

Article - Insurance

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§3-109.

(a) If the minimum surplus of a stock insurer required to be maintained by § 4-105 of this article becomes impaired, or if the assets of a mutual insurer are less than its liabilities and the minimum amount of surplus required to be maintained by §§ 3-106 and 3-107 of this subtitle for authority to engage in the kinds of insurance business being transacted, the Commissioner immediately shall:

(1) determine the amount of deficiency; and

(2) serve notice on the insurer to cure the deficiency within 60 days after service of the notice.

(b) An insurer may cure the deficiency:

(1) in cash or in assets eligible for the investment of the insurer's funds under Title 5, Subtitle 5 or Subtitle 6 of this article;

(2) if a stock insurer, by reducing its capital to an amount not below the minimum required for the kinds of insurance that the stock insurer will transact; or

(3) if a mutual insurer, by amending its certificate of authority to cover only the kinds of insurance for which the mutual insurer has sufficient surplus under this article.

(c) (1) Except as provided in paragraph (2) of this subsection, if an insurer does not cure the deficiency and file proof that it has done so with the Commissioner within the 60-day period:

(i) the insurer is considered insolvent; and

(ii) the Commissioner shall institute delinquency proceedings against the insurer under Title 9, Subtitle 2 of this article.

(2) If the deficiency exists because the Commissioner required increased loss reserves, disallowed certain assets, or reduced the value at which certain assets are carried in the insurer's accounts, the Commissioner, on application and good cause shown, may extend for not more than an additional 60 days the period within which the insurer may cure the deficiency and file proof that it has done so.

(d) The directors of an insurer are individually liable for losses incurred under policies that are issued by the insurer:

(1) after expiration of the period provided for curing a deficiency of the insurer's capital stock or surplus; and

(2) before the deficiency is cured.

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