

§ 58-30-210. Claims of surety.

Whenever a creditor, whose claim against an insurer is secured in whole or in part by the undertaking of another person, fails to prove and file that claim, the other person may do so in the creditor's name and shall be subrogated to the rights of the creditor, whether the claim has been filed by the creditor or by the other person in the creditor's name, to the extent that he discharges the undertaking. In the absence of an agreement with the creditor to the contrary, the other person shall not be entitled to any distribution until the amount paid to the creditor on the undertaking plus the distributions paid on the claim from the insurer's estate to the creditor equals the amount of the entire claim of the creditor. Any excess received by the creditor shall be held by him in trust for such other person. As used in this section, "other person" does not mean a guaranty association or foreign guaranty association. (1989, c. 452, s. 1.)