Article - Insurance

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§9–228.

(a) (1) Subject to paragraph (2) of this subsection, contingent and unliquidated claims may not share in a distribution of the assets of an insurer that has been adjudicated to be an impaired insurer by an order issued under this subtitle.

(2) If properly presented, a contingent and unliquidated claim shall be considered and may be allowed to share if:

(i) the claim becomes absolute against the insurer on or before the last day for filing claims against the assets of the insurer; or

(ii) there is a surplus and the liquidation is subsequently conducted on the basis that the insurer is solvent.

(b) If an insurer has been adjudicated to be an impaired insurer, a person that has a cause of action against an insured of the insurer under a liability policy issued by the insurer has the right to file a claim in the liquidation proceeding, even if the claim may be contingent, and the claim may be allowed if:

(1) a reasonable inference may be made from proof presented on the claim that the person would be able to obtain a judgment in a cause of action against the insured;

(2) the person provides suitable proof, unless for good cause shown the court directs otherwise, that no further valid claim against the insurer arising out of the cause of action can be made other than the claim already presented; and

(3) the total liability of the insurer to all claimants arising out of the same act of the insured is not greater than the maximum liability of the insurer were the insurer not in liquidation.

(c) (1) A judgment against an insured after the date of issuance of a liquidation order may not be considered in the liquidation proceeding as evidence of liability or of the amount of damages.

(2) A judgment against an insured by default or collusion before issuance of a liquidation order may not be considered in the liquidation proceeding as conclusive evidence of the liability of the insured to a person with a cause of action against the insured or the amount of damages to which the person is entitled.

(d) (1) Except as provided in paragraph (2) of this subsection, a claim of a person that has a secured claim may not be allowed at a sum greater than the difference between:

(i) the value of the claim without security; and

(ii) the value of the security itself on:

1. the date of issuance of the liquidation order; or

2. another date set by the court for determining rights and liabilities as provided in subsection (e) of this section.

(2) If the claimant surrenders the security to the Commissioner, the claim shall be allowed in the full amount for which it is valued.

(e) Subject to the provisions of this subtitle on the rights of claimants holding contingent claims, and unless otherwise directed by the court, the rights and liabilities of an insurer, the creditors, policyholders, stockholders, members, and subscribers of the insurer, and other persons interested in the estate of the insurer are fixed on the date on which the order that directs the liquidation of the insurer is filed in the office of the clerk of the court that issued the order.

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