
Chapter 78. AN ACT RELATIVE TO LIFE INSURANCE COMPANY LIQUIDATION PROCEEDINGS.

Be it enacted, etc., as follows:

SECTION 1. The general court finds that proceedings in cases of insurer insolvency and delinquency are an integral aspect of the business of insurance and are of vital public interest and concern. Certain provisions of this act are enacted as part of a comprehensive scheme for the rehabilitation and liquidation of insurance companies, as part of the regulation of the business of insurance in the commonwealth.

SECTION 2. Section 46A of chapter 175 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the word "When", in line 1, and inserting in place thereof the following words:- Except as otherwise provided in section 180F, when.

SECTION 3. Said chapter 175 is hereby further amended by inserting after section 132H the following section:-

Section 132I. Any insurer authorized to issue annuity contracts in the commonwealth may issue one or more funding agreements, in fixed or variable dollar amounts or in both, to fund (i) benefits under any employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. section 1002; (ii) the activities of any organization exempt from taxation under section 501(c) of the Internal Revenue Code or any similar organization in any foreign country; (iii) any program of the government of the United States, the government of any state, foreign country or political subdivision thereof; (iv) any agreement providing for periodic payments in satisfaction of a claim; or (v) any program of any individual or entity which has assets in excess of \$25,000,000. Amounts paid to the insurer under such funding agreements may be allocated by the insurer to its general account or to one or more separate accounts pursuant to section 132F or section 132G. The issuance of a funding agreement in the commonwealth shall constitute doing an insurance business herein. For purposes of section 180F, funding agreements shall be treated as insurance contracts, and the holders thereof shall be entitled to the same priority of distribution as policyholders.

SECTION 4. The definition of "General assets" in section 180A of said chapter 175, as appearing in the 1998 Official Edition, is hereby amended by adding the following sentence:- Pursuant to the applicable separate account agreements and section 132F or section 132G, assets of a separate account that are not chargeable with liabilities arising out of any other business of the insurer shall not be general assets.

SECTION 5. Said section 180A of said chapter 175, as so appearing, is hereby further amended by inserting after the definition of "Secured claim" the following definition:-

"Separate account agreement" means any life policy or contract, annuity contract, funding agreement or other policy or contract referred to in section 132F, 132G or 132I, providing for the allocation of amounts received in connection with such policy, contract or agreement to a separate investment account or accounts created pursuant to section 132F or

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section 132G.

SECTION 6. Section 180F of said chapter 175, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:-

The priority of distribution from the general assets of an insurer in a liquidation proceeding shall be in the order set forth below. Every claim in each priority class shall, subject to such limitations as may be prescribed by law and that do not directly conflict with the express provisions of this section, be paid in full or adequate funds shall be retained for such payment before the members of the next class receive any payment. Except as otherwise expressly provided in this section, no subclasses shall be established within any of the first six priority classes. The order of distribution of claims shall be:

- (1) expenses of administration;
- (2) claims of policyholders, beneficiaries and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company and claims presented by the Massachusetts Insurers Insolvency Fund, the Massachusetts Life and Health Insurance Guaranty Association or any similar organization in another state, but the workers' compensation claims afforded a preference in section 46A shall be treated as preferred only as respects all other claims in this clause;
- (3) claims for return premiums under section 46;
- (4) claims of the federal government other than those included in class 2 or 3;
- (5) compensation of employees other than officers for services rendered within three months prior to the commencement of a proceeding under section 180C not to exceed \$1,000 for each such employee;
- (6) claims for taxes and debts due to any state or local government, which are secured by liens perfected prior to the commencement of delinquency proceedings; and
- (7) all other claims.

SECTION 7. Said section 180F of said chapter 175, as so appearing, is hereby further amended by adding the following paragraph:-

Separate account agreements providing that the assets in separate accounts to which such agreements relate shall not be chargeable with liabilities arising out of any other business of the insurer shall, to the extent of the reserves and other contract liabilities with respect to such agreements, be satisfied out of the assets available in the related separate accounts, subject to the claims of creditors for services rendered or credit extended with respect to such separate accounts. Such claims shall be payable in accordance with their terms, and to the extent, if any, that the insurer's obligations under such separate account agreements are not fully discharged by the assets available in such separate accounts, such deficiency shall be treated as a claim against the general assets of the life insurance company with the same priority as claims of policyholders, beneficiaries and insureds pursuant to the priority class set forth in clause (2) of the fifth paragraph.

SECTION 8. Section 6 of this act shall apply to all pending and future claims in liquidation proceedings pending on the effective date of this act and to claims in liquidation

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proceedings filed after the effective date of this act.

Approved April 28, 2000.

Chapter 79. AN ACT RELATIVE TO INCOME TAXATION AND CERTAIN INCOME ELIGIBILITY CALCULATIONS FOR CERTAIN RECOVERED ASSETS OF HOLOCAUST SURVIVORS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to exempt forthwith from income taxation and certain income eligibility calculations for certain recovered assets of Holocaust survivors, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Paragraph (2) of subsection (a) of section 2 of chapter 62 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following subparagraph:-

(K) The following items, to the extent included in federal gross income:

(i) distributions or payments, including interest, if any, made to an individual because of his status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of such victim and

(ii) income, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including but not limited to, payments of compensation or reparation, and interest on and the proceeds of insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this deduction from federal gross income shall not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who was a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of such a victim.

SECTION 2. Notwithstanding any general or special law to the contrary, any recovered asset, distribution or restitution payment as defined by subparagraph (K) of paragraph (2) of subsection (a) of section 2 of chapter 62 of the General Laws to the extent included in federal gross income, shall be excluded for the purpose of determining eligibility for any income-guideline or income-eligible program in the commonwealth.

SECTION 3. This act shall apply to tax years commencing on or after January 1, 1998.

Approved May 2, 2000.