WEST VIRGINIA CODE: §55-21-20

§55-21-20. Notice of appointment; claim against receivership; distribution to creditors.

(a) Except as otherwise provided in subsection (f) of this section, a receiver shall give notice of appointment of the receiver to creditors of the owner by:

(1) Deposit for delivery through first-class mail or other commercially reasonable delivery method to the last-known address of each creditor; and

(2) Publication as directed by the court.

(b) Except as otherwise provided in subsection (f) of this section, the notice required by subsection (a) of this section must specify the date by which each creditor holding a claim against the owner which arose before appointment of the receiver must submit the claim to the receiver. The date specified must be at least 90 days after the later of notice under subsection (a)(1) or last publication under subsection (a)(2) of this section. The court may extend the period for submitting the claim. Unless the court orders otherwise, a claim that is not submitted timely is not entitled to a distribution from the receivership.

(c) A claim submitted by a creditor under this section must:

(1) State the name and address of the creditor;

(2) State the amount and basis of the claim;

(3) Identify any property securing the claim;

(4) Be signed by the creditor under penalty of perjury; and

(5) Include a copy of any record on which the claim is based.

(d) An assignment by a creditor of a claim against the owner is effective against the receiver only if the assignee gives timely notice of the assignment to the receiver in a signed record.

(e) At any time before entry of an order approving a receiver's final report, the receiver may file with the court an objection to a claim of a creditor, stating the basis for the objection. The court shall allow or disallow the claim according to law of this state other than this article.

(f) If the court concludes that receivership property is likely to be insufficient to satisfy claims of each creditor holding a perfected lien on the property, the court may order that:

(1) The receiver need not give notice under subsection (a) of the appointment to all creditors

WV Legislature

of the owner, but only such creditors as the court directs; and

(2) Unsecured creditors need not submit claims under this section.

(g) Subject to §55-21-21 of this code:

(1) A distribution of receivership property to a creditor holding a perfected lien on the property must be made in accordance with the creditor's priority under law of this state other than this article; and

(2) A distribution of receivership property to a creditor with an allowed unsecured claim must be made as the court directs according to law of this state other than this article.

WV Legislature