

### **304.29-301 Injunction -- Liquidation -- Receivership of domestic society.**

- (1) If the commissioner, upon investigation, finds that a domestic society:
  - (a) Has exceeded its powers;
  - (b) Has failed to comply with any provision of this subtitle;
  - (c) Is not fulfilling its contracts in good faith;
  - (d) Has a membership of less than four hundred (400) after an existence of one (1) year or more; or
  - (e) Is conducting business fraudulently or in a manner hazardous to its members, creditors, the public or the business,

the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for his or her dissatisfaction. The commissioner shall issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected. After the notice, the society shall have a thirty (30) day period in which to comply with the commissioner's request for correction; and if the society fails to comply, the commissioner shall notify the society of the findings of noncompliance and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in Franklin Circuit Court should not be commenced against the society.

- (2) If on that date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts to the Attorney General who shall, if he or she deems the circumstances warrant, commence an action to enjoin the society from transacting business.
- (3) The court shall notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order. No society so enjoined shall have the authority to do business until:
  - (a) The commissioner finds that the violation complained of has been corrected;
  - (b) The costs of the action shall have been paid by the society, if the court finds that the society was in default as charged;
  - (c) The court has dissolved its injunction; and
  - (d) The commissioner has reinstated the certificate of authority.
- (4) If the court orders the society liquidated, it shall be enjoined from carrying on any further business. The receiver of the society shall take possession of the books, papers, money and other assets of the society, and, under the direction of the court, close the affairs of the society and distribute its funds to those entitled to them.
- (5) No action under this section shall be recognized in any court of this state unless brought by the Attorney General upon request of the commissioner. If a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as receiver.

- (6) The provisions of this section relating to hearing by the commissioner, action by the Attorney General at the request of the commissioner of insurance, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1401, effective July 15, 2010. -- Created 1988 Ky. Acts ch. 310, sec. 30, effective January 1, 1989.