

CONSUMER FINANCIAL SERVICES ACT (EXCERPT)
Act 161 of 1988

487.2066b Powers and duties of conservator or receiver.

Sec. 16b.

(1) The conservator, under the direction of the commissioner, or the receiver, subject to the approval of the appointing court, shall take possession of the books, records, and assets of the licensee and shall take action with respect to employees, agents, or representatives of the licensee or any other action as may be necessary to conserve the assets of the licensee, ensure payment of instruments issued by the licensee, or ensure that the mortgage loans and secondary mortgage loans are serviced as required by applicable law and the servicing contracts pending disposition of its business as provided by law. The conservator or receiver shall sue and defend, compromise, and settle all claims involving the licensee, and exercise the powers and duties as may be necessary, consistent with the laws of this state applicable to the appointment of receivers.

(2) The commissioner may appoint as conservator 1 of the employees of the bureau or some other competent and disinterested person. The bureau shall be reimbursed out of the assets of the conservatorship for all sums expended by it in connection with the conservatorship. All expenses of the conservatorship shall be paid out of the assets of the licensee, upon approval of the commissioner. The expenses shall be a first charge upon the assets and shall be fully paid before any final distribution or payment of dividends is made to creditors or shareholders.

(3) The conservator or receiver appointed under section 16 or section 16a from time to time, but in no event less frequently than once each calendar quarter, shall report to the commissioner with respect to all acts and proceedings in connection with the conservatorship or receivership.

(4) The conservator, under the direction of the commissioner, shall take sole control of all of the affairs of the licensee and the possession of the books and records of the licensee. The licensee may transfer or assign the rights to service mortgage loans or secondary mortgage loans to a person approved by the commissioner. The conservator of the licensee shall take action as may be necessary to assure that the mortgage loans and secondary mortgage loans are serviced as required by applicable law and the servicing contracts.

(5) If satisfied that it may be done safely and that it would be in the public interest, the commissioner may terminate the conservatorship established under section 16 or section 16a and permit the licensee to resume the transaction of its business subject to those terms, conditions, restrictions, and limitations as the commissioner may prescribe. Alternatively, the commissioner, in his or her discretion, may permit, under section 16 or section 16a, the licensee to continue to conduct 1 or more business activities subject to those terms, conditions, restrictions, and limitations as the commissioner may prescribe.

(6) If the commissioner determines that it would be in the public interest, the commissioner may terminate a conservatorship established under section 16 or section 16a and may apply to the circuit court for the county in which the licensee is located for the appointment of a receiver for the licensee as provided in section 16 or section 16a.

(7) Funds received for payment of the bureau's expenses incurred in connection with a conservatorship and all expenses for state supervision of conservatorships under this act shall be deposited in the state treasury and used to reimburse the bureau for expenses incurred in connection with conservatorships of licensees.

History: Add. 1999, Act 275, Imd. Eff. Jan. 5, 2000

Compiler's Notes: For transfer of authority, powers, duties, functions, and responsibility of the financial institutions bureau and the commissioner of the financial institutions bureau to the commissioner of the office of financial and insurance services and the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.