

§ 58-30-65. Court's seizure order.

(a) The Commissioner may file in the Court a petition alleging, with respect to a domestic insurer:

- (1) That there exist grounds that justify a judicial order for a formal delinquency proceeding against an insurer under this Article;
- (2) That the interests of policyholders, creditors, or the public will be endangered by delay; and
- (3) The contents of an order deemed by the Commissioner to be necessary.

(b) Upon a filing under subsection (a) of this section, the Court may issue forthwith, **ex parte**, the requested order, that directs the Commissioner to take possession and control of all or a part of the property, books, accounts, documents, and other records of an insurer, and of the premises occupied by it for transaction of its business, and that, until further order of the Court, enjoins the insurer and its officers, managers, agents, and employees from disposing of its property and from transacting its business except with the written consent of the Commissioner.

(c) The Court shall specify in the order what its duration shall be, which shall be such time as the Court considers necessary for the Commissioner to ascertain the condition of the insurer. On motion of either party or on its own motion, the Court may from time to time hold such hearings as it considers desirable after such notice as it considers appropriate; and may extend, shorten, or modify the terms of the seizure order. The Court shall vacate the seizure order if the Commissioner fails to commence a formal proceeding under this Article after having a reasonable opportunity to do so. An order of the Court pursuant to a formal proceeding under this Article shall **ipso facto** vacate the seizure order.

(d) Entry of a seizure order under this section does not constitute an anticipatory breach of any contract of the insurer.

(e) An insurer subject to an **ex parte** order under this section may petition the Court at any time after the issuance of such order for a hearing and review of the order. The Court shall hold such a hearing and review not more than 15 days after the request. A hearing under this subsection may be held privately in chambers, and it shall be so held if the insurer proceeded against so requests.

(f) If, at any time after the issuance of such an order, it appears to the Court that any person whose interest is or will be substantially affected by the order did not appear at the hearing and has not been served, the Court may order that notice be given. An order that notice be given does not stay the effect of any order previously issued by the Court. (1989, c. 452, s. 1.)