# WEST VIRGINIA CODE: §31A-7-12

**§31A-7-12. Payment of expenses and debts; order of priority; rights of secured creditors.**

(a) Each receiver shall pay the expenses and just debts of the involved financial institution in the manner specified by this section. The receiver shall divide all claims against the institution into the general classes set forth in this section with the highest priority being given to the first listed class and then to each subsequent class as it is ranked. All such payments must be approved by the commissioner and shall be made from the following general classes in accordance with the following order of priority:

(1) First, the commissioner's costs of administration, including, but not limited to, all expenses actually incurred by the receiver in the course of the receivership; all expenses actually incurred by the commissioner pursuant to any provision of this article; all costs actually incurred in the determination of any contested claim or other contested case under this article; the payment of reasonable compensation to any receiver, conservator, hearing examiner, attorney, accountant or other person duly appointed or employed for the purpose of carrying out any provision of this article; and all other expenses expressly authorized by other provisions of this article;

(2) Second, wage claims for all wages due and owing employees of the financial institution for the ninety-day period immediately preceding the date of appointment of the receiver up to an amount not to exceed $1,500 per employee;

(3) Third, all depositors of the financial institution;

(4) Fourth, all state, federal and local taxes due for the period during which the financial institution carried on its business;

(5) Fifth, excluding all claims of shareholders of the financial institution, all claims of creditors of the financial institution, whether by contract, judgment or otherwise; and

(6) Sixth, all the remaining proceeds to the shareholders of the financial institution.

(b) Before the receiver makes any payment under subsection (a) of this section, he shall receive and approve or reject all claims against the financial institution in the manner provided for in section thirteen of this article. All approved claims shall be paid according to the order of priority set in subsection (a) of this section. With respect to subsection (a) of this section, payment in full of all costs provided for in subdivision (1) must be made before any payment can be made in any other subdivision; next, payment in full of all wage claims provided for in subdivision (2) must be made before any payment can be made in any following subdivision; next, payment in full of all depositors provided for in subdivision (3) must be made before any payment can be made in any following subdivision; next, payment

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in full of all taxes provided for in subdivision (4) must be made before any payment can be made in any following subdivision; next, all creditors' claims provided for in subdivision (5) must be made before any shareholders can be paid anything; and, last, all remaining proceeds shall be paid to the shareholders. If at any time a situation develops in which proceeds are available to be paid within a particular subdivision but such proceeds are not sufficient to fully pay the creditors in that class, then the receiver shall pay each creditor in that class his pro rata share of the proceeds.

(c) The provisions of this section shall not be construed or applied so as to take away or modify in any way the rights of a secured creditor who has properly filed and perfected a security interest in any property of the financial institution in compliance with other applicable law, except that the receiver may postpone payment of a claim relating thereto to allow for orderly administration.

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