The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 333 Original — 2018 Regular Session — Martiny

Present law provides for the duties and authority of the commissioner of the Office of Financial Institutions.

Proposed law provides for terms and procedures of the voluntary supervisory control of a state bank by the commissioner.

Proposed law provides that the board of directors of a state bank may consent to the commissioner's appointment of a supervisor over the bank if the commissioner finds from examination or other credible evidence any of the following:

(1) The state bank or any person participating in the affairs of the bank or its subsidiaries or holding companies has done any of the following:

  (a) Violated or is about to violate an order of the commissioner or any other state or federal regulator.

  (b) Provided false or misleading information to the commissioner or to any other state or federal regulator.

  (c) Committed or is about to commit a fraudulent or criminal act in conducting the affairs of the state bank that may cause the bank or a subsidiary or holding company of the bank to become or be in danger of becoming insolvent.

  (d) Committed or is about to commit an act that threatens immediate or irreparable harm to the public or the state bank, a subsidiary of the bank, or any deposit account holder or creditor of the bank.

  (e) Committed or is about to commit a breach of fiduciary duty that results in actual or probable substantial financial losses or other damages to the state bank or a subsidiary of the state bank or that would seriously prejudice the interest of the deposit account holders or holders of other security issued by the bank.

(2) Any or all conditions necessary to commence a conservatorship have been met.

(3) The state bank is in imminent danger of insolvency.

(4) The state bank is in an unsafe or unsound condition and that supervision is necessary and is in the best interest of the bank and its depositors, creditors, and shareholders, or the public.

Proposed law provides that the agreement may provide for the appointment of one or more deputy supervisors.

Proposed law provides that a supervisor or deputy supervisor shall serve until the earlier of:

(1) The expiration of the period stated in the agreement of supervision.

(2) The date the commissioner determines that the condition of the state bank has improved to the extent that the presence of a supervisor or deputy supervisor is no longer necessary.

(3) The date the commissioner appoints a substitute supervisor or deputy supervisor.

Proposed law may be relied upon by the commissioner and the board of directors of a state bank for the purposes of entering into a voluntary supervisory control agreement.

Proposed law provides that a supervisor or deputy supervisor shall have the same powers of management and control as a conservator and any other power established by agreement between the commissioner and the state bank's board of directors.

Proposed law provides that during a period of supervision, a state bank, without the prior approval of the commissioner or the supervisor or as otherwise permitted or restricted by the order of supervision, shall not do any of the following:

(1) Dispose of, sell, transfer, convey, or encumber the bank's assets.

(2) Lend or invest the bank's money.

(3) Incur a debt, obligation, or liability.

(4) Pay a cash dividend to the bank's shareholders.

(5) Remove an executive officer or director, change the number of executive officers or directors, or have any other change in the position of executive officers or directors.

Proposed law provides that the cost of the supervisory control of a state bank shall be set by the commissioner and paid by the state bank.

Effective August 1, 2018.

(Adds R.S. 6:388-390)