

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S3/20/13

A Bill

SENATE BILL 1106

5 By: Senator Rapert
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For An Act To Be Entitled

8 AN ACT TO AMEND TITLE 23, CHAPTER 68, OF THE ARKANSAS
9 CODE CONCERNING THE REHABILITATION AND LIQUIDATION OF
10 INSURANCE COMPANIES; AND FOR OTHER PURPOSES.

Subtitle

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14 TO AMEND TITLE 23, CHAPTER 68, OF THE
15 ARKANSAS CODE CONCERNING THE
16 REHABILITATION AND LIQUIDATION OF
17 INSURANCE COMPANIES.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 23, Chapter 68, is amended to add an
23 additional section to read as follows:

24 23-68-135. Early distribution.

25 (a) As used in this section, "distributable asset" means the general
26 assets of an insurer in a liquidation estate except:

27 (1) Amounts reserved to the extent necessary and appropriate
28 under § 23-68-126(b)(1) as the expenses of the liquidation through and after
29 its closing; and

30 (2) Amounts reserved to the extent necessary for distribution
31 on claims other than the claims of affected guaranty associations in the
32 priority class of claims under § 23-68-126(b)(2).

33 (b)(1) An early payment of distributable assets to a guaranty
34 association shall be made:

35 (A) As frequently as possible after entry of a liquidation
36 order if distributable assets are available, but at least annually; and



1 (B) In amounts consistent with this section.

2 (2) An amount distributed to a guaranty association under this
3 section is accounted for as an advance against distributions under § 23-68-
4 126.

5 (c)(1) Where sufficient distributable assets are available, amounts
6 advanced need not be limited to the claims and expenses paid to date by the
7 guaranty associations.

8 (2) However, the liquidator shall not distribute distributable
9 assets to the guaranty associations in excess of the anticipated entire
10 claims of the guaranty associations falling within the priority classes of
11 claims established in § 23-68-126(b)(1) and (2).

12 (d) Within one hundred twenty (120) days after the entry of a
13 liquidation order and at least annually thereafter, the liquidator shall
14 submit to the court:

15 (1) A financial statement, including:

16 (A) The assets and liabilities of the insurer;

17 (B) Any change in the assets and liabilities of the
18 insurer;

19 (C) The income and expenses of the insurer; and

20 (D) All funds received or disbursed by the receiver in the
21 liquidation estate during the reporting period;

22 (2) A report indicating whether or not distributable assets are
23 available based on the financial statement;

24 (3) If distributable assets are available, a request for court
25 approval to make early access payments of the distributable assets available
26 to affected guaranty associations out of the general assets of the insurer;
27 and

28 (4) The liquidator may apply to the court to make early
29 access payments more frequently than annually based on additional financial
30 information or the recovery of material assets.

31 (e) Within sixty (60) days after approval by the court under
32 subdivision (d)(3) of this section, the liquidator shall make early access
33 payments to a guaranty association as indicated in the approved applications.

34 (f)(1) Notice of each application for early access payments or any
35 report required under this section shall be given to guaranty associations
36 having obligations arising under this section.

1 (2) At least thirty (30) days before filing a request with the
2 court under subdivision (d)(3) of this section, the liquidator shall provide
3 notice to guaranty associations together with a complete copy of the request.

4 (3) A guaranty association may:

5 (A) Request additional information from the liquidator,
6 and the liquidator shall not unreasonably deny the request; and

7 (B) Object to a request for distribution or any report
8 filed by the liquidator under this section.

9 (g) In a request for early access payments, the liquidator, at a
10 minimum and based on the information available to the liquidator at the time,
11 shall provide:

12 (1) The amount reserved for the expenses of the entire
13 liquidation through and after its closure and for distribution on claims in
14 the priority class of claims under § 23-68-126(b)(1) and (2); and

15 (2) The calculation of distributable assets and the amount and
16 method of equitable allocation of early access payments to guaranty
17 associations.

18 (h) Each guaranty association that receives any payments pursuant to
19 this section agrees, upon depositing the payment in any account to its
20 benefit, to return to the liquidator any amount of these payments that may be
21 required to pay claims of secured creditors and claims falling within the
22 priority classes of claims established in § 23-68-126(b)(1) and (2)

23 (i) A bond is not required of any guaranty association under this
24 section.

25 (j) Without the consent of affected guaranty associations or an order
26 of the court, the liquidator shall not offset the amount to be distributed to
27 a guaranty association by the amount of a special deposit or other deposit or
28 asset of the insurer held in another state unless the guaranty association
29 has received the deposit or asset.

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31 /s/Rapert
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34 **APPROVED: 04/18/2013**
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