



## Ohio Revised Code

### Section 1121.41 Notice of charges and intent to issue supervision order.

Effective: January 1, 2018

Legislation: House Bill 49 - 132nd General Assembly

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(A) The superintendent of financial institutions may issue and serve a notice of charges and intent to issue an order placing a bank or trust company under supervision and appointing a supervisor for the bank or trust company, if, in the opinion of the superintendent, any of the following applies:

(1) In the case of a bank, any of the conditions listed in section 1125.09 of the Revised Code for appointing a conservator or in section 1125.18 of the Revised Code for taking possession of a bank and appointing a receiver, exists.

(2) In the case of a trust company, any of the conditions listed in section 1111.32 of the Revised Code for revoking a license to do trust business, exists.

(3) The bank or trust company is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its shareholders, depositors, its creditors, or the public.

(B) The notice of charges and intent to issue an order placing a bank or trust company under supervision and appointing a supervisor shall include all of the following:

(1) A statement of the alleged basis for the superintendent's placing the bank or trust company under supervision and appointing a supervisor and the period for supervision;

(2) A statement of the facts supporting the superintendent's placing the bank or trust company under supervision and appointing a supervisor;

(3) A statement of the requirements to abate the superintendent's placing the bank or trust company under supervision and appointing a supervisor;

(4) A statement, in accordance with division (D) of this section, of actions the bank or trust company would be prohibited from undertaking during the period of supervision without the prior approval of



the superintendent or the supervisor appointed by the superintendent;

(5) Notice of both of the following:

(a) The bank or trust company is entitled to a hearing, conducted in accordance with section 1121.38 of the Revised Code, to determine whether the superintendent should issue an order placing the bank or trust company under supervision and appointing a supervisor, if the bank or trust company requests the hearing within thirty days after service of the superintendent's notice of charges and intent to issue an order placing the bank or trust company under supervision and appointing a supervisor;

(b) Failure to request the hearing in the time allowed, or failure to appear at a hearing timely requested, is consent to the issuance of the order placing the bank or trust company under supervision and appointing a supervisor.

(6) Notice that if the bank or trust company makes a timely request for a hearing, all of the following apply:

(a) The bank or trust company may appear at the hearing in person, by attorney, or by presenting positions, arguments, and contentions in writing.

(b) At the hearing the bank or trust company may present evidence and examine witnesses for and against the bank or trust company.

(c) The hearing will be set for a date within ten days after the superintendent's receipt of the request for the hearing or a later date mutually agreed to by the bank or trust company and the superintendent.

(C) The superintendent may issue an order placing the bank or trust company under supervision and appointing a supervisor, if either of the following applies:

(1) The bank or trust company consents to the issuance of the order;



(2) Upon the record of the hearing the superintendent finds any of the following:

(a) In the case of a bank, any of the conditions listed in section 1125.09 of the Revised Code for appointing a conservator or in section 1125.18 of the Revised Code for taking possession of a bank and appointing a receiver, exists.

(b) In the case of a trust company, any of the conditions listed in section 1111.32 of the Revised Code for revoking a license to do trust business, exists.

(c) The bank or trust company is in such condition that further transaction of business would be hazardous to its shareholders, its depositors, its creditors, or the public.

(D) An order placing a bank or trust company under supervision and appointing a supervisor may prohibit the bank or trust company from doing any of the following during the period of supervision without the prior approval of either the superintendent or the supervisor appointed by the superintendent:

(1) Disposing of, conveying, or encumbering any of its assets;

(2) Withdrawing any of its bank accounts;

(3) Lending any of its funds;

(4) Investing any of its funds;

(5) Transferring any of its property;

(6) Incurring any debt, obligation, or liability;

(7) Taking any other action specified in the order.

(E) An order placing a bank or trust company under supervision and appointing a supervisor is effective at the time specified in the order which, in the case of an order issued pursuant to division



(C)(2) of this section, shall not be less than thirty days after service of the order on the bank or trust company.

(F) An order placing a bank or trust company under supervision and appointing a supervisor remains effective and enforceable as provided in the order, except to the extent the order is stayed, modified, terminated, or set aside by action of the superintendent or a reviewing court.

(G) The cost incident to the supervisor's service shall be fixed and determined by the superintendent, and shall be a charge against the assets and funds of the bank or trust company to be allowed and paid as the superintendent determines.