

40-3616. Rehabilitation of insurer; application by commissioner for order of court; grounds. The commissioner may apply by petition to the district court of Shawnee county for an order authorizing the commissioner to rehabilitate a domestic insurer on any one or more of the following grounds:

(a) The insurer is in such condition that the further transaction of business would be hazardous financially to its policyholders, creditors or the public;

(b) there is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that if established would endanger assets in an amount threatening the solvency of the insurer;

(c) after demand by the commissioner under K.S.A. 40-222 and amendments thereto or under this act, the insurer has failed to promptly make available for examination any of such insurer's own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer, or those of any person having executive authority in the insurer so far as they pertain to the insurer;

(d) control of the insurer, whether by stock ownership or otherwise, and whether direct or indirect, is in a person or persons found after notice and hearing to be untrustworthy;

(e) any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director or trustee, employee or other person, has refused to be examined under oath by the commissioner concerning its affairs, whether in this state or elsewhere; and after reasonable notice of the fact, the insurer has failed promptly and effectively to terminate the employment and status of the person and all such person's influence on management;

(f) without first obtaining the written consent of the commissioner, the insurer has transferred or attempted to transfer, in a manner contrary to K.S.A. 40-3301, 40-221a or 40-309 and amendments thereto, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person;

(g) the insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator or sequestrator or similar fiduciary of the insurer or its property otherwise than as authorized under the insurance laws of this state, and such appointment has been made or is imminent, and such appointment might oust the courts of this state of jurisdiction or might prejudice orderly delinquency proceedings under this act;

(h) the insurer has failed to pay within 60 days after due date any obligation to any state or any subdivision thereof or any judgment entered in any state, if the court in which such judgment was entered had jurisdiction over such subject matter except that such nonpayment shall not be a ground until 60 days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts, or the insurer has systematically attempted to compromise or renegotiate previously agreed settlements with its creditors on the ground that it is financially unable to pay its obligations in full; or

(i) the board of directors of the insurer requests or consents to rehabilitation under this act.

History: L. 1991, ch. 125, § 12; July 1.