

Chapter S-L 1

PROCEDURE AND PRACTICE

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Note: Chapter S-L 1 as it existed on December 31, 1975 was repealed and a new chapter S-L 1 was created effective January 1, 1976.

S-L 1.01 General provisions. (1) DEFINITIONS. In this chapter:

- (a) "Code" means the Wisconsin Administrative Code.
- (b) "Commissioner" means the commissioner of savings and loan or his authorized representative.
- (c) "Days" mean calendar days computed under section 990.001 (4) of the statutes.
- (d) "Statutes" mean the Wisconsin Statutes.

(2) COMMUNICATION ADDRESSED TO COMMISSIONER. All written communications, applications and documents may be mailed to or filed with the office of the commissioner.

Note: The address of the Office of Commissioner of Savings and Loan is Room 502, 131 West Wilson Street, Madison, Wisconsin 53702. Office hours are from 7:45 a.m. to 4:30 p.m., Monday to Friday except for holidays.

(3) FORM OF PLEADINGS. All pleadings and applications shall be filed with the commissioner in duplicate and shall be captioned "Before the Commissioner of Savings and Loan". Wherever practicable, all papers filed in connection with any hearing shall be typewritten on 8-1/2" by 11" paper.

(4) NOTICES. Hearing notices shall contain the date, time and location of the hearing, a short summary of the matter to be considered, and such other information as the commissioner may consider appropriate.

(5) SERVICE. Unless otherwise specified, all materials required under this chapter may be served by personal delivery or by mail, first class postage prepaid and properly addressed to the person to be served at his last known address. When notice is so mailed it shall be deemed to have been served when deposited in the U.S. mails.

(6) LOCATION OF HEARINGS. Unless otherwise required by law or ordered by the commissioner, all hearings conducted by the office shall be held at the office of commissioner of savings and loan at the address specified in sub. (2).

(7) HEARINGS OPEN TO THE PUBLIC. (a) Except as provided in par. (b), all hearings conducted by the office shall be open to the public.

(b) Where the subject of the hearing is information that law requires the commissioner to keep confidential, that hearing or portion of a hearing may be closed to the public.

(8) **SUBPOENAS.** The commissioner may issue subpoenas as provided in ss. 215.02 (17) and 885.01, Stats.

(9) **TRANSCRIPTS.** (a) A transcript of each public hearing conducted in connection with a matter constituting a contested case within the meaning of s. 227.01 of the statutes shall be made at the direction of the commissioner. A transcript may be made of other public proceedings before the commissioner, at the direction of the commissioner or upon request of an interested party establishing a reasonable need for a transcript of the proceeding.

(b) Any person desiring a copy of a transcript shall so indicate and shall pay the cost thereof. When the transcript is prepared upon request, the requestor shall also pay the cost of obtaining the original. However, if the commissioner determines that the cost of a transcript would result in an undue economic hardship to a person having a reasonable need for a transcript, a transcript or copy shall be provided at the office's expense.

(10) **EVIDENCE.** Rules of evidence are governed by s. 227.08 of the statutes.

(11) **PRE-HEARING CONFERENCES.** (a) Before any hearing the commissioner may direct the parties to appear for a conference to consider:

1. The clarification of issues.
2. The necessity or desirability of amendments to any application or pleadings.
3. The possibility of admitting facts or documents which will avoid unnecessary proof.
4. The limitation of the number of witnesses.
5. Such other matters as may aid in the equitable disposition of the proceeding.

(b) The commissioner may make a memorandum summarizing the action taken at the prehearing conference and limiting the issues to those not disposed of by admissions or agreements among the parties. The memorandum shall be stipulated to by the parties and shall be controlling on the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice.

(12) **ADJOURNMENTS.** For good cause shown, the commissioner may adjourn a hearing to be reconvened at the discretion of the commissioner on 10 days' notice to the parties or at a time stipulated by the parties.

(13) **INFORMAL DISPOSITION OF CASES.** Unless precluded by law, the commissioner may make informal disposition of any contested case by stipulation, agreed settlement, consent order or default. If following a prehearing conference the commissioner determines that there are no material issues of fact, the commissioner may issue an appropriate order based on the undisputed facts.

(14) **CONTENTS OF RECORD IN CONTESTED CASES.** The record in a contested case shall include:

(a) All applications, pleadings, motions, intermediate rulings and exhibits and appendices thereto.

(b) Evidence received or considered, including stipulations and admissions.

(c) A statement of any matters officially noticed.

(d) Any questions and offers of proof, objections, and rulings thereon.

(e) Copies of any correspondence received by the office in connection with the proceeding.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76; am. (10), Register, June, 1977, No. 253, eff. 7-1-77; am. (8), Register, May, 1978, No. 289, eff. 6-1-78; r. and recr. (2), Register, February, 1983, No. 326, eff. 3-1-83.

S-L 1.03 Applications for new charters or additional or relocated office facilities. (1) **SCOPE AND COVERAGE.** This section applies only to applications for a certificate of authority under s. 215.40, 215.60 or 215.03 (8) of the statutes, or for the relocation of an office under s. 215.03 (7) (b) of the statutes.

(2) **APPLICATION AND CONTENTS.** Applications shall be in such form and contain such information as the commissioner may from time to time prescribe. Unless requested by the commissioner or necessary to correct an error in an application, no interpretations, conclusions or additional statistical data will be accepted from the applicant with regard to an application that has been filed. The commissioner may refuse to receive an application until the applicant has submitted all required information.

(3) **NOTICE OF APPLICATION.** Upon receiving a completed application the commissioner shall prepare and mail a notice of application in accordance with s. 215.40 (7) (a) of the statutes. The applicant shall publish the notice as required by s. 215.40 (7) (a) and furnish the commissioner with proof of proper publication. The notice will set a deadline for filing written comments on the application. If the commissioner has determined that a hearing on the application will be necessary or useful, or if the applicant has requested a public hearing, the notice of application will indicate the time and place of the hearing.

(4) **REQUEST FOR PUBLIC HEARING.** If the notice of application does not indicate a time and place for a public hearing:

(a) Any person who plans to participate in a public hearing on the application may request such a hearing. Any request for public hearing must be filed with the commissioner not later than 3 days after publication of the last insertion of the notice of application.

(b) Upon receiving a timely request for public hearing or determining that a hearing will be necessary or helpful, the commissioner shall schedule the matter for hearing and give notice to interested persons in accordance with s. 215.40 (7) (c) of the statutes.

(5) **SUBMISSION OF STATISTICAL DATA IN OPPOSITION.** (a) If an objector's opposition to an application is based in all or in part on disputed data,

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interpretations or conclusions contained in the application, the objector shall furnish the commissioner and the applicant with:

1. A list of any specific data or projections contained in the application which are disputed or challenged by the objector.

2. A list of any specific interpretations or conclusions challenged by the objector together with the reasons why the objector finds the interpretations or conclusions incorrect, misleading or inappropriate.

(b) If an objector believes that the application excludes data that should be considered when acting upon the application, the objector shall furnish the additional data it believes should be considered.

(c) All materials required under this subsection shall be served upon the commissioner and the applicant within the comment period provided in the notice or application.

(d) Unless controverted by materials received in accordance with this subsection, all information contained in an application shall be deemed to be uncontested. However, nothing in this subsection shall prevent any person appearing at a public hearing from engaging in a general discussion of the needs of the community to be served by the applicant or other considerations of public policy.

(6) CONDUCT OF PUBLIC HEARINGS. (a) Unless excused by the commissioner, all persons responsible for the preparation of the application shall be in attendance at the hearing and available for examination.

(b) Cross or adverse examination may be permitted only to the extent to which the commissioner deems necessary to fully disclose disputed material facts.

(c) The presentation made by each party may take such format as the party chooses. Unless additional time is allotted by the hearing officer under exceptional circumstances:

1. The applicant will be allowed 2 hours in which to make its presentation.

2. Objectors will be allowed a total of 2 hours in which to make their presentation.

3. At the conclusion of the presentation of the objectors the applicant will be allowed 30 minutes for rebuttal.

(d) Upon completion of the presentations by the applicant and any objectors, representatives of the commissioner's office may examine any witness or the author of any study submitted in connection with the application, to the extent that such representative deems necessary.

(e) Any party may present visual aids depicting information contained in written materials filed with the commissioner. The commissioner may mark visual aids for reference, but may dispose of any visual aid after all rights to appeal the commissioner's decision on the application have been waived or have lapsed.

(f) At the conclusion of a hearing at which an application is contested, each party will be afforded 14 days in which to submit briefs in summa-

tion. Unless requested by the commissioner, no new evidence may be submitted to the commissioner after the conclusion of the hearing.

(7) **PARTIES OF RECORD TO BE FURNISHED WITH SUPPLEMENTARY MATERIALS.** Unless otherwise directed by the commissioner, each party submitting materials to the commissioner pertaining to an application on file shall serve copies of such materials upon all other parties of record.

History: Cr. Register, December, 1976, No. 240, eff. 1-1-76; am. (1), (3) and (4), Register, June, 1977, No. 268, eff. 7-1-77; r. and recr. (3) and (4), am. (6) (c) and (d), Register, May, 1978, No. 269, eff. 6-1-78.

S-L 1.05 Petition for rules. Petitions for rules are governed by s. 227.015 of the statutes.

History: Cr. Register, December, 1976, No. 240, eff. 1-1-76.

S-L 1.07 Declaratory rulings. Declaratory rulings are governed by s. 227.06 of the statutes.

History: Cr. Register, December, 1976, No. 240, eff. 1-1-76.

S-L 1.09 Complaints against associations. (1) WHERE TO COMPLAIN. Any person who has a complaint against a savings and loan association doing business in this state and has been unable to resolve the matter to his satisfaction after discussing his complaint with the management of the association involved may complain to the office of commissioner of savings and loan in person, in writing, or by telephoning the office at (608) 266-1821.

(2) **CONTENTS OF WRITTEN COMPLAINTS.** Written complaints to the commissioner must contain:

- (a) The name and address of the complainant.
- (b) The name of the association or person complained of.
- (c) A concise statement of the facts underlying the complaint.
- (d) A request for specific action by the commissioner.

(e) Whenever possible, if the complainant has discussed the matter with a representative of the association, the names of those persons at the association with whom the complainant has discussed the complaint.

(3) **PROCEDURE UPON RECEIPT OF A WRITTEN COMPLAINT.** (a) Upon receiving a written complaint the commissioner shall review the charges. If the respondent is an association which has, with other financial institutions, formed a board to hear complaints, the commissioner may refer the complaint to such board, provided that no officer, director or employee of the association complained against participates as a member of the board in processing the complaint. If there is no such board, or if after using the complaint board the complainant or the respondent seeks further aid from the commissioner's office, the commissioner shall investigate the complaint.

(b) If after the investigation the commissioner finds probable cause to believe that there has been a violation of an administrative rule promulgated by the commissioner's office or of any provision of ch. 215 of the statutes, he shall forward a copy of the complaint to the respondent and immediately endeavor to correct the probable violation by con-

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ference, conciliation, persuasion or order. If the commissioner determines that conference, conciliation, persuasion or order have corrected the alleged violation, he shall dismiss the complaint and so notify the parties. However, if the commissioner determines that efforts at conference, conciliation, persuasion and supervisory orders have been unsuccessful in correcting the alleged violation, he may proceed to hold a hearing on the complaint. After such a hearing the commissioner shall make written findings of fact and conclusions of law, and may make such orders as he deems just and reasonable.

(c) If after investigation the commissioner finds probable cause that there has been a violation of a law or rule enforced or administered by another person or agency, he shall forward a copy of the complaint and a summary of his investigation to that person or agency, and shall take such follow-up action as he may deem appropriate.

(d) If after investigation the commissioner finds no probable cause, or when he refers a complaint for action by another person or agency, he shall so notify the complainant and the respondent.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76.

S-L 1.11 Hearings on alleged code or statute violations. (1) **SCOPE AND COVERAGE.** This section applies only to these hearings instituted by the commissioner on complaint or otherwise to determine whether there has been a violation of ch. 215 of the statutes or of an order or rule promulgated thereunder.

(2) **NOTICE REQUIREMENTS.** In addition to those items specified in S-L 1.01 (4), the notice of hearing shall:

(a) State with reasonable particularity the reason of the complaint and the allegations made; and

(b) Notify the respondent that it must answer the allegations in writing not less than 10 days before the hearing.

(3) **ANSWER REQUIRED.** (a) The respondent shall answer all allegations in writing. The answer must contain:

1. A specific denial of each of the allegations which are controverted by the respondent; and

2. A statement of any new matter constituting a defense.

(b) Unless the time within which an answer must be filed is extended for good cause shown, each material allegation which is not controverted in a written answer filed within 10 days of the hearing shall be taken as true.

(4) **SCHEDULING OF HEARINGS.** Hearings shall be convened not more than 60 days nor less than 30 days from the date notice of hearing is served upon the parties.

History: Cr. Register, December, 1975, No. 240, eff. 1-1-76.

S-L 1.13 Communications with members. (1) **MEMBERS' RIGHT TO COMMUNICATE.** (a) Although under s. 215.26 (8) of the statutes, no person may be furnished with a partial or complete list of members, each member of a mutual savings and loan association shall have the right to

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communicate with other members of the association as provided in this section.

(b) This section does not apply to any communication which:

1. Without expressed factual foundation, impugns character, integrity or personal reputation, makes charges concerning improper or immoral conduct, or makes statements impugning the stability or soundness of the association; or

2. Is not significantly related to the business of the association.

(2) NOTICE TO THE ASSOCIATION. (a) A member wishing to communicate with other members under this section shall furnish the association with a signed request containing:

1. The requesting member's full name and address;

2. The nature and extent of his interest in the association;

3. A statement of the reasons for and the purposes of the communication requested;

4. A copy of the proposed communication; and

5. The date of any scheduled meeting of members at which the subject of the correspondence is expected to be presented for consideration.

(b) The request required in par. (a) must be furnished to the association:

1. Not less than 30 days before an annual meeting, if the subject of the correspondence is to be presented for consideration at the annual meeting.

2. Not less than 30 days before a special meeting, if the subject of the correspondence is to be presented for consideration at the special meeting.

(3) ASSOCIATION'S ACTION UPON RECEIVING NOTICE. (a) Within 5 days after receiving a request under sub. (2), the association shall notify the requestor of:

1. The number of members of the association and the estimated cost that would be incurred by the association in handling and mailing the proposed communication; or

2. The association's decision not to honor the request because the request fails to comply with the requirements of this section or because the proposed communication is not within the scope of this section, stating the rationale in support of its decision.

(b) If circumstances beyond the control of the association are anticipated to prevent mailing of the proposed communication in time for it to be received by members prior to a particular meeting indicated by the requestor under sub. (2) (a), the association shall so notify the requestor at the earliest possible time.

(c) Unless the association has notified the requestor that it will not honor the request, the association shall, upon receiving a sufficient number of copies of the communication and payment sufficient to defray the association's estimated cost of handling and mailing, mail the

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communication to all of its members at the earliest practicable date or at such later date as the requestor may specify.

(4) **REVIEW BY THE COMMISSIONER.** Upon request of any member or association the commissioner may review the appropriateness of form, content, frequency, subject or method of mailing any correspondence under this section, as well as the estimated cost of handling and mailing.

History: Cr. Register, December, 1976, No. 240, eff. 1-1-76; am. (1) (a), Register, June, 1977, No. 258, eff. 7-1-77.

S-L 1.15 Public inspection of records in the possession of the commissioner. (1) **TERMS DEFINED.** (a) The "legal custodian" of the records of the office of the commissioner of savings and loan is the commissioner.

(b) In this section "record" includes any documentary material, regardless of physical form or characteristics, which is the possession or control of the office of the commissioner of savings and loan.

(2) **RECORDS AVAILABLE FOR EXAMINATION.** Except as provided in sub. (3), all records shall be available for public inspection at the commissioner's office during regular office hours and in such a manner as not to interfere with the operation of the office. Copies of written records may be made by office personnel and provided to those requesting them at a reasonable cost and within a reasonable period of time.

(3) **CERTAIN RECORDS NOT AVAILABLE.** (a) Records of the following, or those portions of records which contain the following, are not available for public inspection:

1. Information obtained by the office in the course of the examination of savings and loan associations and required to remain confidential under s. 215.02 (6) of the statutes.

2. Information obtained by the office under a clear pledge of confidentiality.

3. Deliberations following a quasi-judicial hearing.

4. Discussions or communications between legal counsel and the commissioner or the review board, concerning the legal rights and duties of the office or the review board with regard to matters within their jurisdiction.

5. Information which in the opinion of the legal custodian invades personal privacy to such an extent as to outweigh the public interest in disclosure.

6. Information that is part of a current investigation which may result in administrative or legal action or which relates to any such action, if disclosure of the information would impede or frustrate the investigation or action.

(b) Nothing in this subsection shall prevent the legal custodian from furnishing a record under such safeguards as the legal custodian may deem appropriate, when required to do so by court order or when requested to do so by a public officer in the official discharge of the public officer's duties.

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(4) **THOSE DENIED ACCESS ENTITLED TO A WRITTEN EXPLANATION.** Any person who is denied access to records shall upon written request be entitled to a written explanation from the legal custodian indicating the reasons for the denial.

History: Cr. Register, October, 1976, No. 260, eff. 11-1-76.