

Pursuant to Article 95, item 3 of the Constitution of Montenegro I hereby pass the

ENACTMENT
PROCLAIMING THE LAW ON BANKRUPTCY AND LIQUIDATION OF
INSURANCE COMPANIES
(Official Gazette of Montenegro, number 11/07 dated 13th December 2007)

I hereby proclaim the Law on Bankruptcy and Liquidation of Insurance Companies, adopted by the Parliament of Montenegro at its second meeting of the second regular session in 2007, held on 27th November 2007.

Number: 01-1392/2
Podgorica
11th December 2007
President of Montenegro
Filip Vujanović, signed

LAW ON BANKRUPTCY AND LIQUIDATION OF
INSURANCE COMPANIES

Scope of the Law
Article 1

This Law shall govern the conditions and the proceedings of bankruptcy and voluntary liquidation of insurance companies, as well as rights and obligations of participants in the bankruptcy and liquidation proceedings.

Application of Other Laws
Article 2

Provisions of the law regulating business organization insolvency shall apply accordingly to bankruptcy and liquidation proceedings of insurance companies, except the provisions on reorganization and orderly self-liquidation, unless otherwise prescribed by this Law.

In case of revocation of the license to the insurance company, the court shall carry out the court liquidation proceedings at the proposal of the regulatory body, in accordance with the provisions of this Law regulating bankruptcy of insurance companies.

Provisions of the law regulating insolvency and liquidation of business organizations shall apply to the bankruptcy and liquidation of persons involved in the provision of

other services in insurance (brokerage, agency and other services directly related to insurance activities specified by the law regulating insurance).

Court Jurisdiction Article 3

In the proceedings regulated by this Law, the commercial court, at the territory of which the insurance company under the proceedings is headquartered, shall have territorial jurisdiction.

Commencing the Bankruptcy Proceedings Article 4

The bankruptcy proceeding shall be commenced by the competent court based on the submission of a written petition of the regulatory body that submits the petition *ex officio* or at the initiative of the creditors of such insurance company.

Grounds for Commencing the Bankruptcy Proceedings Article 5

The bankruptcy proceedings of the insurance company shall be commenced when, pursuant to the evaluation of the regulatory body for insurance activities (hereinafter: the regulatory body), the measures undertaken against the insurance company, in accordance with the law regulating insurance, have not led to improvement of economic conditions of the insurance company, or the reconciliation of the guarantee reserve and solvency margin has not been provided, or the company is not able to regularly meet its obligations.

Bankruptcy Proceedings Article 6

A bankruptcy judge shall make a decision on commencing and closing of the bankruptcy proceedings and shall perform other activities in accordance with law.

Appointment and Recall Requirements for Bankruptcy Administrator Article 7

A person having university degree and at least three years of work experience in the area of insurance may be appointed as the bankruptcy administrator.

The bankruptcy administrator shall be appointed by a bankruptcy judge from the list of bankruptcy administrators determined by the Ministry of Justice.

A person may not be appointed as bankruptcy administrator if such person:

- 1) was convicted of a crime or proceedings have been taken against him/her for an offence making him/her unworthy of performing such activities,
- 2) has claims against or obligations towards the insurance company,
- 3) is member of the body or auditor of the insurance company or a person that is in the first-degree blood relationship with them, and in other cases where there is conflict of interests;
- 4) has related interests with the insurance company,
- 5) was released of the duty of the Bankruptcy Administrator by the court due to performing his/her duties unconscientiously or in a unprofessional manner or due to abusing the official position,
- 6) was a debtor in the bankruptcy proceedings.

The bankruptcy administrator shall be released of duty by the bankruptcy judge in the following cases:

- 1) If it has been subsequently determined that he/she does not fulfill the conditions specified in paragraph 1 of this Article,
- 2) If the existence of the reasons specified in paragraph 3 of this Article, due to which he/she could not have been appointed at all, has been subsequently determined;
- 3) If he/she performs duties in a unprofessional manner and unconscientiously;
- 4) If he/she becomes permanently incapable of performing his/her duties;
- 5) If he/she submits a request for such release.

In case of submitting the request for recall, the bankruptcy administrator shall be obliged to perform his/her duties until the new bankruptcy administrator is appointed.

Notification Article 8

Creditors shall be informed on commencing the bankruptcy proceedings by way of a notice.

The notice referred to in paragraph 1 of this Article shall be simultaneously posted on the bulletin boards of the court, regulatory body, insurance company and the Central Registry of the Commercial Court in Podgorica.

The notice referred to in paragraph 1 of this Article shall be published in the "Official Gazette of Montenegro", in the printed media outlets and on the web site of the regulatory body.

The resolution on commencing the bankruptcy proceedings shall be submitted to the insurance company under bankruptcy proceedings, reinsurance company, bank where the funds are deposited, the Central Registry of the Commercial Court in Podgorica and the State Prosecutor.

Possibility to Transfer the Life Insurance Contract to other Companies Article 9

If an insurance company performs life insurance activities, and the decision on the commencement of bankruptcy or liquidation proceedings is adopted, life insurance contracts along with the funds related to them may be transferred, by the contract, to other insurance companies.

Possibility to Form the Committee of Life Insurance Policyholders Article 10

If the contracts referred to in Article 9 of this Law are not accepted by other insurance companies, the life insurance policyholders may form a committee that will carry out preparatory activities for the transfer of life insurance contracts to other insurance companies.

In case of reduction of the contracted insurance sums, the committee referred to in paragraph 1 of this Article shall ask for the authorized actuary's opinion, and inform thereof the regulatory body.

Pending Procedures Article 11

A bankruptcy or liquidation proceedings shall be temporarily stayed until termination of the proceeding referred to in Articles 9 and 10 of this Law.

Submission of Claims Article 12

The provisions of the Law regulating business organization insolvency shall apply to submission of claims, provided that the claims from business records of the insurance company are considered filed.

Priority of Claim Settlement from the Bankruptcy Pool of Assets Article 13

Claims from the bankruptcy pool of assets of the insurance company shall be settled in the following order of priority:

- 1) secured claims up to the value of their collateral, reduced for reasonable costs of sale;
- 2) fee of a bankruptcy administrator or liquidator and costs related to performance of these activities;
- 3) claims of creditors on the basis of life insurance contracts up to the amount of liabilities stated in the mathematical provision funds in accordance with the law regulating insurance, and claims of creditors on the basis of accident insurance contracts;
- 4) claims of creditors on the basis of other insurance classes;
- 5) other claims of creditors;
- 6) claims of the company shareholders.

Voluntary Liquidation

Article 14

The provisions of this Law governing the bankruptcy of the insurance company shall be applied to the voluntary liquidation of the insurance company with a prior consent of the regulatory body.

The president of the competent court shall appoint a liquidator from the list of bankruptcy administrators determined by the regulatory body for the insurance company that adopted the decision on voluntary liquidation.

Article 15

If, in determining liquidation asset balance, it is determined that the requirements for commencing the bankruptcy proceedings are met, a liquidator shall be obliged to submit such a proposal to the regulatory body.

In the case referred to in paragraph 1 of this Article, the activities conducted in liquidation proceedings shall also be applicable in case of bankruptcy proceedings.

The provisions of bankruptcy proceedings regulating challenging of legal actions shall not apply to liquidation proceedings.

Final Provisions

Article 16

This Law shall come into effect on the eighth day upon its publication in the Official Gazette of Montenegro.

SU-SK, No. 01-446/16
Podgorica, 127th November 2007
Parliament of Montenegro
Speaker,
Ranko Krivokapić, signed