

Article - Insurance

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§7-806.

(a) (1) Except as provided in paragraph (2) of this subsection, when an order for liquidation, conservation, or rehabilitation of a domestic insurer is entered, the receiver appointed under the order may recover for the domestic insurer the following distributions and payments made within 1 year before the petition for liquidation, conservation, or rehabilitation was filed:

(i) from any parent corporation, holding company, affiliate, or person that otherwise controlled the domestic insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the domestic insurer on its capital stock; and

(ii) any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the domestic insurer or its subsidiaries to a director, officer, or employee.

(2) A distribution is not recoverable under this section if the parent or affiliate shows that when the distribution was paid:

(i) the distribution was lawful and reasonable; and

(ii) the domestic insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the domestic insurer to fulfill its contractual obligations.

(3) The maximum amount recoverable under this section is the amount needed in excess of all other available assets of the impaired or insolvent domestic insurer to pay the contractual obligations of the impaired or insolvent domestic insurer and to reimburse any guaranty funds.

(b) (1) A person that was a parent corporation, holding company, or person that otherwise controlled the domestic insurer or affiliate when a distribution was paid is liable for an amount not exceeding the distribution received.

(2) A person that otherwise controlled the domestic insurer when a distribution was declared is liable for an amount not exceeding the amount that the person would have received in an immediate distribution.

(3) Two or more persons that are liable with respect to the same distribution are jointly and severally liable.

(4) To the extent that a person liable to pay claims under this subsection is insolvent or otherwise fails to pay claims due, the liable person's parent corporation or holding company and any other person that otherwise controlled the liable person when

the distribution was paid are jointly and severally liable for any resulting deficiency in the amount recovered from the domestic insurer's parent corporation or holding company or any other person that otherwise controlled the domestic insurer.

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