

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 205 as follows:

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

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

8 (1) The priorities of distribution of general assets  
9 from the company's estate is to be as follows:

10 (a) The costs and expenses of administration,  
11 including the expenses of the Illinois Insurance Guaranty  
12 Fund, the Illinois Life and Health Insurance Guaranty  
13 Association, the Illinois Health Maintenance Organization  
14 Guaranty Association and of any similar organization in  
15 any other state as prescribed in subsection (c) of  
16 Section 545.

17 (b) Secured claims, including claims for taxes and  
18 debts due the federal or any state or local government,  
19 that are secured by liens perfected prior to the filing  
20 of the complaint.

21 (c) Claims for wages actually owing to employees  
22 for services rendered within 3 months prior to the date  
23 of the filing of the complaint, not exceeding \$1,000 to  
24 each employee unless there are claims due the federal  
25 government under paragraph (f), then the claims for wages  
26 shall have a priority of distribution immediately  
27 following that of federal claims under paragraph (f) and  
28 immediately preceding claims of general creditors under  
29 paragraph (g).

30 (d) Claims by policyholders, beneficiaries,  
31 insureds and liability claims against insureds covered

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

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

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

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

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

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

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

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

2 For purposes of this provision, "separate account  
3 policies, contracts, or agreements" means any policies,  
4 contracts, or agreements that provide for separate accounts  
5 as contemplated by Section 245.21.

6 To the extent that any assets of an insurer, other than  
7 those assets properly allocated to and maintained in a  
8 separate account, have been used to fund or pay any expenses,  
9 taxes, or policyholder benefits that are attributable to a  
10 separate account policy, contract, or agreement that should  
11 have been paid by a separate account prior to the  
12 commencement of receivership proceedings, then upon the  
13 commencement of receivership proceedings, the separate  
14 accounts that benefited from this payment or funding shall  
15 first be used to repay or reimburse the company's general  
16 assets or account for any unreimbursed net sums due at the  
17 commencement of receivership proceedings prior to the  
18 application of the separate account assets to the  
19 satisfaction of liabilities or the corresponding separate  
20 account policies, contracts, and agreements.

21 To the extent, if any, reserves or assets maintained in  
22 the separate account are in excess of the amounts needed to  
23 satisfy claims under the separate account contracts, the  
24 excess shall be treated as part of the general assets of the  
25 insurer's estate.

26 (2) Within 120 days after the issuance of an Order of  
27 Liquidation with a finding of insolvency against a domestic  
28 company, the Director shall make application to the court  
29 requesting authority to disburse funds to the Illinois  
30 Insurance Guaranty Fund, the Illinois Life and Health  
31 Insurance Guaranty Association, the Illinois Health  
32 Maintenance Organization Guaranty Association and similar  
33 organizations in other states from time to time out of the  
34 company's marshaled assets as funds become available in

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

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

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

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

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

3 becoming law.