

§ 1-507.51. Priority of claims.

(a) **Priorities.** – Allowed claims shall receive distribution under this Article in the following order of priority and, except as set forth in subsection (a)(1) of this section, on a pro rata basis:

- (1) Subject to subsection (b) of this section, claims secured by liens on receivership property, which liens are valid and perfected before the time of appointment, to the extent of the proceeds from the disposition of the collateral in accordance with their respective priorities under otherwise applicable law.
- (2) Actual, necessary costs and expenses incurred by the receiver during the receivership, other than those expenses allowable elsewhere in this subsection, including allowed fees and expenses of the receiver and professionals employed by the receiver under G.S. 1-507.31, and any compensation advanced for the valuation of an individual debtor's property pursuant to G.S. 1-507.39(d).
- (3) Claims for domestic support obligations within the meaning of United States Code, Title 11, § 101, that are owing as of the time of appointment.
- (4) Claims for wages, salaries, or commissions, including vacation, severance, and sick leave pay, or contributions to an employee benefit plan, earned by the claimant within 180 days before the time of appointment or the cessation of the debtor's business, whichever occurs first, but only to the extent of the dollar amount in effect from time to time in United States Code, Title 11, §§ 507(a)(4) and (5).
- (5) Allowed unsecured claims, to the extent of the dollar amount in effect from time to time in United States Code, Title 11, § 507(a)(7), for each individual, arising from the deposit with the debtor, before the time of appointment of the receiver, of money in connection with the purchase, lease, or rental of property, or the purchase of services, for the personal, family, or household use of such individual, that were not delivered or provided.
- (6) Unsecured claims of governmental units for taxes that accrued before the time of appointment.
- (7) All other unsecured claims, in each case calculated as of the time of appointment, including the deficiency balance owing to a holder of a secured claim to the extent not otherwise satisfied under subdivision (1) of subsection (a) of this section, but only if no interest or costs and expenses of collection, including attorneys' fees and expenses, that accrue or are incurred for any period after the time of appointment is included in the calculation of such deficiency balance.
- (8) Interest pursuant to G.S. 1-507.52.

(b) **Surcharge of Collateral.** – In the event that the funds available for distribution by the receiver pursuant to this section are insufficient to pay in full all of the receiver's reasonable and necessary costs and expenses of preserving, protecting, or disposing of collateral securing a valid claim of a secured party, including the reasonable and necessary fees and expenses of the receiver and its professionals that are directly attributable to the preservation, protection, or disposition of such collateral, then, on motion by the receiver, and after notice and hearing, the court may order that the receiver recover such costs and expenses from the collateral or its proceeds to the extent that the secured party holding a lien in such collateral receives a direct and quantifiable benefit from the receiver's actions.

(c) Payments to Debtor. – If all of the amounts payable under subsections (a) and (b) of this section have been paid in full, including interest that may be payable under G.S. 1-507.52, any remaining receivership property shall be returned to the debtor.

(d) Distribution of Proceeds of Property Owned as Tenants by the Entireties. – In the determination of the unsecured claims on account of which a distribution of proceeds from the disposition of receivership property that is owned by the debtor and the debtor's spouse as tenants by the entireties should be made pursuant to subsections (a)(6) and (7) of this section, such proceeds may only be distributed to holders of unsecured claims owed jointly by the debtor and the debtor's spouse. (2020-75, s. 1.)