

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 459
91ST GENERAL ASSEMBLY

Reported from the Committee on Insurance and Housing, April 11, 2001, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

TERRY L. SPIELER, Secretary.

1208S.02C

AN ACT

To repeal section 375.1220, RSMo 2000, relating to insurer liquidation law, and to enact in lieu thereof one new section relating to the same subject, with a termination date and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 375.1220, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 375.1220, to read as follows:

375.1220. 1. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as the liquidator shall deem necessary. The liquidator may compound, compromise or in any other manner negotiate the amount for which claims will be allowed, under the supervision of the court, except where the liquidator is required by law to accept claims as settled by any person or organization. Unresolved disputes shall be determined pursuant to section 375.1214. No claim under a policy of insurance shall be allowed for any amount in excess of the applicable policy limits or without regard to policy deductibles.

2. If the fixing or liquidation of any claim or claims would unduly delay the administration of the liquidation or if the administrative expense of processing and adjudication of a claim or group of claims of a similar type would be unduly excessive when compared with the moneys which are estimated to be available for distribution with respect to such claim or group of claims, the determination and allowance of such claim or claims may be made by an estimate. Any such estimate

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 shall be based upon an actuarial evaluation made with reasonable actuarial
17 certainty or upon another accepted method of valuing claims with reasonable
18 certainty.

19 **3. The estimation of contingent liabilities permitted by subsection 2 of this**
20 **section or any other section of this chapter may be used for the purpose of fixing**
21 **a creditor's claim in the estate, and for determining the percentage of partial or**
22 **final dividend payments to be paid to creditors with reported allowed**
23 **claims. However, nothing in subsection 2 of this section or any other section in this**
24 **chapter shall be construed as authorizing the receiver, or any other entity, to**
25 **compel payment from a reinsurer on the basis of estimated incurred but not**
26 **reported losses and, except with respect to claims made pursuant to section**
27 **375.1212, outstanding reserves. Nothing in this subsection shall be construed to**
28 **impair any obligation arising pursuant to any insurance agreement.**

29 **4. Notwithstanding the provisions of this section or any other section of this**
30 **chapter to the contrary, the liquidator may negotiate a voluntary commutation and**
31 **release of all obligations arising from reinsurance contracts or other agreements.**

32 **5. The provisions of subsection 3 of this section shall not apply to and have**
33 **no force and effect regarding any formal delinquency proceeding in which, prior**
34 **to August 28, 1999, the court in which such proceeding was or is pending issued any**
35 **order or decree construing or applying the provisions of this section.**

36 **6. Subsections 3 and 5 of this section shall terminate on December 31, 2005.**

 [375.1220. 1. The liquidator shall review all claims duly filed in the
2 liquidation and shall make such further investigation as the liquidator shall
3 deem necessary. The liquidator may compound, compromise or in any other
4 manner negotiate the amount for which claims will be allowed, under the
5 supervision of the court, except where the liquidator is required by law to
6 accept claims as settled by any person or organization. Unresolved disputes
7 shall be determined pursuant to section 375.1214. No claim under a policy of
8 insurance shall be allowed for any amount in excess of the applicable policy
9 limits or without regard to policy deductibles.

10 2. If the fixing or liquidation of any claim or claims would unduly delay
11 the administration of the liquidation or if the administrative expense of
12 processing and adjudication of a claim or group of claims of a similar type
13 would be unduly excessive when compared with the moneys which are
14 estimated to be available for distribution with respect to such claim or group
15 of claims, the determination and allowance of such claim or claims may be

16 made by an estimate. Any such estimate shall be based upon an actuarial
17 evaluation made with reasonable actuarial certainty or upon another accepted
18 method of valuing claims with reasonable certainty.

19 3. The estimation of contingent liabilities permitted by subsection 2 of
20 this section or any other section of this chapter may be used for the purpose
21 of fixing a creditor's claim in the estate, and for determining the percentage of
22 partial or final divided payments to be paid to creditors with reported allowed
23 claims. However, nothing in subsection 2 of this section or any other section
24 in this chapter shall be construed as authorizing the receiver, or any other
25 entity, to compel payment from a reinsurer on the basis of estimated incurred
26 but not reported losses and, except with respect to claims made pursuant to
27 section 375.1212, outstanding reserves. Nothing in this subsection shall be
28 construed to impair any obligation arising pursuant to any insurance
29 agreement.

30 4. Notwithstanding the provisions of this section or any other section
31 of this chapter to the contrary, the liquidator may negotiate a voluntary
32 commutation and release of all obligations arising from reinsurance contracts
33 or other agreements.

34 5. The provisions of this section shall not apply to and have no force
35 and effect regarding any formal delinquency proceeding in which, prior to the
36 effective date of this act, the court in which such proceeding was or is pending
37 issued any order or decree construing or applying the provisions.

38 6. Subsections 3, 4 and 5 of this section shall terminate on December
39 31, 2000.]

Section B. Because of the need to accurately estimate contingent liabilities in order
2 to fix a creditor's claim in a liquidation estate, section 375.1220 of this act is deemed
3 necessary for the immediate preservation of the public health, welfare, peace and safety, and
4 is hereby declared to be an emergency act within the meaning of the constitution, and section
5 375.1220 of this act shall be in full force and effect upon its passage and approval.