



Ohio Revised Code

Section 3901.47 Administration of claims unpaid due to insolvency of insurer.

Effective: November 20, 1989

Legislation: House Bill 454 - 118th General Assembly

(A) As used in this section:

(1) "Insurer" means any insurer authorized to write life or sickness and accident insurance in this state under Title XXXIX of the Revised Code.

(2) "Insolvent insurer" means any of the following:

(a) Farm and ranch life insurance company, domiciled in the state of Kansas;

(b) First transcontinental life insurance corporation, domiciled in the state of Wisconsin;

(c) Lumbermen's life insurance company, domiciled in the state of Indiana;

(d) United fire insurance company, domiciled in the state of Illinois;

(e) Any other insurer that, not later than June 30, 1990, is under an order of liquidation issued by a court of competent jurisdiction;

(f) Any person that is organized under the laws of another state as a nonprofit hospital service association, corporation, or plan, that is authorized by the laws of that state to offer sickness and accident benefits for hospital services under group subscriber contracts, that has furnished certificates in connection with or pursuant to these contracts to subscribers residing or employed in this state, and that, not later than June 30, 1990, is under an order of liquidation issued by a court of competent jurisdiction. Division (A)(2)(f) of this section does not include any person organized as a health maintenance organization or an indemnity insurance company.

(3) "Ohio claimant" means a policyholder or a contract holder under an individual policy, or a certificate holder under a group policy or contract, of an insolvent insurer who is owed life, sickness



and accident, or annuity benefits pursuant to the terms of policies of insurance issued by that insurer.

(B) The superintendent of insurance, in furtherance of section 3901.011, 3903.17, or 3903.53 of the Revised Code, may file a complaint in the court of common pleas of Franklin county for an order appointing him, whether as liquidator, ancillary receiver, or otherwise, to make arrangements for the distribution of voluntary contributions made in accordance with division (E) of this section. As part of the complaint, the superintendent shall submit a written plan for the administration of the contributions. The plan shall include, but need not be limited to, procedures for receipt, maintenance, and distribution of the contributions and for the adjudication and subrogation of the claims to be paid. If a life and health insurance guaranty association is in existence in this state, the superintendent may direct the association to perform the administrative duties set forth in the plan.

(C) The superintendent shall take all reasonable and necessary actions to implement the plan as described in division (B) of this section. As part of these actions, all of the following apply:

(1) The superintendent shall seek a full pro rata recovery of the assets of the liquidation estates that are due Ohio claimants pursuant to Chapter 3903. of the Revised Code and the insurance liquidation laws of the states of domicile of the insolvent insurers;

(2) The superintendent shall be subrogated to all claims of Ohio claimants in the fully adjudicated amounts. These amounts are not reduced by payments from funds voluntarily contributed.

(3)(a) The superintendent shall attempt to secure payment of the claims adjudicated pursuant to the plan as described in division (B) of this section.

(b) No Ohio claimant is entitled to receive more than one hundred per cent of the adjudicated amounts of his claims. If any claimant receives more than one hundred per cent, the superintendent may undertake legal action to recover the amounts in excess of one hundred per cent from the claimant. The related liquidation estates shall be obligated to pay the costs incurred by the superintendent to recover these amounts.

(4) Voluntary contributions held by any person are not the property of any insolvent insurer. Distribution to Ohio claimants of the funds voluntarily contributed are not payments on behalf of any



insolvent insurer, and do not lose their legal status as voluntary contributions.

(5) Payment to Ohio claimants of any of the funds voluntarily contributed does not reduce their claims against an insolvent insurer if those claims have been subrogated to the superintendent.

(D) Any funds remaining in excess of the aggregate total of all claims and administrative expenses of Ohio claimants shall be transferred to a life and health insurance guaranty association that may be in existence in this state for use in payment of administrative costs or claims related to subsequent insolvencies. If the association does not exist, the excess funds shall be distributed pro rata to the contributing insurers and appropriate adjustments shall be made by the superintendent in the premium or franchise tax liability of those contributing insurers.

(E)(1) Any insurer that, not later than June 30, 1990, and in accordance with the plan described in division (B) of this section, voluntarily contributes funds to pay the life, sickness and accident, or annuity claims of residents of this state that are unpaid due to the insolvency of an insolvent insurer may offset against its premium or franchise tax liability twenty per cent of the contribution for each of the first five calendar years following the year in which the contribution was made.

(2) If that portion of the aggregate total of the contributions described in division (E)(1) of this section that is eligible for offset in a particular year exceeds an insurer's tax liability to this state for that year, the amount in excess of that tax liability that remains eligible for offset, notwithstanding the five-year limitation set forth in division (E)(1) of this section, may be offset against that tax liability in future years.

(3) Contributions used to defray the costs of administering the plan as described in division (B) of this section qualify for treatment as contributions eligible for the tax offset provided in division (E)(1) of this section.

(F)(1) An insurer is not subject to liability for damages arising out of a civil action of any nature for making voluntary contributions in accordance with division (E) of this section or for otherwise participating in the plan described in division (B) of this section.

(2) Any life and health guaranty association directed by the superintendent to perform administrative



duties set forth in the plan described in division (B) of this section is not subject to liability for damages arising out of a civil action of any nature for participating in that plan.

(3) Funds voluntarily pledged, committed, or contributed by an insurer in accordance with division (E) of this section are not subject to attachment, lien, execution, or other legal actions brought by persons other than the superintendent pursuant to his responsibilities under the plan described in division (B) of this section.