

Excerpts from applicable sections of Tennessee Code Annotated

**56-9-324. Proof of claim — Form — Information to be included in form. —**

(a) Proof of claim shall consist of a statement, signed by the claimant, that includes all of the following that are applicable:

- (1) The particulars of the claim including the consideration given for it;
- (2) The identity and amount of the security on the claim;
- (3) The payments made on the debt, if any;
- (4) That the sum claimed is justly owing and that there is no setoff, counterclaim or defense to the claim;
- (5) Any right of priority of payment or other specific right asserted by the claimant;
- (6) A copy of the written instrument which is the foundation of the claim; and
- (7) The name and address of the claimant and the attorney who represents the claimant, if any.

(b) No claim need be considered or allowed if it does not contain all the information in subsection (a) that may be applicable. The liquidator may require that a prescribed form be used, and may require that other information and documents be included.

(c) At any time the liquidator may request the claimant to present information or evidence supplementary to that required under subsection (a) and may take testimony under oath, require production of affidavits or depositions, or otherwise obtain additional information or evidence.

(d) No judgment or order against an insured or the insurer entered after the date of filing of a successful petition for liquidation, and no judgment or order against an insured or the insurer entered at any time by default or by collusion, need be considered as evidence of liability or of the quantum of damages. No judgment or order against an insured or the insurer entered within four (4) months before the filing of the petition need be considered as evidence of liability or of the quantum of damages.

(e) All claims of a guaranty association or foreign guaranty association shall be in the form and contain the substantiation that may be agreed to by the association and the liquidator.

[Acts 1991, ch. 142, § 4.]

## Excerpts from applicable sections of Tennessee Code Annotated

### 56-9-330. Distribution of claims — Priority. —

(a) The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims is:

- (1) **Class 1.** The costs and expenses of administration during rehabilitation and liquidation, including, but not limited to, the following:
    - (A) The actual and necessary costs of preserving or recovering the assets of the insurer;
    - (B) Compensation for all authorized services rendered in the rehabilitation and liquidation;
    - (C) Any necessary filing fees;
    - (D) The fees and mileage payable to witnesses;
    - (E) Authorized reasonable attorney's fees and other professional services rendered in the rehabilitation and liquidation; and
    - (F) The reasonable expenses of a guaranty association or foreign guaranty association for unallocated loss adjustment expenses;
  - (2) **Class 2.** All claims under policies, including the claims of the federal or any state or local government for losses incurred (loss claims), including third party claims and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and policies and annuities, which, for purposes of this section only, shall include guaranteed investment contracts and funding agreements, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in the discharge of familial obligation of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to the employer's employee shall be treated as a gratuity;
  - (3) **Class 3.** Claims of the federal government, including those that otherwise would be within Class 5, but not including claims that are within Class 2;
  - (4) **Class 4.** Reasonable compensation to employees for services performed to the extent that they do not exceed two (2) months of monetary compensation and represent payment for services performed within one (1) year before the filing of the petition for liquidation or, if rehabilitation preceded liquidation, within one (1) year before the filing of the petition for rehabilitation. Principal officers and directors are not entitled to the benefit of this priority except as otherwise approved by the liquidator and the court. The priority is in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees;
  - (5) **Class 5.** Claims under nonassessable policies for unearned premium or other premium refunds, claims of general creditors, including claims of ceding and assuming companies in their capacity as such, and every claim arising under an unallocated annuity contract, except unallocated annuity contracts and defined government contribution plans qualified under § 403(b) of the Internal Revenue Code, compiled in 26 U.S.C. § 403(b), issued in connection with a separate account agreement providing, in effect, that the assets in the separate account shall not be chargeable with liabilities arising out of any other business of the insurer, to the extent that the claim is not satisfied and fully discharged out of the assets of the separate account equal to the reserves maintained in the account for the agreement;
  - (6) **Class 6.** Claims of any state or local government except those under Class 2. Claims, including those of any state and local governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of the claims shall be postponed to the class of claims under subdivision (a)(9);
  - (7) **Class 7.** Claims filed late or any other claims other than claims under subdivisions (a)(8) and (9);
  - (8) **Class 8.** Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law; and
  - (9) **Class 9.** The claims of shareholders or other owners in their capacity as shareholders.
- (b) If any classification or priority provided for in subsection (a), or the application of the classification or priority to any person or circumstances, is held to be unconstitutional or otherwise invalid, the invalidity shall not affect the remaining portions or applications of subsection (a) that can be given effect without the invalid portion or application.

[Acts 1991, ch. 142, § 4; 1993, ch. 253, § 21; 1997, ch. 188, §§ 1-9; 2001, ch. 91, § 1.]