

## **IC 28-7-2.5**

### **Chapter 2.5. Conservatorship of Credit Unions**

#### **IC 28-7-2.5-1**

##### **Application of chapter**

Sec. 1. This chapter applies to a credit union (as defined in IC 28-7-1-0.5(3)).

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-2**

##### **Application of definitions**

Sec. 2. Except as otherwise provided, the definitions in IC 28-7-1 apply throughout this chapter.

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-3**

##### **Appointment of conservator; bond or security; eligible conservators**

Sec. 3. (a) The department may appoint a conservator for a credit union 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 credit union; or
- (2) the appointment of a conservator is necessary to conserve the assets of the credit union for the benefit of the members, depositors, and other creditors of the credit union.

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

(c) The department may appoint any of the following as a conservator under this section:

- (1) A private insurance company authorized to insure deposits or share accounts in Indiana.
- (2) The National Credit Union Administration or its successor.
- (3) Any competent and disinterested person.

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-4**

##### **Reimbursement of department; administrative expenses**

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 credit union as administrative expenses. Upon approval of the department, the conservator shall pay all other administrative expenses of the conservatorship from the assets of the credit union.

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

- (1) final distribution of the credit union's assets; or

- (2) payment of dividends to members, depositors, and other creditors of the credit union.

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-5**

##### **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 credit union; and
- (2) take any action necessary to conserve the assets of the credit union pending:
  - (A) a liquidation under IC 28-1-3.1; or
  - (B) other disposition of the credit union'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 credit union; 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 credit union under this chapter, the rights of all parties with respect to the credit union are the same as if a receiver had been appointed under IC 28-1-3.1.

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-6**

##### **Amounts available to members, depositors, and creditors; new shares, deposits, and assets; return of control to board**

Sec. 6. (a) While a credit union is in conservatorship under this chapter, the department may require the conservator to set aside and make available for:

- (1) withdrawal by members and depositors; or
- (2) payment to other creditors;

on a pro rata basis, any amounts that, in the opinion of the department, may be safely and prudently used for the purposes described in subdivisions (1) through (2).

(b) The department may permit a conservator appointed under this chapter to receive new shares and deposits after the credit union is placed in conservatorship. Shares and deposits received by a conservator while a credit union is in conservatorship are not subject to any limitation with respect to payment or withdrawal. The conservator shall segregate any:

- (1) shares or deposits; or
- (2) new assets acquired on account of shares and deposits;

received after the credit union is placed in conservatorship from the

shares, deposits, and assets held by the credit union at the time the credit union is placed in conservatorship.

(c) A conservator shall not use any shares, deposits, or assets received after the credit union is placed in conservatorship to:

- (1) liquidate any indebtedness of the credit union existing at the time the credit union is placed in conservatorship; or
- (2) pay any subsequent indebtedness incurred to liquidate any indebtedness of the credit union existing at the time the credit union is placed in conservatorship.

(d) Any shares or deposits received after a credit union is placed in conservatorship 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.

(e) If a credit union placed in conservatorship under this chapter is returned to the control of the credit union's board of directors, the protections provided under subsections (b), (c), and (d) (with respect to shares and deposits received while the credit union is in conservatorship) do not apply after fifteen (15) days after the date control of the credit union is returned to the board. Before returning control of the credit union to the credit union's board, the conservator shall publish a notice, in a form approved by the department, stating:

- (1) the date on which the affairs of the credit union will be returned to the control of the credit union's board; and
- (2) that the protections provided under subsections (b), (c), and (d) (with respect to shares and deposits received while the credit union is in conservatorship) do not apply after fifteen (15) days after the date identified under subdivision (1).

The conservator shall send, by United States mail, a copy of the notice to every person that purchased shares or deposited money in the credit union after the credit union is placed in conservatorship and before control of the credit union is returned to the credit union's board.

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-7**

##### **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 credit union. 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, the assets of the credit union.

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-8**

##### **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 credit union subject to the conservatorship to resume the transaction of the credit union'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 credit union under IC 28-1-3.1;

if the department determines that the appointment of a receiver for the credit union is in the public interest.

(c) If the department determines that the liquidation of a credit union 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 credit union under IC 28-1-3.1.

*As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.*

#### **IC 28-7-2.5-9**

##### **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.37 and P.L.57-2006, SEC.37.*