

215 ILCS 5/545

Statutes current with legislation through P.A. 103-585 of the 2024 Regular Session of the 103rd General Assembly.

Illinois Compiled Statutes Annotated > Chapter 215 INSURANCE (§§ 5/1 — 215/999) > Insurance Code (Arts. I — XLVII) > Article XXXIV. Illinois Insurance Guaranty Fund (§§ 532 — 5/553)

215 ILCS 5/545 Effect of paid claims.

(a) Every insured or claimant seeking the protection of this Article shall cooperate with the Fund to the same extent as such person would have been required to cooperate with the insolvent company. The Fund shall have all the rights, duties and obligations under the policy to the extent of the covered claim payment, provided the Fund shall have no cause of action against the insured of the insolvent company for any sums it has paid out except such causes of action as the insolvent company would have had if such sums had been paid by the insolvent company and except as provided in subsection (d) of this Section. Any person recovering under this Article and any insured whose liabilities are satisfied under this Article shall be deemed to have assigned the person's or insured's rights under the policy to the Fund to the extent of his or her recovery or satisfaction obtained from the Fund's payments.

(b) The Fund and any similar organization in another state shall be recognized as claimants in the liquidation of an insolvent company for any amounts paid by them on covered claims obligations as determined under this Article or similar laws in other states and shall receive dividends at the priority set forth in paragraph (d) of subsection (1) of Section 205 of this Code [215 ILCS 5/205]; provided that if, at the time that the liquidator issues a cut-off notice to the Fund in anticipation of closing the estate, a reserve has been established by the Fund, or any similar organization in another state, for the amount of their future administrative expenses and loss development associated with unpaid reported pending claims, these reserves will be deemed to have been paid as of the date of the notice and payment shall be made accordingly. The liquidator of an insolvent company shall be bound by determinations of covered claim eligibility under the Act and by settlements of claims made by the Fund or a similar organization in another state on the receipt of certification of such payments, to the extent those determinations or settlements satisfy obligations of the Fund, but the receiver shall not be bound in any way by those determinations or settlements to the extent that there remains a claim in the estate for amounts in excess of the payments by the Fund. In submitting their claim for covered claim payments the Fund and any similar organization in another state shall not be subject to the requirements of Sections 208 and 209 of this Code [215 ILCS 5/208 and 215 ILCS 5/209] and shall not be affected by the failure of the person receiving a covered claim payment to file a proof of claim.

(c) The expenses of the Fund and of any similar organization in any other state, other than expenses incurred in the performance of duties under Section 547 or similar duties under the

statute governing a similar organization in another state, shall be accorded priority over all claims against the estate, except as provided for in paragraph (a) of subsection (1) of Section 205 of this Code. The liquidator shall make prompt reimbursement to the Fund and any similar organization for such expense payments.

(d) The Fund has the right to recover from the following persons the amount of any covered claims (as determined without regard to the exemption in paragraph (iv) of subsection (b) of Section 534.3 [215 ILCS 5/ 534.3]) and allocated claims expenses which the Fund paid or incurred on behalf of such person in satisfaction, in whole or in part, of liability obligations of such person to any other person:

(i) any insured whose net worth on December 31 of the year next preceding the date the company becomes an insolvent company exceeds \$25,000,000; provided that an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its affiliates as calculated on a consolidated basis.

(ii) any insured who is an affiliate of the insolvent company.

The Fund may also, at its sole discretion and without assumption of any ongoing duty to do so, pay any workers compensation claims or any other third-party claims or any cybersecurity insurance obligations covered by a policy of an insolvent company on behalf of a high net worth insured as defined in paragraph (iv) of subsection (b) of Section 534.3. In that case, the Fund shall recover from the high net worth insured under this Section for all amounts paid on its behalf, all allocated claim adjusted expenses related to such claims, the Fund's attorney's fees, and all court costs in any action necessary to collect the full amount to the Fund's reimbursement under this Section.

History

P.A. 85-576; 89-206, § 5; 90-499, § 91; 96-1450, § 5; 2017 P.A. 100-410, § 5, effective August 25, 2017; 2019 P.A. 101-60, § 5, effective July 12, 2019; 2023 P.A. 103-113, § 5, effective June 30, 2023.