

018359

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merger

FILED
06 DEC 14 PM 1:00
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

COVER LETTER

TO: Amendment Section
Division of Corporations

SUBJECT: American Bankers Life Assurance Company of Florida
(Name of Surviving Corporation)

The enclosed Articles of Merger and fee are submitted for filing.

Please return all correspondence concerning this matter to following:

Jeannie Aragon-Cruz
(Contact Person)

Assurant Solutions
(Firm/Company)

11222 Quail Roast Drive
(Address)

Miami, FL 33157
(City/State and Zip Code)

For further information concerning this matter, please call:

Jeannie Aragon-Cruz At (305) 253-2244 Ext. 33003
(Name of Contact Person) (Area Code & Daytime Telephone Number)

☐ Certified copy (optional) \$8.75 (Please send an additional copy of your document if a certified copy is requested)

STREET ADDRESS:

Amendment Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, Florida 32301

MAILING ADDRESS:

Amendment Section
Division of Corporations
P.O. Box 6327
Tallahassee, Florida 32314

ARTICLES OF MERGER
(Profit Corporations)

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, Florida Statutes.

First: The name and jurisdiction of the surviving corporation:

| <u>Name</u> | <u>Jurisdiction</u> | <u>Document Number</u> (If known/ applicable) |
|---|---------------------|--|
| American Bankers Life Assurance Company of Florida | Florida | 018359 |

Second: The name and jurisdiction of each merging corporation:

| <u>Name</u> | <u>Jurisdiction</u> | <u>Document Number</u> (If known/ applicable) |
|------------------------------|---------------------|--|
| MS Diversified Life Ins. Co. | Mississippi | |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Third: The Plan of Merger is attached.

Fourth: The merger shall become effective on the date the Articles of Merger are filed with the Florida Department of State.

OR 11/15/06 (Enter a specific date. NOTE: An effective date cannot be prior to the date of filing or more than 90 days after merger file date.)

Fifth: Adoption of Merger by surviving corporation - (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the surviving corporation on on or about
June 1, 2006

The Plan of Merger was adopted by the board of directors of the surviving corporation on _____ and shareholder approval was not required.

Sixth: Adoption of Merger by merging corporation(s) (COMPLETE ONLY ONE STATEMENT)

The Plan of Merger was adopted by the shareholders of the merging corporation(s) on on or about
June 1, 2006

The Plan of Merger was adopted by the board of directors of the merging corporation(s) on _____ and shareholder approval was not required.

(Attach additional sheets if necessary)

FILED
DEC 14 PM 1:00
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Seventh: SIGNATURES FOR EACH CORPORATION

Name of Corporation

Signature of an Officer or Director

Typed or Printed Name of Individual & Title

MS Diversified
Life Insurance Co.
American Bankers Life
Assurance Co. of Florida

Director _____
 Stephen W. Heygen _____
 Stephen W. Heygen _____

Arthur W. Heggen-Secretary
Arthur W. Heggen-Secretary

PLAN OF MERGER

(Non Subsidiaries)

The following plan of merger is submitted in compliance with section 607.1101, Florida Statutes, and in accordance with the laws of any other applicable jurisdiction of incorporation.

First: The name and jurisdiction of the **surviving** corporation:

| <u>Name</u> | <u>Jurisdiction</u> |
|--|---------------------|
| American Bankers Life Assurance Company of Florida | Florida |

Second: The name and jurisdiction of each **merging** corporation:

| <u>Name</u> | <u>Jurisdiction</u> |
|---------------------------------|---------------------|
| MS Diversified Life Ins Company | Mississippi |
| | |
| | |
| | |
| | |

Third: The terms and conditions of the merger are as follows:

Please see attached documents.

Fourth: The manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving corporation or any other corporation or, in whole or in part, into cash or other property and the manner and basis of converting rights to acquire shares of each corporation into rights to acquire shares, obligations, or other securities of the surviving or any other corporation or, in whole or in part, into cash or other property are as follows:

Please see attached documents.

(Attach additional sheets if necessary)

THE FOLLOWING MAY BE SET FORTH IF APPLICABLE:

Amendments to the articles of incorporation of the surviving corporation are indicated below or attached:

N/A

OR

Restated articles are attached:

Other provisions relating to the merger are as follows:

State of Florida



November 15, 2006

I, the undersigned, Commissioner of the Office of Insurance Regulation in the State of Florida, do hereby certify that the annexed copy of the Articles of Merger and Agreement and Plan of Merger between

**MS DIVERSIFIED LIFE INSURANCE COMPANY AND AMERICAN BANKERS LIFE
ASSURANCE COMPANY OF FLORIDA**

has been compared with the original on file in this Office and that it is a correct transcript there-from and of the whole of said original.



IN TESTIMONY WHEREOF, I hereto
subscribe my name, and affix the Seal of
my Office, at Tallahassee, the day and year
first above written.

A handwritten signature in black ink, appearing to be 'K. M. ...', is written over the signature line.

Commissioner of Insurance Regulation

ARTICLES OF MERGER

regarding the merger of

MS Diversified Life Insurance Company
with and into
American Bankers Life Assurance Company of Florida

Pursuant to Florida Stat. § 607.1105

FILED

06 DEC 14 PM 1:00

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

1. The name and state of incorporation of each constituent corporation to the merger are:

| <u>Name</u> | <u>State of Incorporation</u> |
|--|-------------------------------|
| MS Diversified Life Insurance Company | Mississippi |
| American Bankers Life Assurance Company of Florida | Florida |
2. The name of the surviving corporation is American Bankers Life Assurance Company of Florida.
3. There will be no amendments to the articles of incorporation or bylaws of the surviving corporation as a result of the merger.
5. The Agreement and Plan of Merger is attached hereto as *Exhibit A*.
6. The effective time of the merger is 12:01 a.m. on November 1, 2006.
7. The Board of Directors of MS Diversified Life Insurance Company unanimously approved the merger by written consent resolutions effective June 8, 2006. The sole shareholder of MS Diversified Life Insurance Company approved the merger by written consent signed on June 8, 2006.
8. The Board of Directors of American Bankers Life Assurance Company of Florida unanimously approved the merger by written consent resolutions effective June 8, 2006. The sole shareholder of American Bankers Life Assurance Company of Florida approved the merger by written consent signed on June 8, 2006.

EXECUTED and certified to be true and correct under penalties of perjury, this 28 day of September, 2006.

AMERICAN BANKERS LIFE ASSURANCE
COMPANY OF FLORIDA

By: _____

Name: _____

Title: _____

Attest: _____

Secretary - Assistant

[CORPORATE SEAL]

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER is made as of November 1, 2006, by and among, MS DIVERSIFIED LIFE INSURANCE COMPANY, a Mississippi corporation ("MS Diversified Life") and AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA, a Florida corporation ("ABLAC") (MS Diversified Life, and ABLAC are sometimes referred to individually as a "Constituent Corporation" and collectively as the "Constituent Corporations").

WHEREAS, ABLAC owns 1,000 shares of the outstanding common stock and MS Diversified Life owns 10 shares of the outstanding common stock. ABLAC owns 187,100 shares of Class B Preferred Stock and MS Diversified Life owns 500 shares of the Class A Preferred Stock.

WHEREAS, all of the parties to this Agreement are indirect, wholly owned subsidiaries of Assurant, Inc., an insurance holding company; and

WHEREAS, Assurant, Inc. desires to complete an internal reorganization involving the merger of MS Diversified Life with and into ABLAC, with ABLAC as the surviving corporation; and

WHEREAS, all of the parties to this Agreement will benefit from such internal reorganization, and the Board of Directors of each of the parties has determined that it is in the best interests of the Constituent Corporations to simultaneously merge MS Diversified Life with and into ABLAC, on the terms and conditions set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

ARTICLE 1 THE MERGER

Section 1.1 The Merger.

- (a) Subject to the terms and conditions of this Agreement, and in accordance with Applicable Law of the States of Mississippi and Florida, at the Effective Time, MS Diversified Life and ABLAC shall consummate a merger (the "Merger") pursuant to which (i) MS Diversified Life shall be merged in a tax free reorganization with and into ABLAC and the separate corporate existence of MS Diversified Life shall thereupon cease; and (ii) ABLAC shall be the successor or surviving corporation in the Merger (sometimes hereinafter referred to as the "Surviving Corporation") and shall continue to be governed by the Applicable Laws of the State of Florida.
- (b) All the property (real, personal and mixed), objects, rights, privileges, powers, franchises, licenses, registrations and other assets of every kind and description of MS Diversified Life (the "Interests") shall be transferred to and be vested in the Surviving Corporation by

virtue of the Merger without any deed or other transfer. The Surviving Corporation, without any Order or other action on the part of any court or otherwise, shall hold and enjoy all the Interests in the same manner and to the same extent as all the Interests were held or enjoyed by MS Diversified Life immediately prior to the Effective Time.

- (c) Any action or proceeding, whether civil, criminal or administrative, pending by or against any of the Constituent Corporations may be prosecuted as if the Merger had not taken place. All rights of creditors and all liens on property of all Constituent Corporations shall be preserved and remain unimpaired, with all of their respective liabilities for all contracts, policies, deeds of trust, indentures, debts and obligations of any kind and duties attaching to the Surviving Corporation and being enforceable against it to the same extent as if those liabilities, debts and duties had been incurred and contracted by the Surviving Corporation or the Surviving Corporation may be substituted as a named party in the place and stead of MS Diversified Life, as applicable.
- (d) Any reference to MS Diversified Life or ABLAC in any writing, including but not limited to any power or powers of attorney or agency agreement or agreements authorizing the execution of any surety bonds or contracts or policies of insurance, or authorizing the acceptance of service of process or any other act on behalf of the Constituent Corporations and any and all other contracts, policies, agreements, instruments and documents to which any Constituent Corporation is a party, whether executed or taking effect before or after the Merger, shall be deemed a reference to the Surviving Corporation if not inconsistent with the other provisions of such writing, and all such writings are hereby ratified, confirmed and approved by the Surviving Corporation, and the Surviving Corporation shall be deemed to be substituted in place and stead of any Constituent Corporation as a party thereto.

Section 1.2 Articles of Incorporation. There will be no changes to the Articles of Incorporation of ABLAC. The Articles of Incorporation of ABLAC in effect immediately prior to the Effective Time shall be the Articles of Incorporation of the Surviving Corporation until otherwise amended.

Section 1.3 Bylaws. There will be no changes to the Bylaws of ABLAC. The Bylaws of ABLAC in effect immediately prior to the Effective Time shall be the Bylaws of the Surviving Corporation until otherwise amended.

Section 1.4 Directors and Officers. There will be no changes to the Officers or Directors of ABLAC. The directors and officers of ABLAC in office immediately prior to the Effective Time shall serve as the directors and officers of the Surviving Corporation from and after the Effective Time in accordance with the Bylaws of the Surviving Corporation.

Section 1.5 Effective Time. As soon as practicable after execution of this Agreement, MS Diversified Life and ABLAC will cause articles of merger to be filed in the States of Mississippi and Florida, in order to cause the Merger to be effective in accordance with this Agreement. The Merger shall become effective at 12:01 a.m. on November 1, 2006 (the "Effective Time").

ARTICLE 2 CONVERSION OF SECURITIES

Section 2.1 Conversion of Capital Stock. As of the Effective Time, by virtue of the Merger and without any action on the part of the holders of any shares of the capital stock of MS Diversified Life or ABLAC:

- (a) MS Diversified Life Stock. Each issued and outstanding share of MS Diversified Life Common Stock, MS Diversified Life Class A Preferred Stock and MS Diversified Life Class B Preferred Stock (as those terms are defined below) shall be cancelled without any consideration paid therefor by ABLAC.
- (b) ABLAC Stock. Each issued and outstanding share of ABLAC's capital stock shall remain outstanding, unaffected by the Merger.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF MS DIVERSIFIED LIFE

MS DIVERSIFIED LIFE represents and warrants to ABLAC that:

Section 3.1 Corporate Existence and Power. MS Diversified Life is a corporation duly incorporated, validly existing and in good standing under the Applicable Laws of the State of Mississippi.

Section 3.2 Corporate Authorization. The execution, delivery and performance by MS Diversified Life of this Agreement and the consummation by MS Diversified Life of the Merger are within MS Diversified Life's corporate powers and, except for the required regulatory approvals, this Agreement will have been duly authorized by all necessary corporate action. This Agreement constitutes a valid and binding agreement of MS Diversified Life.

Section 3.3 Capitalization. The authorized capital stock of MS Diversified Life consists of 1,000,000 shares of common stock (the "MS Diversified Life Common Stock"), par value \$1.00 per share. As of the date hereof, 1,010 shares of MS Diversified Life Common Stock are issued and outstanding, of which 1,000 shares are owned by ABLAC and 10 shares are owned by MS Diversified Life. No shares of MS Diversified Life Common Stock are held in the treasury of ABLAC. All outstanding shares of MS Diversified Life Common Stock are duly authorized, validly issued, fully paid and non-assessable.

The authorized capital stock of MS Diversified Life consists of 2,500,000 shares of Class A preferred stock, par value \$1.00 per share (the "MS Diversified Life Class A Preferred Stock"); 1,000,000 shares of Class B preferred stock, par value \$2.45 per share (the "MS Diversified Life Class B Preferred Stock"). As of the date hereof, 500 shares of MS Diversified Life Class A Preferred Stock are issued and outstanding, all of which are owned by MS Diversified Life. As of the date hereof, 187,100 shares of MS Diversified Life Class B Preferred Stock are issued and outstanding, all of which are owned by ABLAC. No shares of MS Diversified Life Class A Preferred Stock or MS Diversified Life Class B Preferred Stock are

held in the treasury of ABLAC. All outstanding shares of MS Diversified Life Class A Preferred Stock and MS Diversified Life Class B Preferred Stock are duly authorized, validly issued, fully paid and non-assessable.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF ABLAC

ABLAC represents and warrants to MS Diversified Life that:

Section 4.1 Corporate Existence and Power. ABLAC is a corporation duly incorporated, validly existing and in good standing under the Applicable Laws of the State of Florida.

Section 4.2 Corporate Authorization. The execution, delivery and performance by ABLAC of this Agreement and the consummation by ABLAC of the Merger are within ABLAC's corporate powers and, except for the required regulatory approvals, this Agreement will have been duly authorized by all necessary corporate action. This Agreement constitutes a valid and binding agreement of ABLAC.

ARTICLE 5 COVENANTS

Section 5.1 Director and Officer Liability. For six years from and after the Effective Time, ABLAC will indemnify and hold harmless the present and former officers and directors of MS Diversified Life (the "Indemnified Persons") in respect of acts or omissions occurring at or prior to the Effective Time to the fullest extent provided under Applicable Law and under MS Diversified Life's respective articles of incorporation and bylaws in effect on the date hereof. Notwithstanding any provision herein to the contrary, the covenants contained in this Section 5.1 shall survive the Effective Time and the consummation of the Merger, and are intended to benefit the Indemnified Persons, and shall be binding on all successors and assigns of ABLAC.

Section 5.2 Shareholder Approval. ABLAC as the sole shareholder of MS Diversified Life hereby acknowledges its approval of this Agreement and the Merger.

Section 5.3 Expenses.

- (a) The parties to this Agreement shall bear their respective expenses incurred in connection with the preparation, execution and performance of this Agreement and the transactions contemplated hereby, including, without limitation, all fees and expenses of agents, representatives, counsel, investment bankers, actuaries and accountants.
- (b) No director, agent or employee of any party to this Agreement shall receive any fee, commission, compensation or other valuable consideration whatsoever, for in any manner aiding, promoting or assisting with the Merger, other than any salary or other compensation that such person would have received in the ordinary course of business without regard for whether the Merger takes place.

Section 5.4 Change in Control. ABLAC and MS Diversified Life are under common ownership. The Merger will not result in any change of control.

ARTICLE 6 MISCELLANEOUS

Section 6.1 Definitions. As used herein, the following terms have the following respective meanings:

“Agreement” means this Agreement and Plan of Merger, as the same may be supplemented, modified or amended from time to time.

“Applicable Law” means any domestic or foreign federal, state or local statute, law, ordinance, rule, administrative interpretation, regulation, Order, judgment or decree applicable to the parties hereto.

“Business Day” means any day other than a Saturday, Sunday, a day on which banking institutions in the State of Mississippi or Florida are permitted or obligated by Applicable Law to be closed or a day on which the New York Stock Exchange is closed for trading.

“Order” shall mean any administrative decision or award, decree, injunction, judgment, order, quasi-judicial decision or award, ruling, or writ of any federal, state, local or foreign or other court, arbitrator, mediator, tribunal, administrative agency or other governmental authority.

The following terms are defined in the following Sections of this Agreement:

| <u>Term</u> | <u>Section</u> |
|---|---------------------------|
| “ABLAC” | 1 st Paragraph |
| “Constituent Corporation” | 1 st Paragraph |
| “Effective Time” | 1.5 |
| “Indemnified Persons” | 5.1 |
| “Interests” | 1.1 (b) |
| “MS Diversified Life Class A Preferred Stock” | 3.3 |
| “MS Diversified Life Class B Preferred Stock” | 3.3 |
| “MS Diversified Life Common Stock” | 3.3 |
| “Merger” | 1.1 (a) |
| “MS Diversified Life” | 1 st Paragraph |
| “Surviving Corporation” | 1.1 (a) |

Section 6.2 Singular and Plural. Any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular.

Section 6.3 Notices. All notices or other communications that are required or permitted hereunder shall be in writing and sufficient if delivered by hand, by facsimile transmission, by electronic mail, by certified mail, postage pre-paid, or by courier or overnight carrier, to the

persons at the addresses set forth below (or at such other address as may be provided hereunder), and shall be deemed to have been delivered as of the date so delivered:

If to MS Diversified Life: MS Diversified Corporation
c/o 11222 Quail Roost Drive
Miami, FL 33157
Attn: Gale Zoller, Esq.
Telephone: 305-252-7071
Facsimile: 305-278-6255

If to ABLAC: American Bankers Life Assurance Company of Florida
11222 Quail Roost Drive
Miami, FL 33157
Attn: Gale Zoller, Esq.
Telephone: 305-252-7071
Facsimile: 305-278-6255

Section 6.4 Survival of Representations and Warranties. The representations and warranties contained herein shall not survive the Effective Time or the termination of this Agreement.

Section 6.5 Amendments; No Waivers.

- (a) Any provision of this Agreement may be amended or waived prior to the Effective Time if, and only if, such amendment or waiver is in writing and signed by all parties hereto, or in the case of a waiver, by the party against whom the waiver is to be effective subject to the appropriate regulatory approval.
- (b) No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Applicable Law.

Section 6.6 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, provided that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Agreement without the consent of the other parties hereto.

Section 6.7 Governing Law. This Agreement shall be governed by and construed under the Applicable Laws of the State of Florida, without regard for its conflicts of laws principles.

Section 6.8 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or

provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, the provision shall be interpreted to be only so broad as is enforceable.

Section 6.9 Captions. The captions contained in this Agreement are for reference purposes only and are not part of this Agreement.

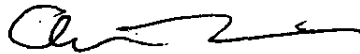
Section 6.10 Interpretations. No uncertainty or ambiguity herein shall be construed or resolved against any party, whether under any rule of construction or otherwise. No party to this Agreement shall be considered the draftsman. The parties acknowledge and agree that this Agreement has been reviewed, negotiated, and accepted by all parties and their attorneys and shall be construed and interpreted according to the ordinary meaning of the words used so as fairly accomplish the purposes and intentions of all parties hereto.

Section 6.11 Counterparts; Effectiveness. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same instrument. This Agreement shall become effective when each party hereto shall have received counterparts hereof signed by all of the other parties hereto.

Section 6.12 Entire Agreement; No Third Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement (including the documents and instruments referred to herein) constitutes the entire agreement between the parties with respect to the transactions contemplated hereby and supersedes all prior arrangements or understandings with respect thereto, written or oral. Nothing in this Agreement, expressed or implied, is intended to confer upon any person or entity, other than the parties or their respective successors, any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed on its behalf as of the day and year first above written.

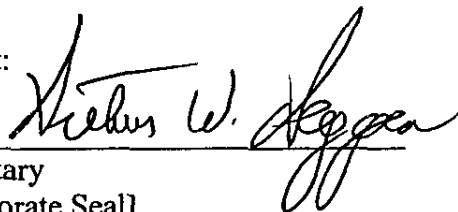
**MS DIVERSIFIED LIFE INSURANCE
COMPANY**

By: 

Name: Adam Lamnin

Title: President

Attest:


Secretary
[Corporate Seal]

AMERICAN BANKERS LIFE ASSURANCE
COMPANY OF FLORIDA

By:

Arthur W. Heggen

Name:

Arthur W. Heggen

Title:

Senior Vice President & Secretary

Attest:

Marvick A. [Signature]

Assistant Secretary
[Corporate Seal]