

may from time to time issue. A state bank, national bank, or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such state bank, national bank, or trust company in such clearing corporation or state bank, national bank, or trust company acting as such depository for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation or state bank, national bank, or trust company acting as such depository for its account as such fiduciary.

This subsection shall apply to any fiduciary holding securities in its fiduciary capacity, and to any state bank, national bank, or trust company holding securities as a custodian, managing agent, or custodian for a fiduciary, acting on March 14, 1973 or who thereafter may act regardless of the date of the agreement, instrument, or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent, or custodian for a fiduciary owns capital stock of such clearing corporation.

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CHAPTER 46

[House Bill No. 806]

MUTUAL SAVINGS BANKS—UNSAFE, ILLEGAL PRACTICES—CEASE AND DESIST ORDERS—PENALTIES

AN ACT Relating to mutual savings banks; amending section 32.16.090, chapter 13, Laws of 1955 and RCW 32.16.090; adding new sections to chapter 32.04 RCW; adding new sections to chapter 32.16 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 32.04 RCW a new section to read as follows:

(1) The supervisor may issue and serve upon a mutual savings bank a notice of charges if in the opinion of the supervisor any mutual savings bank:

(a) Is engaging or has engaged in an unsafe or unsound practice in conducting the business of the mutual savings bank;

(b) Is violating or has violated the law, rule, or any condition imposed in writing by the supervisor in connection with the granting of any application or other request by the mutual savings bank or any written agreement made with the supervisor; or

(c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon reasonable cause.

(2) The notice shall contain a statement of the facts constituting the alleged violation or violations or the practice or practices and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the mutual savings bank. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice, unless a later date is set by the supervisor at the request of the mutual savings bank.

Unless the mutual savings bank 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 this consent or if upon the record made at the hearing the supervisor finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the mutual savings bank an order to cease and desist from the violation or practice. The order may require the mutual savings bank and its trustees, officers, employees, and agents to cease and desist from the violation or practice and may require the mutual savings bank to take affirmative action to correct the conditions resulting from the violation or practice.

(3) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the mutual savings bank concerned, except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided therein, unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court.

NEW SECTION. Sec. 2. There is added to chapter 32.04 RCW a new section to read as follows:

Whenever the supervisor determines that the acts specified in section 1 of this 1979 act or their continuation is likely to cause insolvency or substantial dissipation of assets or earnings of the mutual savings bank or to otherwise seriously prejudice the interest of its depositors, the supervisor may also issue a temporary order requiring the mutual savings bank to cease and desist from the violation or practice. The order shall become effective upon service on the mutual savings bank and, unless set aside, limited, or suspended by a court in proceedings under section 3 of this 1979 act, shall remain effective pending the completion of the administrative proceedings under the notice and until such time as the supervisor shall dismiss the charges specified in the notice or until the effective date of a cease and desist order issued against the mutual savings bank under section 1 of this 1979 act.

NEW SECTION. Sec. 3. There is added to chapter 32.04 RCW a new section to read as follows:

Within ten days after a mutual savings bank has been served with a temporary cease and desist order, the mutual savings bank may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the order pending the completion of the administrative proceedings pursuant to the notice served under section 1 of this 1979 act.

The superior court shall have jurisdiction to issue the injunction.

NEW SECTION. Sec. 4. There is added to chapter 32.04 RCW a new section to read as follows:

In the case of a violation or threatened violation of a temporary cease and desist order issued under section 2 of this 1979 act, the supervisor may apply to the superior court of the county of the principal place of business of the mutual savings bank for an injunction to enforce the order. The court shall issue an injunction if it determines there has been a violation or threatened violation.

NEW SECTION. Sec. 5. There is added to chapter 32.04 RCW a new section to read as follows:

(1) Any administrative hearing provided in section 1 or 8 of this 1979 act may be held at such place as is designated by the supervisor and shall be conducted in accordance with chapter 34.04 RCW. The hearing shall be private unless the supervisor determines that a public hearing is necessary to protect the public interest after fully considering the views of the party afforded the hearing.

Within sixty days after the hearing, the supervisor shall render a decision which shall include findings of fact upon which the decision is based and shall issue and serve upon each party to the proceeding an order or orders consistent with section 1 or 8 of this 1979 act, as the case may be.

Unless a petition for review is timely filed in the superior court of the county of the principal place of business of the affected mutual savings bank under subsection (2) of this section, and until the record in the proceeding has been filed as provided therein, the supervisor may at any time modify, terminate, or set aside any order upon such notice and in such manner as he shall deem proper. Upon filing the record, the supervisor may modify, terminate, or set aside any order only with permission of the court.

The judicial review provided in this section shall be exclusive for orders issued under sections 1 and 8 of this 1979 act.

(2) Any party to the proceeding or any person required by an order, temporary order, or injunction issued under section 1, 2, 4, or 8 of this 1979 act to refrain from any of the violations or practices stated therein may obtain a review of any order served under subsection (1) of this section other than one issued upon consent by filing in the superior court of the county of the principal place of business of the affected mutual savings bank within ten days after the date of service of the order a written petition praying that the order of the supervisor be modified, terminated, or set aside. A copy of

the petition shall be immediately served upon the supervisor and the supervisor shall then file in the court the record of the proceeding. The court shall have jurisdiction upon the filing of the petition, which jurisdiction shall become exclusive upon the filing of the record, to affirm, modify, terminate, or set aside in whole or in part the order of the supervisor except that the supervisor may modify, terminate, or set aside an order with the permission of the court. The judgment and decree of the court shall be final, except that it shall be subject to appellate review under the rules of court.

(3) The commencement of proceedings for judicial review under subsection (2) of this section shall not operate as a stay of any order issued by the supervisor unless specifically ordered by the court.

(4) Service of any notice or order required to be served under section 1, 2, or 8 of this 1979 act, or under RCW 32.16.090, as now or hereafter amended, shall be accomplished in the same manner as required for the service of process in civil actions in superior courts of this state.

NEW SECTION. Sec. 6. There is added to chapter 32.04 RCW a new section to read as follows:

The supervisor may apply to the superior court of the county of the principal place of business of the mutual savings bank affected for the enforcement of any effective and outstanding order issued under section 1 or 8 of this 1979 act, and the court shall have jurisdiction to order compliance therewith.

No court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any such order, or to review, modify, suspend, terminate, or set aside any such order, except as provided in sections 3, 4, and 5 of this 1979 act.

Sec. 7. Section 32.16.090, chapter 13, Laws of 1955 and RCW 32.16.090 are each amended to read as follows:

Whenever the supervisor finds that: (1) Any trustee, officer, or employee of any mutual savings bank ((is dishonest, reckless, or incompetent, or fails to perform any duty of his office, he shall notify the board of trustees of such savings bank, in writing, of his objections to any such trustee, officer or employee, and such board shall within twenty days after receiving such notification meet and consider such objections, first giving notice to the supervisor of the time and place of such meeting. If the board finds the objections to be well-founded, such trustee, officer or employee shall be immediately removed:)) has committed or engaged in:

(a) A violation of any law, rule, or cease and desist order which has become final;

(b) Any unsafe or unsound practice in connection with the mutual savings bank; or

(c) Any act, omission, or practice which constitutes a breach of his fiduciary duty as trustee, officer, or employee; and

(2) The supervisor determines that:

(a) The mutual savings bank has suffered or may suffer substantial financial loss or other damage; or

(b) The interests of its depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty; and

(3) The supervisor determines that the violation, practice, or breach of fiduciary duty is one involving personal dishonesty, recklessness, or incompetence on the part of the trustee, officer, or employee;

Then the supervisor may serve upon the trustee, officer, or employee of any mutual savings bank a written notice of the supervisor's intention to remove the person from office or to prohibit the person from participation in the conduct of the affairs of the mutual savings bank.

NEW SECTION. Sec. 8. There is added to chapter 32.16 RCW a new section to read as follows:

A notice of an intention to remove a trustee, officer, or employee from office or to prohibit his participation in the conduct of the affairs of a mutual savings bank shall contain a statement of the facts which constitute grounds therefor and shall fix a time and place at which a hearing will be held. The hearing shall be set not earlier than ten days nor later than thirty days after the date of service of the notice unless an earlier or later date is set by the supervisor at the request of the trustee, officer, or employee for good cause shown or at the request of the attorney general of the state.

Unless the trustee, officer, or employee appears at the hearing personally or by a duly authorized representative, the person shall be deemed to have consented to the issuance of an order of removal or prohibition or both. In the event of such consent or if upon the record made at the hearing the supervisor finds that any of the grounds specified in the notice have been established, the supervisor may issue such orders of removal from office or prohibition from participation in the conduct of the affairs of the mutual savings bank as the supervisor may consider appropriate.

Any order under this section shall become effective at the expiration of ten days after service upon the mutual savings bank and the trustee, officer, or employee concerned except that an order issued upon consent shall become effective at the time specified in the order.

An order shall remain effective except to the extent it is stayed, modified, terminated, or set aside by the supervisor or a reviewing court.

NEW SECTION. Sec. 9. There is added to chapter 32.16 RCW a new section to read as follows:

If at any time because of the removal of one or more trustees under this chapter there shall be on the board of trustees of a mutual savings bank less than a quorum of trustees, all powers and functions vested in, or exercisable by the board shall vest in, and be exercisable by the trustee or trustees remaining, until such time as there is a quorum on the board of trustees. If all of the trustees of a mutual savings bank are removed under this chapter, the

supervisor shall appoint persons to serve temporarily as trustees until such time as their respective successors take office.

NEW SECTION. Sec. 10. There is added to chapter 32.16 RCW a new section to read as follows:

Any present or former trustee, officer, or employee of a mutual savings bank or any other person against whom there is outstanding an effective final order issued under section 8 of this 1979 act, which order has been served upon the person, and who, in violation of the order, (1) participates in any manner in the conduct of the affairs of the mutual savings bank involved; or (2) directly or indirectly solicits or procures, transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations with respect to any voting rights in the mutual savings bank; or (3) without the prior approval of the supervisor, votes for a trustee or serves or acts as a trustee, officer, employee, or agent of any mutual savings bank, shall be guilty of a gross misdemeanor, and, upon conviction, shall be punishable as prescribed under chapter 9A.20 RCW.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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CHAPTER 47

[Substitute House Bill No. 88]

IDIOPATHIC SCOLIOSIS—SCHOOL SCREENING PROGRAM— APPROPRIATION

AN ACT Relating to the examination of pupils for scoliosis; adding new sections to chapter 28A.31 RCW; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. There is added to chapter 28A.31 RCW a new section to read as follows:

The legislature recognizes that the condition known as idiopathic scoliosis, a lateral curvature of the spine commonly appearing in adolescents, can develop into a permanent, crippling disability if left untreated. Early diagnosis and referral can often result in the successful treatment of this condition and greatly reduce the need for major surgery. Therefore, the purpose of sections 1 through 7 of this act is to recognize that a school