

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

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.