



Ohio Revised Code

Section 6109.25 Appointment of receiver; petition.

Effective: October 6, 2017

Legislation: Senate Bill 2 - 132nd General Assembly

(A)(1) Upon petition by the director of environmental protection, a court of common pleas may appoint a receiver to take possession of and operate a public water system that serves fewer than five hundred service connections only when conditions existing at the public water system present a threat to public health or welfare. However, division (A)(1) of this section does not apply to a system owned and operated by a public entity or a system regulated by the public utilities commission.

(2) The director shall include all of the following in a petition:

(a) A description of the specific conditions existing at the public water system which present a threat to public health or welfare;

(b) A statement of the absence of other adequate remedies at law;

(c) The population served by the public water system;

(d) A statement that declares both of the following:

(i) The facts concerning the conditions at the public water system have been brought to the attention of the owner and operator or that efforts to contact the owner or operator have been unsuccessful;

(ii) The conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the public water system as a pattern or practice.

(e) The name and address of the owner of the public water system.

(B)(1) The director shall send notice of the filing to all of the following:

(a) The appropriate local board of health;



(b) Customers of the public water system;

(c) Any party with a known ownership interest in the public water system;

(d) Any other appropriate persons identified by the director.

(2) The court shall conduct a hearing on the petition within five court days of the day it is filed, except that the court may appoint a receiver prior to that time if the court determines that the circumstances necessitate such action. If the court appoints a receiver prior to conducting a hearing on the petition, the court shall provide notice of the appointment to any party with a known ownership interest in the system. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the director, any party with a known ownership interest in the system, and any other appropriate persons of the appointment.

(C) All of the following apply to the court's appointment of a receiver under this section:

(1) The court shall not appoint a person who is not a resident of this state.

(2) In selecting a receiver, the court shall give priority consideration to any qualified persons nominated by the director. However, the court is not required to select a qualified person nominated by the director.

(3) The court shall not appoint a person with a financial or ownership interest in the public water system.

(D) Prior to acting as a receiver, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court. The receiver shall execute a bond in an amount required by the court, to the effect that the receiver will faithfully discharge the duties of receiver and obey the orders of the court.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The



court may authorize the receiver to take actions necessary to safely and efficiently operate the public water system within the requirements of state and federal law. However, the court shall require the receiver to obtain court approval prior to making any single expenditure of more than fifteen thousand dollars. In addition, if the receiver proposes to enter into a contract that is necessary to carry out the receiver's powers and duties and that is valued at fifteen thousand dollars or more, the receiver shall present to the court at least two cost quotations from different vendors before entering into the contract. The court shall closely review the conduct of the receiver it has appointed and shall require monthly detailed reports.

(F) Under control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property. The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to persons served by the public water system during the period of the receivership at the same rate as was charged by the owner at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership.

(3) Make monthly reports on the status of the public water system to the director and the owner of the public water system;

(4) Compromise demands or claims;

(5) Take actions necessary for the operation of the public water system in compliance with this chapter and the rules adopted under it.



(6) Perform any other action regarding the public water system as the court authorizes.

(G) Neither the receiver nor the director is liable for debts incurred by the owner or operator of a public water system for which a receiver has been appointed.

(H) The court shall terminate a receivership established pursuant to this section following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The public water system has been closed and is no longer operating.

(2) Circumstances no longer exist at the public water system that present a threat to public health or welfare, and there is no deficiency in the public water system that is likely to create a future risk of harm.

Notwithstanding division (H)(2) of this section, the court shall not terminate a receivership for a public water system that has previously operated under another receivership, under the same owner, unless the responsibility for the operation of the public water system is transferred to an owner or operator approved by the court and the director.

(I) The director shall provide technical assistance to any receiver appointed under this section.