

RCW 48.31.280 Priority and order of distribution of claims. The priority of distribution of claims from the insurer's estate is as follows: Every claim in a class must be paid in full or adequate funds retained for payment before the members of the next class receive any payment; no subclasses may be established within a class; and no claim by a shareholder, policyholder, or other creditor may circumvent the priority classes through the use of equitable remedies. The order of distribution of claims is:

(1) Class 1. The costs and expenses of administration during rehabilitation and liquidation, 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 authorized services rendered in the rehabilitation and liquidation;

(c) Necessary filing fees;

(d) The fees and mileage payable to witnesses;

(e) Authorized reasonable attorneys' fees and other professional services rendered in the rehabilitation and liquidation;

(f) The reasonable expenses of a guaranty association or foreign guaranty association for unallocated loss adjustment expenses.

(2) Class 2. Loss claims. For purposes of this section, loss claims are all claims under policies, including claims of the federal or a state or local government, for losses incurred, including third-party claims, 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, are loss claims. That portion of any loss indemnification that is provided for by other benefits or advantages recovered by the claimant, is not included in this class, other than 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 an employee may be treated as a gratuity. Loss claims also include claims under nonassessable policies for unearned premium or other premium refunds.

(3) Class 3. Claims of the federal government, other than claims which are included as loss claims under subsection (2) of this section.

(4) Class 4. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation or, if rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation; except, where there are no claims and no potential claims of the federal government in the estate, in which case claims in this class shall have priority over claims in class 2 and below. Principal officers and directors are not entitled to the benefit of this priority except as otherwise approved by the liquidator and the court. This priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(5) Class 5. Claims of general creditors including claims of ceding and assuming companies in their capacity as such.

(6) Class 6. Claims of any state or local government, except those under subsection (2) of this section. Claims, including those of any governmental body for a penalty or forfeiture, are 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 costs occasioned thereby. The remainder of such claims are postponed to the class of claims under subsection (9) of this section.

(7) Class 7. Claims filed late or any other claims other than claims under subsections (8) and (9) of this section.

(8) Class 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies are limited in accordance with law.

(9) Class 9. The claims of shareholders or other owners in their capacity as shareholders. [2001 c 40 s 1; 1993 c 462 s 83; 1975-'76 2nd ex.s. c 109 s 1; 1947 c 79 s .31.28; Rem. Supp. 1947 s 45.31.28.]

Application—2001 c 40: "This act applies to and governs all claims filed in any proceeding to liquidate an insurer that is initiated on or after January 1, 2001." [2001 c 40 s 3.]

Severability—2001 c 40: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 40 s 4.]

Severability—Implementation—1993 c 462: See RCW 48.31B.901 and 48.31B.902.