Introduction to Liquidations

When consumers purchase a policy from an insurance company, they expect a promise that the terms and conditions stated in the policy will be fulfilled and they will receive the protection they need.

The Pennsylvania Insurance Department monitors these companies and enforces the laws and regulations companies are required to follow to do business in Pennsylvania. If a company violates Pennsylvania's insurance laws, is operating in a financially hazardous manner or is insolvent (the assets are not sufficient to meet its policy obligations or the surplus does not meet the standards set by Pennsylvania statutes) so that the contractual obligation to the policyholder cannot be fulfilled, the Department can intercede and take the necessary steps to bring the company into compliance or halt its business.

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 Commonwealth Court enter an order placing the company into liquidation. Based on the consent of the Board of Directors of the company or on evidence presented at a hearing, the Commonwealth 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 the claimants who filed a proof of claim against the liquidated company's estate. Shortly after the liquidation order is issued, representatives of the Department's Office of Liquidations, Rehabilitations and Special Funds take possession of the company's offices, equipment, records and assets. At that time a notice is sent to all to interested parties, including claimants, policyholders, creditors and agents, 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 Commonwealth 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 triggered when an insurance company is ordered into liquidation by a finding of insolvency or an Order of Liquidation with a finding of insolvency. 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 Associations (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 insurers. 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 liquidated estate. These claims are paid pro rata with all other policy claims including the guaranty associations.

More information is available. For unresolved problems or questions concerning the rehabilitation or liquidation process please call the Pennsylvania Insurance Department's Bureau of Liquidations and Rehabilitations at (717) 787-6009 or visit the Department's website at www.insurance.pa.gov.

OFFICE OF LIQUIDATIONS AND REHABILITATIONS

The Office of Liquidations Rehabilitations and Special funds administers four distinct statutorily mandated programs within the Insurance Department: liquidating or rehabilitating insolvent insurance companies pursuant to Article V of the Insurance Department Act of 1921, assuring the continuation of workers' compensation benefits in the event of the insolvency of the workers' compensation insurance carrier under the Workers' Compensation Security Fund Act, providing an insurance type of coverage to assist in the clean-up of leaking underground fuel tanks pursuant to the Storage Tank and Spill Prevention Act and continuing benefits to persons injured in automobile accidents covered by the former automobile Catastrophic Loss Trust Fund.

Article V of the Insurance Department Act of 1921 requires the Commonwealth Court to appoint the Insurance Commissioner as Statutory Liquidator/Rehabilitator (Receiver) for Pennsylvania domestic insurers ordered into liquidation or rehabilitation. As of September 30, 2016, the Office of Liquidations, Rehabilitations and Special Funds was administering 10 companies in liquidation. In addition the Insurance Commissioner is Rehabilitator of Penn Treaty and its wholly owned subsidiary, American Network.

The liquidation statute established nine priority classes for the payment of claims against the assets of the insolvent companies. Under this statutory structure all claims in a class must be paid in full before any payment can be made to claims in a lower class. The purpose of this is to assure that to the extent possible, the limited assets of the insurer are distributed fairly and equitably. The highest priority is the expenses of the liquidation, followed by claims under insurance policies issued by the company. The very last priority is a distribution of any remaining assets to the owners of the company. Assets are comprised of cash and cash equivalents, investments, receivables, real estate, furniture and equipment and reinsurance recoverables.

Most Pennsylvania resident policyholder claims are covered by a guaranty fund subject to certain limitations. There are three guaranty funds in Pennsylvania, the Pennsylvania Property and Casualty Insurance Guaranty Association, the Pennsylvania Life and Health Insurance Guaranty Association and the Workers' Compensation Security Fund. Policyholder claims are initially paid by the guaranty fund and the fund is then subrogated to the policyholders claim against the estate.