**MARYLAND**

**PROPERTY & CASUALTY INSURANCE GUARANTY ACT**

**Note: Per ch. 57, §9, Maryland Laws 1997 “All provisions of Title 9, Subtitle 3 of the Insurance Article shall apply to any insurer insolvency, including surety, existing as of January 1, 1985.”**

**§ 9-301. Definitions**

(a) In this subtitle the following words have the meanings indicated.

(b) “Account” means:

(1) the title insurance account;

(2) the motor vehicle insurance account;

(3) the workers’ compensation account; or

(4) the account for all other insurance to which this subtitle applies.

(c) “Corporation” means the Property and Casualty Insurance Guaranty Corporation.

(d)(1)"Covered claim" means an insolvent insurer’s unpaid obligation, including an unearned premium:

(i) that:

1.A. for insurance other than insurance that covers members of a purchasing group, arises out of a policy of the insolvent insurer issued to a resident or payable to a resident on behalf of an insured of the insolvent insurer; or

B. for insurance that covers members of a purchasing group, arises out of insurance that covers the members of the purchasing group to the extent that the insurance is obtained by the purchasing group, the insurance is written by an authorized insurer, and the claim is made by a person residing or located in the State; or

2. arises out of a surety bond issued by the insolvent insurer for the protection of a third party that is a resident;

(ii) that is presented on or before the last date fixed for the filing of claims in the domiciliary delinquency proceeding as a claim to the corporation or to the receiver in the State;

(iii) that:

1. except for a surety bond claim, was incurred or existed before, on, or within 30 days after the determination of insolvency; or

2. for a surety bond claim that arises out of a surety bond issued by a domestic insurer, was incurred or existed before, on, or within 18 months after the determination of insolvency, whether or not the surety bond is issued for no stated period or for a stated period; and

(iv) that arises out of a policy or surety bond of the insolvent insurer issued for a kind of insurance to which this subtitle applies.

(2) "Covered claim" does not include:

(i) an amount due a reinsurer, insurer, insurance pool, or underwriting association, as a subrogation recovery or otherwise; or

(ii) an amount due that arises out of insurance covering the members of a purchasing group if the insurance obtained by the purchasing group is written by an unauthorized insurer.

(3)(i) “Covered claim” does not include a first party claim by an insured whose net worth exceeds $50,000,000 on December 31 of the year before the year in which the insurer becomes an insolvent insurer.

(ii) For purposes of this paragraph, the net worth of an insured is deemed to include the aggregate net worth of the insured and all of its subsidiaries calculated on a consolidated basis.

(4) Notwithstanding any other provision of this subtitle, “covered claim” does not include:

(i) a claim filed with the Corporation after the earlier of

1. 18 months after the date of the order of liquidation; or

2. the final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer; or

(ii) a claim filed with the Corporation or a liquidator for protection afforded under the insured’s policy for losses that are incurred but not reported.

(e) "Insolvent insurer" means an insurer:

(1) that is authorized to transact insurance business or authorized to issue surety bonds in the State when the policy or surety bond is issued or when the event giving rise to the claim occurs; and

(2) against whom a court of competent jurisdiction in the insurer’s state of domicile has passed a final order of liquidation with a finding of insolvency.

(f)(1) "Member insurer" means an authorized insurer that writes a kind of insurance, including the exchange of reciprocal or interinsurance contracts, to which this subtitle applies.

(2) “Member insurer” includes the Maryland Automobile Insurance Fund.

(g)(1)"Net direct written premiums" means direct gross premiums written in the State on policies or surety bonds to which this subtitle applies, less return premiums on the policies or surety bonds and dividends paid or credited to policyholders, or principals or obligees of surety bonds on the direct business.

(2) “Net direct written premiums” does not include:

(i) premiums on contracts between insurers or reinsurers; or

(ii) premiums received by insurers under the Maryland Property Insurance Availability Act.

(h) "Resident" means:

(1) an individual domiciled in the State; or

(2) a corporation or entity whose principal place of business is in the State.

(i)(1)“Surety bond” means insurance that guarantees the performance of contracts, other than policies, and that guarantees and executes bonds, undertakings, and contracts of suretyship.

(2) ”Surety bond” does not include mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997; Amended 1997, ch. 682, § 1; Amended 2004, ch. 554, § 1 (HB 1529) eff. June 1, 2004 and only apply to claims against estates placed in liquidation on or after June 1, 2004. Formerly Art. 48A, § 505.

**§ 9-302. Purposes of subtitle**

The purposes of this subtitle are:

(1) to provide a mechanism for the prompt payment of covered claims under certain policies and to avoid financial loss to residents of the State who are claimants or policyholders of an insolvent insurer; and

(2) to provide for the assessment of the cost of payments of covered claims and protection among insurers.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997; 1997, ch. 57, § 9. Formerly Art. 48A, § 504.

* 1. **Application of subtitle**

This subtitle applies to all kinds of direct insurance, except:

(1) life insurance;

(2) health insurance;

(3) mortgage guaranty insurance;

(4) annuities;

(5) insurance written on a surplus lines basis under Title 3, Subtitle 3 of this article;

(6) insurance written by a risk retention group; and

(7) insurance written by an unauthorized insurer.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 504.

**9-304. Corporation established; membership; plan of operation; accounts; status**

(a)(1) There is a Property and Casualty Insurance Guaranty Corporation.

(2) The Corporation is a private, nonprofit, nonstock corporation.

(b) As a condition of its authority to transact insurance business in the State, each member insurer must be and remain a member of the Corporation.

(c) The Corporation shall:

(1) perform its functions in accordance with a plan of operation established and approved under § 9-307 of this subtitle; and

(2) exercise its powers through a Board of Directors established under § 9-305 of this subtitle.

(d) For administration and assessment purposes, the Corporation shall be divided into the following four separate accounts:

(1) the title insurance account;

(2) the motor vehicle insurance account;

(3) the workers' compensation account; and

(4) the account for all other insurance to which this subtitle applies.

(e) Except as otherwise provided in this subtitle, the Corporation has perpetual existence and the powers, privileges, and immunities granted by the applicable provisions of the Corporations and Associations Article.

(f)(1) The Corporation is not and may not be deemed a department, unit, agency, or instrumentality of the State for any purpose.

(2) All debts, claims, obligations, and liabilities of the Corporation, whenever incurred, shall be the debts, claims, obligations, and liabilities of the Corporation only and not of the State or the State’s agencies, instrumentalities, officers, or employees.

(g)(1)The money of the Corporation is not part of the General Fund of the State.

(2) The State may not budget for or provide General Fund appropriations to the Corporation.

(3) The debts, claims, obligations, and liabilities of the Corporation are not a debt of the State or a pledge of the credit of the State.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 506.

**§ 9-305. Board of Directors**

(a)(1)The Board of Directors of the Corporation consists of at least five members but not more than nine members.

(2) The members of the Board shall be elected from among the member insurers.

(3) The terms of the members of the Board shall be as set by the plan of operation.

(4) A vacancy on the Board shall be filled for the remainder of the term by a majority vote of the remaining members of the Board.

(b)(1)The Board of Directors shall elect a chairman from among its members and appoint three of its members to be an executive committee.

(2) The Board may elect other officers.

(c) When electing members of the Board of Directors or filling vacancies on the Board, consideration shall be given to, among other things, whether all member insurers are fairly represented.

(d) A member of the Board of Directors may be reimbursed by the Corporation for expenses incurred in carrying out duties as a member of the Board.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 507

**§ 9-306. Powers and duties of Corporation**

(a)(1)Except as to surety bonds, the Corporation shall be obligated to the extent of the covered claims existing on or before the determination of insolvency or arising:

(i) within 30 days after the determination of insolvency;

(ii) before the policy expiration date, if that date is less than 30 days after the determination of insolvency; or

(iii) before the insured replaces the policy or causes its cancellation, if the insured does so within 30 days after the determination of insolvency.

(2) Except as provided in paragraph (3) of this subsection, the obligation of the Corporation under this subsection shall include only that amount of each covered claim that is in excess of $100 and less than $300,000.

(3) The Corporation shall pay the full amount of any covered claim arising out of a workers' compensation policy.

(4) The Corporation is not obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy out of which the claim arises.

(b)(1) As to surety bonds, the Corporation shall be obligated to the extent of the covered claims existing on or before the determination of insolvency, or arising within 18 months after the determination of insolvency, whether or not the surety bonds are issued with no stated period or for a stated period.

(2) The obligation of the Corporation under this subsection shall include only that amount of each covered claim payable to each claimant that is in excess of $100 and less than $300,000.

(3) The Corporation is not liable for an aggregate amount in excess of $1,000,000 under any one surety bond.

(4) If the covered claims are in excess of $1,000,000 under any one surety bond, the Corporation shall make a prorated payment on account of each covered claim in the ratio that the covered claim bears to the total amount of all covered claims under the surety bond.

(5) The Corporation is not obligated to a claimant in an amount in excess of the obligation of the insolvent insurer under the surety bond out of which the claim arises.

(c) The Corporation shall be deemed the insurer to the extent of the Corporation’s obligation on the covered claims and, to that extent, shall have the rights, duties, and obligations that the insolvent insurer would have had if the insurer had not become insolvent.

(d)(1)The Corporation shall:

(i) allocate claims paid and expenses incurred among the four accounts separately; and

(ii) assess member insurers separately for each account in amounts necessary to pay:

1. the obligation of the Corporation under subsection (a) or (b) of this section after an insolvency;

2. the expense of handling covered claims after an insolvency; and

3. other expenses authorized by this subtitle.

(2) The Corporation shall assess each member insurer in the proportion that the net direct written premiums of the member insurer for the preceding calendar year on the kinds of insurance covered by the account bears to the net direct written premiums of all member insurers for the preceding calendar year on the kinds of insurance covered by the account.

(3) The Corporation shall give each member insurer at least 30 days’ notice of an assessment before it is due.

(4) The Corporation may not assess a member insurer in any year on an account in an amount greater than 2% of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance covered by the account.

(5) In any 1 year, if the sum of the maximum assessment for an account and the other assets of the Corporation in the account does not provide an amount sufficient to make all necessary payments from that account, the funds available shall be prorated and the unpaid part shall be paid as soon as funds are available.

(6) The Corporation may exempt or defer, wholly or partly, the assessment of a member insurer if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance business.

(7) A member insurer may set off against an assessment the authorized payments made on covered claims and expenses incurred in paying those covered claims if they are chargeable to the account for which the assessment is made.

(e)(1)The Corporation:

(i) shall investigate claims brought against the Corporation and adjust, compromise, settle, and pay covered claims to the extent of the Corporation's obligation and deny all other claims;

(ii) may review settlements, releases and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which the settlements, releases and judgments may be properly contested;

(iii) shall notify persons as the Commissioner directs under § 9-308 (b) (1) of this subtitle;

(iv) shall handle claims through its employees or through one or more insurers or other persons designated as servicing facilities;

(v) shall reimburse each servicing facility for obligations of the Corporation paid by the facility and for expenses incurred by the facility while handling claims on behalf of the Corporation; and

(vi) shall pay other expenses of the Corporation that are authorized by this subtitle.

(2)(i) Designation of a servicing facility by the Corporation is subject to the approval of the Commissioner.

(ii) A member insurer may decline designation as a servicing facility.

(f) The Corporation may:

(1) employ or retain persons necessary to handle claims and perform other duties of the Corporation;

(2) borrow money necessary to carry out the purposes of this subtitle in accordance with the plan of operation;

(3) sue or be sued;

(4) negotiate and become a party to contracts necessary to carry out the purposes of this subtitle;

(5) perform any other act necessary or proper to carry out the purposes of this subtitle; and

(6) refund to the member insurers in proportion to the contribution of each member insurer to an account, the amount by which the assets of the account at the end of any calendar year exceed the liabilities of that account as estimated by the Board of Directors for the coming year.

(g)(1)To the extent appropriate or necessary for the corporation, or a similar association or Corporation in another state, to carry out its duties under this subtitle, the Corporation may bring an action against a third party administrator, producer, agent, attorney, or other representative of an insolvent insurer to obtain custody and control of all files and records, regardless of format, related to claims information that involves the insolvent insurer.

(2) In an action brought under this subsection, the Corporation:

(i) has the absolute right through emergency equitable relief to obtain custody and control of all claims information in the custody or control of the third party administrator, producer, agent, attorney, or other representative of the insolvent insurer, regardless of where the claims information is physically located; and

(ii) is not subject to any defense, lien or other legal or equitable ground that might be asserted against the liquidator of the insolvent insurer for refusal to surrender claims information.

(3) If an action is required under this subsection after refusal to provide claims information in response to a written demand for the claims information, the court shall award the Corporation its costs, expenses, and reasonable attorney fees incurred in bringing the action.

(4) This subsection does not affect the rights and remedies that the custodian of the applicable claims information may have against the insolvent insurer if those rights and remedies do not conflict with the right of the Corporation to custody and control of the claims information under this subsection.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997, 2004, ch. 422, § 1 (HB 1528) eff. June 1, 2004 and shall apply only to insolvencies occurring on or after the effective date of this Act. Formerly Art. 48A, § 508

**§ 9-307. Plan of operation**

(a)(1)(i) The Corporation shall submit to the Commissioner a plan of operation and any amendments to it necessary or suitable to ensure the fair, reasonable, and equitable administration of the Corporation.

(ii) The plan of operation and any amendments to it take effect when approved in writing by the Commissioner.

(2)(i) If the Corporation fails to submit suitable amendment to the plan of operation, the Commissioner, after notice and hearing, shall adopt reasonable regulations as necessary or advisable to carry out this subtitle

(ii) Regulations adopted under this paragraph shall continue in effect until modified by the Commissioner or superseded by an amendment to the plan of operation submitted by the Corporation and approved by the Commissioner.

(b) Each member insurer shall comply with the plan of operation.

(c) The plan of operation shall:

(1) establish procedures for the performance of the powers and duties of the Corporation specified in § 9-306 of this subtitle;

(2) establish procedures for handling the assets of the Corporation;

(3) establish the amounts to be reimbursed and the method of reimbursing members of the Board of Directors under § 9-305 of this subtitle;

(4) establish procedures for filing claims with the Corporation;

(5) establish acceptable forms of proof of covered claims;

(6) establish regular places and times for meetings of the Board of Directors;

(7) establish procedures for keeping records of the financial transactions of the Corporation, its agents, and the Board of Directors;

(8) provide that a member insurer that is aggrieved by a final action or decision of the Corporation may appeal to the Commissioner within 30 days after the action or decision; and

(9) contain any additional provisions necessary or proper to perform the powers and duties of the Corporation.

(d)(1)Notice of a claim to the receiver or liquidator of an insolvent insurer shall be deemed notice to the Corporation or its agent.

(2) The receiver or liquidator periodically shall submit to the Corporation a list of claims of which the receiver or liquidator has received notice.

(e)(1) The plan of operation may provide that any or all of the powers and duties of the Corporation, except those under § 9-306 (d) and (f) (2) of this subtitle, may be delegated to a person that performs or will perform functions similar to those of the Corporation or its equivalent.

(2) A person to which powers and duties are delegated under the plan of operation shall be:

(i) reimbursed as a servicing facility would be reimbursed; and

(ii) paid for its performance of the functions of the Corporation.

(3) A delegation under this subsection may:

(i) take effect only with the approval of the Board of Directors and the Commissioner; and

(ii) be made only to a person that extends protection not substantially less favorable and effective than that provided by this subtitle.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 509

**§ 9-308. Duties of Commissioner relating to insolvent insurers**

(a) The Commissioner:

(1) shall notify the Corporation of the existence of an insolvent insurer not later than 3 days after the Commissioner receives notice of the determination of insolvency; and

(2) on request of the Board of Directors, shall provide the Corporation with a statement of the net direct written premiums of each member insurer.

(b)(1)(i) The Commissioner may require that the Corporation notify each insured, or each principal and specific obligee named in a surety bond, of each insolvent insurer and any other known interested party of the determination of insolvency and of their rights under this subtitle.

(ii) The notification required under subparagraph (i) of this paragraph may be by mail at the last known address of the interested party, but if sufficient information for notification by mail is not available, notification by publication in a newspaper of general circulation is sufficient.

(2) The Commissioner:

(i) after notice and hearing, may suspend or revoke the certificate of authority of a member insurer that fails to pay an assessment when due or fails to comply with the plan of operation; or

(ii) subject to paragraph (3) of this subsection, may impose a penalty on a member insurer that fails to pay an assessment when due.

(3) A penalty imposed under paragraph (2)(ii) of this subsection may not exceed 5% of the unpaid assessment per month and may not be less than $100 per month.

(4) If the Commissioner determines that claims are being handled unsatisfactorily, the Commissioner may revoke the designation of a person as a servicing facility.

(c) A final action or order of the Commissioner under this subtitle is subject to judicial review.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 510

**§ 9-309. Recovery from Corporation or settlement of claims**

(a)(1)A person recovering from the Corporation under this subtitle is deemed to have assigned to the Corporation the person’s rights under the policy to the extent of the person’s recovery from the Corporation.

(2) Each insured or claimant seeking the protection of this subtitle shall cooperate with the Corporation to the same extent as the insured or claimant would have been required to cooperate with the insolvent insurer.

(3) The Corporation does not have a cause of action against the insured of the insolvent insurer for any sum the Corporation has paid out except for a cause of action that the insolvent insurer would have had if the sum had been paid by the insolvent insurer.

(4) Payment of a claim of the Corporation does not operate to reduce the liability of an insured to the receiver, liquidator, or statutory successor for an unpaid assessment of an insolvent insurer operating on a plan with assessment liability.

(b)(1)The receiver, liquidator, or statutory successor of an insolvent insurer is bound by the settlement of a covered claim by the Corporation or its representatives.

(2) The court having jurisdiction shall grant a covered claim priority equal to that to which the claimant would have been entitled in the absence of this subtitle against the assets of the insolvent insurer.

(3) The court having jurisdiction shall grant the expenses of the Corporation or similar organization in handling claims the same priority as the liquidator's expenses.

(c)(1)The Corporation periodically shall file with the receiver or liquidator of the insolvent insurer:

(i) statements of the covered claims paid by the Corporation; and

(ii) estimates of anticipated claims on the Corporation.

(2) The statements and estimates filed under paragraph (1) of this subsection shall preserve the rights of the Corporation against the assets of the insolvent insurer.

(d) An insurer may not assert a claim of subrogation against an insured of an insolvent insurer, but may assert a claim against the receiver of the insolvent insurer.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 511

**§ 9-310. Recovery of claims from insurance guaranty corporations or equivalent**

(a)(1) A person with a claim against an insurer under a policy or surety bond that is also a covered claim against an insolvent insurer shall exhaust first the person’s rights under the policy or surety bond.

(2) The amount payable on a covered claim under this subtitle shall be reduced by the amount of any recovery under the policy or surety bond.

(b)(1)Except as provided in paragraph (2) of this subsection, a person with a claim that may be recovered under more than one insurance guaranty corporation or its equivalent shall seek recovery first:

(i) if the claim is a first party claim for damage to property with a permanent location, from the corporation or its equivalent of the location of the property; and

(ii) if the claim is any other claim, from the corporation or its equivalent of the residence of the insured.

(2) A person with a claim under a surety bond that may be recovered under more than one insurance guaranty corporation or its equivalent shall seek recovery first from the corporation or its equivalent of the place of performance of the obligation described in the surety bond.

(c) A recovery under this subtitle shall be reduced by the amount of recovery from any other insurance guaranty corporation or its equivalent.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 512

**§.9-310.1. Cessation of corporation’s obligation to defend an insured**

(a) Any obligation of the Corporation to defend an insured shall cease on payment by the Corporation, by settlement releasing the insured or on a judgment, of an amount equal to the lesser of the Corporation’s covered claim obligation limit or the applicable policy limit.

(b)(1)In this subsection, “affiliate” means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(2) Notwithstanding any other provision of this subtitle, except for a claim for benefits under workers’ compensation coverage, any obligation of the Corporation to any and all persons shall cease when $10,000,000 has been paid in the aggregate:

(i) by the Corporation and one or more insurance guaranty corporations or associations similar to the Corporation in other states or property casualty insurance security funds that obtain contributions from insurers on a pre-insolvency basis in other states;

(ii) to or on behalf of an insured and its affiliates; and

(iii) on covered claims or on claims allowed arising under one or more policies of one insolvent insurer.

(3) If the Corporation determines that there may be more than one claimant with a covered claim or allowed claim against the Corporation or any insurance guaranty corporations or associations similar to the Corporation in other states or any property casualty insurance security funds in other states, arising under one or more policies of one insolvent insurer, the Corporation may establish a plan to allocate amounts payable by the Corporation in the manner that the Corporation in its discretion considers equitable.

Added by Acts 1997, ch. 682, § 1, eff. 10/01/97.

**§ 9-311. Examination and regulation by Commissioner**

1. The Corporation is subject to examination and regulation by the Commissioner.
2. By March 30 of each year, the Board of Directors shall submit to the Commissioner a financial report for the preceding calendar year in the form that the Commissioner approves.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 514

**§ 9-312. Exemption from payment of fees and taxes**

Except for taxes on real or personal property, the Corporation is exempt from the payment of all fees and taxes levied by the State or a subdivision of the State.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 515

**§ 9-313. Recoupment of assessments paid by member insurers**

The rate and premium charged for a policy or surety bond to which this subtitle applies:

(1) shall include an amount sufficient to recoup, over a reasonable length of time of not less than 3 years, the amount paid to the Corporation by the member insurer less any amount returned to the member insurer by the Corporation; and

(2) may not be considered excessive because the rate and premium contain an amount reasonably calculated to recoup assessments paid by the member insurer.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 516

**§ 9-314. Immunity from liability**

(a) A member insurer, the Corporation or its agents or employees, the Board of Directors, and the Commissioner or the Commissioner's representatives shall have the immunity from liability described under § 5-412 of the Courts Article.

(b) Notwithstanding subsection (a) of this section, the Corporation is not and may not be deemed a department, unit, agency, or instrumentality of the state.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997; 1997, ch. 14, § 20. Formerly Art. 48A, § 517

**§ 9-315. Stay of proceedings; and default judgments**

(a) To allow proper defense by the Corporation of pending causes of action, each proceeding in which an insolvent insurer is a party or is obligated to defend a party in a court in the State shall be stayed for 60 days after the date of the determination of insolvency.

(b) As to a covered claim arising from a judgment under an order, decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, the Corporation, on its own behalf or on behalf of the insured, may:

(1) apply to have the judgment, order, decision, verdict or finding set aside by the same court or administrator that made it; and

(2) defend against the covered claim on the merits.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 518

**§ 9-316. Termination as to kind of insurance or operation of Corporation**

(a) The Commissioner shall terminate by order the operation of the Corporation as to a kind of insurance covered by this subtitle for which the Commissioner has found after a hearing that there is in effect a statutory or voluntary plan:

(1) that is permanent and is adequately funded or for which adequate funding is provided; and

(2) that extends or will extend to policyholders and residents protection and benefits with respect to insolvent insurers not substantially less favorable and effective to those policyholders and residents than the protection and benefits provided under this subtitle for that kind of insurance.

(b)(1)By an order issued under subsection (a) of this section, the Commissioner shall authorize insurers to stop paying the Corporation as to the same kind of insurance for which the operation of the Corporation is terminated under the order.

(2) Notwithstanding paragraph (1) of this subsection, assessments and payments shall continue as necessary to liquidate covered claims of insurers determined to be insolvent before the order and to liquidate the related expenses not covered by the other plan.

(c)(1)If the Commissioner orders the termination of the operation of the Corporation as to all kinds of insurance within its scope, the Corporation as soon as possible after the termination shall:

(i) discharge first the functions of the Corporation as to prior insurer insolvencies not covered by the other plan, including the payment of expenses related to the discharge of these functions; and

(ii) distribute, in accordance with paragraph (2) of this subsection, the balance of money and assets remaining to the insurers that are then writing in the State policies of the kinds of insurance covered by this subtitle and that had made payments to the Corporation.

(2) The Corporation shall distribute the balance of money and assets remaining to the insurers pro rata on the basis of the aggregate of the payments made by the respective insurers during the period of 5 years immediately preceding the date of the order.

(3) When the distribution as to all kinds of insurance covered by this subtitle is complete, this subtitle shall terminate.

Added by Acts 1996, ch. 11, § 1, eff. Oct. 1, 1997. Formerly Art. 48A, § 519