

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, §§ 156 and 160.

In subsection (a)(1) and the introductory language of subsection (b) of this section, the defined term "impaired insurer" is substituted for the former reference to an insurer "adjudicated to be insolvent" to reflect the merger of the terms "impaired" and "insolvent" in § 9-201(h) of this subtitle.

In subsection (c)(2) of this section, the reference to cause of action "against the insured" is substituted for the former reference to "upon such cause of action" in light of subsection (b) of this section, which specifies that the cause of action is against an insured.

Defined terms: "Commissioner" § 1-101

"Creditor" § 9-201

"Impaired insurer" § 9-201

"Insurer" § 1-101

"Person" § 1-101

"Policy" § 1-101

"Secured claim" § 9-201

9-229. OFFSETS.

(A) REQUIRED.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN ALL CASES OF MUTUAL DEBTS AND CREDITS BETWEEN AN INSURER AND ANOTHER PERSON IN CONNECTION WITH A DELINQUENCY PROCEEDING, THE DEBTS AND CREDITS SHALL BE OFFSET AND THE BALANCE ONLY SHALL BE ALLOWED OR PAID.

(B) EXCEPTION.

AN OFFSET MAY NOT BE ALLOWED IN FAVOR OF ANOTHER PERSON IF:

(1) ON THE DATE OF ISSUANCE OF A LIQUIDATION ORDER OR OTHERWISE, AS SPECIFIED IN § 9-228(E) OF THIS SUBTITLE, THE OBLIGATION OF THE INSURER TO THE PERSON WOULD NOT ENTITLE THE PERSON TO SHARE AS A CLAIMANT IN THE ASSETS OF THE INSURER;

(2) THE OBLIGATION OF THE INSURER TO THE PERSON WAS PURCHASED BY OR TRANSFERRED TO THE PERSON FOR USE AS AN OFFSET; OR

(3) THE OBLIGATION OF THE PERSON IS TO PAY:

(I) AN ASSESSMENT IMPOSED ON THE MEMBERS OF A MUTUAL INSURER OR THE SUBSCRIBERS OF A RECIPROCAL INSURER; OR

(II) A BALANCE ON THE SUBSCRIPTION TO THE CAPITAL STOCK OF A STOCK INSURER.

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