

## CHAPTER 60B

### INSURERS REHABILITATION AND LIQUIDATION ACT

60B.44 Order of distribution.

60B.46 Distribution of assets.

#### 60B.44 ORDER OF DISTRIBUTION.

Subdivision 1. **Deductible provision.** The distribution of claims from the insurer's estate shall be 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.

*[For text of subds 2 to 11, see M.S.1984]*

**History:** 1985 c 255 s 1

#### 60B.46 DISTRIBUTION OF ASSETS.

*[For text of subds 1 and 2, see M.S.1984]*

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.

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;

(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.

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.

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).

**History:** 1985 c 255 s 2-5