

EMERGENCY BILL

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CF 7lr2968

By: Delegate Donoghue

Introduced and read first time: February 19, 1997

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance Regulation - Domestic Mutual Companies**

3 FOR the purpose of eliminating the maximum interest rate allowed for certain loans to
4 mutual companies under certain circumstances; altering a certain requirement that
5 agreements involving mergers or consolidations of certain domestic mutual insurers
6 be submitted to members and subject to a certain vote by members; authorizing a
7 domestic mutual insurance company to acquire or form a subsidiary holding
8 company under certain circumstances; making this Act an emergency measure; and
9 generally relating to regulation of mutual insurers.

10 BY repealing and reenacting, with amendments,

11 Article 48A - Insurance Code
12 Section 266(a) and 272(a)
13 Annotated Code of Maryland
14 (1994 Replacement Volume and 1996 Supplement)

15 BY adding to

16 Article 48A - Insurance Code
17 Section 493(d)
18 Annotated Code of Maryland
19 (1994 Replacement Volume and 1996 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Insurance
22 Section 3-116, 3-123(b), and 7-201
23 Annotated Code of Maryland
24 (1995 Volume and 1996 Supplement)
25 (As enacted by Chapter 36 of the Acts of the General Assembly of 1995)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

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1 **Article 48A - Insurance Code**

2 266.

3 (a) (1) Any director, officer or member of any stock [or mutual] insurer, or any
4 other person, may loan or advance to such insurer any sum or sums of money necessary to
5 enable it to comply with any surplus requirements, or any other requirements of the law,
6 and such moneys, and such interest thereon as may have been agreed upon, not exceeding
7 six percent per annum, shall be payable only out of the surplus remaining after providing
8 for all reserves and other liabilities, and such advance shall not otherwise be a liability or
9 claim against the insurer or any of its assets.

10 (2) ANY DIRECTOR, OFFICER OR MEMBER OF ANY MUTUAL INSURER,
11 OR ANY OTHER PERSON, MAY LOAN OR ADVANCE TO SUCH INSURER ANY SUM OR
12 SUMS OF MONEY NECESSARY TO ENABLE IT TO COMPLY WITH ANY SURPLUS
13 REQUIREMENTS, OR ANY OTHER REQUIREMENTS OF THE LAW, AND, SUBJECT TO
14 THE APPROVAL OF THE COMMISSIONER, SUCH MONEYS, AND SUCH INTEREST
15 THEREON AS MAY HAVE BEEN AGREED UPON SHALL BE PAYABLE ONLY OUT OF
16 THE INSURER'S REALIZED EARNED SURPLUS IN EXCESS OF ITS MINIMUM REQUIRED
17 SURPLUS, AND SUCH ADVANCE SHALL NOT OTHERWISE BE A LIABILITY OR CLAIM
18 AGAINST THE INSURER OR ANY OF ITS ASSETS.

19 (3) No commission or promotion expenses shall be paid in connection with
20 the advance of any such money to the insurer, and the amount of such advance shall be
21 reported in each annual statement.

22 272.

23 (a) Any mutual insurance company or companies organized under the laws of any
24 state of the United States may merge or consolidate with one or more domestic mutual
25 insurance companies, to form a domestic mutual insurance company, and the surviving
26 company may be a continuation of the corporate existence of one or more of the domestic
27 parties to the agreement. Insurers merging or consolidating under this section shall enter
28 into a written agreement prescribing the terms and conditions of the merger and setting
29 forth the name of the surviving company and its amended certificate of incorporation
30 which shall contain the provisions required by this article respecting the organization of a
31 mutual insurer. Such agreement shall be approved by the vote of a majority of the board
32 of directors of each company and such agreement shall be submitted to a meeting of
33 members and approved by the votes of at least two thirds of those members of each
34 company who[are present and voting at the meeting] VOTE ON THE PLAN IN PERSON,
35 BY PROXY, OR BY MAIL. Notice shall be mailed to the members of the company not less
36 than twenty days before the date of the meeting of the time, place and purpose of the
37 meeting or in lieu thereof, notice shall be published at least once a week for three
38 successive weeks in some newspaper printed in the county in which the company has its
39 principal office and in addition thereto, in some newspaper printed in either of the two
40 largest cities in each state in which the company shall be licensed to do business.

41 Such agreement, executed under corporate seal by officers of the company
42 authorized for the purpose, and with evidence of its adoption shall be submitted to the
43 Commissioner. If it appears that the requirements of this section have been complied
44 with, the Commissioner shall so certify and approve the agreement by his endorsement

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1 thereon. One of the duplicates shall thereupon be filed in his office and the other
2 duplicate shall be delivered to the continuing company.

3 493.

4 (D) SUBJECT TO THE APPROVAL OF THE COMMISSIONER AND TO THE
5 PROVISIONS OF THE SUBTITLE, A DOMESTIC MUTUAL INSURANCE COMPANY MAY
6 ACQUIRE OR FORM A SUBSIDIARY INSURANCE HOLDING COMPANY.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **Article - Insurance**

10 3-116.

11 (a) (1) (I) A director, officer, or member of a stock insurer [or mutual
12 insurer] or any other person may lend or advance to the stock insurer [or mutual
13 insurer] any money necessary to enable it to comply with a surplus requirement or any
14 other requirement of law.

15 [(2)] (II) Interest on the loan or advance TO A STOCK INSURER may not
16 exceed 6% per year.

17 [(b)] (2) A loan or advance UNDER THIS SUBSECTION and any interest on it:

18 [(1)] (I) is payable only out of the surplus remaining after the stock insurer
19 [or mutual insurer] provides for all reserves and other liabilities; and

20 [(2)] (II) is not otherwise a liability or claim against the stock insurer [or
21 mutual insurer] or any of its assets.

22 (B) (1) A DIRECTOR, OFFICER, OR MEMBER OF A MUTUAL INSURER OR ANY
23 OTHER PERSON MAY LEND OR ADVANCE TO THE MUTUAL INSURER ANY MONEY
24 NECESSARY TO ENABLE IT TO COMPLY WITH A SURPLUS REQUIREMENT OR ANY
25 OTHER REQUIREMENT OF LAW.

26 (2) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, A LOAN OR
27 ADVANCE UNDER THIS SUBSECTION AND ANY INTEREST ON IT AS MAY HAVE BEEN
28 AGREED ON IS PAYABLE ONLY OUT OF THE INSURER'S REALIZED EARNED SURPLUS
29 IN EXCESS OF ITS MINIMUM REQUIRED SURPLUS.

30 (3) A LOAN OR ADVANCE UNDER THIS SUBSECTION IS NOT OTHERWISE
31 A LIABILITY OR CLAIM AGAINST THE MUTUAL INSURER OR ANY OF ITS ASSETS.

32 (c) A commission or promotion expense may not be paid in connection with a
33 loan or advance made under this section.

34 (d) In each annual statement, a stock insurer or mutual insurer shall report the
35 amount of each loan or advance made under this section.

36 (e) If a loan or advance is made to a stock insurer or mutual insurer under a
37 notice of deficiency made by the Commissioner under § 3-109 of this subtitle, the loan or

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1 advance may not be repaid or withdrawn without the express written consent of the
2 Commissioner.

3 3-123.

4 (b) (1) Mutual insurers consolidating or merging to form a domestic mutual
5 insurer under this section shall enter into a written agreement that:

6 (i) prescribes the terms and conditions of the consolidation or merger;

7 (ii) states the name of the successor mutual insurer; and

8 (iii) includes the successor mutual insurer's amended certificate of
9 incorporation, which shall contain the provisions required by this article for the
10 organization of a mutual insurer.

11 (2) The agreement shall be:

12 (i) approved by the vote of a majority of the board of directors of each
13 mutual insurer; and

14 (ii) submitted to a meeting of members and approved by vote of at
15 least two-thirds of those members of each mutual insurer who[are present and voting at
16 the meeting] VOTE ON THE PLAN IN PERSON, BY PROXY, OR BY MAIL.

17 (3) Notice of the time, place, and purpose of the meeting shall be:

18 (i) mailed to the members of each mutual insurer not less than 20
19 days before the date of the meeting; or

20 (ii) published at least once a week for 3 successive weeks in:

21 1. a newspaper printed in the county where each mutual insurer
22 has its principal office; and

23 2. a newspaper printed in one of the two largest cities in each
24 state where the successor mutual insurer will be licensed to do business.

25 (4) The agreement shall be:

26 (i) executed in duplicate original under corporate seal by officers
27 authorized to do so on behalf of each of the mutual insurers; and

28 (ii) submitted, with evidence of its approval, to the Commissioner.

29 (5) If it appears to the Commissioner that the requirements of this section
30 have been complied with, the Commissioner shall certify approval of the agreement by
31 endorsing it.

32 (6) A duplicate original of the agreement shall be filed with the
33 Commissioner and a duplicate original of the agreement shall be delivered to the
34 successor mutual insurer.

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1 7-201.

2 (A) In addition to any other investment allowed elsewhere in this article, a
3 domestic insurer, either alone or with another person, may invest in or otherwise acquire
4 a subsidiary that engages in or is registered to engage in one or more of the following
5 insurance businesses or business activities that are ancillary to an insurance business:

6 (1) conducting an insurance business that is authorized by the jurisdiction
7 where the subsidiary is incorporated;

8 (2) acting as an insurance agency for its parent, its parent's insurer
9 subsidiaries, or its parent's intermediate insurer subsidiaries;

10 (3) investing, reinvesting, or trading in securities for itself, its affiliate, its
11 parent, or another subsidiary of its parent;

12 (4) managing an investment company that is subject to the Investment
13 Company Act of 1940, including managing related sales and services of the investment
14 company;

15 (5) acting as a broker-dealer that is subject to the Securities Exchange Act
16 of 1934;

17 (6) providing investment advice to governments, governmental units,
18 corporations, or other organizations or groups;

19 (7) performing other services related to the operations of an insurance
20 business, including actuarial, loss prevention, safety engineering, data processing,
21 accounting, claims, appraisal, and collection services;

22 (8) owning and managing assets that its parent may own and manage;

23 (9) acting as administrative agent for a governmental unit that performs an
24 insurance function;

25 (10) financing insurance premiums;

26 (11) conducting any other business activity that is reasonably ancillary to an
27 insurance business; or

28 (12) owning one or more corporations engaged exclusively in or organized to
29 engage exclusively in one or more of the business activities specified in this section.

30 (B) SUBJECT TO THE APPROVAL OF THE COMMISSIONER AND TO THE
31 PROVISIONS OF THIS TITLE, A DOMESTIC MUTUAL INSURER MAY ACQUIRE OR FORM
32 A SUBSIDIARY INSURANCE HOLDING COMPANY.

33 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act is
34 an emergency measure, is necessary for the immediate preservation of the public health
35 and safety, has been passed by a yea and nay vote supported by three-fifths of all the
36 members elected to each of the two Houses of the General Assembly, and shall take
37 effect from the date it is enacted.

1 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
2 take effect October 1, 1997.