

Part 5 Administrative Actions

31A-27-501 Title -- Construction -- Commissioner's powers.

- (1) This chapter is known as the "Delinquency Administrative Action Provisions."
- (2) The proceedings authorized by this part may be applied to:
 - (a) all insurers and reinsurers:
 - (i) who are doing, or have done, an insurance business in this state; and
 - (ii) against whom claims arising from that business may exist;
 - (b) all insurers who have the appearance of or claim they do an insurance business in this state;
 - (c) all insurers who have insureds resident in this state; and
 - (d) all other persons organized or in the process of organizing to do an insurance business as an insurer in this state.
- (3) This part shall be liberally construed to protect the interests of insureds, creditors, and the public generally, with minimum interference with the normal prerogatives of owners, through:
 - (a) early detection of any potentially dangerous condition in an insurer;
 - (b) prompt application of appropriate regulatory corrective measures; and
 - (c) regulation of the insurance business by law relating to insolvency of insurers and by substantive rules on the entire insurance business.
- (4) This part does not limit the powers granted the commissioner by other provisions of law.

Renumbered and Amended by Chapter 309, 2007 General Session

31A-27-502 Definitions.

As used in this part, "record" is as defined in Section 31A-27a-102.

Enacted by Chapter 309, 2007 General Session

31A-27-503 Commissioner's administrative actions.

- (1)
 - (a) The commissioner may take an action described in Subsection (1)(b) whenever the commissioner has reasonable cause to believe, and determines after a hearing that an insurer:
 - (i) has committed or engaged in an act, practice, or transaction that would subject the insurer to a formal delinquency proceeding under Chapter 27a, Insurer Receivership Act;
 - (ii) is committing or engaging in an act, practice, or transaction that would subject the insurer to a formal delinquency proceeding under Chapter 27a, Insurer Receivership Act;
 - (iii) is about to commit or engage in an act, practice, or transaction that would subject the insurer to a formal delinquency proceeding under Chapter 27a, Insurer Receivership Act;
 - (iv) is in or is about to be in a condition that would subject the insurer to a formal delinquency proceeding under Chapter 27a, Insurer Receivership Act; or
 - (v) is in hazardous financial condition or potentially hazardous financial condition, as defined by rule made under Subsection 31A-27a-101(3)(c).
 - (b) If the conditions of Subsection (1)(a) are met, the commissioner may make and serve upon the insurer and any other persons whose action or forbearance from action is reasonably necessary, those orders, other than a seizure order under Section 31A-27a-201, that are

reasonably necessary to correct, eliminate, or remedy the act, practice, transaction, or condition described in Subsection (1)(a).

- (c) The commissioner may issue an order for the insurer to submit to supervision by a supervisor appointed by the commissioner until the act, practice, transaction, or condition that is the ground for the order has been halted or corrected.
- (2)
- (a) The commissioner may make and serve an order issued under Subsection (1) without notice and before a hearing if:
 - (i) the conditions of Subsection (1) are satisfied; and
 - (ii) it appears to the commissioner that irreparable harm to the property or business of the insurer or to the interests of its policyholders, creditors, or the public may occur unless the commissioner issues, with immediate effect, the order.
 - (b) The commissioner shall serve the insurer with an order described in this Subsection (2) and a notice of agency action, containing a statement of the reasons why irreparable harm is threatened unless the order is issued with immediate effect.
- (3)
- (a) If the commissioner issues an order for supervision of an insurer under Subsection (1) or (2), the commissioner shall:
 - (i) notify the insurer that the insurer is under the supervision of the commissioner; and
 - (ii) explain the reasons for that supervision.
 - (b) During the period of supervision, the commissioner may prohibit the insurer from doing any of the following, without the prior approval of the commissioner or a supervisor appointed by the commissioner:
 - (i) transferring any of its assets or its business in force;
 - (ii) withdrawing funds from any of its bank accounts;
 - (iii) lending any of its funds;
 - (iv) investing any of its funds;
 - (v) transferring any of its property;
 - (vi) incurring any debt, obligation, or liability other than in the ordinary and usual course of business; or
 - (vii) entering into any new reinsurance contract or treaty.
- (4)
- (a) If the commissioner issues a summary order before a hearing under Subsection (2), the insurer may waive the commissioner's hearing and apply for immediate judicial relief by any remedy afforded by law, without first exhausting the insurer's administrative remedies.
 - (b) If the insurer has a hearing before the commissioner, the insurer and any person whose interests are substantially affected are entitled to judicial review of any order issued by the commissioner.

Amended by Chapter 253, 2012 General Session

31A-27-504 Conduct of hearings.

- (1) The commissioner shall hold a hearing conducted under Section 31A-27-503 privately unless the insurer requests a public hearing.
- (2) All records of the insurer, other documents, and all department files and papers, so far as they pertain to or are a part of the record of a hearing conducted under Section 31A-27-503, shall be kept confidential:

- (a) except as is necessary to obtain compliance with a hearing conducted under Section 31A-27-503; or
 - (b) unless the insurer requests that the matter be made public.
- (3) Any person having possession or custody of and refusing to deliver any of the records of an insurer against which an order is issued by the commissioner is in accordance with a hearing conducted under Section 31A-27-503 subject to Section 31A-2-308.

Renumbered and Amended by Chapter 309, 2007 General Session