

304.33-010 Title, construction, and purpose.

- (1) Short title. This subtitle may be cited as the "Insurers Rehabilitation and Liquidation Law."
- (2) Construction. No limitation of powers. This subtitle shall not be interpreted to limit the powers granted the commissioner by other provisions of the law.
- (3) Liberal construction. This subtitle shall be liberally construed to effect the purpose stated in subsection (4) of this section.
- (4) Purpose. The purpose of this subtitle is the protection of the interests of insureds, creditors, and the public generally, with minimum interference with the normal prerogative of proprietors, through:
 - (a) Early detection of any potentially dangerous condition in an insurer, and prompt application of appropriate corrective measures, neither unduly harsh nor subject to the kind of publicity that would needlessly damage or destroy the insurer;
 - (b) Improved methods for rehabilitating insurers, by enlisting the advice and management expertise of the insurance industry;
 - (c) Enhanced efficiency and economy of liquidation, through the consolidation of matters relating to the liquidation under the supervision of a single court so as to avoid divergent rulings by a multiplicity of judicial tribunals and through clarification and specification of the law, to minimize legal uncertainty and litigation;
 - (d) Equitable apportionment of any unavoidable loss;
 - (e) Lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between states in the liquidation process, and by extension of the scope of personal jurisdiction over debtors of the insurer outside this state;
 - (f) Regulation of the insurance business by the impact of the law relating to delinquency procedures and substantive rules on the entire insurance business; and
 - (g) Provision for a comprehensive scheme for the supervision, rehabilitation, and liquidation of insurance companies and those subject to this subtitle as part of the regulation of the business of insurance, insurance industry, and insurers in this state. Proceedings in cases of insurer insolvency and delinquency shall be deemed an integral aspect of the business of insurance and are of vital public interest and concern.
- (5) All persons who voluntarily transact business with an insurer which is subsequently the subject of a delinquency proceeding under this subtitle shall be conclusively presumed to have transacted business with the intent that the provisions of this subtitle would control if there is any delinquency proceeding in this state.
- (6) If there is a delinquency proceeding under this subtitle, the provisions of this subtitle shall govern those proceedings, and all conflicting contractual provisions contained in any contract between the insurer which is subject to the delinquency proceeding and any third party shall be deemed subordinated to the provisions of this subtitle. However, notwithstanding the foregoing, in any

delinquency proceeding commenced against an insurer after July 15, 1996, nothing in this subtitle shall be construed to subordinate or restrict the rights of parties to submit their disputes to arbitration pursuant to a contractual arbitration clause contained in a reinsurance agreement.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1428, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 183, sec. 1, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 422, sec. 1, effective July 13, 1990. -- Created 1970 Ky. Acts ch. 301, subtit. 33, sec. 1, effective June 18, 1970.