

304.33-160 Powers and duties of the rehabilitator.

- (1) Special deputy. The commissioner as rehabilitator shall appoint one (1) or more special deputies, who are active or retired senior executives from a successful insurer, and who shall have all the powers and responsibilities of the rehabilitator granted under this section, and the commissioner may employ such counsel, clerks, and assistants as deemed necessary. The compensation of the special deputy, counsel, clerks, and assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the commissioner, with the approval of the court and shall be paid out of the funds or assets of the insurer. The persons appointed under this section shall serve at the pleasure of the commissioner. If the property of the insurer does not contain sufficient cash or liquid assets to defray the costs incurred, the commissioner may advance the costs so incurred out of any appropriation for the maintenance of the Department of Insurance. Any amounts so advanced for expenses of administration shall be repaid to the commissioner for the use of the Department of Insurance out of the first available money of the insurer.
- (2) General power. The rehabilitator may take action as he or she deems necessary or appropriate to reform and revitalize the insurer. He or she shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. He or she shall have full power to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.
- (3) Advice from experts. The rehabilitator may consult with and obtain formal or informal advice and aid of insurance experts.
- (4) Pursuit of insurer's claims against insiders. If the rehabilitator finds that there has been criminal or tortious conduct or breach of any contractual or fiduciary obligation detrimental to the insurer by any officer, manager, agent, employee, or other person, he or she may pursue all appropriate legal remedies on behalf of the insurer.
- (5) Reorganization plan. The rehabilitator may prepare a plan for the reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the insurer. Upon application of the rehabilitator for approval of the plan, and after the notice and hearing as the court prescribes, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. If it is approved, the rehabilitator shall carry out the plan. In the case of a life insurer, the plan proposed may include the imposition of liens upon the equities of policyholders of the insurer, if all rights of shareholders are first extinguished. A plan for a life insurer may also propose imposition of a moratorium upon loan and cash surrender rights upon policies, for such period and to such an extent as are necessary.
- (6) Fraudulent transfers. The rehabilitator shall have the power to avoid fraudulent transfers under KRS 304.33-290 and 304.33-300.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1441, effective July 15, 2010. -- Amended 1994 Ky. Acts ch. 496, sec. 15, effective July 15, 1994. -- Amended

1990 Ky. Acts ch. 422, sec. 11, effective July 13, 1990. -- Created 1970 Ky. Acts ch. 301, subtit. 33, sec. 16, effective June 18, 1970.