

# [ Commonwealth Act No. 697, October 15, 1945 ]

## **AN ACT FOR THE REHABILITATION, LIQUIDATION, AND DISSOLUTION OF DELINQUENT INSURERS, AMENDING FOR THE PURPOSE SECRETION ONE HUNDRED AND SEVENTY-FIVE OF ACT NUMBERED TWENTY-FOUR HUNDRED AND TWENTY-SEVEN, AS AMENDED BY ACT NUMBERED THIRTY-ONE HUNDRED AND FIFTY-TWO.**

*Be it enacted by the Senate and House of Representatives in Congress assembled:*

SECTION 1. Section one hundred and seventy-five of Act Numbered Twenty-four hundred and twenty-seven, as amended by Act Numbered Thirty-one hundred and fifty-two, is hereby further amended by inserting thereafter the following new sections to be known as section 175 (A) to section 175 (U):

"SEC. 175 (A). Application of Act: Definition.-1. This Act shall apply to all corporations, associations, societies, orders, partnerships, and individuals to which any section of the Insurance Act is applicable, or which are subject to examination or supervision under any section of the Insurance Act, or which are doing or attempting to do or representing that they are doing the business of insurance in the Philippines, or which are in process of organization for the purpose of doing or intending to do such business therein, anything as to any such corporations, associations, societies, orders, partnerships, or individuals provided in this Act or elsewhere in the laws of the Philippines to the contrary notwithstanding.

"2. (a) The word 'insurer' as used in this Act includes all the above named corporations, associations, societies, orders, partnerships and individuals (b) The word 'Commissioner' as used in this Act refers to Insurance Commissioner. (c) The word 'assets' as used in this Act includes all deposits and bonds of a special or trust nature.

"SEC. 175 (B). *Grounds for rehabilitation or liquidation of domestic insurer.*-The Commissioner may apply under this Act for an order directing him to rehabilitate or liquidate a domestic insurer upon any one or more of the following grounds: That such insurer (a) is insolvent; or (b) has neglected or refused to observed an order of the Commissioner to make good within the time prescribed by law any deficiency, whenever its capital, if it be a stock corporation, or its reserve, if it be a mutual corporation, shall have become impaired; or (c) is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public; or (d) has consented through a majority of its directors, stockholders, or members.

"SEC. 175 (C). *Order of rehabilitation or liquidation.* -

1. An order to rehabilitate or liquidate a domestic insurer shall direct the Commissioner and his successors in office forthwith to take possession of the property of such insurer and to conduct the business thereof, and to take such steps toward the removal of the causes and conditions which have made such proceeding necessary as the court shall direct.

"2. The Commissioner may submit any plan he may deem advisable to protect the public interest for the rehabilitation or liquidation of such insurer to the court for approval and if approved such plan shall be binding upon the insurer, stockholders and creditors.

"3. The Commissioner and his successors shall be vested by operation of law with the title to all of the property, contracts and rights of action of such insurer as of the date of the order dso directing them to rehabilitate or liquidate. The filing or recording of such order in any record office of the Philippines shall impart the same notice that a deed, bill of sale or other evidence of title duly filed or recorded by such insurer would have imparted. The rigths and liabilities of any such insurer and of its creditors, policyholders, stockholders, members and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date of the entry of the order directing the rehabilitation or liquidation of such insurer in the office of the clerk of court where such insurer had its principal office for the transaction of business upon the date of the institution of proceedings under this Act: *Provided, however,* That the right of claimants holding continget claims on said date to share, That the right of claimants holding contingent claims on said date to share in an insolvent estate shall be determined by section one hundred and seventy-five (A) of this Act.

"SEC. 175 (D). *Grounds for dissolution of domestic insurers.*-The Commissioner may apply under this Act for an order dissolving the corporate existence of a domestic insurer at any time after an order of rehabilitation has been granted; or at any time upon the grounds specified in section one hundred and seventy-five (B).

"SEC. 1754 (E). *Commencement of a proceeding.*-The Commissioner may, the Solicitor-General representing him commence any proceeding under this Act by an application to the Court of competent jurisdiction, in the Judicial District in which the principal office of the insurer involved is located, for an order directing such insurer to show cause why, the Commissioner should not have the relief prayed for. On the return of such order to show cause, and after a full hearing, which shall be held by the court or judge without delay, such court, or judges shall either deny the application or grant the same together with such other relief as the nature of the case and the interests of policy-holders, creditors, stockholders, members, and the public may require. All proceedings under this Act shall be given preference in the courts.

"SEC. 175 (F). *Service of order to show cause.*-The order to show cause and the papers upon which the same is made in any proceeding under this Act shall be served upon the insurer named in such order by delivering them to the president or other head of the corporation, the secretary or clerk to the corporation, the cashier, the treasurer or a director or managing agent; if it be a voluntary, unincorporated or a joint stock association, order or society, by delivering them to the President, Vice-President, Treasurer, Director, Trustee or other officer or a member with managerial powers. If such service cannot be made immediately by the exercise of reasonable diligence, such order to show cause may provide for service thereof in such manner as the court of judge by whom the same is made, shall direct.

"SEC. 175 (G). *Injunctions.*- Upon an application by the Commissioner for an order to show cause under this Act, or at any time thereafter, the court in which such order is made, or any judge thereof may, without notice, issue an injunction

restraining the insurer named in the order, its officers, directors, stockholders, members, trustees, agents, servants, employees, policyholders, attorneys, managers, and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

"2. Such court or judge may at any time during a proceeding under this Act issue such other injunctions or orders as may be deemed necessary to prevent interference with the Commissioner or the proceeding, or waste of the assets of the insurer, or the prosecution of any actionss, or the obtaining of preferences, judgmentsa, attachments or other liens, or the making of any levy against the corporation or against its assetsa or any part thereof.

"SEC. 175 (H). *Annual report.*-The Commissioner shall transmit to the Secretary of Finance in his annual report the names of all insurers proceeded against under this Act together with such facts as shall acquaint the policyholders, creditors, stockholders, and the public with all proceedings. To that end the special Deputy Commissioner in charge of any such insurer shall file annually with the Commissioner a report of the affairs of such insurer.

"SEC. 175 (I). *Appointment of deputies; employment of assistants; payment of salaries and expenses.*-1. For the purposes of this Act the Commissioner shall have the power to appoint under his hand and official seal, one or more to appoint under his hand and official seal, one or more special Deputy Commissioners of Insurance, as his agent or agents, and to employ such counsel, clerks and assistants as may by him be deemed necessary, and to give each of such persons such powers to assist him as he may consider wise.

"2. The compensation of such Special Deputy Commissioners, counsel, clerks and assistants, and all expenses of conducting any proceeding under this Act shall be fixed by the Commissioner, subject to the approval of the court, and may, on certificate of the Commissioner, be paid out of the funds or assets of such insurer.

"SEC. 175 (J). *Examinations; action upon refusal to be examined.*-1. At any time during the progress of any proceeding taken under this Act, the Commissioner shall have power either personally or by his deputies, including his special deputy commissioners or examiners to *subpoena* witnesses, to compel their attendance, to administer an oath, and to examine any person under oath, before him or before a deputy or examiner duly designated for such purpose, and in connection therewith to require the production of any books or papers relevant to the inquiry. If a person *subpoenaed* to attend such inquiry fails to obey the command of a *subpoena* without reasonable excuse, or if a person in attendance upon such inquiry, shall, without reasonable cause, refuse to be sworn, or to be examined, or to answer a question, or to produce a book or paper when ordered to do so by the officer duly conducting such inquiry, or if a corporation, association, partnership or individual fails to perform any act required hereunder to be performed, he shall be required by the court to comply with the order of the officer duly conducting such inquiry.

"2. If any person shall ask to be excused from testifying or producing any book or paper or other document before the Commissioner or before any person duly designated by him to conduct any such investigation upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or degrade him or to subject him to a penalty or