

BANKING CODE OF 1999 (EXCERPT)
Act 276 of 1999

487.13807 Deficiency; steps to make assessment or dissolution; extension.

Sec. 3807.

(1) If, in the opinion of the commissioner, the capital of a bank has become impaired, the commissioner shall notify the bank of his or her determination and require the directors to meet the deficiency in the capital within a 2-month period. The directors shall meet the deficiency by either making a pro rata assessment upon the stock held by each shareholder, or taking steps to dissolve the bank. The 2-month period may be extended by order of the commissioner, if in his or her discretion an extension is necessary to allow the directors to meet the deficiency.

(2) Before an assessment may be made by the directors, each shareholder, secured party, and pledgee indicated on the books of the bank as holding an interest in the stock shall be provided with written notice in a manner reasonably calculated to give actual notice of the determination made by the commissioner that the capital of the bank is impaired and the amount of the assessment that each shareholder must pay.

(3) If a shareholder refuses or neglects to pay an assessment levied by the directors within 30 days from the date notice was provided, the directors shall sell all or part of the shareholder's shares to the highest bidder in a manner provided in section 3808. Upon expiration of the 30-day period and refusal or neglect by a shareholder to pay the assessment, a security interest in favor of the bank in the amount of the assessment shall attach to all of the shareholder's shares for the sole purpose of satisfying the assessment levied. The security interest shall have priority over any other security interests perfected by a creditor or otherwise granted by the shareholder in shares issued after the effective date of this act.

(4) If the directors fail to restore the capital of the bank or take steps to dissolve the bank during the 2-month period following notice from the commissioner and any extension granted under subsection (1), the commissioner may appoint a receiver for the bank in accordance with this act.

(5) If any part of the capital of a bank consists of preferred stock, the determination of whether the capital of the bank is impaired and the amount of the impairment shall be based upon the par value of its stock even though the amount that the holders of the preferred stock shall be entitled to receive in the event of retirement or dissolution shall be in excess of the par value of the preferred stock.

(6) The holders of preferred stock shall not be liable for assessments to restore impairment in the capital of a bank.

History: 1999, Act 276, Eff. Mar. 1, 2000