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

500.5513 Responsibilities, liabilities, and obligations of resulting insurer.

Sec. 5513. (1) Except as otherwise expressly provided in this section, when a division becomes effective, each resulting insurer is responsible, automatically, by operation of law, for all of the following:

(a) Individually, the liabilities, including policy liabilities, that the resulting insurer issues, undertakes, or incurs in its own name after the division.

(b) Individually, the liabilities, including policy liabilities, of the dividing insurer that are allocated to the resulting insurer to the extent specified in the plan of division.

(c) Jointly and severally with the other resulting insurers, the liabilities, including policy liabilities, of the dividing insurer that are not allocated by the plan of division.

(2) Except as otherwise expressly provided in this section, when a division becomes effective, a resulting insurer is not responsible for and does not have any liability or obligation in respect of either of the following:

(a) Any liabilities, including policy liabilities, that another resulting insurer issues, undertakes, or incurs in its own name after the division.

(b) Any liabilities, including policy liabilities, of the dividing insurer that are allocated to another resulting insurer in accordance with the plan of division.

(3) If a provision of any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, indenture, or other contract relating to indebtedness, or a provision of any other type of contract other than an insurance policy, annuity, or reinsurance agreement, that was issued, incurred, or executed by the domestic stock insurer before the effective date of the amendatory act that added this chapter requires the consent of the obligee to a merger of the dividing insurer or treats the merger as a default and does not provide that a division of the insurer does not require the consent of the obligee, as applicable, that provision applies to a division of the dividing insurer as if the division were a merger.

(4) If, after the approval of a plan of division, it is found that the act of undertaking a division itself breached a contractual obligation of the dividing insurer when the division became effective, all of the resulting insurers are liable, jointly and severally, for the contractual breach, but the validity and effectiveness of the division, including, without limitation, the allocation of liabilities in accordance with the plan of division, is not affected by the contractual breach.

(5) A direct or indirect allocation of capital, surplus, assets, or liabilities, including policy liabilities, in a division must occur automatically, by operation of law, and is not treated as a distribution or transfer for any purpose with respect to either the dividing insurer or any of the resulting insurers.

(6) Liens, security interests, and other charges on the capital, surplus, or other assets of the dividing insurer are not impaired by the division, notwithstanding any otherwise enforceable allocation of liabilities, including policy liabilities, of the dividing insurer.

(7) If the dividing insurer is bound by a security agreement under article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9101 to 440.9994, or the substantial equivalent enacted in any other jurisdiction, and the security agreement provides that the security interest attaches to after-acquired collateral, each resulting insurer is bound by the security agreement.

(8) An allocation of a policy or other liability does not do either of the following:

(a) Except as provided in the plan of division and specifically approved by the director, affect the rights that a policyholder or creditor has under other law in respect of the policy or other liability, except that those rights are available only against a resulting insurer responsible for the policy or liability under this section.

(b) Release or reduce the obligation of a reinsurer, surety, or guarantor of the policy or liability.

(9) A resulting insurer is only liable for the liabilities allocated to it in accordance with the plan of division and this section and is not liable for any other liabilities under the common law doctrine of successor liability or any similar theory of liability applicable to transferees or assignees of property.

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

Popular name: Act 218