



## Ohio Revised Code

### Section 3941.18 Petition to have court examine assessment.

Effective: October 1, 1953

Legislation: House Bill 1 - 100th General Assembly

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If the directors by authority of statute make an assessment or call on the members for money, or vote that there exists a necessity for such assessment or call, they or any person interested in the company as an officer, policyholder, or creditor may apply to a court of competent jurisdiction by a petition in the nature of a bill in equity, praying for the court to examine such assessment or call, the necessity therefor, and all matters connected therewith, and to confirm, amend, or annul the assessment or call, or to order the same to be made as law and justice require. If an application is made by any party except the company, a receiver, or the superintendent of insurance, the court may decline to exercise jurisdiction thereof. If the directors unreasonably neglect to make an assessment or call to satisfy an admitted or ascertained claim upon the company, any judgment creditor, any person holding such claim, or the superintendent, may make application to the court. Upon such application, if made by the directors, or upon an order of the court if made by any other person, the directors shall set forth the claims against the company, its assets, and all other facts and particulars appertaining to the matter.

The court before which such application is filed shall order notice to be given by publication or otherwise to all parties interested, and upon the return thereof shall examine the assessment or call, and the necessity therefor, and all matters connected therewith. Any parties interested may appear and be heard thereon. All questions that arise shall be heard and determined as in other equity cases.

The application shall be referred to a master who shall appoint a time and place to hear all parties interested, and who shall give personal notice thereof in writing to the superintendent, and through the post office, so far as he is able, to all persons liable upon said assessment or call. The master shall hear the parties, and report upon the correctness of the assessment or call, and all other matters connected therewith. The court may confirm, amend, or annul the assessment or call, or order one to be made. It may make such orders and decree as under all circumstances justice and equity require. If the assessment or call is altered or amended, or one is ordered to be made, the directors shall forthwith proceed to vote the same in legal form, and the record of such vote shall be set forth in a supplemental bill or answer.



When an assessment or call has been so confirmed, ascertained, or established, a decree shall be entered which shall be conclusive upon the company and all persons liable to the assessment or call, as to the necessity of the same, the authority of the company to make or collect the same, the amount thereof, and all formalities connected therewith. An assessment or call altered or amended by vote of directors and decree of the court shall be binding upon all parties who would have been liable under it as originally made, and in all legal proceedings shall be held to be such original assessment or call. All such proceedings shall be at the cost of the company and in all cases the court may control the disposition of the funds collected under such proceedings.

If the court finds that the net proceeds of any assessment or call will not be sufficient to furnish substantial relief to those having claims against the company, it may decree that no assessment shall be collected. If, upon the application of the superintendent, a member of the company, or any person interested, the court is of the opinion that further attempts to collect an assessment then partially collected will not benefit those having claims against the company, it may stay the further collection of said assessment.