

To accompany the petition of John C. Tuplin for legislation relative to merger and consolidation of insurance companies, to reinsurance, to the acquisition by a domestic insurance company and sale by a domestic or foreign stock company of all or any part of an insurance business and to the dissolution of such selling company. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Five.

AN ACT RELATING TO MERGER AND CONSOLIDATION OF INSURANCE COMPANIES AND RELATING TO REINSURANCE, AND RELATIVE TO THE ACQUISITION BY A DOMESTIC INSURANCE COMPANY AND SALE BY A DOMESTIC OR FOREIGN STOCK COMPANY OF ALL OR PART OF AN INSURANCE BUSINESS, AND ALSO THE DISSOLUTION OF SUCH SELLING COMPANY.

1 *Whereas*, The purposes of this act are to amend the
 2 laws in respect to the merger of insurance companies,
 3 to permit the merger of a stock company into a mutual
 4 company when such proposed merger is approved by
 5 the insurance commissioner, to amend the law relating
 6 to reinsurance, and to add additional sections to the
 7 insurance laws clarifying the powers of domestic in-
 8 surance companies to acquire and of foreign and do-
 9 mestic stock companies to sell, all or part of the busi-
 10 ness of such stock insurance companies, also providing
 11 for the dissolution of such a selling company in a proper
 12 case; and

13 *Whereas*, The deferred operation of this act would
 14 tend in part to defeat its purpose, therefore it is de-
 15 clared to be an emergency law, necessary for the im-
 16 mediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 19A of chapter 175 of the Gen-
 2 eral Laws is hereby amended by striking out the last

3 sentence thereof and inserting in place thereof the fol-
4 lowing: — Nothing in this section shall authorize the
5 merger or consolidation of mutual companies and stock
6 companies except as hereinafter provided. A domestic
7 or foreign stock company may merge with a domestic
8 mutual company in the manner prescribed hereinabove;
9 provided, however, that (a) the said domestic mutual
10 company shall continue as the same corporation with
11 the same corporate powers as before and the certificate
12 issued by the state secretary shall be a certificate of
13 merger of the said stock company into the said mutual
14 company; and (b) all the provisions and effects of such
15 merger shall be set forth in said written agreement for
16 merger and shall be approved by the commissioner,
17 who shall withhold his approval if any of the provisions
18 or effects of the merger are deemed by him to be in con-
19 flict with any provision of this chapter or other appli-
20 cable laws, and may also withhold such approval in his
21 absolute discretion, any such withholding of approval
22 to be not subject to review in any manner.

1 SECTION 2. Section 19B of said chapter 175 is hereby
2 amended by striking out the last sentence of the first
3 paragraph thereof and inserting in place thereof the
4 following: — Nothing in this section shall authorize the
5 merger or consolidation of mutual companies with stock
6 companies, except that a domestic stock company or
7 companies may merge with and into foreign mutual
8 companies as herein provided, if such merger is author-
9 ized by the law of the state of incorporation of said for-
10 eign mutual company and provided that the continuing
11 or surviving corporation is the said mutual company.

1 SECTION 3. Section 20 of said chapter 175 is hereby
2 amended by adding to the third paragraph thereof the
3 following sentence: — The policyholders of a stock com-
4 pany so ceding reinsurance to a mutual company shall
5 not become members of the reinsuring company or en-
6 titled to any dividend or expiration return of premium,
7 except as specifically provided for in said agreement,

8 nor shall any such policyholder be subjected without
9 his consent to any liability to assessment.

1 SECTION 4. Said chapter 175 is hereby further
2 amended by inserting after section 20 the following
3 two sections:—

4 *Section 20A.* Subject to the conditions hereinafter
5 provided, a domestic mutual or stock company may
6 acquire all or any part of the business of a domestic
7 or foreign stock company, including all or any part of
8 the good will, cash, securities, other assets, rights un-
9 der policies and other rights and properties of any kind.
10 The acquiring company may pay cash for such acquisi-
11 tion, such cash to be derived only from the unrestricted
12 surplus of the company. The acquiring company may
13 also, in connection with such acquisition, assume any
14 of the liabilities of the selling company, and may as-
15 sume and reinsure the liabilities and obligations of the
16 selling company to its policyholders, subject, however,
17 to the provisions of section twenty governing reinsur-
18 ance, except that said transaction shall be approved or
19 disapproved by the commissioner solely as provided
20 for in this section. The said companies shall enter
21 into a written agreement showing all the terms and con-
22 ditions for such acquisition and sale, including the cash
23 consideration to be paid, the properties and rights to be
24 acquired, the manner of providing for the satisfaction
25 of outstanding obligations of the selling company to
26 its creditors and policyholders, and such other matters
27 as may be required by the commissioner. Said agree-
28 ment shall take effect only when approved by the com-
29 missioner in writing. When liabilities or obligations to
30 creditors or policyholders are assumed by the acquiring
31 company pursuant to such an agreement, the said cred-
32 itors, policyholders or other obligees of the selling com-
33 pany may thereafter enforce all their rights and claims
34 directly against the said acquiring company, and the
35 said acquiring company shall be substituted for the
36 selling company in all pending suits relating thereto.

37 The said agreement shall be authorized in behalf of the
38 contracting companies, by a vote of a majority of the
39 board of directors of each company, and in the case of a
40 stock company by a vote of two thirds of all of its stock-
41 holders, and in the case of a mutual company by a vote
42 of two thirds of the policyholders thereof present and
43 voting at a special or annual meeting. Each such meet-
44 ing of shareholders or policyholders at which such agree-
45 ment is considered, shall be duly held pursuant to law
46 and notice thereof, specifying the purposes thereof,
47 shall also be published at least once a week for three
48 successive weeks in some newspaper published in the
49 city or town where the company's principal office is
50 located. A copy of such agreement duly executed and
51 accompanied by properly attested copies of the reso-
52 lutions or votes authorizing such agreement in behalf
53 of each company shall be submitted to the commis-
54 sioner. The commissioner shall approve any such
55 agreement made as hereinabove provided unless he
56 shall find that it is not in compliance with the provi-
57 sions of this chapter or other applicable law, or that
58 the carrying out of the agreement will result in the
59 violation of any such laws, or will be unfairly prejudi-
60 cial to the creditors or policyholders of the selling
61 company; and if the commissioner fails to approve
62 said agreement, he shall specify his reasons therefor
63 in writing. Nothing herein contained nor any proce-
64 dure taken pursuant hereto shall be deemed to author-
65 ize the doing of any insurance business or other acts
66 except in compliance with this chapter and all other
67 applicable provisions of law.

68 *Section 20B.* A domestic stock company may sell or
69 transfer to a domestic stock or mutual company all or
70 any part of the business of the former company, includ-
71 ing all or any part of the good will, cash, securities,
72 other assets, rights under policies, and other rights and
73 properties of any kind; provided, that an agreement
74 for such sale or transfer is made and approved in the
75 manner prescribed in section twenty A; and, in con-

76 nection therewith and as provided in sections twenty
77 and twenty A, said selling company may cede all or
78 any part of its insurance risks to the acquiring com-
79 pany.

80 A domestic stock company may sell all or part of its
81 business, as aforesaid, to a foreign company incorpor-
82 ated under the laws of any other state of the United
83 States, and may in connection therewith cede or re-
84 insure all or part of its insurance risks; provided, that
85 the agreement therefor is in writing and is authorized
86 by its directors and stockholders in the same manner
87 as is hereinabove provided for in section twenty A;
88 and provided, further, that the agreement and arrange-
89 ments for such sale are approved in writing by the com-
90 missioner. The commissioner may, however, in his ab-
91 solute discretion and for any reason, refuse to issue an
92 approval of such a sale of assets to a foreign company,
93 and his decision shall be final.

94 If a domestic stock company so votes to sell more
95 than half in value of its total assets and properties, as
96 measured by the book value thereof, to a domestic or
97 foreign insurance company, any stockholder of such
98 selling company who voted against such sale shall have
99 and may exercise the rights given to a stockholder of
100 a business corporation under section forty-six of chap-
101 ter one hundred and fifty-six.

102 If a domestic stock company ceases to do an insur-
103 ance business after selling its business as herein pro-
104 vided, and if the commissioner shall certify that he
105 has investigated the affairs of the company, and that,
106 in his opinion, the company has no outstanding obliga-
107 tions to policyholders exclusive of obligations which
108 have been assumed by or reinsured with a domestic
109 or foreign company pursuant to law, said domestic
110 stock company may be dissolved pursuant to the pro-
111 visions of chapter one hundred and fifty-five.

