Quick Facts:
An overview of insurance company liquidations and rehabilitations

Introduction to Rehabilitations and Liquidations

When consumers purchase an insurance product, they are purchasing a promise of protection. The Pennsylvania Insurance Department, the state's insurance regulator, sees that that the terms and conditions stated in the policy are fulfilled and the consumer receives the protection they need. We do this through the financial regulation of company finances, product regulation of company rates and forms and market regulation of behavior in the marketplace.

In certain circumstances, when an insurance company is in financial trouble and there is the possibility that claims will not be paid because the assets may not be sufficient to meet policyholder obligations, the Insurance Department will step in to rehabilitate the company and return it to financial health, or in the direst of circumstances, liquidate an insolvent company for the benefit of policyholders, creditors and taxpayers of Pennsylvania.

The Rehabilitation Process

When an insurance company is placed into rehabilitation by the Commonwealth Court of Pennsylvania, the Insurance Commissioner is named as the Rehabilitator. The Court supervises this action and regular reports are made to the Court. Our goal in this instance is to preserve the company's assets for policyholder protection. This Order of Rehabilitation puts numerous policyholder protections in place and gives the Rehabilitator the opportunity to perform an independent, in-depth financial analysis. In addition, the Order of Rehabilitation places the company under the statutory control of the Pennsylvania Insurance Department.

At this point, the Insurance Department will put together a top-notch rehabilitation team to effectively implement the Commonwealth Court's Rehabilitation Order. This rehabilitation team, comprised of experienced insurance executives and rehabilitation experts, is on-site at the company and remains on-site as necessary. The team is responsible for taking control of the company, securing its assets, identifying rehabilitation issues, analyzing the company's financial condition and determining in the weeks and months ahead whether a plan of rehabilitation is feasible, or if liquidation is necessary.

All powers of the directors, officers and managers of the company are suspended except as re-delegated by the Rehabilitator. A company will be released from rehabilitation when the Court is satisfied that it is ready to resume normal operations and has regained its financial solvency.

During this time, staff and experts from the department's Office of Liquidations, Rehabilitations and Special Funds remain on-site to manage the company's operations such as: conducting the business of the insurance company, directing , managing, hiring or discharging employees. The rehabilitation staff is also authorized to manage the property and assets of the insurer as it deems necessary. Staff may file for release of the company from rehabilitation if efforts are successful and grounds for receivership no longer exist. Finally, and only in the direst of need, the Rehabilitator may file for liquidation of the company if it deems that further attempts to rehabilitate the company are futile or if a continued rehabilitation would increase the risk of loss to policyholders.

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The Liquidation Process

If the Court determines that further efforts to rehabilitate the company would be futile, the Court may issue an Order of Liquidation. All aspects of the liquidation process are governed by the department's liquidation statute, Article V of the Insurance Department Act of 1921.

When the Pennsylvania Insurance Department determines that a Pennsylvania chartered insurance company is insolvent or operating in a financially hazardous manner, the Insurance Commissioner may request the Court to order the company into liquidation. Based on the consent of the company's Board of Directors, or, on evidence presented at a hearing, the Court issues an Order of Liquidation, appointing the Insurance Commissioner as Liquidator of the company. Under the Court's oversight, the Liquidator is charged with gathering the company's assets, converting them into cash and distributing the cash to claimants against the company's estate. The company is no longer an operating insurance entity and the Liquidator will:

- Employ, hire agents and counsel and fix compensation of those employed.
- Conduct investigations into the causes of the insolvency.
- Commence litigation to recover any funds diverted from the insurer by any officers, directors or employees.
- Litigation may be commenced to recover damages for the good of the company's policyholders and other creditors.
- Collect all debts and money due.
- Conduct public and private sales.
- Use assets to transfer policy obligations.
- Acquire, lease, improve, sell, transfer, abandon or otherwise dispose of assets.
- Notify the company's agents so they can advise policyholders of the policy cancellation, replace coverage and collect any premium and unearned commissions that may be due the policyholder.
- Contract and affirm or disavow existing contracts.
- Prosecute causes of action.
- Take possession of records.
- Deposit and invest assets.
- Assert defenses available to the policyholder.

The staff from the department's Office of Liquidations, Rehabilitations and Special Funds will take possession of the company's offices, equipment, records and assets. At that time a notice is sent to all potential claimants informing them of the company's liquidation and the process they must follow to file a claim against the estate.

The liquidation statute establishes a set of priorities for the payment of claims. All claims in a class must be paid in full (or reserves set aside to cover the class in full) before any payment is made to the next class. Within a class, all claims are equal and are paid equal pro rata shares if sufficient funds are not available to pay the class in full.

There are nine classes of claims: the first is payment of the administrative expenses of the estate, followed by payment of claims for benefits under the policies or contracts of insurance written by the company. The last class is payment to the owners of the company. Ordinarily, the general revenues of the commonwealth are not available to fund the liquidation of insolvent companies.

After all assets are converted to cash and all claims are prioritized and valued, the Liquidator will file a petition with the Court asking for the authority to distribute the cash according to the priority schedule. The liquidation process can take many years.

Guaranty Associations

Guaranty associations only become involved when an insurance company is ordered into liquidation or the company is not paying claims as due. Each state has at least one guaranty association. The guaranty association is responsible to protect policyholders from the uncertainty of whether and when their claims will be paid. Pennsylvania law established three guaranty associations: the Pennsylvania Property and Casualty Insurance Guaranty Association (PPCIGA), the Pennsylvania Life and Health Insurance Guaranty Association (PLHIGA) and the Pennsylvania Workers' Compensation Security Fund (WCSF).

The Pennsylvania guaranty associations protect Pennsylvania residents and property owners. Residents of other states or Pennsylvania residents owning property out-of-state are protected by other states' guaranty associations.

Residents of other states should contact the guaranty association in their state for more information. Guaranty associations only cover insurance written by licensed companies. Additionally, members of managed care plans, such as health maintenance organizations (HMOs) and preferred provider organizations (PPOs), usually do not have guaranty association protection. Guaranty association coverage is not provided for medical insurance issued by licensed, non-profit hospital or medical service organizations (Blue Cross or Blue Shield Plans) or by licensed excess lines carriers.

While the guaranty association payments are limited by statutes, which vary by state, most claims for policy benefits will be paid in full. Claims for policy benefits not paid by the guaranty association become claims against the liquidation estate. These claims are paid pro rata with all other policy claims including the guaranty associations.

More Information is Available

Unresolved problems or questions concerning the rehabilitation or liquidation process should be directed to the Pennsylvania Insurance Department's Bureau of Liquidation Claims at (717) 787-7823.

All other questions dealing with insurance-related issues can be directed to the Bureau of Consumer Services at one of the following phone numbers listed:

- Toll-free, Automated Consumer Hotline:
  877.881.6388

- Harrisburg Regional Office:
  717.787.2317 TTY/TDD: 717.783.3898

www.insurance.pa.gov