

§ 58-30-95. Termination of rehabilitation.

(a) Whenever the rehabilitator believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders or the public, or would be futile, the rehabilitator may petition the Court for an order of liquidation. A petition under this subsection shall have the same effect as a petition under G.S. 58-30-100. The Court may make such findings and issue such orders at any time upon its own motion. The Court shall permit the directors of the insurer to take such actions as are reasonably necessary to defend against the petition and may order payment from the estate of the insurer of such costs and other expenses of defense as justice may require. The court may allow the payment of costs and expenses incurred in defending against the petition for an order of liquidation only upon a specific finding that the defense was conducted, and the costs and expenses were incurred, in good faith. The directors shall have the burden of proving good faith. Evidence of good faith shall be the existence of a reasonable basis to conclude that the insurer is actually solvent or that there exists a viable means to accomplish rehabilitation without jeopardizing the remaining assets of the insurer and that continued operation of the insurer is in the best interest of the policyholders, stockholders, and creditors.

(b) The rehabilitator may at any time petition the Court for an order terminating rehabilitation of an insurer. The Court shall also permit the directors of the insurer to petition the Court for an order terminating rehabilitation of the insurer and may order payment from the estate of the insurer of such costs and other expenses of such petition as justice may require. The court may allow the payment of costs and expenses incurred in defending against the petition for an order terminating rehabilitation only upon a specific finding that the defense was conducted, and the costs and expenses were incurred, in good faith. The directors shall have the burden of proving good faith. Evidence of good faith shall be the existence of a reasonable basis to conclude that the insurer is actually solvent or that there exists a viable means to accomplish rehabilitation without jeopardizing the remaining assets of the insurer and that continued operation of the insurer is in the best interest of the policyholders, stockholders, and creditors. If the Court finds that rehabilitation has been accomplished and that grounds for rehabilitation under G.S. 58-30-75 no longer exist, it shall order that the insurer be restored to possession of its property and the control of the business. The Court may also make that finding and issue that order at any time upon its own motion. (1989, c. 452, s. 1; 1993, c. 452, s. 41.)