
SENATE BILL 5653

State of Washington

57th Legislature

2001 Regular Session

By Senators Prentice and Hale; by request of Insurance Commissioner

Read first time 01/30/2001. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to prioritizing and ordering the distribution
2 of claims of an insurer's estate; amending RCW 48.31.280 and
3 48.31.260; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 48.31.280 and 1993 c 462 s 83 are each amended to read
6 as follows:

7 The priority of distribution of claims from the insurer's
8 estate is as follows: Every claim in a class must be paid in full
9 or adequate funds retained for payment before the members of the
10 next class receive any payment; no subclasses may be established
11 within a class; and no claim by a shareholder, policyholder, or
12 other creditor may circumvent the priority classes through the use
13 of equitable remedies. The order of distribution of claims is:

14 (1) Class 1. The costs and expenses of administration during
15 rehabilitation and liquidation, including but not limited to the
16 following:

17 (a) The actual and necessary costs of preserving or recovering
18 the assets of the insurer;

1 (b) Compensation for all authorized services rendered in the
2 rehabilitation and liquidation;

3 (c) Necessary filing fees;

4 (d) The fees and mileage payable to witnesses;

5 (e) Authorized reasonable attorneys' fees and other
6 professional services rendered in the rehabilitation and
7 liquidation;

8 (f) The reasonable expenses of a guaranty association or
9 foreign guaranty association for unallocated loss adjustment
10 expenses.

11 (2) Class 2. (~~Reasonable compensation to employees for services~~
12 ~~performed to the extent that they do not exceed two months of~~
13 ~~monetary compensation and represent payment for services performed~~
14 ~~within one year before the filing of the petition for liquidation~~
15 ~~or, if rehabilitation preceded liquidation, within one year before~~
16 ~~the filing of the petition for rehabilitation. Principal officers~~
17 ~~and directors are not entitled to the benefit of this priority~~
18 ~~except as otherwise approved by the liquidator and the court. The~~
19 ~~priority is in lieu of any other similar priority that may be~~
20 ~~authorized by law as to wages or compensation of employees.~~

21 (3) Class 3. ~~Loss claims. For purposes of this section, "loss~~
22 ~~claims" are all claims under policies, including claims of the~~
23 ~~federal or a state or local government, for losses incurred,~~
24 ~~including third party claims and all claims of a guaranty~~
25 ~~association or foreign guaranty association. All claims under life~~
26 ~~insurance and annuity policies, whether for death proceeds,~~
27 ~~annuity proceeds, or investment values, are loss claims. That~~
28 ~~portion of any loss indemnification that is provided for by other~~
29 ~~benefits or advantages recovered by the claimant, is not included~~
30 ~~in this class, other than benefits or advantages recovered or~~
31 ~~recoverable in discharge of familial obligation of support or by~~
32 ~~way of succession at death or a proceeds of life insurance, or as~~
33 ~~gratuities. No payment by an employer to his or her employee may be~~
34 ~~treated as a gratuity.~~

35 (4) Class 4. ~~Claims under nonassessable policies for unearned~~
36 ~~premium or other premium refunds and claims of general creditors~~
37 ~~including claims of ceding and assuming companies in their~~
38 ~~capacity as such.~~

1 ~~(5) Class 5. Claims of the federal or any state or local~~
2 ~~government except those under subsection (3) of this section.~~
3 ~~Claims, including those of any governmental body for a penalty or~~
4 ~~forfeiture, are allowed in this class only to the extent of the~~
5 ~~pecuniary loss sustained from the act, transaction, or proceeding~~
6 ~~out of which the penalty or forfeiture arose, with reasonable and~~
7 ~~actual costs occasioned thereby. The remainder of such claims are~~
8 ~~postponed to the class of claims under subsection (8) of this~~
9 ~~section.~~

10 ~~(6) Class 6. Claims filed late or any other claims other than~~
11 ~~claims under subsections (7) and (8) of this section.~~

12 ~~(7) Class 7. Surplus or contribution notes, or similar~~
13 ~~obligations, and premium refunds on assessable policies. Payments~~
14 ~~to members of domestic mutual insurance companies are limited in~~
15 ~~accordance with law.~~

16 ~~(8) Class 8. The claims of shareholders or other owners in their~~
17 ~~capacity as shareholders.)) Loss claims. For purposes of this~~
18 ~~section, loss claims are all claims under policies, including~~
19 ~~claims of the federal or a state or local government, for losses~~
20 ~~incurred, including third-party claims, and all claims of a~~
21 ~~guaranty association or foreign guaranty association. All claims~~
22 ~~under life insurance and annuity policies, whether for death~~
23 ~~proceeds, annuity proceeds, or investment values, are loss~~
24 ~~claims. That portion of any loss indemnification that is provided~~
25 ~~for by other benefits or advantages recovered by the claimant, is~~
26 ~~not included in this class, other than benefits or advantages~~
27 ~~recovered or recoverable in discharge of familial obligations of~~
28 ~~support or by way of succession at death or as proceeds of life~~
29 ~~insurance, or as gratuities. No payment by an employer to an~~
30 ~~employee may be treated as a gratuity. Loss claims also include~~
31 ~~claims under nonassessable policies for unearned premium or other~~
32 ~~premium refunds.~~

33 ~~(3) Class 3. Claims of the federal government, other than claims~~
34 ~~which are included as loss claims under subsection (2) of this~~
35 ~~section.~~

36 ~~(4) Class 4. Reasonable compensation to employees for services~~
37 ~~performed to the extent that they do not exceed two months of~~
38 ~~monetary compensation and represent payment for services performed~~

1 within one year before the filing of the petition for liquidation
2 or, if rehabilitation preceded liquidation, within one year before
3 the filing of the petition for rehabilitation; except, where there
4 are no claims and no potential claims of the federal government in
5 the estate, in which case claims in this class shall have priority
6 over claims in class 2 and below. Principal officers and directors
7 are not entitled to the benefit of this priority except as
8 otherwise approved by the liquidator and the court. This priority
9 is in lieu of any other similar priority that may be authorized by
10 law as to wages or compensation of employees.

11 (5) Class 5. Claims of general creditors including claims of
12 ceding and assuming companies in their capacity as such.

13 (6) Class 6. Claims of any state or local government, except
14 those under subsection (2) of this section. Claims, including those
15 of any governmental body for a penalty or forfeiture, are allowed
16 in this class only to the extent of the pecuniary loss sustained
17 from the act, transaction, or proceeding out of which the penalty
18 or forfeiture arose, with reasonable and actual costs occasioned
19 thereby. The remainder of such claims are postponed to the class of
20 claims under subsection (9) of this section.

21 (7) Class 7. Claims filed late or any other claims other than
22 claims under subsections (8) and (9) of this section.

23 (8) Class 8. Surplus or contribution notes, or similar
24 obligations, and premium refunds on assessable policies. Payments
25 to members of domestic mutual insurance companies are limited in
26 accordance with law.

27 (9) Class 9. The claims of shareholders or other owners in their
28 capacity as shareholders.

29 **Sec. 2.** RCW 48.31.260 and 1947 c 79 s .31.26 are each amended to
30 read as follows:

31 The rights and liabilities of the insurer and of its creditors,
32 policyholders, stockholders, members, subscribers, and all other
33 persons interested in its estate shall, unless otherwise directed
34 by the court, be fixed as of the date on which the order directing
35 the liquidation of the insurer is filed in the office of the clerk
36 of the court which made the order, subject to the provisions of

1 RCW 48.31.300 with respect to the rights of claimants holding
2 contingent claims and RCW 48.31.280 with respect to the priority
3 and order of distributions of claims.

4 NEW SECTION. **Sec. 3.** This act applies to and governs all
5 claims filed in any proceeding to liquidate an insurer that is
6 initiated on or after January 1, 2001.

7 NEW SECTION. **Sec. 4.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

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