

6448

2013-2014 Regular Sessions

I N A S S E M B L Y

April 1, 2013

Introduced by M. of A. LUPARDO -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the formation of mutual holding companies by certain domestic mutual life insurers and the reorganization in connection therewith of a domestic mutual life insurer into a domestic stock life insurer

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 article 80 to
2 read as follows:

3 ARTICLE 80

4 MUTUAL HOLDING COMPANY

5 SECTION 8001. DEFINITIONS.

6 8002. REORGANIZATION OF MUTUAL LIFE INSURER THROUGH FORMATION OF
7 A MUTUAL HOLDING COMPANY; CONTENTS OF PLAN.

8 8003. DIVIDEND PRACTICES.

9 8004. ADOPTION OF PLAN; SUBMISSION OF PLAN TO THE SUPERINTEN-
10 DENT.

11 8005. AMENDMENT OR WITHDRAWAL OF PLAN.

12 8006. CONSULTANTS.

13 8007. APPROVAL OF PLAN BY SUPERINTENDENT; HEARING.

14 8008. APPROVAL OF PLAN BY POLICYHOLDERS.

15 8009. FILING OF PLAN; EFFECTIVE DATE OF REORGANIZATION.

16 8010. EFFECT OF REORGANIZATION.

17 8011. CORPORATE EXISTENCE.

18 8012. DIRECTORS AND OFFICERS.

19 8013. NOTICE OF PROPOSED REORGANIZATION.

20 8014. FAILURE TO GIVE NOTICE.

21 8015. LIMITATIONS OF ACTIONS; SECURITY.

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

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- 1 8016. PROHIBITED TRANSACTIONS BY OFFICERS, DIRECTORS AND EMPLOY-
2 EES.
3 8017. REQUIREMENTS APPLICABLE TO A MUTUAL HOLDING COMPANY.
4 8018. OTHER REQUIREMENTS APPLICABLE TO A STOCK HOLDING COMPANY
5 AND A MUTUAL HOLDING COMPANY.
6 8019. CONVERSION OF MUTUAL HOLDING COMPANY.
7 8020. TRANSFERS OF SUBSIDIARIES.
8 8021. LIMITATIONS ON ACCUMULATION OF SURPLUS OF MUTUAL HOLDING
9 COMPANIES.
10 8022. CONFIDENTIALITY.

11 S 8001. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS
12 SHALL HAVE THE FOLLOWING MEANINGS:

13 (A) "ADOPTION DATE" MEANS THE DATE THE BOARD OF DIRECTORS OF THE MUTU-
14 AL LIFE INSURER ADOPTS THE PLAN OF REORGANIZATION.

15 (B) "BENEFICIAL OWNERSHIP" WITH RESPECT TO ANY SECURITY, MEANS THE
16 SOLE OR SHARED POWER TO VOTE OR DIRECT THE VOTING OF, SUCH SECURITY
17 AND/OR THE SOLE OR SHARED POWER TO DISPOSE OR DIRECT THE DISPOSITION OF
18 SUCH SECURITY.

19 (C) "EFFECTIVE DATE" MEANS, IN THE CASE OF THE REORGANIZATION OF A
20 MUTUAL LIFE INSURER, THE DATE UPON WHICH THE REORGANIZATION OF THE MUTU-
21 AL LIFE INSURER SHALL BE EFFECTIVE IN ACCORDANCE WITH SECTION EIGHT
22 THOUSAND NINE OF THIS ARTICLE AS A RESULT OF REORGANIZATION PROCEEDINGS
23 PURSUANT TO THIS ARTICLE.

24 (D) "MEMBER" WITH REFERENCE TO A MUTUAL LIFE INSURER, MEANS A PERSON
25 WHO, BY THE RECORDS OF THE MUTUAL LIFE INSURER, IS DEEMED TO BE THE
26 "POLICYHOLDER" OF A POLICY OR ANNUITY CONTRACT WHICH IS OF A TYPE
27 DESCRIBED IN PARAGRAPH ONE, TWO OR THREE OF SUBSECTION (A) OF SECTION
28 ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER FOR PURPOSES OF PARA-
29 GRAPH THREE OF SUBSECTION (A) OF SECTION FOUR THOUSAND TWO HUNDRED TEN
30 OF THIS CHAPTER. ON AND AFTER THE EFFECTIVE DATE OF A PLAN OF REORGAN-
31 IZATION THAT CREATES A MUTUAL HOLDING COMPANY, THE TERM "MEMBER" MEANS A
32 MEMBER OF SUCH MUTUAL HOLDING COMPANY AS PROVIDED IN SUBSECTION (C) OF
33 SECTION EIGHT THOUSAND SEVENTEEN OF THIS ARTICLE.

34 (E) "MEMBERSHIP INTERESTS" MEANS, WITH REFERENCE TO AN INSTITUTION
35 THAT IS A MUTUAL LIFE INSURER OR A MUTUAL HOLDING COMPANY, THE RIGHTS AS
36 MEMBERS ARISING UNDER THE CHARTER OF SUCH INSTITUTION OR THIS CHAPTER OR
37 OTHERWISE BY LAW INCLUDING THE RIGHTS TO VOTE AND TO PARTICIPATE IN ANY
38 DISTRIBUTION OF THE SURPLUS OF SUCH INSTITUTION, WHETHER OR NOT INCIDENT
39 TO A LIQUIDATION THEREOF. THE TERM "MEMBERSHIP INTERESTS" DOES NOT
40 INCLUDE RIGHTS EXPRESSLY CONFERRED UPON THE POLICYHOLDERS BY THEIR POLI-
41 CIES OR CONTRACTS (INCLUDING THE RIGHT TO PARTICIPATE IN THE DISTRIB-
42 UTION OF SURPLUS) OTHER THAN THE RIGHT TO VOTE.

43 (F) "MUTUAL HOLDING COMPANY" MEANS A CORPORATION ORGANIZED UNDER
44 SECTION EIGHT THOUSAND SEVENTEEN OF THIS ARTICLE.

45 (G) "MUTUAL LIFE INSURER" MEANS A DOMESTIC MUTUAL LIFE INSURER.

46 (H) "OFFER" INCLUDES EVERY OFFER TO BUY OR ACQUIRE, SOLICITATION OF AN
47 OFFER TO SELL, TENDER OFFER FOR, OR REQUEST OR INVITATION FOR TENDERS OF
48 A SECURITY OR INTEREST IN A SECURITY FOR VALUE.

49 (I) "OUTSIDE DIRECTOR" MEANS A DIRECTOR:

50 (1) WHO IS NOT AN OFFICER, EMPLOYEE OR CONSULTANT OF THE MUTUAL HOLD-
51 ING COMPANY, ANY STOCK HOLDING COMPANY, THE REORGANIZED INSURER OR ANY
52 OTHER SUBSIDIARY OF THE MUTUAL HOLDING COMPANY OR ANY STOCK HOLDING
53 COMPANY;

54 (2) WHO DOES NOT DIRECTLY OR INDIRECTLY OWN, CONTROL OR HOLD ONE
55 PERCENT OR GREATER OF THE VOTING SECURITIES OF ANY STOCK HOLDING COMPA-
56 NY, THE REORGANIZED INSURER OR ANY OTHER SUBSIDIARY OF THE MUTUAL HOLD-

1 ING COMPANY OR ANY STOCK HOLDING COMPANY, INCLUDING ANY INTEREST IN A
2 COMPANY SPONSORED PURSUANT TO SUBSECTION (J) OF SECTION EIGHT THOUSAND
3 EIGHTEEN OF THIS ARTICLE; AND

4 (3) WHO IS NOT A DIRECTOR, OFFICER OR EMPLOYEE OF ANY PERSON EXCEPT
5 THE MUTUAL HOLDING COMPANY OR ANY STOCK HOLDING COMPANY THAT DIRECTLY OR
6 INDIRECTLY OWNS, CONTROLS OR HOLDS SUCH PERCENTAGE OF SUCH VOTING SECUR-
7 RITY.

8 LESSER AMOUNTS OF OWNERSHIP OF VOTING SECURITIES OTHER THAN THOSE
9 PROVIDED FOR IN THIS SUBSECTION MAY BE APPROVED BY THE SUPERINTENDENT AS
10 A COMPONENT OF THE MUTUAL HOLDING COMPANY'S PLAN OF REORGANIZATION
11 PURSUANT TO THIS ARTICLE.

12 (J) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, FIRM, ASSOCIATION,
13 CORPORATION, JOINT-STOCK COMPANY, LIMITED LIABILITY COMPANY, LIMITED
14 LIABILITY PARTNERSHIP, TRUST, GOVERNMENT OR GOVERNMENTAL AGENCY, STATE
15 OR POLITICAL SUBDIVISION THEREOF, PUBLIC OR PRIVATE CORPORATION, BOARD,
16 ASSOCIATION, ESTATE, TRUSTEE OR FIDUCIARY, ANY SIMILAR ENTITY OR ANY
17 COMBINATION OF THE FOREGOING ACTING IN CONCERT.

18 (K) "PLAN OR REORGANIZATION" OR "PLAN" MEANS A PLAN ADOPTED BY A MUTU-
19 AL LIFE INSURER IN COMPLIANCE WITH THIS ARTICLE.

20 (L) "POLICYHOLDER" MEANS A PERSON, AS DETERMINED BY THE RECORDS OF THE
21 REORGANIZING INSURER OR REORGANIZED INSURER, WHO IS DEEMED TO BE THE
22 "POLICYHOLDER" OF A POLICY OR ANNUITY CONTRACT WHICH IS OF A TYPE
23 DESCRIBED IN PARAGRAPH ONE, TWO OR THREE OF SUBSECTION (A) OF SECTION
24 ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER FOR PURPOSES OF PARA-
25 GRAPH THREE OF SUBSECTION (A) OF SECTION FOUR THOUSAND TWO HUNDRED TEN
26 OF THIS CHAPTER.

27 (M) "PUBLIC OFFERING" MEANS A STOCK OFFERING REQUIRED TO BE REGISTERED
28 PURSUANT TO THE SECURITIES ACT OF 1933, UNITED STATES CODE, TITLE 15,
29 SECTION 77E.

30 (N) "REORGANIZED INSURER" MEANS THE STOCK LIFE INSURER INTO WHICH A
31 MUTUAL LIFE INSURER HAS BEEN REORGANIZED IN ACCORDANCE WITH THE
32 PROVISIONS OF THIS ARTICLE.

33 (O) "REORGANIZING INSURER" MEANS, IN THE CASE OF A PLAN OF REORGANIZA-
34 TION OF A MUTUAL LIFE INSURER UNDER THIS ARTICLE, THE MUTUAL LIFE INSUR-
35 ER THAT IS REORGANIZING PURSUANT TO SUCH PLAN.

36 (P) "STOCK HOLDING COMPANY" MEANS A CORPORATION INCORPORATED UNDER THE
37 LAWS OF ANY JURISDICTION IN THE UNITED STATES, AT LEAST FIFTY-ONE
38 PERCENT OF THE VOTING STOCK OF WHICH IS OWNED, DIRECTLY OR THROUGH
39 ANOTHER STOCK HOLDING COMPANY, BY A MUTUAL HOLDING COMPANY AND WHICH
40 HOLDS, DIRECTLY OR INDIRECTLY, VOTING STOCK IN AT LEAST ONE REORGANIZED
41 INSURER.

42 (Q) "VOTING SECURITY" INCLUDES VOTING SECURITIES AS DEFINED IN PARA-
43 GRAPH FORTY-FIVE OF SUBSECTION (A) OF SECTION ONE HUNDRED SEVEN OF THIS
44 CHAPTER, ANY REORGANIZATION CERTIFICATE OR SUBSCRIPTION (INCLUDING
45 SUBSCRIPTION RIGHTS ISSUED PURSUANT TO A PLAN OF REORGANIZATION), OR ANY
46 SECURITY CONVERTIBLE (WITH OR WITHOUT CONSIDERATION) INTO ANY SUCH SECUR-
47 RITY, OR CARRYING ANY WARRANT OR RIGHT TO SUBSCRIBE FOR OR PURCHASE ANY
48 SUCH SECURITY, OR ANY SUCH WARRANT OR RIGHT.

49 (R) "VOTING STOCK" MEANS CAPITAL STOCK THAT CONSTITUTES VOTING SECURI-
50 TIES AS DEFINED IN PARAGRAPH FORTY-FIVE OF SUBSECTION (A) OF SECTION ONE
51 HUNDRED SEVEN OF THIS CHAPTER. ALL REFERENCES IN THIS ARTICLE TO A SPEC-
52 IFIED PERCENTAGE OF THE VOTING STOCK OF ANY PERSON SHALL MEAN SECURITIES
53 HAVING THE SPECIFIED PERCENTAGE OF THE VOTING POWER IN SUCH PERSON FOR
54 THE ELECTION OF DIRECTORS, TRUSTEES OR MANAGEMENT OF SUCH PERSON OTHER
55 THAN SECURITIES HAVING SUCH POWER ONLY BY REASON OF THE HAPPENING OF A
56 CONTINGENCY.

1 S 8002. REORGANIZATION OF MUTUAL LIFE INSURER THROUGH FORMATION OF A
2 MUTUAL HOLDING COMPANY; CONTENTS OF PLAN. (A) A MUTUAL LIFE INSURER
3 HAVING ON THE ADOPTION DATE ADMITTED ASSETS OF LESS THAN TEN BILLION
4 DOLLARS MAY BE REORGANIZED AS A DOMESTIC STOCK LIFE INSURER WITH A MUTU-
5 AL HOLDING COMPANY BY COMPLYING WITH THE REQUIREMENTS OF THIS ARTICLE.

6 (B) THE PLAN OF REORGANIZATION SHALL CONTAIN PROVISIONS FOR:

7 (1) THE REORGANIZING INSURER BECOMING A DOMESTIC STOCK LIFE INSURER;

8 (2) THE FORMATION OF A MUTUAL HOLDING COMPANY;

9 (3) THE MEMBERS OF THE REORGANIZING INSURER BECOMING MEMBERS OF THE
10 MUTUAL HOLDING COMPANY WITH MEMBERSHIP INTERESTS THEREIN, AND THE
11 MEMBERSHIP INTERESTS IN THE REORGANIZING INSURER BEING EXTINGUISHED; AND

12 (4) AT LEAST FIFTY-ONE PERCENT OF THE VOTING STOCK ISSUED BY THE REOR-
13 GANIZED INSURER BEING ACQUIRED AND HELD, DIRECTLY OR THROUGH ONE OR MORE
14 STOCK HOLDING COMPANIES, BY THE MUTUAL HOLDING COMPANY.

15 (5) THE GENERAL TERMS FOR THE ESTABLISHMENT OF THE CLOSED BLOCK OR AN
16 ALTERNATIVE PROVISION UNDER SUBSECTION (B) OF SECTION EIGHT THOUSAND
17 THREE OF THIS ARTICLE AND THE PROPOSED DIVIDEND POLICY UNDER SUBSECTION
18 (A) OF SECTION EIGHT THOUSAND THREE OF THIS ARTICLE; AND

19 (6) A PLAN OF OPERATION FOR THE REORGANIZED INSURER INCLUDING FINAN-
20 CIAL PROJECTIONS FOR A THREE-YEAR PERIOD AND A STATEMENT INDICATING ITS
21 INTENTIONS WITH REGARD TO ISSUING ANY NONPARTICIPATING BUSINESS.

22 (C) THE PLAN OF REORGANIZATION SHALL PROVIDE THAT THE REORGANIZATION
23 WILL NOT CHANGE PREMIUMS OR REDUCE POLICY BENEFITS, VALUES OR GUARANTEES
24 OR OTHER POLICY OBLIGATIONS OF THE MUTUAL LIFE INSURER, PROVIDED THAT
25 THE PLAN OF REORGANIZATION MAY PROVIDE THAT THE REORGANIZED INSURER WILL
26 BE ABLE TO MAKE SUCH CHANGES AND REDUCTIONS AS WOULD BE PERMITTED UNDER
27 THIS CHAPTER IF THE MUTUAL LIFE INSURER WERE NOT A REORGANIZING INSURER
28 UNDER THIS ARTICLE.

29 (D) THE PLAN MAY PROVIDE FOR THE FORMATION OF ONE OR MORE STOCK HOLD-
30 ING COMPANIES.

31 (E) THE PLAN SHALL INCLUDE THE FOLLOWING AS EXHIBITS:

32 (1) THE PROPOSED CHARTERS OR CERTIFICATES OF INCORPORATION OF THE
33 REORGANIZED INSURER, THE MUTUAL HOLDING COMPANY AND ANY STOCK HOLDING
34 COMPANY OR COMPANIES; AND

35 (2) THE PROPOSED BY-LAWS OF THE REORGANIZED INSURER, THE MUTUAL HOLD-
36 ING COMPANY AND ANY STOCK HOLDING COMPANY OR COMPANIES.

37 S 8003. DIVIDEND PRACTICES. (A) FOLLOWING THE EFFECTIVE DATE OF THE
38 PLAN, THE REORGANIZED INSURER MAY, WITH RESPECT TO ITS PARTICIPATING
39 INDIVIDUAL POLICIES AND CONTRACTS, EITHER:

40 (1) CONTINUE THE DIVIDEND PRACTICES OF THE REORGANIZING INSURER;

41 (2) CONTINUE THE DIVIDEND PRACTICES OF THE REORGANIZING INSURER AND
42 ADOPT SUCH OTHER DIVIDEND PRACTICES AS, AT THE EFFECTIVE DATE OR AT ANY
43 TIME THEREAFTER, MAY BE PERMITTED UNDER APPLICABLE LAW OR REGULATION OR
44 APPROVED BY THE SUPERINTENDENT; OR

45 (3) ADOPT SUCH OTHER ALTERNATIVE WITH RESPECT TO DIVIDEND PRACTICES AS
46 THE SUPERINTENDENT MAY APPROVE.

47 (B) FOLLOWING THE EFFECTIVE DATE OF THE PLAN, THE REORGANIZED INSURER
48 SHALL, ON OR BEFORE THE DATE ON WHICH LESS THAN SEVENTY-FIVE PERCENT OF
49 THE VOTES ELIGIBLE TO BE CAST BY THE MUTUAL HOLDING COMPANY'S MEMBERS
50 ARE HELD BY OWNERS OF THE REORGANIZED INSURER'S PARTICIPATING POLICIES
51 OR CONTRACTS, EITHER:

52 (1) (A) ESTABLISH A CLOSED BLOCK, FOR POLICYHOLDER DIVIDEND PURPOSES
53 ONLY, CONSISTING OF ALL OF THE PARTICIPATING INDIVIDUAL POLICIES AND
54 CONTRACTS OF THE MUTUAL LIFE INSURER OR THE REORGANIZED INSURER, AS THE
55 CASE MAY BE, IN FORCE ON THE EFFECTIVE DATE AND FOR WHICH THE INSURER
56 HAD AN EXPERIENCE-BASED DIVIDEND SCALE PAYABLE IN THE YEAR OF THE IMPL-

1 MENTATION DATE, TO WHICH CLOSED BLOCK, ON OR BEFORE THE IMPLEMENTATION
2 DATE, SHALL BE ALLOCATED ASSETS OF THE INSURER IN AN AMOUNT THAT PRODUC-
3 ES CASH FLOWS, TOGETHER WITH ANTICIPATED REVENUES FROM THE CLOSED BLOCK
4 BUSINESS, EXPECTED TO BE SUFFICIENT TO SUPPORT THE CLOSED BLOCK BUSINESS
5 INCLUDING PROVISION FOR PAYMENT OF CLAIMS AND THOSE EXPENSES AND TAXES
6 SPECIFIED IN THE TERMS FOR THE ESTABLISHMENT OF THE CLOSED BLOCK AND TO
7 PROVIDE FOR CONTINUATION OF THE DIVIDEND PRACTICES IN EFFECT ON THE
8 EFFECTIVE DATE IF THE CLOSED BLOCK IS ESTABLISHED ON OR BEFORE THE ONE
9 HUNDRED EIGHTIETH DAY AFTER THE EFFECTIVE DATE, OR OTHERWISE THE DIVI-
10 DEND PRACTICES IN EFFECT ON THE IMPLEMENTATION DATE, PROVIDED, HOWEVER,
11 THAT NO POLICIES OR CONTRACTS ENTERING INTO FORCE AFTER THE IMPLEMENTA-
12 TION DATE WILL BE INCLUDED IN THE CLOSED BLOCK, AND PROVIDED, FURTHER,
13 THAT, IN DETERMINING DIVIDEND PRACTICES OF THE REORGANIZING INSURER, THE
14 SUPERINTENDENT SHALL REVIEW DIVIDEND SCALES IN EFFECT FOR AT LEAST TWO
15 YEARS PRIOR TO THE FILING OF THE REORGANIZATION PLAN; AND

16 (B) THE TERMS FOR THE ESTABLISHMENT OF THE CLOSED BLOCK MAY PROVIDE
17 FOR CONDITIONS UNDER WHICH, WITH THE APPROVAL OF THE SUPERINTENDENT, THE
18 REORGANIZED INSURER MAY CEASE TO MAINTAIN THE CLOSED BLOCK AND ALLO-
19 CATION OF ASSETS THERETO, BUT REGARDLESS OF SUCH A CESSATION THE POLI-
20 CIES AND CONTRACTS CONSTITUTING CLOSED BLOCK BUSINESS SHALL REMAIN OBLI-
21 GATIONS OF THE REORGANIZED INSURER AND ANY DIVIDENDS ON SUCH POLICIES
22 AND CONTRACTS SHALL BE DETERMINED AND APPORTIONED BY THE BOARD OF DIREC-
23 TORS OF THE REORGANIZED INSURER IN ACCORDANCE WITH THE TERMS OF SUCH
24 POLICIES AND CONTRACTS AND APPLICABLE PROVISIONS OF THIS CHAPTER; OR

25 (2) PROVIDE AS TO PARTICIPATING INDIVIDUAL POLICIES AND CONTRACTS OF
26 THE REORGANIZING OR REORGANIZED INSURER IN SUCH MANNER AS THE SUPER-
27 INTENDENT MAY APPROVE.

28 (C) THE GENERAL TERMS FOR THE ESTABLISHMENT OF THE CLOSED BLOCK OR
29 SUCH ALTERNATIVE PROVISION UNDER SUBSECTION (B) OF THIS SECTION AND THE
30 PROPOSED DIVIDEND POLICY SHALL BE INCLUDED IN THE PLAN UNDER SECTION
31 EIGHT THOUSAND TWO OF THIS ARTICLE.

32 (D) THE SUPERINTENDENT MAY APPOINT ONE OR MORE CONSULTANTS AS THE
33 SUPERINTENDENT SHALL REASONABLY DEEM NECESSARY TO ADVISE THE SUPERINTEN-
34 DENT REGARDING THE PROPOSED TERMS FOR THE ESTABLISHMENT OF THE CLOSED
35 BLOCK OR THE ALTERNATIVE PROVISION UNDER SUBSECTION (A) OR (B) OF THIS
36 SECTION; AND THE REORGANIZING INSURER SHALL BE RESPONSIBLE FOR THE
37 REASONABLE FEES AND EXPENSES OF ANY SUCH CONSULTANTS.

38 (E) FOR PURPOSES OF THIS SECTION, "IMPLEMENTATION DATE" MEANS THE DATE
39 AS OF WHICH THE CLOSED BLOCK IS ESTABLISHED, AS SPECIFIED IN THE TERMS
40 FOR THE ESTABLISHMENT OF THE CLOSED BLOCK.

41 S 8004. ADOPTION OF PLAN; SUBMISSION OF PLAN TO THE SUPERINTENDENT.

42 (A) A MUTUAL LIFE INSURER SEEKING TO REORGANIZE UNDER THIS ARTICLE
43 SHALL, BY ACTION OF THREE-FOURTHS OF ITS ENTIRE BOARD OF DIRECTORS,
44 ADOPT A PLAN CONSISTENT WITH THE PROVISIONS OF SECTIONS EIGHT THOUSAND
45 TWO AND EIGHT THOUSAND THREE OF THIS ARTICLE WHICH IS FAIR AND EQUITABLE
46 TO THE POLICYHOLDERS. THE RESOLUTION SHALL SPECIFY THE REASONS FOR AND
47 THE PURPOSES OF THE PROPOSED REORGANIZATION.

48 (B) THE PLAN SHALL BE SUBMITTED TO THE SUPERINTENDENT, TOGETHER WITH
49 THE RESOLUTION OF THE BOARD OF DIRECTORS OF THE REORGANIZING INSURER,
50 CERTIFIED BY THE SECRETARY THEREOF, ADOPTING THE PLAN PURSUANT TO THIS
51 ARTICLE.

52 S 8005. AMENDMENT OR WITHDRAWAL OF PLAN. AT ANY TIME BEFORE THE PLAN
53 OF REORGANIZATION BECOMES EFFECTIVE AS PROVIDED IN SECTION EIGHT THOU-
54 SAND NINE OF THIS ARTICLE, THE REORGANIZING INSURER MAY, BY RESOLUTION
55 OF A THREE-FOURTHS MAJORITY OF ITS ENTIRE BOARD OF DIRECTORS, AMEND THE
56 PLAN OF REORGANIZATION OR WITHDRAW THE PLAN OF REORGANIZATION. IN THE

1 CASE OF A PLAN AMENDMENT, ALL REFERENCES IN THIS ARTICLE TO THE PLAN OF
2 REORGANIZATION SHALL BE DEEMED TO REFER TO THE PLAN AS AMENDED, BUT NO
3 AMENDMENT SHALL BE DEEMED TO CHANGE THE ADOPTION DATE OF THE PLAN OF
4 REORGANIZATION. A FURTHER PUBLIC HEARING IS NOT NECESSARY UNLESS THE
5 SUPERINTENDENT DETERMINES THAT AMENDMENTS SUBMITTED AFTER THE ORIGINAL
6 HEARING REQUIRED UNDER SECTION EIGHT THOUSAND SEVEN OF THIS ARTICLE WILL
7 SUBSTANTIALLY ALTER THE PLAN. IN THE EVENT THAT THE SUPERINTENDENT
8 DETERMINES THAT THE AMENDMENT SUBSTANTIALLY ALTERS THE PLAN, THE PLAN AS
9 AMENDED MUST BE SUBMITTED FOR RECONSIDERATION BY THE POLICYHOLDERS ENTITLED TO VOTE ON THE PLAN AS PROVIDED IN SECTION EIGHT THOUSAND EIGHT OF THIS ARTICLE.

12 S 8006. CONSULTANTS. THE SUPERINTENDENT MAY APPOINT ONE OR MORE
13 CONSULTANTS AS THE SUPERINTENDENT SHALL REASONABLY DEEM NECESSARY TO
14 ADVISE THE SUPERINTENDENT IN MAKING THE DETERMINATION WHETHER THE
15 PROPOSED PLAN OF REORGANIZATION MEETS THE APPLICABLE REQUIREMENTS OF
16 THIS ARTICLE. THE REORGANIZING INSURER SHALL BE RESPONSIBLE FOR THE
17 REASONABLE FEES AND EXPENSES OF ANY SUCH CONSULTANTS. THIS EXPENDITURE
18 SHALL NOT CONSTITUTE AN EXPENDITURE OF PUBLIC FUNDS PURSUANT TO THE
19 STATE FINANCE LAW.

20 S 8007. APPROVAL OF PLAN BY SUPERINTENDENT; HEARING. THE SUPERINTENDENT SHALL ORDER A PUBLIC HEARING ON THE PLAN TO BE HELD PRIOR TO THE PLAN BEING SUBMITTED TO THE POLICYHOLDERS FOR THEIR APPROVAL. THE REORGANIZING INSURER SHALL GIVE WRITTEN NOTICE OF THE HEARING TO POLICYHOLDERS WHOSE POLICIES OR CONTRACTS ARE IN FORCE ON THE ADOPTION DATE, SENT BY MAIL OR ELECTRONIC TRANSMISSION TO THE LAST KNOWN MAILING OR ELECTRONIC ADDRESSES OF SUCH POLICYHOLDERS AS SHOWN ON THE RECORDS OF THE REORGANIZING INSURER. HOWEVER, THE REORGANIZING INSURER MAY INSTEAD GIVE NOTICE OF THE HEARING BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE REORGANIZING INSURER HAS ITS PRINCIPAL OFFICE AND IN EITHER OF THE TWO LARGEST CITIES IN EACH STATE IN WHICH THE REORGANIZING INSURER SHALL BE LICENSED TO DO BUSINESS. THE DATE SPECIFIED FOR THE HEARING SHALL BE NOT LESS THAN TEN NOR MORE THAN THIRTY DAYS FROM THE DATE ON WHICH THE NOTICE OF THE HEARING IS SENT OR PUBLISHED. NOTICE OF HEARING SHALL STATE THE PURPOSE THEREOF, THE TIME WHEN AND THE PLACE WHERE THE PUBLIC HEARING WILL BE HELD. THE HEARING SHALL BE HELD AT A TIME AND LOCATION IN THIS STATE DEEMED BY THE SUPERINTENDENT TO BE MOST CONVENIENT TO THE GREATEST NUMBER OF PERSONS AFFECTED BY SUCH PLAN. AT SUCH HEARING ANY PERSON MAY BE HEARD IN FAVOR OF, OR AGAINST, THE TERMS OF THE PLAN. THE PLAN OF REORGANIZATION SHALL BE MADE AVAILABLE FOR PUBLIC INSPECTION AT ONE OFFICE OF THE DEPARTMENT IN EACH CITY IN THIS STATE WHERE THE DEPARTMENT MAINTAINS AN OFFICE AND AT THE PRINCIPAL OFFICE OF THE REORGANIZING INSURER. THE SUPERINTENDENT SHALL APPROVE THE PLAN IF THE SUPERINTENDENT FINDS THAT:

44 (A) THE PLAN IS FAIR AND EQUITABLE TO POLICYHOLDERS;

45 (B) THE PLAN DOES NOT VIOLATE THIS ARTICLE; AND

46 (C) AFTER GIVING EFFECT TO THE REORGANIZATION, THE REORGANIZED INSURER
47 WILL HAVE AN AMOUNT OF CAPITAL AND SURPLUS THE SUPERINTENDENT DEEMS TO
48 BE REASONABLY NECESSARY FOR ITS FUTURE SOLVENCY.

49 S 8008. APPROVAL OF PLAN BY POLICYHOLDERS. (A) A PROPOSAL TO APPROVE
50 THE PLAN OF REORGANIZATION SHALL BE SUBMITTED TO POLICYHOLDERS FOR
51 APPROVAL. THE POLICYHOLDERS ENTITLED TO NOTICE OF AND TO VOTE UPON THE
52 PROPOSAL SHALL BE THE HOLDERS OF POLICIES OR CONTRACTS WHICH ARE IN
53 FORCE ON THE ADOPTION DATE. THE REORGANIZING INSURER SHALL GIVE WRITTEN
54 NOTICE STATING THE DATE, TIME AND PLACE FOR VOTING ON SUCH PROPOSAL TO
55 POLICYHOLDERS ENTITLED TO NOTICE OF AND TO VOTE ON THE PROPOSAL IN
56 ACCORDANCE WITH THIS SECTION, SENT BY MAIL OR ELECTRONIC TRANSMISSION TO

1 THE LAST KNOWN MAILING OR ELECTRONIC ADDRESSES OF SUCH POLICYHOLDERS AS
2 SHOWN ON THE RECORDS OF THE REORGANIZING INSURER. SUCH NOTICE SHALL BE
3 SENT AT LEAST THIRTY DAYS BEFORE THE DATE OF THE PROPOSED VOTE TO
4 APPROVE THE PLAN OF REORGANIZATION. SUCH NOTICE MAY BE COMBINED WITH
5 NOTICE OF THE HEARING REQUIRED BY SECTION EIGHT THOUSAND SEVEN OF THIS
6 ARTICLE. SUCH NOTICE SHALL BE PRECEDED OR ACCOMPANIED BY A TRUE AND
7 CORRECT COPY OF THE PLAN, OR BY A SUMMARY THEREOF APPROVED BY THE SUPER-
8 INTENDENT, AND SUCH OTHER EXPLANATORY INFORMATION AS THE SUPERINTENDENT
9 SHALL APPROVE OR REQUIRE. HOWEVER, THE REORGANIZING INSURER MAY INSTEAD
10 GIVE NOTICE BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
11 COUNTY IN WHICH THE REORGANIZING INSURER HAS ITS PRINCIPAL OFFICE AND IN
12 EITHER OF THE TWO LARGEST CITIES IN EACH STATE IN WHICH THE REORGANIZING
13 INSURER SHALL BE LICENSED TO DO BUSINESS, PROVIDED, HOWEVER, THAT A
14 FULL, TRUE AND CORRECT COPY OF SUCH PROPOSED AGREEMENT, OR A SUMMARY
15 THEREOF APPROVED BY THE SUPERINTENDENT, SHALL BE INCLUDED IN SUCH
16 NOTICE. SUCH PUBLISHED NOTICE MAY BE COMBINED WITH PUBLISHED NOTICE OF
17 THE HEARING CONTEMPLATED BY SECTION EIGHT THOUSAND SEVEN OF THIS ARTI-
18 CLE.

19 (B) EACH POLICYHOLDER ENTITLED TO VOTE ON THE PROPOSAL SHALL BE ENTI-
20 TLED TO CAST ONE VOTE, UNLESS OTHERWISE PROVIDED IN THE CHARTER OR
21 BY-LAWS OF THE REORGANIZING INSURER, ON THE PROPOSAL, EITHER IN PERSON
22 OR BY MAIL OR BY PROXY, IRRESPECTIVE OF THE NUMBER OR AMOUNT OF THE
23 POLICIES OR CONTRACTS HE OR SHE HOLDS. EACH PROXY SHALL BE REVOCABLE AT
24 ANY TIME, EXCEPT TO THE EXTENT THAT, AT THE TIME OF ATTEMPTED REVOCATION,
25 THE POWER CONFERRED THEREBY HAS ALREADY BEEN PROPERLY EXERCISED.
26 ALL VOTES SHALL BE BY WRITTEN BALLOT CAST IN PERSON OR BY MAIL OR BY
27 ELECTRONIC MEANS BY POLICYHOLDERS ENTITLED TO VOTE OR BY PROXY AGENTS
28 DULY APPOINTED BY POLICYHOLDERS ENTITLED TO VOTE. THE VOTING ON THE
29 PROPOSAL SHALL BE HELD AT THE HOME OFFICE OF THE REORGANIZING INSURER.
30 THE POLLS SHALL BE OPENED AT TEN O'CLOCK IN THE FORENOON AND REMAIN OPEN
31 UNTIL FOUR O'CLOCK IN THE AFTERNOON OF THE DAY FIXED FOR SUCH VOTING, AT
32 WHICH TIME THEY SHALL BE CLOSED.

33 (C) THE PROPOSAL TO APPROVE THE PLAN OF REORGANIZATION SHALL BE
34 ADOPTED BY THE AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF ALL VOTES CAST
35 BY POLICYHOLDERS ENTITLED TO VOTE.

36 (D) THE SUPERINTENDENT SHALL HAVE POWER TO PRESCRIBE RULES GOVERNING
37 THE PROCEDURES FOR CONDUCT OF THE VOTING ON THE PROPOSAL.

38 (E) THE PROVISIONS OF SECTION FOUR THOUSAND TWO HUNDRED TEN OF THIS
39 CHAPTER SHALL NOT APPLY TO THE ACTION BY POLICYHOLDERS PURSUANT TO THIS
40 SECTION.

41 (F) UPON THE CONCLUSION OF THE VOTE, THE REORGANIZING INSURER SHALL
42 SUBMIT TO THE SUPERINTENDENT:

43 (1) A CERTIFIED COPY OF THE PLAN OF REORGANIZATION, SUBSCRIBED BY THE
44 CHAIRMAN OF THE BOARD, THE PRESIDENT OR ANY VICE PRESIDENT AND ATTESTED
45 BY THE SECRETARY OR AN ASSISTANT SECRETARY OF THE REORGANIZING INSURER;

46 (2) A CERTIFICATE, SUBSCRIBED BY THE CHAIRMAN OF THE BOARD, THE PRESI-
47 DENT OR ANY VICE PRESIDENT AND ATTESTED BY THE SECRETARY OR ASSISTANT
48 SECRETARY OF THE REORGANIZING INSURER, OR SUBSCRIBED BY THE PERSON OR
49 PERSONS, IF ANY, DESIGNATED BY THE SUPERINTENDENT TO SUPERVISE THE
50 GIVING OF NOTICE OF THE DATE FOR ACTION ON THE PROPOSAL, TO THE EFFECT
51 THAT SUCH NOTICE WAS GIVEN IN ACCORDANCE WITH THIS SECTION TO ALL POLI-
52 CYHOLDERS ENTITLED TO SUCH NOTICE; AND

53 (3) A CERTIFICATE SUBSCRIBED BY AN OFFICER OF THE REORGANIZING INSURER
54 OF THE RESULTS OF THE VOTE, AS EVIDENCED BY VALID BALLOTS RECEIVED
55 BEFORE THE POLLS WERE CLOSED.

1 EACH SUCH CERTIFICATE SHALL BE AFFIRMED AS TRUE UNDER THE PENALTIES OF
2 PERJURY BY THE PERSON OR PERSONS SUBSCRIBING THE SAME AND, IN THE CASE
3 OF A CERTIFICATE SIGNED BY OFFICERS OF THE REORGANIZING INSURER, SHALL
4 BE AFFIRMED UNDER THE CORPORATE SEAL OF THE REORGANIZING INSURER.

5 S 8009. FILING OF PLAN; EFFECTIVE DATE OF REORGANIZATION. (A) WHEN THE
6 SUPERINTENDENT HAS GIVEN HIS OR HER APPROVAL OF THE PLAN OF REORGANIZA-
7 TION AS PROVIDED IN SECTION EIGHT THOUSAND SEVEN OF THIS ARTICLE, AND
8 CERTIFICATION OF APPROVAL OF THE PLAN BY POLICYHOLDERS ENTITLED TO VOTE
9 ON THE PLAN HAS BEEN MADE TO THE SUPERINTENDENT AS PROVIDED IN SECTION
10 EIGHT THOUSAND EIGHT OF THIS ARTICLE, A COPY OF THE PLAN OF REORGANIZA-
11 TION, WITH THE SUPERINTENDENT'S APPROVAL ENDORSED THEREON, SHALL BE
12 FILED IN THE OFFICE OF THE SUPERINTENDENT. A COPY OF SUCH PLAN CERTIFIED
13 BY THE SUPERINTENDENT SHALL ALSO BE FILED BY THE REORGANIZING INSURER IN
14 THE OFFICE OF THE CLERK OF THE COUNTY WHERE THE PRINCIPAL OFFICE OF THE
15 REORGANIZING INSURER IS LOCATED WITHIN THIRTY DAYS AFTER THE SUPERINTEN-
16 DENT'S APPROVAL.

17 (B) THE PLAN OF REORGANIZATION SHALL TAKE EFFECT IN ACCORDANCE WITH
18 ITS TERMS ON THE DATE AND AT THE TIME WHEN THE FILING IN THE OFFICE OF
19 THE SUPERINTENDENT REQUIRED BY THIS SECTION HAS BEEN MADE OR ON SUCH
20 LATER DATE OR AT SUCH LATER TIME, IF ANY, AS MAY HAVE BEEN SPECIFIED IN
21 OR DETERMINED IN ACCORDANCE WITH THE PLAN OR PURSUANT THERETO.

22 (C) AS OF THE EFFECTIVE DATE, THE SUPERINTENDENT SHALL ISSUE AN
23 AMENDED CERTIFICATE OF AUTHORITY TO THE REORGANIZED INSURER, AND, IF THE
24 PLAN OF REORGANIZATION SPECIFIES THAT THE REORGANIZED INSURER PROPOSES
25 TO CONTINUE TO ISSUE FOR DELIVERY IN THIS STATE PARTICIPATING POLICIES
26 OR CONTRACTS, THE SUPERINTENDENT SHALL, IN ACCORDANCE WITH SUBSECTION
27 (F) OF SECTION FOUR THOUSAND TWO HUNDRED THIRTY-ONE OF THIS CHAPTER,
28 ISSUE A PERMIT AUTHORIZING IT TO DO SO.

29 S 8010. EFFECT OF REORGANIZATION. UPON THE EFFECTIVE DATE OF A PLAN OF
30 REORGANIZATION IN ACCORDANCE WITH SECTION EIGHT THOUSAND NINE OF THIS
31 ARTICLE:

32 (A) THE REORGANIZING INSURER SHALL IMMEDIATELY BECOME A DOMESTIC STOCK
33 LIFE INSURER;

34 (B) THE MEMBERS OF THE REORGANIZING INSURER ON THE EFFECTIVE DATE
35 SHALL IMMEDIATELY BECOME MEMBERS OF THE MUTUAL HOLDING COMPANY WITH
36 MEMBERSHIP INTERESTS THEREIN, AND ALL MEMBERSHIP INTERESTS IN THE REOR-
37 GANIZING INSURER SHALL BE EXTINGUISHED;

38 (C) PERSONS BECOMING POLICYHOLDERS OF THE REORGANIZED INSURER AFTER
39 THE EFFECTIVE DATE OF THE PLAN SHALL BECOME MEMBERS OF THE MUTUAL HOLD-
40 ING COMPANY IMMEDIATELY UPON ISSUANCE OF THE POLICY OR CONTRACT;

41 (D) ONE HUNDRED PERCENT OF THE VOTING STOCK ISSUED BY THE REORGANIZED
42 INSURER SHALL BE OWNED, DIRECTLY OR THROUGH ONE OR MORE STOCK HOLDING
43 COMPANIES, BY THE MUTUAL HOLDING COMPANY, AND AT NO TIME SUBSEQUENT
44 SHALL SUCH MUTUAL HOLDING COMPANY OWN LESS THAN FIFTY-ONE PERCENT OF
45 SUCH VOTING STOCK; AND

46 (E) ANY OTHER REORGANIZATION OF THE REORGANIZING INSURER AND ITS
47 SUBSIDIARIES SPECIFIED IN THE PLAN SHALL BECOME EFFECTIVE IN ACCORDANCE
48 WITH THE TERMS OF THE PLAN. EXCEPT FOR THE RIGHT TO VOTE, THE RIGHTS OF
49 ALL POLICYHOLDERS WITH RESPECT TO THE REORGANIZED INSURER THEREAFTER
50 SHALL BE AS SPECIFIED IN THEIR POLICIES OR CONTRACTS, IN THE CHARTER OF
51 THE REORGANIZED INSURER AND IN THE PLAN OF REORGANIZATION.

52 S 8011. CORPORATE EXISTENCE. (A) THE REORGANIZED INSURER SHALL BE A
53 CONTINUATION OF THE REORGANIZING INSURER, AND THE REORGANIZATION SHALL
54 IN NO WAY ANNUL, MODIFY OR CHANGE ANY OF SUCH INSURER'S EXISTING SUITS,
55 RIGHTS, CONTRACTS OR LIABILITIES EXCEPT AS PROVIDED IN THE APPROVED PLAN
56 OF REORGANIZATION. ALL RIGHTS, FRANCHISES AND INTERESTS OF THE REORGAN-

1 IZING INSURER IN AND TO EVERY SPECIES OF PROPERTY, REAL, PERSONAL AND
2 MIXED, AND THINGS IN ACTION THEREUNTO BELONGING, SHALL BE VESTED IN THE
3 CONTINUING COMPANY, WITHOUT ANY DEED OR TRANSFER, AND SIMULTANEOUSLY
4 THEREWITH SUCH CONTINUING COMPANY SHALL BE SUBJECT TO ALL OF THE OBLI-
5 GATIONS AND LIABILITIES OF THE REORGANIZING INSURER, OTHER THAN OBLI-
6 GATIONS AND LIABILITIES WITH RESPECT TO THE POLICYHOLDERS' MEMBERSHIP
7 INTERESTS EXTINGUISHED BY THE PLAN OF REORGANIZATION.

8 (B) NO ACTION OR PROCEEDING PENDING AT THE TIME OF THE REORGANIZATION
9 TO WHICH THE REORGANIZING INSURER MAY BE A PARTY SHALL BE ABATED OR
10 DISCONTINUED BY REASONS OF SUCH REORGANIZATION, BUT THE SAME MAY BE
11 PROSECUTED TO FINAL JUDGMENT IN THE SAME MANNER AS IF THE REORGANIZATION
12 HAD NOT TAKEN PLACE, OR THE REORGANIZED INSURER MAY BE SUBSTITUTED IN
13 PLACE OF SUCH REORGANIZING INSURER BY ORDER OF THE COURT IN WHICH THE
14 ACTION OR PROCEEDING MAY BE PENDING.

15 S 8012. DIRECTORS AND OFFICERS. EXCEPT AS OTHERWISE PROVIDED IN THE
16 PLAN OF REORGANIZATION AND SUBJECT TO SUBSECTION (D) OF SECTION EIGHT
17 THOUSAND SEVENTEEN OF THIS ARTICLE, THE DIRECTORS AND OFFICERS OF THE
18 REORGANIZING INSURER SHALL SERVE AS DIRECTORS AND OFFICERS OF THE REOR-
19 GANIZED INSURER, ANY STOCK HOLDING COMPANY AND THE MUTUAL HOLDING COMPA-
20 NY UNTIL NEW DIRECTORS AND OFFICERS HAVE BEEN DULY ELECTED AND QUALIFIED
21 PURSUANT TO THE CHARTER OR CERTIFICATE OF INCORPORATION AND THE BY-LAWS
22 OF THE RESPECTIVE COMPANIES.

23 S 8013. NOTICE OF PROPOSED REORGANIZATION. (A) IN ADDITION TO THE
24 NOTICES GIVEN PURSUANT TO SECTION EIGHT THOUSAND EIGHT OF THIS ARTICLE,
25 THE REORGANIZING INSURER SHALL GIVE WRITTEN NOTICE OF THE PENDENCY OF
26 THE PROPOSED REORGANIZATION AND OF THE EFFECT THEREOF TO ALL PERSONS TO
27 WHOM THE REORGANIZING INSURER DELIVERS POLICIES OR CONTRACTS WHICH ARE
28 ISSUED AFTER THE ADOPTION DATE AND BEFORE THE PLAN TAKES EFFECT OR IS
29 WITHDRAWN, SENT BY MAIL OR ELECTRONIC TRANSMISSION TO THE LAST KNOWN
30 MAILING OR ELECTRONIC ADDRESSES OF SUCH POLICYHOLDERS AS SHOWN ON THE
31 RECORDS OF THE REORGANIZING INSURER. EXCEPT AS OTHERWISE PROVIDED IN
32 THIS SECTION, SUCH PERSONS SHALL HAVE THE RIGHT, UNLESS THE LAWS OF
33 THEIR DOMICILIARY STATE PROVIDE OTHERWISE, TO RESCIND SUCH POLICIES OR
34 CONTRACTS, AND TO BE REFUNDED ANY AMOUNTS PAID WITH RESPECT THERETO, BY
35 WRITTEN NOTICE TO SUCH INSURER OR ITS AGENT GIVEN WITHIN TEN DAYS OF
36 THEIR RECEIPT OF THE AFORESAID NOTICE GIVEN BY SUCH INSURER.

37 (B) NEITHER THE RECEIPT OF SUCH POLICY OR CONTRACT NOR THE RIGHT TO
38 RECEIVE SUCH NOTICE SHALL ENTITLE SUCH PERSONS TO VOTE ON THE PROPOSED
39 PLAN OF REORGANIZATION PURSUANT TO SECTION EIGHT THOUSAND EIGHT OF THIS
40 ARTICLE OR VEST SUCH PERSONS WITH ANY OTHER RIGHTS ENTITLEMENTS EXCEPT
41 AS PROVIDED FOR IN THIS ARTICLE.

42 (C) WHERE, PRIOR TO THE ISSUANCE OF A POLICY OR CONTRACT, THE REORGAN-
43 IZING INSURER PROVIDES THE PROSPECTIVE POLICYHOLDERS WITH NOTICE OF THE
44 PENDENCY OF THE PROPOSED REORGANIZATION AND OF THE EFFECT THEREOF, WHICH
45 NOTICE HAS BEEN APPROVED FOR SUCH PURPOSE BY THE SUPERINTENDENT, THEN,
46 UNLESS THE LAWS OF THE POLICYHOLDER'S DOMICILIARY STATE OTHERWISE
47 REQUIRE, SUCH POLICYHOLDERS SHALL NOT HAVE THE FOREGOING RIGHTS OF
48 RESCISSION AND REFUND.

49 S 8014. FAILURE TO GIVE NOTICE. IF THE REORGANIZING INSURER COMPLIES
50 SUBSTANTIALLY AND IN GOOD FAITH WITH THE REQUIREMENTS OF THIS ARTICLE
51 WITH RESPECT TO THE GIVING OF ANY REQUIRED NOTICE TO POLICYHOLDERS, ITS
52 FAILURE IN ANY CASE TO GIVE SUCH NOTICE TO ANY PERSON OR PERSONS ENTI-
53 TLED THERETO SHALL NOT IMPAIR THE VALIDITY OF THE ACTIONS AND
54 PROCEEDINGS TAKEN UNDER THIS ARTICLE OR ENTITLE SUCH PERSON TO ANY
55 INJUNCTIVE OR OTHER EQUITABLE RELIEF WITH RESPECT THERETO, BUT THIS

1 SECTION SHALL NOT IMPAIR ANY CLAIM FOR DAMAGES SUCH PERSON OR PERSONS
2 WOULD OTHERWISE HAVE DUE TO SUCH FAILURE.

3 S 8015. LIMITATIONS OF ACTIONS; SECURITY. (A) NOTWITHSTANDING ANY
4 OTHER PROVISION OF LAW TO THE CONTRARY AND EXCEPT AS OTHERWISE PROVIDED
5 IN SUBSECTION (C) OR (D) OF THIS SECTION, ACTIONS CONCERNING OR ARISING
6 OUT OF ANY PLAN OF REORGANIZATION, PROPOSED PLAN OF REORGANIZATION, PLAN
7 AMENDMENT OR PROPOSED PLAN AMENDMENT UNDER THIS ARTICLE OR ANY ACTS
8 TAKEN OR PROPOSED TO BE TAKEN UNDER THIS ARTICLE MUST BE COMMENCED WITH
9 EIGHTEEN MONTHS AFTER THE PLAN OF REORGANIZATION OR PLAN AMENDMENT IS
10 FILED PURSUANT TO SUBSECTION (A) OF SECTION EIGHT THOUSAND NINE OF THIS
11 ARTICLE OR THE CHARTER IS FILED PURSUANT TO SUBSECTION (C) OF SECTION
12 EIGHT THOUSAND SEVENTEEN OF THIS ARTICLE, AS THE CASE MAY BE, IN THE
13 OFFICE OF THE SUPERINTENDENT OR ONE YEAR FROM THE EFFECTIVE DATE OF THE
14 PLAN OF REORGANIZATION, WHICHEVER IS LATER, OR IF THE PLAN OF REORGAN-
15 IZATION OR PLAN AMENDMENT IS WITHDRAWN, WITHIN ONE YEAR FROM THE DATE
16 THE BOARD OF DIRECTORS APPROVES A RESOLUTION TO WITHDRAW THE PLAN. WHERE
17 AN ACTION CONCERNS OR ARISES OUT OF A PLAN AMENDMENT OR PROPOSED PLAN
18 AMENDMENT MADE UNDER SECTION EIGHT THOUSAND FIVE OF THIS ARTICLE, THE
19 APPLICABLE TIME PERIOD IS MEASURED FROM THE FILING, EFFECTIVE DATE OR
20 APPROVAL OF WITHDRAWAL OF THE PLAN AMENDMENT, AS THE CASE MAY BE. WHERE
21 THE ACTION ARISES OUT OF EITHER A TRANSFER OF SUBSIDIARIES PURSUANT TO
22 SECTION EIGHT THOUSAND TWENTY OF THIS ARTICLE OR A SALE OF SECURITIES OF
23 THE REORGANIZED INSURER OR ANY STOCK HOLDING COMPANY PURSUANT TO SECTION
24 EIGHT THOUSAND EIGHTEEN OF THIS ARTICLE, WHICH TRANSFER OR SALE IS NOT
25 CONTEMPLATED BY THE PLAN, THEN THE APPLICABLE TIME PERIOD SHALL BE MEAS-
26 URED FROM THE EFFECTIVE DATE OF SUCH TRANSFER OR SALE, AS THE CASE MAY
27 BE. WHERE THE ACTION ARISES OUT OF THE TERMS OR PROPOSED TERMS FOR THE
28 ESTABLISHMENT OF THE CLOSED BLOCK OR SUCH ALTERNATIVE PROVISION PURSUANT
29 TO SUBSECTION (B) OF SECTION EIGHT THOUSAND THREE OF THIS ARTICLE, THEN
30 THE APPLICABLE TIME PERIOD SHALL BE MEASURED FROM THE IMPLEMENTATION
31 DATE AS DEFINED IN SUBSECTION (E) OF SECTION EIGHT THOUSAND THREE OF
32 THIS ARTICLE. WHERE THE ACTION CONCERNS OR ARISES OUT OF A PLAN OF REOR-
33 GANIZATION ADOPTED PURSUANT TO SECTION EIGHT THOUSAND TWENTY OF THIS
34 ARTICLE, THEN THE APPLICABLE TIME PERIOD SHALL BE MEASURED FROM THE
35 EFFECTIVE DATE OF THE PLAN OF REORGANIZATION.

36 (B) IN ANY ACTION REFERRED TO IN SUBSECTION (A) OF THIS SECTION, THE
37 PLAINTIFF OR PLAINTIFFS SHALL BE REQUIRED, UPON A MOTION OF THE MUTUAL
38 HOLDING COMPANY, REORGANIZING INSURER OR REORGANIZED INSURER OR ANY
39 STOCK HOLDING COMPANY WHICH ESTABLISHES TO THE SATISFACTION OF THE
40 COURT, THAT A SUBSTANTIAL LIKELIHOOD EXISTS THAT SUCH ACTION IS BROUGHT
41 WITHOUT MERIT AND WITH AN INTENTION TO DELAY OR HARASS, TO GIVE ADEQUATE
42 SECURITY FOR THE DAMAGES AND REASONABLE EXPENSES, INCLUDING ATTORNEYS'
43 FEES, WHICH MAY BE INCURRED AS A RESULT OF, OR IN CONNECTION WITH, SUCH
44 ACTION BY SUCH COMPANY AND BY ANY OTHER DEFENDANTS IN SUCH ACTION OR FOR
45 WHICH SUCH COMPANY MAY BECOME LIABLE, TO WHICH SECURITY THE MUTUAL HOLD-
46 ING COMPANY, REORGANIZING INSURER OR REORGANIZED INSURER OR ANY STOCK
47 HOLDING COMPANY SHALL HAVE RECOURSE IN SUCH AMOUNT AS THE COURT DETER-
48 MINES UPON THE TERMINATION OF SUCH ACTION. THE AMOUNT OF SECURITY MAY
49 FROM TIME TO TIME BE INCREASED OR DECREASED IN THE DISCRETION OF THE
50 COURT UPON A SHOWING THAT THE SECURITY PROVIDED HAS OR MAY BE INADEQUATE
51 OR EXCESSIVE.

52 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY
53 ACTION SEEKING A STAY, RESTRAINING ORDER, INJUNCTION OR SIMILAR REMEDY
54 TO PREVENT OR DELAY THE CLOSING OF ANY TRANSACTION PURSUANT TO THIS
55 ARTICLE OR OF ANY TRANSACTION DESCRIBED IN THE PLAN OF REORGANIZATION
56 MUST BE COMMENCED WITHIN ONE HUNDRED TWENTY DAYS AFTER, AS APPLICABLE:

1 (1) THE APPROVAL OF A PLAN OF REORGANIZATION BY THE SUPERINTENDENT
2 PURSUANT TO SECTION EIGHT THOUSAND SEVEN OR EIGHT THOUSAND TWENTY OF
3 THIS ARTICLE, AS THE CASE MAY BE; OR (2) THE APPROVAL OF THE SUPERINTEN-
4 DENT PURSUANT TO SECTION EIGHT THOUSAND TWENTY-ONE OF THIS ARTICLE.

5 (D) ANY ACTION OR PROCEEDING AGAINST THE SUPERINTENDENT OR ANY OTHER
6 GOVERNMENTAL BODY OR OFFICER IN CONNECTION WITH ANY ACT TAKEN OR ORDER,
7 REGULATION OR RULE ISSUED PURSUANT TO THIS ARTICLE MUST BE COMMENCED
8 WITHIN ONE HUNDRED TWENTY DAYS FROM THE DATE OF SUCH ACT OR SIGNING OF
9 SUCH ORDER, REGULATION OR RULE.

10 (E) ANY PERSON AGGRIEVED BY ANY ACT TAKEN OR ORDER, REGULATION OR RULE
11 ISSUED PURSUANT TO THIS ARTICLE MAY PETITION FOR JUDICIAL REVIEW IN THE
12 MANNER PROVIDED BY ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND
13 RULES, PURSUANT TO THE LIMITATIONS PERIOD PRESCRIBED IN SUBSECTION (D)
14 OF THIS SECTION. THE PETITION SHALL BE BROUGHT IN THE JUDICIAL DEPART-
15 MENT EMBRACING THE COUNTY WHEREIN THE ACT WAS TAKEN OR THE ORDER, REGU-
16 LATION OR RULE WAS ISSUED. ALL SUCH PROCEEDINGS SHALL BE HEARD AND
17 DETERMINED AS EXPEDITIOUSLY AS POSSIBLE AND WITH LAWFUL PRECEDENCE OVER
18 OTHER MATTERS. ACTS TAKEN OR ORDERS, REGULATIONS OR RULES ISSUED PURSU-
19 ANT TO THIS ARTICLE SHALL NOT BE STAYED OR ENJOINED EXCEPT UPON APPLICA-
20 TION AFTER NOTICE TO THE SUPERINTENDENT AND TO THE ATTORNEY GENERAL AND
21 UPON A SHOWING THAT THE PETITIONER HAS A SUBSTANTIAL LIKELIHOOD OF
22 SUCCESS AND WILL SUFFER IRREPARABLE HARM IF THE STAY OR INJUNCTION IS
23 NOT GRANTED.

24 S 8016. PROHIBITED TRANSACTIONS BY OFFICERS, DIRECTORS AND EMPLOYEES.
25 NO DIRECTOR, OFFICER, AGENT OR EMPLOYEE OF THE REORGANIZING INSURER
26 SHALL RECEIVE ANY FEE, COMMISSION OR OTHER VALUABLE CONSIDERATION WHAT-
27 SOEVER, OTHER THAN REGULAR SALARY AND COMPENSATION, FOR IN ANY MANNER
28 AIDING, PROMOTING OR ASSISTING IN THE REORGANIZATION EXCEPT AS SET FORTH
29 IN THE PLAN APPROVED BY THE SUPERINTENDENT.

30 S 8017. REQUIREMENTS APPLICABLE TO A MUTUAL HOLDING COMPANY. (A) THE
31 FOLLOWING PROVISIONS OF THIS ARTICLE ARE APPLICABLE TO A MUTUAL HOLDING
32 COMPANY:

33 (1) THE FOLLOWING PROVISIONS OF ARTICLE TWELVE OF THIS CHAPTER SHALL
34 APPLY TO A MUTUAL HOLDING COMPANY AS THOUGH IT WERE A DOMESTIC MUTUAL
35 INSURER: SECTION ONE THOUSAND TWO HUNDRED ONE OF THIS CHAPTER TO THE
36 EXTENT PROVIDED IN SUBSECTION (C) OF THIS SECTION AND SECTIONS ONE THOU-
37 SAND TWO HUNDRED TWO, ONE THOUSAND TWO HUNDRED SIX, ONE THOUSAND TWO
38 HUNDRED EIGHT, ONE THOUSAND TWO HUNDRED NINE, ONE THOUSAND TWO HUNDRED
39 TWELVE AND ONE THOUSAND TWO HUNDRED FIFTEEN THROUGH ONE THOUSAND TWO
40 HUNDRED NINETEEN OF THIS CHAPTER;

41 (2) THE PROVISIONS OF THE BUSINESS CORPORATION LAW THAT ARE APPLICABLE
42 TO A DOMESTIC MUTUAL LIFE INSURER SHALL APPLY TO A MUTUAL HOLDING COMPA-
43 NY AS THOUGH IT WERE A DOMESTIC MUTUAL INSURER; AND

44 (3) THE PROVISIONS OF SECTION FOUR THOUSAND TWO HUNDRED TEN OF THIS
45 CHAPTER APPLICABLE TO A DOMESTIC MUTUAL LIFE INSURER SHALL BE APPLIED TO
46 A MUTUAL HOLDING COMPANY AS THOUGH ITS MEMBERS WERE VOTING POLICYHOLDERS
47 OF A MUTUAL LIFE INSURER.

48 (B) A MUTUAL HOLDING COMPANY SHALL NOT DISSOLVE, LIQUIDATE OR WIND UP
49 AND DISSOLVE EXCEPT THROUGH PROCEEDINGS UNDER SECTION EIGHT THOUSAND
50 TWENTY OF THIS ARTICLE, ARTICLE SEVENTY-FOUR OF THIS CHAPTER FOR THE
51 LIQUIDATION OR DISSOLUTION OF THE REORGANIZED INSURER OR AS THE SUPER-
52 INTENDENT MAY OTHERWISE APPROVE. IN THE EVENT ANY PROCEEDINGS ARE INSTI-
53 TUTED UNDER ARTICLE SEVENTY-FOUR OF THIS CHAPTER FOR THE COMPLETE LIQUI-
54 DATION OF REORGANIZED INSURER PURSUANT TO THIS ARTICLE:

55 (1) THE MUTUAL HOLDING COMPANY FORMED AS PART OF SUCH REORGANIZATION
56 SHALL AUTOMATICALLY BECOME A PARTY TO SUCH PROCEEDINGS;

1 (2) ALL OF THE MUTUAL HOLDING COMPANY'S ASSETS (INCLUDING ITS HOLDINGS
2 OF SHARES IN THE REORGANIZED INSURER OR ANY STOCK HOLDING COMPANY) SHALL
3 BE DEEMED ASSETS OF THE ESTATE OF THE DOMESTIC STOCK LIFE INSURER TO THE
4 EXTENT NECESSARY TO SATISFY CLAIMS OF PERSONS WHO HAVE CLASS ONE, CLASS
5 TWO, CLASS THREE OR CLASS FOUR CLAIMS UNDER SUBSECTION (A) OF SECTION
6 SEVEN THOUSAND FOUR HUNDRED THIRTY-FIVE OF THIS CHAPTER WITH RESPECT TO
7 SUCH DOMESTIC STOCK LIFE INSURER; AND

8 (3) MEMBERS OF THE MUTUAL HOLDING COMPANY SHALL BE DEEMED TO HOLD
9 CLASS EIGHT CLAIMS WITH RESPECT TO THE MUTUAL HOLDING COMPANY UNDER
10 SUBSECTION (A) OF SECTION SEVEN THOUSAND FOUR HUNDRED THIRTY-FIVE OF
11 THIS CHAPTER.

12 (C) THE CHARTER OF THE MUTUAL HOLDING COMPANY SHALL BE FILED WITH THE
13 SUPERINTENDENT AND SHALL CONTAIN THE MATTERS REQUIRED TO BE CONTAINED IN
14 THE CHARTER OF A DOMESTIC MUTUAL LIFE INSURER BY SECTION ONE THOUSAND
15 TWO HUNDRED ONE OF THIS CHAPTER, EXCEPT THAT THE NAME OF THE MUTUAL
16 HOLDING COMPANY SHALL CONTAIN THE WORD "MUTUAL" AND SHALL NOT CONTAIN
17 THE WORD "INSURANCE," "ASSURANCE" OR "ANNUITY" AND THE COMPANY'S POWERS
18 SHALL NOT INCLUDE DOING AN INSURANCE BUSINESS. THE CHARTER SHALL CONTAIN
19 PROVISIONS STATING THAT:

20 (1) IT IS A MUTUAL HOLDING COMPANY ORGANIZED UNDER THIS ARTICLE;

21 (2) A PURPOSE SHALL BE TO HOLD, DIRECTLY OR THROUGH ONE OR MORE STOCK
22 HOLDING COMPANIES, NOT LESS THAN FIFTY-ONE PERCENT OF THE VOTING STOCK
23 OF A REORGANIZED INSURER;

24 (3) IT SHALL NOT BE AUTHORIZED TO ISSUE VOTING STOCK;

25 (4) IT SHALL NOT BE AUTHORIZED TO CONDUCT ANY BUSINESS OTHER THAN THAT
26 OF A HOLDING COMPANY, EXCEPT FOR THE ACQUISITION, OWNERSHIP, MANAGEMENT
27 AND DISPOSITION OF ITS ASSETS AND ALL ACTIONS REASONABLY INCIDENT THERE-
28 TO; AND

29 (5) IT SHALL HAVE MEMBERS HAVING THE RIGHTS SPECIFIED IN THIS SECTION
30 AND SECTION EIGHT THOUSAND TEN OF THIS ARTICLE AND IN ITS CHARTER AND
31 BY-LAWS. THE CHARTER SHALL ALSO CONTAIN PROVISIONS SETTING FORTH ANY
32 RIGHTS OF MEMBERS OF THE MUTUAL HOLDING COMPANY IN THE SURPLUS OF THE
33 MUTUAL HOLDING COMPANY.

34 (D) AT LEAST TWO-THIRDS OF THE DIRECTORS OF THE MUTUAL HOLDING COMPANY
35 AND OF ANY STOCK HOLDING COMPANY, ALL OF THE MEMBERS OF THE COMPENSATION
36 COMMITTEE OF THE BOARD OF DIRECTORS OF THE MUTUAL HOLDING COMPANY AND OF
37 ANY STOCK HOLDING COMPANY, AT LEAST TWO-THIRDS OF THE MEMBERS OF ANY
38 COMMITTEE RESPONSIBLE FOR MAKING DECISIONS AFFECTING THE CAPITAL STRUC-
39 TURE OR MERGERS AND ACQUISITIONS, AND A MAJORITY OF THE DIRECTORS ON
40 EACH OTHER COMMITTEE OF THE BOARD OF DIRECTORS OF THE MUTUAL HOLDING
41 COMPANY AND ANY STOCK HOLDING COMPANY SHALL BE OUTSIDE DIRECTORS. THE
42 AGGREGATE PERCENTAGE OF VOTING SECURITIES OF THE REORGANIZED INSURER
43 DIRECTLY OR INDIRECTLY OWNED, CONTROLLED OR HELD WITH THE POWER TO VOTE,
44 EITHER PERSONALLY OR BY PERSONS (OTHER THAN THE MUTUAL HOLDING COMPANY
45 AND ANY STOCK HOLDING COMPANY) OF WHICH THEY ARE DIRECTORS, OFFICERS OR
46 EMPLOYEES, BY OUTSIDE DIRECTORS, SHALL NOT EXCEED THREE PERCENT OR SUCH
47 LESSER PERCENTAGE AS MAY BE DETERMINED BY THE SUPERINTENDENT IN HIS OR
48 HER APPROVAL OF THE MUTUAL HOLDING COMPANY'S PLAN OF REORGANIZATION
49 PURSUANT TO THIS ARTICLE. THE BY-LAWS OF THE MUTUAL HOLDING COMPANY AND
50 ANY STOCK HOLDING COMPANY SHALL PROVIDE THAT THE AFFIRMATIVE VOTE OF AT
51 LEAST TWO-THIRDS OF THE BOARD OF DIRECTORS OF SUCH COMPANY SHALL BE
52 REQUIRED FOR ANY ACTION BY SUCH COMPANY TO ADOPT A PLAN OF CONVERSION
53 PURSUANT TO SECTION EIGHT THOUSAND NINETEEN OF THIS ARTICLE, ENTER INTO
54 A MERGER PURSUANT TO SUBSECTION (G) OF THIS SECTION, CONDUCT A PUBLIC
55 OFFERING OR AUTHORIZE THE ISSUANCE OF ANY VOTING STOCK OR SECURITY
56 CONVERTIBLE INTO VOTING STOCK OF THE REORGANIZED INSURER OR THE STOCK

1 HOLDING COMPANY TO ANY PERSON OTHER THAN THE MUTUAL HOLDING COMPANY OR
2 THE STOCK HOLDING COMPANY.

3 (E) THE SUPERINTENDENT MAY, BY REGULATION, REQUIRE A MUTUAL HOLDING
4 COMPANY TO FILE ANNUAL STATEMENTS WITH THE SUPERINTENDENT IN SUCH FORM
5 AS THE SUPERINTENDENT SHALL PRESCRIBE.

6 (F) WITH THE WRITTEN APPROVAL OF THE SUPERINTENDENT, AND SUBJECT TO
7 THE CONDITIONS THAT THE SUPERINTENDENT MAY IMPOSE, A MUTUAL HOLDING
8 COMPANY OR STOCK COMPANY MAY:

9 (1) MERGE OR CONSOLIDATE WITH, OR ACQUIRE THE ASSETS OF, A MUTUAL
10 HOLDING COMPANY ORGANIZED PURSUANT TO THIS ARTICLE OR PURSUANT TO THE
11 LAWS OF ANOTHER STATE;

12 (2) EITHER ALONE OR TOGETHER WITH ONE OR MORE OF THE REORGANIZED
13 INSURER, ANY STOCK HOLDING COMPANIES OR ANY SUBSIDIARIES OF ANY OF THEM,
14 MERGE OR CONSOLIDATE WITH OR ACQUIRE THE ASSETS OF A MUTUAL LIFE INSUR-
15 ER;

16 (3) MERGE OR CONSOLIDATE WITH ANY OTHER PERSON.

17 (G) IF THE MUTUAL HOLDING COMPANY MERGES WITH A MUTUAL HOLDING COMPANY
18 ORGANIZED UNDER THE LAWS OF ANOTHER STATE OR ACQUIRES THE MEMBERSHIP
19 INTERESTS IN A FOREIGN NATURAL LIFE INSURER, SUCH MERGER OR ACQUISITION
20 SHALL COMPLY WITH THE REQUIREMENTS OF NEW YORK LAW OR REGULATION AND OF
21 ANY LAW OR REGULATION WHICH IS APPLICABLE TO THE FOREIGN MUTUAL HOLDING
22 COMPANY OR MUTUAL LIFE INSURER, EITHER MUTUAL HOLDING COMPANY MAY BE THE
23 SURVIVING CORPORATION, AND THE SUBSIDIARIES OF THE FOREIGN MUTUAL HOLD-
24 ING COMPANY NEED NOT, BY REASON OF THE MERGER, BECOME LICENSED IN NEW
25 YORK OR OTHERWISE SUBJECT TO THIS CHAPTER. IN THE EVENT OF A CONFLICT OF
26 STATE LAWS AND REGULATIONS NEW YORK LAWS AND REGULATIONS SHALL APPLY. A
27 FOREIGN MUTUAL LIFE INSURER WHICH IS MERGED OR ACQUIRED PURSUANT TO THIS
28 SECTION MAY AT THE SAME TIME REDOMESTICATE TO THIS STATE BY COMPLYING
29 WITH THE APPLICABLE REQUIREMENTS OF THIS STATE AND OF ITS STATE OF DOMI-
30 CILE.

31 (H) A MUTUAL HOLDING COMPANY MAY ALSO REQUIRE THE CAPITAL STOCK OR
32 ASSETS OF OTHER PERSONS.

33 (I) A MEMBER OF A MUTUAL HOLDING COMPANY IS NOT, AS A MEMBER,
34 PERSONALLY LIABLE FOR THE ACTS, DEBTS, LIABILITIES OR OBLIGATIONS OF THE
35 COMPANY. NO ASSESSMENT OF ANY KIND MAY BE IMPOSED UPON THE MEMBERS OF A
36 MUTUAL HOLDING COMPANY BY THE BOARD OF DIRECTORS, MEMBERS OR CREDITORS
37 OF THE MUTUAL HOLDING COMPANY OR BECAUSE OF ANY LIABILITY OF ANY COMPANY
38 OWNED OR CONTROLLED, IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, BY THE
39 MUTUAL HOLDING COMPANY OR BECAUSE OF ANY ACT, DEBT OR LIABILITY OF THE
40 MUTUAL HOLDING COMPANY.

41 (J) A MEMBERSHIP INTEREST IN A MUTUAL HOLDING COMPANY SHALL NOT
42 CONSTITUTE A SECURITY UNDER THE LAWS OF THIS STATE.

43 (K) THE SUPERINTENDENT SHALL RETAIN JURISDICTION OVER ANY MUTUAL HOLD-
44 ING COMPANY ORGANIZED PURSUANT TO THIS ARTICLE.

45 (L) DIRECTORS OF THE MUTUAL HOLDING COMPANY SHALL BE ELECTED BY A
46 MAJORITY VOTE OF ALL MEMBERS WHO VOTE IN SUCH ELECTION IN PERSON OR BY
47 PROXY. IF THE REORGANIZED INSURER TAKES ANY ACTION (OTHER THAN ELECTION
48 OF ITS DIRECTORS) THAT WOULD REQUIRE A VOTE OF POLICYHOLDERS IF THE
49 REORGANIZED INSURER WERE A MUTUAL LIFE INSURER, THEN SUCH ACTION SHALL
50 REQUIRE A VOTE OF MEMBERS OF THE MUTUAL HOLDING COMPANY.

51 S 8018. OTHER REQUIREMENTS APPLICABLE TO A STOCK HOLDING COMPANY AND A
52 MUTUAL HOLDING COMPANY. (A) FROM AND AFTER THE EFFECTIVE DATE OF THE
53 PLAN, THE MUTUAL HOLDING COMPANY SHALL HOLD, DIRECTLY OR THROUGH ONE OR
54 MORE STOCK HOLDING COMPANIES, AT LEAST FIFTY-ONE PERCENT OF THE ISSUED
55 AND OUTSTANDING VOTING STOCK OF THE REORGANIZED INSURER. THE REORGANIZED
56 INSURER AND ANY STOCK HOLDING COMPANY MAY ISSUE TO THE MUTUAL HOLDING

1 COMPANY AND TO OTHER PERSONS SECURITIES, INCLUDING VOTING STOCK,
2 NON-VOTING STOCK AND SECURITIES CONVERTIBLE INTO VOTING OR NON-VOTING
3 STOCK, PROVIDED THAT, AFTER GIVING EFFECT TO SUCH ISSUANCE, IN THE
4 AGGREGATE THE ISSUED AND OUTSTANDING VOTING STOCK OF THE REORGANIZED
5 INSURER HELD, DIRECTLY OR THROUGH ONE OR MORE STOCK HOLDING COMPANIES,
6 BY THE MUTUAL HOLDING COMPANY IS NOT LESS THAN FIFTY-ONE PERCENT OF THE
7 ISSUED AND OUTSTANDING VOTING STOCK OF THE REORGANIZED INSURER. FOR
8 PURPOSES OF THIS LIMITATION, ANY ISSUED AND OUTSTANDING SECURITIES OF
9 THE REORGANIZED INSURER OR ANY STOCK HOLDING COMPANY THAT ARE CONVERTI-
10 BLE INTO VOTING STOCK SHALL BE CONSIDERED ISSUED AND OUTSTANDING VOTING
11 STOCK.

12 (B) A MUTUAL HOLDING COMPANY AND ANY STOCK HOLDING COMPANY SHALL EACH
13 BE DEEMED TO BE A "HOLDING COMPANY" OF THE REORGANIZED INSURER WITHIN
14 THE MEANING OF ARTICLE FIFTEEN OF THIS CHAPTER, AND ALL PROVISIONS OF
15 ARTICLE FIFTEEN OF THIS CHAPTER SHALL APPLY TO TRANSACTIONS OCCURRING
16 BETWEEN THE MUTUAL HOLDING COMPANY, THE STOCK HOLDING COMPANY AND THE
17 REORGANIZED INSURER. APPROVAL OF THE PLAN OF REORGANIZATION BY THE
18 SUPERINTENDENT PURSUANT TO THIS ARTICLE SHALL CONSTITUTE APPROVAL OF THE
19 ACQUISITION OF CONTROL BY A MUTUAL HOLDING COMPANY AND ANY STOCK HOLDING
20 COMPANY UNDER SECTION ONE THOUSAND FIVE HUNDRED SIX OF THIS CHAPTER, THE
21 REGISTRATION BY THE REORGANIZED INSURER AS A CONTROLLED INSURER UNDER
22 SECTION ONE THOUSAND FIVE HUNDRED THREE OF THIS CHAPTER AND NOTICE OF
23 THE ACQUISITION OF SHARES OF THE REORGANIZED INSURER UNDER SECTION FOUR
24 THOUSAND TWO HUNDRED THREE OF THIS CHAPTER.

25 (C) UNTIL SIX MONTHS AFTER THE COMPLETION OF EITHER AN INITIAL PUBLIC
26 OFFERING, PRIVATE EQUITY PLACEMENT OR THE FIRST ISSUANCE OF PUBLIC OR
27 PRIVATE VOTING STOCK OR SECURITIES CONVERTIBLE INTO VOTING STOCK OF THE
28 REORGANIZED INSURER OR THE STOCK HOLDING COMPANY TO ANY PERSON OTHER
29 THAN THE MUTUAL HOLDING COMPANY OR THE STOCK HOLDING COMPANY, NEITHER A
30 STOCK HOLDING COMPANY NOR THE REORGANIZED INSURER SHALL AWARD ANY STOCK
31 OPTIONS OR STOCK GRANTS TO PERSONS WHO ARE OFFICERS OR DIRECTORS OF THE
32 MUTUAL HOLDING COMPANY, THE STOCK HOLDING COMPANY OR THE REORGANIZED
33 INSURER.

34 (D) UNTIL TWO YEARS AFTER THE SIX MONTH PERIOD REFERRED TO IN
35 SUBSECTION (C) OF THIS SECTION, THE OFFICERS AND DIRECTORS OF THE MUTUAL
36 HOLDING COMPANY, A STOCK HOLDING COMPANY AND OF THE REORGANIZED INSURER
37 MAY NOT OWN BENEFICIALLY, IN THE AGGREGATE, MORE THAN FIVE PERCENT OF
38 THE VOTING STOCK OF THE STOCK HOLDING COMPANY OR THE REORGANIZED INSUR-
39 ER.

40 (E) THE OFFICERS AND DIRECTORS OF THE MUTUAL HOLDING COMPANY, A STOCK
41 HOLDING COMPANY OR THE REORGANIZED INSURER SHALL NOT OWN BENEFICIALLY,
42 IN THE AGGREGATE, MORE THAN EIGHTEEN PERCENT OF THE VOTING STOCK OF THE
43 STOCK HOLDING COMPANY OR THE REORGANIZED INSURER, PROVIDED THAT THE
44 SUPERINTENDENT MAY, IN THE EVENT OF A DISTRESS SITUATION FIND THAT BENE-
45 FICIAL OWNERSHIP OF MORE THAN EIGHTEEN PERCENT IS NECESSARY AND APPRO-
46 PRIATE.

47 (F) OUTSIDE DIRECTORS OF THE MUTUAL HOLDING COMPANY, A STOCK HOLDING
48 COMPANY OR THE REORGANIZED INSURER SHALL NOT OWN BENEFICIALLY, IN THE
49 AGGREGATE, MORE THAN THREE PERCENT OF THE VOTING STOCK OF THE STOCK
50 HOLDING COMPANY OR THE REORGANIZED INSURER.

51 (G) IN NO EVENT SHALL ANY PERSON, DIRECTLY OR INDIRECTLY, OFFER TO
52 ACQUIRE OR ACQUIRE IN ANY MANNER BENEFICIAL OWNERSHIP OR MORE THAN
53 FIFTEEN PERCENT OF ANY CLASS OF VOTING SECURITIES OF THE REORGANIZED
54 INSURER, ANY STOCK HOLDING COMPANY OR ANY OTHER INSTITUTION WHICH OWNS
55 DIRECTLY OR INDIRECTLY A MAJORITY OR ALL OF THE VOTING SECURITIES OF THE
56 REORGANIZED INSURER WITHOUT THE PRIOR APPROVAL OF THE SUPERINTENDENT.

1 (H) ANY ISSUANCE OF VOTING STOCK OR SECURITIES CONVERTIBLE INTO VOTING
2 STOCK OF THE REORGANIZED INSURER OR THE STOCK HOLDING COMPANY PRIOR TO
3 AN INITIAL PUBLIC OFFERING, PRIVATE EQUITY PLACEMENT, OR THE ISSUANCE OF
4 PUBLIC OR PRIVATE VOTING STOCK OR SECURITIES CONVERTIBLE INTO VOTING
5 STOCK OF THE REORGANIZED INSURER OR STOCK HOLDING COMPANY OR ANY OTHER
6 TYPE OF CAPITAL RAISED SHALL BE SUBJECT TO THE APPROVAL OF THE SUPER-
7 INTENDENT AS TO THE PROPOSED VALUATION OF SUCH STOCK OR SECURITIES AND
8 ALL EXPENSES OF THE SUPERINTENDENT'S REVIEW, INCLUDING WITHOUT LIMITA-
9 TION THOSE OF OUTSIDE CONSULTANTS IN REVIEWING SUCH PROPOSED VALUATION,
10 SHALL BE BORNE BY THE ISSUING COMPANY.

11 (I) ANY VOTING STOCK OR SECURITIES CONVERTIBLE INTO VOTING STOCK HELD
12 BY OFFICERS AND DIRECTORS OF THE MUTUAL HOLDING COMPANY, THE STOCK HOLD-
13 ING COMPANY AND THE REORGANIZED INSURER SHALL NOT BE SOLD FOR A PERIOD
14 OF AT LEAST ONE YEAR FOLLOWING THE DATE OF PURCHASE OR ISSUANCE, OR FROM
15 THE DATE OF THE INITIAL OFFERING OF SUCH SECURITIES, EXCEPT IN THE EVENT
16 OF DEATH OF SUCH OFFICER OR DIRECTOR.

17 (J) NOTHING IN THIS SECTION SHALL PREVENT THE MUTUAL HOLDING COMPANY,
18 THE STOCK HOLDING COMPANY OR THE REORGANIZED INSURER FROM ISSUING STOCK
19 OF THE STOCK HOLDING COMPANY OR THE REORGANIZED INSURER TO A TRUST
20 ESTABLISHED IN CONNECTION WITH AN EMPLOYEE STOCK OWNERSHIP PLAN OR OTHER
21 EMPLOYEE BENEFIT PLANS ESTABLISHED FOR THE BENEFIT OF THE EMPLOYEES OF
22 THE MUTUAL HOLDING COMPANY, THE STOCK HOLDING COMPANY AND THE REORGAN-
23 IZED INSURER AND QUALIFIED UNDER THE INTERNAL REVENUE CODE. NO INDIVID-
24 UAL MAY BE ALLOCATED MORE THAN TWELVE AND ONE-HALF PERCENT OF THE INTER-
25 EST IN ANY SUCH PLAN AND DIRECTORS WHO ARE NOT EMPLOYEES SHALL NOT BE
26 ALLOCATED MORE THAN TWO AND ONE-HALF PERCENT OF THE INTERESTS INDIVID-
27 UALLY OR FIFTEEN PERCENT IN THE AGGREGATE OF ANY PLAN BUT IN NO EVENT
28 SHALL ANY INDIVIDUAL EXCEED THE LIMITATION ON OWNERSHIP CONTAINED IN
29 SUBSECTIONS (E) AND (F) OF THIS SECTION. EMPLOYEE STOCK OWNERSHIP PLANS
30 OR OTHER EMPLOYEE BENEFIT PLANS, IN THE AGGREGATE, SHALL NOT EXCEED FIVE
31 PERCENT OF THE SHARES INITIALLY ISSUED.

32 (K) IN THE EVENT OF AN INITIAL PUBLIC OFFERING, A STOCK HOLDING COMPA-
33 NY OR REORGANIZED INSURER MAY NOT REPURCHASE CAPITAL STOCK WITHIN ONE
34 YEAR FOLLOWING THE DATE OF SUCH INITIAL PUBLIC OFFERING, EXCEPT THAT
35 REPURCHASES OF NO GREATER THAN FIVE PERCENT OF THE OUTSTANDING STOCK MAY
36 BE REPURCHASED DURING THIS ONE YEAR PERIOD WITHOUT THE APPROVAL OF THE
37 SUPERINTENDENT.

38 (L) IN THE EVENT OF ANY VIOLATION OF THIS SECTION, OR OF ANY ACTION
39 WHICH, IF CONSUMMATED, MIGHT CONSTITUTE SUCH A VIOLATION:

40 (L) ALL VOTING STOCK OF THE REORGANIZED INSURER, ANY STOCK HOLDING
41 COMPANY, OR THE REORGANIZED MUTUAL HOLDING COMPANY, ACQUIRED BY ANY
42 PERSON IN EXCESS OF THE MAXIMUM AMOUNT PERMITTED TO BE ACQUIRED BY SUCH
43 PERSON PURSUANT TO THIS SUBSECTION SHALL BE DEEMED TO BE NON-VOTING
44 STOCK; AND

45 (2) IN ADDITION TO ANY OTHER ENFORCEMENT POWERS OF THE SUPERINTENDENT,
46 UNDER THIS CHAPTER, SUCH VIOLATION OR ACTION MAY BE ENFORCED OR
47 ENJOINED, AS THE CASE MAY BE, BY APPROPRIATE PROCEEDING COMMENCED ON
48 BEHALF OF THE REORGANIZED INSURER, ANY STOCK HOLDING COMPANY OR, IF
49 APPLICABLE, A REORGANIZED MUTUAL HOLDING COMPANY, BY THE REORGANIZED
50 INSURER, THE STOCK HOLDING COMPANY, THE MUTUAL HOLDING COMPANY OR THE
51 SUPERINTENDENT, THE ATTORNEY GENERAL, ANY MEMBER OF THE MUTUAL HOLDING
52 COMPANY OR, IF APPLICABLE, A REORGANIZED MUTUAL HOLDING COMPANY, OR ANY
53 STOCKHOLDER OF THE REORGANIZED INSURER, ANY STOCK HOLDING COMPANY OR THE
54 REORGANIZED MUTUAL HOLDING COMPANY IN THE SUPREME COURT IN THE JUDICIAL
55 DISTRICT IN WHICH THE REORGANIZED INSURER HAS ITS HOME OFFICE OR IN ANY
56 OTHER COURT HAVING JURISDICTION, AND SUCH COURT MAY ISSUE ANY ORDER,

1 INJUNCTIVE OR OTHERWISE, IT FINDS NECESSARY TO CURE SUCH VIOLATION OR TO
2 PREVENT SUCH ACTION.

3 S 8019. CONVERSION OF MUTUAL HOLDING COMPANY. (A) A MUTUAL HOLDING
4 COMPANY MAY REORGANIZE IN ACCORDANCE WITH A PLAN OF REORGANIZATION WHICH
5 IS FAIR AND EQUITABLE TO THE COMPANY'S MEMBERS AND IS:

6 (1) ADOPTED BY ACTION OF THREE-FOURTHS OF ITS ENTIRE BOARD OF DIREC-
7 TORS;

8 (2) APPROVED BY THE SUPERINTENDENT IF FOUND BY THE SUPERINTENDENT TO
9 BE FAIR AND EQUITABLE TO THE COMPANY'S MEMBERS AFTER A HEARING HELD UPON
10 NOTICE TO THE COMPANY'S MEMBERS; AND, THEREAFTER,

11 (3) ADOPTED BY THE AFFIRMATIVE VOTE OF TWO-THIRDS OF ALL VOTES CAST BY
12 MEMBERS OF THE COMPANY ENTITLED TO VOTE, AFTER NOTICE BEING GIVEN TO ALL
13 MEMBERS ENTITLED TO VOTE. THE MUTUAL HOLDING COMPANY SHALL GIVE WRITTEN
14 NOTICE STATING THE DATE, TIME AND PLACE FOR VOTING ON SUCH PROPOSAL TO
15 MEMBERS ENTITLED TO NOTICE OF AND TO VOTE ON THE PROPOSAL IN ACCORDANCE
16 WITH THIS SECTION, SENT BY MAIL OR ELECTRONIC TRANSMISSION TO THE LAST
17 KNOWN MAILING OR ELECTRONIC ADDRESSES OF SUCH POLICYHOLDERS AS SHOWN ON
18 THE RECORDS OF THE MUTUAL HOLDING COMPANY. SUCH NOTICE SHALL BE SENT AT
19 LEAST THIRTY DAYS BEFORE THE DATE OF THE PROPOSED VOTE TO APPROVE THE
20 PLAN OR REORGANIZATION. SUCH NOTICE MAY BE COMBINED WITH NOTICE OF THE
21 HEARING REQUIRED BY PARAGRAPH TWO OF THIS SUBSECTION. SUCH NOTICE SHALL
22 BE PRECEDED OR ACCOMPANIED BY A TRUE AND CORRECT COPY OF THE PLAN, OR BY
23 A SUMMARY THEREOF APPROVED BY THE SUPERINTENDENT, AND SUCH OTHER EXPLAN-
24 ATORY INFORMATION AS THE SUPERINTENDENT SHALL APPROVE OR REQUIRE.

25 (B) A PLAN OR REORGANIZATION PURSUANT TO SUBSECTION (A) OF THIS
26 SECTION SHALL PROVIDE FOR THE MEMBERSHIP INTERESTS IN THE MUTUAL HOLDING
27 COMPANY BEING EXTINGUISHED AND MAY PROVIDE EITHER FOR:

28 (1) THE CONVERSION OF THE MUTUAL HOLDING COMPANY INTO A STOCK CORPO-
29 RATION, IN WHICH EVENT CONSIDERATION DISTRIBUTED SHALL BE EQUAL TO THAT
30 REQUIRED UNDER SECTION SEVEN THOUSAND THREE HUNDRED TWELVE OF THIS CHAP-
31 TER OR SUCH OTHER LAW GOVERNING THE DEMUTUALIZATION OF MUTUAL LIFE
32 INSURERS AS MAY THEN BE IN EFFECT; OR

33 (2) THE DISTRIBUTION TO ELIGIBLE MEMBERS OF THE MUTUAL HOLDING COMPANY
34 OF CONSIDERATION CONSISTING OF ALL ASSETS OF THE MUTUAL HOLDING COMPANY
35 INCLUDING ALL STOCK OF THE REORGANIZED INSURER OR ANY STOCK HOLDING
36 COMPANY OWNED BY THE MUTUAL HOLDING COMPANY, OR OTHER CONSIDERATION
37 HAVING EQUIVALENT AGGREGATE VALUE, WHICH MAY BE IN THE FORM OF CASH,
38 SECURITIES OF ANY INSTITUTION, ADDITIONAL INSURANCE OR ANNUITY BENEFITS
39 OR POLICY CREDITS, INCREASED DIVIDENDS OR OTHER CONSIDERATION, ALL SUCH
40 CONSIDERATION BEING ALLOCATED AMONG ELIGIBLE MEMBERS OF THE MUTUAL HOLD-
41 ING COMPANY IN A MANNER THAT IS FAIR AND EQUITABLE TO THE COMPANY'S
42 MEMBERS.

43 (C) IF NO CLOSED BLOCK OF PARTICIPATING POLICIES AND CONTRACTS WAS
44 ESTABLISHED OR ALTERNATIVE PROVISION WAS APPROVED PURSUANT TO SECTION
45 EIGHT THOUSAND THREE OF THIS ARTICLE WHEN THE MUTUAL HOLDING COMPANY WAS
46 ESTABLISHED OR THEREAFTER, THEN THE PLAN OF REORGANIZATION OF THE MUTUAL
47 HOLDING COMPANY PURSUANT TO SUBSECTION (A) OF THIS SECTION SHALL PROVIDE
48 FOR THE ESTABLISHMENT OF SUCH A CLOSED BLOCK OR ALTERNATIVE PROVISION
49 UPON A REORGANIZATION OF THE MUTUAL HOLDING COMPANY UNDER THIS SECTION.
50 ANY SUCH CLOSED BLOCK OR ALTERNATIVE PROVISIONS SHALL BE SUBJECT TO
51 SUBSECTION (B) OF SECTION EIGHT THOUSAND THREE OF THIS ARTICLE. HOWEVER,
52 IF A CLOSED BLOCK OF PARTICIPATING POLICIES AND CONTRACTS WAS ESTAB-
53 LISHED OR ALTERNATIVE PROVISION WAS APPROVED PURSUANT TO SUBSECTION (B)
54 OF SECTION EIGHT THOUSAND THREE OF THIS ARTICLE WHEN THE MUTUAL HOLDING
55 COMPANY WAS ESTABLISHED OR THEREAFTER, THEN NO SUCH CLOSED BLOCK OR

1 ALTERNATIVE PROVISION SHALL BE REQUIRED UPON A REORGANIZATION OF THE
2 MUTUAL HOLDING COMPANY UNDER THIS SECTION.

3 S 8020. TRANSFERS OF SUBSIDIARIES. A REORGANIZING OR REORGANIZED
4 INSURER MAY TRANSFER ANY ONE OR MORE OF ITS SUBSIDIARIES TO THE MUTUAL
5 HOLDING COMPANY OR TO ONE OR MORE PERSONS OWNED OR CONTROLLED BY THE
6 MUTUAL HOLDING COMPANY, PROVIDED THE REORGANIZING OR REORGANIZED INSURER
7 OBTAINS THE PRIOR APPROVAL OF THE SUPERINTENDENT. ANY SUCH TRANSFER MAY
8 BE MADE WITHOUT CONSIDERATION AS A DIVIDED OR FOR CONSIDERATION THAT MAY
9 INCLUDE OBLIGATIONS OF THE MUTUAL HOLDING COMPANY OR OBLIGATIONS OR
10 PREFERRED SHARES OF A PERSON OWNED OR CONTROLLED BY THE MUTUAL HOLDING
11 COMPANY. THE SUPERINTENDENT SHALL APPROVE EACH SUCH PROPOSED TRANSFER IF
12 THE SUPERINTENDENT FINDS IT IS FAIR AND EQUITABLE. FOR A REORGANIZING
13 INSURER, THE PLAN MAY PROVIDE FOR SUCH TRANSFER, IN WHICH CASE APPROVAL
14 OF THE PLAN SHALL CONSTITUTE APPROVAL BY THE SUPERINTENDENT PURSUANT TO
15 THIS SECTION. THE PROVISIONS OF SECTIONS ONE THOUSAND FIVE HUNDRED FIVE
16 AND FOUR THOUSAND TWO HUNDRED SEVEN OF THIS CHAPTER SHALL NOT APPLY TO
17 ANY TRANSFER OF SUBSIDIARIES EFFECTED PURSUANT TO THIS SECTION BUT SHALL
18 OTHERWISE APPLY TO THE REORGANIZED INSURER AND ITS AFFILIATES IN ACCORD-
19 ANCE WITH THEIR TERMS. THE PROVISION OF CLAUSE (II) OF ITEM (II) OF
20 PARAGRAPH TWO OF SUBSECTION (A) OF SECTION ONE THOUSAND FOUR HUNDRED
21 FIVE OF THIS CHAPTER LIMITING THE AGGREGATE AMOUNT OF INVESTMENTS IN
22 PREFERRED SHARES OF AMERICAN INSTITUTIONS SHALL NOT APPLY TO AN INVEST-
23 MENT BY A REORGANIZING OR REORGANIZED INSURER IN SUCH PREFERRED SHARES
24 RECEIVED BY IT IN CONSIDERATION FOR A TRANSFER PURSUANT TO THIS SECTION.
25 FOR A REORGANIZED INSURER, THE OTHER PROVISIONS OF THIS ARTICLE, INCLUD-
26 ING, WITHOUT LIMITATION, THE REQUIREMENT OF FILING A PLAN OF REORGANIZA-
27 TION, SHALL NOT APPLY TO THE TRANSFER OF SUBSIDIARIES PURSUANT TO THIS
28 SECTION.

29 S 8021. LIMITATIONS ON ACCUMULATION OF SURPLUS OF MUTUAL HOLDING
30 COMPANIES. (A) A MUTUAL HOLDING COMPANY MAY MAINTAIN (1) A NON-INSURANCE
31 SURPLUS NOT EXCEEDING THE AGGREGATE CAPITAL AND SURPLUS OF ITS INSURANCE
32 SUBSIDIARIES AND (2) AGGREGATE CAPITAL AND SURPLUS OF ITS INSURANCE
33 SUBSIDIARIES NOT EXCEEDING THE SURPLUS LIMIT OF ITS INSURANCE SUBSID-
34 IARIES, UNLESS OTHERWISE APPROVED BY THE SUPERINTENDENT.

35 (B) AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
36 FOLLOWING MEANINGS:

37 (1) "NON-INSURANCE SURPLUS" MEANS THE MUTUAL HOLDING COMPANY'S NET
38 WORTH, DETERMINED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRIN-
39 CIPLES ON A CONSOLIDATED BASIS, EXCLUDING THE PORTION THEREOF DERIVED
40 FROM ITS INTEREST IN ITS INSURANCE SUBSIDIARIES.

41 (2) "INSURANCE SUBSIDIARY" MEANS A SUBSIDIARY OF THE MUTUAL HOLDING
42 COMPANY THAT IS A DOMESTIC INSURER, A FOREIGN INSURER, AN ALIEN INSURER
43 OR (NOTWITHSTANDING ITS EXEMPTION FROM THIS CHAPTER) A HEALTH MAINTEN-
44 NANCE ORGANIZATION.

45 (3) "AGGREGATE CAPITAL AND SURPLUS" OF A MUTUAL HOLDING COMPANY'S
46 INSURANCE SUBSIDIARIES MEANS THE SUM OF:

47 (A) FOR EACH SUBSIDIARY THAT IS A LIFE INSURANCE COMPANY AND IS NOT A
48 SUBSIDIARY OF ANOTHER LIFE INSURANCE COMPANY, ITS STATUTORY CAPITAL AND
49 SURPLUS;

50 (B) FOR EACH SUBSIDIARY THAT IS AN INSURANCE COMPANY OTHER THAN A LIFE
51 INSURANCE COMPANY, A HEALTH MAINTENANCE ORGANIZATION OR A SUBSIDIARY OF
52 ANOTHER INSURANCE SUBSIDIARY, ITS STATUTORY CAPITAL AND SURPLUS; AND

53 (C) FOR EACH SUBSIDIARY THAT IS A HEALTH MAINTENANCE ORGANIZATION AND
54 IS NOT A SUBSIDIARY OF AN INSURANCE SUBSIDIARY, THIRTY-FIVE PERCENT OF
55 ITS NET PREMIUM WRITTEN IN THE PRECEDING CALENDAR YEAR.

1 (4) "SURPLUS LIMIT" OF A MUTUAL HOLDING COMPANY'S INSURANCE SUBSID-
2 IARIES MEANS THE AGGREGATE OF:

3 (A) FOR EACH SUBSIDIARY THAT IS A LIFE INSURANCE COMPANY AND IS NOT A
4 SUBSIDIARY OF ANOTHER LIFE INSURANCE COMPANY, THE GREATER OF (I) EIGHT
5 HUNDRED FIFTY THOUSAND DOLLARS, OR (II) TEN PERCENT OF ITS POLICY
6 RESERVES AND POLICY LIABILITIES, OR (III) TEN PERCENT OF THE POLICY
7 RESERVES AND POLICY LIABILITIES OF SUCH LIFE INSURANCE COMPANY AND OF
8 ALL SUBSIDIARIES OF SUCH COMPANY THAT ARE INSURANCE COMPANIES, PLUS (X)
9 THE PRODUCT OF THREE AND THE AUTHORIZED CONTROL LEVEL RBC OF SUCH LIFE
10 INSURANCE COMPANY AS DETERMINED IN ACCORDANCE WITH SECTION ONE THOUSAND
11 THREE HUNDRED TWENTY-TWO OF THIS CHAPTER OR CORRESPONDING PROVISIONS OF
12 THE LAW OF ITS STATE OF DOMICILE, PLUS (Y) FOR EACH SUBSIDIARY OF SUCH
13 DOMESTIC LIFE INSURANCE COMPANY THAT IS A HEALTH MAINTENANCE ORGANIZA-
14 TION, THIRTY-FIVE PERCENT OF ITS NET PREMIUM WRITTEN IN THE PRECEDING
15 CALENDAR YEAR, MINUS (Z) THE ASSET VALUATION RESERVES OF SUCH LIFE
16 INSURANCE COMPANY AND OF ALL SUBSIDIARIES OF SUCH COMPANY THAT ARE LIFE
17 INSURANCE COMPANIES, OR (IV) THE MINIMUM AMOUNT OF CAPITAL AND SURPLUS
18 REQUIRED BY THE LAW OF ANOTHER STATE IN WHICH SUCH LIFE INSURANCE COMPA-
19 NY IS AUTHORIZED TO DO BUSINESS, ALL AS DETERMINED IN ACCORDANCE WITH
20 ACCOUNT PRACTICES PRESCRIBED OR PERMITTED BY THE SUPERINTENDENT, IN THE
21 CASE OF DOMESTIC INSURERS, OR THE PRINCIPAL REGULATOR OF ANY INSURANCE
22 SUBSIDIARY THAT IS NOT A DOMESTIC INSURER;

23 (B) FOR EACH SUBSIDIARY THAT IS A INSURANCE COMPANY OTHER THAN A LIFE
24 INSURANCE COMPANY, A HEALTH MAINTENANCE ORGANIZATION OR A SUBSIDIARY OF
25 ANOTHER INSURANCE SUBSIDIARY, ITS STATUTORY CAPITAL AND SURPLUS; AND

26 (C) FOR EACH SUBSIDIARY THAT IS A HEALTH MAINTENANCE ORGANIZATION AND
27 IS NOT A SUBSIDIARY OF AN INSURANCE SUBSIDIARY, THIRTY-FIVE PERCENT OF
28 ITS NET PREMIUM WRITTEN IN THE PRECEDING CALENDAR YEAR;

29 (D) THE SUPERINTENDENT MAY, FOR GOOD CAUSE SHOWN, BY ORDER, PERMIT
30 SUCH MUTUAL HOLDING COMPANY TO MAINTAIN A SURPLUS IN EXCESS OF THE MAXI-
31 MUM PRESCRIBED BY SUBSECTION (A) OF THIS SECTION, FOR A SPECIFIED PERI-
32 OD, NOT EXCEEDING ONE YEAR UNDER ANY ONE ORDER. THE SUPERINTENDENT SHALL
33 STATE IN SUCH ORDER THE REASONS THEREFOR AND SHALL CAUSE A STATEMENT OF
34 SUCH ORDER AND SUCH REASONS TO BE PUBLISHED IN THE NEXT ANNUAL REPORT OF
35 THE SUPERINTENDENT TO THE LEGISLATURE.

36 S 8022. CONFIDENTIALITY. NOTWITHSTANDING ANY OTHER PROVISION OF THE
37 LAW, ALL COMMUNICATIONS, INFORMATION AND DOCUMENTS OBTAINED BY OR
38 DISCLOSED TO THE SUPERINTENDENT OR ANY DEPUTY OR EMPLOYEE OF THE DEPART-
39 MENT OR ITS CONSULTANTS PURSUANT TO THIS ARTICLE SHALL BE KEPT CONFIDEN-
40 TIAL, SHALL NOT BE SUBJECT TO SUBPOENA AND SHALL NOT BE MADE PUBLIC BY
41 THE SUPERINTENDENT OR ANY DEPUTY OR EMPLOYEE OF THE DEPARTMENT OR ITS
42 CONSULTANTS OR ANY OTHER PERSON WITHOUT THE PRIOR WRITTEN CONSENT OF THE
43 MUTUAL HOLDING COMPANY, ANY STOCK HOLDING COMPANY, THE REORGANIZING
44 INSURER OR THE REORGANIZED INSURER, UNLESS AND TO THE EXTENT THAT THE
45 SUPERINTENDENT, AFTER GIVING THE REORGANIZED INSURER AND ANY OF ITS
46 AFFILIATES THAT COULD BE AFFECTED THEREBY NOTICE AND AN OPPORTUNITY TO
47 BE HEARD, DETERMINES THAT SPECIFIC INFORMATION OR DOCUMENTS ARE NECES-
48 SARY FOR POLICYHOLDERS OR MEMBERS OF THE MUTUAL HOLDING COMPANY TO PROP-
49 ERLY EVALUATE THE PROPOSED REORGANIZATION, CONVERSION OR OTHER TRANS-
50 ACTION UNDER THIS ARTICLE AND SHOULD THEREFORE BE DISCLOSED.

51 S 2. This act shall take effect immediately.