

February 17, 1997

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1259

Page 1, line 1, replace "chapter" with "chapters" and after "26.1-12.1" insert "and 26.1-12.2"

Page 1, line 3, after the second "companies" insert "and demutualization of insurers"

Page 1, line 11, replace ", which is the date the mutual company's board of directors adopts a plan of" with "or member as defined under the bylaws or articles of incorporation of the reorganizing insurer"

Page 1, remove line 12

Page 1, line 13, remove "reorganization and approved by the commissioner"

Page 1, line 14, after "the" insert "reorganization"

Page 1, line 16, replace "policyholders' rights as" with "eligible" and replace "converting" with "reorganizing insurer, including rights"

Page 1, line 17, remove "mutual insurance company, including the right"

Page 1, line 18, replace "incidental" with "incident"

Page 1, line 19, remove "a company incorporated as"

Page 1, line 20, after "company" insert "incorporated" and after "26.1-12" insert "or other provisions of this title"

Page 1, after line 20, insert:

- "5. "Mutual insurance holding company" means a company formed under section 26.1-12.1-02.
6. "Plan of reorganization" means a plan to engage or participate in a reorganization subject to this chapter."

Page 1, line 21, replace "5" with "7" and remove "converting"

Page 1, after line 22, insert:

- "8. "Record date" means the date the reorganizing insurer's board of directors adopts a plan of reorganization or some other date specified as the record date in the plan of reorganization and approved by the commissioner.
9. "Reorganization" means any plan or transaction described in section 26.1-12.1-02 or 26.1-12.1-03, or any change in the reorganized insurer's articles of incorporation or bylaws which is a material change to the plan of reorganization filed and approved by the commissioner affecting the ability of the reorganizing insurer to meet the standards described in section 26.1-12.1-06.
10. "Reorganized insurance company" means a mutual insurance company that has completed a reorganization to a stock company that is subject to this chapter.

11. "Reorganizing insurer" means a mutual insurance company seeking to participate, or participating, in merger or other reorganization as defined in this chapter."

Page 2, line 2, replace the first "insurance company" with "insurer"

Page 2, line 3, replace "that the interests of the policyholders are protected" with "the reorganization meets the standards set forth in section 26.1-12.1-06"

Page 2, line 4, replace "and" with "or"

Page 2, line 5, replace "for the protection of the policyholders" with "for the plan to meet the standards of section 26.1-12.1-06. The commissioner shall retain"

Page 2, line 6, remove "interest. The commissioner retains" and after "company" insert "and the reorganized insurer"

Page 2, line 7, after "policyholders" insert "and members"

Page 2, line 9, replace "insurance company" with "insurer"

Page 2, line 12, replace "insurance company become" with "insurer must be converted into"

Page 2, line 13, replace "reorganized" with "reorganizing"

Page 2, line 14, replace "are" with "must become"

Page 2, line 15, after "company" insert "and the articles of incorporation and bylaws of the reorganized insurance company as approved by the commissioner"

Page 2, line 17, after "control" insert "at all times"

Page 2, line 18, after "company" insert "but this does not prohibit any future demutualization or other conversion"

Page 2, line 21, replace "interest" with "interests"

Page 2, line 22, replace "insurance" with "insurer"

Page 2, line 23, remove the first "company"

Page 2, line 24, replace "interests of the policyholders are properly protected" with "reorganization meets the standards in section 26.1-12.1-06"

Page 2, line 25, replace "and" with "or"

Page 2, line 26, replace "protection of the" with "merger to meet the standards in section 26.1-12.1-06. The commissioner shall retain"

Page 2, line 27, remove "policyholders' interests. The commissioner retains"

Page 2, line 28, after "company" insert "and the reorganized insurer" and after "policyholders" insert "and members"

Page 3, line 2, replace "interest" with "interests" and replace "reorganized insurance company become" with "reorganizing insurer must be converted into"

Page 3, line 4, replace "are" with "must become"

Page 3, line 7, replace "The reorganizing or merging" with "No insurer authorized to do business in this state may take part in a reorganization unless the reorganization has first been approved by the commissioner in accordance with this chapter. A reorganizing"

Page 3, line 8, after "reorganization" insert "consistent with the requirements of this section"

Page 3, line 9, replace "provide for the" with "include"

Page 3, line 10, remove "following"

Page 3, line 11, replace "Establishing" with "A description of the nature and content, or a copy, of the annual report and financial statement to be sent to each eligible member.

2. An analysis of the benefits and risks attendant to the proposed reorganization, including the rationale for the reorganization and analysis of the comparative benefits and risks to the reorganizing insurer of the reorganization.
3. Information sufficient to demonstrate the financial condition of the reorganizing insurer will not be affected adversely upon reorganization.
4. Information demonstrating that the reorganization will:
 - a. Establish"

Page 3, line 12, replace "its" with "whose"

Page 3, line 15, replace "2. Insuring" with "b. Ensure"

Page 3, line 16, replace "policyholders" with "eligible members" and replace "reorganized domestic" with "reorganizing"

Page 3, line 17, replace "3. Describing" with "c. Describe"

Page 3, line 18, replace "4. A" with "d. Include a"

Page 3, line 19, after the semicolon insert "and"

Page 3, line 20, replace "5. A" with "e. Include a" and after the third "of" insert "the reorganizing insurer,"

Page 3, line 21, after the first "subsidiary" insert a comma and replace "; and" with a period

Page 3, replace lines 22 and 23 with:

- "5. Information demonstrating that upon an insolvency involving a stock insurance company subsidiary of the mutual insurance holding company that resulted from the reorganization, the assets of the mutual holding company will be available to satisfy the policyholder obligations of the stock insurance company.
6. Information describing the mutual insurance holding company's general plans regarding whether any accumulation or prospective accumulation of earnings by the mutual insurance holding company which is or would be in excess of that determined by the board of directors of the mutual insurance holding company to be necessary will inure to the exclusive benefit of the policyholders of its insurance company subsidiaries who are members."

Page 3, line 25, replace "or merging mutual company's" with "insurer's reasonable" and replace "not otherwise a part of the" with "if the commissioner determines that staff not otherwise a part of the commissioner's staff is necessary"

Page 3, line 26, remove "commission's staff" and remove "The cost of retaining the experts must be"

Page 3, remove line 27

Page 3, line 28, replace "must" with "shall"

Page 3, line 29, replace "the proposed plan," with "a proposed reorganization plan within sixty days after submission of a completed plan of reorganization to the commissioner, unless the commissioner and reorganizing insurer agree to extend the sixty days or" and replace "mutual" with "reorganizing insurer"

Page 3, line 30, remove "insurance company" and remove "both"

Page 3, line 31, remove "hearing must be held within thirty days after"

Page 4, line 1, remove "submission of a completed plan of reorganization to the commissioner. The"

Page 4, line 2, replace "mutual company" with "insurer"

Page 4, line 3, replace "mutual company" with "insurer"

Page 4, line 4, replace "interest" with "interests"

Page 4, line 7, after "reorganization" insert "under this chapter" and replace "the following" with "whether"

Page 4, line 8, replace "Whether the" with "The reorganizing insurer's surplus in regard to policyholders following a" and replace "would not materially diminish the status of the" with "is reasonable in relation to the reorganizing insurer's outstanding liabilities and adequate to its financial needs;"

Page 4, remove line 9

Page 4, line 10, replace "Whether the" with "Under a" and replace "would materially reduce the financial security of" with "that materially affects the membership interest of eligible members in the reorganizing insurer, the eligible members will receive a membership interest in a mutual holding company commensurate with an equitable share of the value of the reorganizing insurer;"

3. After the reorganization, the reorganized insurance company will be able to satisfy the requirements for the issuance of a certificate of authority to write the lines of insurance for which it was licensed before the reorganization; and
4. The plan of the reorganization is fair, reasonable, and equitable to the policyholders of the reorganizing insurer."

Page 4, remove line 11

Page 4, line 12, replace "thirty" with "sixty"

Page 4, line 13, remove "if held,", replace "thirty" with "sixty", and after "reorganization" insert "if by mutual agreement the hearing is waived, unless there is a mutual agreement by the commissioner and the reorganizing insurer to extend such time"

Page 4, line 19, replace "**Approval by**" with "**Notice to**" and remove "- **Notice - Voting**"

Page 4, line 22, replace "attended" with "attendant"

Page 4, line 24, replace "The" with "A" and after "notice" insert "approved by the commissioner"

Page 4, line 25, replace "converting mutual insurance company's" with "reorganizing insurer's"

Page 4, line 27, after "plan" insert "of reorganization"

Page 4, line 28, replace "converting mutual insurance company" with "reorganizing insurer"

Page 4, line 29, after "plan" insert "of reorganization"

Page 4, line 30, replace "coincidentally" with "coincident" and replace "converting mutual insurance company's" with "reorganizing insurer's"

Page 4, line 31, after "policyholders" insert "or members" and replace "converting mutual" with "reorganizing insurer"

Page 5, line 1, remove "insurance company"

Page 5, line 2, replace "converting mutual insurance company's" with "reorganizing insurer's"

Page 5, after line 3, insert "**26.1-12.1-09. Approval by eligible members.**"

Page 5, line 4, after "plan" insert "of reorganization"

Page 5, line 6, after "proxy" insert "along with a copy or summary of the plan which accompanied the notice to eligible members"

Page 5, line 7, replace "converting mutual insurance company's" with "reorganizing insurer's"

Page 5, line 8, after the period insert "The plan must be approved as follows:

1. In the case of formation of a mutual insurance holding company under section 26.1-12.1-02, the reorganization plan must be approved by the affirmative vote of a majority of the votes cast by no less than ten percent of the eligible members of the reorganizing insurer; and
2. In the case of a merger under section 26.1-12.1-03, the reorganization plan must be approved by an affirmative vote of a majority of the votes cast by no less than ten percent of the eligible members of the reorganizing insurer and by an affirmative vote of a majority of the votes cast by no less than ten percent of the eligible members of the mutual insurance holding company into which the policyholders' membership interests are to be merged, provided that the vote of the eligible members of the mutual insurance holding company may not be required if the commissioner determines that the merger would not be material to the financial condition of the mutual insurance holding company."

Page 5, line 9, replace "**26.1-12.1-09**" with "**26.1-12.1-10**"

Page 5, line 10, after "a" insert "mandatory"

Page 5, line 17, replace "be dissolved or liquidated" with "dissolve or liquidate"

Page 5, line 18, after the period insert "Section 26.1-12-32 is not applicable to a reorganization or merger accomplished under this chapter."

Page 5, remove lines 19 through 23

Page 5, line 24, replace "**26.1-12.1-10**" with "**26.1-12.1-11**"

Page 5, line 26, replace "10-04-03" with "10-04-02" and after the period insert "No member of a mutual insurance holding company may transfer or pledge membership in the mutual insurance holding company or any right arising from the membership except as attendant to the valid transfer or assignment of the member's policy in any reorganized insurer which gave rise to the member's membership interest. A member of a mutual insurance holding company is not, as a member, personally liable for the acts, debts, liabilities, or obligations of the reorganized insurer. No assessment of any kind may be imposed upon the members of a mutual insurance holding company by the directors or members, or because of any liability of any company owned or controlled by the mutual insurance holding company, or because of any act, debt, or liability of the reorganized company. A member's interest in the mutual insurance holding company automatically terminates upon cancellation, nonrenewal, expiration, or termination of the member's policy in any reorganized company which gave rise to the member's membership interest."

Page 5, line 27, replace "**26.1-12.1-11**" with "**26.1-12.1-12**" and after "of" insert "any of"

Page 5, line 28, replace "insurance company" with "insurer"

Page 5, line 30, after "shareholders" insert "or members"

Page 6, after line 2, insert:

"26.1-12.1-13. Incorporation. A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company must be incorporated under chapter 10-19.1. The articles of incorporation of the mutual insurance holding company are subject to approval of the commissioner in the same manner as those of an insurance company.

26.1-12.1-14. Applicability. This chapter does not apply to any mutual insurance holding company that was formerly organized as a nonprofit health service corporation."

Renumber accordingly