

No. 1992-33

AN ACT

SB 1435

Providing procedures for the reorganization of a domestic mutual life insurance company into a domestic stock life insurance company.

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

Section 1. Short title.

This act shall be known and may be cited as the Mutual Life Insurance Company Reorganization Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Assets.” Admitted assets listed on the mutual life insurer’s annual convention statement in accordance with laws and regulations of this Commonwealth relating to mutual life insurers, and the rules of the National Association of Insurance Commissioners.

“Commissioner.” The Insurance Commissioner of the Commonwealth.

“Member.” A person who, by the records of the mutual life insurer and by its charter or bylaws, is deemed to be an owner of a membership interest.

“Membership interest.” The interests of members arising under this act and the charter and bylaws of the mutual life insurer or otherwise by law, including the right to vote for directors or trustees of the mutual life insurer.

“Mutual life insurer.” A domestic mutual life insurance company.

“Nonparticipating policy.” An individual or group life, health or accident insurance policy or annuity contract which by its terms does not provide that the policy or contract will share in any divisible surplus of the mutual life insurer, as apportioned or allocated to the policy or contract by the mutual life insurer.

“Nonparticipating policyholder.” The owner of a nonparticipating policy.

“Participating policy.” An individual or group life, health or accident insurance policy or annuity contract which by its terms provides that the policy or contract will share in any divisible surplus of the mutual life insurer as apportioned or allocated to the policy or contract by the mutual life insurer.

“Participating policy interest.” The rights and interests afforded to participating policyholders under their participating policies under this act, under the charter and bylaws of the mutual life insurer or otherwise by law.

“Participating policyholder.” The owner of a participating policy and the beneficiary and the payee (whether or not the beneficiary or payee was the owner of the participating policy) of death benefits pursuant to a settlement option under a participating policy providing that the beneficiary or payee will share in divisible surplus of the mutual life insurer as apportioned or allocated to such settlement option by the mutual life insurer.

“Person.” An individual, partnership, firm, association, corporation, joint-stock company, trust or any similar entity or any combination of the foregoing acting in concert.

“Plan of reorganization.” A plan of demutualization or demutualization and merger as described in this act.

“Policyholder.” The owner or holder of a participating policy or a nonparticipating policy or both.

“Reorganized insurer.” The domestic stock life insurance company into which a mutual life insurer has been reorganized in accordance with this act.

“Separate block of business.” The portfolio of insurance policies and annuity contracts of the mutual life insurer in existence as of the date the plan of reorganization is adopted by the mutual life insurer’s board of directors or trustees. Policies or contracts which have not been issued as of the date of adoption of the plan, but for which applications have been received by the mutual life insurer prior to the adoption date where the policies are issued after the effective date of the reorganization, shall be part of the separate block of business. Policies and contracts for which applications have been received after the date of adoption of the reorganization plan, but prior to the effective date of the reorganization, shall not be part of the separate block of business provided notice of the pending reorganization has been given by the mutual life insurer to the applicant. Notice may be given by a rider to the application form. The plan of reorganization may, at the election

of the mutual life insurer, exclude from the separate block of business any class of group insurance policies and group annuity contracts which are participating policies, but where the participation in divisible surplus is based on the experience of the class.

“Statement date.” The end of the calendar quarter immediately prior to the date the plan of reorganization was adopted by the board of directors or trustees of the mutual life insurer or the effective date of the reorganization of the mutual life insurer, as the case may be.

Section 3. Plan of reorganization.

(a) *Options.*—*Notwithstanding any other provision of law to the contrary, upon completion of the proceedings prescribed by this act, a mutual life insurer may do the following:*

(1) reorganize pursuant to a plan of reorganization into a domestic stock life insurer; or

(2) reorganize pursuant to a plan of reorganization in which a majority or all of the common shares of the reorganized insurer is acquired by another person which may be a person organized for such purpose.

(b) *Merger of reorganized insurer.*—As part of the reorganization, the reorganized insurer may merge with a domestic stock insurer, provided that other provisions of law applicable to mergers and acquisitions of stock life insurance companies shall not be applicable to a merger under this act which is contemplated and provided for by the plan of reorganization. Prior to submission under this act of a plan of reorganization by a mutual life insurer to the commissioner under section 9, the board of directors or trustees of such mutual life insurer shall first approve the plan of reorganization at a regular or special meeting held in accordance with the provisions of this act.

Section 4. Fair and equitable plan.

(a) *Determination.*—A plan of reorganization shall be fair and equitable. A plan of reorganization proposed by a mutual life insurer is fair and equitable if it satisfies the conditions of one of the plans described in section 5 and is determined by the commissioner to be fair and equitable to members subject to the provisions of section 9. The commissioner may, however, determine that a plan of reorganization proposed by a mutual life insurer which does not comply with the conditions of one of the plans described in section 5 is fair and equitable to the mutual life insurer and its members.

(b) *Administration of certain participating policies.*—For certain plans of reorganization described in section 5, there shall be included a procedure by which the mutual life insurer’s participating policies in the separate block of business are administered by the reorganized insurer as a separate block of participating business for dividend purposes only.

(c) *Notice of plan.*—A plan of reorganization shall be filed with the commissioner, with a fee to be established by the commissioner, that sets forth the mutual life insurer’s compliance with section 9. Upon receipt of the plan of reorganization by the commissioner, the commissioner shall publish a notice in the *Pennsylvania Bulletin* that the plan of reorganization has been filed. Once published in the *Pennsylvania Bulletin*, the mutual life insurer

shall provide notice of the filing of the plan of reorganization to its members and inform them that the plan of reorganization or a summary thereof is available upon request.

Section 5. Types of plans.

(a) Plan 1.—A reorganization under this plan shall provide all of the following:

(1) The participating policyholders' interests, if any, shall be exchanged in a manner which takes into account the estimated proportionate contribution to surplus of each class of participating policies. The participating policyholders' interests, if any, shall be exchanged, subject to any common shares allocated to nonparticipating policyholders, as provided in this subsection, for all of the common shares of the reorganized insurer or its parent company, if any, or for a combination of the common shares of the reorganized insurer or its parent company, if any, and consideration equal to the proceeds of the sale of the common shares by the reorganized insurer from the initial distribution of the shares or by a trust or other entity existing for the exclusive benefit of members and established solely for the purpose of effecting the reorganization, to which trust or other entity, the common shares, or the options to acquire or securities convertible into the common shares, shall be issued by the reorganized insurer on the effective date of the reorganization. The consideration shall be distributed to participating policyholders during a process of reorganization specified in the plan of reorganization which shall not last more than ten years after the effective date of the reorganization or until the death of the former policyholder, whichever occurs first. At the option of the mutual life insurer, nonparticipating policyholders may be granted preemptive rights to acquire common shares of the reorganized insurer or its parent company, if any. The price, number of shares which may be acquired and the allocation and manner of exercise of preemptive rights shall be as established by the mutual life insurer.

(2) Unless the anticipated issuance within a shorter period is disclosed, the issuer of common shares shall not, within two years after the effective date of the reorganization, issue either of the following:

(i) Any of its common shares or any securities convertible, with or without consideration, into the common shares or carrying any warrant to subscribe to or purchase common shares.

(ii) Any warrant, right or option to subscribe to or purchase the common shares or other securities described in subparagraph (i), except for the issuance of common shares to or for the benefit of members and policyholders pursuant to the plan of reorganization and except for the issuance of stock in anticipation of options for the purchase of common shares being granted to officers or employees of the reorganized insurer or its parent company, if any, pursuant to this act.

(3) Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares within two years after the effective date of the reorganization or a longer period as disclosed in the plan of

reorganization. Within one year after the offering of stock other than the initial distribution, but no later than six years after the effective date of the reorganization, the reorganized insurer shall offer to make available to persons who received and retained shares of stock with minimal values at the time of the reorganization, a procedure to dispose of those shares of stock at market value without brokerage commissions or similar fees.

(b) Plan 2.—A reorganization under this plan shall satisfy all of the following except for the options provided in paragraphs (4), (6) and (12):

(1) The reorganized insurer or its parent company, if any, shall issue and sell shares of one or more classes having a total price equal to the estimated fair market value of the mutual life insurer as set forth in the plan of reorganization as of the initial offering, taking into account the values to be given to participating and nonparticipating policyholders pursuant to paragraphs (3), (4) and (6) of this plan and the proceeds of the sale.

(2) Assets of the mutual life insurer shall be allocated to the separate block of business in an amount equal to the statutory reserves and liabilities, MSVR and any voluntary reserves attributable to the separate block of business.

(3) The participating policyholders' equity value shall be based on the annual statement filed as of the statement date prior to the date of the adoption of the plan of reorganization by the board of directors and shall be equal to the excess of the total amount of the mutual life insurers' assets on the statement date over the sum of the total amount of assets allocated to the separate block of business as determined under paragraph (2), plus an amount equal to reserves and other liabilities not attributable to the separate block of business.

(4) (i) At the option of the mutual life insurer, the consideration to be given in exchange for the participating policy interests may consist of cash, securities of the reorganized insurer, securities of another company, a certificate of contribution, additional life insurance, annuity benefits, increased dividends or other consideration or any combination of such forms of consideration. The consideration, if any, given to any class or category of participating policyholders may differ from the consideration given to another class or category of participating policyholders.

(ii) The certificate of contribution shall be repayable in ten years, equal to 100% of the value of the participating policy interests and bear interest at the highest rate charged by the reorganized insurer for policy loans on policies being issued on the effective date of the reorganization.

(iii) To the extent that the participating policyholders' consideration under paragraph (3) and this paragraph is paid in cash, securities or other financial instruments as set forth above, a liquidation account as described in paragraph (5) shall not be required. To the extent of the statutory liability of any additional life insurance, annuity benefits or other such enhancements provided by the options under this paragraph, a liquidation account shall not be required.

(5) (i) The liquidation account must be equal to the amount of the excess of the total amount of the assets of the mutual life insurer as of the statement date prior to the reorganization over the sum of the total amount of assets as set forth in paragraph (2), and all reserves and liabilities attributed to policies and contracts not included in the separate block of business but in force on the statement date.

(ii) The value determinations shall be based on the annual statement of the mutual life insurer filed on the statement date prior to the effective date of the reorganization. The function of the liquidation account shall be solely to establish a priority on liquidation, and its existence shall not operate to restrict the use or application of the surplus of the reorganized insurer except as provided in paragraph (11). The liquidation account shall be allocated equitably as of the effective date of the reorganization among the then-participating policyholders.

(iii) The amount allocated to any policy or contract shall not increase and will be reduced by any amount of consideration given in exchange for the participating policy interests as set forth in paragraph (4). The amount shall be reduced to zero when the participating policy terminates. In the event of a complete liquidation of the reorganized insurer, the participating policyholders among whom the liquidation account is allocated shall be entitled to receive a liquidation distribution in the amount of the liquidation account at the time of liquidation before any liquidation distribution is made with respect to nonparticipating policies and shares of the reorganized insurer.

(6) The consideration to be given in exchange for the participating policy interests shall consist of the participating policyholders' equity value as determined in accordance with paragraph (3). In addition to such consideration (but in the case of nonparticipating policyholders the only consideration), nontransferable preemptive subscription rights to acquire shares of the reorganized insurer, or its parent company, if any, expiring on the effective date of the reorganization, may be issued to the policyholders. The number of shares which may be acquired, the price of such shares and the allocation and manner of exercise of such preemptive rights shall be as established by the mutual life insurer subject to paragraph (7). Under certain options set forth in paragraph (4), the reorganized insurer shall establish a liquidation account for the benefit of the participating policyholders in the event of a subsequent complete liquidation of the reorganized insurer. Additional amounts may become payable to the participating policyholders as set forth in paragraph (12).

(7) The consideration and the preemptive subscription rights, if any, to purchase the common shares shall be allocated among the policyholders in a manner determined by the mutual life insurer which takes into account the estimated contribution of each class of participating policies, to the total amount of the participating policyholders' equity value. Preemptive rights, if any, allocated to nonparticipating policyholders shall be valued by the mutual life insurer in a manner which it believes is equitable and may reflect the fact that nonparticipating policyholders do not receive distributions from divisible surplus.

(8) Unless the common shares have a public market when issued, the reorganized insurer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares.

(9) The reorganized insurer shall not, for at least three years following the reorganization, repurchase any of its common shares except pursuant to a pro rata tender offer to all of its shareholders.

(10) Until the liquidation account has been reduced to zero, the reorganized insurer shall not declare or pay a cash dividend on, or repurchase any of, its common shares in an amount in excess of its cumulative earned surplus generated after the reorganization determined in accordance with statutory accounting principles, if the effect would be to cause the statutory surplus of the reorganized insurer to be reduced below the amount then in the liquidation account.

(11) (i) A portion of any profit available after the sufficient support of business, including existing business, as of the effective date of the reorganization and insurance business obtained thereafter, may be paid in an equitable manner and form to the then-participating policyholders of the former mutual life insurer, no less than annually. If any portion of such profit is to be paid to the shareholders of the reorganized insurer, then an equitable portion, as provided in the plan of reorganization, of such profit shall also be paid to said participating policyholders. A plan for distribution of such profits to shareholders and participating policyholders shall be included in the plan of reorganization filed with and approved by the commissioner. Allocation of such portion of profit among the various classes of participating policyholders in the same manner as profits or dividends were allocated by the mutual life insurer prior to the reorganization shall be deemed fair and equitable. Sufficient support of the business includes, but is not limited to, provisions for payment of current claims, reasonable current expenses and continuation of current dividend scales, unless experience changes, for the separate block of business, as of the effective date of the reorganization. Fair and equitable allocation shall take into account the estimated contribution of each class of participating policies in the separate block of business to the total amount of profit available and may include a special terminal dividend for those policies and contracts that terminated with a remaining liquidation account allocation.

(ii) In cases where the form of compensation does not include, explicitly or implicitly, interest on deferred compensation, the reorganized insurer shall, no less than annually, in an equitable manner and form, give to participating policyholders an amount equal to the net investment earnings (after Federal and State taxes) on assets equal to the liquidation account balance from the prior year.

(12) At the option of the mutual life insurer, any shares of the reorganized insurer or its parent company, if any, included in the participating policyholders' consideration shall be placed on the effective date of the reorganization in a trust or other entity existing for the exclusive benefit of the participating policyholders and established solely for the purpose of

effecting the reorganization. Under this option, the shares placed in trust shall be sold over a period of not more than ten years and the proceeds of the shares shall be distributed using the distribution priorities prescribed in the plan of reorganization.

(c) Plan 3.—A reorganization under this plan shall satisfy all of the following except for the options provided in paragraphs (4), (6) and (12):

(1) The reorganized insurer or its parent company, if any, shall issue and sell shares of one or more classes having a total price equal to the estimated market value as set forth in the plan of reorganization of the mutual life insurer as of the initial offering, taking into account the value to be given to participating and nonparticipating policyholders pursuant to paragraphs (3) and (4) and the proceeds of the sale.

(2) Assets of the mutual life insurer shall be allocated to the separate block of business in an amount which, together with anticipated revenues from the assets and policies included as of the effective date of the reorganization in the separate block of business, is reasonably expected to be sufficient to support such business, including, without limitation, provisions for payment of claims and reasonable expenses and provisions for continuation of current dividend scales if the experience underlying the scales continues unchanged.

(3) The participating policyholders' equity value shall be based on the annual statement filed as of the statement date prior to the date of the adoption of the plan of reorganization by the board of directors and shall be equal to the excess of the total amount of the mutual life insurer's assets accumulated on the statement date over the sum of the total amount of assets as determined under paragraph (2), plus an amount equal to the reserve and other liabilities not attributable to the separate block of business.

(4) (i) At the option of the mutual life insurer, the consideration to be given in exchange for the participating policy interests may consist of cash, securities of the reorganized insurer, securities of another company, a certificate of contribution, additional life insurance, annuity benefits, increased dividends or other consideration or any combination of such forms of consideration. The consideration, if any, given to any class or category of participating policyholders may differ from the consideration given to another class or category of participating policyholders.

(ii) The certificate of contribution shall be repayable in ten years, equal to 100% of the value of the participating policy interests and bear interest at the highest rate charged by the reorganized insurer for policy loans on policies being issued on the effective date of the reorganization.

(iii) To the extent that the participating policyholders' consideration under paragraph (3) and this paragraph is paid in cash, securities or other financial instruments, a liquidation account described in paragraph (5) shall not be required. To the extent of the statutory liability of any additional life insurance, annuity benefits or other such enhance-

ments provided by the options under this paragraph, a liquidation account shall not be required.

(5) (i) The liquidation account must be equal to the amount of the excess of the total amount of the assets of the mutual life insurer as of the statement date prior to the reorganization over the sum of the total amount of assets as set forth in paragraph (2), and all reserves and liabilities attributed to policies and contracts not included in the separate block of business but in force on the statement date.

(ii) The value determinations shall be based on the annual statement of the mutual life insurer filed on the statement date prior to the effective date of the reorganization. The function of the liquidation account shall be solely to establish a priority on liquidation, and its existence shall not operate to restrict the use or application of the surplus of the reorganized insurer except as provided in paragraph (11). The liquidation account shall be allocated equitably as of the effective date of the reorganization among the then-participating policyholders.

(iii) The amount allocated to any policy or contract shall not increase and will be reduced by any amount of consideration given in exchange for the participating policy interest as set forth in paragraph (4). The amount shall be reduced to zero when the participating policy terminates. In the event of a complete liquidation of the reorganized insurer, the participating policyholders among whom the liquidation account is allocated shall be entitled to receive a liquidation distribution in the amount of the liquidation account at the time of liquidation before any liquidation distribution is made with respect to nonparticipating policies and stock of the reorganized insurer.

(6) The consideration to be given in exchange for the participating policyholders' interests shall consist of the participating policyholders' equity value as defined in paragraph (3). In addition to such consideration (but in the case of nonparticipating policyholders the only consideration), non-transferable preemptive subscription rights to acquire shares of the reorganized insurer or its parent company, if any, expiring on the effective date of the reorganization, may be issued to the policyholders. The number of shares which may be acquired, the price of the shares, the allocation and manner of exercise of preemptive rights shall be as established by the mutual life insurer subject to paragraph (7). Under certain options set forth in paragraph (4), the reorganized insurer shall establish a liquidation account for the benefit of the participating policyholders in the event of a subsequent complete liquidation of the reorganized insurer. Additional amounts may become payable to the participating policyholders as set forth in paragraph (12).

(7) The consideration and the preemptive subscription rights, if any, to purchase the common shares shall be allocated among the policyholders in a manner determined by the mutual life insurer which takes into account the estimated contribution of each class of participating policies, as provided in paragraph (3), to the total amount of the participating policyholders' equity value. Preemptive rights, if any, allocated to nonparticipating

pating policyholders shall be valued by the mutual life insurer in a manner which it believes is equitable and may reflect the fact that nonparticipating policyholders do not receive distributions from divisible surplus.

(8) Unless the common shares have a public market when issued, the reorganized insurer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares.

(9) The reorganized insurer shall not, for at least three years following the reorganization, repurchase any of its common shares except pursuant to a pro rata tender offer to all of its shareholders.

(10) Until the liquidation account has been reduced to zero, the reorganized insurer shall not declare or pay a cash dividend on or repurchase any of its common shares in an amount in excess of its cumulative earned surplus generated after the reorganization determined in accordance with statutory accounting principles if the effect would be to cause the statutory surplus of the reorganized insurer to be reduced below the amount then in the liquidation account.

(11) (i) A portion of any profit available after the sufficient support of business, including existing business, as of the effective date of the reorganization and insurance business obtained thereafter, may be paid in an equitable manner and form to the then-participating policyholders of the former mutual life insurer, no less than annually. If any portion of such profit is to be paid to the shareholders of the reorganized insurer, then an equitable portion, as provided in the plan of reorganization, of such profit shall also be paid to said participating policyholders. A plan for distribution of such profits to shareholders and participating policyholders shall be included in the plan of reorganization filed with and approved by the commissioner. Allocation of such portion of profit among the various classes of policyholders in the same manner as profits or dividends were allocated by the mutual life insurer prior to the reorganization shall be deemed fair and equitable. Sufficient support of the business includes, but is not limited to, provisions for payment of claims, reasonable expenses and continuation of current dividend scales unless such experience changes, for the separate block of business, as of the effective date of the reorganization. Allocation in a fair and equitable manner shall take into account the estimated contribution of each class of participating policies in the separate block of business to the total amount available and may include a special terminal dividend for those policies and contracts that terminated with a remaining liquidation account allocation.

(ii) In cases where the form of compensation does not include, explicitly or implicitly, interest on deferred compensation, the reorganized insurer shall, no less than annually in an equitable manner and form, give to the participating policyholders an amount equal to the net investment earnings (after Federal and State taxes), on assets equal to the liquidation account balance from the prior year.

(12) At the option of the mutual life insurer, any shares of the reorganized insurer or its parent company, if any, included in the participating

policyholders' consideration shall be placed on the effective date of the reorganization in a trust or other entity existing for the exclusive benefit of the participating policyholders and established solely for the purpose of effecting the reorganization. Under this option, the shares placed in trust shall be sold over a period of not more than ten years, and the proceeds of the shares shall be distributed using the distribution priorities prescribed in the plan of reorganization.

Section 6. Members eligible to notice of and vote on plan.

The members who are entitled to notice of and to vote upon approval of a plan of reorganization and entitled to notice of a public hearing are the members whose policies or contracts are participating or nonparticipating and are in force on the date of adoption by the board of directors or trustees of the plan of reorganization. Each owner or holder of a participating or nonparticipating policy which has been in force for at least one year prior to such date is entitled to the consideration, if any, provided for the policyholder in the plan of reorganization based on the policyholder's interest determined pursuant to this act, but only to the extent that the policyholder's interest arose from policies in force on the effective date of the reorganization and which were in force for at least one year prior to the date of adoption of the plan of reorganization by the board of directors or trustees. For this purpose, any changes in status of a policyholder or payment of premiums in excess of those required on the policies or contracts occurring or made within one year prior to the date of adoption of the plan of reorganization shall be disregarded.

Section 7. Consultants.

(a) **Appointment.**—A plan of reorganization may provide for the appointment by the mutual life insurer of one or more persons as consultants. The appointment of a consultant shall be reviewed by the commissioner. Unless the commissioner finds reasonable cause to believe the consultant to be unqualified, the consultant shall carry out the duties required by the mutual life insurer and this act.

(b) **Duties.**—A consultant may assist in determining the policyholders' interests and the value of the mutual life insurer. A consultant may consider the value of the consideration to be given to the participating and nonparticipating policyholders in exchange for their interests or the value of the consideration into which such interests are to be converted. A consultant may also consider the valuations necessary to carry out the plans provided for under section 5. Valuations shall take into account the latest filed statutory annual statement of the mutual life insurer and any significant developments occurring subsequent to the statement date.

(c) **Findings of consultant.**—The findings of a consultant may be modified by the mutual life insurer at any time so long as the results are not unfair or inequitable to the members.

(d) **Appointment of underwriter as consultant.**—If it can be shown by the mutual life insurer to the commissioner that any proposed underwriter of the shares of the proposed reorganized insurer or its parent, if any, is a qualified person, the underwriter may be appointed as a consultant.

Section 8. Approval of plan by members.

After the plan of reorganization has been approved by the commissioner as provided in section 9, the plan of reorganization shall be submitted to the members of the mutual life insurer. The plan shall not take effect until approved by two-thirds of the members of the mutual life insurer actually voting on the plan of reorganization. Notice of a meeting for the purpose of voting on the plan of reorganization shall be provided by mail to each member entitled to vote in accordance with the articles of incorporation or bylaws of the mutual life insurer. Voting shall be by ballot, in person or by proxy. A quorum shall consist of a quorum as defined in the articles of incorporation or bylaws of the mutual life insurer. A copy of the plan of reorganization, or a summary of the plan of reorganization, shall accompany the notice of meeting. The notice of the meeting may contain the notice of any planned public hearing. An approved plan of reorganization shall take effect on the date specified in the plan.

Section 9. Duties of commissioner.

(a) **Review of plan.**—The commissioner shall review the plan of reorganization. The commissioner shall issue an order approving the plan of reorganization if he finds it complies with section 5 unless the commissioner finds after a hearing that the distribution of the equity value to the members under such plan is not fair and equitable. The commissioner may approve any such other plan of reorganization as the commissioner shall find to be fair and equitable to the mutual life insurer and its members. When approving any plan of reorganization, the commissioner shall determine that the reorganized insurer will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency.

(b) **Hearing.**—The commissioner may order a hearing on whether the terms of the plan of reorganization comply with the provisions of section 5 or such other plan of reorganization that is fair and equitable as aforesaid, after giving written notice of the hearing to the mutual life insurer, its members and other interested persons, all of whom have the right to appear at the hearing.

(c) **Consultants.**—The commissioner may appoint one or more consultants as the commissioner shall reasonably deem necessary to enable the commissioner to make the determination whether the proposed plan of reorganization meets the requirements applicable to such plan. The mutual life insurer shall be responsible for the reasonable fees and expenses of any such consultants.

Section 10. Hearings.

Pursuant to section 9, the commissioner may hold a hearing on the plan of reorganization. In addition, any member of the mutual life insurer may request a hearing on the plan of reorganization, provided such a request is made within 60 days of the date of the notice by the mutual life insurer as provided for in section 4.

Section 11. Fees and expenses.

A director, officer, agent or employee of a mutual life insurer shall not receive a fee, commission or other valuable consideration, other than regular

salary and compensation, for aiding, promoting or assisting in the reorganization except as set forth in the plan of reorganization approved by the commissioner. This section does not prohibit the payment of reasonable fees and compensation to a consultant, attorneys at law, accountants, actuaries or other persons specifically employed for services performed in the practice of their profession while completing the plan of reorganization, even if these persons are directors of the mutual life insurer.

Section 12. Continuation of reorganized insurer.

(a) **Issuance of new certificate of authority.**—When the commissioner and the policyholders approve the plan of reorganization, the commissioner shall issue a new certificate of authority to the reorganized insurer effective as of the date specified in the plan of reorganization.

(b) **Existing suits, contracts and liabilities.**—The reorganized insurer is a continuation of the mutual life insurer and the reorganization shall not annul or modify any of the mutual life insurer's existing suits, contracts or liabilities except as provided in the approved plan of reorganization. All rights, franchises and interests of the mutual life insurer in and to property, assets and other interests shall be transferred to and shall vest in the reorganized insurer and the reorganized insurer shall assume all obligations and liabilities of the mutual life insurer.

(c) **Retention of rights.**—The reorganized insurer shall exercise all rights and powers and perform all duties conferred or imposed by law on life insurance companies writing the classes of insurance written by it and shall retain the rights and contracts existing before reorganization, subject to provisions of the plan of reorganization.

Section 13. Directors and officers.

The directors and officers of the mutual life insurer shall serve as the directors and officers of the reorganized insurer until new directors and officers are elected and qualify pursuant to the articles of incorporation and bylaws of the reorganized insurer.

Section 14. Amendment of plan of reorganization.

At any time before approval of the plan of reorganization by the members of the mutual life insurer and pursuant to rules issued by the commissioner, the board of directors or trustees of a mutual life insurer may amend the plan of reorganization. The board of directors or trustees of a mutual life insurer may withdraw the plan of reorganization at any time prior to the approval of the plan of reorganization by its members.

Section 15. Limitation on stock acquisitions by directors.

(a) **Limitation imposed.**—Prior to the effective date of the reorganization plan and for a period of five years following the effective date of the reorganization plan, an officer or director, including family members and their spouses, of the mutual life insurer or the reorganized insurer shall not directly or indirectly offer to acquire or acquire any beneficial ownership of the reorganized insurer unless the acquisition is made pursuant to a stock option plan approved by the commissioner, made pursuant to the plan of reorganization, or made after the initial public offering from a broker or dealer of registered securities at the quoted price on the date of purchase.

(b) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Beneficial ownership.” With respect to any security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security.

“Family member.” A brother, sister, spouse, parent, grandparent, ancestor or descendant of the officer or director.

Section 16. Limitation of actions.

An action challenging the validity of a plan of reorganization, or any part of a plan, shall not be commenced more than 180 days following the date of approval by the commissioner.

Section 17. Security for attorney fees.

The court may require the plaintiff in an action against a reorganized insurer to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Section 18. Filing of plan.

After approval of the plan of reorganization by the commissioner and the policyholders, the Secretary of the Commonwealth shall accept for filing a verified copy of the amended articles of incorporation.

Section 19. Repeals.

All acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 20. Effective date.

This act shall take effect in 60 days.

APPROVED—The 13th day of May, A. D. 1992.

ROBERT P. CASEY