

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Raburn offered the following:

4

5 **Amendment**

6 Remove lines 286-364 and insert:

7 Section 9. Paragraph (g) of subsection (2) and subsections
 8 (4) and (5) are added to section 631.181, Florida Statutes, and
 9 present subsection (3) is amended, to read:

10 631.181 Filing and proof of claim.—

11 (2)

12 (g) Upon application of the receiver:

13 1. The receivership court may allow alternative procedures
 14 and requirements for the filing of proofs of claim or for
 15 allowing or proving claims.

Amendment No. 1

16 2. If the receivership court waives the requirements of
17 filing a proof of claim for a person, class, or group of
18 persons, a timely proof of claim by such person, class, or group
19 is deemed to be filed for all purposes. However, the
20 receivership court may not waive guaranty association or
21 coverage determination proof of claim filing requirements, to
22 the extent that the guaranty fund statute or filing requirements
23 are inconsistent with the receivership court's waiver of proof.

24 (3) After the entry of the order of liquidation against a
25 Florida-domiciled insurer, regardless of any prior notice that
26 may have been given to creditors, the receiver shall notify all
27 persons who may have claims against the insurer that they must
28 file such claims with it at a place and within the time
29 specified in the notice, or else such claims will be late-filed
30 ~~forever barred~~. The Florida receiver need not give such notice
31 in ancillary proceedings if the receiver obtains an order from
32 the court authorizing the receiver to not send out such notices,
33 which order the court shall issue upon satisfactory evidence
34 that the domiciliary receiver will be sending out similar
35 notices and will accept and evaluate claims from Florida
36 residents, that Florida residents may have objections to
37 evaluations heard in Florida, and that there are reasonable
38 assurances that Florida policyholders and claimants will be
39 treated fairly and equally as compared to residents of the
40 domicile state. The time specified in the notice shall be as

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Published On: 3/13/2017 5:56:46 PM

Amendment No. 1

41 fixed by the court for filing of claims and shall be not less
42 than 6 months after the entry of the order of insolvency. The
43 notice shall be given in such manner and for such reasonable
44 period of time as may be ordered by the court.

45 (4) The receiver may petition the receivership court to
46 set a date certain before which all contingent or unliquidated
47 claims are final. In addition to the notice requirements in this
48 section, the receiver shall give notice of filing the petition
49 to all claimants with claims that remain contingent or
50 unliquidated under this section.

51 (5) Notwithstanding any other provision of this chapter,
52 the receiver may petition the receivership court to set a date
53 certain after which no further claims may be filed.

54 Section 10. Subsection (5) is added to section 631.192,
55 Florida Statutes, to read:

56 631.192 Allowance of certain claims.—

57 (5) A claim may not be allowed for postjudgment interest
58 accrued after the date the court enters the order of
59 liquidation.

60 Section 11. Paragraphs (a), (b), and (j) of subsection (1)
61 of section 631.271, Florida Statutes, are amended to read:

62 631.271 Priority of claims.—

63 (1) The priority of distribution of claims from the
64 insurer's estate shall be in accordance with the order in which
65 each class of claims is set forth in this subsection. Every

Amendment No. 1

66 claim in each class shall be paid in full or adequate funds
67 shall be retained for such payment before the members of the
68 next class may receive any payment. No subclasses may be
69 established within any class. The order of distribution of
70 claims shall be:

71 (a) *Class 1.*—

72 1. All of the receiver's costs and expenses of
73 administration.

74 2. All of the expenses of a guaranty association or
75 foreign guaranty association in handling claims.

76 3. All of the deputy supervisor's costs and expenses of
77 administration incurred as a result of administrative
78 supervision under part VI of chapter 624.

79 (b) *Class 2.*—All claims under policies for losses
80 incurred, including third-party claims, all claims against the
81 insurer for liability for bodily injury or for injury to or
82 destruction of tangible property which claims are not under
83 policies, ~~and~~ all claims of a guaranty association or foreign
84 guaranty association, and all claims related to a patient's
85 healthcare coverage by physicians, hospitals, and other
86 providers of a health insurer or health maintenance
87 organization. All claims under life insurance and annuity
88 policies, whether for death proceeds, annuity proceeds, or
89 investment values, shall be treated as loss claims. That portion
90 of any loss, indemnification for which is provided by other

Amendment No. 1

91 benefits or advantages recovered by the claimant, may not be
92 included in this class, other than benefits or advantages
93 recovered or recoverable in discharge of familial obligations of
94 support or by way of succession at death or as proceeds of life
95 insurance, or as gratuities. No payment by an employer to her or
96 his employee may be treated as a gratuity.

97 (j) *Class 10.*—Interest on allowed claims of Classes 1
98 through 9. The rate of interest payable on an allowed claim must
99 accrue from the date the court enters the order of liquidation
100 until such time as the receivership court approves the
101 distribution. The interest rate must be calculated in accordance