

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.8112 Rehabilitation of insurer; petition; grounds.

Sec. 8112.

The commissioner may apply by petition to the circuit court for Ingham county for an order authorizing the commissioner to rehabilitate a domestic insurer or an alien insurer domiciled in this state on 1 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 insurer's solvency.

(c) The insurer has failed to remove a person who in fact has executive authority with the insurer, whether an officer, manager, general agent, employee, or other person, if the person has been found after notice and hearing by the commissioner to be dishonest or untrustworthy in a way affecting the insurer's business.

(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) A person who in fact has executive authority with 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 of his or her influence on management.

(f) After demand by the commissioner, the insurer has failed to promptly make available for examination its property, books, accounts, documents, or other records, or those of a subsidiary or related company within the control of the insurer, or those of a person having executive authority with the insurer and pertaining to the insurer.

(g) Without first obtaining the commissioner's written consent, the insurer has transferred, or attempted to transfer, in a manner contrary to law, substantially its entire property or business, or has entered into a 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.

(h) 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 the appointment has been made or is imminent, and the appointment may deny the courts of this state of jurisdiction or might prejudice orderly delinquency proceedings under this chapter.

(i) Within the previous 4 years the insurer has willfully violated its charter or articles of incorporation, its bylaws, an insurance law of this state, or a valid order of the commissioner under section 8109.

(j) The insurer has failed to pay within 60 days after due date an obligation to a state or a subdivision of a state or a judgment entered in a state, if the court in which the judgment was entered had jurisdiction over the subject matter. However, nonpayment shall not be a ground until 60 days after a good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or the court, 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.

(k) The insurer has failed to file its annual report or other financial report required by statute within the time allowed by law and, after written demand by the commissioner, has failed to give immediately an adequate explanation.

(l) The board of directors or the holders of a majority of the shares entitled to vote request or consent to rehabilitation under this chapter.

(m) Is found, after examination, to be in a condition so that it could not presently meet the requirements for incorporation and authorization.

History: Add. 1989, Act 302, Imd. Eff. Jan. 3, 1990

Popular Name: Act 218