

§ 58-48-50. Effect of paid claims.

(a) Any person recovering under this Article shall be deemed to have assigned his rights under the policy or at law to the Association to the extent of his recovery from the Association. Every insured or claimant seeking the protection of this Article shall cooperate with the Association to the same extent as such person would have been required to cooperate with the insolvent insurer. The Association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the Association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments.

(a1) The Association shall have the right to recover from the following persons the amount of any "covered claim" paid and any and all expenses incurred, including attorneys' fees and costs of defense, in connection with any claim against the person or the person's affiliate pursuant to this Article:

- (1) Any insured whose net worth on December 31 of the year next preceding the date the insurer becomes insolvent exceeds fifty million dollars (\$50,000,000) and whose liability obligations to other persons are satisfied in whole or in part by payments under this Article; or
- (2) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this Article.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the Association or a similar organization in another state. The court having jurisdiction shall grant such claims priority equal to that to which the claimant would have been entitled in the absence of this Article against the assets of the insolvent insurer. The expenses of the Association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

(c) The Association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the Association and estimates of anticipated claims on the Association which shall preserve the rights of the Association against the assets of the insolvent insurer. (1971, c. 670, s. 1; 1989, c. 206, ss. 4, 5; 2003-167, s. 2.)