

### **304.33-440 Liquidator, disbursement of assets, recommendations to the court.**

- (1) Immediate Access. Within one hundred twenty (120) days of a final determination of insolvency of a company by a court of competent jurisdiction of this state, the liquidator shall make application to the court for approval of a proposal to disburse assets out of such company's marshalled assets, from time to time as such assets become available, to guaranty associations or foreign guaranty associations having obligations because of the insolvency. Such proposal shall at least include provision for:
  - (a) Reserving amounts for the payment of the expenses of administration and claims falling within the priorities established in KRS 304.33-430(1) and (3);
  - (b) Disbursement of the assets marshalled to date and subsequent disbursements of assets as they become available;
  - (c) Equitable allocation of disbursements to each of the associations entitled thereto; and
  - (d) The securing by the liquidator from each of the associations entitled to disbursements pursuant to paragraph (e) of an agreement to return to the liquidator such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in KRS 304.33-430(1), (3) and (4) in accordance with such priorities. No bond shall be required of any such association.
  - (e) The liquidator's proposal shall also provide for disbursements to the associations in amounts at least equal to the payments made or to be made thereby for which associations could assert claims against the liquidator, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of such payments made or to be made by the association then disbursements shall be in the amount of available assets.
  - (f) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states in which the company did business. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first class postage prepaid, at least thirty (30) days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the liquidator's proposal complies with this subsection.
- (2) Recommended claims. The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as he deems necessary. He may compound, compromise or in any other manner negotiate the amount for which claims will be recommended to the court. Unresolved disputes shall be determined under KRS 304.33-400. As often as practicable, he shall present to the court reports of claims against the insurer with his recommendations. The reports shall include the name and address of each claimant, the particulars of the claim and the amount of the claim finally recommended if any. As soon as reasonably possible after the

last day for filing claims, he shall present a list of all claims not already reported. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment values and the amounts owed. If the insurer has issued policies on the advance premium plan, the liquidator shall report the persons to whom, according to the records of the insurer, unearned premiums are owed and the amounts owed.

- (3) Allowance of claims. The court may approve, disapprove, or modify any report on claims by the liquidator, except that the liquidator's agreements with other parties shall be final and binding on the court on claims settled for \$500 or less. No claim under a policy of insurance shall be allowed for an amount in excess of the applicable policy limits.

**Effective:** July 14, 2000

**History:** Amended 2000 Ky. Acts ch. 255, sec. 7, effective July 14, 2000. -- Amended 1990 Ky. Acts ch. 422, sec. 24, effective July 13, 1990. -- Amended 1978 Ky. Acts ch. 325, sec. 2, effective June 17, 1978. -- Created 1970 Ky. Acts ch. 301, subtit. 33, sec. 44, effective June 18, 1970.