

# Frequently Asked Questions About ReliaMax Surety Company in Liquidation

The Sixth Circuit Court of Hughes County, South Dakota (Court) declared ReliaMax Surety Company, (ReliaMax) insolvent and ordered the company into liquidation effective June 27, 2018. This document will help to answer frequently asked questions about making claims and the ongoing liquidation proceeding.

## **1. What is a liquidation proceeding?**

A. Liquidation is a type of receivership and is similar to bankruptcy. When a South Dakota insurance company such as ReliaMax is ordered into liquidation, the South Dakota Insurance Code authorizes the Director of Insurance of the State of South Dakota, in their capacity as Liquidator, to liquidate the insurance company. The liquidation proceedings are very complex and is anticipated to take several years.

The Liquidation Order (Order) directs the Liquidator, to (i) take possession of and safeguard the property of the insurer, (ii) conduct the insurer's business, and (iii) take such steps needed to liquidate (wind-up the affairs of) the business of the insurer under the supervision of the Court and as the Court may direct.

## **2. Who is in charge of ReliaMax during Liquidation?**

A. The Liquidator oversees ReliaMax during Liquidation. On June 27, 2018, the Court entered the Order, which appointed the Director of Insurance of the State of South Dakota as Liquidator of ReliaMax. The Liquidator appointed Michael J. FitzGibbons as the Special Deputy Liquidator ("SDL") to carry out the responsibilities of the Liquidator with respect to the liquidation. Only persons engaged by the Liquidator or the SDL will have authority to act on behalf of ReliaMax.

## **3. Why was ReliaMax placed into Liquidation?**

A. Based upon Management's March 31, 2018 filed financial statement, the Director of Insurance of the State of South Dakota determined that ReliaMax was insolvent. The Court then made a Finding of Insolvency with the issuance of the Order.

## **4. What happens to my coverage under my ReliaMax Bond?**

A. All bonds in force at the time of the issuance of the Order continue only for the lesser of:

- 1) 30 days from the date of entry of the Order;
- 2) the exoneration of the bond;
- 3) the date the bond is replaced or otherwise terminated; or
- 4) the Liquidator has effected a transfer of the bond obligation pursuant to § 58-29B-57.

**5. When should I replace my bond?**

A. Immediately.

**6. Will I be issued a refund for my premium?**

A. Unearned premium claims are subordinate to loss claims. However, we expect at this time there will be a distribution for unearned premium claims.

**7. Is there Guaranty Association or Fund Coverage to Pay Claims?**

A. You should contact your state Guaranty Association / Fund to determine if coverage is afforded.

**8. Will my claims be paid in full by the Liquidator?**

A. It is too early to estimate what amount of loss claims will be paid. If all loss claims are paid in full, we will then make a pro rata distribution to unearned premium claimants and general creditors.

**9. If my claim is not a policy (bond) claim will my claim be paid?**

A. If all loss claims are paid in full, we will then make a pro rata distribution to unearned premium claimants and general creditors.

**10. Am I required to file a Proof of Claim with the Liquidator?**

A. If you have a claim against ReliaMax and wish to pursue that claim, you must file a Proof of Claim by the Bar Date, December 31, 2018.

**11. How do I file a claim against ReliaMax?**

A. A Proof of Claim must be submitted by the Bar Date. We will forward to all interested parties a Proof of Claim. In the event you need multiple Proofs of Claim you can retrieve these on the website at [www.reliamaxsuretycompany.com](http://www.reliamaxsuretycompany.com).

Claims submitted after the Bar Date, December 31, 2018, will be considered late filed and are therefore “subordinate” to claims of insureds. We do not expect any distribution to subordinate claims.

The Proof of Claim form will be accompanied with a set of instructions and be posted on the website. All Proof of Claim forms must be signed and notarized and submitted to the address in the Proof of Claim form instructions. Proof of Claim forms *cannot* be submitted electronically or by facsimile.

Documents that support your claim must be attached to the Proof of Claim. Please answer all applicable questions. Missing information will slow the processing of your claim.

Also, be advised that you must submit a separate Proof of Claim for each claim that you have against ReliaMax. For instance, if you are an insured of ReliaMax and have both a claim for a return of unearned premium and a loss claim arising out of an alleged defaulted loan under the bond, please submit a separate Proof of Claim for each of those claims. In addition to the above, please submit a separate Proof of Claim for each alleged defaulted loan under the bond. For instance, if you are an insured of ReliaMax and have more than one loss claim arising out an alleged default under the bond, please submit separate Proof of Claim for each of the alleged defaulted loans.

Provide as much detail as needed to support your claim.

The Liquidator strongly encourages all potential claimants to submit their Proofs of Claim as soon as possible to avoid a claim being considered untimely filed after the Bar Date.

All proof of claim filers are requested to keep the Liquidator advised of their current contact information.

## **12. What happens to my claim against ReliaMax?**

A. Presuming you file a Proof of Claim it will be adjudicated by the Liquidator. The proof of claim process provides for a streamlined and consistent adjudication methodology. This includes an automatic stay of any pending litigation for which ReliaMax is a defendant. This stay is necessary to promote the Proof of Claim process, so all creditors are treated fairly and evenly in accordance with the Orders of the Court.

Over time the Liquidator will liquidate the assets of ReliaMax and evaluate and monetize the Proofs of Claim. Once this process is complete the Liquidator will then be in a position to make a pro rata distribution to policyholder/insured claimants.

## **13. What happens if I have, or want to bring, a lawsuit against ReliaMax?**

A. No action at law or equity may be brought against ReliaMax or the Liquidator, whether in South Dakota or elsewhere, nor shall any such existing actions be maintained or further prosecuted after issuance of the Order. As discussed above there is an automatic stay in place as part of the Order issued by the Court.

## **14. What happens to my service contract with ReliaMax?**

A. As a vendor, you might be authorized to continue providing services under your contract if the Liquidator or the SDL determines that it is in ReliaMax's best interest. Services rendered prior to the Order and unpaid are subject to the Proof of Claim process.

## **15. May I file a contingent claim?**

A. Yes. Under South Dakota law a person may file a claim even if it is a "contingent claim." A "contingent claim" is one where the liability of ReliaMax is not yet determined or is dependent on the outcome of an event. If you file a contingent claim, complete the Proof of Claim, and indicate in the space for Amount of Claim "undetermined." When further information becomes available, it is your responsibility to immediately inform the Liquidator of the particulars and supplement your Proof of Claim.

**16. Whom can I contact if I have a question regarding ReliaMax and/or the Liquidation Proceeding?**

A. Email Claimant Services at [questions@reliamax.com](mailto:questions@reliamax.com). You can also call Claimant Services at 605-444-4800. Effective October 24, 2018, ReliaMax's new office address is:

ReliaMax Surety Company in Liquidation  
3801 W. Technology Circle  
Sioux Falls, South Dakota 57106

Additional information regarding the ReliaMax receivership will be posted from time to time on ReliaMax's website at [www.reliamaxsuretycompany.com](http://www.reliamaxsuretycompany.com)

**17. Should I continue to pay premium invoices received from ReliaMax?**

A. All bonds remained in force until July 27, 2018. ReliaMax will bill for all premium owed up to the cancellation date. The decision to pay billed premiums is up to each insured of ReliaMax. However, any distribution from the estate to which you, as an insured, may be entitled to as part of the Proof of Claim process, will be offset by any unpaid invoices due to ReliaMax.

**18. As an insured, or a servicer on behalf of an insured, should I continue to submit claims for defaulted loans?**

A. Yes. Insureds or servicers on behalf of insureds, should continue to submit claims on defaulted loans in usual course. These claim(s) for defaults should also be submitted as part of your Proof of Claim (POC) for the liquidation. The last date to file your timely POC is December 31, 2018 at 5:00 p.m. CST. Loss (defaults) claims are subordinate to Class 1 and Class 2 claims but superior to Unearned Premium claims. See "Class Codes – Priority and Order of Distribution" for additional detail and linked on [www.reliamaxsuretycompany.com](http://www.reliamaxsuretycompany.com).

**19. I am a borrower or co-signer to a borrower and received a Proof of Claim from ReliaMax; what is this and what do I need to do?**

A. Borrowers and co-signers of loans insured by ReliaMax received notice if you had direct contact with ReliaMax within the last 2 years. We do not expect you to have a claim against ReliaMax. However, if you believe you have a claim against ReliaMax, please complete the Proof of Claim form and submit it per the instructions. Please continue to honor your payment obligations under your loan agreement.

**20. What if I do not know my unearned premium amount for the Proof of Claim?**

A. Complete all remaining sections of the Proof of Claim and indicate unknown for this amount in the appropriate section. The Liquidator will calculate this amount. You will be advised of this determination in accordance with Proof of Claim procedures.

**21. For loss claims on insured loans, what dollar amount should I list in the Proof of Claim?**

A. The amount of the claim listed in the Proof of Claim should reflect the principal and interest amount as of July 27, 2018, which is the date all policies (bonds) cancel.

**22. As a Lender or Servicer of a Lender, when will ReliaMax cease providing Default Prevention (Request for Assistance) services?**

A. Policies (Bonds) remain in force until July 27, 2018. As such, ReliaMax will continue to provide Request for Assistance as it has done in the past. All payments made or received from Borrowers will continue to be processed as usual. On July 28, 2018, ReliaMax will no longer provide Request for Assistance but will continue to answer calls received but will refer borrowers or co-signers to the lender or the servicer on record.

**23. As a borrower or co-signer who has been working with ReliaMax about my loan, what should I do?**

A. Continue working with the ReliaMax representatives as they will continue working with you and your servicer/lender regarding your loan. The ReliaMax representative can answer any questions you may have regarding your specific situation.

**24. Does ReliaMax have reinsurance? And if so, what does this mean?**

A. Most insurance companies maintain reinsurance to “spread” the risk. ReliaMax used reinsurance for the same purpose. The Liquidator is presently examining all reinsurance contracts and will seek any recoveries available in accordance with contract terms. All reinsurance recoveries are general assets of the estate and will be pooled with all other general assets for distribution to creditors consistent with the scheme of class codes. See “Class Codes – Priority and Order of Distribution” for additional detail and linked on [www.reliamaxsuretycompany.com](http://www.reliamaxsuretycompany.com).

**25. Can you provide a sample completed Proof of Claim form? Can you help me complete the Proof of Claim form?**

A. Each claim against ReliaMax is unique and will require unique information specific to the claim at hand. No two Proof of Claim forms will be the same and a sample completed Proof of Claim form is not available. If you have specific questions about the Proof of Claim form, please email Claimant Services at [questions@reliamax.com](mailto:questions@reliamax.com).

**26. I have a participation interest in a portfolio of student loans insured by ReliaMax; what do I need to do?**

A. ReliaMax surety bonds typically only insure one lender, and only an insured lender can make a claim under the bond. All other contractual arrangements (such as participation) by the insured lender are not part of the insurance provided by ReliaMax, and ReliaMax does not have any information about these arrangements. You should speak directly to the insured lender about any questions you may have regarding these arrangements.

**27. I have filed a loss/default claim with ReliaMax, including an assignment of the loan as required by the surety bond; can I proceed with collection activities until the Proof of Claim (POC) is adjudicated by the Liquidator?**

A. In the event of a loss/default claim on a loan insured by a lender, the surety bond requires the assignment of the defaulted loan to ReliaMax. ReliaMax will not take assignment of the loan and begin recovery efforts until the POC has been adjudicated and claim payment has been made to the lender. If a lender wishes to engage in continued collection activities prior to adjudication of its loss/default claim, and subsequent assignment to ReliaMax, ReliaMax encourages lenders to consult with their servicer and legal counsel prior to any recovery activities to ensure compliance with state and federal laws and regulations. In the event any collection is made by the lender during this period, the lender is required to amend their POC filing to reduce the amount of their claim by any amounts recovered. Prior to accepting any distribution from the Surety as a result of the POC process, the liquidator will require all claimants to affirm, under penalty of perjury, that the claimant received no other monies regarding the loss/default claim.

**28. If I have already submitted my Proof of Claim to ReliaMax's old address, does that affect my Proof of Claim (POC) filing?**

A. Our change of address does not affect your POC filing.

**29. How does ReliaMax moving affect the Liquidation or the Proof of Claim process?**

A. All Proof of Claim filings already submitted will not be affected by the move. ReliaMax's mail will be forwarded through the USPS to our new location. Non-postal service mail may be returned to you as we have moved, so please resubmit to our new address at:

**ReliaMax Surety Company in Liquidation  
3801 W. Technology Circle  
Sioux Falls, SD 57106**

Other than a slight delay while moving locations, the Liquidation and Proof of Claim process remains unchanged. You may have noticed we updated the forms available on our website with our new address. There is no need to resubmit a POC if you have already submitted your POC and received our acknowledgement letter. If you have not received this acknowledgement or want to confirm receipt of your Proof of Claim filing or have questions about our move, please submit your question(s) through our questions inbox; [questions@reliamax.com](mailto:questions@reliamax.com).

**Additional FAQs presented by Insured(s) and responded to by Liquidator:**

**Q: Does each insured need to come up with its own earning pattern to determine how much we ask for to be returned to us? How does the liquidator determine "earning pattern" if we do not calculate it?**

Insureds are not required to come up with their own earning pattern. Insureds who believe they can calculate return of unearned premium are free to do so. However, if insureds are unsure as to how to calculate it, they may list "unknown" as provided in the instructions and the liquidator will calculate this number as he will do for all claims for return of unearned premium. The

liquidator has engaged professional actuaries to assist the liquidator, as needed, in calculating return of unearned premium.

**Q: What is the wait time to hear after a proof of claim is filed?**

Claims will be addressed in the order set forth in statute (provided on our website). The Estate anticipates starting on Class 3 claims in Q1 of 2019. Subsequent classes will follow upon the conclusion of the previous class.

**Q: If an insured is claiming only unearned premiums paid, may the insured claim that only with proof of payment?**

Yes. For claims for return of unearned premium, you need to evidence the basis of any dollar amount by including with your Proof of Claim all supporting documentation used to arrive at this number.

Alternatively, you may list “unknown” on the Proof of Claim form. In this instance, a claimant need only provide the proof of the last premium payment made to ReliaMax regardless of policy, program type or loan.

**Q: What class does a lawsuit filed against ReliaMax Surety Company come under?**

A claimant with a preexisting judgment would be subject to the liquidation priority statute. Judgments not yet entered would be subject to the automatic stay.

**Q: If an insured’s policy expired on 5/31/18, and the insured was not issued a new bond, does the insured still have grounds for an unearned premium refund claim?**

Yes. New bonds were not issued after 5/31/18 due to the liquidation. However, loans insured by ReliaMax were insured for the life of the loan. As such, all loans still insured under old policies may be eligible for a return of unearned premium in the Proof of Claim process.

**Q: Will Chapter 13 Bankruptcies be covered under Class 3 claims?**

Please review the terms of your surety bond as it controls whether a Chapter 13 bankruptcy on an insured loan is a covered loss. If the terms of your surety bond provide coverage for a Chapter 13 bankruptcy, it would then be a Class 3 claim.

**Q: What needs to be filled in under Status of Claim if we are only submitting for unearned premium?**

The last box would be appropriate; “No other source of recovery is available for this claim”.

**Q: Can an insured file a POC on an insured loan that was recently charged off by the insured?**

Loans insured under ReliaMax policies should meet claims eligibility requirements under the terms of your surety bond prior to the date the insurance cancelled on July 27, 2018. Potential claimants are highly encouraged to file any claim they believe they may have against ReliaMax prior to the bar date for timely filing; postmark of 5:00 p.m. CST on December 31, 2018.

**Q: If an insured obtained a complete listing of premiums invoiced directly from ReliaMax. Will this suffice as proof of payment since the information came directly from ReliaMax?**

This listing does not evidence that premiums were actually paid. Insureds should provide proof of the last premium payment by including items such as cancelled checks or evidence of ACH payments.

**Q: What Bond/Policy Effective Dates that need to be used for unearned premium claims? What if I had multiple bonds over multiple years?**

A claim for return of unearned should encompass all surety bonds held by an insured. Only a single Proof of Claim form is needed for return of unearned premium regardless of the number of policies, program types or individual loans made. Claimants should list all policy effective dates in the "Bond/Policy Effective Dates:" box, which is found in the "Claimant Information" section on the Proof of Claim form. The box is fairly small, so you may use a separate sheet for the listing by referencing it as an attachment or exhibit.

**Q: What should I do if I have already filed a POC on a default claim but put the incorrect date for the default date on the POC, do we need to re-file the POC? Would it be a brand new POC or can we amend the POC already filed?**

Upon submission of a Proof of Claim filing, the Estate will acknowledge acceptance and assign a Proof of Claim number. If you need to update a Proof of Claim filing, you may do so by written correspondence that references your Proof of Claim number, the reason for your amendment and any supporting document to support the reason for amendment.

**Q: On the proof of claim form, should the Insured (Obligee) be the Credit Union's name? Is it correct that there is not a place on the form to put the student's name (borrower's) name?**

Correct. For loss claims the information regarding the borrower will be detailed in the supporting documentation. Per the terms of the surety bond, specific criteria are required to be provided as part of the claims process ("claims packet information"). The Estate is asking Proof of Claim filers to include the same claims packet information in the Proof of Claim process. Often times, this claims packet information was filed by the servicer of the borrower on behalf of the insured. Specific to default claims on insured loans, this claims packet information was often filed with ReliaMax in advance as per the terms of the bond. Insured should check with their servicer as they may already have compiled this information on their behalf.

**Q: Can we send claims by UPS for proof of delivery?**

Yes.

**Q: Can you explain what is required for payment of last premium? If an insured puts "unknown" in the amount, will ReliaMax compute what is owed for an unearned premium claim?**



Proof of the last premium payment is a verification step to confirm the last premium was in fact paid by the insured. This evidence can be in the form of a cancelled check or evidence of an ACH payment. Many insureds have more than one policy and several programs, encompassing many invoices. Insureds need to include proof of the last payment made regardless of which policy, program or loan.

The liquidator will review each Proof of Claim submission and validate the merits of all claims. If a claimant lists unknown, the liquidator will calculate the unearned premium for you and consistently for all claimants.

**Q: Do you need to file a proof of claim for each loan, or one POC for the entire portfolio?**

For return of unearned premium, only one Proof of Claim form is needed for all policies or different program types. For loss claims, each loss on an individual loan requires its own Proof of Claim form.

**Q: Will ReliaMax assist in filing the POC? Does ReliaMax have any reporting that is available to insureds?**

The Estate will answer all questions received via the questions inbox, [questions@reliamax.com](mailto:questions@reliamax.com). The Estate is here to assist you with all questions that arise regarding the completion of the Proof of Claim form. ReliaMax will also provide a listing of the premiums invoiced upon individual request.

**Q: Would loans in forbearance be deemed a separate claim as potential losses?**

Loss claims on individual loans must meet claims eligibility requirements per the terms of the surety bond on or prior to the date the insurance cancelled, July 27, 2018. After this date, no insurance was available. Claimants are highly encouraged to file any claim they believe they may have against ReliaMax prior to the bar date for timely filing; postmark of 5:00 p.m. CST on December 31, 2018.

**Q: Will the Liquidator realize value for ReliaMax assets, such as the historical data on loan performance over many years?**

In accordance with the liquidation order, the liquidator is endeavoring to collect all assets of the Estate for the benefit of claimants.

**Q: If a mistake is made on the claim form will the claim be voided?**

No, claimants will be provided an evaluation letter for which each claimant will have a right to respond to within a certain period of time.

**Q: On the POC form, is “claimant information” the borrower’s name and address and the insured is the credit union?**

No. Under the Claimant Information section:

“Name” is the name of the insured.

“Address” is the address of the insured.

“Insured (Obligee)” is also the name of the insured for purposes of the insurance offered by ReliaMax.

**Q: What level of detail will be provided to claimants when the return of premium calculations is complete?**

The Estate is asking claimants to await adjudication of their Proof of Claims rather than engage in pre-adjudication discussions or speculation as to the calculation methodology. Upon completion of the adjudication of claims for return of premium, claimants will have the opportunity to agree or disagree with the Liquidator’s calculation as provided for in the statute.

**Q: What is the status of the liquidation (as of July 30, 2019)?**

Due to the claim priorities set forth in set forth in statute, the Estate is currently reviewing Class 3 claims (e.g. Loss claims on individual loans). The Estate will conclude Class 3 claim adjudication prior to adjudicating Class 4 (e.g. Return of unearned premium) claims. Given that the Estate is still processing Class 3 claims, a timeline has not been set for Class 4 claims other than it will occur after the conclusion of Class 3. The Estate anticipates making a 100% distribution to approved Class 3 Claimants by end of year 2019. Be advised this is an estimate, but the Liquidator is optimistic.

All Claimants should continue to update the Liquidator with changes to their POC including contact person, address changes and Proof of Claim dollar amount. Claimants are required to amend their Proof of Claim by any amounts recovered or any payments received prior to any distributions from the Liquidator. Prior to accepting any distribution, Claimants will be required to affirm, under penalty of perjury, that the Claimant received no other monies with regards to their claim from any source. Amendments may be achieved by written correspondence that references the assigned Proof of Claim number, the reason for the amendment and any supporting documentation. Please send amendments to:

ReliaMax Surety Company, In Liquidation  
Attn: Claimant Services  
3801 W. Technology Circle  
Sioux Falls, South Dakota 57106

Claimants may visit our website ([www.reliamaxsuretycompany.com](http://www.reliamaxsuretycompany.com)) for news and information regarding the ongoing liquidation and as a means to determine what class of claim the Estate is currently processing, reviewing or adjudicating. The Estate has established a question inbox ([questions@reliamax.com](mailto:questions@reliamax.com)) that should be used for any inquiries, which allows the Estate to track and route to appropriate staff as the liquidation proceeds.

**Q: Will the payouts be in phases similar to the claim reviews we've seen thus far (i.e., in batches), or will they all be occurring at once?**

*Last Updated: July 30, 2019.*

The Estate expects payments for approved loss claims (Class 3) be made in full late this year. These payments for agreed POC's first must be submitted to the Court for approval. The Liquidator will not make staged payments.

**Q: What documentation will the Liquidator provide with the Loss claim distributions expected to be received by claimants before year end 2019.**

Class 3 Proof of Claims were submitted and adjudicated at the loan level, and therefore, payment will be made based on loan level information submitted by the claimant.