

58-29B-124. Priority and order of distribution of claims from insurer's estate. The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses may be established within any class. The order of distribution of claims shall be:

- (1) Class 1. The costs and expenses of administration, including but not limited to the following:
 - (a) The actual and necessary costs of preserving or recovering the assets of the insurer;
 - (b) Compensation for all services rendered in the liquidation;
 - (c) Any necessary filing fees;
 - (d) The fees and mileage payable to witnesses;
 - (e) Reasonable attorney's fees;
 - (f) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims;
- (2) Class 2. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees;
- (3) Class 3. All claims under policies for losses incurred, including third party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to this employee may be treated as a gratuity;
- (4) Class 4. Claims under nonassessable policies for unearned premium or other premium refunds and claims of general creditors;
- (5) Class 5. Claims of the federal or any state or local government. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual cost occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subdivision (8) of this section;
- (6) Class 6. Claims filed late or any other claims other than claims under subdivisions (7) and (8) of this section;
- (7) Class 7. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law;
- (8) Class 8. The claims of shareholders or other owners.

Source: SL 1989, ch 436, § 124.
