

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

In the Matter of CADILLAC INSURANCE COMPANY,
IN LIQUIDATION

BILL SCHUETTE, Attorney General
of the State of Michigan, ex rel
R. KEVIN CLINTON, Commissioner of the
Office of Financial and Insurance Regulation
of the State of Michigan,

File No.: 89-64126-CR

Hon. William E. Collette

Petitioners,

vs.

CADILLAC INSURANCE COMPANY,
a Michigan Corporation,

Respondent.

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RECEIVER'S PETITION TO APPROVE PLAN
FOR INTERIM DISTRIBUTION OF ESTATE ASSETS

R. Kevin Clinton, Commissioner of the Office of Financial and Insurance Regulation, in his capacity as Receiver of Cadillac Insurance Company in Liquidation ("Cadillac"), through his attorneys, Zausmer, Kaufman, August, Caldwell & Tayler, P.C., consistent with MCL 500.7834 and the 4th Amended Claims Adjudication Procedures approved by this Court, asks the Court to

enter an Order Approving the Receiver's Plan for an Interim Distribution of Estate Assets. In support of this Petition, the Receiver states as follows:

GENERAL BACKGROUND

1. On July 7, 1989, following a Michigan Insurance Bureau examination, at the request of the then-Acting Commissioner of Insurance, the Michigan Attorney General commenced conservatorship proceedings against Cadillac Insurance Company, a Michigan-domiciled property and casualty insurer, in accordance with then-Chapter 78 of the Michigan Insurance Code, MCL 500.7800 ("Chapter 78").¹

2. On July 7, 1989, Cadillac was placed in conservatorship by order of the Honorable James T. Kallman of the Ingham County Circuit Court. The Conservatorship Order appointed the then-Acting Commissioner of Insurance as Temporary Conservator of Cadillac and ordered the Temporary Conservator to "conduct the business of [Cadillac], and to take steps to conserve the affairs of Cadillac."

3. On January 2, 1990, after it had become apparent that Cadillac was insolvent, the Honorable Carolyn Stell of the Ingham County Circuit Court converted the conservation proceeding into a liquidation proceeding by entry of an Order Granting Appointment of Permanent Liquidating Receiver, Permanent Injunction and Related Orders Governing Liquidating Receivership ("Liquidation Order" attached as Exhibit B).² The Liquidation Order appointed the

¹Chapter 78, which was repealed in 1989, no longer appears in the MCLA. Therefore, a copy of Chapter 78 is attached as Exhibit A.

²Cadillac is being liquidated under Chapter 78 because that chapter was in effect when conservatorship proceedings related to Cadillac were commenced. 1989 PA 302 repealed Chapter 78 and requires insurance receiverships to proceed under the newly passed Chapter 81 (MCL 500.8101 *et seq.*). However, Chapter 81 states that "delinquency proceedings commenced prior to January 1, 1990, shall be conducted pursuant to former chapter 78." MCL 500.8101(4).

Acting Commissioner, Dhiraj Shah, as Receiver of Cadillac, and his designee, Jacqueline Reese, as Deputy Receiver. They were ordered to take possession of “all properties and assets” of Cadillac, and to liquidate the business of Cadillac “so as to protect the interests of subscribers, creditors, and the people of the State.”

4. Since Cadillac was ordered liquidated in 1990, each succeeding Commissioner or Acting Commissioner of Insurance has assumed the position of Receiver of Cadillac and has assumed the duties as stated in the Liquidation Order.³ In 1996, Jacqueline Reese resigned as Deputy Receiver and was subsequently replaced by James Gerber, who continues to serve as Deputy Receiver.

5. As of April 15, 2011, by appointment of Governor Snyder, R. Kevin Clinton became the duly-appointed Commissioner of OFIR, and thus became the successor Receiver of Cadillac.⁴

6. As related more fully below and in the annual reports filed with this Court, the liquidation of Cadillac has been successfully accomplished through:

- a. Implementation of a Proof of Claim process.
- b. Marshaling of assets.
- c. Settlement of various disputes.
- d. Distributions of assets to state guaranty funds as reimbursement for administrative expenses incurred in paying covered claims of Cadillac insureds.

³By Executive Order 2000-04, former Governor Engler established the Michigan Office of Financial and Insurance Services (“OFIS”) as successor to the Michigan Insurance Bureau. The OFIS Commissioner assumed the duties previously assigned to the Commissioner of Insurance. Subsequently, effective April 6, 2008, Governor Granholm, through Executive Order 2008-02, reorganized OFIS and changed its official name to the Office of Financial and Insurance Regulation (“OFIR”).

⁴A petition seeking this Court’s acknowledgment of the substitution of Commissioner Clinton for former Commissioner Ken Ross is being filed concurrently with the Petition.

- e. Appropriate tax planning based on Cadillac's status as a subsidiary of EMS Enterprises, Inc., an entity that is not in liquidation.

HISTORY OF ADMINISTRATION OF THE RECEIVERSHIP

7. Resolution of Claims. Cadillac's pre-liquidation claims were resolved through a Court-approved process.

- As provided in the Liquidation Order, all contracts for insurance, warranties and surety bonds issued by Cadillac that were in force on January 2, 1990, and that did not expire by their terms or were not replaced by February 1, 1990, were terminated at midnight on February 1, 1990.
- The Receiver notified the insurance regulatory authorities in every state of the Cadillac liquidation, through the National Association of Insurance Commissioners State Computing Network.⁵ The Receiver also notified all property and casualty guaranty associations and all life and health guaranty associations through the computer networks of the National Association of Insurance Guaranty Funds and the National Organization of Life and Health Guaranty Associations, respectively.
- The Receiver notified all persons or entities that might have a claim against Cadillac, including policyholders, claimants, creditors and agents, of their right to file a Proof of Claim ("POC") form in the Liquidation proceeding. Such notification was provided by first class mail and by publication, consistent with the terms of the Liquidation Order.
- The Liquidation Order set June 30, 1990, as the deadline date for filing claims with the Receivership. The Court, by Order dated June 27, 1990, extended the filing deadline until March 31, 1991.
- A total of 21,069 individual POCs were submitted to the Receivership either directly or indirectly through a guaranty association or ancillary receivership.
- The Receivership handled, organized and maintained copies of all POCs that were submitted to it and forwarded POCs and claim files, as appropriate, to the relevant state guaranty associations for further administration. To the extent required, the Receivership staff investigated and adjusted claims, including claims involving surplus lines states and those claims that were denied or not covered by a guaranty association. Claims filed after the filing deadline were denied.

⁵ As explained above, since the inception of the Liquidation, several succeeding commissioners have served as Receiver of Cadillac. However, for the sake of clarity and brevity, this Petition hereafter refers to the "Receiver" generally without identifying the particular commissioners who took specific actions.

- The Receivership developed and obtained Court approval for its standardized Claims Adjudication Procedures (“Claim Procedures”). The Claim Procedures have been further developed and modified during the pendency of the Receivership.
- The Receiver reached a determination regarding the value of each guaranty association claim for reimbursement of administrative expenses and covered claims and also of each claim handled directly by the Receivership, and issued Notices of Determination with respect to all such claims.
- Consistent with the Claims Procedures, if a claim was denied in whole or in part by the Receiver, written notice of the determination was given to the claimant or his or her attorney by first-class mail at the address shown in the proof of claim or any updated address provided by the claimant.
- The Notices of Determination, consistent with the Claims Procedures, provided an appeal process should a claimant object to the Liquidator’s claim determination.
- Consistent with the Claims Procedures, the Receiver obtained Court approval to deny claims of claimants who could not be located, despite diligent efforts to do so, by the Receiver or whose de minimis claims were uneconomic to adjudicate.
- All Class 1 Claims have been resolved, as no objections to Class 1 claim determinations were filed.
- In light of the amount of Estate assets and the amount of the approved claims, on September 30, 2010, the Receiver issued Notices of Determination to Class 2 Claimants notifying them that their claims will be denied due to insufficient Estate assets to provide them with any recovery. The 60-day objection deadline with respect to the latest-mailed of the Notices of Determination expired on November 29, 2010.

8. Transfer of Existing Business. In early 1990, the Receiver contracted with companies to assume some of Cadillac’s existing business. With this Court’s assistance and approval, three blocks of business were assumed by other companies. These included the Michigan automobile liability and physical damage business and Michigan motorcycle liability business; the in-force California motorcycle liability and physical damage block of business; and limited in-force Michigan surety business. The details of these assumptions were provided in early reports filed with this Court.

9. Marshaling of Assets. The Receiver aggressively marshaled assets of the Estate:
- Shareholder Liability Suit. In 1992, the Receiver brought suit against Cadillac's sole shareholder, Arlans Agency, Inc. (n/k/a EMS Enterprises, Inc.), and other Arlans subsidiaries to recover damages, including over \$8.2 million in agents balances that were owed by these agents to Cadillac.⁶ This suit, and 11 related lawsuits involving Arlans, its sole shareholder, Ernest Solomon, and other related persons and entities were extensively litigated over a period of years and ultimately settled in July 1995, with the approval of this Court. As a result of this Global Settlement Agreement, the Estate received \$3,642,500 plus other benefits, such as restrictions on the insurance licenses of the defendants and receipt of clear title to certain real property.
 - Managing General Agent Litigation. The Receiver also litigated over a number of years against several former Managing General Agents of Cadillac in Illinois, Michigan, California and New York, ultimately obtaining judgments totaling millions of dollars in these suits. Bankruptcy filings by two of these agents and the federal imprisonment of the owner of a third agent made collection on these judgments a challenge. However, as detailed in reports filed with this Court, total collections from these agents exceeded \$2 million.
 - Illinois CD Litigation. The Receiver participated in Illinois litigation over several years that related to two Illinois insurance companies in which Cadillac had an interest and which had been ordered liquidated by the Commissioner of Insurance in Illinois before Cadillac was ordered liquidated. Cadillac defended its interest in four certificates of deposit held by banks in Illinois against the interests asserted by other claimants, including the Illinois receiver, and ultimately recovered over \$3.3 million.
 - Liquidation of Real Estate Portfolio. At the time it was ordered liquidated, Cadillac and its subsidiary, Cadillac Life Insurance Company, had a portfolio of 26 loans consisting of residential and commercial mortgage loans and collateral loans. This portfolio had a principal balance of over \$10.5 million on the date Cadillac was ordered liquidated. The Receiver diligently marshaled these assets over a number of years, litigating issues related to these properties as necessary, and was successful in marshaling well over \$11 million for the Estate through these efforts.
 - Miscellaneous Recoverables. The Receivership staff continuously monitored and collected amounts due to Cadillac for salvage, subrogation, reinsurance and from the Michigan Catastrophic Claims Association. The total collected on these recoverables has been nearly \$350,000 over the course of the Receivership.

⁶The term "agent's balances" refers to premium due to the insurer that is collected by an agent but not remitted to the insurer.

- Liquidation and Merger of Subsidiaries. The Receiver liquidated the assets of Cadillac's three subsidiaries – Cadillac Life Insurance Company ("Cadillac Life"), City Premium Budget Company ("City Premium") and World Premium Budget Service, Inc. ("World Premium").
 - Cadillac Life was incorporated in 1983 as a wholly-owned subsidiary of Cadillac. The Receiver maintained the insurance operations of Cadillac Life during the liquidation until the insurance business was assumed by Life of America Insurance Company effective April 1, 1993. Cadillac Life's real estate and loan portfolios were retained for liquidation by the Receiver, with proceeds ultimately added to the liquidation Estate for distribution to Cadillac claimants. The Receiver's collection on the loan portfolio is discussed above. In addition, Cadillac Life owned three parcels of land in Lyon Township, Michigan. All three properties were sold on land contract for principal amounts totaling over \$1.2 million, and all land contracts were fully paid by year-end 2001.
 - City Premium and World Premium were both subsidiaries of Cadillac's parent company, Arlans, and the stock of both was transferred to Cadillac during the conservatorship as a means of injecting assets into Cadillac in an attempt to avoid insolvency. The many problems and unexpected liabilities associated with this transfer and collection on the receivables were described in reports to this Court. The assets of both companies consisted of various types of loans, including premium finance loans, auto loans and personal loans. The Receiver was successful in collecting essentially all of the \$1.2 million in receivables owed to World Premium at the time of transfer. Although poor administrative practices prior to the transfer of the stock to Cadillac resulted in over \$ 4 million of City Premium's receivables being written off to bad debt, the Receiver ultimately collected more than \$6.3 million in principal and interest on the City Premium accounts.

Effective January 1, 1998, consistent with a Receivership Court Order dated July 11, 1997, all three subsidiaries were merged into Cadillac, and their separate existence ceased. The assets of the companies, consisting of invested funds and loan receivables, were absorbed by Cadillac. None of the three had any known debts or liabilities. The merger of the subsidiaries into Cadillac allowed the Receiver to substantially streamline the organizational structure of the Receivership, and to realize consequent cost and administrative efficiencies.

- Mutual Fire Recovery. Cadillac had a claim in the rehabilitation estate of Mutual Fire, Marine and Inland Insurance Company ("Mutual Fire") that stemmed from a 1986 judgment obtained by Cadillac against Mutual Fire in litigation over a reinsurance agreement between the parties. Under the judgment, Cadillac was awarded \$927,198 in principal, \$206,747 in damages for loss of interest and interest at the statutory rate until the judgment was paid. The court-ordered rehabilitation of

Mutual Fire around the time the judgment was entered in 1986 jeopardized Cadillac's ability to collect this asset. The Receiver negotiated with the rehabilitator of Mutual Fire regarding the priority of Cadillac's claim in the rehabilitation as well as the amount of interest to which Cadillac was entitled. The parties negotiated a settlement agreement that established an adjusted claim amount of \$1,158,670. Distributions from the Mutual Fire estate resulted in a total recovery of \$1,511,927, or 130% of the claim amount.

- The Receiver engaged in other various marshaling activities, which are detailed in the various reports to this Court filed over the course of the Receivership.
10. Defense of the Estate. The Receiver aggressively defended the Estate as necessary:
- Attempted Shareholder Intervention. Early in the liquidation period, the Receiver defended the Estate against an attempt by Cadillac's parent company, Arlans, and Arlans' sole shareholder, Ernest Solomon, to intervene in the receivership proceeding. Solomon and Arlans' motion to intervene, and related motions, were denied by Judge Stell. Solomon and Arlans went on to file, between July 1992 and August 1993, a Claim of Appeal to the Michigan Court of Appeals, an Application for Leave to the Michigan Supreme Court, a Motion for Reconsideration in the Court of Appeals, a Delayed Application for Leave to Appeal in the Court of Appeals and a simultaneous Application for Leave to Appeal in the Supreme Court, a second Delayed Application for Leave to Appeal in the Court of Appeals and a Motion for Reconsideration in the Supreme Court. The Receiver responded to each of these filings, and all of Solomon and Arlans' appeals and applications were denied.
 - FOIA Litigation. The Receiver intervened in a suit filed in Oakland County Circuit Court in 1993 by Solomon and Arlans against the Insurance Commissioner under the Freedom of Information Act ("FOIA"). The suit sought to enforce a FOIA request for copies of detailed invoices for all attorney, accountant and consultant fees incurred by the Cadillac receivership and all other insurance receiverships in Michigan. Solomon and Arlans' request – denied by Judge Snell – for documents of this same description formed part of the basis for their multiple appeals discussed above. The Receiver was allowed to intervene in the Oakland County suit to file a motion for summary disposition based on lack of subject matter jurisdiction, lack of jurisdiction over the property and failure to state a claim on which relief can be granted. The Oakland County Circuit Court denied the Receiver's motion, but granted a stay pending the Receiver's appeal to the Michigan Court of Appeals. The appeal was filed, briefing was complete and the parties were awaiting oral argument when this matter was settled in July 1995 as part of the Global Settlement Agreement discussed above.
 - Guaranty Association Claim Issues. In June 1998, the Receiver brought before the Court a petition to accept the claims of the California, Arizona and Mississippi

guaranty associations, which had not filed official Proof of Claim forms, but which had consistently communicated with the Receiver regarding their activities and had reported on their claim payments to Cadillac insureds and claimants. Solomon and Arlans actively participated in opposing the Receiver's Petition. In addition, counsel for the California Insurance Guaranty Association and the Michigan Property and Casualty Guaranty Association actively participated in supporting the Petition. The matter was aggressively litigated during 1998, 1999 and 2000, with the Receiver responding to six sets of discovery requests filed by Arlans and Solomon and producing a large amount of documents. The Receiver also fended off a motion to intervene filed by a party that claimed to be in negotiations to purchase Arlans' interest in Cadillac. A significant number of depositions, including out-of-state depositions, were taken. Ultimately the issues were thoroughly briefed and, following a hearing on February 16, 2001, the Court, in an Opinion and Order dated May 4, 2001, granted the Receiver's Petition. Arlans and Solomon appealed the decision to the Michigan Court of Appeals. Appeal briefs were filed during the fall of 2001. Oral argument was heard on April 17, 2003, and, on April 29, 2003, the Court of Appeals affirmed this Court's Opinion and Order. Arlans and Solomon applied for leave to appeal to the Michigan Supreme Court. The application was denied on October 31, 2003.

- Challenge to Claim Adjudication Procedures. During 2001, the Receiver finalized the proposed Claim Adjudication Procedures for the Estate and filed a Petition seeking this Court's approval of the Procedures. In October 2001, this Court entered an Order approving the Procedures, with a small change related to treatment of individual late-filed claims. Arlans and Solomon appealed the Court's Order to the Michigan Court of Appeals. The appeal was consolidated with Arlans and Solomon's appeal, described above, of this Court's order allowing acceptance of the California, Arizona and Mississippi guaranty association claims. The Court of Appeals' April 29, 2003 decision affirmed this Court's Order approving the Claims Procedures, except with respect to the issue related to treatment of individual late-filed claims. Arlans and Solomon applied for leave to appeal to the Michigan Supreme Court, but the application was denied on October 31, 2003. The Claims Procedures were thereafter amended to comport with the Court of Appeals' decision.

11. Investment of Estate Funds. Over the term of the Receivership, the Receiver has invested the assets of the Estate in a manner that fully protects the principal but attempts to maximize income to the benefit of creditors of the Estate. Consistent with this goal, the Receiver has periodically re-adjusted the investment vehicles in which Estate assets are invested, as reported more specifically in various reports to the Court.

12. Resolution of Tax Issues. The Receiver has addressed tax compliance and relevant tax planning throughout the course of the receivership, as follows:

- At the commencement of the liquidation proceeding, Cadillac was part of the consolidated tax-filing group of its parent company, EMS Enterprises, Inc. (“EMS”). After the filing of an application with the Internal Revenue Service (“IRS”) in October 2002, Cadillac was determined to be an exempt organization under Internal Revenue Code section 501(c)(15), retroactive to 1991. Cadillac was thus deconsolidated from the EMS group and filed its own separate IRS Form 990s (informational returns filed by tax-exempt organizations) from 1991 through calendar year 2007.
- Cadillac’s exemption terminated in 2007 as the result of a 2004 amendment to the Internal Revenue Code, and Cadillac was, by operation of law, automatically re-consolidated with the EMS consolidated tax-filing group for tax filings beginning with the EMS fiscal year of October 1, 2007 through September 30, 2008. This caused complex tax issues to resurface. The Receiver and this Court devoted significant time and expense, working with tax counsel, accountants and EMS staff and counsel, to address these issues. Ultimately, the Receiver worked cooperatively with EMS to resolve the 2007-2008 and 2008-2009 tax years, through the filing of EMS consolidated federal income tax returns as detailed in reports filed with this Court.
- Cadillac’s re-inclusion in the EMS consolidated tax-filing group created substantial uncertainties and complications affecting the Receiver’s plans to close the Estate and distribute its assets. To eliminate the need to continue filing consolidated returns with the EMS entities, the Receiver sought a method to again “de-consolidate” itself from the EMS tax-filing group. Deconsolidation was accomplished by seeking and obtaining EMS’s agreement to transfer 20.8% of its Cadillac stock to its sole shareholder. As a result of the stock transfer, which was accomplished as of September 29, 2009, Cadillac is no longer consolidated with the EMS tax-filing group and has filed stand-alone federal and state tax filings since the deconsolidation took effect.
- Prior to distributing the Estate assets and closing the Estate, the Receiver has a duty to use all reasonable efforts to determine the existence and amount of any tax liabilities of Cadillac incurred during the Receivership, which taxes have priority as administrative expenses. Distributing assets of the Estate without making provision for taxes owed to the federal government could also potentially result in personal liability for the Receiver. 31 U.S.C. § 3713(b). To assist in more quickly quantifying and clarifying the amount of any outstanding tax liability, the Receiver concluded it would be helpful to utilize the filing of an IRS Form 4810, Request for Prompt Assessment Under IRC § 6501(d) (“Form 4810”), to shorten the general period for assessment of additional federal income taxes against Cadillac. A Form

4810 filed with respect to a previously-filed federal income tax return of Cadillac would generally reduce the period during which the IRS could assess additional taxes against Cadillac for that return from 3 years following the filing of that return to 18 months following the filing of the Form 4810.

- As common parent of the EMS consolidated group, EMS has the exclusive authority under U.S. Treasury Regulation § 1.1502-77 to act on behalf of Cadillac with respect to all matters relating to federal income tax liability for the tax years when Cadillac was part of the consolidated group (with a few exceptions not here relevant). Thus, the Receiver concluded that EMS should file the Form 4810 for Cadillac seeking a prompt assessment under § 6501(d) for the FY 2007-2008 and FY 2008-2009 years, and EMS consented to do so under the terms of an Agreement Regarding Tax Filings (“Agreement”) that was approved by this Court.
- The Form 4810 was mailed to the IRS, consistent with the Agreement, on February 16, 2010. The Receiver recently received correspondence from the IRS confirming receipt of the Form 4810 and stating that the closing date with respect to the relevant tax years will be July 26, 2012.

13. Prior Interim Disbursements of Estate Assets. The Receiver has previously distributed assets of the Estate, consistent with Chapter 78, to reimburse guaranty association administrative expenses. Under MCL 500.7832, guaranty association administrative expenses are paid at the same priority level as the expenses of the Receivership itself. Overall, the Receiver, with Court approval, has made a total of 5 distributions to guaranty associations, totaling \$9,158,630.41, as detailed in the attached Exhibit C.

THE PROPOSED PLAN FOR INTERIM DISTRIBUTION

14. By this Petition, the Receiver seeks generally to obtain approval for his plan for distribution of Estate assets, including an immediate partial distribution. The Receiver anticipates that final closure of the Receivership will take place following the Internal Revenue Service closing date related to certain federal income tax filings on behalf of Cadillac. More specifically, the Receiver, through this Petition, seeks the following:

- a. Approval of full and final payment of incurred and reserved guaranty fund administrative expenses on terms stated in accompanying Agreements for

Disbursement of Funds (“Interim Distribution Agreements”) between the Receiver and the relevant guaranty associations. The Interim Distribution Agreements, which have been executed subject to approval by this Court, are attached hereto as Exhibits D-Q.

- b. Approval of a partial pro rata distribution of assets to preferred claimants under MCL 500.7834 (“Class 1 Claims”), which includes claims of policyholders, policy claimants and guaranty associations, at fifty percent (50%) of their approved claim amounts. The above-referenced Interim Disbursement Agreements also apply to this pro rata distribution with respect to guaranty associations.

15. Consistent with MCL 500.8142(1), the Claims Procedures (at Section V.E.) require that every claim in each class be paid in full or adequate funds retained for its payment before the members of the next class receive payment.

16. The Receivership Estate has assets totaling \$32,264,342 and liabilities totaling \$34,915,284 as of December 31, 2010.

17. Guaranty association administrative expense claims, which have been fully resolved between the Receiver and the relevant guaranty associations, total \$2,709,323. *See* Reporting Guaranty Associations Claim Report, attached as Exhibit R. Copies of the Notices of Determination issued to the guaranty associations and either explicitly agreed to or not objected to by the associations are attachments to Exhibits D-Q.

18. Approved Class 1 claims, which have also been fully resolved between the Receiver and the Class 1 claimants, total \$29,561,611, of which \$27,810,629 consists of guaranty association claims.⁷ Consistent with an Order of this Court dated October 14, 2010 (Exhibit S), attached hereto as Exhibit T is a redacted listing of non-guaranty association Class 1 claims identifying claimants by claim number only. *See also* Exhibits D-Q and R, as to guaranty association claims.

⁷ The Notices of Determination for the guaranty associations encompass their Class 1 claims as well as their claims for reimbursement of administrative expenses incurred or reserved.

As provided in the October 14, 2010 Order, the Receiver will file under seal the complete list of approved non-guaranty association Class 1 claims, including the name of each claimant, as well as a Class 1 Claims Name and Address Registry. The sealed documents will be available for review only as allowed for in the Order. Class 1 claims are accorded equal priority and will, therefore, be paid on a pro rata basis from the funds remaining after payment of guaranty fund administrative expenses and reservation for payment of receivership administrative expenses.

19. Because there are insufficient funds in the Estate to pay Class 1 claims in their entirety, however, no claim with a lower priority than Class 1 is entitled to share in the distribution from the Cadillac Estate. Thus, Class 2 claimants have been advised that their claims will be denied due to insufficient Estate assets, and all such claims have been resolved as a result of the expiration of the period for objection to this determination.

20. Although all other issues in the Estate have been resolved, as explained above, the Receiver is unable to fully distribute assets and close the Estate until any potential tax liability is determined and resolved. And potential tax liability related to the period in 2007-2009 when Cadillac was re-consolidated with the EMS consolidated tax-filing group remains an open issue at least until the period for the IRS to assess tax liability expires.

21. Under the circumstances, and balancing the rights and interests of claimants, creditors and other parties interested in the Estate, the Receiver has concluded that a partial distribution from the Estate at this time is warranted, on the condition that guaranty association claimants receiving distributions agree to a potential return of these distributions to the Estate in the unlikely event that Cadillac is determined by the IRS to have tax liability that exceeds the amount of remaining Estate assets.

22. The Receiver therefore approached the relevant guaranty associations with the proposal for a partial distribution on these terms, and the guaranty associations have agreed, subject to the approval of this Court, to receive distributions of both administrative expense reimbursement and Class 1 claim payments under these conditions. *See* attachments to Exhibits D-Q.

23. Attached as Exhibit U is the Proposed Plan for Interim Distribution. This plan proposes to pay all administrative expenses at 100% as required by MCL 500.7824. The approved Class 1 claims will be paid at a pro rata rate of fifty percent (50%) by the proposed distribution of \$14,780,805. The total proposed interim distribution is \$17,490,128.

NOTICE

24. On October 14, 2010, this Court entered an Order (Exhibit S) that approved the following procedure for service of a Petition for distribution of Estate assets:

- a. A copy of the Petition, including exhibits and Notice of Hearing, shall be served by first class mail on the service list attached as Exhibit A to the October 14, 2010 Order.
- b. A copy of the Petition, including exhibits and Notice of Hearing, shall be posted by the Receiver on the State of Michigan's website, www.michigan.gov, in the section of the website related to the Office of Financial and Insurance Regulation under the heading Who We Regulate.
- c. Notice of the filing of the Petition and of the related hearing shall be published in the legal notice section of the national edition of USA Today, weekday edition, one day per week for two weeks, ending at least one week prior to the date set for the hearing.

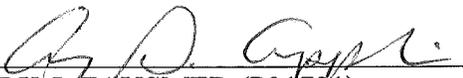
Upon filing this Petition, the Receiver will take all steps necessary to comply with this approved service procedure.

RELIEF REQUESTED

WHEREFORE, the Receiver respectfully requests entry of an order granting the Receiver's Petition to Approve Plan for Interim Distribution of Estate Assets, approving the Interim Distribution Agreements attached as Exhibits D-Q, and authorizing the Receiver to make, accordingly, an interim distribution of the assets of the Cadillac Estate as set forth in this Petition.

Respectfully Submitted,

ZAUSMER, KAUFMAN, AUGUST,
CALDWELL & TAYLER, P.C.



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Dated: July 5, 2011

EXHIBIT A

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CHAPTER 78. LIQUIDATIONS AND RECEIVERSHIPS

Cross References

Commissioner of insurance, transfer to department of licensing and regulation, see § 16.732.
Dental care corporations, application of this chapter, see § 550.358.
Dissolution of corporations, see § 450.1801 et seq.
Fraternal benefit societies, application of this chapter, see § 500.8095.
Health maintenance organizations, see § 333.21001 et seq.
Nonprofit health care corporations, authority of commissioner over dissolution, takeover and liquidation, see § 550.1606.
Proceedings against corporations, see § 600.3601 et seq.
Uniform Insurers Liquidation Act, see § 500.7836 et seq.
Voluntary dissolution and winding up of corporations, see § 600.3501 et seq.

500.7800. Scope of chapter

Sec. 7800. This chapter shall apply to all domestic and foreign corporations, associations, societies and orders transacting an insurance business under authority of any law of this state, including all corporations, associations, fraternal benefit societies and orders which are subject to examination by the commissioner, or which are doing or attempting to do or representing that they are doing the business of insurance in this state, or which are in process of organization intending to do such business therein, or to become incorporated under any law of this state for the transaction of an insurance business.

Historical Note

Source:

P.A.1956, No. 218, § 7800, Eff. Jan. 1, 1957. C.L.1915, §§ 9290, 9556(f).
C.L.1948, § 500.7800. P.A.1917, No. 256, Pt. 1, c. III, § 1.
C.L.1970, § 500.7800. C.L.1929, § 12263.
P.A.1933, No. 249.
C.L.1948, § 503.1.

Prior Laws:

P.A.1911, No. 216, § 1.
P.A.1915, No. 86, § 10.

Cross References

Health maintenance organizations, takeover or liquidation, see § 333.21027.

Law Review Commentaries

Conclusiveness of judgment against insured as to amount of claim against dissolved insurer. 63 Mich.L.Rev. 1293 (1965).
Insolvency; co-debtor as a factor in distribution. Fred T. Hanson, 35 Mich.L.Rev. 1099 (1937).

500.7800

INSURANCE CODE OF 1956

Notes of Decisions

1. Construction and application

Law relating to liquidation and dissolution of domestic insurance companies must be liberally construed in favor of policyholders, creditors and the public, in view of fact that insurance business is affected with public interest. *Gauss v. American Life Ins. Co.* (1939) 287 N. W. 368, 290 Mich. 33.

500.7802. Delinquency proceeding; application for order to show cause

Sec. 7802. Whenever any such corporation,

(1) Is insolvent; or

(2) Has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the commissioner, or his deputy or examiner; or

(3) Has neglected or refused to comply within the time prescribed therein, with an order of the commissioner that it eliminate a capital, minimum required surplus or reserve deficiency; or

(4) Has by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of another insurer, without first having obtained the written approval of the commissioner; or

(5) Is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public; or

(6) Has wilfully violated its charter or any law of the state; or

(7) Whenever any officer thereof has refused to be examined under oath touching its affairs; or

(8) If such corporation be found, after examination, to be in such condition that it could not meet the requirements for incorporation and authorization;

The commissioner may, the attorney general representing him, apply to the circuit court in the judicial circuit in which the principal office of such corporation is located, for an order directing such corporation to show cause why the commissioner should not take possession of its property and conduct its business, or for such other relief as the nature of the case and the interests of its policyholders, creditors, stockholders, or the public may require.

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Historical Note

Source:

P.A.1956, No. 218, § 7802, Eff. Jan. 1, 1957.
C.L.1948, § 500.7802.
C.L.1970, § 500.7802.

Prior Laws:

P.A.1911, No. 216, § 2.
C.L.1915, § 9291.
P.A.1917, No. 256, Pt. 1, c. III, § 2.
C.L.1929, § 12264.
P.A.1945, No. 223.
C.L.1948, § 503.2.

Law Review Commentaries

Receivers; penalties on taxes. 29
Mich.L.Rev. 237 (1930).

When is a corporation insolvent?
Floyd Mathew Rett, 30 Mich.L.Rev.
1040 (1932).

Library References

Insurance ⇨72.2.

C.J.S. Insurance § 123 et seq.
M.L.P. Insurance §§ 23, 26.

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companies and enterprises in which funds were invested were controlled by same individual through mechanism of corporate holding companies and personal control of voting powers and that transactions resulted, actually or potentially, in evasion of principles of diversification by intertwining of corporate enterprises so that separate appraisal of investments of insurance companies under examination became difficult or impossible and justified order of commissioner directing sale of such securities. *Dearborn Nat. Ins. Co. v. Forbes* (1951) 44 N.W.2d 892, 329 Mich. 107.

See, also, Notes of Decisions following § 500.7818.

1. Construction and application

Law relating to liquidation and dissolution of domestic insurance companies must be liberally construed in favor of policyholders, creditors and the public, in view of fact that insurance business is affected with public interest. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

The common interests of all policyholders in insurance company was, by this section intrusted to commissioner of insurance, who alone had right to institute proceeding for liquidation of company. *Trosper v. Ingham* (1940) 292 N.W. 360, 293 Mich. 438.

2. Purpose of law

A reason for the enactment of § 500.7800 et seq. relating to liquidation and dissolution of domestic insurance companies was to prevent certain evils attendant upon proceedings for appointment of court receivers such as high and exorbitant fees paid to such receivers. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

Where examination of insurer disclosed insolvency of the insurer, the commissioner of insurance was justified in refusing an administrative hearing to the insurer before filing petition for appointment of receiver for insurer. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

3. Powers and duties of commissioner

Record sustained insurance commissioner's finding that both insurance

4. Discretion of court

Trial court did not abuse its discretion in denying petition of objecting members and creditors to intervene in receivership proceeding against mutual fire insurance association, brought by

Attorney General on relation of Commissioner of Insurance, for purpose of opposing final account of a former receiver and for directions to successor receiver thereon, where it did not appear that any useful purpose would be served by permitting intervention, and it appeared that petition to intervene was but one of many dilatory steps being taken to delay proceedings. Attorney General ex rel. Commissioner of Insurance v. Lapeer Farmers Mut. Fire Ins. Ass'n (1942) 1 N.W.2d 557, 300 Mich. 320.

Whether policyholder should be permitted to intervene in proceedings for liquidation of insurance company was in court's discretion, and, where policyholder was but one of several thousand policyholders, refusal of such leave was not an abuse of that discretion. Trosper v. Ingham (1940) 292 N.W. 360, 293 Mich. 438.

In suit for appointment of receiver for and winding up of insolvent insurance company, order entered over objections of less than 10 per cent. of creditors authorizing receiver to accept bid of \$440,000 for stock of corporation to which insurance company's assets had been transferred, which stock was appraised at \$569,867.43, was not such abuse of discretion as to constitute reversible error, even if sale was ill-advised from business standpoint, in absence of evidence of fraud, overreaching, or gross inadequacy of price. Gauss v. Central West Casualty Co. (1939) 286 N.W. 139, 289 Mich. 15.

5. Insolvency

In insurance commissioner's proceeding for liquidation or receivership of insurance company, the trial court may under § 500.7800 et seq. determine whether the insurance company is "insolvent" by determining whether the amount of its assets equal the net value of its outstanding obligations as determined according to the assumptions in regard to rates of interest and mortality as provided by insurance code. Gauss v. American Life Ins. Co. (1939) 287 N.W. 368, 290 Mich. 33.

6. Policyholders

Policyholder was not a permissible party plaintiff in proceeding by state commissioner of insurance for liquidation

of insurance company, nor a necessary party defendant, nor did he have an independent right of action. Trosper v. Ingham (1940) 292 N.W. 360, 293 Mich. 438.

Where, after similar proceeding had been instituted in state court, policyholder instituted proceeding in federal court for reorganization or dissolution of insolvent insurance company, and receiver was appointed who with approval of state authorities and acquiescence of over 30,000 policyholders effected reinsurance agreement with new company and dealt with assets of insolvent company so as to make it impossible to reverse acts, one of 13 policyholders dissenting from reinsurance agreement would not be permitted to intervene in state proceeding on ground that federal court had no jurisdiction, where no useful purpose could be served. Whitehorn v. Ingham Circuit Judge (1937) 274 N.W. 691, 281 Mich. 10.

7. Creditors

Judgment creditors of casualty insurance company held entitled to intervene in suit by insurance commissioner to take over company's assets, but intervention must be in subordination to commissioner's petition and order thereon. Gauss v. Central West Casualty Co. (1934) 253 N.W. 252, 266 Mich. 159.

8. Pleadings

The petition filed by the commissioner of insurance under P.A.1873, No. 82, § 15, as the foundation of proceedings to wind up the business of a mutual fire insurance company, need not be verified. Wardle v. Cummings (1891) 49 N.W. 212, 86 Mich. 395, rehearing denied 49 N.W. 538, 86 Mich. 395.

9. Evidence

In proceedings to dissolve a mutual fire insurance association, on trial of claim for a fire loss on realty covered by a mortgage, evidence as to payment of assessments, reduction of coverage, termination of interest of mortgagee who was protected by mortgage clause in the policy, adjustment of the loss, and payments made by the association after the loss, warranted allowance of mortgagors' claim on ground they were

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the insured and policy as reduced in amount was in force at time of loss. *Toy ex rel. Ketcham v. Lapeer Farmers Mut. Fire Ins. Ass'n*, Lapeer, Mich. (1940) 294 N.W. 160, 295 Mich. 218.

Evidence sustained order appointing commissioner of insurance as temporary receiver of insurer on ground that the insurer was insolvent. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

500.7806. Venue, change; application of judicature act

Sec. 7806. In any case arising under this chapter the commissioner may file his petition for liquidation or receivership in the circuit court for the county of Ingham, and the preliminary steps towards the appointment of a receiver shall be taken and heard in such circuit, and the circuit court of Ingham county may at any time thereafter transfer such case to the circuit court of the county in which such company may have its principal place of business, for such further steps and action as may be necessary in the premises, as in cases of change of venue. In all other respects proceedings under this chapter shall be conducted according to the procedure prescribed in the judicature act of this state.

Historical Note

Source:

P.A.1956, No. 218, § 7806, Eff. Jan. 1, 1957.
C.L.1948, § 500.7806.
C.L.1970, § 500.7806.

Prior Laws:

P.A.1917, No. 256, Pt. 1, c. III, § 8.
C.L.1929, § 12270.
C.L.1948, § 503.8.

Cross References

Judicature Act, generally, see § 600.101 et seq.
Venue, see § 600.1601 et seq.

Library References

Insurance ⇨72.5.
C.J.S. Insurance § 133.
M.L.P. Insurance § 23.

Michigan Court Rules Annotated,
Honigman and Hawkins, 2d Ed.,
Rules 401 to 404, 407 to 409.

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1. Construction and application

Under this section authorizing commissioner of insurance to file petition

for "liquidation" or "receivership" in circuit court of Ingham county, circuit court of such county had jurisdiction to entertain insurance commissioner's petition praying for custodianship and for liquidation of insurer on ground that insurer was insolvent, the word "receivership" meaning "custodial receivership" authorized by § 500.7818 relating to custodianship of insurers, and the word "liquidation" referring to proceeding provided for by this section relating to liquidation of insurers. *Gauss v.*

American Life Ins. Co. (1939) 287 N.W. 368, 290 Mich. 33.

2. Jurisdiction

The Michigan court, which by virtue of insolvency proceedings first acquired jurisdiction of assets of Michigan insurance company, had exclusive jurisdiction to determine rights of parties to, or beneficiaries of, agreements under which the Michigan insurer acquired assets and policies of Iowa insurance company and maintained deposit of securities with Iowa commissioner of insurance. *American United Life Ins. Co. v. Fischer* (1941) 117 F.2d 811.

Where ancillary receiver for foreign insurance company appointed by Wayne county circuit court pursuant to order of discharge had transmitted to domiciliary receivers all assets of ancillary receivership including allowed claim against insolvent bank, domiciliary receivership had been closed, and there was no suit pending in Wayne county for or against insurance company, chancery court of Wayne county had no jurisdiction to reappoint ancillary receiver upon his petition for instructions concerning check payable to him for dividend on claim against insolvent bank. *Cooley v. Union Indemnity Co.* (1943) 11 N.W.2d 850, 307 Mich. 177.

In suit by Michigan policyholder of Indiana life insurance corporation, permitted to do business in Michigan, to restrain performance by corporation of reinsurance management contract entered into with permanent liquidating receiver of insolvent Michigan insurance corporation, whether circuit court lacked jurisdiction to appoint receiver of Michigan life insurance company could not be considered. *Wojtczak v. American United Life Ins. Co.* (1940) 292 N.W. 364, 293 Mich. 449.

The Michigan court had power to appoint an ancillary receiver for foreign insurance company, there being property of company in Michigan and state having claim for taxes. *Commissioner of Insurance v. National Life Ins. Co. of U. S.* (1937) 273 N.W. 592, 280 Mich. 344.

3. Liquidation and receivership

In suit for appointment of receiver for and winding up of insolvent insur-

ance company, order entered over objections of less than 10 per cent. of creditors authorizing receiver to accept bid of \$440,000 for stock of corporation to which insurance company's assets had been transferred, which stock was appraised at \$569,867.43, was not such abuse of discretion as to constitute reversible error, even if sale was ill-advised from business standpoint, in absence of evidence of fraud, overreaching, or gross inadequacy of price. *Gauss v. Central West Casualty Co.* (1939) 286 N.W. 139, 289 Mich. 15.

4. Rights and liabilities of members

A limitation in a contract of a stockholder with a mutual fire insurance company could not relieve him from liability to pay a proportionate share of losses and expenses of the company for the period during which he was a member, when the company's affairs are closed up by a receiver. *Nichol v. Murphy* (1906) 108 N.W. 704, 145 Mich. 424.

A member of a mutual benefit association, organized under laws of another state, could not hold property of the association within the state by garnishment proceedings instituted before appointment of receiver in ancillary proceedings in the state, but after appointment of receiver in the other state, though judgment on the policy was had against the association. *Wheeler v. Dime Sav. Bank* (1898) 74 N.W. 496, 116 Mich. 271, 72 Am.St.Rep. 521.

5. Remedies and proceedings on insolvency

Where, after similar proceeding had been instituted in state court, policyholder instituted proceeding in federal court for reorganization or dissolution of insolvent insurance company, and receiver was appointed who with approval of state authorities and acquiescence of over 30,000 policyholders effected reinsurance agreement with new company and dealt with assets of insolvent company so as to make it impossible to reverse acts, one of 13 policyholders dissenting from reinsurance agreement would not be permitted to intervene in state proceeding on ground that federal court had no jurisdiction, where no useful purpose could be served. *Whitehorn v. Ingham Circuit Judge* (1937) 274 N.W. 691, 281 Mich. 10.

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Where a mutual benefit association, which had created an endowment fund, on being refused a license by the state of its incorporation and thus compelled to cease business, organized a new company, and against the protest of the parties insured used such endowment fund to obtain reinsurance of the old members in the new company, the parties insured may proceed in a court of equity to wind up the affairs of the old company and compel the distribution of the fund among those for whose benefit it was created. *Stamm v. Northwestern Mut. Ben. Ass'n*, (1887) 32 N.W. 710, 65 Mich. 317.

6. Assets and receivers

It was not presently necessary to grant petition of commissioner of insurance for appointment of receiver to liquidate insurance company, which for purpose of petition for liquidation had been found insolvent, where certain assets held by company had value, even if they could not be considered in determining company's insolvency on petition for liquidation, and there was disclosed willingness by those in control of company and related companies to reduce company's intercorporate liabilities. *Adams ex rel. Blackford v. Michigan Sur. Co.* (1961) 110 N.W.2d 677, 364 Mich. 299.

The fact that a member of an insolvent mutual benefit society was al-

lowed to prosecute to judgment his claim on the certificate, maturing after the commencement of insolvency proceedings, did not render *res judicata* the question of his right to satisfy his judgment out of the local assets of the society. *Wheeler v. Dime Sav. Bank* (1898) 74 N.W. 496, 116 Mich. 271, 72 Am.St.Rep. 521.

7. Assessments

Where an assessment made by a receiver of a mutual fire insurance company was set aside, a new assessment made by a substituted receiver is valid. *Nichol v. Murphy* (1906) 108 N.W. 704, 145 Mich. 424.

P.A.1887, No. 187, § 15 (C.L.1897, § 7497 et seq.) authorized mutual benefit associations to make assessments to pay death claims; and § 22 provided that, on winding up the affairs of such association, a receiver may be appointed to continue the business for the purpose of paying all such claims which have accrued at the time of his appointment, and that he may assess all members liable therefor; a policy holder in such an association at the time a petition for dissolution was filed was liable to the receiver for assessments levied by him to pay death claims which had accrued at the time of such petition. *Calkins v. Angell* (1900) 81 N.W. 977, 123 Mich. 77.

500.7808. Injunction; attorney general, commissioner

Sec. 7808. No application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any such insurance corporation included within the provisions of this chapter, shall be entertained by any court in this state, unless the same is made by the attorney general upon relation or application of the commissioner of insurance of this state.

Historical Note

Source:

P.A.1956, No. 218, § 7808, Eff. Jan. 1, 1957.
C.L.1948, § 500.7808.
C.L.1970, § 500.7808.

Prior Laws:

P.A.1917, No. 256, Pt. 1, c. III, § 9.
P.A.1933, No. 249.
C.L.1948, § 503.9.

Cross References

Injunction against corporation, see § 600.3601 et seq.

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Law Review Commentaries

Receivers; penalties on taxes. 29
Mich.L.Rev. 237 (1930).

Library References

Insurance \approx 72.2.
C.J.S. Insurance § 123 et seq.

M.L.P. Insurance § 23.

Notes of Decisions

I. Actions and proceedings

The common interests of all policyholders in insurance company was, by the insurance law, intrusted to commissioner of insurance, who alone had right to institute proceeding for liquidation of company. *Trosper v. Ingham* (1940) 292 N.W. 360, 293 Mich. 438.

Judgment creditors of casualty insurance company held entitled to intervene in suit by insurance commissioner to take over company's assets, but intervention must be in subordination to commissioner's petition and order thereon. *Gauss v. Central West Casualty Co.* (1934) 253 N.W. 252, 266 Mich. 159.

500.7810. Injunction; order on show cause hearing; conduct of business by commissioner; resumption by corporation

Sec. 7810. On such application, or at any time thereafter, such court may in its discretion, issue an injunction restraining such corporation from the transaction of its business or the disposition of its property until the further order of the court. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct the commissioner forthwith to take possession of the property and conduct the business of such corporation, and retain such possession and conduct such business until, on the application either of the commissioner, the attorney general representing him, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the commissioner to take possession has been removed and that the corporation can properly resume possession of its property and the conduct of its business.

Historical Note

Source:

P.A.1956, No. 218, § 7810, Eff. Jan. 1, 1957.
C.L.1948, § 500.7810.
C.L.1970, § 500.7810.

Prior Laws:

P.A.1873, No. 82, § 15.
How. §§ 4261, 4323, 4323b-4.
P.A.1887, No. 157, § 15.
P.A.1883, No. 78, § 15.

P.A.1895, No. 262, § 15.
C.L.1897, §§ 7280, 7301, 7316, 7331.
P.A.1907, No. 176, § 15.
P.A.1911, No. 216, § 3.
P.A.1915, No. 148, § 15.
C.L.1915, §§ 9292, 9576, 9600, 9615, 9630, 9650, 9675.
P.A.1917, No. 256, Pt. 1, c. III, § 503-3.
C.L.1929, § 12265.
C.L.1948, § 503.3.

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Library References

Insurance ⇨72.12.

C.J.S. Insurance § 135.

500.7814. Liquidation; powers of commissioner as liquidator; notice; effective date of dissolution

Sec. 7814. (1) If, on like application and order to show cause, and after a full hearing, the court shall order a liquidation of the business of such corporation, such liquidation shall be made by and under the direction of the commissioner who may deal with the property and business of such corporation in his own name as commissioner or in the name of the corporation, as the court may direct, and shall be vested by operation of law with title to all the property, contracts and rights of action of such corporation as of the date of the order so directing him to liquidate.

(2) The filing or recording of such order in any record office of the state, shall impart the same notice that a deed, bill of sale or other evidence of title duly filed or recorded by such corporation would have imparted.

(3) The order of liquidation shall, unless otherwise directed by the court, provide that the dissolution of the corporation shall take effect upon the entry of such order in the office of the clerk of the county wherein such corporation had its principal office for the transaction of business.

Historical Note

Source:

P.A.1956, No. 218, § 7814, Eff. Jan. 1, 1957.
C.L.1948, § 500.7814.
C.L.1970, § 500.7814.

Prior Laws:

P.A.1911, No. 216, § 4.
C.L.1915, § 9293.
P.A.1917, No. 256, Pt. 1, c. III, § 4.
C.L.1929, § 12266.
C.L.1948, § 503.4.

Cross References

Effect of entry on register of deeds records, see § 565.25.
Health maintenance organizations, takeover or liquidation, see § 333.21027.

Library References

Insurance ⇨72.5.
C.J.S. Insurance § 133.

M.L.P. Insurance § 26.

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1. In general
Sections 500.7802, 500.7806, 500.7810 and this section relating to liquidation and dissolution of domestic insurance companies provide alternative remedies by which insolvent insurance companies

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may be put in custodianship of the insurance commissioner and may be liquidated, which remedies may be pursued in the same petition. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

2. Purpose of law

The purpose of this section providing that liquidation of insurance corporation shall be made under direction of commissioner of insurance is to provide for efficient liquidation with least possible delay. *Toy ex rel. Ketcham v. Lapeer Farmers' Mut. Fire Ins. Ass'n* (1947) 27 N.W.2d 345, 318 Mich. 60.

3. Petition

Dealings by insurance company with its directors or other corporations with common directors should be carefully scrutinized on petition for liquidation of company, on ground that it is insolvent. *Adams ex rel. Blackford v. Mich-*

igan Sur. Co. (1961) 110 N.W.2d 677, 364 Mich. 299.

4. Conveyance by commissioner

Where statutory receiver of insolvent Michigan reserve life insurance company conveyed the naked legal title of company's realty to a re-insurer for purpose of managing, conserving, and liquidating the realty for company's policyholders, the realty was not "sold" and receiver's deeds were not subject to transfer tax. *Berry v. Kavanagh* (C. C.A.1943) 137 F.2d 574.

5. Review

Supreme court would review record de novo on appeal by attorney general and commissioner of insurance from judgment denying petition to liquidate insurance company, on ground that it was insolvent, and granting company's petition to discharge custodian. *Adams ex rel. Blackford v. Michigan Sur. Co.* (1961) 110 N.W.2d 677, 364 Mich. 299.

500.7818. Liquidation; powers of commissioner as receiver; accounting; bond

Sec. 7818. (1) The commissioner or his deputy or special deputy, acting under the provisions of this chapter in any liquidation proceedings, shall have all the powers of a receiver in insolvency proceedings, and may do and perform any act for the protection of the assets or the recovery of the same, and for the settlement or discharge of the obligations of the insurer, that may be necessary or that may be directed by the court.

(2) Such receiver shall in no case be permitted to increase the liabilities of any insurer undergoing liquidation excepting for the purpose of preserving its assets.

(3) He shall have the same authority to make assessments upon stockholders or members of the company as the officers thereof are authorized to make under the provisions of this code, and it shall be his duty to make such assessments, ratably in any case where authorized, to any extent that may be necessary to discharge the whole obligations, existing at any time during such receivership or insolvency proceedings. He may bring suit to recover and enforce such assessments in any court of competent jurisdiction against the members or stockholders, as the case may be, or, by direction of the court having jurisdiction of the liquidation, may bring such suit or suits in the circuit court without regard to the amount involved.

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(4) Such receiver shall be held accountable to the circuit court of the county having jurisdiction for his actions in the premises.

(5) The circuit court in the first instance may require the commissioner or the person acting as his deputy in the liquidation proceedings, to file a bond as in other receiverships.

Historical Note

Source:

P.A.1956, No. 218, § 7818, Eff. Jan. 1, 1957.
C.L.1948, § 500.7818.
C.L.1970, § 500.7818.
C.L.1897, §§ 7282, 7283.
C.L.1915, §§ 9578, 9579.
P.A.1917, No. 256, Pt. 1, c. III, §§ 7, 8.
C.L.1929, §§ 12269, 12270.
C.L.1948, §§ 503.7, 503.8.

Prior Laws:

P.A.1873, No. 82, §§ 17, 18.
How. §§ 4263, 4264.

Law Review Commentaries

Receivers; penalties on taxes. 29
Mich.L.Rev. 237 (1930).

Library References

Insurance ☞72.6.
C.J.S. Insurance §§ 133, 134.
M.L.P. Insurance §§ 23, 26, 27, 119.

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1. Validity

P.A.1873, No. 82, as amended (C.L. 1897, § 7282) authorizing a receiver of a mutual insurance company to sue the members thereof in the circuit court, where he was appointed, and authorizing the service of process in that and any other county, was valid. *Nichol v. Newman* (1910) 125 N.W. 760, 160 Mich. 582.

2. Purpose of law

A reason for the enactment of § 500.7800 et seq. relating to liquidation and dissolution of domestic insurance companies was to prevent certain evils attendant upon proceedings for appointment of court receivers such as high and exorbitant fees paid to such receivers.

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ers. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

3. Insolvency—In general

So much of book value of realty as was attributable to sale of salvage items could not be considered asset of insurance company in determining its financial condition, on petition for liquidation of company on ground that it was insolvent, where such realty was acquired by direct purchase, contrary to § 500.948 (repealed) restricting acquisition of realty by insurance companies. *Adams ex rel. Blackford v. Michigan Sur. Co.* (1961) 110 N.W.2d 677, 364 Mich. 299.

Record established that attempted cancellation of \$405,000 liability owed by subsidiary Michigan insurance company to parent Indiana insurance company did not in fact satisfy liability, and that attempted cancellation could not be considered on petition to liquidate Michigan company, on ground that it was insolvent. *Id.*

All of the persons insured in a mutual company, including those who had suffered loss by fire, when they took the insurance understood that they were liable only to the amount of their premium notes; under How. § 4247 et seq., however, they became liable, in the event of the company becoming insolvent and a receiver being appointed, to pay all assessments laid by the receiver for the purpose of paying the losses and liabilities of the company, and the services and expenses of the receiver, in proportion to the amount of their insurance or interest in the company; on the company becoming insolvent, and the receiver appointed attempting to enforce their statutory liability, they were entitled to relief, on the ground of mistake of law. *Maclem v. Bacon* (1885) 24 N.W. 91, 57 Mich. 334.

4. — Remedies and proceedings on insolvency

A proceeding by a receiver of a mutual insurance association to impress a lien against a member for a delinquent assessment and for foreclosure thereof against the member's property stated a cause in equity which the petitioner was entitled to have tried in chancery

and the trial court erred in transferring cause to the law side of the court. *Berry v. Dehnke* (1942) 5 N.W.2d 505, 302 Mich. 614.

Trial court did not abuse its discretion in denying petition of objecting members and creditors to intervene in receivership proceeding against mutual fire insurance association, brought by attorney general on relation of commissioner of insurance, for purpose of opposing final account of a former receiver and for directions to successor receiver thereon, where it did not appear that any useful purpose would be served by permitting intervention, and it appeared that petition to intervene was but one of many dilatory steps being taken to delay proceedings. *Attorney General ex rel. Commissioner of Insurance v. Lapeer Farmers Mut. Fire Ins. Ass'n* (1942) 1 N.W.2d 557, 300 Mich. 320.

Judgment creditors of casualty insurance company were entitled to intervene in suit by insurance commissioner to take over company's assets, but intervention must be in subordination to commissioner's petition and order thereon. *Gauss v. Central West Casualty Co.* (1934) 253 N.W. 252, 266 Mich. 159.

5. — Distribution of assets on insolvency

Where a mutual fire insurance company issued farm risk policies and cash premium stock plan policies, both of which were void because issued in violation of C.L.1897, § 7256, the holders, on the insolvency of the insurance company, were entitled to a return of the unearned premium, under the equitable rule that, where a contract is invalid and the parties acted in good faith, they should be placed as near as possible in statu quo. *In re Citizens' Mut. Fire Ins. Co. of Holly* (1910) 127 N.W. 769, 162 Mich. 466.

6. Assessments—In general

Where statutory receiver of mutual fire insurance association was appointed, and method of settlement, including voluntary contributions of those who had not paid their assessments, and final account of receiver, were approved, and receiver was authorized to sell as-

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sets of association to trustees for benefit of its creditors, suit by former members of association to vacate assessment orders on grounds of fraud, which was discovered in 1942, and not brought to light until 1948, when suit was instituted, was barred by laches. *Toy ex rel. Ketcham v. Lapeer Farmers' Mut. Fire Ins. Ass'n* (1950) 41 N.W.2d 888, 327 Mich. 333.

An assessment made by a receiver of an insolvent mutual fire, cyclone, or hail insurance company has the same effect as if made by the proper officers of the company before insolvency. *Berry v. Dehnke* (1942) 5 N.W.2d 505, 302 Mich. 614.

The receiver of a mutual insurance company could not levy assessments on members whose policies had expired over one year prior to appointment of receiver and over two years prior to filing of petition by receiver for authority to levy assessments, where, when custodian was appointed, neither company nor its officers could have imposed any such assessments. *Central Mut. Auto. Ins. Co. v. Gauss* (1940) 290 N.W. 808, 292 Mich. 309.

P.A.1873, No. 82, § 17 (C.L.1915, § 9578) making certain assessments on members of mutual company prima facie evidence of the regularity and correctness of proceedings up to and including the assessment, applied only to assessments made by receivers appointed by the court. *Michigan Mut. Windstorm Co. v. Goodrich* (1924) 196 N.W. 612, 225 Mich. 687.

7. — Liability for assessments

A Michigan policyholder in Illinois mutual insurance company could not be held liable in Michigan suit for an assessment levied by receiver appointed to liquidate company by Illinois court, where no demand for payment of assessment was made within one year after termination of policy, though policyholder was insured within one year preceding liquidation proceedings. *Keehn v. Charles J. Rogers, Inc.* (1945) 18 N.W.2d 877, 311 Mich. 416, 161 A.L.R. 983, certiorari denied 66 S.Ct. 491, 326 U.S. 797, 90 L.Ed. 485.

On the question of liability of members to assessment by receiver, acts of

mutual fire insurance association after expiration of association's certificate of authority were binding upon former members who continued as members, until appointment of receiver. *Toy ex rel. Ketcham v. Lapeer Farmers Mut. Fire Ins. Ass'n* (1941) 297 N.W. 232, 297 Mich. 174.

Members of mutual fire insurance association who continued as members after expiration of association's certificate of authority were liable for assessments covering the period from such expiration up to time of instituting receivership proceeding. *Id.*

Where order appointing receiver for insurance company authorized him to levy assessment "computed on each year in which a deficiency occurred" from 1930 to 1935, pro rata "against those persons who were members" during such years, and to reassess members who had failed to pay company assessments of former years, assessment for 1930 calculated on total liabilities at end of 1930, irrespective of when liabilities occurred, including renewal notes for money borrowed in former years and interest thereon, was invalid and unenforceable since it made recent members bear burden of old debts, contrary to terms of order. *Simpson v. Goodrich* (1937) 273 N.W. 595, 280 Mich. 351.

Where a mutual fire insurance company was authorized to issue policies on a cash premium basis, such policies containing a clause that they were subject to the conditions of the company's charter and the act under which it was organized, as to liability of members to assessments for losses incurred, the holders were liable for assessments levied by the receiver of the company on insolvency; such holders being regarded as members of the company. *Ely v. Oakland Circuit Judge* (1910) 125 N.W. 375, 162 Mich. 466, modified in other respects 127 N.W. 769, 162 Mich. 466.

A limitation in a contract of a stockholder with a mutual fire insurance company could not relieve him from liability to pay a proportionate share of losses and expenses of the company for the period during which he was a member, when the company's affairs are closed up by a receiver. *Nichol v.*

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Murphy (1906) 108 N.W. 704, 145 Mich. 424.

P.A.1887, No. 187, § 15, authorized mutual benefit associations to make assessments to pay death claims; and section 22 provided that, on winding up the affairs of such association, a receiver may be appointed to continue the business for the purpose of paying all such claims which have accrued at the time of his appointment, and that he may assess all members liable therefor. It was held that a policy holder in such an association at the time a petition for dissolution was filed was liable to the receiver for assessments levied by him to pay death claims which had accrued at the time of such petition. *Calkins v. Angell* (1900) 81 N.W. 977, 123 Mich. 77.

Members of a mutual fire insurance company, if liable at all for assessments made by a receiver made under P.A. 1873, No. 82, could be made so only by the contract existing between them and the corporation which contract was evidenced by the application and the policy. *Wardle v. Hudson* (1893) 55 N.W. 992, 96 Mich. 432.

Under How. § 4247 et seq., in case of insolvent insurance companies, receivers are only authorized to "assess the members and persons insured." Where defendant was assessed the amount claimed subsequent to the surrender and cancellation of his policy, he could not be held liable therefor. *Tolford v. Church* (1887) 33 N.W. 913, 66 Mich. 431.

8. — Enforcement of assessments

In a suit by the receiver of an insolvent mutual fire insurance company to impress a lien for an assessment and provide for its foreclosure against the insured property, a complaint setting forth the execution, date and amount of the policy, premiums paid or to be paid, property insured, interest of the insured therein, and loss was sufficient notwithstanding plaintiff's failure to attach a copy of the policy to the complaint. *Berry v. Dehnke* (1942) 5 N.W.2d 505, 302 Mich. 614.

Where an assessment by a receiver of a mutual insurance company was excessive, adequate relief may be had by

vacating it or by securing a proper distribution of the funds raised thereby, and a bill of review did not lie. *Daniel v. Citizens' Mut. Fire Ins. Co. of Jackson* (1907) 113 N.W. 17, 149 Mich. 626.

An order of a court of chancery, made pursuant to C.L.1897, § 7331, levying an assessment on the members of a mutual insurance company, and fixing the proportionate amount to be paid by each of such members, after adjudging the company insolvent, and appointing a receiver under such section could not be collaterally attacked by a member on the ground that the assessment was excessive, in an action by the receiver to enforce the assessment. *Collins v. Welch* (1905) 105 N.W. 31, 141 Mich. 676.

The fact that a policy holder in a mutual fire insurance company, after he had canceled his policy, was sued on an assessment for losses and expenses incurred during the life of his policy, and settled such claim, was not a defense to an action brought against him by the receiver of the company on an assessment to cover a deficiency in the sum necessary to pay such losses and expenses, resulting from the fact that the former assessment included persons who were not liable thereon. *Cavanagh v. Cannon* (1900) 82 N.W. 523, 123 Mich. 685.

9. — Offset, assessments

Where cash premium policy holders in a mutual fire insurance company were liable to assessment on the company's insolvency, they were entitled to offset the unearned premium on their policies. *Ely v. Oakland Circuit Judge* (1910) 125 N.W. 375, 162 Mich. 466, modified in other respects, 127 N.W. 769, 162 Mich. 466.

10. Liquidation and receivership—In general

It was not presently necessary to grant petition of commissioner of insurance for appointment of receiver to liquidate insurance company, which for purpose of petition for liquidation had been found insolvent, where certain assets held by company had value, even if they could not be considered in determining company's solvency on petition for liquidation, and there was dis-

closed willingness by those in control of company and related companies to reduce company's intercorporate liabilities. *Adams ex rel. Blackford v. Michigan Sur. Co.* (1961) 110 N.W.2d 677, 364 Mich. 299.

Section 500.7802 et seq. relating to liquidation and dissolution of domestic insurance companies provide alternative remedies by which insolvent insurance companies may be put in custodianship of the insurance commissioner and may be liquidated, which remedies may be pursued in the same petition. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

The petition filed by the commissioner of insurance under P.A.1873, No. 82, § 15, as the foundation of proceedings to wind up the business of a mutual fire insurance company, need not be verified. *Wardle v. Cummings* (1891) 49 N.W. 212, 86 Mich. 395, rehearing denied 49 N.W. 538, 86 Mich. 395.

Under P.A.1873, No. 82, as amended by P.A.1877, Nos. 66, 142, relative to winding up insolvent mutual insurance companies, and providing that the receiver of such a company shall assess on all the members and persons insured therein such sums as will, in the aggregate, suffice to pay its losses and liabilities, in proportion to their insurance or interest in the company, the liability of persons insured to meet their proportion of such assessments cannot be avoided by any arrangements entered into with the company whereby the insured seeks to limit such liability, nor can it be lessened by any provisions in the articles of association. *Russell v. Berry* (1883) 16 N.W. 651, 51 Mich. 287.

11. — Rights and liabilities of liquidator or receiver

Court rule regarding sale of assets by receiver in suit on creditor's bill is not applicable to receiver of insurance company whose rights and duties are defined by this section. *Toy ex rel. Ketcham v. Lapeer Farmers' Mut. Fire Ins. Ass'n* (1947) 27 N.W.2d 345, 318 Mich. 60.

Question whether insurance commissioner, acting in his capacity as statutory receiver of defunct insurance association, was liable for possible mistake

of judgment in not having gone to expense of bringing suit against officers and directors of association when it appeared that chances of recovery were most remote, was academic in view of fact that decree approving plan for terminating receivership preserved right of nonassenting creditors and dissatisfied members of association, who had paid assessments in full, to proceed against all of receivers and deputy receivers, excepting only incumbents, at their own expense. *Id.*

A receiver of insolvent insurance company derives his authority from this section, and cannot act in contravention of or beyond this section, and, though he may ask advice of court on an ex parte petition, the order confers no additional authority. *Toy ex rel. Ketcham v. Lapeer Farmers Mut. Fire Ins. Ass'n* (1941) 297 N.W. 232, 297 Mich. 174.

Under P.A.1873, No. 82, § 17, the receiver of an insolvent mutual insurance company may maintain an action against a policy holder, who canceled his policy before the appointment of the receiver, on an assessment to cover a deficiency in the losses and expenses incurred while his policy was in force, regardless of prior assessments paid by him for the purpose of paying such losses. *Peake v. Yule* (1900) 82 N.W. 514, 123 Mich. 675.

Any defense which a member might make against an action brought by the company to recover an assessment made by the board of directors is equally available in an action by the receiver. *Wardle v. Hudson* (1893) 55 N.W. 992, 96 Mich. 432.

A receiver of a fire insurance company organized under P.A.1873, No. 82, relating to the incorporation of mutual fire insurance companies, derived his authority to make assessments directly from P.A.1873, No. 82, and, while proper to ask the advice of the court of which he is an officer on an ex parte petition, the order obtained confers no additional authority, and, if he acts beyond or in contravention of P.A.1873, No. 82, his acts might be questioned the same as if no such order had been made. *Wardle v. Townsend* (1889) 42 N.W. 950, 75 Mich. 385, 4 L.R.A. 511.

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12. — Actions by or against liquidator or receiver

Under How. § 8964, subd. 5, providing that defendant should recover costs when plaintiff obtained judgment for less than \$100, and section 4263, providing that, in case one insured in a mutual fire company should neglect to pay an assessment, the receiver of the company may sue for it in the circuit court wherein he was appointed, in his own name, and the assessment should be prima facie evidence of its own regularity, and of the receiver's right to recover, with costs, the receiver in a successful action recovers his costs, although the judgment be for less than \$100. *Wardle v. Townsend* (1889) 42 N.W. 950, 75 Mich. 385, 4 L.R.A. 511; *Bacon v. Clyne* (1888) 38 N.W. 207, 70 Mich. 183.

In insurance association receivership, decree providing that, on filing of receiver's final account and receipts, receiver and his deputy should be automatically discharged, required the receiver, as a condition precedent to his discharge, to file a final account which should be acceptable to court and account would be acceptable to court only after proper notice to interested parties who should have an opportunity to be heard thereon. Toy ex rel. *Ketcham v. Lapeer Farmers' Mut. Fire Ins. Ass'n* (1947) 27 N.W.2d 345, 318 Mich. 60.

A receiver of insolvent mutual fire insurance association would not be ordered to intervene in case involving

claim by association's former secretary-treasurer for compensation, where attorney general, in whose name the receivership proceeding was instituted, was also plaintiff in case involving secretary-treasurer's claim. Toy ex rel. *Ketcham v. Lapeer Farmers Mut. Fire Ins. Ass'n* (1941) 297 N.W. 232, 297 Mich. 174.

13. — Termination of liquidation or receivership

Where decree approved plan for termination of insurance association receivership by transfer of assets to creditors' trustee and authorized discharge of receiver upon approval of his final account, record established that there were no assets coming into the possession of the receiver other than those disclosed to the court at the hearing, and that the receiver's account was properly approved. Toy ex rel. *Ketcham v. Lapeer Farmers' Mut. Fire Ins. Ass'n* (1949) 39 N.W.2d 214, 325 Mich. 655.

Decree approving plan for termination of insurance association receivership by transfer of assets to creditors' trustees in consideration of discharge of creditors' claims did not impair contract existing between creditors and association by attempting to substitute creditors' trustees for statutory liquidator, since the plan did not constitute an abandonment of statutory duties of commissioner of insurance. Toy ex rel. *Ketcham v. Lapeer Farmers' Mut. Fire Ins. Ass'n* (1947) 27 N.W.2d 345, 318 Mich. 60.

500.7819. Recovery of distributions to affiliates

Sec. 7819. (1) If a receiver is appointed in delinquency proceedings in any court in this state for an insurer domiciled in this state, the receiver may recover on behalf of the insurer, from any affiliate of the insurer, all amounts distributed at any time during the 5 years preceding the petition for liquidation or rehabilitation, subject to the limitations prescribed in subsections (2) and (3).

(2) Dividends shall not be recoverable under subsection (1) if the insurer or the affiliate from whom the recovery is sought shows that, when paid, the distributions were lawful and reasonable and that the insurer and the affiliates did not know and could not reasonably have

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known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) A person who was an affiliate at the time the distributions were paid shall be liable in an amount not to exceed the amount of distributions received. A person who was an affiliate at the time the distributions were declared shall be liable in an amount not to exceed the amount of distributions which would have been received if they had been paid immediately, as long as the dividends were actually paid at some time. If 2 persons are liable with respect to the same distributions, they are jointly and severally liable for those distributions.

(4) If a person liable under subsection (3) is insolvent, each person which was a controlling person of the person liable under subsection (3) at the time the distributions were made shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

(5) As used in this section, "affiliate" of, or a person "affiliated" with, a specific person, means a person that directly, or indirectly through 1 or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

P.A.1956, No. 218, § 7819, added by P.A.1980, No. 41, § 1, Imd. Eff. March 17, 1980.

Library References

Insurance 72.7.

C.J.S. Insurance §§ 133, 134.

500.7822. Special deputies and employees; powers of examination

Sec. 7822. (1) For the purposes of this chapter the commissioner shall have power to appoint, under his hand and official seal, 1 or more special deputy commissioners as his agent or agents, and to employ such counsel, clerks and assistants as may by him be deemed necessary, and give each of such persons such power to assist him as he may consider wise.

(2) In any proceedings under this chapter the commissioner, his deputy or any examiner or special deputy shall have all of the powers given to the commissioner, by any law of this state authorizing the commissioner to make or cause to be made examinations of insurance corporations, including the power to examine under oath the officers and employes of such corporation, and to compel the production of books and papers as herein provided.

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Historical Note

Source:

P.A.1956, No. 218, § 7822, Eff. Jan. 1, 1957.
C.L.1948, § 500.7822.
C.L.1970, § 500.7822.

Prior Laws:

P.A.1911, No. 216, § 5.
C.L.1915, § 9294.
P.A.1917, No. 256, Pt. 1, c. III, § 5.
C.L.1929, § 12267.
C.L.1948, § 503.5.

Library References

Insurance ☞72.6.

C.J.S. Insurance §§ 133, 134.

500.7824. Expenses of proceedings; payment

Sec. 7824. The compensation of such special deputy commissioner, counsel, clerks and assistants, and all expenses of taking possession of and conducting the business of liquidating any such corporation shall be fixed by the commissioner, subject to the approval of the court, and shall, on certificate of the commissioner, be paid out of the funds or assets of such corporation.

Historical Note

Source:

P.A.1956, No. 218, § 7824, Eff. Jan. 1, 1957.
C.L.1948, § 500.7824.
C.L.1970, § 500.7824.

Prior Laws:

P.A.1911, No. 216, § 5.
C.L.1915, § 9294.
P.A.1917, No. 256, Pt. 1, c. III, § 5.
C.L.1929, § 12267.
C.L.1948, § 503.5.

Library References

Insurance ☞72.10.

C.J.S. Insurance § 133.

Notes of Decisions

1. In general

A reason for the enactment of § 500.7800 et seq., relating to liquidation and dissolution of domestic insurance companies was to prevent certain evils at-

tendant upon proceedings for appointment of court receivers such as high and exorbitant fees paid to such receivers. *Gauss v. American Life Ins. Co.* (1939) 287 N.W. 368, 290 Mich. 33.

500.7830. Annual report as to proceedings

Sec. 7830. The commissioner shall publish, in his annual report, the names of the corporations so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall acquaint the policyholders, creditors, stockholders, and the public with his proceedings under this chapter; and to that end the official in charge of any such corporation shall file annually with the commissioner a report of the affairs of such corporation.

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Historical Note

Source:

P.A.1956, No. 218, § 7830, Eff. Jan. 1, 1957.
C.L.1948, § 500.7830.
C.L.1970, § 500.7830.

Prior Laws:

P.A.1911, No. 216, § 7.
C.L.1915, § 9296.
P.A.1917, No. 256, Pt. 1, c. III, § 6.
C.L.1929, § 12268.
C.L.1948, § 503.6.

500.7832. Court approval of covered claims; expenses; disbursement of funds or assets

Sec. 7832. (1) The court having jurisdiction over the delinquency proceedings shall, in the absence of a showing of fraud, approve claims which are covered claims within the meaning of section 7925¹ in the amount for which they are settled by the property and casualty guaranty association or by a similar organization in another jurisdiction.

(2) Any expenses of the property and casualty guaranty association or of a similar organization in another jurisdiction which, but for the existence of the organization, would be expenses incurred by the receiver or ancillary receiver, shall be treated by the court having jurisdiction over the delinquency proceedings as though they are expenses of the receiver.

(3) The court having jurisdiction over the delinquency proceedings of an insurer may authorize the receiver to disburse funds or assets from time to time out of the estate of the insurer to the property and casualty guaranty association described in section 7911,² for the purpose of paying covered claims and otherwise performing the duties of the association under chapter 79,³ if sufficient funds or assets remain in the estate of the insurer for payment of the expenses of administration and claims which are entitled to a higher priority under the laws of this state. The court may authorize the disbursement of funds or assets to an organization similar to the property and casualty guaranty association in another state. The amount of a disbursement made shall be charged against the share of the funds and assets distributable to the property and casualty guaranty association or similar organization in another state upon the final liquidation of the insurer. A bond shall not be required of the association or a similar organization in another state as a condition of the disbursement.

Amended by P.A.1980, No. 41, § 1, Imd. Eff. March 17.

¹ Section 500.7925.

² Section 500.7911.

³ Sections 500.7901 to 500.7949.

M.C.L.A. §§ 500.3101 to 550 End-21