
By: **Senators Kelley and Gladden**
Introduced and read first time: January 25, 2006
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 10, 2006

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Loans and Advances Made to Stock Insurers and Mutual**
3 **Insurers**

4 FOR the purpose of repealing a certain limitation on the interest allowed on a certain
5 loan or advance made to a stock insurer; ~~providing that payment of a certain~~
6 ~~loan or advance and any interest on it made to a stock insurer is subject to the~~
7 ~~approval of the Maryland Insurance Commissioner~~ requiring that the
8 instrument evidencing a certain loan or advance to a stock insurer or mutual
9 insurer be approved in a certain manner by the Maryland Insurance
10 Commissioner and contain certain provisions; providing that a certain loan or
11 advance and any interest on it made to a mutual insurer is payable only out of
12 the surplus remaining after the mutual insurer provides for certain reserves
13 and other liabilities; requiring that certain proceeds be in a certain form;
14 reorganizing certain provisions of law relating to mutual insurers; repealing a
15 certain provision of law requiring the Commissioner's written consent for the
16 repayment or withdrawal of a certain loan or advance made to a stock insurer or
17 mutual insurer; and generally relating to loans and advances made to stock
18 insurers and mutual insurers.

19 BY repealing and reenacting, with amendments,
20 Article - Insurance
21 Section 3-116
22 Annotated Code of Maryland
23 (2003 Replacement Volume and 2005 Supplement)

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

1 **Article - Insurance**

2 3-116.

3 (a) (1) [(i)] A director, officer, or member of a stock insurer OR MUTUAL
4 INSURER or any other person may lend or advance to the stock insurer OR MUTUAL
5 INSURER any money necessary to enable it to comply with a surplus requirement or
6 any other requirement of law.

7 [(ii)] Interest on the loan or advance to a stock insurer may not
8 exceed 6% per year.]

9 (2) THE INSTRUMENT EVIDENCING A LOAN OR ADVANCE UNDER THIS
10 SUBSECTION SHALL:

11 (I) BE APPROVED AS TO FORM AND CONTENT BY THE
12 COMMISSIONER; AND

13 (II) CONTAIN PROVISIONS THAT SPECIFY THAT:

14 1. THE INSTRUMENT IS SUBORDINATE TO POLICYHOLDERS,
15 CLAIMANT AND BENEFICIARY CLAIMS, AND ALL OTHER CLASSES OF CREDITORS
16 OTHER THAN SURPLUS NOTE HOLDERS; AND

17 2. INTEREST PAYMENTS AND PRINCIPAL REPAYMENTS MAY
18 NOT BE MADE WITHOUT PRIOR APPROVAL OF THE COMMISSIONER.

19 (3) A loan or advance under this subsection and any interest on it:

20 (i) ~~SUBJECT TO THE APPROVAL OF THE COMMISSIONER,~~ is payable
21 only out of the surplus remaining after the stock insurer OR MUTUAL INSURER
22 provides for all reserves and other liabilities; and

23 (ii) is not otherwise a liability or claim against the stock insurer OR
24 MUTUAL INSURER or any of its assets.

25 (b) [(1)] A director, officer, or member of a mutual insurer or any other person
26 may lend or advance to the mutual insurer any money necessary to enable it to
27 comply with a surplus requirement or any other requirement of law.

28 (2) Subject to the approval of the Commissioner, a loan or advance under
29 this subsection and any interest on it as may have been agreed on is payable only out
30 of the insurer's realized earned surplus in excess of its minimum required surplus.

31 (3) A loan or advance under this subsection is not otherwise a liability or
32 claim against the mutual insurer or any of its assets.

33 (c) (1) PROCEEDS OF A LOAN OR ADVANCE UNDER THIS SECTION SHALL BE
34 IN THE FORM OF CASH OR OTHER ADMITTED ASSETS HAVING READILY
35 DETERMINABLE VALUES AND LIQUIDITY SATISFACTORY TO THE COMMISSIONER.

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

3 [(d)] (C) If a loan or advance is made to a stock insurer or mutual insurer
4 under a notice of deficiency made by the Commissioner under § 3-109 of this subtitle,
5 the loan or advance may not be repaid or withdrawn without the express written
6 consent of the Commissioner.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2006.