



Ohio Revised Code

Section 3903.09 Correction orders issued by superintendent.

Effective: March 7, 1983

Legislation: House Bill 830 - 114th General Assembly

(A) Whenever the superintendent of insurance has reasonable cause to believe, and determines, after a hearing held under division (E) of this section, that any domestic insurer has committed or engaged in, or is about to commit or engage in, any act, practice, or transaction that would subject it to delinquency proceedings under sections 3903.01 to 3903.59 of the Revised Code, he may make and serve upon the insurer and any other persons involved, such orders as are reasonably necessary to correct, eliminate, or remedy such conduct, condition, or ground.

(B) If upon examination or at any other time, the superintendent has reasonable cause to believe that any domestic insurer is in such condition as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or if such domestic insurer gives its consent, then the superintendent shall upon his determination do both of the following:

(1) Notify the insurer of the determination;

(2) Furnish to the insurer a written list of the superintendent's requirements to abate the determination.

(C) If the superintendent makes a determination to supervise an insurer subject to an order under division (A) or (B) of this section, he shall notify the insurer that it is under the supervision of the superintendent. During the period of supervision, the superintendent may appoint a supervisor to supervise the insurer. The order appointing a supervisor shall direct the supervisor to enforce orders issued under division (A) or (B) of this section and may also require that the insurer may not do any of the following, during the period of supervision, without the prior approval of the superintendent or his supervisor :

(1) Dispose of, convey, or encumber any of its assets or its business in force;

(2) Withdraw from any of its bank accounts;



- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property;
- (6) Incur any debt, obligation, or liability;
- (7) Merge or consolidate with another company;
- (8) Enter into any new reinsurance contract or treaty.

(D) Any insurer subject to an order under this section shall comply with the lawful requirements of the superintendent and, if placed under supervision, shall have sixty days from the date the supervision order is served within which to comply with the requirements of the superintendent. In the event of the insurer's failure to comply within such time, the superintendent may commence proceedings under section 3903.12 or 3903.17 of the Revised Code to have a rehabilitator or liquidator appointed, or extend the period of supervision.

(E) The notice of hearing under division (A) of this section and any order issued pursuant to that division shall be served upon the insurer. The notice of hearing shall state the time and place of hearing, and the conduct, condition, or ground upon which the superintendent would base his order. Unless mutually agreed between the superintendent and the insurer, the hearing shall occur not less than ten days nor more than thirty days after notice is served and shall be either in Franklin county or in some other place convenient to the parties to be designated by the superintendent. The superintendent shall hold all hearings under division (A) of this section privately unless the insurer requests a public hearing, in which case the hearing shall be public.

(F)(1) Any insurer subject to an order under division (B) of this section may request a hearing to review that order. Such a hearing shall be held as provided in division (E) of this section, but the request for a hearing shall not stay the effect of the order.



(2) If the superintendent issues an order under division (B) of this section, the insurer may, at any time, waive a superintendent's hearing and apply for immediate judicial relief by means of any appropriate judicial remedy without first exhausting administrative remedies.

(G) During the period of supervision, the insurer may request the superintendent to review an action taken or proposed to be taken by the supervisor, specifying wherein the action complained of is believed not to be in the best interest of the insurer.

(H) If the superintendent has reasonable cause to believe that a supervision order issued under this section has been violated, he may, unless the order is stayed by a court of competent jurisdiction, request the attorney general to commence and prosecute any appropriate action or proceeding in the name of the state against the person to recover a civil penalty not to exceed ten thousand dollars.

(I) Upon complaint or motion of the superintendent, the court of common pleas may issue a temporary restraining order, a preliminary injunction, a permanent injunction, or such other orders as the court considers necessary and proper to enforce a supervision order.

(J) In the event that any person, subject to sections 3903.01 to 3903.59 of the Revised Code, including those persons described in division (A) of section 3903.06 of the Revised Code, knowingly violates any valid order of the superintendent issued under the provisions of this section and, as a result of such violation, the net worth of the insurer is reduced or the insurer suffers loss it would not otherwise have suffered, the person is personally liable to the insurer for the amount of any such reduction or loss. The superintendent or supervisor may bring an action on behalf of the insurer in the court of common pleas to recover the amount of the reduction or loss together with any costs.

(K) Without regard to the status of any proceeding instituted under this section, the superintendent may at any time commence proceedings under section 3903.12 or 3903.17 of the Revised Code to have a rehabilitator or liquidator appointed.