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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO INSURANCE --DOMESTIC INSURANCE COMPANIES

Introduced By: Senators Lombardo, and Miller

Date Introduced: March 01, 2012

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 27-1-40.1 of the General Laws in Chapter 27-1 entitled "Domestic
2 Insurance Companies" is hereby amended to read as follows:
3 **27-1-40.1. Mutual insurance holding companies.** -- (a)(1) Any domestic mutual
4 insurance company, upon approval of the commissioner, created under the laws of this state
5 (whether pursuant to § 7-1-5 or by special act of the general assembly) and any foreign mutual
6 insurance company which has been domesticated or redomesticated pursuant to Chapter 2.2 of
7 this title which meets or exceeds all capital and surplus funds required by law for the transaction
8 of business in Rhode Island may, in any manner permitted by subsection (b) of this section,
9 reorganize by forming a mutual insurance holding company based upon a plan of reorganization
10 and continuing the corporate existence of the reorganizing insurance company as a stock
11 insurance company. The commissioner, after a public hearing as provided in Rhode Island
12 general laws subsection 27-35-2(d), if satisfied that the interests of the policyholders are properly
13 protected and that the plan of reorganization is fair and equitable to the policyholders, may
14 approve the proposed plan of reorganization and may require as a condition of approval such
15 modifications of the proposed plan of reorganization as the commissioner finds necessary for the
16 protection of the policyholders' interests. The commissioner may retain consultants as provided
17 in Rhode Island general laws subdivision 27-35-2(d)(3). A reorganization pursuant to this section
18 is subject to Rhode Island general laws sections 27-35-1, 27-35-1.5, 27-35-2 and 27-35-2.5. The
19 commissioner shall retain jurisdiction over a mutual insurance holding company organized

1 ~~pursuant to this section to assure that policyholder interests are protected. reorganize into a~~
2 ~~mutual insurance holding company structure upon adoption of a plan of reorganization by two-~~
3 ~~thirds (2/3) vote of the board of directors or other governing body, approval of a plan of~~
4 ~~reorganization by the director of the department of business regulation, and the affirmative vote~~
5 ~~of one half (1/2) of those members or policyholders, constituting a quorum, present in person or~~
6 ~~by proxy at a meeting called by the board of directors or other governing body. Unless otherwise~~
7 ~~provided in its charter, bylaws or in the plan of reorganization, each member or policyholder shall~~
8 ~~have one vote, and in the case of any policy or contract of group life or other group insurance, the~~
9 ~~employer or other person to whom or in whose name the master policy or contract has been~~
10 ~~issued shall be deemed to be the member or policyholder and shall be entitled to one vote for each~~
11 ~~policy or contract of group insurance irrespective of the number of individuals insured.~~

12 (2) All of the initial shares of the capital stock of the reorganized insurance company
13 shall be issued to the mutual insurance holding company. The membership interests of the
14 policyholders of the reorganized insurance company shall become membership interests in the
15 mutual insurance holding company. Policyholders of the reorganized insurance company shall be
16 members of the mutual insurance holding company in accordance with the articles of
17 incorporation and bylaws of the mutual insurance holding company. The mutual insurance
18 holding company shall at all times own a majority of the voting shares of the capital stock of the
19 reorganized insurance company.

20 ~~(b) A plan of reorganization of a mutual insurance company into a mutual insurance~~
21 ~~holding company structure may provide for the reorganization to be effected in one of the~~
22 ~~following manners:~~

23 ~~(1) A domestic mutual insurance company may form a mutual insurance holding~~
24 ~~company in accordance with the provisions of § 7-1-5 except that the approval of the plan of~~
25 ~~reorganization by the director of the department of business regulation shall be deemed to~~
26 ~~constitute the approval of the director of the department of business regulation required under §~~
27 ~~7-1-5. Upon this formation, the domestic mutual insurance company shall be converted to a stock~~
28 ~~insurance company and shall issue to the mutual insurance holding company all of the authorized~~
29 ~~shares of the voting stock of the stock insurance company. The articles of incorporation and~~
30 ~~bylaws of the mutual insurance holding company formed in this manner shall provide for all then~~
31 ~~current policyholders of the converted mutual insurance company to become members of the~~
32 ~~mutual insurance holding company and to retain this membership interest so long as the~~
33 ~~policyholder has a policy in force with the converted mutual insurance company. The articles of~~
34 ~~incorporation and bylaws of the mutual insurance holding company also shall set forth the terms~~

1 ~~and conditions under which future policyholders of the stock insurance company shall become~~
2 ~~members of the mutual insurance holding company. The mutual insurance holding company at all~~
3 ~~times shall retain a majority of the issued and outstanding shares of each class of voting stock of~~
4 ~~the stock insurance company.~~ A domestic mutual insurance company, upon the approval of the
5 commissioner, may reorganize by merging its policyholders' membership interests into a mutual
6 insurance holding company and continuing the corporate existence of the reorganizing insurance
7 company as a stock insurance company subsidiary of the mutual insurance holding company. The
8 commissioner, after consideration of a filing under Rhode Island general laws section 27-35-2, if
9 satisfied that the interests of the policyholders are properly protected and that the merger is fair
10 and equitable to the policyholders, may approve the proposed merger and may require as a
11 condition of approval such modifications of the proposed merger as the commissioner finds
12 necessary for the protection of the policyholders' interests. The commissioner may retain
13 consultants as provided in Rhode Island general laws subdivision 27-35-2(d)(3). A merger
14 pursuant to this section is subject to Rhode Island general laws sections 27-35-1, 27-35-1.5, 27-
15 35-2 and 27-35-2.5. The commissioner shall retain jurisdiction over the mutual insurance holding
16 company organized pursuant to this section to assure that policyholder interests are protected.

17 (2) ~~A domestic mutual insurance company may merge its policyholders' membership~~
18 ~~interests into a mutual insurance holding company previously formed under the provisions of this~~
19 ~~section. Upon the merger, the domestic mutual insurance company shall be converted to a stock~~
20 ~~insurance company and shall issue to the mutual insurance holding company all of the authorized~~
21 ~~shares of voting stock of the stock insurance company. In connection with the merger and in~~
22 ~~accordance with the articles of incorporation and bylaws of the mutual insurance holding~~
23 ~~company, the then current policyholders of the converted mutual insurance company shall~~
24 ~~become members of the mutual insurance holding company and shall retain membership interest~~
25 ~~so long as the policyholder has a policy in force with the converted mutual insurance company.~~
26 ~~The mutual insurance holding company at all times shall retain a majority of the issued and~~
27 ~~outstanding shares of each class of voting stock of the stock insurance company.~~ All of the initial
28 shares of the capital stock of the reorganized insurance company shall be issued to the mutual
29 insurance holding company. The membership interests of the policyholders of the reorganized
30 insurance company shall become membership interests in the mutual insurance holding company.
31 Policyholders of the reorganized insurance company shall be members of the mutual insurance
32 holding company in accordance with the articles of incorporation and bylaws of the mutual
33 insurance holding company. The mutual insurance holding company shall at all times own a
34 majority of the voting shares of the capital stock of the reorganized insurance company. A merger

1 of policyholders' membership interests in a mutual insurance company into a mutual insurance
2 holding company shall be deemed to be a merger of insurance companies pursuant to Rhode
3 Island general laws section 27-35-2 and that chapter is also applicable.

4 (3) ~~A domestic mutual insurance company may establish a subsidiary stock insurance~~
5 ~~company in accordance with the provisions of § 7-1-5 (approval of the plan of reorganization by~~
6 ~~the director of the department of business regulation constituting any approval required under § 7-~~
7 ~~1-5) and then transfer to the subsidiary stock insurance company substantially all of its assets and~~
8 ~~liabilities. Upon this transfer, all persons who prior to the transfer held policy rights with respect~~
9 ~~to or other rights as creditors of the mutual insurance company shall have those rights solely with~~
10 ~~respect to the subsidiary stock insurance company created and the corresponding liability or~~
11 ~~obligation of the mutual insurance company to those persons shall be assumed by the subsidiary~~
12 ~~stock insurance company. All policyholders of the mutual insurance company at the time of the~~
13 ~~transfer of assets and liabilities shall continue to have a membership interest in the mutual~~
14 ~~insurance company and the articles of incorporation and bylaws of the mutual insurance company~~
15 ~~shall be amended to provide this. The articles of incorporation and bylaws of the mutual~~
16 ~~insurance company shall also be amended to set forth the terms and conditions under which~~
17 ~~future policyholders of the subsidiary stock insurance company shall become members of the~~
18 ~~mutual insurance company. The mutual insurance company after this shall be considered a mutual~~
19 ~~insurance holding company for the purposes of this section and at all times shall retain a majority~~
20 ~~of the issued and outstanding shares of each class of voting stock of the subsidiary stock~~
21 ~~insurance company.~~ A foreign mutual insurance company, or a foreign health service corporation,
22 which if a domestic corporation would be organized under chapters 19, 20, 20.1, 20.2 or 20.3 of
23 title 27, may reorganize upon the approval of the commissioner and in compliance with the
24 requirements of any law or regulation which is applicable to the foreign mutual insurance
25 company or foreign health service corporation by merging its policyholders' or subscribers'
26 membership interests into a mutual insurance holding company and continuing the corporate
27 existence of the reorganizing foreign mutual insurance company or reorganizing foreign health
28 service corporation as a foreign stock insurance company subsidiary of the mutual insurance
29 holding company. The commissioner, after consideration of a filing under Rhode Island general
30 laws section 27-35-2, may approve the proposed merger. The commissioner may retain
31 consultants as provided in Rhode Island general laws subdivision 27-35-2(d)(3). A merger
32 pursuant to this paragraph is subject to Rhode Island general laws section 27-35-2. The
33 reorganizing foreign mutual insurance company or reorganizing foreign health service
34 corporation may remain a foreign company or foreign corporation after the merger, and may be

1 admitted to do business in this state. A foreign mutual insurance company or foreign mutual
2 health service corporation which is a party to the merger may at the same time redomesticate in
3 this state by complying with the applicable requirements of this state and its state of domicile.
4 The provisions of subdivision (2) above shall apply to a merger authorized under this subdivision,
5 except that a reference to policyholders in that subdivision is also deemed to include subscribers
6 in the case of a health service corporation.

7 ~~(c) The plan of reorganization shall specify in any detail as may be required by the~~
8 ~~director of the department of business regulation the manner under subsection (b) in which the~~
9 ~~mutual holding company structure shall be created, the capital structure of the stock insurance~~
10 ~~company and the mutual insurance holding company, the management of the stock insurance~~
11 ~~company and the mutual insurance holding company, the purposes for the reorganization, the~~
12 ~~articles of incorporation and bylaws of both the mutual insurance holding company and the stock~~
13 ~~insurance company, and the terms of and use of proceeds from any proposed sale of capital stock~~
14 ~~by the stock insurance company.~~ A mutual insurance holding company resulting from the
15 reorganization of a domestic mutual insurance company organized under chapter 1 of title 27
16 shall be incorporated pursuant to chapter 1 of title 27. The articles of incorporation and any
17 amendments to such articles of the mutual insurance holding company shall be subject to
18 approval of the commissioner in the same manner as those of an insurance company.

19 ~~(d) The corporate existence of any mutual insurance company reorganizing into a mutual~~
20 ~~insurance holding company structure under this section shall not terminate, but the reorganized~~
21 ~~institution shall be deemed to be a continuation of entity of this reorganized mutual insurance~~
22 ~~company.~~ A mutual insurance holding company is deemed to be an insurer subject to chapters
23 14.1, 14.2, 14.3 and 14.4 of title 27 and shall automatically be a party to any proceeding under
24 chapters 14.3 or 14.4 of title 27 involving an insurance company which as a result of a
25 reorganization pursuant to subsection (a) or (b) is a subsidiary of the mutual insurance holding
26 company. In any proceeding under chapters 14.3 or 14.4 of title 27 involving the reorganized
27 insurance company, the assets of the mutual insurance holding company are deemed to be assets
28 of the estate of the reorganized insurance company for purposes of satisfying the claims of the
29 reorganized insurance company's policyholders. A mutual insurance holding company shall not
30 dissolve or liquidate without the approval of the commissioner or as ordered by the superior court
31 pursuant to chapters 14.3 or 14.4 of title 27.

32 ~~(e) The director of the department of business regulation may employ staff personnel as~~
33 ~~well as professional consultants and other persons to assist in the review of the plan of~~
34 ~~reorganization and may hold public hearings as, in the director's discretion, are desirable prior to~~

1 ~~granting approval of the plan of reorganization. All reasonable costs related to the review of the~~
2 ~~plan of reorganization, including the costs attributable to staff personnel and professional~~
3 ~~consultants, shall be borne by the mutual insurance company filing a plan of reorganization for~~
4 ~~approval. Section 27-1-40 of the general laws is not applicable to a reorganization or merger~~
5 pursuant to this section.

6 (f) ~~The department of business regulation shall issue rules and regulations implementing~~
7 ~~this section, which shall be administered by the director of the department of business regulation.~~
8 A membership interest in a domestic mutual insurance holding company shall not constitute a
9 security as defined in chapter 7-11.

10 (g) ~~Subject to applicable provisions of this title, a mutual insurance holding company~~
11 ~~formed pursuant to this section may: (1) invest in the stock of one or more domestic or foreign~~
12 ~~insurance companies; (2) acquire a domestic or foreign insurance company through consolidation~~
13 ~~or merger of the institution with its subsidiary insurance company; (3) merge with another mutual~~
14 ~~insurance holding company; (4) invest in a corporation, the purchase of the capital stock of which~~
15 ~~is permitted for a mutual insurance company under the laws of this state; (5) exercise any other~~
16 ~~power or engage in any activity permitted to a mutual insurance company organized under the~~
17 ~~laws of this state; and (6) exercise the powers and engage directly or indirectly in those activities~~
18 ~~as are now or may after this be permitted for business corporations under Chapter 1.1 of this title.~~
19 The majority of the voting shares of the capital stock of the reorganized insurance company,
20 which is required by this section to be at all times owned by a mutual insurance holding company,
21 shall not be conveyed, transferred, assigned, pledged, subjected to a security interest or lien,
22 encumbered, or otherwise hypothecated or alienated by the mutual insurance holding company or
23 intermediate holding company. Any conveyance, transfer, assignment, pledge, security interest,
24 lien, encumbrance, or hypothecation or alienation of, in or on the majority of the voting shares of
25 the reorganized insurance company which is required by this section to be at all times owned by a
26 mutual insurance holding company, is in violation of this section and shall be void in inverse
27 chronological order of the date of such conveyance, transfer, assignment, pledge, security
28 interest, lien, encumbrance, or hypothecation or alienation, as to the shares necessary to constitute
29 a majority of such voting shares. The majority of the voting shares of the capital stock of the
30 reorganized insurance company which is required by this section to be at all times owned by a
31 mutual insurance holding company shall not be subject to execution and levy. The shares of the
32 capital stock of the surviving or new company resulting from a merger or consolidation of two (2)
33 or more reorganized insurance companies or two (2) or more intermediate holding companies
34 which were subsidiaries of the same mutual insurance holding company are subject to the same

1 requirements, restrictions, and limitations as provided in this section to which the shares of the
2 merging or consolidating reorganized insurance companies or intermediate holding companies
3 were subject by this section prior to the merger or consolidation.

4 As used in this section, “majority of the voting shares of the capital stock of the
5 reorganized insurance company” means shares of the capital stock of the reorganized insurance
6 company which carry the right to cast a majority of the votes entitled to be cast by all of the
7 outstanding shares of the capital stock of the reorganized insurance company for the election of
8 directors and on all other matters submitted to a vote of the shareholders of the reorganized
9 insurance company. The ownership of a majority of the voting shares of the capital stock of the
10 reorganized insurance company which are required by this section to be at all times owned by a
11 parent mutual insurance holding company includes indirect ownership through one or more
12 intermediate holding companies in a corporate structure approved by the commissioner.
13 However, indirect ownership through one or more intermediate holding companies shall not
14 result in the mutual insurance holding company owning less than the equivalent of a majority of
15 the voting shares of the capital stock of the reorganized insurance company. The commissioner
16 shall have jurisdiction over an intermediate holding company as if it were a mutual insurance
17 holding company. As used in this section, “intermediate holding company” means a holding
18 company which is a subsidiary of a mutual insurance holding company, and which either directly
19 or through a subsidiary intermediate holding company has one or more subsidiary reorganized
20 insurance companies of which a majority of the voting shares of the capital stock would
21 otherwise have been required by this section to be at all times owned by the mutual insurance
22 holding company.

23 ~~(h) A mutual insurance holding company formed pursuant to this section, subsequent to~~
24 ~~its formation, shall be subject to the provisions of Chapter 35 of this title.~~

25 SECTION 2. Chapter 27-14.3 of the General Laws entitled "Insurers' Rehabilitation and
26 Liquidation Act" is hereby amended by adding thereto the following section:

27 **27-14.3-22.1. Grounds for rehabilitation or liquidation of a domestic company that**
28 **is covered financial company under Dodd-Frank Wall Street reform and consumer**
29 **protection act.** – (a) The provisions of this section apply in accordance with title II of the federal
30 Dodd-Frank Wall Street reform and consumer protection act, P.L. 111--203 with respect to an
31 insurance company that is a covered financial company, as that term is defined under 12 U.S.C.
32 5381.

33 (b) The commissioner may file a complaint for an order of rehabilitation or liquidation
34 pursuant to subdivision (4) of this chapter on any of the following grounds:

1 (1) Upon a determination and notification given by the secretary of the treasury of the
2 United States (in consultation with the President of the United States) that the insurance company
3 is a financial company satisfying the requirements of 12 U.S.C. 5383(b), and the board of
4 directors (or body performing similar functions) of the insurance company acquiesces or consents
5 to the appointment of a receiver pursuant to 12 U.S.C. 5382 (a) (1) (A) (i) with such consent to be
6 considered as consent to an order of rehabilitation or liquidation;

7 (2) Upon an order of the United States district court for the District of Columbia under 12
8 U.S.C. 5382 (a) (1) (A) (iv) (I) granting the petition of the secretary of the treasury of the United
9 States concerning the insurance company under 12 U.S.C. 5382(a) (1) (A) (i); or

10 (3) A petition by the secretary of the treasury of the United States concerning the
11 insurance company is granted by operation of law under 12 U.S.C. 5382(a) (1) (A) (v)

12 (c) Notwithstanding any other provision of law, after notice to the insurance company,
13 the receivership court may grant an order on the complaint for rehabilitation or liquidation within
14 twenty (24) hours after the filing of a complaint pursuant to this section.

15 (d) If the receivership court does not make a determination on a complaint for
16 rehabilitation or liquidation filed by the commissioner pursuant to this section within twenty-four
17 (24) hours after its filing, then it shall be deemed granted by operation of law upon the expiration
18 of the twenty-four (24) hour period. At the time that an order is deemed granted under this
19 section, the provisions of Article XIII of this code shall be deemed to be in effect, and the director
20 shall be deemed to be affirmed as receiver and have all of the applicable powers provided by this
21 code, regardless of whether an order has been entered. The receivership court shall expeditiously
22 enter an order of rehabilitation or liquidation that:

23 (1) Is effective as of the date that it is deemed granted by operation of law; and

24 (2) Conforms to the provisions for rehabilitation or liquidation contained in this chapter,
25 as applicable.

26 (e) Any order of rehabilitation or liquidation made pursuant to this section shall not be
27 subject to any stay or injunction pending appeal.

28 (f) Nothing in this section shall be construed to supersede or impair any other power or
29 authority of the commissioner or the court under this chapter or title 27.

30 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE --DOMESTIC INSURANCE COMPANIES

- 1 This act would update and clarify the current state mutual holding company laws and the
- 2 provisions concerning the rehabilitation or liquidation of a domestic company that is a covered
- 3 financial company under the federal Dodd-Frank Wall Street reform and consumer protection act.
- 4 This act would take effect upon passage.

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