

9-1807. Cease and desist orders; institution of proceedings by commissioner; hearing by board; issuance; temporary orders of commissioner. If the state bank commissioner shall determine that any bank or trust company is engaging or has engaged, or the commissioner has reasonable cause to believe that the bank or trust company is about to engage, in an unsafe or unsound practice in conducting the business of such bank or trust company, or if the commissioner shall determine that any bank or trust company is violating or has violated, or the commissioner has reasonable cause to believe that the bank or trust company is about to violate a law, rule, regulation or order of the commissioner or state banking board, the commissioner may issue and serve upon the bank or trust company a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or practices or the alleged violation or violations, and shall state the time and place at which a hearing will be held by the board to determine whether an order to cease and desist therefrom should be issued by the board against the bank or trust company. Such hearing shall be fixed for a date not earlier than thirty (30) days nor later than sixty (60) days after service of such notice.

Unless the bank or trust company shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of such consent, or if upon the record made at any such hearing, the board shall find that any unsafe or unsound practice or violation specified in the notice of charges has been established, the board may issue and serve upon the bank or trust company an order to cease and desist from any such practice or violation. Such order may, by provisions which may be mandatory or otherwise, require the bank or trust company and its directors, officers, employees and agents to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such practice or violation. A cease and desist order shall become effective at the time specified therein, and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated or set aside by action of the board.

Whenever the commissioner shall determine that the unsafe or unsound practice or practices or the violation or violations specified in the notice of charges served upon the bank or trust company, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank or trust company, or is likely to otherwise seriously prejudice the interests of its depositors, the commissioner may issue a temporary order requiring the bank or trust company to cease and desist from any such practice or practices or violation or violations. Such order shall be effective upon service thereof upon the bank or trust company, and shall remain effective and enforceable pending the completion of the proceedings pursuant to such notice and until such time as the board shall dismiss the charges specified in such notice, or if a cease and desist order is issued against the bank or trust company, until the effective date of any such order.

History: L. 1975, ch. 44, § 1; July 1.