

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Illinois Insurance Code is amended by changing Section 59.1 as follows:

(215 ILCS 5/59.1)

(Section scheduled to be repealed on January 1, 2017)

Sec. 59.1. Conversion to stock company.

(1) Definitions. For the purposes of this Section, the following terms shall have the meanings indicated:

(a) "Eligible member" is a member as of the date the mutual company's board of directors adopts a plan of conversion. A person insured under a group policy is not an eligible member, unless:

(i) the person is insured or covered under a group life policy or group annuity contract under which funds are accumulated and allocated to the respective covered persons;

(ii) the person has the right to direct the application of the funds so allocated;

(iii) the group policyholder makes no contribution to the premiums or deposits for the policy or contract;

and

(iv) the mutual company has the names and addresses of the persons covered under the group life policy or group annuity contract.

A person whose policy is issued after the board of directors adopts the plan but before the plan's effective date is not an eligible member but shall have those rights set forth in subsection (10) of this Section.

(b) "Converted stock company" is an Illinois domiciled stock company that converted from an Illinois domiciled mutual company under this Section.

(c) "Plan of conversion" or "plan" is a plan adopted by an Illinois domestic mutual company's board of directors under this Section to convert the mutual company into an Illinois domiciled stock company.

(d) "Policy" includes an annuity contract.

(e) "Member" means a person who, on the records of the mutual company and pursuant to its articles of incorporation or bylaws, is deemed to be a holder of a membership interest in the mutual company.

(2) Adoption of the plan of conversion by the board of directors.

(a) A mutual company seeking to convert to a stock company shall, by the affirmative vote of two-thirds of its board of directors, adopt a plan of conversion consistent with the requirements of subsection (6) of this Section.

(b) At any time before approval of a plan by the

Director, the mutual company by the affirmative vote of two-thirds of its board of directors, may amend or withdraw the plan.

(3) Approval of the plan of conversion by the Director of Insurance.

(a) Required findings. After adoption by the mutual company's board of directors, the plan shall be submitted to the Director for review and approval. The Director shall approve the plan upon finding that:

(i) the provisions of this Section have been complied with;

(ii) the plan will not prejudice the interests of the members; and

(iii) the plan's method of allocating subscription rights is fair and equitable.

(b) Documents to be filed.

(i) Prior to the members' approval of the plan, a mutual company seeking the Director's approval of a plan shall file the following documents with the Director for review and approval:

(A) the plan of conversion, including the independent evaluation of pro forma market value required by item (f) of subsection (6) of this Section;

(B) the form of notice required by item (b) of subsection (4) of this Section for eligible

members of the meeting to vote on the plan;

(C) any proxies to be solicited from eligible members pursuant to subitem (ii) of item (c) of subsection (4) of this Section;

(D) the form of notice required by item (a) of subsection (10) of this Section for persons whose policies are issued after adoption of the plan but before its effective date; and

(E) the proposed articles of incorporation and bylaws of the converted stock company.

Once filed, these documents shall be approved or disapproved by the Director within a reasonable time.

(ii) After the members have approved the plan, the converted stock company shall file the following documents with the Director:

(A) the minutes of the meeting of the members at which the plan was voted upon; and

(B) the revised articles of incorporation and bylaws of the converted stock company.

(c) Consultant. The Director may retain, at the mutual company's expense, any qualified expert not otherwise a part of the Director's staff to assist in reviewing the plan and the independent evaluation of the pro forma market value which is required by item (f) of subsection (6) of this Section.

(4) Approval of the plan by the members.

(a) Members entitled to notice of and to vote on the plan. All eligible members shall be given notice of and an opportunity to vote upon the plan.

(b) Notice required. All eligible members shall be given notice of the members' meeting to vote upon the plan. A copy of the plan or a summary of the plan shall accompany the notice. The notice shall be mailed to each member's last known address, as shown on the mutual company's records, within 45 days of the Director's approval of the plan. The meeting to vote upon the plan shall not be set for a date less than 30 ~~60~~ days after the date when the notice of the meeting is mailed by the mutual company. If the meeting to vote upon the plan is held coincident with the mutual company's annual meeting of policyholders, only one combined notice of meeting is required.

(c) Vote required for approval.

(i) After approval by the Director, the plan shall be adopted upon receiving the affirmative vote of at least two-thirds of the votes cast by eligible members.

(ii) Members entitled to vote upon the proposed plan may vote in person or by proxy. Any proxies to be solicited from eligible members shall be filed with and approved by the Director.

(iii) The number of votes each eligible member may cast shall be determined by the mutual company's bylaws. If the bylaws are silent, each eligible member

may cast one vote.

(5) Adoption of revised articles of incorporation. Adoption of the revised articles of incorporation of the converted stock company is necessary to implement the plan and shall be governed by the applicable provisions of Section 57 of this Code. For a Class 1 mutual company, the members may adopt the revised articles of incorporation at the same meeting at which the members approve the plan. For a Class 2 or 3 mutual company, the revised articles of incorporation may be adopted solely by the board of directors or trustees, as provided in Section 57 of this Code.

(5.5) Prior to the completion of a plan of conversion filed by a mutual company with the Director, no person shall knowingly acquire, make any offer, or make any announcement of an offer for any security issued or to be issued by the converting mutual company in connection with its plan of conversion or for any security issued or to be issued by any other company authorized in item(c)(i) of subsection (6) of this Section and organized for purposes of effecting the conversion, except in compliance with the maximum purchase limitations imposed by item (i) of subsection (6) of this Section or the terms of the plan of conversion as approved by the Director.

(6) Required provisions in a plan of conversion. The following provisions shall be included in the plan:

(a) Reasons for conversion. The plan shall set forth

the reasons for the proposed conversion.

(b) Effect of conversion on existing policies.

(i) The plan shall provide that all policies in force on the effective date of conversion shall continue to remain in force under the terms of those policies, except that any voting rights of the policyholders provided for under the policies or under this Code and any contingent liability policy provisions of the type described in Section 55 of this Code shall be extinguished on the effective date of the conversion.

(ii) The plan shall further provide that holders of participating policies in effect on the date of conversion shall continue to have the right to receive dividends as provided in the participating policies, if any.

(iii) Except for a mutual company's participating life policies, guaranteed renewable accident and health policies, and non-cancelable accident and health policies, the converted stock company may issue the insured a nonparticipating policy as a substitute for the participating policy upon the renewal date of a participating policy.

(c) Subscription rights to eligible members.

(i) The plan shall provide that each eligible member is to receive, without payment, nontransferable

subscription rights to purchase a portion of the capital stock of the converted stock company. As an alternative to subscription rights in the converted stock company, the plan may provide that each eligible member is to receive, without payment, nontransferable subscription rights to purchase a portion of the capital stock of: (A) a corporation organized and owned by the mutual company for the purpose of acquiring or holding all the stock of the converted stock company; or (B) a stock insurance company owned by the mutual company into which the mutual company will be merged.

(ii) The subscription rights shall be allocated in whole shares among the eligible members using a fair and equitable formula. This formula may but need not take into account how the different classes of policies of the eligible members contributed to the surplus of the mutual company.

(d) Oversubscription. The plan shall provide a fair and equitable means for the allocation of shares of capital stock in the event of an oversubscription to shares by eligible members exercising subscription rights received pursuant to item (c) of subsection (6) of this Section.

(e) Undersubscription. The plan shall provide that any shares of capital stock not subscribed to by eligible members exercising subscription rights received under item (c) of subsection (6) of this Section shall be sold in a



public offering through an underwriter. If the number of shares of capital stock not subscribed by eligible members is so small or the additional time or expense required for a public offering of those shares would be otherwise unwarranted under the circumstances, the plan of conversion may provide for the purchase of the unsubscribed shares by a private placement or other alternative method approved by the Director that is fair and equitable to the eligible members.

(f) Total price of stock. The plan shall set the total price of the capital stock equal to the estimated pro forma market value of the converted stock company based upon an independent evaluation by a qualified person. The pro forma market value may be the value that is estimated to be necessary to attract full subscription for the shares as indicated by the independent evaluation.

(g) Purchase price of each share. The plan shall set the purchase price of each share of capital stock equal to any reasonable amount that will not inhibit the purchase of shares by members. The purchase price of each share shall be uniform for all purchasers except the price may be modified by the Director by reason of his consideration of a plan for the purchase of unsubscribed stock pursuant to item (e) of subsection (6) of this Section.

(h) Closed block of business for participating life policies of a Class 1 mutual company.

(i) The plan shall provide that a Class 1 mutual company's participating life policies in force on the effective date of the conversion shall be operated by the converted stock company for dividend purposes as a closed block of participating business except that any or all classes of group participating policies may be excluded from the closed block.

(ii) The plan shall establish one or more segregated accounts for the benefit of the closed block of business and shall allocate to those segregated accounts enough assets of the mutual company so that the assets together with the revenue from the closed block of business are sufficient to support the closed block including, but not limited to, the payment of claims, expenses, taxes, and any dividends that are provided for under the terms of the participating policies with appropriate adjustments in the dividends for experience changes. The plan shall be accompanied by an opinion of a qualified actuary or an appointed actuary who meets the standards set forth in the insurance laws or regulations for the submission of actuarial opinions as to the adequacy of reserves or assets. The opinion shall relate to the adequacy of the assets allocated to the segregated accounts in support of the closed block of business. The actuarial opinion shall be based on methods of analysis deemed

appropriate for those purposes by the Actuarial Standards Board.

(iii) The amount of assets allocated to the segregated accounts of the closed block shall be based upon the mutual company's last annual statement that is updated to the effective date of the conversion.

(iv) The converted stock company shall keep a separate accounting for the closed block and shall make and include in the annual statement to be filed with the Director each year a separate statement showing the gains, losses, and expenses properly attributable to the closed block.

(v) Periodically, upon the Director's approval, those assets allocated to the closed block as provided in subitem (ii) of item (h) of subsection (6) of this Section that are in excess of the amount of assets necessary to support the remaining policies ~~polices~~ in the closed block shall revert to the benefit of the converted stock company.

(vi) The Director may waive the requirement for the establishment of a closed block of business if the Director deems it to be in the best interests of the participating policyholders of the mutual insurer to do so.

(i) Limitations on acquisition of control. The plan shall provide that any one person or group of persons

acting in concert may not acquire, through public offering or subscription rights, more than 5% of the capital stock of the converted stock company for a period of 5 years from the effective date of the plan except with the approval of the Director. This limitation does not apply to any entity that is to purchase 100% of the capital stock of the converted company as part of the plan of conversion approved by the Director or to a purchase of stock by a tax-qualified employee benefit plan pursuant to subscription grants granted to that plan as authorized under item (b) of subsection (7) of this Section and to a purchase of unsubscribed stock pursuant to item (e) of subsection (6) of this Section.

(7) Optional provisions in a plan of conversion. The following provisions may be included in the plan:

(a) Directors and officers subscription rights.

(i) The plan may provide that the directors and officers of the mutual company shall receive, without payment, nontransferable subscription rights to purchase capital stock of the converted stock company or the stock of another corporation that is participating in the conversion plan as provided in subitem (i) of item (c) of subsection (6) of this Section. Those subscription rights shall be allocated among the directors and officers by a fair and equitable formula.

(ii) The total number of shares that may be purchased under subitem (i) of item (a) of subsection (7) of this Section may not exceed 35% of the total number of shares to be issued in the case of a mutual company with total assets of less than \$50 million or 25% of the total shares to be issued in the case of a mutual company with total assets of more than \$500 million. For mutual companies with total assets between \$50 million and \$500 million, the total number of shares that may be purchased shall be interpolated.

(iii) Stock purchased by a director or officer under subitem (i) of item (a) of subsection (7) of this Section may not be sold within one year following the effective date of the conversion.

(iv) The plan may also provide that a director or officer or person acting in concert with a director or officer of the mutual company may not acquire any capital stock of the converted stock company for 3 years after the effective date of the plan, except through a broker or dealer, without the permission of the Director. That provision may not apply to prohibit the directors and officers from purchasing stock through subscription rights received in the plan under subitem (i) of item (a) of subsection (7) of this Section.

(b) Tax-qualified employee stock benefit plan. The

plan may allocate to a tax-qualified employee benefit plan nontransferable subscription rights to purchase up to 10% of the capital stock of the converted stock company or the stock of another corporation that is participating in the conversion plan as provided in subitem (i) of item (c) of subsection (6) of this Section. That employee benefit plan shall be entitled to exercise its subscription rights regardless of the amount of shares purchased by other persons.

(8) Alternative plan of conversion. The board of directors may adopt a plan of conversion that does not rely in whole or in part upon the issuance to members of non-transferable subscription rights to purchase stock of the converted stock company if the Director finds that the plan does not prejudice the interests of the members, is fair and equitable, and is based upon an independent appraisal of the market value of the mutual company by a qualified person and a fair and equitable allocation of any consideration to be given eligible members. The Director may retain, at the mutual company's expense, any qualified expert not otherwise a part of the Director's staff to assist in reviewing whether the plan may be approved by the Director.

(9) Effective date of the plan. A plan shall become effective when the Director has approved the plan, the members have approved the plan, and the revised articles of incorporation have been adopted.

(10) Rights of members whose policies are issued after adoption of the plan and before its effective date.

(a) Notice. All members whose policies are issued after the proposed plan has been adopted by the board of directors and before the effective date of the plan shall be given written notice of the plan of conversion. The notice shall specify the member's right to rescind that policy as provided in item (b) of subsection (10) of this Section within 45 days after the effective date of the plan. A copy of the plan or a summary of the plan shall accompany the notice. The form of the notice shall be filed with and approved by the Director.

(b) Option to rescind. Any member entitled to receive the notice described in item (a) of subsection (10) of this Section shall be entitled to rescind his or her policy and receive a full refund of any amounts paid for the policy or contract within 10 days after the receipt of the notice.

(11) Corporate existence.

(a) Upon the conversion of a mutual company to a converted stock company according to the provisions of this Section, the corporate existence of the mutual company shall be continued in the converted stock company. All the rights, franchises, and interests of the mutual company in and to every type of property, real, personal, and mixed, and things in action thereunto belonging, is deemed transferred to and vested in the converted stock company

without any deed or transfer. Simultaneously, the converted stock company is deemed to have assumed all the obligations and liabilities of the mutual company.

(b) The directors and officers of the mutual company, unless otherwise specified in the plan of conversion, shall serve as directors and officers of the converted stock company until new directors and officers of the converted stock company are duly elected pursuant to the articles of incorporation and bylaws of the converted stock company.

(12) Conflict of interest. No director, officer, agent, or employee of the mutual company or any other person shall receive any fee, commission, or other valuable consideration, other than his or her usual regular salary and compensation, for in any manner aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the Director. This provision does not prohibit the payment of reasonable fees and compensation to attorneys, accountants, and actuaries for services performed in the independent practice of their professions, even if the attorney, accountant, or actuary is also a Director of the mutual company.

(13) Costs and expenses. All the costs and expenses connected with a plan of conversion shall be paid for or reimbursed by the mutual company or the converted stock company except where the plan provides either for a holding company to acquire the stock of the converted stock company or for the



merger of the mutual company into a stock insurance company as provided in subitem (i) of item (c) of subsection (6) of this Section. In those cases, the acquiring holding company or the stock insurance company shall pay for or reimburse all the costs and expenses connected with the plan.

(14) Failure to give notice. If the mutual company complies substantially and in good faith with the notice requirements of this Section, the mutual company's failure to give any member or members any required notice does not impair the validity of any action taken under this Section.

(15) Limitation of actions. Any action challenging the validity of or arising out of acts taken or proposed to be taken under this Section shall be commenced within 30 days after the effective date of the plan.

(Source: P.A. 90-381, eff. 8-14-97.)

Section 99. Effective date. This Act takes effect upon becoming law.