AN ACT concerning insurance.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Insurance Code is amended by changing Section 205 as follows:

(215 ILCS 5/205) (from Ch. 73, par. 817)

Sec. 205. Priority of distribution of general assets.

(1) The priorities of distribution of general assets from the company's estate is to be as follows:

(a) The costs and expenses of administration, including the expenses of the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association and of any similar organization in any other state as prescribed in subsection (c) of Section 545.

(b) Secured claims, including claims for taxes and debts due the federal or any state or local government, that are secured by liens perfected prior to the filing of the complaint.

(c) Claims for wages actually owing to employees for services rendered within 3 months prior to the date of the filing of the complaint, not exceeding $1,000 to each employee unless there are claims due the federal government under paragraph (f), then the claims for wages shall have a priority of distribution immediately following that of federal claims under paragraph (f) and immediately preceding claims of general creditors under paragraph (g).

(d) Claims by policyholders, beneficiaries, insureds and liability claims against insureds covered

Originated in the Senate

Secretary of the Senate

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under insurance policies and insurance contracts issued by the company, and claims of the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association and any similar organization in another state as prescribed in Section 545.

(e) Claims by policyholders, beneficiaries, and insureds, the allowed values of which were determined by estimation under paragraph (b) of subsection (4) of Section 209.

(f) Any other claims due the federal government.

(g) All other claims of general creditors not falling within any other priority under this Section including claims for taxes and debts due any state or local government which are not secured claims and claims for attorneys' fees incurred by the company in contesting its conservation, rehabilitation, or liquidation.

(h) Claims of guaranty fund certificate holders, guaranty capital shareholders, capital note holders, and surplus note holders.

(i) Proprietary claims of shareholders, members, or other owners.

Every claim under a written agreement, statute, or rule providing that the assets in a separate account are not chargeable with the liabilities arising out of any other business of the insurer shall be satisfied out of the funded assets in the separate account equal to, but not to exceed, the reserves maintained in the separate account under the separate account agreement, and to the extent, if any, the claim is not fully discharged thereby, the remainder of the claim shall be treated as a priority level (d) claim under paragraph (d) of this subsection to the extent that reserves have been established in the insurer's general account

pursuant to statute, rule, or the separate account agreement.

For purposes of this provision, "separate account policies, contracts, or agreements" means any policies, contracts, or agreements that provide for separate accounts as contemplated by Section 245.21.

To the extent that any assets of an insurer, other than those assets properly allocated to and maintained in a separate account, have been used to fund or pay any expenses, taxes, or policyholder benefits that are attributable to a separate account policy, contract, or agreement that should have been paid by a separate account prior to the commencement of receivership proceedings, then upon the commencement of receivership proceedings, the separate accounts that benefited from this payment or funding shall first be used to repay or reimburse the company's general assets or account for any unreimbursed net sums due at the commencement of receivership proceedings prior to the application of the separate account assets to the satisfaction of liabilities or the corresponding separate account policies, contracts, and agreements.

To the extent, if any, reserves or assets maintained in the separate account are in excess of the amounts needed to satisfy claims under the separate account contracts, the excess shall be treated as part of the general assets of the insurer's estate.

(2) Within 120 days after the issuance of an Order of Liquidation with a finding of insolvency against a domestic company, the Director shall make application to the court requesting authority to disburse funds to the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association and similar organizations in other states from time to time out of the company's marshaled assets as funds become available in

amounts equal to disbursements made by the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association and similar organizations in other states for covered claims obligations on the presentation of evidence that such disbursements have been made by the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association and similar organizations in other states.

The Director shall establish procedures for the ratable allocation and distribution of disbursements to the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association and similar organizations in other states. In determining the amounts available for disbursement, the Director shall reserve sufficient assets for the payment of the expenses of administration described in paragraph (1) (a) of this Section. All funds available for disbursement after the establishment of the prescribed reserve shall be promptly distributed. As a condition to receipt of funds in reimbursement of covered claims obligations, the Director shall secure from the Illinois Insurance Guaranty Fund, the Illinois Life and Health Insurance Guaranty Association, the Illinois Health Maintenance Organization Guaranty Association and each similar organization in other states, an agreement to return to the Director on demand funds previously received as may be required to pay claims of secured creditors and claims falling within the priorities established in paragraphs (a), (b), (c), and (d) of subsection (1) of this Section in accordance with such priorities.

(3) The provisions of this Section are severable under Section 1.31 of the Statute on Statutes.

(Source: P.A. 89-206, eff. 7-21-95; 90-381, eff. 8-14-97.)

Section 99. Effective date. This Act takes effect upon becoming law.

President of the Senate

Michael J. Madigan
Speaker, House of Representatives

APPROVED

this 12th day of July, 20 01 A.D.

George H Ryan
GOVERNOR