

No. 279

AN ACT

SB 1446

Providing a procedure for the conversion of a mutual insurance company, other than a mutual life insurance company, or a company which operates exclusively on the basis of perpetual policies, into a stock insurance company, and requiring the filing of information with the Insurance Commissioner and approval by the Insurance Commissioner prior to any such conversion.

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

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

(1) “Company” means a mutual insurance company organized by or under any law of this Commonwealth, other than (i) a mutual life insurance company, or (ii) a company which operates exclusively on the basis of perpetual policies issued in consideration of an initial deposit of moneys with the insurer to be held by it during the time such policies are in force and to be returned to the insureds, in whole or in part, upon cancellation of the policies.

(2) “Commissioner” means the Insurance Commissioner of the Commonwealth of Pennsylvania.

(3) “Owner” means either one or both of the following: (i) a policyholder of the company; and (ii) the holder of a certificate issued by the company pursuant to section 809 of the act of May 17, 1921 (P.L.682), known as “The Insurance Company Law of 1921.”

Section 2. Valuation of Owner’s Interest.—In valuing the interest of each owner in the surplus of the company, surplus shall be allocated:

(1) To holders of certificates issued under section 809 of the act of May 17, 1921 (P.L.682), known as “The Insurance Company Law of 1921,” to the full extent of the face value thereof; and

(2) The balance of the surplus, if any, remaining after the allocation provided in clause (1) of this section, to policyholders on the basis of the ratio which the net premium (gross premium less return premium and dividends received) which each policyholder has paid to the company during the three years ending with the fiscal year of the company immediately preceding that in which the allocation is made bears to the total net premiums received by the company during such three year period.

Section 3. Filing with Commissioner of Resolution by Board of Directors of Company and Plan of Conversion.—Any company intending a conversion pursuant to this act shall file with the commissioner:

(1) A resolution passed by the board of directors of the company to the effect that the conversion of such company to a stock insurance company is advisable, and stating the reasons therefor; and

(2) A comprehensive plan of conversion of such company into a stock insurance company. The plan of conversion shall contain the following information and such additional information as the commissioner may require in order to enable him to make a determination under section 4 of this act:

(i) a statement of all the assets and liabilities of the company, setting forth the current fair market value of each of said assets.

(ii) a list of the owners of the company together with the value of the interest of each owner in the surplus of said company determined as set forth in section 2 of this act.

(iii) the number of shares of capital stock to be issued and the manner of converting the interest in the surplus, if any, of each owner of the company into shares of the company under the stock plan.

(iv) the manner of making payment in cash to owners of the company who fail or refuse within a specified period of time to convert their interest in the surplus, if any, into stock and the amount of such payment.

(v) the amount of the new capital stock for which each owner may subscribe and how and when such subscriptions are payable, including the procedure for buying or selling rights to subscribe to less than a full share so that no fractional shares of capital stock will be issued.

(vi) the manner of providing for paid in surplus and appropriate reserves in amounts at least sufficient to comply with the requirements of section 206 of the act of May 17, 1921 (P.L.682), known as "The Insurance Company Law of 1921."

(vii) a list of all persons who are directors or executive officers of the company, or who perform similar functions, and all persons who have been chosen to become directors or executive officers or to perform similar functions after the conversion, but who have not yet assumed their positions.

(viii) such plans, arrangements, understandings and intentions as the company may have for its future business and management, including any plans, arrangements, understandings or intentions with respect to total or partial liquidation, sale of assets, merger, material change in business, corporate structure, management or composition of the board of directors.

(ix) information as to any contracts, arrangements or understandings with respect to any securities of the company, including but not limited to contracts, arrangements, or understandings with respect to transfer of any securities, joint ventures, loan or option agreements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the parties to such contracts, arrangements or understandings, and giving the details thereof.

(x) such proposed amendments, if any, to the charter of the company as may be necessary for the purpose of changing its name, changing the location of its principal office or place of conducting its business, changing its purpose or purposes, or for any other purpose.

Section 4. Determination by Commissioner.—The commissioner after making an examination of the company and holding a hearing shall determine whether or not:

(1) The plan of conversion filed pursuant to section 3 of this act is fair to the owners and creditors of the company and complies with the requirements of said section 3; and

(2) He has any reason to believe that after such conversion the company will not continue to comply in all respects with the laws and regulations of this Commonwealth governing insurance.

The commissioner shall notify the company of his determination.

Section 5. Notice of Hearing; Form to be Approved by Commissioner.—(a) Notice of the hearing required by section 4 of this act shall be given:

(1) By publication not less than three times in one newspaper of general circulation published in the county in which the principal office of the company is located, and in the legal periodical, if any, designated by the rules of court of said county for the publication of legal notices; and

(2) By written or printed notice addressed and mailed by certified mail with return receipt requested to each owner at his address as shown on the books of the company at least ten days before the hearing date.

(b) The form of such notice shall be approved in advance of mailing by the commissioner and shall be accompanied by a copy of the plan of conversion.

Section 6. Hearing Procedure.—Any hearing held pursuant to this act shall be conducted, and the determination of the commissioner shall be rendered, in accordance with the provisions of the act of June 4, 1945 (P.L.1388), known as the “Administrative Agency Law,” relating to adjudication procedure.

Section 7. Special Meeting for Approval of Plan of Conversion by Policyholders; Notice Requirements.—(a) If an approving determination is made by the commissioner, and not otherwise, the plan of conversion shall be submitted to the policyholders of the company for approval at the regular annual meeting of the company or at a meeting specially called for the purpose of such approval, of which at least four weeks previous notice shall have been given:

(1) By publication not less than three times in a newspaper of general circulation, published in the county in which the principal office of the company is located; and

(2) By written or printed notice addressed and mailed by certified mail with return receipt requested to each policyholder at his address as shown on the books of the company.

(b) If a quorum is present at said special meeting and the majority of the policyholders who attend such meeting, either in person or by proxy, approve the plan of conversion following due proof of the adequacy of the notice and the results of the meeting being made to the commissioner in

a form satisfactory to him, the directors of the company shall, at such times and places as they shall deem convenient and proper, open books and receive subscriptions to the stock of the company as hereinafter provided, and shall keep the same open until the full amount of capital stock specified in the plan of conversion is subscribed.

Section 8. Recording Plan for Conversion.—(a) Upon approval of the plan of conversion by the policyholders, such fact shall be set forth in duplicate certificates to be executed by the secretary of the company under the seal thereof. Said certificates, with a copy of the approved plan of conversion attached to each, shall be filed with the commissioner who shall then certify in duplicate that all of the requirements of this act in relation to the conversion of a mutual insurance company into a stock insurance company have been complied with. The commissioner shall submit said certified plan of conversion to the Secretary of the Commonwealth for recording.

(b) When said plan of conversion has been approved by the commissioner and recorded in the office of the Secretary of the Commonwealth and of the recorder of deeds of the proper county:

(1) Any amendments to the charter of the company set forth in the plan of conversion shall be deemed and taken to form part of the charter of said company; and

(2) All rights of the policyholders of such company to vote at any meeting of such company or to retain any interest in such company or in the property or assets thereof shall absolutely cease and determine, and thereupon such company shall be and become a stock insurance company under such corporate name or title as may have been adopted in and by the plan of conversion, and the Secretary of the Commonwealth shall issue to such company a certificate, under his hand and the seal of his office, evidencing the right of such company to use said corporate name or title.

Section 9. Subscriptions to Capital Stock of Company.—Owners of the company shall have the right to subscribe to its capital stock at par value in proportion to their respective interests in the surplus of the company, as set forth in the plan of conversion approved by the commissioner pursuant to section 4 of this act. No share of stock shall be disposed of or a certificate issued therefor unless the actual par value thereof has been paid to the company in cash, except stock issued to owners of the company in conversion of their respective interests in its surplus. Subscriptions shall be duly made in writing and filed with the proper officer of the company in accordance with the plan of conversion.

Section 10. Stock Issued in Conversion of Owner's Interest in Surplus.—Stock issued to the owners of the company in conversion of their respective interests in its surplus pursuant to section 9 of this act shall not be subject to the act of June 24, 1939 (P.L.748), known as "The Pennsylvania Securities Act," or to regulation by the Pennsylvania Securities Commission.

Section 11. Survival of Mutual Policies.—The issued and outstanding mutual policies of the company and all the rights and liabilities attached thereto, and all the powers and obligations of the company with reference to the same, shall survive and be powers and obligations of the stock insurance company, so long as said policies remain in force, except that the stock insurance company shall have no power to levy any assessment against any policyholder.

Section 12. Rules and Regulations.—The commissioner shall have the authority, from time to time, to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this act.

Section 13. Laws Applicable to Company Converted into a Stock Insurance Company.—Except as otherwise specified in this act, a company converted into a stock insurance company under this act shall have and may exercise all the rights and privileges and shall be subject to all the requirements and regulations imposed upon stock insurance companies formed under the act of May 17, 1921 (P.L.682), known as “The Insurance Company Law of 1921,” and any other acts of this Commonwealth relating to the regulation and supervision of insurance companies, but it shall exercise no rights or privileges which other stock insurance companies may not exercise.

Section 14. Commencement of Business as a Stock Insurance Company.—No company shall have the power to engage in the business of insurance as a stock insurance company until all provisions of this act have been complied with.

Section 15. Effective Date.—This act shall take effect immediately.

APPROVED—The 10th day of December, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 279.



Secretary of the Commonwealth.