

**40-3614. Same; seizure of insurer; petition of commissioner; order of court; vacation of order; petition for hearing and review of order; failure to give notice to affected person.** (a) The commissioner may file in the district court of Shawnee county a petition alleging, with respect to a domestic insurer:

(1) That there exists any grounds that would justify a court order for a formal delinquency proceeding against an insurer under this act;

(2) that the interests of policyholders, creditors or the public will be endangered by delay; and

(3) the contents of an order deemed necessary by the commissioner.

(b) Upon a filing under subsection (a), the court may issue forthwith, ex parte and without a hearing, the requested order which shall direct the commissioner to take possession and control of all or a part of the property, books, accounts, documents, other records of an insurer and of the premises occupied by it for transaction of its business; and until further order of the court enjoin the insurer and its officers, managers, agents and employees from disposition of its property and from the transaction of the insurer's business except with the written consent of the commissioner.

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

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

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

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

**History:** L. 1991, ch. 125, § 10; July 1.