60B.15 GROUNDS FOR REHABILITATION.

The commissioner may apply by verified petition to the District Court for Ramsey County or for the county in which the principal office of the insurer is located for an order directing the commissioner to rehabilitate a domestic insurer or an alien insurer domiciled in this state on any one or more of the following grounds:

(1) any ground on which the commissioner may apply for an order of liquidation under section 60B.20, whenever the commissioner believes that the insurer may be successfully rehabilitated without substantial increase in the risk of loss to creditors of the insurer, its policyholders or to the public;

(2) that the commissioner has reasonable cause to believe that there has been theft from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer or other illegal conduct in, by or with respect to the insurer, which endanger assets in an amount threatening insolvency of the insurer;

(3) that substantial and unexplained discrepancies exist between the insurer's records and the most recent annual report or other official company reports;

(4) that the insurer, after written demand by the commissioner, has failed to remove any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee, or other person, if the person has been found by the commissioner after notice and hearing to be dishonest or untrustworthy in a way affecting the insurer's business such as is the basis for action under section 60A.052;

(5) that control of the insurer, whether by stock ownership or otherwise, and whether direct or indirect, is in one or more persons found by the commissioner after notice and hearing to be dishonest or untrustworthy such as is the basis for action under section 60A.052;

(6) that the insurer, after written demand by the commissioner, has failed within a reasonable period of time to terminate the employment and status and all influences on management of any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee or other person if the person has refused to submit to lawful examination under oath by the commissioner concerning the affairs of the insurer, whether in this state or elsewhere;

(7) that after lawful written demand by the commissioner the insurer has failed to submit promptly any of its own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer, or those of any person having executive authority in the insurer so far as they pertain to the insurer, to reasonable inspection or examination by the commissioner or an authorized representative. If the insurer is unable to submit the property, books, accounts, documents, or other records of a person having executive authority in the insurer, it shall be excused from doing so if it promptly and effectively terminates the relationship of the person to the insurer;

(8) that without first obtaining the written consent of the commissioner, or if required by law, the written consent of the attorney general, the insurer has transferred, or attempted to transfer, substantially its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business of any other person;

(9) that the insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator or sequestrator or similar fiduciary of the insurer or its property otherwise than as authorized under sections 60B.01 to 60B.61, and that such appointment has been made or is imminent, and that such appointment might divest the courts of this state of jurisdiction or prejudice orderly delinquency proceedings under sections 60B.01 to 60B.61;

(10) that within the previous year the insurer has willfully violated its charter or articles of incorporation or its bylaws or any applicable insurance law or regulation of any state, or of the federal government, or any valid order of the commissioner under section 60B.11 in any manner or as to any matter which threatens substantial injury to the insurer, its creditors, its policyholders or the public, or having become aware within the previous year of an unintentional or willful violation has failed to take all reasonable steps to remedy the situation resulting from the violation and to prevent the same violations in the future;

(11) that the directors of the insurer are deadlocked in the management of the insurer's affairs and that the members or shareholders are unable to break the deadlock and that irreparable injury to the insurer, its creditors, its policyholders, or the public is threatened by reason thereof;

(12) that the insurer has failed to pay for 60 days after due date any obligation to this state or any political subdivision thereof or any judgment entered in this state, except that such nonpayment shall not be a ground until 60 days after any good faith effort by the insurer to contest the obligation or judgment has been terminated, whether it is before the commissioner or in the courts;

(13) that the insurer has failed to file its annual report or other report within the time allowed by law, and after written demand by the commissioner has failed to give an adequate explanation immediately;

(14) that two-thirds of the board of directors, or the holders of a majority of the shares entitled to vote, or a majority of members or policyholders of an insurer subject to control by its members or policyholders, consent to rehabilitation under sections 60B.01 to 60B.61;

(15) that the insurer is engaging in a systematic practice of reaching settlements with and obtaining releases from policyholders or third-party claimants and then unreasonably delaying payment of or failing to pay the agreed-upon settlements;

(16) that the insurer is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors, or the public;

(17) that within the previous 12 months the insurer has systematically attempted to compromise with its creditors on the ground that it is financially unable to pay its claims in full;

(18) in the context of a health maintenance organization, "insurer" when used in clauses (1) to (17) means "health maintenance organization." In addition to the grounds in clauses (1) to (17), any one of the following constitutes grounds for rehabilitation of a health maintenance organization:

(a) the health maintenance organization is unable or is expected to be unable to meet its debts as they become due;

(b) grounds exist under section 62D.042, subdivision 7;

(c) the health maintenance organization's liabilities exceed the current value of its assets, exclusive of intangibles and, where the guaranteeing organization's financial condition no longer meets the requirements of sections 62D.041 and 62D.042, exclusive of any deposits, letters of credit, or guarantees provided by any guaranteeing organization under chapter 62D;

(d) in addition to grounds under clause (16), within the last year the health maintenance organization has failed, and the commissioner of health expects such failure to continue in the future, to make comprehensive medical care adequately available and accessible to its enrollees and the health maintenance organization has not successfully implemented a plan of corrective action pursuant to section 62D.121, subdivision 7; and

(e) in addition to grounds under clause (16), within the last year the directors or officers of the health maintenance organization willfully violated the requirements of section 317A.251, or having become aware within the previous year of an unintentional or willful violation of section 317A.251, have failed to take all reasonable steps to remedy the situation resulting from the violation and to prevent the same violation in the future;

(19) an affiliate of the insurer has been placed in conservatorship, rehabilitation, liquidation, or other court supervision such that the insurer's financial condition may be jeopardized.

History: *1969 c 708 s 15; 1971 c 568 s 25; 1986 c 444; 1990 c 538 s 2; 1992 c 564 art 1 s 25; 1993 c 13 art 2 s 1*