

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

500.4717 Issuance of SPFC securities.

Sec. 4717.

(1) An SPFC may issue securities, including SPFC securities and preferred securities, surplus notes, and other forms of financial instruments, subject to and in accordance with applicable law, the SPFC's approved plan of operation, and its organizational documents.

(2) An SPFC, its parent or an affiliated company, its counterparty, or a captive LLC may issue SPFC securities and any other securities necessary to implement the insurance securitization.

(3) Preferred securities may be issued by the SPFC to the issuer of the SPFC securities in connection with the insurance securitization in order to facilitate distributions to service SPFC securities and these preferred securities shall identify the associated protected cell. The SPFC may lawfully account for preferred securities as surplus and not as debt for purposes of statutory accounting.

(4) An SPFC, in connection with the issuance of securities, may enter into and perform all of its obligations under any required contracts to facilitate the issuance of these securities.

(5) Subject to the commissioner's approval, the issuer of the SPFC securities or, if the issuer is a captive LLC, the party controlling the captive LLC, may lawfully account for the SPFC securities as surplus and not as debt for purposes of statutory accounting and submit for the commissioner's prior approval periodic written requests for payments of interest on and repayments of principal of surplus notes.

(6) Surplus notes issued pursuant to this section constitute surplus or contribution notes of the type described in section 8142(1)(h).

(7) The commissioner, without otherwise prejudicing the commissioner's authority, may approve formulas for an ongoing plan of interest payments, principal repayments, or both interest payments and principal repayments, to provide guidance in connection with his or her ongoing reviews of requests to approve the payments on and principal repayments of the surplus notes.

(8) The obligation to repay principal or interest, or both, on the SPFC securities shall reflect, in whole or in part, the risk associated with the obligations of the SPFC to the counterparty under the SPFC contract, either directly or by being secured by assets, including the preferred securities, obtained with the proceeds of the sale of the SPFC securities.

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Popular Name: Act 218