

31A-27a-202 Commencement of formal delinquency proceeding.

- (1) A formal delinquency proceeding against a person shall be commenced by filing a petition in the name of the commissioner or department.
- (2)
 - (a) The petition required by Subsection (1):
 - (i) shall state:
 - (A) the grounds upon which the proceeding is based; and
 - (B) the relief requested; and
 - (ii) may include a request for restraining orders and injunctive relief as described in Section 31A-27a-108.
 - (b) Upon the filing of a petition, the commissioner shall forward a notice of the petition by first-class mail or electronic communication, as permitted by the receivership court, to the commissioners and guaranty associations in states in which the insurer did business.
- (3)
 - (a) A petition that requests injunctive relief:
 - (i) shall be verified by the commissioner or the commissioner's designee; and
 - (ii) is not required to plead or prove irreparable harm or inadequate remedy at law.
 - (b) The commissioner shall provide only the notice the receivership court requires.
- (4) If a temporary restraining order is requested:
 - (a) the receivership court may issue an initial order containing the relief requested;
 - (b) the order shall state the time and date of its issuance;
 - (c) the receivership court shall set a time and date for the return of summons:
 - (i) not more than 10 days from the time and date the initial order is issued; and
 - (ii) at which time the person proceeded against may appear before the receivership court for a summary hearing; and
 - (d) the order may not continue in effect beyond the time and date set for the return of summons, unless the receivership court expressly enters one or more orders extending the restraining order.
- (5)
 - (a) If no temporary restraining order is requested, the receivership court shall cause summons to be issued.
 - (b) The summons shall specify:
 - (i) a return date not more than 30 days after the day on which the summons is issued; and
 - (ii) that an answer shall be filed at or before the return date.

Amended by Chapter 297, 2011 General Session