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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



# ENROLLED

HOUSE BILL No. 4853

(By Delegate 3 Douglas, Hutchins, Komisar,  
Faircloth, Slocrist, Walters and Lewis)



Passed March 9, 1996

In Effect Ninety Days From Passage

## ENROLLED

# H. B. 4853

(BY DELEGATES DOUGLAS, HUTCHINS, KOMINAR, FAIRCLOTH,  
SEACRIST, WALTERS AND LOUISOS)

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[Passed March 9, 1996; in effect ninety days from passage.]

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AN ACT to amend and reenact section twenty-seven, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to establishing the priority of distribution of claims against the estates of hospital service corporations, medical service corporations, dental service corporations and health service corporations in liquidation.

*Be it enacted by the Legislature of West Virginia:*

That section twenty-seven, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**§33-24-27. Order of distribution.**

1        This section, as amended by this act, which  
2 amendment shall be effective from passage, shall  
3 retrospectively apply to and govern all claims filed in any  
4 proceeding to liquidate a corporation which is pending on  
5 the effective date of this section and to all claims filed in  
6 any proceeding to liquidate a corporation that is  
7 commenced on or after the effective date of this revised  
8 section, notwithstanding any other provision of this article.

9        This act is hereby declared to be an emergency  
10 measure necessary for the immediate preservation of the  
11 public peace, health, and safety. Such immediate action is  
12 required to ensure the orderly and prompt payment of

13 claims filed in pending proceedings to liquidate  
14 corporations under this article and such proceedings that  
15 are commenced on or after the effective date of this act.  
16 Therefore, this act shall go into immediate effect upon  
17 passage and have retrospective effect on pending  
18 liquidation proceedings under this article.

19 The priority of distribution of claims from the  
20 corporation estate shall be in accordance with the order in  
21 which each class of claims is herein set forth. Every claim  
22 in each class shall be paid in full or adequate funds  
23 retained for such payment before the members of the next  
24 class receive any payment. No subclasses shall be  
25 established within any class. No claim by a policyholder  
26 or other creditor shall be permitted to circumvent the  
27 priority classes through the use of equitable remedies.  
28 The order of distribution shall be:

29 (a) Class I. The costs and expenses of administration,  
30 including, but not limited to, the following:

31 (1) The actual and necessary costs of preserving or  
32 recovering the assets of the corporation;

33 (2) Compensation for all services rendered in the  
34 liquidation;

35 (3) Any necessary filing fees;

36 (4) The fees and mileage payable to witnesses;

37 (5) Reasonable attorney's fees; and

38 (6) All expenses incurred by the department of  
39 insurance arising out of the enforcement of chapter  
40 thirty-three and its regulations.

41 (b) Class II. All claims for refund of unearned  
42 premiums under nonassessable policies and all claims of  
43 policyholders including such claims of the federal or any  
44 state or local government as policyholders for losses  
45 incurred and third party claims of an insolvent insurer.

46 (c) Class III. Claims of the federal government other  
47 than as an insured policyholder.

48 (d) Class IV. Debts due to employees for compen-  
49 sation under the provision of section thirty-four of this

50 article and all reasonable claims of the West Virginia  
51 insurance guaranty associations and associations or entities  
52 performing a similar function in other states.

53 (e) Class V. Claims of general creditors including  
54 claims of ceding and assuming companies in their  
55 capacity as such.

56 (f) Class VI. Claims of any state or local government.  
57 Claims, including those of any governmental body for a  
58 penalty or forfeiture, shall be allowed in this class only to  
59 the extent of the pecuniary loss sustained from the act,  
60 transaction, or proceeding out of which the penalty or  
61 forfeiture arose, with reasonable and actual costs  
62 occasioned thereby. The remainder of such claims shall  
63 be postponed to the class of claims under subdivision (h)  
64 of this section.

65 (g) Class VII. Claims filed late or any other claims  
66 other than claims under subdivision (h) of this section.

67 (h) Class VIII. Surplus or contribution notes, or  
68 similar obligations and premium refunds on assessable  
69 policies. Payments to members of domestic mutual  
70 corporations shall be limited in accordance with law.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Randy Schroner*  
Chairman Senate Committee

*Randy Deacon*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harrell E. Adams*  
Clerk of the Senate

*Bryan W. Bay*  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
President of the Senate

*Paul E. Ceban*  
Speaker of the House of Delegates

The within *is approved* this the *21st*  
day of *March*, 1996

*Justin Caputo*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/19/96

Time 3:27 pm