

ORPHANS' COURT DIVISION RULE 12.16I

RULE 12.16I. SURETY COMPANIES

Sec. 1. Petitions.

A petition of a surety company, whether a stock company or a mutual company, having a capital and surplus of not less than \$4,000,000.00, with a minimum paid-in capital of \$1,000,000.00, to become surety on bonds of fiduciaries shall set forth in the following order:

- (a) the corporate name, the location of its business, the statutory authority for its existence, the date and purpose of its incorporation, any changes therein, and the number of years it has been in operation;
- (b) the amount, if any, of its capital stock, how paid, the number of shares issued and par value thereof;
- (c) the amount of its capital and surplus;
- (d) the names and addresses of its officers (excluding assistant officers), and directors and the ownership interest in the petitioner held by each;
- (e) the interest, direct or indirect, which the petitioner has in the capital stock of any other corporation organized for conducting a similar business; and the name of any corporation or group of allied persons or both holding or controlling a majority of the stock of the petitioner;
- (f) whether the petitioner has assumed or underwritten policies issued by any other company and in force at the date of its petition;
- (g) the provision made to protect itself from excessive losses in the event of a catastrophe under employers' liability or workers' compensation contracts or otherwise;
- (h) that on presentation of the petition, the petitioner will deposit a sum determined by the Court, to be used as far as necessary to pay the fees of an examiner and will make any further deposit in excess thereof that may be ordered by the Court;
- (i) the passage of a resolution by the board of directors of the petitioner providing:
 - (1) that it will submit to a preliminary examination of its books, assets and liabilities and, if approved, will submit

to all other examinations ordered by the Court and will pay all costs and expenses of examination fixed by the Court;

- (2) that fiduciary property coming into its custody will not be taken out of the jurisdiction of the Court but will be managed and controlled by the company subject to orders of the court;
- (3) that no suretyship will be accepted in any sum greater than allowed by any Act of Assembly of Pennsylvania;
- (4) that it will submit to this Court not later than the first week of March of each year a statement duly verified showing its financial condition at the close of business on December 31st preceding, in the form required by the Insurance Commissioner of the Commonwealth of Pennsylvania, together with a sworn or certified copy of the annual renewal certificate when issued by the Insurance Commissioner of Pennsylvania, permitting the transaction of its business within the Commonwealth;
- (5) its acceptance of the provisions of the Acts of Assembly of Pennsylvania relating to surety companies now or hereafter in existence and to all final orders of court relating to the petitioner;
- (6) that the names of its officers or agents authorized to execute petitions, writings, and obligations on its behalf, and any changes therein, will be filed of record in the Court with the Examiner of Fiduciaries; and
- (7) that its counsel of record shall be the agent of the petitioner to receive all notices issuing from the Court.

Sec. 2. Exhibits.

Exhibits shall be attached in the following order:

- (a) a certified copy of its charter with amendments and renewals;
- (b) a certificate of authority to do business in Pennsylvania issued by the Insurance Commissioner;

(c) a certified copy of the resolution of the petitioner embodying the allegations of clauses (1), (2), (3), (4), (5), (6), and (7) of Sec. 1(i) of this rule;

(d) a financial statement of the petitioner showing its total assets and liabilities in the form required by the Insurance Commissioner of Pennsylvania; and

(e) a certified copy of the certificate appointing the Insurance Commissioner of Pennsylvania attorney in fact for the petitioner.

Sec. 3. Officer's Oath to Petition. Records for Examiner.

The petition shall be sworn to by an officer of the petitioner authorized by resolution to do so. When the petition is presented to the Court, counsel shall deliver to the Examiner:

(a) a copy of the last report of the petitioner made to the Insurance Commissioner of any state;

(b) a certified copy of the last report of examination by the Insurance Commissioner of any state; and

(c) a copy of the petitioner's by-laws.

Sec. 4. Preliminary Order.

Upon presentation of the petition a preliminary order will be made in the following form:

And now, _____, 20___, the within petition having been presented in open court, upon consideration thereof it is ordered, adjudged, and decreed that the petition be referred to _____, Examiner of Fiduciaries, who is directed to make a report thereon to the Court.

Sec. 5. Final Order.

After examination and report by the Examiner and consideration by the Court, a final order of approval may be made in the following form:

And now, this _____ day of _____, 20____, it appearing to the Court that the petition of _____, a corporation, for authority to become surety on bonds or undertakings, was presented in open Court and referred to

_____, Examiner, who has filed a report, and it further appearing from such petition and report that the petitioner has complied with the applicable laws and with the rules of this Court and has subjected itself to all orders and rules of this Court hereafter to be made, upon motion of _____, counsel for petitioner, it is ordered, adjudged, and decreed that _____ be and is hereby authorized to become surety on bonds or undertakings permitted or required by law.

Sec. 6. Annual Examination Fee.

Every surety company, after approval by the Court, shall annually deposit with the Clerk a sum determined by the Court for the expenses of examination of the annual records required to be submitted under Sec. 1(i)(4) in addition to the expense of any other examination which may be required.