

5121

2013-2014 Regular Sessions

I N S E N A T E

May 10, 2013

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the demutualization of domestic mutual health insurance companies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The insurance law is amended by adding a new section 7313
2 to read as follows:

3 S 7313. REORGANIZATION OF DOMESTIC MUTUAL ACCIDENT AND HEALTH INSUR-
4 ANCE COMPANIES.

5 (A) IN THIS SECTION:

6 (1) "AFFILIATE" OF A MUTUAL INSURER MEANS ANY PERSON WHO CONTROLS, IS
7 CONTROLLED BY OR IS UNDER COMMON CONTROL WITH, THE MUTUAL INSURER BEING
8 CONVERTED. A CORPORATION IS AN AFFILIATE OF ANOTHER CORPORATION, REGARD-
9 LESS OF OWNERSHIP, IF SUBSTANTIALLY THE SAME GROUP OF PERSONS MANAGE THE
10 TWO CORPORATIONS.

11 (2) "CONTROL" HAS THE MEANING ASSIGNED TO IT IN PARAGRAPH TWO OF
12 SUBSECTION (A) OF SECTION ONE THOUSAND FIVE HUNDRED ONE OF THIS CHAPTER.

13 (3) A "DOMESTIC MUTUAL INSURER" OR "MUTUAL INSURER" MEANS A DOMESTIC
14 MUTUAL ACCIDENT AND HEALTH INSURANCE COMPANY ORGANIZED UNDER ARTICLE
15 TWELVE OF THIS CHAPTER AND LICENSED UNDER ARTICLE FORTY-TWO OF THIS
16 CHAPTER AND NOT OPERATING UNDER AN ORDER OF REHABILITATION.

17 (4) "POLICYHOLDER" MEANS A PERSON, AS DETERMINED BY THE RECORDS OF A
18 MUTUAL ACCIDENT AND HEALTH INSURER, WHO IS DEEMED TO BE THE "POLICYHOLD-
19 ER" OF A POLICY THAT IS OF A TYPE DESCRIBED IN PARAGRAPH THREE OF
20 SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS
21 CHAPTER.

22 (5) "POLICYHOLDERS' MEMBERSHIP INTEREST" MEANS AND INCLUDES ALL POLI-
23 CYHOLDERS' RIGHTS AS MEMBERS ARISING UNDER THE CHARTER OF THE MUTUAL
24 ACCIDENT AND HEALTH INSURER OR THIS CHAPTER OR OTHERWISE BY LAW, INCLUD-
25 ING THE RIGHTS TO VOTE AND TO PARTICIPATE IN THE DISTRIBUTION OF SURPLUS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 WHETHER OR NOT INCIDENT TO A LIQUIDATION OF A MUTUAL ACCIDENT AND HEALTH
2 INSURER. THE TERM "POLICYHOLDERS' MEMBERSHIP INTEREST" DOES NOT INCLUDE
3 RIGHTS, INCLUDING WITHOUT LIMITATION THE RIGHT TO PARTICIPATE IN THE
4 DISTRIBUTION OF SURPLUS, EXPRESSLY CONFERRED UPON THE POLICYHOLDERS BY
5 THEIR POLICIES OR CONTRACTS OTHER THAN ANY RIGHT TO VOTE.

6 (6) "REORGANIZATION" MEANS A CONVERSION IN ACCORDANCE WITH THIS
7 SECTION.

8 (B)(1) A DOMESTIC MUTUAL INSURER MAY APPLY TO THE SUPERINTENDENT FOR
9 PERMISSION TO REORGANIZE AND CONVERT INTO A DOMESTIC STOCK ACCIDENT AND
10 HEALTH INSURER COMPLYING WITH THE RELEVANT ORGANIZATION AND LICENSING
11 PROVISIONS OF ARTICLES TWELVE AND FORTY-TWO OF THIS CHAPTER. THE APPLI-
12 CATION TO THE SUPERINTENDENT SHALL BE PURSUANT TO A RESOLUTION, ADOPTED
13 BY NO LESS THAN A MAJORITY OF THE ENTIRE BOARD OF DIRECTORS, SPECIFYING
14 THE REASONS FOR AND THE PURPOSES OF THE PROPOSED CONVERSION AND THE
15 MANNER IN WHICH THE CONVERSION IS EXPECTED TO BENEFIT POLICYHOLDERS AND
16 THE PUBLIC. A COPY OF THE RESOLUTION, TOGETHER WITH A STATEMENT OF ITS
17 ADOPTION, BOTH CERTIFIED BY THE PRESIDENT AND SECRETARY, OR OFFICERS
18 CORRESPONDING TO EITHER OF THEM, AND AFFIRMED BY THEM AS TRUE UNDER THE
19 PENALTIES OF PERJURY AND UNDER THE SEAL OF THE MUTUAL INSURER, AND SUCH
20 OTHER INFORMATION AS THE SUPERINTENDENT MAY REQUIRE SHALL ACCOMPANY THE
21 APPLICATION.

22 (2) THE SUPERINTENDENT SHALL ORDER AN EXAMINATION OF THE MUTUAL INSUR-
23 ER PURSUANT TO SECTION THREE HUNDRED TEN OF THIS CHAPTER AS OF THE LAST
24 DAY OF THE PERIOD COVERED IN THE INSURER'S LATEST FILED STATEMENT,
25 EXCEPT THAT THE PROPOSED CONVERSION SHALL TERMINATE WITHOUT AN EXAMINA-
26 TION IF THE SUPERINTENDENT FINDS THAT:

27 (A) THE RESOLUTION IS DEFECTIVE UPON ITS FACE;

28 (B) THE PROPOSED CONVERSION IS CONTRARY TO LAW OR IS NOT IN THE BEST
29 INTERESTS OF THE POLICYHOLDERS OR THE PUBLIC; OR

30 (C) THE MUTUAL INSURER DOES NOT HAVE A SURPLUS TO POLICYHOLDERS AT
31 LEAST EQUAL TO THE MINIMUM CAPITAL AND SURPLUS REQUIRED TO BE MAINTAINED
32 FOR A NEWLY ORGANIZED STOCK INSURER DOING THE SAME KINDS OF INSURANCE.

33 (C) THE SUPERINTENDENT SHALL ALSO APPOINT ONE OR MORE QUALIFIED DISIN-
34 TERESTED PERSONS TO APPRAISE AND REPORT TO THE SUPERINTENDENT THE FAIR
35 MARKET VALUE OF THE MUTUAL INSURER AND, TO THE EXTENT NECESSARY, ITS
36 AFFILIATES, ON THE BASIS OF ITS LATEST FILED ANNUAL OR QUARTERLY STATE-
37 MENT, AND OF ANY SIGNIFICANT SUBSEQUENT DEVELOPMENTS. THE APPRAISERS
38 SHALL CONSIDER THE ASSETS AND LIABILITIES OF THE MUTUAL INSURER AND ANY
39 FACTORS BEARING ON THE VALUE OF THE MUTUAL INSURER OR ITS AFFILIATES.
40 THE APPRAISERS SHALL RECEIVE REASONABLE COMPENSATION AND BE REIMBURSED
41 FOR REASONABLE EXPENSES INCURRED IN DISCHARGING THEIR DUTIES. THE
42 APPRAISERS MAY, AS NECESSARY, EMPLOY CONSULTANTS TO ADVISE THEM ON ANY
43 TECHNICAL MATTERS.

44 (D) THE SUPERINTENDENT SHALL MAKE COPIES OF SUCH EXAMINATION REPORT
45 AND APPRAISAL REPORT AVAILABLE TO THE BOARD OF DIRECTORS WITHIN FIFTEEN
46 DAYS OF THE SUPERINTENDENT'S RECEIPT OF THE REPORTS. AFTER RECEIVING THE
47 REPORTS, THE SUPERINTENDENT MAY GRANT OR DENY PERMISSION TO THE BOARD OF
48 DIRECTORS TO SUBMIT TO THE SUPERINTENDENT A PLAN OF CONVERSION. IF
49 PERMISSION IS GRANTED, THE PLAN SHALL INCLUDE THE PROVISIONS, AND BE
50 SUBMITTED IN THE MANNER AND UNDER THE CONDITIONS, REQUIRED BY SUBSECTION
51 (E) OF THIS SECTION. IF PERMISSION IS DENIED, THE SUPERINTENDENT SHALL
52 MAKE A WRITTEN STATEMENT OF THE SUPERINTENDENT'S FINDINGS AND THE BOARD
53 SHALL HAVE THE RIGHT TO A HEARING BEFORE THE SUPERINTENDENT WITHIN THIR-
54 TY DAYS OF THE DATE OF DENIAL.

55 (E)(1) IN ORDER FOR THE CONVERSION TO PROCEED:

56 (A) THE PLAN MUST BE ADOPTED BY A MAJORITY OF THE ENTIRE BOARD;

1 (B) THE PLAN MUST BE SIGNED BY THE PRESIDENT AND ATTESTED TO BY THE
2 SECRETARY, OR OFFICERS CORRESPONDING TO EITHER OF THEM, UNDER THE CORPO-
3 RATE SEAL OF THE INSURER; AND

4 (C) A COPY OF THE PLAN AND RESOLUTION, BOTH CERTIFIED BY SUCH OFFICERS
5 AS TRUE UNDER THE PENALTIES OF PERJURY AND UNDER THE SEAL OF THE INSUR-
6 ER, SHALL BE SUBMITTED TO THE SUPERINTENDENT NOT LATER THAN FORTY-FIVE
7 DAYS AFTER PERMISSION WAS GRANTED UNDER SUBSECTION (D) OF THIS SECTION.

8 (2) THE PLAN SHALL INCLUDE:

9 (A) THE PROPOSED CHARTER AND BY-LAWS OF THE INSURER AS A STOCK CORPO-
10 RATION SET OUT IN ACCORDANCE WITH PARAGRAPH FIVE OF SUBSECTION (A) OF
11 SECTION ONE THOUSAND TWO HUNDRED ONE OF THIS CHAPTER;

12 (B) THE MANNER OF TREATING A HOLDER OF AN AGREEMENT SUBJECT TO SECTION
13 ONE THOUSAND THREE HUNDRED SEVEN OF THIS CHAPTER, IF ANY; THE HOLDER, IF
14 OTHERWISE QUALIFIED, MAY, AT ITS OPTION, EXCHANGE SUCH AGREEMENT FOR AN
15 EQUITABLE SHARE OF THE SECURITIES OR OTHER CONSIDERATION, OR BOTH, OF
16 THE CORPORATION INTO WHICH THE INSURER IS TO BE CONVERTED.

17 (C)(I) THE MANNER AND BASIS OF EXCHANGING THE EQUITABLE SHARE OF EACH
18 ELIGIBLE MUTUAL POLICYHOLDER'S MEMBERSHIP INTERESTS FOR SECURITIES OR
19 OTHER CONSIDERATION, OR BOTH, OF THE STOCK CORPORATION INTO WHICH THE
20 MUTUAL INSURER IS TO BE CONVERTED AND THE DISPOSITION OF ANY UNCLAIMED
21 SHARES.

22 (II) THE PLAN SHALL ALSO PROVIDE THAT EACH PERSON WHO HAD A POLICY OF
23 INSURANCE IN EFFECT AT ANY TIME DURING THE THREE-YEAR PERIOD IMMEDIATELY
24 PRECEDING THE DATE OF ADOPTION OF THE RESOLUTION DESCRIBED IN SUBSECTION
25 (B) OF THIS SECTION SHALL BE ENTITLED TO RECEIVE IN EXCHANGE FOR THE
26 EQUITABLE SHARE, WITHOUT ADDITIONAL PAYMENT, CONSIDERATION PAYABLE IN
27 VOTING COMMON SHARES OF THE INSURER OR OTHER CONSIDERATION, OR BOTH. THE
28 EQUITABLE SHARE OF THE POLICYHOLDER IN THE MUTUAL INSURER SHALL BE
29 DETERMINED BY THE RATIO THAT THE NET PREMIUMS (GROSS PREMIUMS LESS
30 RETURN PREMIUMS AND DIVIDEND PAID) SUCH POLICYHOLDER HAS PROPERLY AND
31 TIMELY PAID TO THE INSURER ON INSURANCE POLICIES IN EFFECT DURING THE
32 THREE YEARS IMMEDIATELY PRECEDING THE ADOPTION OF THE RESOLUTION BY THE
33 BOARD OF DIRECTORS UNDER SUBSECTION (B) OF THIS SECTION BEARS TO THE
34 TOTAL NET PREMIUMS RECEIVED BY THE MUTUAL INSURER FROM SUCH ELIGIBLE
35 POLICYHOLDERS. IN COMPUTING A POLICYHOLDER'S EQUITABLE SHARE, NO CREDIT
36 SHALL BE GIVEN FOR ANY NET PREMIUMS WHICH RESULT FROM AN ENDORSEMENT
37 WHICH IS EFFECTIVE ON OR AFTER THE DATE OF ADOPTION OF THE RESOLUTION.

38 (III) NOTWITHSTANDING ITEM (II) OF THIS SUBPARAGRAPH, CREDIT SHALL BE
39 GIVEN FOR ANY NET PREMIUMS RESULTING FROM AN AUDIT OR RETROSPECTIVE
40 PREMIUM ADJUSTMENT THAT IS BILLED WITHIN ONE HUNDRED EIGHTY DAYS AFTER
41 THE DATE OF ADOPTION OF THE RESOLUTION DESCRIBED IN SUBSECTION (B) OF
42 THIS SECTION, PROVIDED THE PREMIUM IS PAID TIMELY.

43 (IV) IF THE EQUITABLE SHARE OF THE ELIGIBLE POLICYHOLDER ENTITLES THE
44 POLICYHOLDER TO THE PURCHASE OF A FRACTIONAL SHARE OF STOCK, THE POLICY-
45 HOLDER SHALL HAVE THE OPTION TO RECEIVE THE VALUE OF THE FRACTIONAL
46 SHARE IN CASH OR PURCHASE A FULL SHARE BY PAYING THE BALANCE IN CASH;

47 (D) THE NUMBER OF VOTING COMMON SHARES PROPOSED TO BE AUTHORIZED FOR
48 THE STOCK CORPORATION, THEIR PAR VALUE AND THE PRICE AT WHICH THEY SHALL
49 BE OFFERED, WHICH PRICE MAY NOT EXCEED ONE-HALF OF THE MEDIAN EQUITABLE
50 SHARE OF ALL POLICYHOLDERS UNDER ITEM (II) OF SUBPARAGRAPH (C) OF PARA-
51 GRAPH TWO OF THIS SUBSECTION.

52 (E) ANY OTHER INFORMATION OR OTHER ITEM THAT THE SUPERINTENDENT MAY
53 REQUIRE.

54 (F) THE MUTUAL INSURER SHALL GIVE PROMPT NOTICE TO ALL PERSONS WHO
55 BECOME POLICYHOLDERS OR HOLDERS OF AGREEMENTS SUBJECT TO SECTION ONE
56 THOUSAND THREE HUNDRED SEVEN OF THIS CHAPTER ON OR AFTER THE DATE OF THE

ADOPTION OF THE RESOLUTION DESCRIBED IN SUBSECTION (B) OF THIS SECTION. THE NOTICE SHALL SPECIFY THE PENDENCY OF A PROPOSED CONVERSION AND THE EFFECT THE CONVERSION SHALL HAVE ON THEM.

(G) THE SUPERINTENDENT SHALL HOLD A PUBLIC HEARING, ADEQUATE NOTICE OF WHICH SHALL BE MAILED BY THE MUTUAL INSURER TO EACH POLICYHOLDER ON THE DAY PRECEDING THE DATE OF ADOPTION OF THE RESOLUTION DESCRIBED IN SUBSECTION (B) OF THIS SECTION, ACCOMPANIED BY A COPY OF THE PLAN OF CONVERSION AND ANY COMMENT THE SUPERINTENDENT CONSIDERS NECESSARY FOR THE ADEQUATE INFORMATION OF THE POLICYHOLDERS. THE MUTUAL INSURER SHALL ALSO IMMEDIATELY CAUSE THE NOTICE TO BE POSTED ON ITS WEBSITE. IN ADDITION, THE MUTUAL INSURER SHALL GIVE NOTICE OF THE HEARING BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE MUTUAL INSURER HAS ITS PRINCIPAL OFFICE AND IN THE TWO LARGEST CITIES IN EACH STATE IN WHICH THE INSURER HAS UNDERWRITTEN INSURANCE WITHIN THE FIVE YEARS PRECEDING THE DATE OF THE ADOPTION OF THE RESOLUTION DESCRIBED IN SUBSECTION (B) OF THIS SECTION. THE NOTICE SHALL BE ACCOMPANIED BY A SUMMARY APPROVED BY THE SUPERINTENDENT OF THE PLAN AND ANY COMMENT THE SUPERINTENDENT CONSIDERS NECESSARY FOR THE ADEQUATE INFORMATION OF FORMER POLICYHOLDERS AND THE PUBLIC.

(H) (1) AFTER THE HEARING, THE SUPERINTENDENT SHALL APPROVE THE PLAN AS SUBMITTED, REFUSE TO APPROVE THE PLAN, OR REQUEST MODIFICATION OF THE PLAN BEFORE GRANTING APPROVAL. THE SUPERINTENDENT MAY APPROVE THE PLAN UNLESS THE SUPERINTENDENT FINDS THAT THE PLAN VIOLATES THIS CHAPTER, IS INCONSISTENT WITH LAW, OR IS NOT FAIR AND EQUITABLE OR IN THE BEST INTERESTS OF THE POLICYHOLDERS AND THE PUBLIC. IF THE SUPERINTENDENT FINDS THAT THE PLAN DOES NOT MEET THE FOREGOING STANDARDS FOR APPROVAL, THE SUPERINTENDENT SHALL EITHER REFUSE TO APPROVE THE PLAN AND THE PLAN SHALL BECOME NULL AND VOID OR RETURN THE PLAN TO THE MUTUAL INSURER FOR MODIFICATION TO MEET THE SUPERINTENDENT'S STATED OBJECTIONS.

(2) IF WITHIN NINETY DAYS AFTER RECEIPT OF THE SUPERINTENDENT'S REQUEST FOR MODIFICATIONS THE MUTUAL INSURER DOES NOT SUBMIT AN AMENDED PLAN SATISFACTORY TO THE SUPERINTENDENT AND THAT MEETS THE SUPERINTENDENT'S OBJECTIONS AND COMPLIES WITH THE STANDARDS FOR APPROVAL, THE PLAN SHALL BECOME NULL AND VOID.

(I) AFTER APPROVAL BY THE SUPERINTENDENT THE PLAN SHALL BE SUBMITTED TO A VOTE OF THE PERSONS WHO WERE POLICYHOLDERS OF THE MUTUAL INSURER ON THE DAY PRECEDING THE DATE OF ADOPTION OF THE RESOLUTION DESCRIBED IN SUBSECTION (B) OF THIS SECTION. THE PLAN SHALL PROVIDE FOR PROXY VOTING IN A MANNER TO BE PRESCRIBED BY THE SUPERINTENDENT. THE BOARD SHALL SUBMIT THE QUESTION OF THE PLAN TO THE POLICYHOLDERS AT A MEETING THEREOF, BY CAUSING A FULL, TRUE AND CORRECT COPY OR A SUMMARY THEREOF APPROVED BY THE SUPERINTENDENT, TOGETHER WITH NOTICE, STATING THE TIME, PLACE AND PURPOSE OF THE MEETING, TO BE DELIVERED PERSONALLY, OR DEPOSITED IN THE POST OFFICE, POSTAGE PREPAID, AT LEAST THIRTY DAYS (UNLESS A SHORTER TIME, NOT LESS THAN TEN DAYS, BE APPROVED BY THE SUPERINTENDENT) PRIOR TO THE TIME FIXED FOR SUCH MEETING, ADDRESSED TO EACH POLICYHOLDER AT THE POLICYHOLDER'S LAST POST OFFICE ADDRESS APPEARING ON THE RECORDS OF THE INSURER OR OTHER FORM OF DELIVERY INTENDED TO ENCOURAGE PARTICIPATION ACCEPTABLE TO THE SUPERINTENDENT.

(J) EACH SUCH POLICYHOLDER ELIGIBLE TO VOTE PURSUANT TO SUBSECTION (I) OF THIS SECTION SHALL BE ENTITLED TO THE NUMBER OF VOTES AS MAY BE PROVIDED FOR IN THE BY-LAWS OF THE MUTUAL INSURER. THE VOTES OF TWO-THIRDS OF ALL THE VOTES CAST BY POLICYHOLDERS REPRESENTED AT THE MEETING IN PERSON OR BY PROXY, OR BY SUCH OTHER MEANS ACCEPTABLE TO THE SUPERINTENDENT INTENDED TO ENCOURAGE PARTICIPATION, SHALL BE NECESSARY FOR THE ADOPTION OF THE PLAN. UPON THE CONCLUSION OF THE VOTE THE INSUR-

ER SHALL SUBMIT TO THE SUPERINTENDENT A CERTIFIED COPY OF THE PLAN VOTED ON TOGETHER WITH A CERTIFICATE SETTING FORTH THE RESULTS OF THE VOTE, BOTH OF WHICH SHALL BE SUBSCRIBED BY THE PRESIDENT AND ATTESTED BY THE SECRETARY, OR OFFICERS CORRESPONDING TO EITHER OF THEM, UNDER THE CORPORATE SEAL OF THE MUTUAL INSURER, AND AFFIRMED BY THEM AS TRUE UNDER THE PENALTIES OF PERJURY.

(K) IF AT ANY STAGE IN THE PROCESS OF A CONVERSION UNDER THIS SECTION THE SUPERINTENDENT FINDS THAT THE MUTUAL INSURER IS IMPAIRED OR THAT THE FURTHER TRANSACTION OF BUSINESS BY THE MUTUAL INSURER WILL BE HAZARDOUS TO ITS POLICYHOLDERS, ITS CREDITORS, OR THE PUBLIC, THE PROPOSED CONVERSION SHALL TERMINATE.

(L) IF THE CONVERSION PLAN IS ADOPTED PURSUANT TO SUBSECTION (J) OF THIS SECTION, THE SUPERINTENDENT, UPON BEING SATISFIED THAT THE INSURER WILL HAVE AT LEAST THE MINIMUM CAPITAL AND SURPLUS REQUIRED TO BE MAINTAINED FOR A NEWLY ORGANIZED DOMESTIC STOCK INSURER DOING THE SAME KINDS OF INSURANCE, SHALL ISSUE A NEW CERTIFICATE OF AUTHORITY TO THE INSURER, THEREBY CONVERTING THE MUTUAL INSURER INTO A STOCK INSURER. AT THE SAME TIME, THE SUPERINTENDENT MAY ISSUE SUCH LICENSE AS MAY BE REQUIRED PURSUANT TO SECTION ONE THOUSAND TWO HUNDRED FOUR OF THIS CHAPTER.

(M) UPON THE CONVERSION, THE STOCK INSURER SHALL GIVE NOTICE THEREOF BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE INSURER HAS ITS PRINCIPAL OFFICE AND IN THE TWO LARGEST CITIES IN EACH STATE IN WHICH THE INSURER SHALL BE LICENSED TO DO BUSINESS. IN ADDITION, THE STOCK INSURER SHALL ALSO IMMEDIATELY CAUSE THE NOTICE TO BE POSTED ON ITS WEBSITE. THE NOTICE SHALL INCLUDE A CORRECT COPY OF THE PLAN, OR A SUMMARY THEREOF APPROVED BY THE SUPERINTENDENT.

(N) UPON THE CONVERSION OF THE MUTUAL INSURER IN THE MANNER HEREIN PROVIDED, ALL THE RIGHTS, FRANCHISES AND INTERESTS OF THE FORMER MUTUAL INSURER, IN AND TO EVERY SPECIES OF PROPERTY, REAL, PERSONAL AND MIXED, AND THINGS IN ACTION THEREUNTO BELONGING, SHALL BE DEEMED AS TRANSFERRED TO AND VESTED IN THE STOCK INSURER, WITHOUT ANY OTHER DEED OR TRANSFER; AND SIMULTANEOUSLY THEREWITH SUCH COMPANY SHALL BE DEEMED TO HAVE ASSUMED ALL OF THE OBLIGATIONS AND LIABILITIES OF THE FORMER MUTUAL INSURER.

(O) NO ACTION OR PROCEEDING, PENDING AT THE TIME OF THE CONVERSION TO WHICH THE MUTUAL INSURER MAY BE A PARTY SHALL BE ABATED OR DISCONTINUED BY REASON OF SUCH CONVERSION, BUT THE SAME MAY BE PROSECUTED TO FINAL JUDGMENT IN THE SAME MANNER AS IF THE CONVERSION HAD NOT TAKEN PLACE, OR THE STOCK CORPORATION MAY BE SUBSTITUTED IN PLACE OF THE MUTUAL INSURER BY ORDER OF THE COURT IN WHICH THE ACTION OR PROCEEDING MAY BE PENDING.

(P) THE DIRECTORS AND OFFICERS OF THE MUTUAL INSURER SHALL SERVE UNTIL NEW DIRECTORS AND OFFICERS HAVE BEEN DULY ELECTED AND QUALIFIED PURSUANT TO THE CHARTER AND BY-LAWS OF THE STOCK INSURER.

(Q) THE INSURER, WHETHER BEFORE OR AFTER CONVERSION, SHALL PAY NO COMPENSATION OF ANY KIND TO ANY PERSON OTHER THAN REGULAR SALARIES TO EXISTING PERSONNEL, IN CONNECTION WITH THE PROPOSED CONVERSION, OTHER THAN FOR CLERICAL AND MAILING EXPENSES, EXCEPT THAT, WITH THE SUPERINTENDENT'S APPROVAL, PAYMENT MAY BE MADE AT REASONABLE RATES FOR PRINTING COSTS, AND FOR LEGAL AND OTHER PROFESSIONAL FEES FOR SERVICES ACTUALLY RENDERED. ALL EXPENSES OF THE CONVERSION, INCLUDING THE EXPENSES INCURRED BY THE DEPARTMENT, SHALL BE BORNE BY THE INSURER.

(R) NO VOTING COMMON SHARES SHALL BE SUBSCRIBED BY OR ISSUED TO PERSONS OTHER THAN ELIGIBLE POLICYHOLDERS OR HOLDERS OF AGREEMENTS SUBJECT TO SECTION ONE THOUSAND THREE HUNDRED SEVEN OF THIS CHAPTER UNTIL ALL SUBSCRIPTIONS BY SUCH POLICYHOLDERS OR AGREEMENT HOLDERS HAVE BEEN FILLED OR OTHER CONSIDERATION HAS BEEN PROVIDED IN ACCORDANCE WITH

1 THE PLAN. THEREAFTER, ANY NEW ISSUE OF COMMON SHARES WITHIN THREE YEARS
2 AFTER THE CONVERSION SHALL FIRST BE OFFERED TO THE PERSONS WHO HAVE
3 BECOME VOTING COMMON SHAREHOLDERS, PURSUANT TO SUBSECTION (E) OF THIS
4 SECTION IN PROPORTION TO THEIR HOLDINGS OF SUCH SHARES.

5 (S) NO INSURER BECOMING A DOMESTIC STOCK INSURER UNDER THE PROVISIONS
6 OF THIS SECTION SHALL:

7 (1) FOR A PERIOD OF TEN YEARS AFTER CONVERSION, REDOMESTICATE DIRECTLY
8 OR INDIRECTLY OR REMOVE ITS PRINCIPAL OFFICES FROM WITHIN THE STATE; OR

9 (2) FOR A PERIOD OF FIVE YEARS AFTER CONVERSION:

10 (A) ENTER INTO ANY AGREEMENT BY THE TERMS OF WHICH ANY PERSON, PART-
11 NERSHIP OR CORPORATION AGREES TO PAY ALL OR A PORTION OF THE EXPENSES OF
12 MANAGEMENT OF THE INSURER IN CONSIDERATION OF THE INSURER'S AGREEMENT TO
13 PAY SUCH PERSON OR OTHER ENTITY EITHER COMMISSIONS ON PREMIUMS DUE THE
14 INSURER OR ANY OTHER COMPENSATION FOR SERVICES, OR

15 (B) ENTER INTO ANY AGREEMENT WITH AN OFFICER OR DIRECTOR OF THE INSUR-
16 ER OR WITH ANY FIRM OR CORPORATION IN WHICH ANY OFFICER OR DIRECTOR OF
17 THE INSURER IS PECUNIARILY INTERESTED, DIRECTLY OR INDIRECTLY, UNDER
18 WHICH AGREEMENT THE INSURER AGREES TO PAY, FOR THE ACQUISITION OF BUSI-
19 NESS, ANY COMMISSIONS OR OTHER COMPENSATION THAT BY THE TERMS OF SUCH
20 AGREEMENT VARIES WITH THE AMOUNT OF THE BUSINESS OR WITH THE EARNINGS OF
21 THE INSURER ON THE BUSINESS.

22 (T) NOTHING IN THIS SECTION SHALL IN ANY WAY IMPEDE OR IMPAIR THE
23 EXERCISE BY THE SUPERINTENDENT OF THE SUPERINTENDENT'S AUTHORITY UNDER
24 ANY OTHER PROVISION OF THIS CHAPTER.

25 S 2. This act shall take effect immediately.