

Superseded 5/10/2016

31A-27a-605 Allowance of contingent and unliquidated claims.

- (1) As used in this section, "claim" means a demand for payment pursuant to Section 31A-27a-601 under the terms and conditions of a contract issued by the insurer as a result of a known accident, casualty, disaster, loss, event, or occurrence.
- (2)
 - (a) A claim of an insured or third party may be allowed under Section 31A-27a-603, regardless of the fact that it is contingent or unliquidated if:
 - (i) any contingency is removed in accordance with Subsection (3); and
 - (ii) the value of the claim is determined in accordance with Subsection (4).
 - (b) A claim is contingent if:
 - (i) the accident, casualty, disaster, loss, event, or occurrence insured, reinsured, or bonded against occurs on or before the date fixed under Section 31A-27a-601; and
 - (ii) the act or event triggering the insurer's obligation to pay has not occurred as of the date fixed under Section 31A-27a-401.
 - (c) A claim is unliquidated if the insurer's obligation to pay is established, but the amount of the claim has not been determined.
- (3)
 - (a) Unless the receivership court directs otherwise, a contingent claim may be allowed if:
 - (i) the claimant presents proof of the insurer's obligation to pay reasonably satisfactory to the liquidator; or
 - (ii) subject to Subsection (3)(b), the claim is based on a cause of action against an insured of the insurer, and:
 - (A) it may be reasonably inferred from proof presented upon the claim that the claimant would be able to obtain a judgment; and
 - (B) the person furnishes suitable proof.
 - (b) A contingent claim may not be allowed under Subsection (3)(a)(ii)(B) if the receivership court for good cause shown shall otherwise direct that no further valid claims can be made against the insurer arising out of the cause of action other than those already presented.
- (4)
 - (a) An unliquidated claim may be allowed if its amount has been determined.
 - (b) If the amount of an unliquidated claim filed pursuant to Section 31A-27a-601 remains undetermined, the valuation of the unliquidated claim may be made by estimate whenever the liquidator determines that:
 - (i) liquidation of the claim would unduly delay the administration of the liquidation proceeding; or
 - (ii) the administrative expense of processing and adjudicating the claim or group of claims of a similar type would be unduly excessive when compared with the property that is estimated to be available for distribution with respect to the claim.
 - (c) Any estimate shall be based on an accepted method of valuing a claim with reasonable certainty at the claim's net present value, such as an actuarial evaluation.
- (5)
 - (a) Notwithstanding the other provisions of this section, a claim for the value or breach of a life insurance policy, disability income insurance policy, long-term care insurance policy, or annuity may not result in or serve as the basis of any liability of a reinsurer of the insurer.
 - (b) A reinsurer's liability to the insurer shall be determined exclusively on the basis of its contracts of reinsurance and Section 31A-27a-513.
- (6)

- (a) The liquidator may petition the receivership court to set a date certain before which all claims under this section shall be final.
- (b) In addition to the notice requirements of Section 31A-27a-107, the liquidator shall give notice of the filing of the petition to all claimants with claims that remain contingent or unliquidated under this section.