or other person and for good cause shown.

(5) Unless the director, officer, or other person appears at the hearing in person or by a duly authorized representative, he or she shall be considered to have consented to the issuance of an order of removal or prohibition. In the event of consent, or if upon the record made at the hearing the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the savings bank. The order shall become effective at the expiration of 30 days after service upon the savings bank and the director, officer, or other person, except in the case of an order issued upon consent, which shall become effective at the time specified in the order. The order shall remain effective and enforceable unless it is stayed, modified, terminated, or set aside by action of the commissioner or a reviewing court.

History: 1996, Act 354, Imd. Eff. July 1, 1996