

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: S3/20/13  
**A Bill**

SENATE BILL 1106

By: Senator Rapert

### **For An Act To Be Entitled**

AN ACT TO AMEND TITLE 23, CHAPTER 68, OF THE ARKANSAS  
CODE CONCERNING THE REHABILITATION AND LIQUIDATION OF  
INSURANCE COMPANIES; AND FOR OTHER PURPOSES.

### **Subtitle**

TO AMEND TITLE 23, CHAPTER 68, OF THE  
ARKANSAS CODE CONCERNING THE  
REHABILITATION AND LIQUIDATION OF  
INSURANCE COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 68, is amended to add an  
additional section to read as follows:

23-68-135. Early distribution.

(a) As used in this section, "distributable asset" means the general  
assets of an insurer in a liquidation estate except:

(1) Amounts reserved to the extent necessary and appropriate  
under § 23-68-126(b)(1) as the expenses of the liquidation through and after  
its closing; and

(2) Amounts reserved to the extent necessary for distribution  
on claims other than the claims of affected guaranty associations in the  
priority class of claims under § 23-68-126(b)(2).

(b)(1) An early payment of distributable assets to a guaranty  
association shall be made:

(A) As frequently as possible after entry of a liquidation  
order if distributable assets are available, but at least annually; and



(B) In amounts consistent with this section.

(2) An amount distributed to a guaranty association under this section is accounted for as an advance against distributions under § 23-68-126.

(c)(1) Where sufficient distributable assets are available, amounts advanced need not be limited to the claims and expenses paid to date by the guaranty associations.

(2) However, the liquidator shall not distribute distributable assets to the guaranty associations in excess of the anticipated entire claims of the guaranty associations falling within the priority classes of claims established in § 23-68-126(b)(1) and (2).

(d) Within one hundred twenty (120) days after the entry of a liquidation order and at least annually thereafter, the liquidator shall submit to the court:

(1) A financial statement, including:

(A) The assets and liabilities of the insurer;

(B) Any change in the assets and liabilities of the insurer;

(C) The income and expenses of the insurer; and

(D) All funds received or disbursed by the receiver in the liquidation estate during the reporting period;

(2) A report indicating whether or not distributable assets are available based on the financial statement;

(3) If distributable assets are available, a request for court approval to make early access payments of the distributable assets available to affected guaranty associations out of the general assets of the insurer; and

(4) The liquidator may apply to the court to make early access payments more frequently than annually based on additional financial information or the recovery of material assets.

(e) Within sixty (60) days after approval by the court under subdivision (d)(3) of this section, the liquidator shall make early access payments to a guaranty association as indicated in the approved applications.

(f)(1) Notice of each application for early access payments or any report required under this section shall be given to guaranty associations having obligations arising under this section.

(2) At least thirty (30) days before filing a request with the court under subdivision (d)(3) of this section, the liquidator shall provide notice to guaranty associations together with a complete copy of the request.

(3) A guaranty association may:

(A) Request additional information from the liquidator, and the liquidator shall not unreasonably deny the request; and

(B) Object to a request for distribution or any report filed by the liquidator under this section.

(g) In a request for early access payments, the liquidator, at a minimum and based on the information available to the liquidator at the time, shall provide:

(1) The amount reserved for the expenses of the entire liquidation through and after its closure and for distribution on claims in the priority class of claims under § 23-68-126(b)(1) and (2); and

(2) The calculation of distributable assets and the amount and method of equitable allocation of early access payments to guaranty associations.

(h) Each guaranty association that receives any payments pursuant to this section agrees, upon depositing the payment in any account to its benefit, to return to the liquidator any amount of these payments that may be required to pay claims of secured creditors and claims falling within the priority classes of claims established in § 23-68-126(b)(1) and (2)

(i) A bond is not required of any guaranty association under this section.

(j) Without the consent of affected guaranty associations or an order of the court, the liquidator shall not offset the amount to be distributed to a guaranty association by the amount of a special deposit or other deposit or asset of the insurer held in another state unless the guaranty association has received the deposit or asset.

*/s/Rapert*