

40-3619. Same; litigation pending at time of entry of rehabilitation order, stay of action or proceeding; duties of court and rehabilitator; statutes of limitation and defenses of laches; rights of guaranty associations; rights of federal home loan banks. (a) Except as provided in subsection (d), any court in this state before which any action or proceeding in which the insurer is a party, or is obligated to defend a party, is pending when a rehabilitation order against the insurer is entered shall stay the action or proceeding for 90 days and such additional time as is necessary for the rehabilitator to obtain proper representation and prepare for further proceedings. The rehabilitator shall take such action respecting the pending litigation as necessary in the interests of justice and for the protection of creditors, policyholders and the public. The rehabilitator shall immediately consider all litigation pending outside this state and shall petition the courts having jurisdiction over such litigation for stays whenever necessary to protect the estate of the insurer.

(b) Except as provided in subsection (d), no statute of limitation or defense of laches shall run with respect to any action by or against an insurer between the filing of a petition for appointment of a rehabilitator for that insurer and the order granting and denying that petition. Any action against the insurer that might have been commenced when the petition was filed may be commenced for at least 60 days after the order or rehabilitation is entered or the petition is denied. The rehabilitator, upon an order for rehabilitation, within one year or such other longer time as applicable law may permit, may institute an action or proceeding on behalf of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which such order is entered.

(c) Any guaranty association or foreign guaranty association covering life or health insurance or annuities shall have standing to appear in any court proceeding concerning the rehabilitation of a life or health insurer if such association is or may become liable to act as a result of the rehabilitation.

(d) No federal home loan bank shall be stayed, enjoined, or prohibited from exercising or enforcing any right or cause of action regarding collateral pledged under:

(1) Any federal home loan bank security agreement; or

(2) any pledge, security, collateral or guarantee agreement or other similar arrangement or credit enhancement relating to such security agreement.

History: L. 1991, ch. 125, § 15; L. 2014, ch. 3, § 2; July 1.