



Failed Insurer's Assets Fund Action on Auto Crash Claims

BY JOEL STASHENKO

ALBANY—An infusion of funds from the newly discovered assets of a failed insurer in state receivership should allow for the settlement of hundreds of auto crash claims, some of them up to 10 years old, according to the New York Liquidation Bureau.

About \$18 million in assets of the New York Merchant Bakers Insurance Company will bolster the New York

the "public" vehicles. But those assessments have slipped to about \$500,000 annually in recent years, inadequate to substantially cover previous claims approved by the courts or even to fund the processing of new claims.

It has been taking about 18 months for the fund to pay off court-approved claims.

The New York Liquidation Bureau stopped processing new cases in 2004 and there is now a backlog of about 2,300 unprocessed claims on the public motor vehicle fund, according to Mark G. Peters, special deputy insurance superintendent in charge of the bureau.

Plaintiffs who have gone into litigation and won court orders for compensation from the depleted fund have been frustrated by the lack of money to pay their claims.

"We have had hundreds of phone calls from lawyers about this," Mr. Peters said. "They're asking, 'What is going on? Why won't you process this? Why are you doing this?' We have had angry judges call us and say, 'Why are you doing this?'"

The failure to process new claims and otherwise operate properly has forced what Mr. Peters estimated as thousands of litigants into court.

"These cases are clogging up the court system," he said in an interview. "It is sort of a Kafkaesque nightmare. Everybody knows the cases



Mark G. Peters

should be settled and everybody wants to settle the cases, but you end up litigating them because this place could not process the files and approve the settlements."

About \$10 million of the \$18 million will be used to pay claims already approved by courts or agreed to by the parties. According to Mr. Peters, there are about 300 such cases. Courts must approve payments out of the fund, said Erin Carney, a spokeswoman for the liquidation bureau.

The rest of the money will go to attacking the backlog of unprocessed claims, Mr. Peters said.

The state's chief administrative judge, Ann T. Piau, said locating the new funding will allow for the overdue resolution of old court cases.

"Whenever cases languish in the courts, the public is not well served," she said.

Because of the large numbers of taxis in New York City, the bulk of the claims against the fund come from the metropolitan New York area.

New York Merchant Bakers has been in bureau receivership since

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\$18 million
Boost in assets
for Liquidation Bureau

\$500,000
Current annual
assessments for operations



Public Motor Vehicle Security Fund, a pool of money designed to compensate people involved in accidents with taxis, ambulances and school buses whose insurers have failed financially.

The fund has traditionally operated using assessments on solvent insurers who offer coverage for

Backlog of Crash Claims

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1997. In all, it owes \$100 million or more to the public motor vehicle fund but will never be able to pay the obligation, according to Mr. Peters.

He estimated it will take between 18 months and two years for the fund to exhaust the \$18 million. The liquidation bureau has set up a phone number (212-341-6401) and an e-mail address (pmv@nylb.org) to handle inquiries about the motor vehicle fund.

After the \$18 million is spent, the public motor vehicle security fund will again not have enough assets and delays will build again," Mr. Peters said. "That's why a long-term solution is still needed to ensure that claims are promptly processed and paid in the future."

Officials said the liquidation bureau is studying options for creating a more stable funding source for the public motor vehicle security fund.

The bureau takes over insolvent or financially shaky insurers and keeps them functioning until they are nursed back to health or liquidated. State law designates the insurance superintendent as the receiver of the liquidation bureau, but the bureau takes pains to emphasize that it is an independent entity not related to the Insurance Department.

Earlier this month, the bureau won a case when the Court of Appeals agreed the insurance superintendent is not acting in his official state capacity when he serves as receiver for financially troubled insurers (NYLJ, Oct. 12). Through that ruling, the liquidation bureau successfully fended off an attempt to have its books and spending audited by the state comptroller's office.

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