CHAPTER 7

Reorganization of Insolvent Banks

**SECTION 34‑7‑10.** Reorganization of banks adjudged insolvent.

When any banking institution organized and operating under the laws of this State has been duly adjudged insolvent in an action or special proceeding duly instituted in the court of common pleas of this State, the court in such action may approve a plan of reorganization for the reopening of any such bank or banking institution upon compliance with the procedure and requirements set forth in Sections 34‑7‑20 to 34‑7‑70.

HISTORY: 1962 Code Section 8‑311; 1952 Code Section 8‑311; 1942 Code Section 7874; 1932 (37) 1183.

CROSS REFERENCES

Reorganization of banks being managed by conservators, see Sections 34‑5‑110 et seq.

LIBRARY REFERENCES

9 C.J.S., Banks and Banking Section 466.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Banks and Banking Section 125, Authority for Determining Insolvency‑ Generally.

NOTES OF DECISIONS

In general 1

1. In general

Since neither bank, parent company nor shareholders exercised right of appeal from State Board of Bank Control and state court decisions effectuating closing of bank, appointment of Federal Deposit Insurance Corporation as receiver, and sale of bank’s assets to FDIC, those decisions were not subject to collateral attack in federal court proceeding. Federal Deposit Ins. Corp. v. American Bank Trust Shares, Inc. (D.C.S.C. 1978) 460 F.Supp. 549, affirmed 629 F.2d 951.

**SECTION 34‑7‑20.** Effect of reorganization plan on claims of depositors and unsecured creditors.

Any such reorganization plan may authorize the reduction of the claims of depositors and unsecured creditors, postpone the payment thereof or provide for such payment in installments as will appear to be to the best interest of the parties interested. In any such plan all claims or demands of the same class shall be treated alike.

HISTORY: 1962 Code Section 8‑312; 1952 Code Section 8‑312; 1942 Code Section 7874; 1932 (37) 1183.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Banks and Banking Section 145, Effect of Reorganization.

**SECTION 34‑7‑30.** Parties to proceeding.

All depositors, creditors and stockholders shall, for the purpose of determining upon any plan of reorganization for the reopening of any such bank under the terms of this Chapter, be deemed parties to the action or proceeding in which the adjudication of insolvency is made, provided the notice hereinafter referred to be duly served. All such depositors, creditors and stockholders who are so made parties shall be bound by the judgment order referred to in Section 34‑7‑60.

HISTORY: 1962 Code Section 8‑313; 1952 Code Section 8‑313; 1942 Code Section 7874; 1932 (37) 1183.

LIBRARY REFERENCES

9 C.J.S., Banks and Banking Section 466.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Banks and Banking Section 141, Parties to the Proceeding.

**SECTION 34‑7‑40.** Petition and order for reorganization meeting.

In the event as many as five per cent in number and amount of depositors and stockholders file a petition, duly verified, with the resident or presiding judge of the circuit in which such bank is situate, setting forth that, in their opinion:

(1) It would be to the advantage of the depositors and unsecured creditors to reorganize and reopen such bank for business;

(2) Under such reorganization plan the depositors and unsecured creditors would receive a larger percentage of their claims than would be paid under a liquidation in court; and

(3) It is feasible to reopen the bank on such plan;

And should such representations appear to the satisfaction of the judge to be true, the court shall fix by order a time and place for the holding of a meeting of depositors, creditors and stockholders of such institution for the purpose of considering and determining upon a plan for the reorganization and reopening of such institution.

HISTORY: 1962 Code Section 8‑314; 1952 Code Section 8‑314; 1942 Code Section 7874; 1932 (37) 1183.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Banks and Banking Section 143, Petition and Order for Reorganizational Meeting.

**SECTION 34‑7‑50.** Notice of meeting.

A notice of the time, place and purpose of such meeting shall be given by mail to each depositor, creditor and stockholder at his address as it appears upon the books and records of the institution, unless it be known to be otherwise and then at such last known address, at least ten days prior to the time of such meeting. The court in its order shall direct the manner of giving such notice and make such other provisions for the holding and conduct of the meeting, not inconsistent herewith, as will enable the parties to be fully heard and register their views on any plan of reorganization.

HISTORY: 1962 Code Section 8‑315; 1952 Code Section 8‑315; 1942 Code Section 7874; 1932 (37) 1183.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Banks and Banking Section 142, Notice of Reorganization.

**SECTION 34‑7‑60.** Adoption of plan; quorum and vote required; no appeal.

Before any such meeting shall be authorized to determine upon any plan of reorganization it must appear that not less than fifty per cent of depositors, unsecured creditors and stockholders are present or duly represented. In the event that two thirds in number and amount of all depositors, unsecured creditors and stockholders present at such meeting agree upon a plan of reorganization by resolution duly adopted and recommend the plan to the resident or presiding judge of such circuit, then the court, if it appear to its satisfaction that such plan will be to the best interest of all parties, may by proper judgment order approve such plan, and order the reorganization and reopening of such institution. No appeal shall be allowed or taken from such order.

HISTORY: 1962 Code Section 8‑316; 1952 Code Section 8‑316; 1942 Code Section 7874; 1932 (37) 1183.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Banks and Banking Section 144, Meeting and Adoption of Plan.

**SECTION 34‑7‑70.** Reopening of bank in hands of State Board of Bank Control; agreement of fiduciaries.

Any bank placed in the hands of the State Board of Bank Control other than a banking institution that has been duly adjudged insolvent in an action or special proceeding duly instituted in the court of common pleas under Section 34‑7‑10 may reopen and operate as a going banking institution upon the consent of two thirds of the depositors in number and amount holding deposits in excess of ten dollars in such bank who shall agree in writing to an extension of payment of unsecured creditors of the bank. Such writing shall specify the terms of such extension and amounts to be paid from time to time for a period not exceeding five years. All such agreements when signed by executors, trustees, administrators or committees for persons non compos mentis shall be lawful and binding upon their wards and shall be binding upon all depositors.

HISTORY: 1962 Code Section 8‑317; 1952 Code Section 8‑317; 1942 Code Section 7874; 1932 (37) 1183.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Banks and Banking Section 146, Reopening the Bank.