

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Sections 205 and 226.1 as follows:

6 (215 ILCS 5/205) (from Ch. 73, par. 817)

7 Sec. 205. Priority of distribution of general assets.

8 (1) The priorities of distribution of general assets  
9 from the company's estate is to be as follows:

10 (a) The costs and expenses of administration,  
11 including the expenses of the Illinois Insurance Guaranty  
12 Fund, the Illinois Life and Health Insurance Guaranty  
13 Association, the Illinois Health Maintenance Organization  
14 Guaranty Association and of any similar organization in  
15 any other state as prescribed in subsection (c) of  
16 Section 545.

17 (b) Secured claims, including claims for taxes and  
18 debts due the federal or any state or local government,  
19 that are secured by liens perfected prior to the filing  
20 of the complaint.

21 (c) Claims for wages actually owing to employees  
22 for services rendered within 3 months prior to the date  
23 of the filing of the complaint, not exceeding \$1,000 to  
24 each employee unless there are claims due the federal  
25 government under paragraph (f), then the claims for wages  
26 shall have a priority of distribution immediately  
27 following that of federal claims under paragraph (f) and  
28 immediately preceding claims of general creditors under  
29 paragraph (g).

30 (d) Claims by policyholders, beneficiaries, and  
31 insureds, under insurance policies, annuity contracts,

1       and funding agreements, and liability claims against  
2       insureds covered under insurance policies and insurance  
3       contracts issued by the company, and claims of the  
4       Illinois Insurance Guaranty Fund, the Illinois Life and  
5       Health Insurance Guaranty Association, the Illinois  
6       Health Maintenance Organization Guaranty Association and  
7       any similar organization in another state as prescribed  
8       in Section 545. For purposes of this Section, "funding  
9       agreement" means an agreement whereby an insurer  
10       authorized to write business under Class 1 of Section 4  
11       of this Code may accept and accumulate funds and make one  
12       or more payments at future dates in amounts that are not  
13       based upon mortality or morbidity contingencies.

14           (e) Claims by policyholders, beneficiaries, and  
15       insureds, the allowed values of which were determined by  
16       estimation under paragraph (b) of subsection (4) of  
17       Section 209.

18           (f) Any other claims due the federal government.

19           (g) All other claims of general creditors not  
20       falling within any other priority under this Section  
21       including claims for taxes and debts due any state or  
22       local government which are not secured claims and claims  
23       for attorneys' fees incurred by the company in contesting  
24       its conservation, rehabilitation, or liquidation.

25           (h) Claims of guaranty fund certificate holders,  
26       guaranty capital shareholders, capital note holders, and  
27       surplus note holders.

28           (i) Proprietary claims of shareholders, members, or  
29       other owners.

30       Every claim under a written agreement, statute, or rule  
31       providing that the assets in a separate account are not  
32       chargeable with the liabilities arising out of any other  
33       business of the insurer shall be satisfied out of the funded  
34       assets in the separate account equal to, but not to exceed,

1 the reserves maintained in the separate account under the  
2 separate account agreement, and to the extent, if any, the  
3 claim is not fully discharged thereby, the remainder of the  
4 claim shall be treated as a priority level (d) claim under  
5 paragraph (d) of this subsection to the extent that reserves  
6 have been established in the insurer's general account  
7 pursuant to statute, rule, or the separate account agreement.

8 For purposes of this provision, "separate account  
9 policies, contracts, or agreements" means any policies,  
10 contracts, or agreements that provide for separate accounts  
11 as contemplated by Section 245.21.

12 To the extent that any assets of an insurer, other than  
13 those assets properly allocated to and maintained in a  
14 separate account, have been used to fund or pay any expenses,  
15 taxes, or policyholder benefits that are attributable to a  
16 separate account policy, contract, or agreement that should  
17 have been paid by a separate account prior to the  
18 commencement of receivership proceedings, then upon the  
19 commencement of receivership proceedings, the separate  
20 accounts that benefited from this payment or funding shall  
21 first be used to repay or reimburse the company's general  
22 assets or account for any unreimbursed net sums due at the  
23 commencement of receivership proceedings prior to the  
24 application of the separate account assets to the  
25 satisfaction of liabilities or the corresponding separate  
26 account policies, contracts, and agreements.

27 To the extent, if any, reserves or assets maintained in  
28 the separate account are in excess of the amounts needed to  
29 satisfy claims under the separate account contracts, the  
30 excess shall be treated as part of the general assets of the  
31 insurer's estate.

32 (2) Within 120 days after the issuance of an Order of  
33 Liquidation with a finding of insolvency against a domestic  
34 company, the Director shall make application to the court

1 requesting authority to disburse funds to the Illinois  
2 Insurance Guaranty Fund, the Illinois Life and Health  
3 Insurance Guaranty Association, the Illinois Health  
4 Maintenance Organization Guaranty Association and similar  
5 organizations in other states from time to time out of the  
6 company's marshaled assets as funds become available in  
7 amounts equal to disbursements made by the Illinois Insurance  
8 Guaranty Fund, the Illinois Life and Health Insurance  
9 Guaranty Association, the Illinois Health Maintenance  
10 Organization Guaranty Association and similar organizations  
11 in other states for covered claims obligations on the  
12 presentation of evidence that such disbursements have been  
13 made by the Illinois Insurance Guaranty Fund, the Illinois  
14 Life and Health Insurance Guaranty Association, the Illinois  
15 Health Maintenance Organization Guaranty Association and  
16 similar organizations in other states.

17 The Director shall establish procedures for the ratable  
18 allocation and distribution of disbursements to the Illinois  
19 Insurance Guaranty Fund, the Illinois Life and Health  
20 Insurance Guaranty Association, the Illinois Health  
21 Maintenance Organization Guaranty Association and similar  
22 organizations in other states. In determining the amounts  
23 available for disbursement, the Director shall reserve  
24 sufficient assets for the payment of the expenses of  
25 administration described in paragraph (1) (a) of this  
26 Section. All funds available for disbursement after the  
27 establishment of the prescribed reserve shall be promptly  
28 distributed. As a condition to receipt of funds in  
29 reimbursement of covered claims obligations, the Director  
30 shall secure from the Illinois Insurance Guaranty Fund, the  
31 Illinois Life and Health Insurance Guaranty Association, the  
32 Illinois Health Maintenance Organization Guaranty Association  
33 and each similar organization in other states, an agreement  
34 to return to the Director on demand funds previously received

1 as may be required to pay claims of secured creditors and  
 2 claims falling within the priorities established in  
 3 paragraphs (a), (b), (c), and (d) of subsection (1) of this  
 4 Section in accordance with such priorities.

5 (3) The provisions of this Section are severable under  
 6 Section 1.31 of the Statute on Statutes.

7 (Source: P.A. 92-65, eff. 7-12-01.)

8 (215 ILCS 5/226.1) (from Ch. 73, par. 838.1)

9 Sec. 226.1. Entitled annuity payment options. Annuity  
 10 contracts and funding agreements may be issued without a life  
 11 contingency annuity payment option in the following  
 12 circumstances: (1) to fund benefits under an employee benefit  
 13 plan as defined in the Employee Retirement Income Security  
 14 Act of 1974, as now or hereafter amended; (2) to fund the  
 15 activities of an organization exempt from taxation under  
 16 Internal Revenue Code Section 501(c), as now or hereafter  
 17 amended; (3) to fund a program of a governmental entity or of  
 18 an agency or instrumentality thereof; (4) to fund an  
 19 agreement providing for periodic payments entered into in  
 20 satisfaction of a claim; or (5) to fund a program of an  
 21 institution having assets in excess of \$25,000,000.

22 (Source: P.A. 86-753.)

23 Section 99. Effective date. This Act takes effect upon  
 24 becoming law.