§ 7434. Distribution of assets. (a) (1) Upon the recommendation of the superintendent, and under the direction of the court, distribution payments shall be made in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims. The priority of distribution of claims from an insolvent insurer other than a life insurer in any proceeding subject to this article shall be in accordance with the order in which each class of claims is set forth in this paragraph and as provided in this paragraph. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. No claim by a shareholder, policyholder or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies. The order of distribution of claims shall be:

(A) Class one. Claims with respect to the actual and necessary costs and expenses of administration, incurred by the liquidator, rehabilitator or conservator under this article.

(B) Class two. All claims under policies including such claims of the federal or any state or local government for losses incurred, third party claims, claims for unearned premiums, and all claims of a security fund, guaranty association or the equivalent except claims arising under reinsurance contracts.

(C) Class three. Claims of the federal government except those under class two above.

(D) Class four. Claims for wages owing to employees of an insurer against whom a proceeding under this article is commenced for services rendered within one year before commencement of the proceeding, not exceeding one thousand two hundred dollars to each employee, and claims for unemployment insurance contributions required by article eighteen of the labor law. Such priority shall be in lieu of any other similar priority which may be authorized by law.

(E) Class five. Claims of state and local governments except those under class two above.

(F) Class six. Claims of general creditors including, but not limited to, claims arising under reinsurance contracts.

(G) Class seven. Claims filed late or any other claims other than claims under class eight or class nine below.

(H) Class eight. Claims for advanced or borrowed funds made pursuant to section one thousand three hundred seven of this chapter.

(I) Class nine. Claims of shareholders or other owners in their capacity as shareholders.

(2) Severability. If any classification or priority provided for in paragraph one of this subsection is held to be unconstitutional or otherwise invalid, the remaining classifications and priorities shall continue in effect.

(b) No creditor shall be entitled to interest on any dividend by reason of delay in payment of such dividend.

(c) Any claimant of another state or foreign country who is entitled to, or receives, a dividend upon his claim out of a statutory deposit or the proceeds of any qualifying bond or other asset located in such other state or foreign country shall not be entitled to any further dividend from the superintendent until all other claimants of the same class irrespective of residence or place of the acts or contracts upon which their claims are based shall have received an equal dividend upon their claims. After such equalization, such claimant shall be entitled to share in the distribution of further dividends by the superintendent like all other creditors of the same class wherever residing.

(d) If, after an adjudication of insolvency, a mutual insurer is found clearly solvent upon re-examination, its surplus shall be distributed among all persons, partnerships or corporations whose membership did not cease earlier than five years prior to the date on which the insurer ceased issuing policies. The distribution shall be in the proportion which the total premium contributions of each such member during his or its entire membership in the insurer bear to the total premium contributions of all such members entitled under this subsection to any distributive share of such surplus.

(e) The provisions of this section shall apply to distributions made after the effective date of this subsection in any proceeding under this article, regardless of the date such proceeding was commenced under this article, provided that the foregoing provisions of this subsection shall not apply to distributions made pursuant to a final court order of distribution entered on or before the effective date of this subsection.