

Part 13. Delinquency Proceedings.

**§ 58-64A-335. Supervision, rehabilitation, and liquidation.**

(a) The Commissioner may commence a supervision proceeding pursuant to Article 30 of this Chapter or may apply to the Superior Court of Wake County or to the federal bankruptcy court that may have previously taken jurisdiction over the provider or continuing care retirement community for an order directing the Commissioner or authorizing the Commissioner to rehabilitate or liquidate a provider or continuing care retirement community in accordance with Article 30 of this Chapter, if the Commissioner determines, after notice and an opportunity for hearing, that any of the following apply:

- (1) A portion of an escrow account or operating reserve required to be maintained under this Article has been or is proposed to be released in violation of this Article.
- (2) A provider has been or will be unable to fully perform its obligations pursuant to continuing care and continuing care at home contracts, or to meet prospective financial data previously filed by the provider.
- (3) A provider has failed to maintain the escrow account required under this Article.
- (4) A provider is in a hazardous condition.
- (5) A provider is bankrupt or insolvent, or in imminent danger of becoming bankrupt or insolvent.

(b) If the Commissioner commences a supervision proceeding, the provider shall notify all residents and depositors of the proceeding within five business days.

(c) If an order is issued directing or authorizing the Commissioner to rehabilitate or to liquidate a provider or continuing care retirement community, the Commissioner shall notify all affected residents and depositors of the rehabilitation or liquidation order within five business days or as otherwise directed by the Court.

(d) If, at any time, the Court finds, upon petition of the Commissioner, a provider, or on its own motion, that the objectives of an order to rehabilitate a provider have been accomplished and that the continuing care retirement community or communities owned by, or operated by, the provider can be returned to the provider's management without further jeopardy to the residents or depositors of the continuing care retirement community or communities, the Court may, upon a full report and accounting of the conduct of the provider's affairs during the rehabilitation and of the provider's current financial condition, terminate the rehabilitation and, by order, return the continuing care retirement community or communities owned by, or operated by, the provider, along with the assets and affairs of the provider, to the provider's management.

(e) When applying for an order to rehabilitate or liquidate a provider, the Commissioner shall give due consideration in the application to the manner in which the welfare of persons who have contracted with the provider for continuing care may be best served.

(f) An order for rehabilitation shall be refused or vacated if the provider posts a bond, by a recognized surety authorized to do business in this State and executed in favor of the Commissioner on behalf of persons who may be found entitled to a refund of entrance fees and deposits from the provider or other damages in the event the provider is unable to fulfill its contracts to provide continuing care, in an amount determined by the Court to be equal to the reserve funding that would otherwise need to be available to fulfill the provider's obligations.

(g) G.S. 58-30-12 shall not apply to providers under this Article. (2025-58, s. 2.)