

# HOUSE BILL REPORT

## HB 1634

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### As Passed Legislature

**Title:** An act relating to prioritizing and ordering the distribution of claims of an insurer's estate.

**Brief Description:** Prioritizing and ordering the distribution of claims of an insurer's estate.

**Sponsors:** By Representatives Santos, DeBolt, Hatfield and Benson; by request of Insurance Commissioner.

### Brief History:

#### Committee Activity:

Financial Institutions & Insurance: 2/13/01, 2/16/01 [DP].

#### Floor Activity:

Passed House: 3/9/01, 98-0.

Passed Senate: 4/4/01, 48-0.

Passed Legislature.

### Brief Summary of Bill

- The regulations are revised with respect to the order of priority for the satisfaction of claims against the assets of an insurer subject to liquidation.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass. Signed by 10 members: Representatives Benson, Republican Co-Chair; Hatfield, Democratic Co-Chair; Bush, Republican Vice Chair; McIntire, Democratic Vice Chair; Cairnes, Keiser, Miloscia, Roach, Santos and Simpson.

**Staff:** Thamas Osborn (786-7129).

### Background:

The regulatory authority of the Office of the Insurance Commissioner (OIC) includes the power to initiate court proceedings in order to "liquidate" an insurer. Such liquidation can be based on a variety of grounds, including insolvency, failure to transact business for a period of one year, or the failure of an effort by the OIC to "rehabilitate" a troubled

insurer.

In the event of liquidation, the rights and liabilities of an insurer and its creditors, policyholders, stockholders, and other interested parties are determined by a court in accordance with the pertinent regulations in the insurance code. Among these regulations are fixed rules pertaining to the distribution of the assets of the insurer among the various claimants, which are divided into classes for the purpose of prioritizing the order in which claims are to be satisfied.

Under current law, the order of priority for the distribution of the assets of an insurer is determined by reference to eight classes of claims:

Class 1 - Those claims arising from the costs and expenses of administration of the rehabilitation and/or liquidation;

Class 2 - Reasonable compensation owed to employees of the insured, but subject to numerous conditions and limitations;

Class 3 - "Loss claims" arising from the policies of the insurer;

Class 4 - Claims relating to refunds for unearned premiums and the claims of general creditors;

Class 5 - All federal, state, and local government claims, subject to certain conditions;

Class 6 - Claims filed late and all claims not falling within other listed classes;

Class 7 - Surplus or contribution notes, and premium refunds on assessable policies; and

Class 8 - Claims of shareholders or other owners.

A federal court ruled that insurance claims can take precedent over federal claims, but non-insurance claims cannot. Washington law allows some non-insurance claims to take precedence over federal claims.

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### **Summary of Bill:**

The classes of claims against the assets of an insurer subject to liquidation are redefined and re-prioritized as follows:

Class 1 - Those claims arising from the costs and expenses of administration of the rehabilitation and/or liquidation (unchanged from current law);

Class 2 - "Loss claims" arising from the policies of the insurer (from current Class 3) and claims relating to refunds from unearned premiums (from current Class 4);

Class 3 - Claims of the federal government (excerpted from current Class 5), excluding federal claims falling under Class 2 in the bill;

\*Class 4 - Reasonable compensation owed to the employees of the insurer, but subject to numerous conditions and limitations (same as current Class 2). \*This class shares top priority with Class 1 under the bill if the federal government has no claims or potential claims against the assets of the insurer;

Class 5 - Claims of general creditors (excerpted from current Class 4);

Class 6 - Claims of state and local governments (same as current Class 5, except excludes federal government);

Class 7 - Claims filed late and all claims not falling within other listed classes (same as current Class 6);

Class 8 - Surplus or contribution notes, and premium refunds on assessable policies (same as current Class 7); and

Class 9 - Claims of shareholders or other owners (same as current Class 8).

The provisions of the bill are applicable to all claims in liquidation proceedings filed on or after January 1, 2001.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The bill would make Washington's receivership laws consistent with federal court rulings. It also places policy-holder claims ahead of federal government claims.

**Testimony Against:** None.

**Testified:** (In support) Bill Daley, Office of the Insurance Commissioner.