

§ 443.103. REHABILITATION PLANS. (a) The rehabilitator shall prepare and file a plan to effect rehabilitation with the receivership court not later than the first anniversary of the entry of the rehabilitation order or another further time as the receivership court may allow. Upon application of the rehabilitator for approval of the plan, and after the notice and hearings the receivership court may prescribe, the receivership court may approve or disapprove the proposed plan or may modify it and approve it as modified. Any plan approved under this section must be, in the judgment of the receivership court, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan. A plan for a life insurer may propose imposition of a moratorium upon loan and cash surrender rights under policies, for a period not to exceed one year from the entry of the rehabilitation order approving the rehabilitation plan, unless the receivership court, for good cause shown, extends the moratorium.

(b) Once a plan has been filed, any party in interest may object to the plan.

(c) A plan must:

(1) except as provided by Subsection (e), 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;

(2) provide adequate means for the plan's implementation;

(3) 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 the nature and history of the insurer, the condition of the insurer's books and records, and the nature of the plan; and

(4) provide for the disposition of the books, records, documents, and other information relevant to the duties and obligations covered by the plan.

(d) A plan may include any other provision not inconsistent with the provisions of this chapter, including:

(1) payment of distributions;

(2) assumption or reinsurance of all or a portion of the insurer's remaining liabilities by, and transfer of assets and related books and records to, an authorized insurer or other entity;

(3) 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;

(4) contracting with a state guaranty association or any other qualified entity to perform the administration of claims;

(5) 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

(6) termination of the insurer's liabilities other than those under policies of insurance as of a date certain.

(e) A plan may designate and separately treat one or more separate subclasses of claims consisting only of claims within the subclasses that are for or reduced to de minimis amounts. For

purposes of this subsection, a "de minimis amount" means any amount equal to or less than a maximum de minimis amount approved by the receivership court as being reasonable and necessary for administrative convenience.

Added by Acts 2005, 79th Leg., Ch. [995](#), § 1, eff. September 1, 2005.

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