

§4378. Allowance of contingent and other claims

1. No contingent claim shall share in a distribution of assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to section 4377, except that such claims shall be considered, if properly presented, and may be allowed to share where:

A. The claim becomes absolute against the insurer on or before the last day fixed for filing of proofs of claim against the assets of the insurer, or [PL 1969, c. 132, §1 (NEW).]

B. There is a surplus and the liquidation is thereafter conducted upon the basis that the insurer is solvent. [PL 1969, c. 132, §1 (NEW).]

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2. Where an insurer has been so adjudicated to be insolvent, any person who has a cause of action against an insured of the insurer, shall have the right to file a claim in the liquidation proceeding, regardless of the fact that the claim may be contingent, and the claim may be allowed:

A. If it may be reasonably inferred from the proof presented upon the claim that such person would be able to obtain a judgment upon such cause of action against such insured; and [PL 1969, c. 132, §1 (NEW).]

B. If such person furnishes suitable proof, unless the court for good cause shown otherwise directs, that no further valid claims against the insurer arising out of the person's cause of action other than those already presented can be made; and [RR 2021, c. 1, Pt. B, §371 (COR).]

C. If the total liability of the insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation. [PL 1969, c. 132, §1 (NEW).]

[RR 2021, c. 1, Pt. B, §371 (COR).]

3. No judgment against such an insurer, referred to in subsection 2, taken after the date of the entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, inquest or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceeding either of the liability of the insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

[PL 1969, c. 132, §1 (NEW).]

4. A claim of any secured claimant may not be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or such other date set by the court for the fixation of rights and liabilities as provided in section 4376 unless the claimant surrenders the claimant's security to the liquidator and in which event the claim must be allowed in the full amount for which it is valued.

[RR 2021, c. 1, Pt. B, §372 (COR).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). RR 2021, c. 1, Pt. B, §§371, 372 (COR).

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