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**CH. 141 SAVINGS AND LOAN COMMISSIONER**

**CHAPTER 141**  
**SAVINGS AND LOAN COMMISSIONER**

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**§ 141101. In General.**

The Savings and Loan Commissioner shall be appointed by the Governor, with the advice and consent of the Legislature, and shall hold office at the pleasure of the Governor. He shall receive such compensation as shall be prescribed or authorized by law. Before entering upon the duties of his office, he shall take and subscribe an oath of office. The commissioner shall be charged with the administration and enforcement of this act and shall have and may exercise all of the powers necessary or convenient for such purposes. Except as otherwise expressly provided by this act, none of the records of the commissioner shall be deemed to be public documents nor be open to the inspection of the public, except any report made by any association to the commissioner

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and the annual report made by a certified public accountant or accountants.

**SOURCE:** GC §41650.

**§ 141102. General Duties of Commissioner.**

It shall be the duty of the commissioner to receive and place on file in his office the annual and other reports required by law to be made by associations and to make on or before the first day of May in each year a tabulated report to the Governor, showing the condition of all associations reporting to him with such recommendations as he may deem proper, accompanied by a detailed statement of all moneys received by him since his last report and the disposition thereof.

**SOURCE:** GC §41651.

**§ 141103. Examinations of Associations.**

The commissioner shall periodically examine, or cause to be examined, the books, affairs and accounts of any association, or may, in lieu of making such examination, accept any examination of any such association made by the Home Loan Bank Board, a Federal home loan bank or the Federal Savings and Loan Insurance Corporation, or may examine any such institution in conjunction with the Home Loan Bank Board, a Federal home loan bank, or the Federal Savings and Loan Insurance Corporation.

The commissioner may make available to any regulatory or other public authority or officer, or to the Home Loan Bank Board, any Federal home loan bank, the Federal Savings and Loan Insurance Corporation or the Home Owner's Loan Corporation any information furnished to or obtained by, and all or any part of any report of any examination of any such association made by him.

**SOURCE:** GC §41652.

**§ 141104. Power to Issue Subpoenas.**

The commissioner shall have power to issue subpoenas and require attendance of any and all officers, directors, agents, salesmen, collectors and employees of any association, and such other witnesses, including former officers, directors, agents, salesmen, collectors and employees of any association, as he may deem necessary, in relation to its affairs, transactions and condition, and may require such witnesses to appear and answer such pertinent questions as may be put to them by the

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commissioner, and may require such witnesses to produce any books, documents or other things under their control as may be required by the commissioner. Upon application of the commissioner, any person served with a subpoena issued by him may be required by order of the District Court of Guam to appear and answer such pertinent questions as may be put to him by the commissioner and be required to produce any books, documents or other things under his control as may be required by the commissioner.

**SOURCE:** GC §41653.

**§ 141105. Power to Make Rules.**

The commissioner shall have power to promulgate, and from time to time to amend, supplement and revoke in whole or in part, rules and regulations not inconsistent with this act or the laws of this territory governing procedure before the commissioner and the exercise by the commissioner of the powers, discretion, rights and privileges vested in him by this act.

**SOURCE:** GC §41654.

**§ 141106. Power to Sue.**

The commissioner shall have power to commence and prosecute actions and proceedings to enjoin violations of this act or violations of orders or decisions of the commissioner rendered pursuant to this act, and for the enforcement of any and all civil penalties provided by this act.

**SOURCE:** GC §41655.

**§ 141107. Power to Take Possession of Association.**

If the commissioner as the result of any examination or from any report made to him or to any association doing business in this territory or its investors or any thereof, shall find that such association is violating the provisions of its articles of incorporation or charter or by-laws or any law of this territory, or is conducting its business in an unsafe or injurious manner, he may by an order addressed to such association direct a discontinuance of such violations or unsafe or injurious practices and a conformity with all the requirements of law; and if such association shall not comply with such order within the time specified therein, or if it shall appear to the commissioner that any association is in an unsafe condition or is conducting its business in an unsafe or injurious manner

such as to render its further proceeding hazardous to the public or to any or all of its investors, or if he shall find that its assets are impaired to such an extent that, after deducting all liabilities other than to its investors they do not equal or exceed the sum of the value of its outstanding shares and investment certificates and the par value of its outstanding stock, or if any association shall refuse to submit its books, papers and accounts to the inspection of the commissioner or any of his examiners, deputies or assistants, or if any officer thereof shall refuse to be examined upon oath, concerning the affairs of such association, then the commissioner may forthwith demand and take possession of the property, business and assets of such association and retain such possession until such association shall with the consent of the commissioner resume business, or until its affairs be liquidated. Such association may, with the consent of the commissioner, resume business upon such conditions as may be approved by him.

SOURCE: GC §41656.

**§ 141108. Court Application by Association Aggrieved.**

Whenever any association of whose property, business and assets the commissioner has taken possession, as aforesaid, deems itself aggrieved thereby, it may at any time within thirty days after such taking possession apply to the District Court of Guam to enjoin further proceedings; and said court after citing the commissioner to show cause why further proceedings should not be enjoined, and hearing the allegations and proofs of the parties and determining the facts, may upon the merits dismiss such application or enjoin the commissioner from further proceedings and direct him to surrender such business, property and assets to such association. An appeal from such judgment enjoining the commissioner from further proceedings and directing him to surrender such business, property and assets to such association shall not operate as a stay thereof, unless the trial court in its discretion shall so order and no bond need be given if such appeal be taken by the commissioner; but if such judgment dismisses such application an appeal therefrom shall not operate as a stay thereof but the court rendering such judgment may, in its discretion, enjoin the commissioner, pending the appeal, to from further proceedings and direct him, pending the appeal, to surrender such business, property and assets to such association, provided a bond shall be given as required by Title 7, Guam Code Annotated, Rule 65 of the Guam Rules of Civil Procedure.

**SOURCE:** GC §41657.

**§ 141109. Powers Upon Taking Possession.**

Upon taking possession of the business, property and assets of any association, the commissioner may under his hand and official seal appoint a custodian, require from him a good and sufficient bond and place him in charge as his representative. Upon taking such possession, the commissioner shall have authority to collect all moneys due to such association and to give full receipt therefor, and to do such other acts as are necessary or expedient to collect, conserve or protect its business, property and assets. Unless the commissioner shall be enjoined from further proceedings and directed to surrender such business, property and assets or unless such association shall with the consent of the commissioner resume business, then the commissioner shall proceed to liquidate the affairs of such association as hereinafter provided. Whenever the commissioner shall be in possession of the business, property and assets of any association, and regardless of whether or not he shall be liquidating the affairs of such association, the commissioner may in his discretion (1) apply to the District Court of Guam for an order confirming any action theretofore taken by the commissioner, or authorizing the commissioner to do any act or to execute any instrument not expressly authorized by this act, which order shall be given and made after a hearing on such notice as the court shall prescribe; (2) pay and discharge any secured claims against such association, whether or not such claims shall theretofore have been presented for payment or have become barred from presentation by the expiration of the time limit hereinafter specified; provided, that no such claim shall be paid in an amount larger than the then value of the security therefor; (3) pay such administrative or current expenses incurred prior to the taking of possession by the commissioner as may be necessary or convenient to the orderly or economic liquidation or preservation of the assets, and pay all wages or salaries, not exceeding Two hundred fifty dollars (\$250) per month to any one person, earned within six months prior to the taking of possession by the commissioner, whether or not claims for such expenses, wages or salaries shall theretofore have been presented for payment, or shall have become barred from presentation by the expiration of the time limit hereinafter specified; or (4) within six months after obtaining knowledge of the existence thereof, disaffirm any executory contracts (including leases) to which such association is party, and disaffirm any partially executed contracts (including leases) to the

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extent that they remain executory. Claims for damages resulting from the disaffirmance of any such contract or lease may be filed and allowed. No claim of a landlord for damages resulting from the disaffirmance of an unexpired lease of real property or under any covenant of such lease shall be allowed in an amount exceeding the rent reserved by the lease, without acceleration, for the year succeeding the date of the surrender of the premises plus the amount of any unpaid accrued rent without acceleration. Any such claim must be filed within 30 days of the date of such disaffirmance or within the time that claims must be filed under Section 141112 , whichever is longer.

Upon the taking of possession by the Commissioner the right to payment of matured claims for withdrawal, and the right to file notices of withdrawal, shall be suspended, and notices of withdrawal on file shall not proceed toward maturity.

**SOURCE:** GC §41658.

**§ 141110. Noncompliance With Orders.**

Whenever the Commissioner shall demand possession of the property business and assets of any association, pursuant to §124105 or § 141107 of this Act, the refusal of any officer, agent, employee or director of such association to comply with such demand shall constitute a petty misdemeanor, and if such demand be not complied with within twenty-four (24) hours after service, the Commissioner may call to his assistance the Director of Public Safety, by written demand under his hand and official seal, whereupon it shall become the duty of such official to enforce the demand of the Commissioner.

**SOURCE:** GC §41659. Amended by P.L. 13-187:210.

**§ 141111. Officers Must Furnish Schedule of Property.**

Upon taking possession of the property, business and assets of any association, the commissioner shall require the president and secretary of such association to, and such officers shall, make a schedule of all its property and assets and of all collateral held by it as security for loans and make oath that such schedule sets forth all such property, assets and collateral and shall deliver such schedule, and the possession of any and all such property, assets and collateral as may not have been so previously delivered, to the commissioner, who may at any time examine under oath such president and secretary, or other officers of such association, or the directors, agents or employees thereof, to determine

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whether or not all such property, assets or collateral have been transferred and delivered into his possession. The power of the commissioner to issue subpoenas and to require attendance of parties for examination under this section shall be as provided for in Section 141104 of this act.

**SOURCE:** GC §41660.

**§ 141112. Powers Upon Liquidation.**

In liquidating the affairs of an association, the commissioner shall have power to collect all moneys due to, and claims of, such association and to give full receipt therefor; to release or reconvey all real or personal property pledged, hypothecated or transferred in trust as security for loans; to approve and pay all just and equitable claims; provided, that shares shall participate ratably with investment certificates in the case of any association in which shareholders shall have heretofore been granted the right and option by the association to exchange their shares for investment certificates of equal value; to commence and prosecute all actions and proceedings necessary to enforce liquidation; and on the order of the District Court of Guam, given and made after a hearing on such notice as the court shall prescribe, to compound bad or doubtful debts or claims or to borrow money, or to sell, convey or transfer real or personal property. For the purpose of executing and performing any of the powers and duties hereby conferred upon him, the commissioner may in the name of such association or in his own name prosecute and defend any and all suite and other legal proceedings and may in the name of such association or in his own name as commissioner execute, acknowledge and deliver any and all deeds, assignments, releases, requests for reconveyance, and other instruments necessary and proper to effectuate any sale of real or personal property or other transaction in connection with the liquidation of such association; and any deed, assignment, release, request for reconveyance or other instrument executed pursuant to the authority hereby given shall be valid and effectual for all purposes as though the same had been executed by the officers of such association by authority of its board of directors.

Upon determining to liquidate an association, the commissioner shall cause an inventory of all the assets of such association to be made in duplicate, the original to be filed with the court and the duplicate in the office of the commissioner. He shall cause notice to be given by publication once a week for four successive weeks in a newspaper of

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general circulation in the territory to all persons having claims against it as creditors or investors or otherwise, to present and file same and make legal proof thereof at a place and within a time to be designated in such publication, which time shall be not less than six months after such first publication; and Within 10 days after such first publication he shall cause a copy of such notice to be mailed to all persons whose names appear of record upon its books as creditors or investors; and upon the expiration of the time fixed for the presentation of claims, the commissioner shall prepare or cause to be prepared in duplicate a full and complete schedule of all claims presented, specifying by classes those that have been approved and those that have been disapproved and shall file the original with the court and the duplicate in the office of the commissioner. Not later than five days after the time of filing such schedule with the court, written notice shall be mailed to all claimants whose claims have been rejected. Action to enforce the payment of or to establish any rejected claim must be brought and service had within four months from and after the date of filing of the schedule of claims with the proper court; otherwise all such actions shall be forever barred. All claims, demands or causes of action of whatever nature, and regardless of whether or not a suit shall be pending to enforce the same at the time of the taking possession of the assets of the association by the commissioner, of creditors, and persons other than investors against the association or against any property owned or held by it in trust or otherwise, must be presented to the commissioner in writing, verified by the claimant, or his agent within the period limited in the above mentioned notice for the presentation of claims; and the commissioner shall have no power to approve any claim not so presented, and any such claim, demand or cause of action not so presented shall be forever barred. Any investor, without presenting a claim, shall be entitled, as to any dividends in liquidation hereafter declared, to share in such dividends to the extent, and in the proper relative order of priority, of any claim shown by the books of the association to exist in his favor against the association. Claims of holders of investment certificates and of shares may bear, interest, from the date when interest or dividends were last paid or credited on such certificates or shares, at the rate or rates of return on investment certificates and shares as determined from time to time by the commissioner. Claims of other creditors shall bear interest at the rate provided by law on judgments from the date the commissioner takes possession of the business, property and assets of the association.

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The commissioner may under his hand and official seal appoint one more special deputies to assist in the duties of liquidation and distribution under his direction and may also employ such special legal counsel, accountants and assistants as may be needful and requisite and fix the salaries and compensation to be allowed and paid to each. All such salaries and compensation with such other reasonable and necessary expenses as may be incurred in the liquidation shall be paid by the commissioner from the funds of such association in his hands. Such expenses shall include, among other things, that part of the salary of the commissioner and of his deputies, examiners accountants, appraisers and other assistants, and that part of the general expenses of the commissioner's office as shall fairly represent, in the opinion of the Commissioner, the proportion thereof properly attributable to such liquidation. From the net realization of assets in excess of such salaries, compensation and expenses, the commissioner shall first pay all claims heretofore or hereafter approved by him in the sum of less than ten dollars (\$10), other than the claims of shareholders or stockholders, and other than the claims of certificate holders or other creditors who shall object in writing to such payment. Such claims of less than ten dollars (\$10) shall be paid at their surrender value as estimated by the commissioner and fixed and determined by the court on the same basis as claims are received in payment of real property as provided for by Section 141113, and all such claims shall thereupon be canceled. The Commissioner shall then pay all claims approved in the sum of ten dollars (\$10) or more, other than the claims of shareholders and stockholders, without distinction or preference as between the claims of certificate holders and other creditors except as hereinabove provided as to the respective rates of interest thereon; and thereafter he shall distribute and pay dividends in liquidation first to the shareholders until their claims are fully paid or such assets or funds are exhausted, and second, if any such assets or funds remain, to the stockholders until such assets or funds are exhausted; provided, however, that payments in liquidation shall be made to certificate holders or shareholders as hereinabove provided without reference to whether or not notice of intention to withdraw may have been filed or matured or the order in which any such notice may have been filed or matured; provided, further, notwithstanding anything to the contrary herein contained, in the case of any association in which shareholders shall have heretofore been granted the right and option by the association to exchange their share for

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investment certificates of equal value he shall distribute and pay dividends in liquidation to such shareholders without distinction or preference as between the claims of such shareholders and the claims of certificate holders and other creditors. Such distributions shall be made as funds are available therefor to the extent of 10 percent or more of the approved claims of the class of claimants then entitled to distribution, and shall continue until all the assets have been realized upon and a final dividend in liquidation shall be declared and paid. Where the commissioner shall have taken possession of an association and commenced paying dividends in liquidation prior to the effective date of this section, as amended, he shall nevertheless pay the claims of certificate holders or other creditors approved in the original sum of less than ten dollars (\$10), as hereinabove provided for, before paying other dividends in liquidation to those claimants whose claims were originally approved in the sum of ten dollars (\$10) or more. Upon the payment of a final dividend in liquidation, the commissioner shall prepare and file with the court a full and final statement of the liquidation, including a summary of the receipts and disbursements, and a duplicate thereof shall be filed in the office of the commissioner and after due hearing and approval by the court, the liquidation shall be deemed to be closed.

The determination by the commissioner to liquidate any association, evidenced by filing written notice of such determination with the court, shall operate to stay or dissolve any or all actions or attachments instituted or levied within 30 days next preceding the taking of possession of such association by the commissioner, and pending the process of liquidation as herein provided no attachment or execution shall be levied or lien created upon any of the property of such association.

Whenever the commissioner shall have fully liquidated all claims other than claims of stockholders, and shall have made due provision for any and all known but unclaimed liabilities, excepting claims of stockholders, and shall have paid all expenses of liquidation, then upon the written request of the holders of a majority of the stock of such association any surplus that may then remain in his hands, together with all the records and effects, shall be delivered to the association or its trustees, and thereafter such association or its trustees shall have title thereto free from any claim of the commissioner.

**SOURCE:** GC §41661.

**§ 141113. Other Powers Upon Liquidation.**

The commissioner in his discretion may accept approved claims against any association in his possession for liquidation, based on investment certificates, or on shares in the case of any association in which shareholders shall have heretofore been granted the right and option by the association to exchange their shares for investment certificates of equal value, issued by such association and approved claims of general creditors against it in partial or full payment for real property of such association, with the approval of the court, after a hearing on such notice as the court shall prescribe. Claims received in payment pursuant to this section shall be accepted at their respective surrender values as estimated by the commissioner and fixed and determined by the court and all such claims shall thereafter be canceled.

The commissioner in his discretion may reduce the rate of interest to be paid on any loan held by any association in liquidation, renew, extend the time of payment of, reduce the amount of the monthly payments of, or rewrite any such loan; and may make additional advances for the purpose of preserving the security of any such loan.

SOURCE: GC §41662.

**§ 14114. Appointment of the Federal Savings and Loan Insurance Corporation as Custodian, Receiver or Liquidator of Insured Associations.**

The Federal Saving and Loan Insurance Corporation is hereby authorized and empowered to be and act without bond as custodian, receiver or liquidator of any savings and loan association which has the insurance protection provided by Title IV of the National Housing Act as now or hereafter amended (hereafter termed "insured association") which shall have been taken over for liquidation pursuant to the provisions of this chapter. The commissioner in the event of the taking over of any such insured association for liquidation, shall appoint said corporation as custodian, receiver or liquidator thereof; and thereupon the corporation shall equally have and possess all the powers and privileges provided by the laws of this territory with respect to the commissioner upon his taking possession of a savings and loan association, and shall be subject to all the duties of such commissioner, and in addition shall have all the rights, privileges and powers conferred upon it by Federal statutes now or hereafter enacted; and may make loans on the security of, or may bid for purchase at public sale, or private sale or at any custodian's

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receiver's, or liquidator's sale, or may liquidate or sell, any part of the assets of the association of which it is the custodian, receiver or liquidator; and in the event of the purchase of any such assets, it shall bid and pay a fair and reasonable price.

Whether or not the Federal Savings and Loan Insurance Corporation shall serve as such custodian, receiver or liquidator, of any such insured association, whenever it shall pay or make provision for payment of the liabilities of any such insured association in liquidation, it shall be subrogated, upon the surrender and transfer to it of any investment certificate, share or account insured by it, to all rights of the holder with respect to such investment certificate, share or account; but such surrender and transfer of such investment certificate, share or account shall not affect any right which the transferor thereof may have in any portion of such investment certificate, share or account which is uninsured, or any right to participate in the distribution of the net proceeds remaining from the distribution of the assets of such insured association; provided, that the rights of the investors in, and creditors of, such insured association shall be determined in accordance with the applicable provisions of the laws of this territory, including the provisions of Section 141115 of this chapter.

SOURCE: GC §41663.

**§ 141115. Federal Savings and Loan Insurance Corporation Entitled to Reimbursement, After Payment of all Valid Claims, From Excess Proceeds of Liquidation.**

In the event the assets of any insured association are liquidated for an amount in excess of the amount required to pay all claims of investment certificates, share or account holders and other liabilities of such association, including the cost of liquidation, the Federal Savings and Loan Insurance Corporation shall be entitled to be reimbursed from such excess for the reasonable cost of the money disbursed by said Corporation in connection with the payment of insurance to the holders of investment certificates, shares or accounts in such association.

SOURCE: GC §41664.

**§ 141116. Disposition of Unpaid or Unclaimed Dividends and of Records.**

In making its order approving the commissioner's final statement of the liquidation of an association, the court shall determine the amounts of

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the liquidating dividends to which claimants and investors are entitled but which then remain unpaid or unclaimed in the hands of the commissioner. The order of the court shall direct the commissioner to deposit such amounts with the Treasurer of Guam, and all amounts so deposited shall be deemed to be deposited in the Treasury of Guam under the provisions of Chapter 24, Title 7, Guam Code Annotated, and shall be subject to claim or other disposition as provided in said Title 10.

The order of the court approving the final statement shall provide for the destruction or other disposition of the books and records of the association or pertaining to the liquidation of the association, and the court may declare the association dissolved as a corporation.

**SOURCE:** GC §41665.

**§ 141117. Disposition of Moneys.**

All moneys collected under the provisions of this act shall be disposed of in the manner and for such purposes as shall be prescribed by law or laws.

**SOURCE:** GC §41666.

**§ 141118. Review of Acts of Commissioner.**

Every order, decision, approval, certificate, permit or other official act of the commissioner provided for in Sections 113104, 113105, 113107 and 119102 of this act is subject to judicial review in accordance with law. An action or proceeding for judicial review of an order, decision, approval, certificate, permit or other official act of the commissioner provided for in said sections of this act, or for judicial review of any denial by the commissioner of an approval, certificate, or permit under such sections, must be commenced within 60 days after the issuance of such order, decision, approval, certificate, or permit or within 60 days after such denial or other official act, or within 60 days after the effective date of this section, whichever is the later date.

**SOURCE:** GC §41667.

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