

SENATE No. 735

By Ms. Wilkerson, a petition (accompanied by bill, Senate, No. 735) of Dianne Wilkerson, Susan C. Fargo and Gloria L. Fox for legislation relative to the procedure for the conversion of a mutual to stock company as part of a reorganization plan involving a parent company. Insurance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

**AN ACT PROVIDING ADDITIONAL PROCEDURAL PROTECTIONS IN
DEMUTUALIZATION PROCESSES.**

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 19E of chapter 175 of the General Laws,
2 as appearing in the 1994 Official Edition, is hereby amended
3 by inserting after the word "section," in line 2, the following
4 words: — and with the written approval of the commissioner.

1 SECTION 2. Said section 19E of said chapter 175 of
2 the General Laws is hereby further amended by striking subsec-
3 tion (1) and inserting in place thereof the following subsection: —

4 (1) Such a plan shall be filed with the commissioner and must:
5 (a) demonstrate a purpose and specify reasons for the proposed
6 reorganization; (b) be in the best interest of the mutual life insurer
7 and its policyholders; (c) be fair and equitable to policyholders;
8 (d) provide for the enhancement of operations of the reorganized
9 insurer; and (f) not substantially lessen competition in any line of
10 insurance business.

1 SECTION 3. Said section 19E of said chapter 175 of
2 the General Laws is hereby further amended by striking subsec-
3 tion (2) and inserting in place thereof the following subsection: —

4 (2) The proposed reorganization shall be accomplished by a
5 plan which must be fair and equitable to policyholders and must
6 comply with the requirements of this section.

1 SECTION 4. Said section 19E of said chapter 175 of the
2 General Laws is hereby further amended by inserting after subsec-
3 tion (9) the following new subsections: —

4 (10) A mutual life insurer seeking to reorganize under this
5 section shall, by vote of three-fourths of its entire board of direc-
6 tors, adopt a plan consistent with the provisions of this section and
7 that it finds fair and equitable to the policyholders. The plan of
8 reorganization shall set forth (a) a demonstration of the purpose
9 for the proposed reorganization; (b) the form of the reorganiza-
10 tion; (c) the proposed charter of the reorganized insurer and its by-
11 laws which shall provide for the removal of the word "mutual"
12 from the name of the company; (d) the manner and basis by which
13 the reorganization shall take place; (e) the consideration to be
14 given to policyholders in exchange for their policyholders'
15 membership interest or the manner of converting the policy-
16 holders' membership interest into cash, securities, a certificate of
17 contribution, additional life insurance or annuity benefits,
18 increased dividends or any combination of such forms of consider-
19 ation; (f) the method of allocating the consideration among policy-
20 holders; (g) the method of operating of the mutual life insurer's
21 participating business comprised of its participating policies and
22 contracts in force on the effective date of the reorganization;
23 (h) a plan of operation for the reorganized insurer including
24 actuarial projections for a ten-year period and a statement
25 indicating its intentions with regard to issuing any nonpartici-
26 pating business. The plan of reorganization may contain any other
27 conditions and provisions which the board of directors of the
28 mutual life insurer may deem necessary or advisable in connection
29 with the proposed reorganization; provided that, the commissioner
30 determines that said conditions and provisions do not conflict with
31 the requirements of this section.

32 (11) The commissioner shall hold a public hearing upon the
33 fairness of the terms and conditions of the plan of reorganization,
34 the reasons and purposes for the mutual life insurer to demutu-
35 alize, and whether the reorganization is in the best interest of
36 mutual life insurer and its policyholders, and not detrimental to
37 the insuring public. Notice stating the time, place and purpose of
38 the hearing shall be mailed by the mutual life insurer to each eli-
39 gible policyholder, at his last known address as shown on the

40 records of the mutual life insurer; such notice shall be mailed at
41 least thirty days prior to the date of the hearing. Such notice shall
42 be preceded or accompanied by a true and complete copy of the
43 plan, or by a summary thereof approved by the commissioner, and
44 such other explanatory information as the commissioner shall
45 approve or require. In addition, the mutual life insurer shall give
46 notice of the time, place and purpose of the hearing by publication
47 in three newspapers of general circulation, one in the county in
48 which the mutual life insurer has its principal office and two in
49 other cities within or without the state approved by the commis-
50 sioner; such newspaper publications shall be made not less than
51 fifteen days nor more than sixty days prior to the hearing, and
52 shall be in a form approved by the commissioner.

53 (12) The commissioner shall, after the public hearing required
54 by subsection (11) of this section, approve the plan of reorganiza-
55 tion if he finds that the proposed reorganization, in whole or in
56 part, does not violate this section, is fair and equitable to the poli-
57 cyholders and is not detrimental to the insuring public and that,
58 after giving effect to the reorganization, the reorganized insurer
59 will have an amount of capital and surplus the commissioner
60 deems reasonably necessary for its future solvency. If approval is
61 denied, the denial shall be in writing setting forth a statement of
62 the reasons therefor and the mutual life insurer shall have the right
63 to a hearing before the commissioner within thirty days of the date
64 of such denial. The commissioner shall approve or disapprove the
65 plan in writing on or before sixty days after the conclusion of the
66 public hearing required by subsection (11) of this section.

67 (13) A proposal to approve the plan of reorganization shall be
68 submitted to the policyholders. Notice stating the date, time and
69 place for voting on such plan shall be mailed by the mutual life
70 insurer to each eligible policyholder, at his last known address as
71 shown on the records of the mutual life insurer; such notice shall
72 be mailed at least thirty days prior to the date of voting on said
73 plan. Such notice may be combined with the notice of public
74 hearing as mailed to each eligible policyholder pursuant to
75 subsection (11) of this section. Such notice shall be preceded or
76 accompanied by a true and complete copy of the plan, or by
77 a summary thereof approved by the commissioner, and such other
78 explanatory information as the commissioner shall approve
79 or require.

80 Each policyholder entitled to vote on the proposal shall be
81 entitled to cast one vote, unless otherwise provided for in the
82 charter or by-laws of the mutual life insurer, either in person or by
83 mail or by proxy, irrespective of the number or amount of the
84 policies or contracts he holds. All votes shall be by written ballot
85 cast in person or by mail by policyholders entitled to vote or by
86 proxy agents duly appointed by policyholders entitled to vote. The
87 proposal to approve the plan of reorganization may be adopted by
88 the affirmative vote of two-thirds of all votes cast by policy-
89 holders entitled to vote.

90 The commissioner shall have power to supervise and direct and
91 prescribe the rules governing the procedure for the conduct of
92 voting on the proposal to such extent, consistent with the provi-
93 sions of this section, as he deems necessary to insure a fair and
94 accurate vote; such powers shall include, but not be limited to,
95 power to supervise and regulate (a) the determination of policy-
96 holders entitled to notice of and to vote on the proposal; (b) the
97 giving of notice of the proposal; (c) the receipt, custody, safe-
98 guarding, verification and tabulation of proxy forms and ballots;
99 and (d) the resolution of disputes.