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§3–121.

(a) A domestic mutual insurer may become a stock insurer under a plan and procedure that is approved by the Commissioner.

(b) The Commissioner may not approve a plan or procedure for conversion of a mutual insurer to a stock insurer unless:

(1) the plan or procedure is equitable to the insurer's members;

(2) the plan is subject to approval by vote of at least three-fourths of the insurer's current members who vote on the plan in person, by proxy, or by mail at a meeting of members called for that purpose under reasonable notice and procedure approved by the Commissioner;

(3) for a life insurer, the right to vote may be limited to members who hold policies, other than term or group policies, that have been in force for at least 1 year;

(4) the plan provides as to any holder of a surplus note participating in the conversion that:

(i) the rights of the holder shall be governed by the terms of the surplus note; or

(ii) if the terms of the surplus note are silent regarding a conversion and the holder is not also a member, the holder may not vote on the planned conversion;

(5) the equity of each policyholder in the insurer:

(i) is determinable under a fair formula approved by the Commissioner; and

(ii) is based on not less than the insurer's entire surplus, minus contributed or borrowed surplus funds, plus a reasonable present equity in reserves and in all nonadmitted assets;

(6) all current policyholders and all persons that were policyholders of the insurer within 3 years before the date the plan was submitted to the Commissioner are entitled to participate in the purchase of stock or distribution of assets;

(7) the plan gives to each policyholder specified in item (6) of this subsection a preemptive right:

(i) within a designated reasonable period, to acquire the policyholder's proportionate part of all of the proposed capital stock of the insurer; and

(ii) to apply on the purchase of proposed capital stock the amount of the policyholder's equity in the insurer as determined under item (5) of this subsection;

(8) stock is offered to policyholders at a price that is not greater than the price at which the stock will be offered to others in the initial offering, but that is not more than double the par value of the stock;

(9) the plan provides for payment to each policyholder who elects not to apply the policyholder's equity in the insurer for or on the purchase price of stock to which the policyholder is preemptively entitled, in cash in an amount that equals not less than 50% of the amount of the policyholder's equity that was not used for the purchase of stock, and which payment, together with any stock purchased, constitutes full payment and discharge of the policyholder's equity as an owner of the insurer; and

(10) the completed plan provides that the converted insurer will have:

(i) paid-in capital stock equal to not less than the minimum paid-in capital required of a domestic stock insurer that transacts like kinds of insurance business; and

(ii) surplus funds equal to not less than 100% of the required capital.

(c) Within 60 days of the filing of a plan that contains all of the information required under this section and any regulations adopted under this section, the Commissioner shall approve or disapprove the plan.

(d) At the expense of the mutual insurer, the Commissioner may retain any qualified expert who is not a part of the staff of the Commissioner to assist in reviewing the plan.

(e) After written notice to the mutual insurer and any other interested person, the Commissioner may hold a hearing on whether the terms of the plan comply with this section.

(f) (1) If a mutual insurer is insolvent or, in the judgment of the Commissioner, is in a hazardous financial condition, the board of directors of the mutual insurer, by a majority vote, may request by a petition, as provided under paragraph (2) of this subsection, that the Commissioner waive the requirements concerning notice to, and approval by, policyholders of the planned conversion.

(2) The petition by the board of directors shall specify:

(i) the method and basis for issuance of the shares of capital stock of the converted stock insurer to an independent party in connection with an investment by the independent party in an amount sufficient to restore the converted stock insurer to sound financial condition; and

(ii) if the Commissioner finds that the value of the mutual insurer

is insufficient to warrant financial consideration, that the conversion shall be accomplished without financial consideration to past, present, or future policyholders.

(3) (i) By written order, the Commissioner may waive the requirements of subsection (b)(2) of this section if the Commissioner finds that the mutual insurer no longer meets statutory requirements with respect to capital, surplus, deposits, or assets.

(ii) Any finding that results in a waiver under this paragraph shall be made after:

1. review of the plan; and

2. A. an audit of the mutual insurer's quarterly or annual financial statement; or

B. a financial examination of the mutual insurer.

(g) The Commissioner may adopt regulations to enforce the provisions of this section.

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