

## **Part 8 Discharge**

### **31A-27a-801 Condition on release from delinquency proceedings.**

- (1) Unless otherwise provided in a plan approved by the guaranty associations, an insurer that is subject to a rehabilitation proceeding may not take an action listed in Subsection (2) until all payments by all guaranty associations of or on account of the insurer's contractual obligations are repaid to the guaranty associations with:
  - (a) all expenses related to the payments by all guaranty associations of or on account of the insurer's contractual obligations; and
  - (b) interest on all the payments.
- (2) Until an insurer that is subject to a rehabilitation proceeding complies with Subsection (1), the insurer may not:
  - (a) be permitted to:
    - (i) solicit or accept new business; or
    - (ii) request or accept the restoration of any suspended or revoked license or certificate of authority;
  - (b) be returned to the control of its shareholders or private management; or
  - (c) have any of its assets returned to the control of its shareholders or private management.

Enacted by Chapter 309, 2007 General Session

### **31A-27a-802 Discharge of liquidator and termination of liquidation proceedings.**

- (1) When all property justifying the expense of collection and distribution is collected and distributed under this chapter, the liquidator shall apply to the receivership court for an order discharging the liquidator and terminating the proceeding.
- (2) The receivership court may grant the application and make any other orders, including orders to:
  - (a) transfer any remaining funds that are uneconomic to distribute; or
  - (b) pursuant to Subsection 31A-27a-703(3), assign an asset that remains unliquidated, including a claim or cause of action, as may be considered appropriate.

Enacted by Chapter 309, 2007 General Session

### **31A-27a-803 Reopening liquidation.**

- (1) After a liquidation proceeding is terminated and the liquidator discharged, the commissioner may at any time petition the court that was the receivership court to reopen the proceedings for good cause, including the discovery of additional property.
- (2) If the court is satisfied that there is justification for reopening the proceedings, the court shall order the proceedings reopened.

Enacted by Chapter 309, 2007 General Session

### **31A-27a-804 Disposition of records during and after termination of liquidation.**

- (1) Whenever it appears to the receiver that records of the insurer in receivership are no longer useful, the receiver may recommend to the receivership court, and the receivership court shall direct what records shall be destroyed.

- (2)
  - (a) If the receiver determines that records should be maintained after the closing of the delinquency proceeding, the receiver may reserve property from the receivership estate for the maintenance of the records.
  - (b) Any amounts retained under this Subsection (2) are an administrative expense of the estate under Subsection 31A-27a-701(2)(a).
  - (c) Any records retained pursuant to this Subsection (2) shall be transferred to the custody of the commissioner, and the commissioner may retain or dispose of the records as appropriate, at the commissioner's discretion.
  - (d) Records of a delinquent insurer that are transferred to the commissioner:
    - (i) may not be considered a record of the department for any purpose; and
    - (ii) are not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 382, 2008 General Session

**31A-27a-805 External audit of the receiver's books.**

- (1) As used in this section, "books" means:
  - (a) the business operations of the receiver;
  - (b) the accounting systems and procedures of the receiver; and
  - (c) the financial records of the receiver.
- (2)
  - (a) The receivership court may, as it considers desirable, order an audit to be made of the books of the receiver relating to any receivership established under this chapter.
  - (b) A report of each audit under this Subsection (1) shall be filed with:
    - (i) the commissioner; and
    - (ii) the receivership court.
- (3) The books of the receivership shall be made available to the auditor at any time without notice.
- (4) The expense of each audit shall be considered a cost of administration of the receivership.

Enacted by Chapter 309, 2007 General Session