

**31A-27a-303 Filing of rehabilitation plans.**

- (1)
  - (a) The rehabilitator shall prepare and file a plan to effect rehabilitation with the receivership court within:
    - (i) one year after the day on which the rehabilitation order is entered; or
    - (ii) such further time as the receivership court may allow.
  - (b) The receivership court may take an action described in Subsection (1)(c):
    - (i) upon application of the rehabilitator for approval of a plan; and
    - (ii) after the notice and hearings the receivership court may prescribe.
  - (c) If the conditions of Subsection (1)(b) are met, the receivership court may:
    - (i) approve the plan proposed;
    - (ii) disapprove the plan proposed; or
    - (iii)
      - (A) modify the plan proposed; and
      - (B) approve the plan as modified.
  - (d) If the plan is approved, the rehabilitator shall carry out the plan.
  - (e) In the case of a life insurer, the plan proposed may:
    - (i) include the imposition of a lien upon a policy of the insurer, if all rights of shareholders are relinquished; and
    - (ii) propose imposition of a moratorium upon loan and cash surrender rights under a policy for a period not to exceed one year from the day on which the order approving the rehabilitation plan is entered, unless the receivership court, for good cause shown, extends the moratorium.
- (2) Once a plan is filed, any party in interest may object to the plan.
- (3) A plan shall:
  - (a) except as provided in Subsection (5), provide no less favorable treatment of a claim or class of claims than would occur in liquidation, unless the holder of a particular claim or interest agrees to a less favorable treatment of that particular claim or interest;
  - (b) provide adequate means for the plan's implementation;
  - (c) contain information concerning the financial condition of the insurer and the operation and effect of the plan, as far as is reasonably practicable in light of:
    - (i) the nature and history of the insurer;
    - (ii) the condition of the insurer's records; and
    - (iii) the nature of the plan; and
  - (d) provide for the disposition of the records relevant to the duties and obligations covered by the plan.
- (4) A plan may include any other provisions not inconsistent with this chapter, including:
  - (a) payment of distributions;
  - (b)
    - (i) assumption or reinsurance of all or a portion of the insurer's remaining liabilities by a licensed insurer or other entity; and
    - (ii) transfer of assets and related records to the licensed insurer or other entity;
  - (c) to the extent appropriate, application of insurance company regulatory market conduct standards to any entity administering claims on behalf of the receiver or assuming direct liabilities of the insurer;
  - (d) contracting with a guaranty association or any other qualified entity to perform the administration of claims;

- (e) annual independent financial and performance audits of any entity administering claims on behalf of the receiver that is not otherwise subject to examination pursuant to state insurance law; and
  - (f) termination of the insurer's liabilities other than those under policies of insurance as of a date certain.
- (5)
- (a) A plan may designate and separately treat one or more separate subclasses consisting only of those claims within the subclasses that are for or reduced to de minimis amounts.
  - (b) For purposes of this Subsection (5), a "de minimis amount" is an amount equal to or less than a maximum de minimis amount approved by the receivership court as being reasonable and necessary for administrative convenience.

Enacted by Chapter 309, 2007 General Session