WEST VIRGINIA CODE: §33-10-19A

§33-10-19a. Priority of distribution.

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses may be established within any class. No claim by a shareholder, policyholder or other creditor may be permitted to circumvent the priority classes through the use of equitable remedies. The order of distribution shall be:

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

(1) The actual and necessary costs of preserving or recovering the assets of the insurer;

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

(3) Any necessary filing fees;

(4) The fees and mileage payable to witnesses;

(5) Reasonable attorney's fees and fees for other professional services rendered in the proceeding; and

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

(b) Class II. All claims for refund of unearned premiums under nonassessable policies and all claims of policyholders including claims of the federal or any state or local government as policyholders for losses incurred; third party claims of an insolvent insurer; and all reasonable claims of the West Virginia insurance guaranty associations and associations or entities performing a similar function in other states.

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

(d) Class IV. Debts due to employees for compensation, which may not exceed two months of monetary compensation and must represent payment for services performed within six months before the filing of the petition for liquidation, or, if rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Principal officers and directors shall not be entitled to the benefit of this priority except as otherwise approved by the liquidator and the court. This priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.

(e) Class V. Claims of general creditors including claims of ceding and assuming companies

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in their capacity as such.

(f) Class VI. Claims of any state or local government. Claims, including those of any governmental body for a penalty or forfeiture, shall be 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 shall be postponed to the class of claims under subsection (h) of this section.

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

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

(i) Class IX. The claims of shareholders or other owners.

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