

Chapter 30B.44B RCW
STATE TRUST COMPANIES—INVOLUNTARY DISSOLUTION AND LIQUIDATION

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RCW 30B.44B.005 When director may take possession. (1) After the expiration of thirty days from the director's written notice to correct an unsafe condition of the state trust company, the director may take possession of the business and property of a state trust company to which this title is applicable whenever it appears that the state trust company:

(a) Has violated the terms of its certificate of authority or any laws applicable thereto;

(b) Is conducting its business in an unauthorized or unsafe manner;

(c) Is in an unsafe or unsound condition to transact its business;

(d) Has an impairment of its capital;

(e) Has become otherwise insolvent;

(f) Has neglected or refused to comply with the terms of a duly issued lawful order of the director;

(g) Has refused, upon proper demand, to submit its records, affairs, and concerns for inspection and examination of a duly appointed or authorized examiner of the director;

(h) Through its officers, has refused to be examined upon oath regarding its affairs; or

(i) Has made a voluntary assignment of its assets to trustees.

(2) Notwithstanding the notice requirement in subsection (1) of this section, the director may without notice seize and take immediate

possession of a state trust company if it appears to the director that the conditions of the state trust company are so hazardous that they pose an imminent threat to the general public or the interests of the state trust company's clients. [2014 c 37 § 382.]

RCW 30B.44B.010 Mutual consent to dissolution and liquidation.

If the director consents, any state trust company may voluntarily place its assets and business under the control of the director for liquidation by a resolution of a majority of its directors or members upon notice to the director. Upon taking possession of the state trust company, the director, or duly appointed agent, shall retain possession thereof until the state trust company is authorized by the director to resume business or until the affairs of the state trust company are fully liquidated as provided in this chapter. A state trust company shall not make any general assignment for the benefit of its creditors except by surrendering possession of its assets to the director, as provided in this section. Whenever any state trust company for any reason suspends operations for any length of time, the state trust company shall, immediately upon such suspension of operations, be deemed in the possession of the director and subject to liquidation under this chapter. [2014 c 37 § 383.]

RCW 30B.44B.030 Possession of trust assets and company assets and property with the director—Bar against attachment proceedings.

The taking of possession of any state trust company by the director pursuant to RCW 30B.44B.005 or 30B.44B.010 is sufficient to place all of the state trust company's fiduciary assets in the custody of the director and all of the nonfiduciary assets and property of every nature in the director's possession and bar all attachment proceedings. [2019 c 389 § 64.]

RCW 30B.44B.040 Director's right to take possession may be contested.

(1) Within ten days after the director takes possession of a state trust company pursuant to RCW 30B.44B.005, the state trust company may serve a notice upon the director to appear before the superior court of the county where the headquarters of the state trust company is located and at a time to be fixed by the court, which shall not be less than five nor more than fifteen days from the date of the service of such notice, to show cause why the director's action taking possession of the state trust company should not be affirmed.

(2) Upon the return day of such notice, or such further day as the matter may be continued to, the court shall summarily hear the show-cause petition and shall dismiss it, if the court finds that possession of the state trust company was taken by the director in good faith and for cause. If, however, the court finds that no cause existed for taking possession of the state trust company, the court shall require the director to restore the state trust company to possession of its assets and enjoin the director from further interference with the state trust company without cause. [2019 c 389 § 65.]

RCW 30B.44B.050 Powers and duties of director—Prohibition against liens.

(1) Upon issuance of an order taking possession of a state trust company pursuant to RCW 30B.44B.005 or 30B.44B.010, the director must:

(a) Take custody of the assets of the state trust company and preserve, administer, and liquidate the business and assets of the state trust company as statutory liquidation agent;

(b) Furnish written notice:

(i) To all persons having possession of any assets of the state trust company; and

(ii) To beneficiaries, trustors, if alive, and appointed advisers in relation to trust assets that were under management by the state trust company as of the date and time that the director took possession of the state trust company, to the extent that the state trust company has not given prior notice to such beneficiaries or trustors, if alive, pursuant to RCW 11.98.039, or to such appointed advisers;

(c) Make provision as custodian under authority of this chapter for the preservation of the trust or other fiduciary assets of the state trust company while they are in the department's custody; and

(d) Upon notice from a trustor or beneficiary, or the like, of a trust agreement or other fiduciary contract directing the department to transfer the trust or other fiduciary assets of the state trust company, or as otherwise provided for by the terms of a trust agreement or other fiduciary contract, by Title 11 RCW, or by court order, make provision as custodian under this chapter for the transfer of trust or other fiduciary assets from the department's custody to applicable third parties.

(2) No person knowing of the taking of such possession by the director shall have a lien or charge for any payment advanced or cleared or liability incurred against any of the assets of the state trust company or any trust assets under management.

(3) With the approval of the superior court of the county in which the headquarters of the state trust company was located, the director may sell, compound, or compromise bad or doubtful debts, and upon such terms as the court shall direct, the director may borrow, mortgage, pledge, or sell all or any part of the real estate and personal property of the state trust company. The director shall deliver to each purchaser or lender an appropriate deed, mortgage, agreement of pledge, or other instrument of title or security. If real estate is situated outside of the county where the headquarters of the state trust company was located, a certified copy of the orders authorizing and confirming the sale or mortgage shall be filed for record in the county in which such property is situated.

(4) The director may appoint special assistants and other necessary agents to assist in the administration and liquidation of the state trust company, a certificate of such appointment to be filed with the clerk of the county where the headquarters of the state trust company was located.

(5) Except for a special assistant who is an employee of the department, the director shall require such special assistant or agent to give a surety company bond, conditioned as the director shall provide, the premium of which shall be paid out of the assets of the state trust company.

(6) The director may also request legal assistance from the Washington attorney general in such administration and liquidation;

provided, however, that with permission of the Washington attorney general, the director may employ an attorney in private practice to perform such delegated functions. [2019 c 389 § 66.]

RCW 30B.44B.060 Notice to creditors—Claims. (1) The director shall publish on the department's public website and also once a week for four consecutive weeks in a newspaper of general circulation, which the director shall select, a notice requiring all persons having claims against the dissolved state trust company to make proof of claim to the department as specified in the notice not later than ninety days from the date of the first publication of such notice.

(2) The director shall mail similar notices to all persons whose names appeared as creditors upon the books of the state trust company as of the date and time of the director taking possession pursuant to RCW 30B.44B.005 or 30B.44B.010.

(3) The director may approve or reject any claims, but shall serve notice of rejection upon the claimant by mail or personally. A declaration of service of such notice, signed under penalty of perjury, shall be deemed a rebuttable presumption that notice has been given pursuant to this section.

(4) No action shall be brought on any claim after ninety days from the date of service of notice of rejection.

(5) After the expiration of the time fixed in the notice, the director shall have no power to accept any claim.

(6) Any claim that has not been filed with the department as required by this section is barred as a matter of law. [2019 c 389 § 67.]

RCW 30B.44B.070 Executory contract or unexpired lease—Permitted actions by director. Upon issuance of an order taking possession of a state trust company, the director may assume or reject any executory contract or unexpired lease of the state trust company upon written notice to the parties to such contract. [2019 c 389 § 68.]

RCW 30B.44B.080 Inventory—List of claims. (1) Upon taking possession of the dissolved state trust company, the director shall make an inventory of the nonfiduciary assets in duplicate, filing one with the department and one in the office of the superior court clerk.

(2) Upon the expiration of the time fixed for the presentation of claims, the director shall make a duplicate list of claims presented, segregating those approved and those rejected, and file this list with the clerk of the superior court. [2019 c 389 § 69.]

RCW 30B.44B.090 Objections to approved claims. Objection may be made by any interested person to any claim approved by the director, which objection shall be determined by the superior court upon notice to the claimant and objector as the superior court shall prescribe. [2019 c 389 § 70.]

RCW 30B.44B.100 Temporary receiver—Prohibited except in emergency. (1) A receiver shall not be appointed by any court for any

state trust company, nor shall any assignment of any state trust company for the benefit of creditors be valid, except that, in addition to the director's authority to take possession of a state trust company pursuant to RCW 30B.44B.005 or 30B.44B.010, the superior court otherwise having jurisdiction may in case of imminent necessity appoint a temporary receiver to take possession of and preserve the assets of such state trust company.

(2) Immediately upon appointment of a person as temporary receiver, the clerk of the superior court shall notify the director in writing of such appointment and the director shall then take possession of the state trust company, as in case of insolvency, and the temporary receiver shall, upon demand of the director, surrender to the director possession of the state trust company and all assets which shall have come into the possession of such temporary receiver.

(3) The director shall in due course pay such temporary receiver out of the assets of the state trust company. [2019 c 389 § 71.]

RCW 30B.44B.110 Preferences prohibited—Penalty. (1) Any transfer of its property or assets by a state trust company, made (a) in contemplation of insolvency or after it shall have become insolvent, (b) within ninety days before the date the director takes possession of such state trust company, and (c) with a view to the preference of one creditor over another or to prevent the equal distribution of its property and assets among its creditors, shall be void.

(2) Every director, officer, or employee of a state trust company making any such transfer of assets is guilty of a class B felony punishable according to chapter 9A.20 RCW. [2019 c 389 § 72.]

RCW 30B.44B.120 Expense of liquidation—Priority for director's expenses. (1) All expenses incurred by the director in taking possession, administering, and resolving any state trust company dissolved pursuant to this chapter, including the expenses of assistants or agents and reasonable fees for any attorney who may be employed in connection with such administration and resolution, and the reasonable compensation of any special assistant or agent placed in charge of such dissolved state trust company, shall be a priority charge upon the assets of the dissolved state trust company and shall be senior to any approved third-party claims.

(2) Such charges for expenses as set forth in subsection (1) of this section shall be fixed by the director, subject to the approval of the superior court. [2019 c 389 § 73.]

RCW 30B.44B.130 Liquidation after claims are paid. When all proper claims of creditors, excluding shareholders, have been paid, as well as all expenses of administration and liquidation, and proper provision has been made for unclaimed or unpaid property and dividends, and assets still remain in the director's possession, the director shall furnish written notice to all shareholders of record of the state trust company, as of the date and time the director took possession of the state trust company pursuant to RCW 30B.44B.005 or 30B.44B.010, of the existence of any remaining funds according to each

shareholder's proportional beneficial interest in the state trust company. [2019 c 389 § 74.]

RCW 30B.44B.140 Disposition of unclaimed personal property. (1)

If, at the conclusion of the liquidation of a state trust company, there remains unclaimed personal property, other than monetary deposit accounts, which had previously been left with it for safekeeping, including unclaimed trust assets, such property shall be inventoried by the director or his or her special assistant or agent and segregated and identified by the name and last known address of the person who appears on the books of the state trust company, as of the date and time of its closure, as being entitled to the property.

(2) Upon receiving possession of such unclaimed personal property, the director shall hold it for safekeeping. The liquidated state trust company, its directors, officers, managers, managing principals, and shareholders, and the director's special assistant or agent, if any, shall be relieved of responsibility and liability for the property so delivered to and received by the director.

(3) The director shall then send to each person who appears on the books and records of the liquidated state trust company as having the right to such property, at his or her last known address, a notice that the property listed will be held in his or her name for a period of not less than one year.

(4) At any time after the mailing of such notice, and before the expiration of one year, such person may require the delivery of the property so held, by properly identifying himself or herself and offering evidence of his or her right to such property, to the satisfaction of the director. The director may condition delivery of such property upon prior payment to the director of all storage costs and reasonable costs associated with such delivery. [2019 c 389 § 75.]

RCW 30B.44B.150 Disposition of unclaimed personal property—

Final notice—Sale. (1) After the expiration of one year from the time of giving notice under RCW 30B.44B.140(3), the director shall issue and serve by mail a final notice stating that one year has elapsed since the sending of the notice referred to in RCW 30B.44B.140(3), and that the director will sell all the property or articles of value set out in the notice, at a specified time and place, not less than thirty days after the time of the final notice. Unless the person shall, on or before such time and to the satisfaction of the director, claim the property, identify himself or herself, offer evidence of his or her right to such property, and remit payment to the director of all storage costs and reasonable costs associated with delivery to such person, the director may sell all the property or articles of value listed in the notice, at public auction, at the time and place stated in the final notice: PROVIDED, That a notice of the time and place of such sale has been published once within ten days prior to the sale in a newspaper of general circulation in the county where the headquarters of the state trust company was located.

(2) In addition to subsection (1) of this section, any such property held by the director, the owner of which is not known, may be sold at public auction after it has been held by the director for one

year: PROVIDED, That a notice of the time and place of sale has been published once within ten days prior to the sale in a newspaper of general circulation in the county where the headquarters of the state trust company was located. [2019 c 389 § 76.]

RCW 30B.44B.160 Disposition of unclaimed personal property—Monetary funds. (1) Any monetary funds, including funds obtained from sale of personal property at auction pursuant to this section, remaining unclaimed and unpaid in the possession of the director for six months after the superior court's order of final distribution, shall be deposited by the director in a bank to his or her credit, in trust for the benefit of the persons entitled to such funds and subject to the supervision of the superior court.

(2) Such monetary funds shall be paid by the director to the entitled persons upon receipt of satisfactory evidence of their right to such funds.

(3) All moneys so deposited remaining unclaimed for one year after deposit shall escheat to the state for the benefit of the state financial literacy and education programs as authorized by RCW 43.320.150 and administered by the department, or, in the absence of such programs, as otherwise directed by the state treasurer.

(4) It shall not be necessary to have the escheat adjudged in a suit or action. [2019 c 389 § 77.]

RCW 30B.44B.170 Destruction of records after liquidation. (1) Where any records of the state trust company have been taken over and are in the possession of the director in connection with the involuntary liquidation of a state trust company, the director may, in his or her discretion at any time after an order of final liquidation, or equivalent, by the superior court, destroy any of such records which may appear to the director to be obsolete or unnecessary for future reference as part of the liquidation and as files of the department.

(2) Such records are exempt from public disclosure, consistent with RCW 42.56.400(6), 30A.04.075, and 30B.04.060. [2019 c 389 § 78.]

RCW 30B.44B.180 Reopening—Conditions. (1) Notwithstanding any other provision of this chapter, the director may, at any time within ninety days after taking possession of a state trust company under RCW 30B.44B.005 or 30B.44B.010, permit such state trust company to reopen upon such terms and conditions as the director shall prescribe, if he or she has determined that:

(a) Sufficient remedy has been made of the state trust company's impairment and delinquencies; and

(b) It is in the best interest of trustors, beneficiaries, creditors, shareholders, and the general public that the state trust company be reopened rather than be liquidated.

(2) Before being permitted to reopen pursuant to this section, a state trust company shall pay all of the outstanding fees, assessment, and expenses of the director as provided for in this title. [2019 c 389 § 79.]