

**7-2-7 Stay of proceedings against institution -- Relief.**

- (1) Except as otherwise specified, a taking of an institution or other person by the commissioner or a receiver or liquidator appointed by the commissioner under this chapter operates as a stay of the commencement or continuation of the following with respect to the institution:
  - (a) any judicial, administrative, or other proceeding, including service of process;
  - (b) the enforcement of any judgment;
  - (c) any act to obtain possession of property;
  - (d) any act to create, perfect, or enforce any lien against property of the institution;
  - (e) any act to collect, assess, or recover a claim against the institution; and
  - (f) the setoff of any debt owing to the institution against any claim against the institution.
- (2) Except as provided in Subsections (3), (4), (5), and (8):
  - (a) the stay of any action against property of the institution continues until the institution has no interest in the property; and
  - (b) the stay of any other action continues until the earlier of when the case is:
    - (i) closed; or
    - (ii) dismissed.
- (3) On the motion of any party in interest and after notice and a hearing, the court may terminate, annul, modify, condition, or otherwise grant relief from the stay:
  - (a) for cause, including the lack of adequate protection of an interest in property of the party in interest; or
  - (b) with respect to a stay of any action against property if:
    - (i) the institution does not have an equity interest in the property; and
    - (ii) the property would have no value in a reorganization or liquidation of the institution.
- (4)
  - (a) Thirty days after a request under Subsection (3) for relief from the stay of any act against property of the institution, the stay is terminated with respect to the party in interest making the request unless the court, after notice and a hearing, orders the stay continued in effect pending the conclusion of, or as a result of, a final hearing and determination under Subsection (3).
  - (b) A hearing under this Subsection (4) may be:
    - (i) a preliminary hearing; or
    - (ii) consolidated with the final hearing under Subsection (3).
  - (c) The court shall order the stay continued in effect pending the conclusion of the final hearing under Subsection (3) if there is a reasonable likelihood that the party opposing relief from the stay will prevail at the conclusion of the final hearing.
  - (d) If the hearing under this Subsection (4) is a preliminary hearing, the final hearing shall be commenced not later than 30 days after the conclusion of the preliminary hearing.
- (5) Upon request of a party in interest, the court, with or without a hearing, may grant relief from the stay provided under Subsection (1) to the extent necessary to prevent irreparable damage to the interest of an entity in property, if the interest will or could be damaged before there is an opportunity for notice and a hearing under Subsection (3) or (4).
- (6) In any hearing under Subsection (3) or (4) concerning relief from the stay of any act under Subsection (1):
  - (a) the party requesting relief has the burden of proof on the issue of the institution's equity in property; and
  - (b) the party opposing relief has the burden of proof on all other issues.

- (7) A person injured by any willful violation of a stay provided by this section shall recover actual damages, including costs and attorneys' fees and, when appropriate, may recover punitive damages.
- (8) Nothing in this section prevents the holder or the trustee for any holder of any bond, note, debenture, or other evidence of indebtedness issued by a city, county, municipal corporation, commission, district, authority, agency, subdivision, or other public body pursuant to Title 11, Chapter 17, Utah Industrial Facilities and Development Act, from exercising any rights it may have to sell, take possession of, foreclose upon, or enforce a lien against or security interest in property of an institution that has been pledged, assigned, or mortgaged as collateral for that bond, note, debenture, or evidence of indebtedness, or as collateral for a letter of credit or other instrument issued in support of that bond, note, debenture, or evidence of indebtedness.
- (9) Notice of any hearing under this section shall be served as provided in Subsection 7-2-9(6).

Amended by Chapter 324, 2010 General Session