

No. 266

AN ACT

HB 976

Relating to the domestication of alien insurers transacting business in the Commonwealth of Pennsylvania through transfer of all the business, assets and liabilities in the United States of the alien insurer to a wholly owned stock insurance company incorporated under the laws of the Commonwealth of Pennsylvania; regulating the terms and conditions of such domestication and the steps to be taken and the acts to be performed for the adoption, approval and execution thereof; providing for the transfer of deposits and trustee assets and providing for the maintenance of deposits.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.—As used in this act:

(1) “Alien insurer” means any insurer incorporated or organized under the laws of any foreign nation or of any province or territory other than a state of the United States, the Commonwealth of Puerto Rico or the District of Columbia.

(2) “Domestication” means the reorganization of the United States branch of an alien insurer as the result of which a domestic stock insurance company shall succeed to all the business and assets and assume all the liabilities of the United States branch of the alien insurer.

(3) “United States branch” means the business unit through which business is transacted within the United States by an alien insurer and the assets and liabilities of such insurer within the United States pertaining to such business.

(4) “Regulatory state” means the state in the United States pursuant to the laws of which the assets of the United States branch of the alien insurer are trustee.

(5) “Domestic insurer” means a stock insurance company incorporated under the laws of the Commonwealth of Pennsylvania.

Section 2. Alien Insurers.—Upon compliance with the provisions of this act, an alien insurer now or hereafter licensed to do business in this State which owns beneficially, directly or indirectly, all of the outstanding capital stock (other than directors' qualifying shares) of any domestic insurer incorporated for the purpose of transacting the same or similar classes of insurance which the United States branch of the alien insurer is qualified and licensed to transact, may, with the prior written approval of the Insurance Commissioner and of the insurance supervisory official of the regulatory State of the United States branch of the alien insurer and subject to the final approval of the Insurance Commissioner and of the aforesaid supervisory official, domesticate its United States branch by entering into an agreement in writing with the domestic insurer providing for the acquisition by the domestic insurer of the business and assets of the United States branch of the alien insurer

and the assumption by the domestic insurer of all of the liabilities of the United States branch for no consideration other than the assumption of such liabilities except the agreement may further provide for additional consideration payable by the issuance by the domestic insurer of shares of its capital stock. For the purposes of this act, those shares of capital stock of the domestic insurer or voting trust certificates representing said shares, as are held among the trusted assets of the United States branch of the alien insurer or are held in a trust created by the alien insurer and of which the alien insurer is a beneficiary shall be deemed to be shares held beneficially, but indirectly, by an alien insurer. The acquisition of assets and assumption of liabilities of the United States branch by the domestic insurer shall be affected by the filing of an instrument of transfer and assumption with the insurance supervisory official of the regulatory state which instrument shall be in form satisfactory to the Insurance Commissioner and the aforesaid supervisory official and shall be executed by the alien insurer and the domestic insurer.

Section 3. Authorization and Execution of Domestication Agreement.—The domestication agreement shall be authorized, adopted, approved, signed, and acknowledged by the alien insurer in accordance with the laws of the country under which it is organized. In the case of the domestic insurer, the domestication agreement shall be adopted by resolution of its board of directors and executed by its president or any vice president and attested by its secretary or assistant secretary under its corporate seal.

Section 4. Approval by Insurance Commissioner.—An executed counterpart of the domestication agreement, together with certified copies of the corporate proceedings of the domestic insurer and the alien insurer approving, adopting and authorizing the execution of said domestication agreement shall be submitted to the Insurance Commissioner for his approval. The Insurance Commissioner shall thereupon consider said agreement and if satisfied the same is in accordance with the provisions of this act and if he shall find that the interest of policyholders and creditors in the Commonwealth of Pennsylvania of the United States branch of the alien insurer and of the domestic insurer are not materially adversely affected he shall approve such domestication agreement and certify such approval in writing to the insurance supervisory official of the regulatory state.

Section 5. Consummation of Domestication Agreement; Transfer of Deposits.—Upon the filing with the Insurance Commissioner of a certified copy of the instrument of transfer and assumption pursuant to which the domestic insurer succeeds to the business and assets of the United States branch of an alien insurer and assumes all its liabilities as provided by this act and upon compliance with all the requirements of the laws and of the insurance supervisory official of the regulatory state

regulating the terms and conditions of the domestication and the steps to be taken and the acts to be performed for the adoption, approval and execution of the domestication, the domestication of the United States branch shall be deemed effective; and thereupon all the rights, franchises and interests of said United States branch in and to every species of property, real and personal and mixed, and things in action thereunto belonging shall be deemed as transferred and vested in said domestic insurer, without any other deed or transfer and simultaneously therewith said domestic insurer shall be deemed to have assumed all of the obligations and liabilities of said United States branch and shall be held liable to pay and discharge all its debts and liabilities in the same manner as if they had been incurred and contracted by the domestic insurer. No action or proceeding pending at the time of domestication, in which either the United States branch or the domestic insurer may be a party, shall abate or discontinue by reason of the domestication but the same may be prosecuted to final judgment in the same manner as if the domestication had not taken place or the domestic company may be substituted in place of the United States branch by order of the court in which the action or proceeding is pending. All deposits of the United States branch held by the Insurance Commissioner or other regulatory agency in this Commonwealth shall be deemed held as security that said domestic insurer will fully perform its obligations including its assumption under the domestication agreement to all policyholders and creditors within the United States of the United States branch and of the domestic insurer and such deposits including all deposits of the United States branch and all of its assets held in trust pursuant to the laws of any other state or territory or jurisdiction of the United States shall be deemed to be assets of the domestic insurer and shall be reported as such in the annual statements and other reports which said domestic insurer may be required to file in this Commonwealth and upon the ultimate release by the Insurance Commissioner or other agency of this or any other state, territory or jurisdiction of the United States of any such deposits, the securities and cash constituting such released deposit shall be delivered and paid over to said domestic insurer as the lawful successor in interest to said United States branch.

Section 6. Repeals.—All acts and parts of acts are repealed in so far as they are inconsistent herewith.

APPROVED—The 10th day of December, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 266.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.