WEST VIRGINIA CODE: §31C-1-4

§31C-1-4. Suspension; involuntary liquidation.

(a) If it appears that any credit union is bankrupt, insolvent, about to be insolvent or that it has willfully violated this chapter, or is operating in an unsafe or unsound manner, the commissioner may, without prior hearing, issue an order temporarily suspending the credit union's operations. The credit union's board of directors shall be given notice by registered mail of such suspension, which notice shall include a list of the reasons for such suspension, and a list of the specific violations of this chapter, if any. The commissioner shall also notify the insuring organization and the board of banking and financial institutions of any suspension.

(b) Upon receipt of such suspension notice, the credit union shall cease all operations, except those authorized by the commissioner. The credit union's board of directors shall then file with the commissioner a reply to the suspension notice within five business days of its receipt, and must therein request a hearing to be held within sixty days to present a plan of corrective actions proposed if they desire to continue operations. Alternatively, the credit union's board of directors may request that the credit union be declared insolvent and a liquidating agent be appointed.

(c) Upon receipt from the suspended credit union of evidence that the conditions causing the order of suspension have been corrected, the commissioner may revoke the suspension notice, permit the credit union to resume normal operations, and notify the insuring organization and the board of banking and financial institutions of such action.

(d) If the commissioner, after issuing notice of suspension and providing an opportunity for a hearing, rejects the credit union's plan to continue operations, or if the commissioner after accepting or directing a plan for continued operations finds that the credit union has failed to comply with the plan's substantive corrective provisions, then the commissioner may issue a notice of involuntary liquidation and appoint a liquidating agent. The credit union shall be given at least sixty days in which to take corrective action upon acceptance or issuance of any corrective plan by the commissioner. The credit union may request the appropriate court to stay execution of an involuntary liquidation sought under this subsection. However, nothing in this section prevents the commissioner from appointing a conservator pursuant to section three, article seven, chapter thirty-one-a of this code, including a temporary appointment of a conservator pending the correction of the conditions causing the suspension, or appointing a receiver and seeking to liquidate the credit union pursuant to section four, article seven, chapter thirty-one-a of this code when necessary in order to protect the interest of the credit union's members and depositors.

(e) If, within the suspension period, the credit union fails to answer the suspension notice or request a hearing, the commissioner may then revoke the credit union's charter, appoint a liquidating agent and liquidate the credit union.

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(f) In the event of liquidation, the assets of the credit union or the proceeds from any disposition of the assets shall be applied and distributed in the following sequence:

(1) Secured creditors up to the value of their collateral;

(2) Costs and expenses of liquidation;

(3) Wages due the employees of the credit union;

(4) Costs and expenses incurred by creditors in successfully opposing the release of the credit union from certain debts as allowed by the commissioner;

(5) Taxes owed to the United States or any other governmental unit;

(6) Debts owed to the United States;

(7) General creditors, secured creditors to the extent their claims exceed the value of their collateral and owners of deposit accounts to the extent such accounts are uninsured;

(8) Members, to the extent of uninsured share accounts and the organization that insured the accounts of the credit union; and

(9) Members of a corporate credit union, to the extent of membership shares.

As soon as the appointed liquidating agent determines that all assets from which there is a reasonable expectancy of realization have been liquidated and distributed as set forth in this section, a certificate of dissolution shall be executed on a form prescribed by the commissioner and filed with the Secretary of State, which shall after filing and indexing same, be forwarded to the commissioner, whereupon the credit union shall be dissolved. The liquidating agent shall return all pertinent books and records of the liquidating credit union to the commissioner.

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