

Secretary of the Senate

Originated in the Senate

PUBLIC ACT 92-65

1 AN ACT concerning insurance. 42

2 Be it enacted by the People of the State of Illinois, 46

3 represented in the General Assembly: 47

4 Section 5. The Illinois Insurance Code is amended by 50

5 changing Section 205 as follows: 51

6 (215 ILCS 5/205) (from Ch. 73, par. 817) 54

7 Sec. 205. Priority of distribution of general assets. 56

8 (1) The priorities of distribution of general assets 58

9 from the company's estate is to be as follows: 59

10 (a) The costs and expenses of administration, 61

11 including the expenses of the Illinois Insurance Guaranty 62

12 Fund, the Illinois Life and Health Insurance Guaranty 63

13 Association, the Illinois Health Maintenance Organization 64

14 Guaranty Association and of any similar organization in 64

15 any other state as prescribed in subsection (c) of 65

16 Section 545.

17 (b) Secured claims, including claims for taxes and 69

18 debts due the federal or any state or local government, 70

19 that are secured by liens perfected prior to the filing 71

20 of the complaint. 72

21 (c) Claims for wages actually owing to employees 74

22 for services rendered within 3 months prior to the date 76

23 of the filing of the complaint, not exceeding \$1,000 to 77

24 each employee unless there are claims due the federal 78

25 government under paragraph (f), then the claims for wages 78

26 shall have a priority of distribution immediately 79

27 following that of federal claims under paragraph (f) and 80

28 immediately preceding claims of general creditors under 80

29 paragraph (g).

30 (d) Claims by policyholders, beneficiaries, 82

31 insureds and liability claims against insureds covered 84

1 under insurance policies and insurance contracts issued 85
2 by the company, and claims of the Illinois Insurance
3 Guaranty Fund, the Illinois Life and Health Insurance 86
4 Guaranty Association, the Illinois Health Maintenance 87
5 Organization Guaranty Association and any similar 88
6 organization in another state as prescribed in Section 89
7 545.

8 (e) Claims by policyholders, beneficiaries, and 91
9 insureds, the allowed values of which were determined by 93
10 estimation under paragraph (b) of subsection (4) of 94
11 Section 209.

12 (f) Any other claims due the federal government. 96

13 (g) All other claims of general creditors not 98
14 falling within any other priority under this Section 101
15 including claims for taxes and debts due any state or 102
16 local government which are not secured claims and claims 103
17 for attorneys' fees incurred by the company in contesting 104
18 its conservation, rehabilitation, or liquidation. 105

19 (h) Claims of guaranty fund certificate holders, 107
20 guaranty capital shareholders, capital note holders, and 110
21 surplus note holders.

22 (i) Proprietary claims of shareholders, members, or 112
23 other owners. 113

24 Every claim under a written agreement, statute, or rule 115
25 providing that the assets in a separate account are not 116
26 chargeable with the liabilities arising out of any other 117
27 business of the insurer shall be satisfied out of the funded 118
28 assets in the separate account equal to, but not to exceed, 118
29 the reserves maintained in the separate account under the 119
30 separate account agreement, and to the extent, if any, the 120
31 claim is not fully discharged thereby, the remainder of the 121
32 claim shall be treated as a priority level (d) claim under 122
33 paragraph (d) of this subsection to the extent that reserves 123
have been established in the insurer's general account



1 pursuant to statute, rule, or the separate account agreement. 124

2 For purposes of this provision, "separate account 126

3 policies, contracts, or agreements" means any policies, 127

4 contracts, or agreements that provide for separate accounts 128

5 as contemplated by Section 245.21.

6 To the extent that any assets of an insurer, other than 130

7 those assets properly allocated to and maintained in a 131

8 separate account, have been used to fund or pay any expenses, 132

9 taxes, or policyholder benefits that are attributable to a

10 separate account policy, contract, or agreement that should 133

11 have been paid by a separate account prior to the 134

12 commencement of receivership proceedings, then upon the 135

13 commencement of receivership proceedings, the separate

14 accounts that benefited from this payment or funding shall 136

15 first be used to repay or reimburse the company's general 137

16 assets or account for any unreimbursed net sums due at the 138

17 commencement of receivership proceedings prior to the

18 application of the separate account assets to the 139

19 satisfaction of liabilities or the corresponding separate 140

20 account policies, contracts, and agreements.

21 To the extent, if any, reserves or assets maintained in 142

22 the separate account are in excess of the amounts needed to 143

23 satisfy claims under the separate account contracts, the 144

24 excess shall be treated as part of the general assets of the 145

25 insurer's estate.

26 (2) Within 120 days after the issuance of an Order of 147

27 Liquidation with a finding of insolvency against a domestic 148

28 company, the Director shall make application to the court 149

29 requesting authority to disburse funds to the Illinois 150

30 Insurance Guaranty Fund, the Illinois Life and Health

31 Insurance Guaranty Association, the Illinois Health 151

32 Maintenance Organization Guaranty Association and similar 152

33 organizations in other states from time to time out of the 153

34 company's marshaled assets as funds become available in 154



1 amounts equal to disbursements made by the Illinois Insurance 155
2 Guaranty Fund, the Illinois Life and Health Insurance
3 Guaranty Association, the Illinois Health Maintenance 156
4 Organization Guaranty Association and similar organizations 157
5 in other states for covered claims obligations on the 158
6 presentation of evidence that such disbursements have been 159
7 made by the Illinois Insurance Guaranty Fund, the Illinois 160
8 Life and Health Insurance Guaranty Association, the Illinois 161
9 Health Maintenance Organization Guaranty Association and 162
10 similar organizations in other states.

11 The Director shall establish procedures for the ratable 164
12 allocation and distribution of disbursements to the Illinois 165
13 Insurance Guaranty Fund, the Illinois Life and Health 166
14 Insurance Guaranty Association, the Illinois Health 167
15 Maintenance Organization Guaranty Association and similar 168
16 organizations in other states. In determining the amounts
17 available for disbursement, the Director shall reserve 169
18 sufficient assets for the payment of the expenses of 170
19 administration described in paragraph (1) (a) of this 171
20 Section. All funds available for disbursement after the
21 establishment of the prescribed reserve shall be promptly 172
22 distributed. As a condition to receipt of funds in 173
23 reimbursement of covered claims obligations, the Director 174
24 shall secure from the Illinois Insurance Guaranty Fund, the 175
25 Illinois Life and Health Insurance Guaranty Association, the
26 Illinois Health Maintenance Organization Guaranty Association 176
27 and each similar organization in other states, an agreement 177
28 to return to the Director on demand funds previously received 178
29 as may be required to pay claims of secured creditors and 179
30 claims falling within the priorities established in 180
31 paragraphs (a), (b), (c), and (d) of subsection (1) of this 181
32 Section in accordance with such priorities. 182

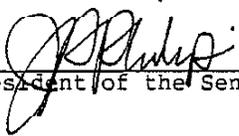
33 (3) The provisions of this Section are severable under 184
34 Section 1.31 of the Statute on Statutes. 185

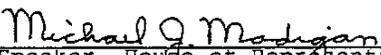


1 (Source: P.A. 89-206, eff. 7-21-95; 90-381, eff. 8-14-97.) 187

2 Section 99. Effective date. This Act takes effect upon 190

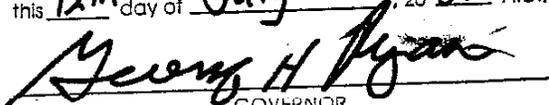
3 becoming law.


 _____ 196
 President of the Senate 198


 _____ 201
 Speaker, House of Representatives 202

APPROVED

this 12th day of July, 20 01 A.D.



 GOVERNOR

