

1 *Senate* BILL NO. *229*
 2 INTRODUCED BY *Hayden*

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:

11 Section 1. Section 40-5127, R.C.M. 1947, is amended to
 12 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
 16 months prior to the commencement of a proceeding against the
 17 insurer under this chapter, but not exceeding ~~five-hundred~~
 18 ~~dollars~~-\$500 for each employee, shall be paid prior to the
 19 payment of any other debt 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

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 similar organization in another state which represents
 21 covered claims as defined in 40-5705(3) or contractual
 22 obligations as defined in 40-5895;

23 (e) all other claims including subrogation claims of
 24 other insurers."

25 Section 2. There is a new R.C.M. section numbered

INTRODUCED BILL

SB 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
4 a court of competent jurisdiction, the receiver shall make
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
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:

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;

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 associations entitled to disbursements pursuant to this
25 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.

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.

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

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
4 associations in and to the commissioners of insurance of
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).

-End-

Approved by Committee
on Business and Industry

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Hayden

1 INTRODUCTION BY _____
2
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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE ORDER OF
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11 Section 1. Section 40-5127, R.C.M. 1947, is amended to
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14 (1) Compensation actually owing to employees other than
15 officers of an insurer, for services rendered within three (3)
16 months prior to the commencement of a proceeding against the
17 insurer under this chapter, but not exceeding five-hundred
18 dollars-(\$500) for each employee, shall be paid prior to the
19 payment of any other debt or claim, and in the discretion of
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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

1 compensation of such employees.

2 ~~(2) The priorities of distribution in a liquidation~~
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4 ~~(a) expenses of administration;~~

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24 ~~other insurers."~~

25 Section 2. There is a new R.C.M. section numbered

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
4 a court of competent jurisdiction, the receiver shall make
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
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:

14 (a) reserving amounts for the payment of expenses of
15 administration and the payment of claims of secured
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3 (5) Notice of such application shall be given to the
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