

IC 28-14-7.5

Chapter 7.5. Conservatorship of Corporate Fiduciaries

IC 28-14-7.5-1

Application of chapter

Sec. 1. This chapter applies to a corporate fiduciary (as defined in IC 28-1-1-3(19)).

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-2

Applications of definitions

Sec. 2. Except as otherwise provided, the definitions in IC 28-14-1 apply throughout this chapter.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-3

Appointment of conservator; bond or security

Sec. 3. (a) The department may appoint a conservator for a corporate fiduciary if the department determines that:

- (1) one (1) or more grounds for the appointment of a receiver under IC 28-1-3.1-2(a) exist with respect to the corporate fiduciary; or
- (2) the appointment of a conservator is necessary to conserve the assets of the corporate fiduciary for the benefit of:
 - (A) creditors of the corporate fiduciary;
 - (B) the beneficiaries of trusts and other fiduciary accounts administered by the corporate fiduciary; or
 - (C) other persons for whom the corporate fiduciary acts in a fiduciary capacity.

(b) A conservator appointed under this section shall give any bond or security that the department considers appropriate.

(c) The department may appoint any competent and disinterested person as a conservator under this section.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-4

Reimbursement of department; administrative expenses; payment from assets

Sec. 4. (a) A conservator appointed by the department under this chapter shall reimburse the department for all amounts expended by the department in connection with the conservatorship. Amounts reimbursed to the department under this subsection shall be paid from the assets of the corporate fiduciary as administrative expenses. Upon approval of the department, the conservator shall pay all other administrative expenses of the conservatorship from the assets of the corporate fiduciary.

(b) Administrative expenses described in this section constitute a first charge against the assets of the corporate fiduciary. The conservator shall pay the administrative expenses in full before any:

- (1) final distribution of the corporate fiduciary's assets; or

(2) payments to any person described in section 3(a)(2) of this chapter.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-5

Possession of books, records, and assets; conservation of assets; powers and obligations of conservator; rights of parties

Sec. 5. (a) Under the direction of the department, a conservator appointed under this chapter shall:

(1) take possession of the books, records, and assets of the corporate fiduciary; and

(2) take any action necessary to conserve the assets of the corporate fiduciary pending:

(A) a liquidation under IC 28-1-3.1; or

(B) other disposition of the corporate fiduciary's business as provided by law.

(b) A conservator appointed under this chapter:

(1) has all the rights, powers, and privileges of a receiver appointed under IC 28-1-3.1, except the power to liquidate a corporate fiduciary; and

(2) is subject to those obligations and liabilities to which a receiver is subject, to the extent the obligations and liabilities are consistent with this chapter.

(c) Throughout the time a conservator is in possession of a corporate fiduciary under this chapter, the rights of all parties with respect to the corporate fiduciary are the same as if a receiver had been appointed under IC 28-1-3.1.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-6

Amounts available to creditors and beneficiaries; assets received after placement in conservatorship

Sec. 6. (a) While a corporate fiduciary is in conservatorship under this chapter, the department may require the conservator to set aside and make available for payment to any persons described in section 3(a)(2) of this chapter, on a pro rata basis, any amounts that, in the opinion of the department, may be safely and prudently used for such payments.

(b) Any assets received or acquired after a corporate fiduciary is placed in conservatorship under this chapter shall be:

(1) kept in cash;

(2) invested in direct obligations of the United States; or

(3) deposited in depository institutions designated by the department.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-7

Loans in aid of operation or reorganization; security

Sec. 7. With the prior approval of the department, a conservator appointed under this chapter may borrow money as necessary or

expedient to aid in the operation or reorganization of the corporate fiduciary. Any loan obtained by the conservator under this section may be secured by the pledge or mortgage of, or through a lien upon or security interest in, any assets:

- (1) belonging to the corporate fiduciary; and
- (2) not held in trust for the benefit of another person.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-8

Termination of conservatorship; appointment of receiver; liquidation

Sec. 8. (a) The department may:

- (1) terminate a conservatorship ordered under this chapter; and
- (2) permit the corporate fiduciary subject to the conservatorship to resume the transaction of the corporate fiduciary's business, subject to any terms, conditions, restrictions, and limitations that the department may prescribe;

if the department is satisfied that a termination of the conservatorship may be done safely and is in the public interest.

(b) Subject to subsection (c), the department may:

- (1) terminate a conservatorship ordered under this chapter; and
- (2) apply for the appointment of a receiver for the corporate fiduciary under IC 28-1-3.1;

if the department determines that the appointment of a receiver for the corporate fiduciary is in the public interest.

(c) If the department determines that the liquidation of a corporate fiduciary placed in conservatorship under this chapter is in the public interest, the department shall:

- (1) terminate the conservatorship ordered under this chapter; and
- (2) apply for the appointment of a receiver for the corporate fiduciary under IC 28-1-3.1.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.

IC 28-14-7.5-9

Adoption of rules

Sec. 9. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.10-2006, SEC.78 and P.L.57-2006, SEC.78.