

Chapter 30A.46 RCW
SUPERVISORY DIRECTION—CONSERVATORSHIP

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RCW 30A.46.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Unsafe condition" shall mean and include, but not be limited to, any one or more of the following circumstances:

(a) If a bank is less than well-capitalized;

(b) If a bank violates the applicable provisions of this title or any other law or regulation applicable to banks or trust companies;

(c) If a bank conducts a fraudulent or questionable practice in the conduct of its business that endangers a bank's reputation or threatens its solvency;

(d) If a bank conducts its business in an unsafe or unauthorized manner;

(e) If a bank violates any conditions of its charter or any agreement entered with the director; or

(f) If a bank fails to carry out any authorized order or direction of the examiner or the director.

(2) "Exceeded its powers" shall mean and include, but not be limited to the following circumstances:

(a) If a bank has refused to permit examination of its books, papers, accounts, records, or affairs by the director, assistant director, or duly commissioned examiners; or

(b) If a bank has neglected or refused to observe an order of the director to make good, within the time prescribed, any impairment of its capital.

(3) "Consent" includes and means a written agreement by the bank to either supervisory direction or conservatorship under this chapter. [2014 c 37 § 244; 2010 c 88 § 37; 1994 c 92 § 133; 1975 1st ex.s. c 87 § 1. Formerly RCW 30.46.010.]

Effective date—2010 c 88: See RCW 32.50.900.

RCW 30A.46.020 Grounds for determining need for supervisory direction—Abatement of determination—Supervisory direction, procedure—Conservator, immunity.

(1) If upon examination or at any other time it appears to the director that any bank is in an unsafe condition and its condition is such as to render the continuance of its business hazardous to the public or to its depositors and creditors, or if such bank appears to have exceeded its powers or has failed to comply with the law, or if such bank gives its consent, then the director shall upon his or her determination (a) notify the bank of his or her determination, and (b) furnish to the bank a written list of the director requirements to abate his or her determination, and (c) if the director makes further determination to directly supervise, notify the bank that it is under the supervisory direction of the director and that the director is invoking the provisions of this chapter. If placed under supervisory direction the bank shall comply with the lawful requirements of the director within such time as provided in the notice of the director, subject however, to the provisions of this chapter. If the bank fails to comply within such time the director may appoint a conservator as hereafter provided.

(2) A person appointed as conservator by the director pursuant to this chapter is immune from criminal, civil, and administrative liability for any act done in good faith in the performance of the duties of conservator. [2014 c 37 § 245; 2013 c 76 § 14; 1994 c 92 § 134; 1975 1st ex.s. c 87 § 2. Formerly RCW 30.46.020.]

RCW 30A.46.030 Supervisory direction—Appointment of representative to supervise—Restrictions on operations. During the period of supervisory direction the director may appoint a representative to supervise such bank and may provide that the bank may not do any of the following during the period of supervisory direction, without the prior approval of the director or the appointed representative:

- (1) Dispose of, convey, or encumber any of the assets, excluding trust assets under management;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property; or
- (6) Incur any debt, obligation, or liability. [2014 c 37 § 246; 2013 c 76 § 15; 1994 c 92 § 135; 1975 1st ex.s. c 87 § 3. Formerly RCW 30.46.030.]

RCW 30A.46.040 Conservator—Appointment—Grounds—Powers, duties, and functions. After the period of supervisory direction specified by the director for compliance, if he or she determines that such bank has failed to comply with the lawful requirements imposed, upon due notice and hearing or by consent of the bank, the director may appoint a conservator, who shall immediately take charge of such bank and all of its property, books, records, and effects. The conservator shall conduct the business of the bank and take such steps toward the removal of the causes and conditions which have necessitated such order, as the director may direct. During the pendency of the conservatorship the conservator shall make such reports to the director from time to time as may be required by the director, and

shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such bank, including claims or causes of actions belonging to or which may be asserted by such bank, and to deal with the same in his or her own name as conservator, and shall be empowered to file, prosecute, and defend any suit and suits which have been filed or which may thereafter be filed by or against such bank which are deemed by the conservator to be necessary to protect all of the interested parties for a property affected thereby. The director, or any newly appointed assistant, may be appointed to serve as conservator. If the director, however, is satisfied that such bank is not in condition to continue business in the interest of its customers under the conservator as above provided, the director may proceed with appropriate remedies provided by other provisions of this title. [2014 c 37 § 247; 2013 c 76 § 16; 1994 c 92 § 136; 1975 1st ex.s. c 87 § 4. Formerly RCW 30.46.040.]

RCW 30A.46.050 Costs as charge against bank's assets. All costs incident to supervisory direction and the conservatorship shall be fixed and determined by the director and shall be a charge against the assets of the bank, excluding trust assets under management, to be allowed and paid as the director may determine. [2014 c 37 § 248; 2013 c 76 § 17; 1994 c 92 § 137; 1975 1st ex.s. c 87 § 5. Formerly RCW 30.46.050.]

RCW 30A.46.060 Request for review of action—Stay of action—Orders subject to review. During the period of the supervisory direction and during the period of conservatorship, the bank may request the director to review an action taken or proposed to be taken by the representative or conservator; specifying wherein the action complained of is believed not to be in the best interest of the bank, and such request shall stay the action specified pending review of such action by the director. Any order entered by the director appointing a representative and providing that the bank shall not do certain acts as provided in RCW 30A.46.030 and 30A.46.040, any order entered by the director appointing a conservator, and any order by the director following the review of an action of the representative or conservator as herein above provided shall be subject to review in accordance with the administrative procedure act of the state of Washington. [2014 c 37 § 249; 2013 c 76 § 18; 1994 c 92 § 138; 1975 1st ex.s. c 87 § 6. Formerly RCW 30.46.060.]

RCW 30A.46.070 Suits against bank or conservator, where brought—Suits by conservator. Any suit filed against a bank or its conservator, after the entrance of an order by the director placing such bank in conservatorship and while such order is in effect, shall be brought in the superior court of Thurston county and not elsewhere. The conservator appointed hereunder for such bank may file suit in any superior court or other court of competent jurisdiction against any person for the purpose of preserving, protecting, or recovering any asset or property of such bank including claims or causes of action belonging to or which may be asserted by such bank. [2014 c 37 § 250; 2013 c 76 § 19; 1994 c 92 § 139; 1975 1st ex.s. c 87 § 7. Formerly RCW 30.46.070.]

RCW 30A.46.080 Duration of conservator's term—Rehabilitated banks—Management. The conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this chapter. If rehabilitated, the rehabilitated bank shall be returned to management or new managements under such conditions as are reasonable and necessary to prevent recurrence of the condition which occasioned the conservatorship. [2014 c 37 § 251; 2013 c 76 § 20; 1975 1st ex.s. c 87 § 8. Formerly RCW 30.46.080.]

RCW 30A.46.090 Authority of director. If the director determines to act under authority of this chapter, the sequence of his or her acts and proceedings shall be as set forth in this chapter. However, it is the purpose and substance of this chapter to authorize administrative discretion—to allow the director administrative discretion in the event of unsound banking operations—and in furtherance of that purpose the director is hereby authorized to proceed with regulation either under this chapter or under any other applicable provisions of law or under this chapter in connection with other law, either as such law is now existing or is hereinafter enacted, and it is so provided. [2014 c 37 § 252; 2013 c 76 § 21; 1994 c 92 § 140; 1975 1st ex.s. c 87 § 9. Formerly RCW 30.46.090.]

RCW 30A.46.100 Rules. The director is empowered to adopt and promulgate such reasonable rules as may be necessary for the implementation of this chapter and its purposes. [1994 c 92 § 141; 1975 1st ex.s. c 87 § 10. Formerly RCW 30.46.100.]