

Frequently Asked Questions

What does Receivership mean?

When an insurance company in North Carolina encounters legal, financial or other type of trouble that is considered by the North Carolina Department of Insurance to be hazardous to the company's policyholders, creditors or the general public, the North Carolina Commissioner of Insurance (Commissioner) may move to obtain a court order placing the troubled insurer into receivership (either rehabilitation or liquidation). Receivership is a judicial proceeding similar to bankruptcy protection. While a company is in receivership, all of the company's assets are placed under the control of the Commissioner as receiver of the company. Receivership proceedings can be used to rehabilitate troubled companies or to liquidate them.

How does the Receivership Process work?

When the Commissioner institutes delinquency proceedings against an insurer domiciled in North Carolina, the Wake County Superior Court (Court), pursuant to G.S. 58-30-80 and 58-30-105, appoints the Commissioner as receiver (either as the rehabilitator or the liquidator) of the insurer.

Typically, delinquency proceedings begin with an order of rehabilitation. An order of rehabilitation allows the company to continue to operate, but the Commissioner is appointed as the rehabilitator and given the power to manage the company until the problems are corrected. If the problems cannot be corrected, the company may be placed into liquidation. An order of liquidation normally requires the company to cease operations. The Commissioner is appointed as the liquidator and directed by the Court to collect the assets of the company and, to the extent possible, settle the obligations of the company.

The Commissioner may also seek an order of liquidation if an unlicensed company is attempting to conduct the business of insurance in North Carolina.

What is Rehabilitation?

Rehabilitation means that an effort is being made to reform and revitalize an insurer. The Court, by way of an order of rehabilitation, appoints the Commissioner as rehabilitator. The Commissioner, acting in his capacity as rehabilitator, takes possession of the assets of the insurer and administers them under the general supervision of the Court. The rehabilitator is granted the power to take whatever action he deems necessary in his efforts to reform and revitalize an insurer.

What is Liquidation?

Liquidation means that the Court, by way of an order of liquidation, places an insurer under the control of the Commissioner. The Commissioner is appointed liquidator and directed by the Court to marshal the assets of the company, terminate the policies (arranges for transfer of annuities, life insurance

policies, or other non-cancelable policies), and pay creditor claims under the general supervision of the Court.

Upon the filing of the liquidation order, applicable guarantee funds are triggered, notices are sent to all policyholders and claimants informing them of the company's liquidation and the steps necessary to file a claim. Policyholders are provided with information about the termination of their policy and any applicable guaranty fund coverage.

All claims against the insurer are identified, quantified, and adjudicated. Finally, an equitable distribution of the insurer's assets is made to creditors and the proceedings are closed.

What is a Receiver?

A Receiver can be either a rehabilitator or a liquidator.

What is a Special Deputy Receiver?

After obtaining an order of rehabilitation or an order of liquidation, the Commissioner is, by law, the rehabilitator or the liquidator of the company. In this capacity the Commissioner takes control of the company's assets and operations. Rather than doing so directly, the Commissioner appoints a special deputy receiver to supervise and administer the company's activities on his behalf. The special deputy receiver may be an employee of the North Carolina Department of Insurance or an independent professional experienced in insolvencies.

What is a Guaranty Association?

Guaranty associations are non-profit organizations created by statute for the purpose of protecting policyholders from severe financial losses and delays in claim payments due to a company's insolvency. Most, but not all, types of insurance are covered by a guaranty association. Links to North Carolina guaranty associations and the national organizations of those associations can be found on this website under "Industry Links."

What is meant by "assets are marshaled?"

Under the Court's general supervision, the liquidator gathers and collects an insurer's assets and converts them into cash. Once all assets are marshaled and claims fixed, the liquidator distributes the cash to the insurer's claimants. The payment of claims is prioritized in accordance with G.S. 58-30-220.

How is a liquidation proceeding closed?

Upon conclusion of his primary obligations (marshaling assets, adjudicating claims and making distributions to creditors) the liquidator will generally petition the Court for an order approving a final distribution, closing the estate, and discharging the liquidator.

What is meant by Domestic?

Domestic, as it applies to the North Carolina Department of Insurance, means that the insurance company was domiciled (chartered) in the state of North Carolina.