

TITLE 33. INSURANCE AND INSURANCE COMPANIES

CHAPTER 2. REGULATION OF INSURANCE COMPANIES

Part 13. Supervision, Rehabilitation, and Liquidation

Priority Of Distribution

33-2-1371. Priority of distribution. The priority of distribution of claims from the insurer's estate is in accordance with the order in which each class of claims is set forth in this section. Every claim in each class must be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Subclasses may not be established within any class. The order of distribution of claims is as follows:

- (1) Class 1--the costs and expenses of administration, including but not limited to the following:
 - (a) the actual and necessary costs of preserving or recovering the assets of the insurer;
 - (b) compensation for all services rendered in the liquidation;
 - (c) any necessary filing fees;
 - (d) the fees and mileage payable to witnesses;
 - (e) reasonable attorney fees;
 - (f) the reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

(2) Class 2--all claims under policies for losses incurred, including third-party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, and all claims of a guaranty association or foreign guaranty association for payment of covered claims or covered obligations of the insurer. All claims under life and health insurance and annuity policies, whether for death proceeds, health benefits, annuity proceeds, or investment values, must be treated as loss claims. The portion of any loss, indemnification that is provided by other benefits, or advantages recovered by the claimant may not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance or as gratuities. A payment by an employer to an employee may not be treated as a gratuity.

- (3) Class 3--claims of the federal government.

(4) Class 4--debts due to employees for services performed to the extent that they do not exceed \$1,000 and represent payment for services performed within 1 year before the filing of the complaint for liquidation. Officers and directors may not be entitled to the benefit of this priority. The priority must be in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

- (5) Class 5--claims of general creditors.

(6) Class 6--claims of any state or local government. Claims, including those of any state or local government for a penalty or forfeiture, may be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, along with reasonable and actual costs. The remainder of the claims must be postponed to the class of claims under subsection (9).

- (7) Class 7--claims filed late or any other claims other than claims under subsections (8) and (9).

(8) Class 8--surplus or contribution notes or similar obligations and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies are limited in accordance with law.

(9) Class 9--the claims of shareholders or other owners.

History: En. Sec. 42, Ch. 383, L. 1979; amd. Sec. 27, Ch. 227, L. 2001.

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