

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

# A Bill

SENATE BILL 1106

4  
5 By: Senator Rapert

## 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

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);

29 (2) Expenses of the liquidation through and after its closing;  
30 and

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

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

36 (A) Immediately after the entry of an order of liquidation



1 under §§ 23-68-111 and 23-68-112;

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

4 (C) In amounts consistent with this section.

5 (2) An amount distributed to a guaranty association under this  
6 section is accounted for as an advance against distributions under § 23-68-  
7 126.

8 (c)(1) If distributable assets are available, the amount advanced is  
9 not limited to the claims and expenses paid to date by the guaranty  
10 association.

11 (2) The distributable assets shall not be distributed to a  
12 guaranty association for more than the guaranty association's claim amount if  
13 the claim is a priority class under § 23-68-126(b)(1) and (2).

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

17 (1) A financial statement, including:

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

19 (B) Any change in the assets and liabilities of the  
20 insurer;

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

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

24 (2) A report indicating whether or not distributable assets are  
25 available based on the financial statement; and

26 (3)(A) If distributable assets are available, a request for  
27 court approval to make early access payments of the distributable assets  
28 available to affected guaranty associations out of the general assets of the  
29 insurer.

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

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

36 (f)(1) Notice of each application for early access payments or any

1 report required under this section shall be given to guaranty associations  
2 having obligations arising under this section.

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

6 (3) A guaranty association may:

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

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

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

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

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

20 (h) Each guaranty association that receives a payment under this  
21 section agrees to return to the receiver in charge of the liquidated estate,  
22 payments to pay claims of secured creditors and of priority classes of claims  
23 under § 23-68-126(b)(1) and (2).

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

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

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