

CHAPTER 255 — H.F.No. 857

An act relating to insurance; authorizing the receiver of an insolvent insurer to accelerate the distribution of available assets in payment of claims against the insurer; establishing priority of certain claims; amending Minnesota Statutes 1984, sections 60B.44, subdivision 1; 60B.46, by adding subdivisions; and 60C.05, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1984, section 60B.44, subdivision 1, is amended to read:

Subdivision 1. **DEDUCTIBLE PROVISION.** The ~~order~~ of distribution of claims from the insurer's estate shall be as in the order stated in this section with a descending degree of preference for each subdivision. The first \$50 of the amount allowed on each claim in the classes under subdivisions 3 to 7 shall be deducted from the claim and included in the class under subdivision 9. Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class.

Sec. 2. Minnesota Statutes 1984, section 60B.46, is amended by adding a subdivision to read:

Subd. 3. PAYMENTS TO GUARANTY ASSOCIATIONS. Within 120 days of a final determination of insolvency of a company by a court of competent jurisdiction of this state or as soon thereafter as is practical, the liquidator shall make application to the court for approval of a proposal to disburse assets out of the company's marshalled assets, from time to time as the assets become available, to the Minnesota Insurance Guaranty Association, to the Minnesota Life and Health Insurance Guaranty Association, and to any entity or person performing a similar function in another state.

Sec. 3. Minnesota Statutes 1984, section 60B.46, is amended by adding a subdivision to read:

Subd. 4. CONTENTS OF PROPOSAL. The proposal shall at least include provisions for:

(1) reserving amounts for the payment of expenses of administration, the payment of claims of secured creditors to the extent of the value of their security, and the payment of claims having a higher priority than those of the guaranty associations;

(2) disbursements of the assets marshalled to date and subsequent disbursements of assets as they become available;

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(3) equitable allocation of disbursements to each of the guaranty associations entitled thereto;

(4) the securing by the liquidator from each of the guaranty associations entitled to disbursements pursuant to this section of an agreement to return to the liquidator the assets previously disbursed to them as may be required to pay claims of secured creditors and those claims having a higher priority than those of the guaranty association. No bond shall be required of a guaranty association; and

(5) a full report to be made by the guaranty association to the liquidator accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the guaranty association on the assets, and any other matter as the court may direct.

Sec. 4. Minnesota Statutes 1984, section 60B.46, is amended by adding a subdivision to read:

Subd. 5. DISBURSEMENTS. (a) The proposal shall provide for disbursements to the guaranty associations in amounts estimated to be at least equal to the claim payments made or to be made thereby for which the guaranty association could assess a claim against the liquidator. The proposal shall further provide that if the assets available for distribution from time to time do not equal or exceed the amount of such claim payments made or to be made by the guaranty association, then disbursements shall be in the amount of the available assets.

(b) The liquidator's proposal shall, with respect to an insolvent insurer writing life or health insurance or annuities, provide for disbursements of assets to any guaranty association or any foreign guaranty association covering life or health insurance or annuities or to any other entity or organization reinsuring, assuming, or guaranteeing policies or contracts of insurance under the acts creating these associations.

Sec. 5. Minnesota Statutes 1984, section 60B.46, is amended by adding a subdivision to read:

Subd. 6. NOTICE OF APPLICATION. Notice of the application shall be given to the guaranty associations in, and to the commissioners of insurance of, each of the states. The notice shall be deemed to have been given when deposited in the United States mail, certified first class postage prepaid, at least 30 days prior to submission of the application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the liquidator's proposal complies with subdivision 4, clauses (1) and (2).

Sec. 6. Minnesota Statutes 1984, section 60C.05, subdivision 1, is amended to read:

Subdivision 1. The association shall:

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(a) Be deemed the insurer to the extent of its obligation on the covered claims. The claims found by the board of directors to be covered shall be paid out of available funds after they have been approved or settled under sections 60B.45, subdivision 2, and 60B.58, subdivision 2, or the corresponding laws of another jurisdiction, subject to the board's power to reduce the amount of or reject the award under section 60C.10.

(b) Allocate claims paid and expenses incurred among the four accounts and assess member insurers separately for each account the amounts necessary to pay the obligations of the association under clause (a), the expenses of handling covered claims, the cost of examinations under section 60C.15 and other expenses authorized by Laws 1971, Chapter 145.

(c) Notify the persons as the commissioner directs under Laws 1971, Chapter 145.

(d) Handle claims through its employees or through one or more insurers or other persons designated as servicing facilities. Designation of a servicing facility is subject to the approval of the commissioner, but the designation may be declined.

(e) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and shall pay the other expenses of the association authorized by Laws 1971, Chapter 145.

(f) Notify each member insurer of its assessment not later than 30 days before it is due.

(g) Issue to each insurer paying an assessment under this chapter a certificate of contribution, in a form prescribed by the commissioner, for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the amount, if any, and period of time the commissioner approves.

Approved May 29, 1985

CHAPTER 256 — H.F.No. 957

An act relating to agriculture; providing that local governments may enter agreements; providing for soil and water conservation; imposing a penalty; amending Minnesota Statutes 1984, sections 40.19, subdivisions 1, 2, 5, 6, 7, 8, 9, 11, 13, and by adding subdivisions; 40.20; 40.21; 40.22, subdivisions 1 and 2; 40.23; 40.25; 40.26; 40.28; Laws 1979, chapter 315, sections 1; and 2, as amended; proposing coding for new law in Minnesota Statutes, chapter 40; repealing Minnesota Statutes 1984, sections 40.19, subdivisions 3, 4, 10, 12, 14, and 15; and 40.24.

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