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By: **Delegate Brown**

Introduced and read first time: February 21, 2000

Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Insurer Mutual-to-Stock Conversion Act**

3 FOR the purpose of altering the procedures by which certain mutual insurers are  
4 authorized to convert to stock insurers; requiring mutual insurers seeking to  
5 convert to adopt a certain plan of conversion in a certain manner; requiring a  
6 plan of conversion to include certain provisions; authorizing a plan of conversion  
7 to include certain optional provisions; providing for the effective date of the plan;  
8 specifying certain rights of members whose policies are issued during a certain  
9 period of time; providing for the continued corporate existence of the mutual  
10 insurer in a certain manner; prohibiting certain actions relating to the  
11 conversion; establishing a certain limitation on certain actions relating to a  
12 conversion; providing that certain laws apply to converted stock insurers;  
13 prohibiting a mutual insurer from engaging in the business of insurance as a  
14 stock insurer until it complies with certain provisions of law; authorizing the  
15 amendment of certain policies at a certain time and in a certain manner;  
16 prohibiting certain acquisitions of control of the converted stock insurer;  
17 requiring the Insurance Commissioner to adopt certain regulations; defining  
18 certain terms; and generally relating to the conversion of mutual insurers to  
19 stock insurers.

20 BY repealing and reenacting, with amendments,  
21 Article - Insurance  
22 Section 3-121  
23 Annotated Code of Maryland  
24 (1997 Volume and 1999 Supplement)

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

27 **Article - Insurance**

28 3-121.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (ii) to apply on the purchase of proposed capital stock the amount of  
34 the policyholder's equity in the insurer as determined under item (4) of this  
35 subsection;

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

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

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

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

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

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

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

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

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
27 INDICATED.

28 (2) (I) "ELIGIBLE MEMBER" MEANS A MEMBER OF A MUTUAL INSURER  
29 WHOSE POLICY IS IN FORCE ON THE DATE THE MUTUAL INSURER'S BOARD OF  
30 DIRECTORS ADOPTS A PLAN OF CONVERSION.

31 (II) "ELIGIBLE MEMBER" DOES NOT INCLUDE:

32 1. A PERSON INSURED UNDER A GROUP POLICY; OR

33 2. A PERSON WHOSE POLICY BECOMES EFFECTIVE AFTER  
34 THE BOARD OF DIRECTORS ADOPTS THE PLAN BUT BEFORE THE PLAN'S EFFECTIVE  
35 DATE, AS PROVIDED IN SUBSECTION (F) OF THIS SECTION.

1 (3) "PARTICIPATING POLICY" MEANS A POLICY THAT GRANTS A HOLDER  
2 THE RIGHT TO RECEIVE DIVIDENDS IF, AS, AND WHEN DECLARED BY THE MUTUAL  
3 INSURER.

4 (4) "PLAN OF CONVERSION" OR "PLAN" MEANS A PLAN ADOPTED BY A  
5 MUTUAL INSURER'S BOARD OF DIRECTORS UNDER THIS SECTION TO CONVERT THE  
6 MUTUAL INSURER INTO A STOCK INSURER.

7 (B) (1) (I) A PLAN OF CONVERSION MAY NOT BECOME EFFECTIVE UNLESS  
8 THE MUTUAL INSURER SEEKING TO CONVERT TO A STOCK INSURER HAS ADOPTED,  
9 BY THE AFFIRMATIVE VOTE OF NOT LESS THAN TWO-THIRDS OF ITS BOARD OF  
10 DIRECTORS, A PLAN OF CONVERSION CONSISTENT WITH THE REQUIREMENTS OF  
11 SUBSECTIONS (C) AND (D) OF THIS SECTION.

12 (II) AT ANY TIME BEFORE APPROVAL OF A PLAN BY THE  
13 COMMISSIONER, THE MUTUAL INSURER, BY THE AFFIRMATIVE VOTE OF NOT LESS  
14 THAN TWO-THIRDS OF ITS BOARD OF DIRECTORS, MAY AMEND OR WITHDRAW THE  
15 PLAN.

16 (2) (I) BEFORE A MUTUAL INSURER'S ELIGIBLE MEMBERS MAY VOTE  
17 ON APPROVAL OF A PLAN, A MUTUAL INSURER WHOSE BOARD OF DIRECTORS HAS  
18 ADOPTED A PLAN SHALL FILE ALL OF THE FOLLOWING DOCUMENTS WITH THE  
19 COMMISSIONER WITHIN 90 DAYS AFTER ADOPTION OF THE PLAN:

20 1. THE PLAN OF CONVERSION, INCLUDING THE  
21 INDEPENDENT EVALUATION OF PRO FORMA MARKET VALUE REQUIRED BY  
22 SUBSECTION (C)(4) OF THIS SECTION;

23 2. THE FORM OF NOTICE REQUIRED BY PARAGRAPH (6) OF  
24 THIS SUBSECTION;

25 3. THE FORM OF PROXY TO BE SOLICITED FROM ELIGIBLE  
26 MEMBERS IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION;

27 4. THE FORM OF NOTICE REQUIRED BY SUBSECTION (F) OF  
28 THIS SECTION TO PERSONS WHOSE POLICIES ARE ISSUED AFTER ADOPTION OF THE  
29 PLAN BUT BEFORE ITS EFFECTIVE DATE;

30 5. THE PROPOSED AMENDED ARTICLES OF INCORPORATION  
31 AND BYLAWS OF THE CONVERTED STOCK INSURER;

32 6. AN ACQUISITION OF CONTROL STATEMENT; AND

33 7. ANY OTHER INFORMATION REQUESTED BY THE  
34 COMMISSIONER.

35 (II) AFTER FILING THE DOCUMENTS LISTED IN SUBPARAGRAPH (I)  
36 OF THIS PARAGRAPH WITH THE COMMISSIONER, THE MUTUAL INSURER SHALL SEND  
37 TO ELIGIBLE MEMBERS A NOTICE ADVISING ELIGIBLE MEMBERS OF THE ADOPTION  
38 AND FILING OF THE PLAN, THEIR ABILITY TO PROVIDE THE COMMISSIONER AND THE

1 MUTUAL INSURER WITH COMMENTS ON THE PLAN WITHIN 30 DAYS AFTER THE DATE  
2 OF THE NOTICE, AND THE PROCEDURE FOR PROVIDING COMMENTS.

3 (3) (I) THE COMMISSIONER SHALL IMMEDIATELY GIVE WRITTEN  
4 NOTICE TO THE MUTUAL INSURER OF ANY DECISION AND, IN THE EVENT OF  
5 DISAPPROVAL, A STATEMENT IN DETAIL OF THE REASONS FOR THE DECISION.

6 (II) THE COMMISSIONER SHALL APPROVE THE PLAN IF THE  
7 COMMISSIONER FINDS EACH OF THE FOLLOWING:

8 1. THE PLAN COMPLIES WITH THIS SECTION;

9 2. THE PLAN WILL NOT PREJUDICE THE INTERESTS OF THE  
10 MEMBERS; AND

11 3. THE PLAN'S METHOD OF ALLOCATING SUBSCRIPTION  
12 RIGHTS IS FAIR AND EQUITABLE.

13 (4) THE COMMISSIONER MAY RETAIN, AT THE MUTUAL INSURER'S  
14 EXPENSE, ANY QUALIFIED EXPERT NOT OTHERWISE A PART OF THE  
15 COMMISSIONER'S STAFF TO ASSIST IN REVIEWING THE PLAN AND THE  
16 INDEPENDENT EVALUATION OF THE PRO FORMA MARKET VALUE REQUIRED UNDER  
17 SUBSECTION (C)(4) OF THIS SECTION.

18 (5) THE COMMISSIONER MAY ORDER A HEARING ON WHETHER THE  
19 TERMS OF THE PLAN COMPLY WITH THIS SECTION AFTER GIVING WRITTEN NOTICE  
20 TO THE MUTUAL INSURER AND OTHER INTERESTED PERSONS, ALL OF WHOM HAVE  
21 THE RIGHT TO APPEAR AT THE HEARING.

22 (6) (I) ALL ELIGIBLE MEMBERS SHALL BE SENT NOTICE OF THE  
23 MEMBERS' MEETING TO VOTE ON THE PLAN.

24 (II) THE NOTICE SHALL BRIEFLY BUT FAIRLY DESCRIBE THE  
25 PROPOSED CONVERSION PLAN, SHALL INFORM THE MEMBER OF THE MEMBER'S  
26 RIGHT TO VOTE ON THE PLAN, AND SHALL BE SENT TO EACH MEMBER'S LAST  
27 KNOWN ADDRESS, AS SHOWN ON THE MUTUAL INSURER'S RECORDS, AT LEAST 30  
28 DAYS BEFORE THE TIME FIXED FOR THE MEETING.

29 (III) IF THE MEETING TO VOTE ON THE PLAN IS HELD DURING THE  
30 MUTUAL INSURER'S ANNUAL MEETING OF POLICYHOLDERS, ONLY A COMBINED  
31 NOTICE OF MEETING IS REQUIRED.

32 (7) (I) THE PLAN SHALL BE VOTED ON BY ELIGIBLE MEMBERS AND  
33 SHALL BE ADOPTED ON RECEIVING THE AFFIRMATIVE VOTE OF AT LEAST  
34 TWO-THIRDS OF THE VOTES CAST BY ELIGIBLE MEMBERS.

35 (II) MEMBERS ENTITLED TO VOTE ON THE PROPOSED PLAN MAY  
36 VOTE IN PERSON OR BY PROXY.

1 (III) THE NUMBER OF VOTES EACH ELIGIBLE MEMBER MAY CAST  
2 SHALL BE DETERMINED BY THE MUTUAL INSURER'S BYLAWS.

3 (IV) IF THE BYLAWS ARE SILENT, EACH ELIGIBLE MEMBER MAY  
4 CAST ONE VOTE.

5 (8) THE AMENDED ARTICLES SHALL BE CONSIDERED AT THE MEETING  
6 OF THE POLICYHOLDERS CALLED FOR THE PURPOSE OF ADOPTING THE PLAN OF  
7 CONVERSION AND SHALL REQUIRE FOR ADOPTION THE AFFIRMATIVE VOTE OF AT  
8 LEAST TWO-THIRDS OF THE VOTES CAST BY ELIGIBLE MEMBERS.

9 (9) WITHIN 30 DAYS AFTER THE ELIGIBLE MEMBERS HAVE APPROVED  
10 THE PLAN, THE CONVERTED STOCK INSURER SHALL FILE BOTH OF THE FOLLOWING  
11 DOCUMENTS WITH THE COMMISSIONER:

12 (I) THE MINUTES OF THE MEETING OF THE ELIGIBLE MEMBERS  
13 AT WHICH THE PLAN WAS APPROVED; AND

14 (II) THE AMENDED ARTICLES OF INCORPORATION AND BYLAWS OF  
15 THE CONVERTED STOCK INSURER.

16 (C) (1) THE FOLLOWING PROVISIONS SHALL BE INCLUDED IN THE PLAN OF  
17 CONVERSION:

18 (I) THE REASONS FOR PROPOSED CONVERSION;

19 (II) THE EFFECT OF CONVERSION ON EXISTING POLICIES,  
20 INCLUDING ALL OF THE FOLLOWING:

21 1. A PROVISION THAT ALL POLICIES IN FORCE ON THE  
22 EFFECTIVE DATE OF CONVERSION CONTINUE TO REMAIN IN FORCE UNDER THE  
23 TERMS OF THE POLICIES, EXCEPT THAT THE FOLLOWING RIGHTS, TO THE EXTENT  
24 THEY EXISTED IN THE MUTUAL INSURER, SHALL BE EXTINGUISHED ON THE  
25 EFFECTIVE DATE OF THE CONVERSION:

26 A. ANY VOTING RIGHTS OF THE POLICYHOLDERS PROVIDED  
27 UNDER THE POLICIES;

28 B. EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH 2 OF THIS  
29 SUBPARAGRAPH, ANY RIGHT TO SHARE IN THE SURPLUS OF THE MUTUAL INSURER  
30 PROVIDED FOR UNDER THE POLICIES; AND

31 C. ANY ASSESSMENT PROVISIONS PROVIDED FOR UNDER  
32 THE POLICIES;

33 2. EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH 3 OF THIS  
34 SUBPARAGRAPH, A PROVISION THAT HOLDERS OF PARTICIPATING POLICIES IN  
35 EFFECT ON THE DATE OF CONVERSION CONTINUE TO HAVE A RIGHT TO RECEIVE  
36 DIVIDENDS AS PROVIDED IN THE PARTICIPATING POLICIES, IF ANY; AND

1                                   3.       A PROVISION THAT, EXCEPT FOR THE MUTUAL INSURER'S  
2 LIFE POLICIES, GUARANTEED RENEWABLE ACCIDENT AND HEALTH POLICIES, AND  
3 GUARANTEED RENEWABLE, NONCANCELABLE ACCIDENT AND HEALTH POLICIES, ON  
4 THE RENEWAL DATE OF A PARTICIPATING POLICY, THE CONVERTED STOCK INSURER  
5 MAY ISSUE THE INSURED A NONPARTICIPATING POLICY AS A SUBSTITUTE FOR THE  
6 PARTICIPATING POLICY; AND

7                                   (III)     THE SUBSCRIPTION RIGHTS TO ELIGIBLE MEMBERS,  
8 INCLUDING BOTH OF THE FOLLOWING:

9                                   1.       A.       A PROVISION THAT EACH ELIGIBLE MEMBER IS TO  
10 RECEIVE WITHOUT PAYMENT NONTRANSFERABLE SUBSCRIPTION RIGHTS TO  
11 PURCHASE A PORTION OF THE CAPITAL STOCK OF THE CONVERTED STOCK INSURER  
12 AND THAT, IN THE AGGREGATE, ALL ELIGIBLE MEMBERS SHALL HAVE THE RIGHT,  
13 PRIOR TO THE RIGHT OF ANY OTHER PARTY, TO PURCHASE 100% OF THE CAPITAL  
14 STOCK OF THE CONVERTED INSURER, EXCLUSIVE OF ANY SHARES OF CAPITAL  
15 STOCK REQUIRED TO BE SOLD OR DISTRIBUTED TO THE HOLDERS OF SURPLUS  
16 NOTES, IF ANY, AND CAPITAL STOCK PURCHASED BY THE COMPANY'S  
17 TAX-QUALIFIED EMPLOYE STOCK BENEFIT PLAN THAT IS IN EXCESS OF THE TOTAL  
18 PRICE OF THE CAPITAL STOCK ESTABLISHED UNDER PARAGRAPH (4) OF THIS  
19 SUBSECTION, AS PERMITTED BY SUBSECTION (D)(3) OF THIS SECTION; OR

20                                   B.       AS AN ALTERNATIVE TO SUBSCRIPTION RIGHTS IN THE  
21 CONVERTED STOCK INSURER, THE PLAN MAY PROVIDE THAT EACH ELIGIBLE  
22 MEMBER IS TO RECEIVE, WITHOUT PAYMENT, NONTRANSFERABLE SUBSCRIPTION  
23 RIGHTS TO PURCHASE A PORTION OF THE CAPITAL STOCK OF ONE OF THE  
24 FOLLOWING:

25                                   I.       A CORPORATION ORGANIZED FOR THE PURPOSE OF  
26 PURCHASING AND HOLDING ALL THE STOCK OF THE CONVERTED STOCK INSURER;

27                                   II.     A STOCK INSURER OWNED BY THE MUTUAL INSURER  
28 INTO WHICH THE MUTUAL INSURER WILL BE MERGED; OR

29                                   III.    AN UNAFFILIATED STOCK INSURER OR OTHER  
30 CORPORATION THAT WILL PURCHASE ALL THE STOCK OF THE CONVERTED STOCK  
31 INSURER; AND

32                                   2.       A PROVISION THAT THE SUBSCRIPTION RIGHTS SHALL BE  
33 ALLOCATED IN WHOLE SHARES AMONG THE ELIGIBLE MEMBERS USING A FAIR AND  
34 EQUITABLE FORMULA, WHICH FORMULA MAY, BUT NEED NOT, TAKE INTO ACCOUNT  
35 HOW THE DIFFERENT CLASSES OF POLICIES OF THE ELIGIBLE MEMBERS  
36 CONTRIBUTED TO THE SURPLUS OF THE MUTUAL INSURER OR ANY OTHER FACTORS  
37 THAT MAY BE FAIR OR EQUITABLE.

38                                   (2)     THE PLAN SHALL PROVIDE A FAIR AND EQUITABLE MEANS FOR  
39 ALLOCATING SHARES OF CAPITAL STOCK IN THE EVENT OF AN OVERSUBSCRIPTION  
40 TO SHARES BY ELIGIBLE MEMBERS EXERCISING SUBSCRIPTION RIGHTS RECEIVED  
41 UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION.

1           (3)    (I)    THE PLAN SHALL PROVIDE THAT ANY SHARES OF CAPITAL  
2 STOCK NOT SUBSCRIBED TO BY ELIGIBLE MEMBERS EXERCISING SUBSCRIPTION  
3 RIGHTS RECEIVED UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL BE SOLD  
4 IN A PUBLIC OFFERING THROUGH AN UNDERWRITER.

5            (II)    IF THE NUMBER OF SHARES OF CAPITAL STOCK NOT  
6 SUBSCRIBED BY ELIGIBLE MEMBERS IS SO SMALL IN NUMBER OR OTHER FACTORS  
7 EXIST THAT DO NOT WARRANT THE TIME OR EXPENSE OF A PUBLIC OFFERING, THE  
8 PLAN OF CONVERSION MAY PROVIDE FOR SALE OF THE UNSUBSCRIBED SHARES  
9 THROUGH A PRIVATE PLACEMENT OR OTHER ALTERNATIVE METHOD APPROVED BY  
10 THE COMMISSIONER THAT IS FAIR AND EQUITABLE TO ELIGIBLE MEMBERS.

11          (4)    (I)    THE PLAN SHALL SET THE TOTAL PRICE OF THE CAPITAL  
12 STOCK EQUAL TO THE ESTIMATED PRO FORMA MARKET VALUE OF THE CONVERTED  
13 STOCK INSURER BASED ON AN INDEPENDENT EVALUATION BY A QUALIFIED  
14 EXPERT.

15          (II)    THIS PRO FORMA MARKET VALUE MAY BE THAT VALUE THAT IS  
16 ESTIMATED TO BE NECESSARY TO ATTRACT FULL SUBSCRIPTION FOR THE SHARES,  
17 AS INDICATED BY THE INDEPENDENT EVALUATION, AND MAY BE STATED AS A  
18 RANGE OF PRO FORMA MARKET VALUE.

19          (5)    (I)    THE PLAN SHALL SET THE PURCHASE PRICE PER SHARE OF  
20 CAPITAL STOCK EQUAL TO ANY REASONABLE AMOUNT.

21          (II)    HOWEVER, THE MINIMUM SUBSCRIPTION AMOUNT REQUIRED  
22 OF ANY ELIGIBLE MEMBER MAY NOT EXCEED \$500, BUT THE PLAN MAY PROVIDE  
23 THAT THE MINIMUM NUMBER OF SHARES ANY PERSON MAY PURCHASE PURSUANT  
24 TO THE PLAN IS 25 SHARES.

25          (6)    (I)    THE PLAN SHALL PROVIDE THAT ANY PERSON OR GROUP OF  
26 PERSONS ACTING IN CONCERT MAY NOT ACQUIRE, IN THE PUBLIC OFFERING OR  
27 PURSUANT TO THE EXERCISE OF SUBSCRIPTION RIGHTS, MORE THAN 5% OF THE  
28 CAPITAL STOCK OF THE CONVERTED STOCK INSURER OR THE STOCK OF ANOTHER  
29 CORPORATION THAT IS PARTICIPATING IN THE CONVERSION PLAN, AS PROVIDED IN  
30 PARAGRAPH (1)(III)1 OF THIS SUBSECTION, EXCEPT WITH THE APPROVAL OF THE  
31 COMMISSIONER.

32          (II)    THE LIMITATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH  
33 DOES NOT APPLY TO ANY ENTITY THAT IS TO PURCHASE 100% OF THE CAPITAL  
34 STOCK OF THE CONVERTED INSURER AS PART OF THE PLAN OF CONVERSION  
35 APPROVED BY THE COMMISSIONER.

36          (7)    (I)    THE PLAN SHALL PROVIDE THAT A DIRECTOR OR OFFICER OR  
37 PERSON ACTING IN CONCERT WITH A DIRECTOR OR OFFICER OF THE MUTUAL  
38 INSURER MAY NOT ACQUIRE ANY CAPITAL STOCK OF THE CONVERTED STOCK  
39 INSURER OR THE STOCK OF ANOTHER CORPORATION THAT IS PARTICIPATING IN THE  
40 CONVERSION PLAN, AS PROVIDED IN PARAGRAPH (1)(III) 1 OF THIS SUBSECTION, FOR  
41 3 YEARS AFTER THE EFFECTIVE DATE OF THE PLAN, EXCEPT THROUGH A  
42 BROKER-DEALER, WITHOUT THE PERMISSION OF THE COMMISSIONER.

1 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT PROHIBIT  
2 THE DIRECTORS AND OFFICERS FROM MAKING BLOCK PURCHASES OF 1% OR MORE  
3 OF THE OUTSTANDING COMMON STOCK:

4 1. OTHER THAN THROUGH A BROKER-DEALER IF APPROVED  
5 IN WRITING BY THE ADMINISTRATION;

6 2. THROUGH THE EXERCISE OF SUBSCRIPTION RIGHTS  
7 RECEIVED UNDER THE PLAN; OR

8 3. FROM PARTICIPATING IN A STOCK BENEFIT PLAN  
9 PERMITTED BY SUBSECTION (D)(3) OF THIS SECTION OR APPROVED BY  
10 SHAREHOLDERS PURSUANT TO SUBSECTION (H) OF THIS SECTION.

11 (8) THE PLAN SHALL PROVIDE THAT A DIRECTOR OR OFFICER MAY NOT  
12 SELL STOCK PURCHASED PURSUANT TO THIS SUBSECTION OR SUBSECTION (D)(1) OF  
13 THIS SECTION WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE CONVERSION.

14 (9) THE PLAN SHALL PROVIDE THAT THE RIGHTS OF A HOLDER OF A  
15 SURPLUS NOTE TO PARTICIPATE IN THE CONVERSION, IF ANY, SHALL BE GOVERNED  
16 BY THE TERMS OF THE SURPLUS NOTE.

17 (10) THE PLAN SHALL PROVIDE THAT, WITHOUT THE PRIOR APPROVAL  
18 OF THE COMMISSIONER, A CONVERTED STOCK INSURER, OR ANY CORPORATION  
19 PARTICIPATING IN THE CONVERSION PLAN PURSUANT TO PARAGRAPH (1)(III)1B I OR  
20 II OF THIS SUBSECTION, MAY NOT FOR A PERIOD OF 3 YEARS ON OR AFTER THE DATE  
21 OF THE COMPLETION OF THE CONVERSION REPURCHASE ANY OF ITS CAPITAL  
22 STOCK FROM ANY PERSON, EXCEPT THAT THIS RESTRICTION DOES NOT APPLY TO  
23 EITHER:

24 (I) A REPURCHASE ON A PRO RATA BASIS PURSUANT TO AN OFFER  
25 MADE TO ALL SHAREHOLDERS OF THE CONVERTED STOCK INSURER OR ANY  
26 CORPORATION PARTICIPATING IN THE CONVERSION PLAN PURSUANT TO  
27 PARAGRAPH (1)(III)1B I OR II OF THIS SUBSECTION; OR

28 (II) A PURCHASE IN THE OPEN MARKET BY A TAX-QUALIFIED OR  
29 NON-TAX-QUALIFIED EMPLOYEE STOCK BENEFIT PLAN IN AN AMOUNT REASONABLE  
30 AND APPROPRIATE TO FUND THE PLAN.

31 (D) (1) (I) THE PLAN MAY PROVIDE THAT THE DIRECTORS AND OFFICERS  
32 OF THE MUTUAL INSURER SHALL RECEIVE, WITHOUT PAYMENT,  
33 NONTRANSFERABLE SUBSCRIPTION RIGHTS TO PURCHASE CAPITAL STOCK OF THE  
34 CONVERTED STOCK INSURER OR THE STOCK OF ANOTHER CORPORATION THAT IS  
35 PARTICIPATING IN THE CONVERSION PLAN, AS PROVIDED IN SUBSECTION (C)(1)(III)1  
36 OF THIS SECTION.

37 (II) THESE SUBSCRIPTION RIGHTS SHALL BE ALLOCATED AMONG  
38 THE DIRECTORS AND OFFICERS BY A FAIR AND EQUITABLE FORMULA AND SHALL BE  
39 SUBORDINATE TO THE SUBSCRIPTION RIGHTS OF ELIGIBLE MEMBERS.

1 (III) NOTHING CONTAINED IN THIS SECTION SHALL REQUIRE THE  
2 SUBORDINATION OF SUBSCRIPTION RIGHTS RECEIVED BY DIRECTORS AND  
3 OFFICERS IN THEIR CAPACITY AS ELIGIBLE MEMBERS, IF ANY.

4 (2) (I) THE AGGREGATE TOTAL NUMBER OF SHARES THAT MAY BE  
5 PURCHASED BY DIRECTORS AND OFFICERS OF THE MUTUAL INSURER IN THEIR  
6 CAPACITY UNDER PARAGRAPH (1) OF THIS SUBSECTION AND IN THEIR CAPACITY AS  
7 ELIGIBLE MEMBERS UNDER SUBSECTION (C)(1)(III) 1 OF THIS SECTION MAY NOT  
8 EXCEED 35% OF THE TOTAL NUMBER OF SHARES TO BE ISSUED FOR A MUTUAL  
9 INSURER IF TOTAL ASSETS OF THE MUTUAL INSURER ARE LESS THAN \$50,000,000 OR  
10 25% OF THE TOTAL NUMBER OF SHARES TO BE ISSUED FOR A MUTUAL INSURER IF  
11 TOTAL ASSETS OF THE MUTUAL INSURER ARE MORE THAN \$500,000,000.

12 (II) FOR MUTUAL INSURERS WITH TOTAL ASSETS OF OR BETWEEN  
13 \$50,000,000 AND \$500,000,000, THE PERCENTAGE OF THE TOTAL NUMBER OF SHARES  
14 THAT MAY BE PURCHASED SHALL BE INTERPOLATED.

15 (3) (I) THE PLAN MAY ALLOCATE TO A TAX-QUALIFIED EMPLOYEE  
16 BENEFIT PLAN NONTRANSFERABLE SUBSCRIPTION RIGHTS TO PURCHASE UP TO 10%  
17 OF THE CAPITAL STOCK OF THE CONVERTED STOCK INSURER OR THE STOCK OF  
18 ANOTHER CORPORATION THAT IS PARTICIPATING IN THE CONVERSION PLAN, AS  
19 PROVIDED IN SUBSECTION (C)(1)(III) 1 OF THIS SECTION.

20 (II) A TAX-QUALIFIED EMPLOYEE BENEFIT PLAN IS ENTITLED TO  
21 EXERCISE SUBSCRIPTION RIGHTS GRANTED UNDER THIS PARAGRAPH REGARDLESS  
22 OF THE TOTAL NUMBER OF SHARES PURCHASED BY OTHER PERSONS.

23 (4) THE PLAN MAY PROVIDE FOR THE CREATION OF A LIQUIDATION  
24 ACCOUNT FOR THE BENEFIT OF MEMBERS IN THE EVENT OF VOLUNTARY  
25 LIQUIDATION SUBSEQUENT TO CONVERSION IN AN AMOUNT EQUAL TO THE  
26 SURPLUS OF THE MUTUAL INSURER, EXCLUSIVE OF THE PRINCIPAL AMOUNT OF ANY  
27 SURPLUS NOTE, ON THE LAST DAY OF THE QUARTER IMMEDIATELY PRECEDING THE  
28 DATE OF ADOPTION OF THE PLAN.

29 (E) A PLAN IS EFFECTIVE WHEN:

30 (1) THE COMMISSIONER HAS APPROVED THE PLAN;

31 (2) THE ELIGIBLE MEMBERS HAVE APPROVED THE PLAN AND ADOPTED  
32 THE AMENDED ARTICLES OF INCORPORATION; AND

33 (3) THE MUTUAL INSURER FILES THE AMENDED ARTICLES OF  
34 INCORPORATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.

35 (F) (1) ALL MEMBERS WHOSE POLICIES ARE ISSUED AFTER THE PROPOSED  
36 PLAN HAS BEEN ADOPTED BY THE BOARD OF DIRECTORS AND BEFORE THE  
37 EFFECTIVE DATE OF THE PLAN SHALL BE SENT A WRITTEN NOTICE REGARDING THE  
38 PLAN ON ISSUANCE OF THE POLICY.

1           (2)   (I)    A MEMBER OF A LIFE INSURER OR HEALTH INSURER ENTITLED  
2 TO BE SENT THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION IS  
3 ENTITLED TO RESCIND THE MEMBER'S POLICY AND RECEIVE A FULL REFUND OF  
4 ANY AMOUNTS PAID FOR THE POLICY OR CONTRACT WITHIN 10 DAYS AFTER THE  
5 MEMBER HAS RECEIVED THE NOTICE.

6           (II)   EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,  
7 EACH MEMBER OF A PROPERTY INSURER OR CASUALTY INSURER ENTITLED TO  
8 RECEIVE THE NOTICE PROVIDED FOR IN PARAGRAPH (1) OF THIS SUBSECTION SHALL  
9 BE ADVISED OF THE MEMBER'S RIGHT OF CANCELLATION AND TO A PRO RATA  
10 REFUND OF UNEARNED PREMIUMS.

11          (3)   (I)    A MEMBER OF A LIFE INSURER, HEALTH INSURER, PROPERTY  
12 INSURER, OR CASUALTY INSURER WHO HAS MADE OR FILED A CLAIM UNDER THE  
13 MEMBER'S INSURANCE POLICY IS NOT ENTITLED TO ANY RIGHT TO RECEIVE ANY  
14 REFUND UNDER PARAGRAPH (2) OF THIS SUBSECTION.

15          (II)   A PERSON WHO HAS EXERCISED THE RIGHTS PROVIDED BY  
16 PARAGRAPH (2) OF THIS SUBSECTION IS NOT ENTITLED TO MAKE OR FILE ANY CLAIM  
17 UNDER THE PERSON'S INSURANCE POLICY.

18   (G)   (1)   (I)    ON THE EFFECTIVE DATE OF THE CONVERSION, THE  
19 CORPORATE EXISTENCE OF THE MUTUAL INSURER CONTINUES IN THE CONVERTED  
20 STOCK INSURER.

21          (II)   ON THE EFFECTIVE DATE OF THE CONVERSION, ALL THE  
22 ASSETS, RIGHTS, FRANCHISES, AND INTERESTS OF THE MUTUAL INSURER IN AND TO  
23 EVERY SPECIES OF PROPERTY, REAL, PERSONAL, AND MIXED, AND ANY  
24 ACCOMPANYING THINGS IN ACTION, ARE VESTED IN THE CONVERTED STOCK  
25 INSURER, WITHOUT ANY DEED OR TRANSFER, AND THE CONVERTED STOCK INSURER  
26 ASSUMES ALL THE OBLIGATIONS AND LIABILITIES OF THE MUTUAL INSURER.

27          (2)   UNLESS OTHERWISE SPECIFIED IN THE PLAN OF CONVERSION, THE  
28 INDIVIDUALS WHO ARE DIRECTORS AND OFFICERS OF THE MUTUAL INSURER ON  
29 THE EFFECTIVE DATE OF THE CONVERSION SHALL SERVE AS DIRECTORS AND  
30 OFFICERS OF THE CONVERTED STOCK INSURER UNTIL NEW DIRECTORS AND  
31 OFFICERS OF THE CONVERTED STOCK INSURER ARE ELECTED PURSUANT TO THE  
32 ARTICLES OF INCORPORATION AND BYLAWS OF THE CONVERTED STOCK INSURER.

33   (H)   (1)   (I)    A DIRECTOR, OFFICER, AGENT, OR EMPLOYEE OF THE MUTUAL  
34 INSURER MAY NOT RECEIVE ANY FEE, COMMISSION, OR OTHER VALUABLE  
35 CONSIDERATION, OTHER THAN THE USUAL REGULAR SALARY OR COMPENSATION,  
36 FOR AIDING, PROMOTING, OR ASSISTING IN A CONVERSION UNDER THIS SECTION  
37 EXCEPT AS PROVIDED FOR IN THE PLAN APPROVED BY THE COMMISSIONER.

38          (II)   SUBPARAGRAPH (I) OF THIS PARAGRAPH DOES NOT PROHIBIT  
39 THE PAYMENT OF REASONABLE FEES AND COMPENSATION TO ATTORNEYS,  
40 ACCOUNTANTS, AND ACTUARIES FOR SERVICES PERFORMED IN THE INDEPENDENT  
41 PRACTICE OF THEIR PROFESSIONS, EVEN IF THE ATTORNEY, ACCOUNTANT, OR  
42 ACTUARY IS ALSO A DIRECTOR OR OFFICER OF THE MUTUAL INSURER.

1 (2) FOR A PERIOD OF 2 YEARS AFTER THE EFFECTIVE DATE OF THE  
2 CONVERSION, THE CONVERTED STOCK COMPANY MAY NOT IMPLEMENT ANY  
3 NON-TAX-QUALIFIED STOCK BENEFIT PLAN UNLESS THE PLAN IS APPROVED BY A  
4 MAJORITY OF VOTES ELIGIBLE TO BE CAST AT A MEETING OF SHAREHOLDERS HELD  
5 NOT LESS THAN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE CONVERSION.

6 (3) (I) ALL THE COSTS AND EXPENSES CONNECTED WITH A PLAN OF  
7 CONVERSION SHALL BE PAID FOR OR REIMBURSED BY THE MUTUAL INSURER OR  
8 THE CONVERTED STOCK INSURER.

9 (II) HOWEVER, IF THE PLAN PROVIDES FOR PARTICIPATION BY  
10 ANOTHER CORPORATION OR STOCK INSURER IN THE PLAN PURSUANT TO  
11 SUBSECTION (C)(1)(III) 1 OF THIS SECTION, THE CORPORATION OR STOCK INSURER  
12 MAY PAY FOR OR REIMBURSE ALL OR A PORTION OF THE COSTS AND EXPENSES  
13 CONNECTED WITH THE PLAN.

14 (I) IF THE MUTUAL INSURER COMPLIES SUBSTANTIALLY AND IN GOOD FAITH  
15 WITH THE NOTICE REQUIREMENTS OF THIS SECTION, THE MUTUAL INSURER'S  
16 FAILURE TO SEND A MEMBER THE REQUIRED NOTICE DOES NOT IMPAIR THE  
17 VALIDITY OF ANY ACTION TAKEN UNDER THIS SECTION.

18 (J) ANY ACTION CHALLENGING THE VALIDITY OF OR ARISING OUT OF ACTS  
19 TAKEN OR PROPOSED TO BE TAKEN UNDER THIS SECTION SHALL BE COMMENCED  
20 NO LATER THAN 30 DAYS AFTER THE LATER OF THE APPROVAL OF THE PLAN BY THE  
21 COMMISSIONER OR THE ADOPTION OF THE PLAN BY A VOTE OF THE ELIGIBLE  
22 MEMBERS.

23 (K) (1) A MUTUAL INSURER MAY NOT BE PERMITTED TO CONVERT UNDER  
24 THIS SECTION IF AS A DIRECT RESULT OF THE CONVERSION ANY PERSON OR ANY  
25 AFFILIATE OF THE PERSON ACQUIRES CONTROL OF THE CONVERTED STOCK  
26 INSURER, UNLESS THAT PERSON AND ITS AFFILIATES COMPLY WITH OTHER  
27 APPLICABLE PROVISIONS OF LAW.

28 (2) EXCEPT AS OTHERWISE SPECIFIED IN THIS SECTION, A STOCK  
29 INSURER CONVERTED UNDER THIS SECTION SHALL HAVE AND MAY EXERCISE ALL  
30 THE RIGHTS AND PRIVILEGES AND SHALL BE SUBJECT TO ALL OF THE  
31 REQUIREMENTS AND REGULATIONS IMPOSED ON STOCK INSURERS FORMED UNDER  
32 THIS SUBTITLE AND ANY OTHER LAWS OF THE STATE THAT RELATE TO THE  
33 REGULATION AND SUPERVISION OF INSURERS, BUT IT MAY NOT EXERCISE ANY  
34 RIGHTS OR PRIVILEGES THAT OTHER STOCK INSURERS MAY NOT EXERCISE.

35 (L) A MUTUAL INSURER MAY NOT ENGAGE IN THE BUSINESS OF INSURANCE  
36 AS A STOCK INSURER UNTIL IT COMPLIES WITH ALL PROVISIONS OF THIS SECTION.

37 (M) (1) A MUTUAL INSURER, BY ENDORSEMENT OR RIDER APPROVED BY  
38 THE COMMISSIONER AND SENT TO THE POLICYHOLDER, MAY SIMULTANEOUSLY  
39 WITH OR AT ANY TIME AFTER THE ADOPTION OF A PLAN OF CONVERSION AMEND  
40 ANY OUTSTANDING INSURANCE POLICY FOR THE PURPOSE OF EXTINGUISHING THE  
41 RIGHT OF THE HOLDER OF THE POLICY TO SHARE IN THE SURPLUS OF THE MUTUAL  
42 INSURER.

1 (2) HOWEVER, THIS AMENDMENT SHALL BE NULL AND VOID IF THE  
2 PLAN OF CONVERSION IS NOT SUBMITTED TO THE COMMISSIONER OR, IF  
3 SUBMITTED, IS DISAPPROVED BY THE COMMISSIONER OR, IF APPROVED BY THE  
4 COMMISSIONER, IS NOT APPROVED BY THE ELIGIBLE MEMBERS ON OR BEFORE THE  
5 FIRST ANNIVERSARY OF ITS APPROVAL BY THE COMMISSIONER.

6 (N) EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN SUBSECTION (C) OF  
7 THIS SECTION, ON OR AFTER THE DATE A PLAN OF CONVERSION IS ADOPTED BY THE  
8 BOARD OF DIRECTORS OF A MUTUAL INSURER UNTIL THE EFFECTIVE DATE OF THE  
9 PLAN OF CONVERSION, A PERSON MAY NOT DIRECTLY OR INDIRECTLY OFFER TO  
10 ACQUIRE, MAKE ANY ANNOUNCEMENT TO ACQUIRE, OR ACQUIRE IN ANY MANNER,  
11 INCLUDING MAKING A FILING WITH THE ADMINISTRATION FOR THE ACQUISITION  
12 UNDER A STATUTE OR REGULATION OF THE STATE, THE BENEFICIAL OWNERSHIP OF  
13 10% OR MORE OF A CLASS OF A VOTING SECURITY OF THE CONVERTED STOCK  
14 INSURER OR OF A PERSON THAT CONTROLS THE VOTING SECURITIES OF THE  
15 CONVERTED STOCK INSURER.

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

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

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

26 (ii) if the Commissioner finds that the value of the mutual insurer  
27 is insufficient to warrant financial consideration, that the conversion shall be  
28 accomplished without financial consideration to past, present, or future policyholders.

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

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

- 35 1. review of the plan; and
- 36 2. A. an audit of the mutual insurer's quarterly or annual  
37 financial statement; or
- 38 B. a financial examination of the mutual insurer.

1 [(g)] (P) The Commissioner may adopt regulations to ADMINISTER AND  
2 enforce the provisions of this section.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2000.