

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.5511 Division effectiveness; allocation and distribution of assets and liabilities.

Sec. 5511.

- (1) When a division becomes effective under section 5509(4), all of the following apply:
- (a) If the dividing insurer has survived the division:
- (i) It continues to exist.
- (ii) Its articles of incorporation must be amended, if at all, as provided in the plan of division.
- (iii) Its bylaws must be amended, if at all, as provided in the plan of division.
- (b) If the dividing insurer has not survived the division, its separate existence ceases to exist, subject to satisfying the other requirements of this state relating to the surrender of a certificate of authority to the extent applicable.
- (c) All of the following apply to each new insurer:
- (i) It comes into existence.
- (ii) It shall hold any capital, surplus, and other assets allocated to the new insurer by the plan of division as a successor to the dividing insurer, automatically, by operation of law and not by transfer, whether directly or indirectly.
- (iii) Its articles of incorporation, if any, and bylaws, if any, are effective.
- (iv) The director of the department shall issue a certificate of authority, subject to satisfying the other requirements of this state relating to the formation and licensure of new domestic stock insurers to the extent applicable.
- (d) Capital, surplus, and other assets of the dividing insurer are vested as follows:
- (i) If it is allocated by the plan of division, it vests in the applicable resulting insurer as provided in the plan of division.
- (ii) If it is not allocated by the plan of division, it vests, if the dividing insurer survives the division, in the dividing insurer or, if the dividing insurer does not survive the division, equally in the resulting insurers as tenants in common.
- (iii) Otherwise it vests as provided in this section without transfer, reversion, or impairment.
- (e) A resulting insurer to which a cause of action is allocated as provided in subdivision (d) may be substituted or added in any pending action or proceeding to which the dividing insurer is a party when the division becomes effective.
- (f) The liabilities, including policy liabilities, of the dividing insurer are allocated between or among the resulting insurers as provided in section 5513 and each resulting insurer to which liabilities are allocated is liable only for those liabilities, including policy liabilities, so allocated as successors to the dividing insurer, automatically, by operation of law, and not by transfer or assumption, whether directly or indirectly.
- (g) The shares in the dividing insurer that are to be converted or canceled in the division are converted or canceled, and the shareholders of those shares are entitled only to the rights provided to them under the plan of division and any appraisal rights that they may have under section 5515.
- (2) Except as provided in the articles of incorporation or bylaws of the dividing insurer, the division does not give rise to any rights that a shareholder, director of domestic stock insurer, or third party would have on a dissolution, liquidation, or winding up of the dividing insurer.
- (3) The allocation to a new insurer of capital, surplus, or other assets that is collateral covered by an effective financing statement is not effective until a new financing statement naming the new insurer as a debtor is effective under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.9994.
- (4) Unless otherwise provided in the plan of division, the shares in and any securities of each new insurer must be distributed to either of the following:
- (a) The dividing insurer, if it survives the division.
- (b) Shareholders of the dividing insurer that do not assert any appraisal rights that they may have under section 5515, pro rata.
- (5) A division that becomes effective under section 5509(4) is not an assignment of any insurance policy, annuity, or reinsurance agreement or any other type of contract.

History: Add. 2018, Act 421, Imd. Eff. Dec. 20, 2018

Popular Name: Act 218