80D.11 REHABILITATION OR LIQUIDATION.

Subdivision 1. **Appointment of trustees.** If (a) a portion of a reserve fund escrow required under section 80D.06 has been or is proposed to be released, or (b) a provider has been or will be unable, in a manner as may endanger the ability of the provider to fully perform its obligations pursuant to contracts for continuing care or to meet the pro forma income or cash flow projections previously filed by the provider, or (c) a provider is bankrupt or insolvent or has filed for protection from creditors under any federal or state bankruptcy or insolvency law, then any resident or association of residents, or the legal representative of a resident or association of residents, may apply to a district court of this state, or to the federal bankruptcy court which may have previously taken jurisdiction over the provider or facility for an order directing the appointment of a trustee to rehabilitate or liquidate a facility.

Subd. 2. **Rehabilitation.** An order to rehabilitate a facility shall direct the trustee to take possession of the property of the provider and to conduct the business thereof, including the employment of such managers or agents as the trustee may deem necessary, and to take steps as the court may direct toward removal of the causes and conditions which have made rehabilitation necessary.

Subd. 3. **Termination of rehabilitation; return of facility to provider.** If the court finds, upon petition of the trustee or the provider, or on its own motion, that the objectives of an order to rehabilitate a provider have been accomplished and that the facility can be returned to the provider's management without further jeopardy to the residents of the facility, creditors, owners of the facility, or to the public, the court may, upon a full report and accounting of the conduct of the facility's affairs during the rehabilitation and of the facility's current financial condition, terminate the rehabilitation and by order return the facility and its assets and affairs to the provider's management.

Subd. 4. **Liquidation.** If, at any time, the trustee determines that further efforts to rehabilitate the provider would be useless, it may apply to the court for an order of liquidation.

Subd. 5. **Rehabilitation attempt not necessary prior to liquidation.** An order to liquidate a facility may be issued whether or not there has been issued a prior order to rehabilitate the facility. The order shall appoint a trustee to marshall and liquidate all of the provider's assets located within this state. Effective upon the entry of an order to liquidate a facility, no additional contracts for the provision of continuing care at that facility shall be made by any person.

Subd. 6. **Consideration of welfare of residents.** In connection with an application for an order to rehabilitate or liquidate a facility, a court shall give due consideration to the manner in which the welfare of persons who have previously contracted with the provider for continuing care may be best served. In furtherance of this objective, the proceeds of any lien pursuant to section 80D.08 may be used in full or partial payment of entrance fees, on behalf of residents of a facility being liquidated, to other facilities then in compliance with the provisions of sections 80D.01 to 80D.16.

History: *1980 c 516 s 13; 1981 c 135 s 10*