

§4379. Priorities in distribution of assets

The priorities in distribution of assets from the insurer's estate to pay unsecured claims, including the unsecured portion of undersecured claims, are in the order as shown in this section. The first \$50 of the amount allowed on each claim in the classes under subsections 3, 4, 4-B, 5 and 6 must be deducted from the claim and included in the class under subsection 8. Claims may not be cumulated by assignment to avoid application on the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class must be paid in full or adequate funds retained for the payment thereof before claims of the next succeeding class receive any payment. No subclasses may be established within any class. [PL 2017, c. 169, Pt. D, §1 (AMD).]

1. Administration costs. The costs and expenses of administration, including but not limited to the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees. Any provider or member claims for covered services under a health maintenance organization contract, including a point-of-service contract, incurred between the date a petition of liquidation is filed and the date coverage terminates may be treated as administration costs under this subsection.

[PL 2001, c. 88, §12 (AMD).]

2. Wages.

[PL 2017, c. 169, Pt. D, §2 (RP).]

3. Loss claims. All claims under policies for losses incurred, including 3rd-party claims, and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, except the first \$200 of losses otherwise payable to any claimant under this subsection. All claims under life insurance policies and annuity contracts, whether for death proceeds, annuity proceeds or investment values, must be treated as loss claims. Claims may not be cumulated by assignment to avoid application of the \$200 deductible provision. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant may not be 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 made by an employer to an employee may be treated as a gratuity. Any provider or member claims for covered services under a health maintenance organization contract, including a point-of-service contract, not paid under subsection 1 are included in this class. Obligations of an insolvent insurer arising out of reinsurance contracts are excluded from this subsection.

[PL 2003, c. 202, §1 (AMD).]

4. Unearned premiums and small loss claims. Claims under nonassessable policies for unearned premiums or other premium refunds and the first \$200 or loss excepted by the deductible provision in subsection 3, except that, if the receiver fails to prorate a premium due to the insurer based on a termination of coverage under this chapter, any resulting unearned premium must be paid to the insured under subsection 1 as an expense of the administration.

[PL 2001, c. 88, §12 (AMD).]

4-A. Federal claims. Claims of the Federal Government not included in the classes under subsection 3 or 4, except to the extent that a similar claim would be subordinated in a proceeding conducted under the United States Bankruptcy Code.

[RR 2021, c. 2, Pt. A, §84 (COR).]

4-B. Wages. Debts due to employees of the insurer, other than officers, for services performed, not to exceed \$1,000 to each employee and earned within one year immediately preceding the filing of the petition for liquidation. This priority is in lieu of any other similar priority authorized by law as to wages or compensation of such employees.

[PL 2017, c. 169, Pt. D, §3 (NEW).]

5. Residual classification. All other claims, including claims of any state or local government, not falling within other classes under this section. Claims, including those of any governmental body, for a penalty or forfeiture are included 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 must be postponed to the class of claims under subsection 8.

[PL 2017, c. 169, Pt. D, §4 (AMD).]

6. Judgments. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim must be considered by the liquidator who shall give the judgment such weight as the liquidator considers appropriate. The claim as allowed must receive the priority it would have received in the absence of the judgment. If the judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment must be treated as if it were a claim based solely on a judgment.

[RR 2021, c. 1, Pt. B, §373 (COR).]

7. Interest on claims already paid. Interest at the legal rate compounded annually on all claims in the classes under subsections 1 through 6 from the date of the petition for liquidation or the date on which the claim becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the court's approval, may make reasonable classifications of claims for purpose of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

[PL 1969, c. 132, §1 (NEW).]

8. Miscellaneous subordinated claims. The remaining claims or portions of claims not already paid, with interest as in subsection 7:

A. The first \$50 of each claim in the classes under subsections 3, 4, 4-B, 5 and 6 subordinated under this section; [PL 2017, c. 169, Pt. D, §5 (AMD).]

B. Claims subordinated by section 4380 (subordination of claims for noncooperation); [PL 1969, c. 132, §1 (NEW).]

C. Claims filed late; [PL 1969, c. 132, §1 (NEW).]

D. Portions of claims subordinated under subsection 5; and [PL 1969, c. 132, §1 (NEW).]

E. Claims or portions of claims payment of which is provided by other benefits or advantages recovered or recoverable by the claimant. [PL 1969, c. 132, §1 (NEW).]

[PL 2017, c. 169, Pt. D, §5 (AMD).]

9. Preferred ownership claims. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in subsections 7 and 8.

[PL 1969, c. 132, §1 (NEW).]

10. Proprietary claims. The claims of stockholders or other owners of the insurer.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 2001, c. 88, §12 (AMD). PL 2003, c. 202, §1 (AMD). PL 2017, c. 169, Pt. D, §§1-5 (AMD). RR 2021, c. 1, Pt. B, §373 (COR). RR 2021, c. 2, Pt. A, §84 (COR).

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