PROJECT HISTORY - 2007

INSURER RECEIVERSHIP MODEL ACT (#555)
(Section 801)

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INSURER RECEIVERSHIP MODEL ACT (#555)
(Section 712 - Administration of Loss Reimbursement

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There are new provisions for addressing conservation (Article III). The purpose of this Article is to provide for a type of delinquency proceeding where it is not clear if the insurer can be rehabilitated. The intent is to avoid rehabilitation proceedings conducted merely for the purpose of preparing the estate for the entry of a liquidation order. Some interested parties complained that the powers of the conservator are too broad. The committee believed that the purpose of conservation was best served by the enumerated powers.

In Section 504A(3)(b), the model explicitly adds a power that many regulators believe has been implicit in the powers of the receiver. (Also see Drafting Note to Section 81A). This provision expressly allows the liquidator, upon approval of the receivership court, to pay administrative costs of the estate where the payment will assist or result in the collection or recovery of property of the insurer. An example is where a claimant of the estate is not going to prosecute a claim, but if the claim were pursued, the estate would realize a recovery of property. This provision recognizes the liquidator's power to incentivize the prosecution of the claim, provided there is a net benefit to all creditors of the estate by a resultant increase in the distributable assets. The payment does not constitute a violation of the priority of distribution because it has no effect on the amount or timing of any subsequent distribution on the underlying claim.

This model incor1D7 (n)-00.7 (r)-0.7 (a)-2.9 (t)01.6 (s)-3.4 (3)-30.7 (a)-2.4 (p)-0.6 (r)-1.7 (o)-0.6 (c)15.6 (d3.5 (u)-0.6 (r)-1.6

excess distributions if needed.

Two issues were referred to the Model Act Revision Working Group for further consideration: (1) provision to petition court for receiver to administer all claims, and (2) large deductible provision. No provision was proposed

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