

receiver, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct. Such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

Provided, That the Comptroller may, if he deems proper, deposit any of the money so made in any regular Government depository, or in any State or national bank either of the city or town in which the insolvent bank was located, or of a city or town as adjacent thereto as practicable; if such deposit is made he shall require the depository to deposit United States bonds or other satisfactory securities with the Treasurer of the United States for the safekeeping and prompt payment of the money so deposited: *Provided*, That no security in the form of deposit of United States bonds, or otherwise, shall be required in the case of such parts of the deposits as are insured under section 12B of the Federal Reserve Act, as amended. Such depository shall pay upon such money interest at such rate as the Comptroller may prescribe, not less, however, than 2 per centum per annum upon the average monthly amount of such deposits.

(R.S. §5234; May 15, 1916, ch. 121, 39 Stat. 121; Aug. 23, 1935, ch. 614, title III, §339, 49 Stat. 721; Pub. L. 86-230, §17, Sept. 8, 1959, 73 Stat. 458; Pub. L. 103-325, title VI, §602(g)(11), Sept. 23, 1994, 108 Stat. 2294.)

REFERENCES IN TEXT

Sections 131 and 132 of this title, referred to in text, were repealed by Pub. L. 103-325, title VI, §602(e)(14), (15), Sept. 23, 1994, 108 Stat. 2292.

Section 12B of the Federal Reserve Act, as amended, referred to in text, formerly classified to section 264 of this title, has been withdrawn from the Federal Reserve Act and incorporated in the Federal Deposit Insurance Act which is classified generally to chapter 16 (§1811 et seq.) of this title.

CODIFICATION

R.S. §5234 derived from act June 3, 1864, ch. 106, §50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103-325 struck out “has refused to pay its circulating notes as therein mentioned, and” before “is in default”.

1959—Pub. L. 86-230 struck out provisions which required receiver to enforce the personal liability of shareholders.

1935—Act Aug. 23, 1935, inserted second proviso in second par.

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

INTEREST ON DEPOSITS

So much of existing law requiring the payment of interest with respect to any funds deposited by the United States or by any public instrumentality, agency, or officer thereof, as is inconsistent with former section 371a, sections 371b, 374, 374a, and 461, former sections 462 to 465, and section 466 of this title, repealed, see former section 371a of this title.

§ 193. Notice to present claims

The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof.

(R.S. §5235.)

CODIFICATION

R.S. §5235 derived from act June 3, 1864, ch. 106, §50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

§ 194. Dividends on adjusted claims; distribution of assets

From time to time, the comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held.

(R.S. §5236; Pub. L. 103-325, title VI, §602(g)(12), Sept. 23, 1994, 108 Stat. 2294.)

CODIFICATION

R.S. §5236 derived from act June 3, 1864, ch. 106, §50, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103-325 struck out “, after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association” after “From time to time”.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, not included in transfer of functions to Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, §4, 47 Stat. 1567.

§ 195. Repealed. Pub. L. 103-325, title VI, § 602(e)(36), Sept. 23, 1994, 108 Stat. 2292

Section, R.S. § 5237; Mar. 3, 1911, ch. 231, § 289, 36 Stat. 1167, related to injunction by bank denying failure to redeem notes.

§ 196. Expenses

All expenses of any preliminary or other examinations into the condition of any association shall be paid by such association. All expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

(R.S. § 5238; Pub. L. 103-325, title VI, § 602(g)(13), Sept. 23, 1994, 108 Stat. 2294.)

CODIFICATION

R.S. § 5238 derived from act June 3, 1864, ch. 106, § 51, 13 Stat. 115, which was the National Bank Act. See section 38 of this title.

AMENDMENTS

1994—Pub. L. 103-325 struck out at beginning “All fees for protesting the notes issued by any national banking association shall be paid by the person procuring the protest to be made, and such association shall be liable therefor; but no part of the bonds deposited by such association shall be applied to the payment of such fees.”

§ 197. Shareholders' meeting; continuance of receivership; appointment of agent; winding up business; distribution of assets

(a) Whenever any national banking association shall have been or shall be placed in the hands of a receiver, as provided in section fifty-two hundred and thirty-four [12 U.S.C. 192] and other sections of the Revised Statutes of the United States and section 1821(c) of this title, and when, as provided in section 194 of this title, there has been paid to each and every creditor of such association whose claim or claims as such creditor shall have been proved or allowed as therein prescribed, the full amount of such claims, and all expenses of the receivership, the Comptroller of the Currency or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall call a meeting of the shareholders of the association by giving notice thereof for thirty days in a newspaper published in the town, city, or county where the business of the association was carried on, or if no newspaper is there published, in the newspaper published nearest thereto. At such meeting the shareholders shall determine whether the receiver shall be continued and shall wind up the affairs of the association, or whether an agent shall be elected for that purpose, and in so determining the shareholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock in number of shares shall be necessary to determine whether the receiver shall be continued, or whether an agent shall be elected. In case such majority shall determine that the receiver shall be continued, the receiver shall thereupon proceed with the execution of the trust, and shall sell, dispose of, or otherwise collect the assets of the association, and shall possess all the powers and authority, and be subject to all the duties and liabilities originally conferred or imposed

upon such receiver so far as they remain applicable. In case such meeting shall, by the vote of a majority of the stock in number of shares, determine that an agent shall be elected, the meeting shall thereupon proceed to elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the person who shall receive votes representing at least a majority of stock in number of shares shall be declared the agent for the purposes hereinafter provided; and when such agent shall have executed a bond to the shareholders conditioned for the payment and discharge in full or, to the extent possible from the remaining assets of the association, of each and every claim that may thereafter be proved and allowed by and before a competent court and for the faithful performance of his duties, in the penalty fixed by the shareholders at such meeting, with a surety or sureties to be approved by the district court of the United States for the district where the business of the association was carried on, and shall have filed such bond in the office of the clerk of such court, the Comptroller and the receiver, or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall thereupon transfer and deliver to such agent all the uncollected or other assets of the association then remaining in the hands or subject to the order and control of the Comptroller and such receiver, or either of them, or the Federal Deposit Insurance Corporation; and for this purpose the Comptroller and such receiver, or the Federal Deposit Insurance Corporation, as the case may be, are severally empowered and directed to execute any deed, assignment, transfer, or other instrument in writing that may be necessary and proper; and upon the execution and delivery of such instrument to such agent the Comptroller and such receiver or the Federal Deposit Insurance Corporation shall by virtue of this Act be discharged from any and all liabilities to the association and to each and all the creditors and shareholders thereof.

(b) Upon receiving such deed, assignment, transfer, or other instrument the person elected such agent shall hold, control, and dispose of the assets and property of the association which he may receive under the terms hereof for the benefit of the shareholders of the association, and he may in his own name, or in the name of the association, sue and be sued and do all other lawful acts and things necessary to finally settle and distribute the assets and property in his hands, and may sell, compromise, or compound the debts due to the association, with the consent and approval of the district court of the United States for the district where the business of the association was carried on, and shall at the conclusion of his trust render to such district court a full account of all his proceedings, receipts, and expenditures as such agent, which court shall, upon due notice, settle and adjust such accounts and discharge such agent and sureties upon such bond. In case any such agent so elected shall die, resign, or be removed, any shareholder may call a meeting of the shareholders of the association in the town, city, or village where the business of the association was carried on, by giving notice thereof for thirty