Secute BILL NO. 329 1 INTRODUCED BY 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE ORDER OF 5 PRIORITIES FOR THE DISTRIBUTION OF THE ASSETS OF LIQUIDATED 6 INSURANCE COMPANIES AND GIVING THE RECEIVER EARLIER ACCESS 7 TO THE USE OF ASSETS OF INSOLVENT INSURANCE COMPANIES; 8 AMENDING SECTION 40-5127, R.C.M. 1947."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-5127, R.C.M. 1947, is amended to read as follows:

13 "40-5127. Priority of claims for compensation. 14 (1) Compensation actually owing to employees other than 15 officers of an insurer, for services rendered within three 3 months prior to the commencement of a proceeding against the 16 17 insurer under this chapter, but not exceeding five-hundred dollars-{\$500} for each employee, shall be paid prior to the 18 19 payment of any other dept or claim, and in the discretion of 20 the commissioner may be paid as soon as practicable after 21 the proceeding has been commenced; except that at all times 22 the commissioner shall reserve such funds as will in his 23 opinion be sufficient for the expenses of administration. 24 (2) Such priority shall be in lieu of any other similar 25 priority which may be authorized by law as to wages or

INTRODUCED BILL

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1	compensation of such employees.			
2	121 The priorities of distribution in a liquidation			
3	proceeding shall be in the following order:			
4	(a) expenses of administration:			
5	(b) compensation of employees as provided in			
6	<pre>subsection_(1);</pre>			
7	[c]_claims_for_taxes_and_debts_due_the_federal_orany			
8	state or local government which are secured by liens			
9	perfected prior to the commencement of delinquency			
10	proceedings:			
11	(d) claims by policyholders, beneficiaries, and			
12	insureds arising from and within the coverage of and not in			
13	excess of the applicable limits of insurance policies and			
14	insurance contracts issued by the company and liability			
15	<u>claims against insurers which claims are within the coverage</u>			
16	of and not in excess of the applicable limits of insurance			
17	policies and insurance contracts issued by the company, as			
18	well as claims presented by the Montana insurance guaranty			
19	association, the Montana life and guaranty association, or			
20	any similar organization in another state which represents			
21	covered claims as defined in 40-5705(3) or contractual			
22	<u>obligations as defined in 40-5805:</u>			
23	(e) all other claims including subrogation claims of			
24	<u>other insurers.</u> "			
25	Section 2. There is a new R.C.N. section numbered			

-2-

38 229

1 40-5134 that reads as follows:

2 40-5134. Proposal for disbursement. (1) Within 120 3 days of a final determination of insolvency of a company by a court of competent jurisdiction, the receiver shall make 4 5 application to the court for approval of a proposal to 6 disburse assets out of such company's marshaled assets, from 7 time to time as such assets become available, to the Montana 8 insurance guaranty association, the Montana life and health 9 quaranty association or to any entity or person performing a 10 similar function in another state. Such associations are 11 herein referred to as the associations.

12 (2) Such proposal shall at least include provisions 13 for:

(a) reserving amounts for the payment of expenses of
administration and the payment of claims of secured
creditors to the extent of the value of the security held
and claims falling within the priorities established in
subsections (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127;

19 (b) disbursement of the assets marshaled to date and
20 subsequent disbursements of assets as they become available;
21 (c) equitable allocation of disbursements to each of
22 the associations entitled thereto;

23 (d) the securing by the receiver from each of the
24 associat.uns entitled to disbursements pursuant to this
25 section of an agreement to return to the receiver, without

interest, such assets previously disbursed as may be
 required to pay claims of secured creditors and claims
 falling within the priorities established in subsections
 (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127 in accordance
 with such priorities. No bond may be required of any such
 association.

7 (e) a full report to be made by the association to the 8 receiver accounting for all assets so disbursed to the 9 association, all disbursements made therefrom, any interest 10 earned by the association on such assets, and any other 11 matter as the court may direct.

12 (3) The receiver's proposal shall provide for 13 disbursements to the associations in amounts estimated to be 14 at least equal to the claim payments made or to be made 15 thereby for which such associations could assert a claim 16 against the receiver and shall further provide that if the 17 assets available for disbursement from time to time do not 18 equal or exceed the amount of such claim payments made or to 19 be made by the associations, then disbursements shall be in 20 the amount of available assets.

(4) The receiver's proposal shall, with respect to an
insolvent insurer writing life or health insurance or
annuities, provide for disbursements of assets to the
'Montana life and health guaranty association or to any other
entity or organization reinsuring, assuming, or guaranteeing

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1 policies or contracts of insurance under the provisions of 2 the Hontana life and health guaranty association act. 3 (5) Notice of such application shall be given to the 4 associations in and to the commissioners of insurance of 5 each of the states. Any such notice is considered to have been given when deposited in the United States mail+ 6 7 certified and first-class postage prepaid, at least 30 days 8 prior to submission of such application to the court. Action 9 on the application may be taken by the court provided the 10 above-required notice has been given and provided further 11 that the receiver's proposal complies with subsection (2)(a) 12 and (2)(d).

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read as follows:

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Approved by Committee on Business and Industry Senete BILL NO. 329 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE ORDER OF PRIDRITIES FUR THE DISTRIBUTION OF THE ASSETS OF LIQUIDATED INSURANCE COMPANIES AND GIVING THE RECEIVER EARLIER ACCESS TO THE USE OF ASSETS OF INSOLVENT INSURANCE COMPANIES; AMENDING SECTION 40-5127, R.C.M. 1947." BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 40-5127, R.C.M. 1947, is amended to #40-5127. Priority of claims for compensation. (1) Compensation actually owing to employees other than officers of an insurer, for services rendered within three 3 months prior to the commencement of a proceeding against the insurer under this chapter, but not exceeding five-hundred dollars-(\$500) for each employee, shall be paid prior to the payment of any other dept or claim, and in the discretion of the commissioner may be paid as soon as practicable after the proceeding has been commenced; except that at all times the commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

priority which may be authorized by law as to wages or

(2) Such priority shall be in lieu of any other similar

SECOND READING

1	compensation of such employees.			
2	(2) The priorities of distribution in a liquidation			
3	proceeding shall be in the following order:			
4	(a) _expenses of administration:			
5	(b) compensation of employees as provided in			
6	subsection (1):			
7	(c) claims for taxes and debts due the federal or any			
8	state or local government which are secured by liens			
9	perfected prior to the commencement of delinquency			
10	proceedings:			
11	[d] claims by policyholders, beneficiaries, and			
12	insureds arising from and within the coverage of and not in			
13	excess of the applicable limits of insurance policies and			
14	insurance contracts issued by the company and liability			
15	claims against insurers which claims are within the coverage			
16	of and not in excess of the applicable limits of insurance			
17	policies and insurance contracts issued by the company, as			
18	well as claims presented by the Montana insurance guaranty			
19	association, the Montana life and guaranty association, or			
20	any <u>similar organization in another state which represents</u>			
21	<u>covered claims as defined in 40-5705(3) or contractual</u>			
22	<u>opligations as defined in 40-5805:</u>			
23	(e) all other claims including subrogation claims of			
24	<u>other_insurers</u> *			
25	Section 2. There is a new R.C.N. section numbered			

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38229

1 40-5134 that reads as follows:

2 40-5134. Proposal for disbursement. (1) Within 120 3 days of a final determination of insolvency of a company by a court of competent jurisdiction, the receiver shall make 4 5 application to the court for approval of a proposal to 6 disburse assets out of such company's marshaled assets, from 7 time to time as such assets become available, to the Montana 8 insurance quaranty association, the Montana life and health 9 quaranty association or to any entity or person performing a 10 similar function in another state. Such associations are 11 herein referred to as the associations.

12 (2) Such proposal shall at least include provisions13 for:

(a) reserving amounts for the payment of expenses of
administration and the payment of claims of secured
creditors to the extent of the value of the security held
and claims falling within the priorities established in
subsections (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127;

19 (b) disbursement of the assets marshaled to date and
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21 (c) equitable allocation of disbursements to each of
22 the associations entitled thereto;

(d) the securing by the receiver from each of the
 associations entitled to disbursements pursuant to this
 section of an agreement to return to the receiver, without

1 interest, such assets previously disbursed as may be 2 required to pay claims of secured creditors and claims 3 falling within the priorities established in subsections 4 (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127 in accordance 5 with such priorities. No bond may be required of any such 6 association.

7 (e) a full report to be made by the association to the 8 receiver accounting for all assets so disbursed to the 9 association, all disbursements made therefrom, any interest 10 earned by the association on such assets, and any other 11 matter as the court may direct.

(3) The receiver's proposal shall provide for 12 13 disbursements to the associations in amounts estimated to be 14 at least equal to the claim payments made or to be made 15 thereby for which such associations could assert a claim 16 against the receiver and shall further provide that if the 17 assets available for disbursement from time to time do not 18 equal or exceed the amount of such claim payments made or to 19 be made by the associations, then disbursements shall be in 20 the amount of available assets. 21

(4) The receiver's proposal shall, with respect to an insolvent insurer writing life or health insurance or annuities, provide for disbursements of assets to the Montana life and health guaranty association or to any other entity or organization reinsuring, assuming, or guaranteeing

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1 policies or contracts of insurance under the provisions of 2 the Montana life and health guaranty association act. 3 (5) Notice of such application shall be given to the associations in and to the commissioners of insurance of 4 5 each of the states. Any such notice is considered to have 6 been given when deposited in the United States mail, 7 certified and first-class postage prepaid, at least 30 days 8 prior to submission of such application to the court. Action 9 on the application may be taken by the court provided the 10 above-required notice has been given and provided further 11 that the receiver's proposal complies with subsection (2)(a) 12 and (2)(d).

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INTRODUCED BY Hault 1 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE ORDER OF 5 PRIORITIES FOR THE DISTRIBUTION OF THE ASSETS OF LIQUIDATED 6 INSURANCE COMPANIES AND GIVING THE RECEIVER EARLIER ACCESS 7 TO THE USE OF ASSETS OF INSOLVENT INSURANCE COMPANIES; 8 AMENDING SECTION 40-5127, R.C.M. 1947."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-5127, R.C.M. 1947, is amended to read as follows:

#40-5127. Priority of claims for compensation. 13 (1) Compensation actually owing to employees other than 14 officers of an insurer, for services rendered within three 3 15 months prior to the commencement of a proceeding against the 16 insurer under this chapter, but not exceeding five-hundred 17 dollars-(\$500) for each employee, shall be paid prior to the 18 payment of any other debt or claim, and in the discretion of 19 the commissioner may be paid as soon as practicable after 20 the proceeding has been commenced; except that at all times 21 the commissioner shall reserve such funds as will in his 22 opinion be sufficient for the expenses of administration. 23 (2) Such priority shall be in lieu of any other similar 24 priority which may be authorized by law as to wages or 25

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1 compensation of such employees. 2 (2) The priorities of distribution in a liquidation 3 proceeding shall be in the following order: 4 (a) expenses of administration: 5 (b) compensation of employees as provided in 6 subsection (1); 7 (c) claims for taxes and debts due the federal or any state or local government which are secured by liens 8 9 perfected prior to the commencement of delinouency 10 proceedings: 11 (d) claims by policyholders, beneficiaries, and 12 insureds arising from and within the coverage of and not in 13 excess of the applicable limits of insurance policies and 14 insurance contracts issued by the company and liability 15 claims against insurers which claims are within the coverage 16 of and not in excess of the applicable limits of insurance 17 policies and insurance contracts issued by the company. as 18 well as claims presented by the Montana insurance quaranty association: the Montana life and guaranty association: or 19 20 any similar organization in another state which represents 21 covered claims as defined in 40-5705(3) or contractual 22 obligations as defined in 40-5805: 23 (e) all other claims including subragation claims of 24 other insurers." 25 Section 2. There is a new R.C.M. section numbered

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THIRD READING

3B 229

1 40-5134 that reads as follows:

z 40-5134. Proposal for disbursement. (1) Within 120 3 days of a final determination of insolvency of a company by a court of competent jurisdiction, the receiver shall make 4 5 application to the court for approval of a proposal to 6 disburse assets out of such company's marshaled assets, from 7 time to time as such assets become available, to the Montana 8 insurance guaranty association, the Montana life and health 9 guaranty association or to any entity or person performing a similar function in another state. Such associations are 10 11 herein referred to as the associations.

12 (2) Such proposal shall at least include provisions 13 for:

(a) reserving amounts for the payment of expenses of
administration and the payment of claims of secured
creditors to the extent of the value of the security held
and claims falling within the priorities established in
subsections (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127;

(b) disbursement of the assets marshaled to date and
subsequent disbursements of assets as they become available;
(c) equitable allocation of disbursements to each of
the associations entitled thereto;

(d) the securing by the receiver from each of the
associations entitled to disbursements pursuant to this
section of an agreement to return to the receiver, without

interest, such assets previously disbursed as may be
 required to pay claims of secured creditors and claims
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 (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127 in accordance
 with such priorities. No bond may be required of any such
 association.

7 (e) a full report to be made by the association to the 8 receiver accounting for all assets so disbursed to the 9 association, all disbursements made therefrom, any interest 10 earned by the association on such assets, and any other 11 matter as the court may direct.

12 (3) The receiver's proposal shall provide for 13 disbursements to the associations in amounts estimated to be at least equal to the claim payments made or to be made 14 thereby for which such associations could assert a claim 15 against the receiver and shall further provide that if the 16 17 assets available for disbursement from time to time do not equal or exceed the amount of such claim payments made or to 18 19 be made by the associations, then disbursements shall be in 20 the amount of available assets.

21 (4) The receiver's proposal shall, with respect to an 22 insolvent insurer writing life or health insurance or 23 annuities, provide for disbursements of assets to the 24 Montana life and health guaranty association or to any other 25 entity or organization reinsuring, assuming, or guaranteeing

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policies or contracts of insurance under the provisions of 1 z the Montana life and health guaranty association act. (5) Notice of such application shall be given to the З associations in and to the commissioners of insurance of 4 5 each of the states. Any such notice is considered to have 6 been given when deposited in the United States mail, 7 certified and first-class postage prepaid, at least 30 days 8 prior to submission of such application to the court. Action 9 on the application may be taken by the court provided the 10 above-required notice has been given and provided further that the receiver's proposal complies with subsection (2)(a) 11 12 and (2)(d).

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ı	SENATE BILL NO. 229	1	compensation of such employees.
Z	INTRODUCED BY HAZELBAKER	2	(2) The priorities of distribution in a liquidation
3		3	proceeding shall be in the following order:
4	A BILL FUR AN ACT ENTITLED: "AN ACT TO CLARIFY THE ORDER OF	4	<u>la)_expenses_of_administration:</u>
ö	PRIORITIES FOR THE DISTRIBUTION OF THE ASSETS OF LIQUIDATED	5	(b) compensation of employees as provided in
6	INSURANCE COMPANIES AND GIVING THE RECEIVER EARLIER ACCESS	6	subsection_[]]:
1	TO THE USE OF ASSETS OF INSOLVENT INSURANCE COMPANIES;	۲	(c) claims for taxes and debts due the federal or any
8	AMENDING SECTION 40-5127, R.C.M. 1947."	8	state or local government which are secured by liens
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10	proceedingsi
11	Section 1. Section 40-5127, R.C.M. 1947, is amended to	11	<pre>(d) claims by policyholders, beneficiaries, and</pre>
12	read as follows:	12	insureds arising from and within the coverage of and not in
13	40-5127. Priority of claims for compensation. (1)	13	excess of the applicable limits of insurance policies and
14	Compensation actually owing to employees other than officers	14	insurance contracts issued by the company and liability
15	of an insurer, for services rendered within three 3 months	15	<u>claims_against_insurers_which_claims_are.within_the_coverage</u>
16	prior to the commencement of a proceeding against the	16	of and not in excess of the applicable limits of insurance
17	insurar under this chapter, but not exceeding fivehundred	17	policies and insurance contracts issued by the company. as
18	dollars-(\$500) for each employee, shall be paid prior to the	18	well as claims presented by the Montana insurance guaranty
19	payment of any other debt or claim, and in the discretion of	19	association. the Montana life and guaranty association. or
20	the commissioner may be paid as soon as practicable after	20	any similar organization in another state which represents
21	tne proceeding has been commenced; except that at all times	21	<u>covered_claims_as_defined_in_40-5705(3)_or_contractual</u>
22	the commissioner shall reserve such funds as will in his	22	<u>obligations as defined in 40-5805:</u>
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24	t2) Such priority shall be in lieu of any other similar	24	other_insurers."
25	priority which may be authorized by law as to wages or	25	Section 2. There is a new R.C.M. section numbered

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REFERENCE BILL

SB 229

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SB 0229/02

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12 (2) Such proposal shall at least include provisions13 for:

14 (a) reserving amounts for the payment of expenses of
15 administration and the payment of claims of secured
16 creditors to the extent of the value of the security held
17 and claims falling within the priorities established in
18 subsections (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127;

(b) disbursement of the assets marshaled to date and
subsequent disbursements of assets as they become available;
(c) equitable allocation of disbursements to each of
the associations entitled thereto;

23 (d) the securing by the receiver from each of the 24 associations entitled to disbursements pursuant to this 25 section of an agreement to return to the receiver, without

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interest, such assets previously disbursed as may be
 required to pay claims of secured creditors and claims
 falling within the priorities established in subsections
 (2)(a), (2)(b), (2)(c), and (2)(d) of 40-5127 in accordance
 with such priorities. No bond may be required of any such
 association.

7 (e) a full report to be made by the association to the 8 receiver accounting for all assets so disbursed to the 9 association, all disbursements made therefrom, any interest 10 earned by the association on such assets, and any other 11 matter as the court may direct.

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-End-

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