

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

March 10, 2020

Committee on Business Affairs & Labor.

After consideration on the merits, the Committee recommends the following:

HB20-1091 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, after line 10 insert:  
2       "(3) (a) "CONTRACT HOLDER" MEANS THE OWNER OF AN ANNUITY  
3 CONTRACT.  
4       (b) "CONTRACT HOLDER" DOES NOT MEAN A CERTIFICATE HOLDER  
5 OF A GROUP ANNUITY CONTRACT OR ANY OTHER COVERED PERSON UNDER  
6 A GROUP ANNUITY CONTRACT."
- 7 Renumber succeeding subsections accordingly.
- 8 Page 3, after line 23 insert:  
9       "(9) (a) "POLICYHOLDER" MEANS THE OWNER OF AN INSURANCE  
10 POLICY.  
11       (b) "POLICYHOLDER" DOES NOT MEAN A CERTIFICATE HOLDER OF  
12 A GROUP INSURANCE POLICY OR ANY OTHER COVERED PERSON UNDER A  
13 GROUP INSURANCE POLICY."
- 14 Renumber succeeding subsections accordingly.
- 15 Page 8, strike lines 24 through 27 and substitute "APPROVED BY THE  
16 COMMISSIONER IN ACCORDANCE WITH THIS SECTION.  
17       (b) BEFORE APPROVING A PLAN OF DIVISION, THE COMMISSIONER  
18 SHALL:  
19       (I) HOLD A PUBLIC HEARING IN ACCORDANCE WITH SECTION  
20 24-4-105, EXCEPT TO THE EXTENT THAT THE PROCEDURES CONTAINED

1 THEREIN CONFLICT WITH THE PROCEDURES SET FORTH IN THIS PART 17;  
2 (II) PROVIDE NOTICE OF THE PUBLIC HEARING REQUIRED PURSUANT  
3 TO SUBSECTION (2)(b)(I) OF THIS SECTION TO STATE INSURANCE  
4 REGULATORS AND APPROPRIATE STATE GUARANTY ASSOCIATIONS IN  
5 STATES IN WHICH THE DIVIDING INSURER IS AUTHORIZED TO DO BUSINESS;  
6 AND  
7 (III) BE SATISFIED THAT THE DIVIDING INSURER HAS MADE  
8 REASONABLE EFFORTS TO PROVIDE TO ALL POLICYHOLDERS, CONTRACT  
9 HOLDERS, REINSURERS, AND OTHER PERSONS WITH AN INTEREST IN THE  
10 PROPOSED PLAN OF DIVISION AT LEAST THIRTY DAYS PRIOR NOTICE OF THE  
11 PUBLIC HEARING IF THE COMMISSIONER DETERMINES THAT IT WOULD BE  
12 UNREASONABLE OR UNFAIR TO NOT PROVIDE SUCH NOTICE TO SUCH OTHER  
13 PERSONS. FOR THE PURPOSES OF THIS SUBSECTION (2)(b)(III), A NOTICE  
14 MUST:".

15 Page 9, strike lines 1 through 8.

16 Page 9, after line 8 insert:

17 "(A) PROVIDE INFORMATION REGARDING THE PROPOSED DIVISION  
18 UNDER CONSIDERATION AND THE LOCATION, DATE, AND TIME OF THE  
19 PUBLIC HEARING; AND

20 (B) IF THE DIVIDING INSURER HAS THE LAST-KNOWN ADDRESS OR  
21 LAST-KNOWN E-MAIL ADDRESS OF THE POLICYHOLDER, CONTRACT  
22 HOLDER, REINSURER, OR OTHER PERSON ON FILE, EITHER BE MAILED TO  
23 THE LAST-KNOWN ADDRESS OF SUCH PERSON OR SENT VIA ELECTRONIC  
24 MEANS TO THE LAST-KNOWN E-MAIL ADDRESS OF SUCH PERSON.

25 (c) THE COMMISSIONER SHALL:

26 (I) CONSIDER ANY SIMULTANEOUS MERGER OR ACQUISITION OF A  
27 RESULTING INSURER AS PART OF THE PLAN OF DIVISION;

28 (II) IN THE CASE OF A SIMULTANEOUS MERGER, APPLY TO THE  
29 RESULTING INSURER INVOLVED IN THE SIMULTANEOUS MERGER THE  
30 REQUIREMENTS OF THIS PART 17 THAT ARE APPLICABLE TO THE RESULTING  
31 INSURER AS MERGED INTO THE SURVIVING ENTITY IN THE MERGER AND  
32 NOT TO THE RESULTING INSURER PRIOR TO THE MERGER;

33 (III) CONSIDER, AMONG OTHER THINGS, ALL ASSETS, LIABILITIES,  
34 AND CASH FLOWS, THE NATURE AND COMPOSITION OF THE ASSETS  
35 PROPOSED TO BE TRANSFERRED IN SUPPORT OF THE PLAN OF DIVISION, AND  
36 ALL PROPOSED ASSETS OF THE RESULTING INSURERS, WHICH  
37 CONSIDERATION MUST INCLUDE AN ASSESSMENT OF THE RISKS AND  
38 QUALITY, INCLUDING THE LIQUIDITY AND MARKETABILITY, OF THE  
39 PROPOSED PORTFOLIO OF THE RESULTING INSURER; CONSIDERATION OF

1 ASSET AND LIABILITY MATCHING; AND THE TREATMENT OF THE MATERIAL  
2 ELEMENTS OF THE PORTFOLIO BASED ON STATUTORY ACCOUNTING  
3 PRACTICES.

4 (d) AFTER MAKING THE CONSIDERATIONS DESCRIBED IN  
5 SUBSECTION (2)(c) OF THIS SECTION, THE COMMISSIONER SHALL APPROVE  
6 A PLAN OF DIVISION IF THE COMMISSIONER FINDS THAT THE FOLLOWING  
7 REQUIREMENTS ARE MET:".

8 Reletter succeeding paragraphs accordingly.

9 Page 9, line 12, strike "POLICYHOLDERS," and substitute "POLICYHOLDERS,  
10 CONTRACT HOLDERS, OR REINSURERS,".

11 Page 9, line 13, strike "POLICYHOLDERS;" and substitute "POLICYHOLDERS,  
12 CONTRACT HOLDERS, OR REINSURERS;".

13 Page 9, strike line 16 and substitute "POLICYHOLDERS, CONTRACT  
14 HOLDERS, OR REINSURERS;".

15 Page 9, line 26, strike "POLICYHOLDERS" and substitute "POLICYHOLDERS,  
16 CONTRACT HOLDERS, OR REINSURERS".

17 Page 10, line 4, strike "POLICYHOLDERS" and substitute "POLICYHOLDERS,  
18 CONTRACT HOLDERS, OR REINSURERS".

19 Page 10, line 14, strike "AND".

20 Page 10, line 19, strike "ENGAGE." and substitute "ENGAGE;".

21 Page 10, after line 19 insert:

22 "(IX) THE PROPOSED DIVISION IS NOT BEING MADE FOR THE  
23 PURPOSE OF HINDERING, DELAYING, OR DEFRAUDING ANY POLICYHOLDERS,  
24 CONTRACT HOLDERS, OR REINSURERS;

25 (X) EACH RESULTING INSURER THAT WILL BE A MEMBER INSURER  
26 UNDER THE "LIFE AND HEALTH INSURANCE PROTECTION ASSOCIATION  
27 ACT", ARTICLE 20 OF THIS TITLE 10, WILL BE LICENSED IN EACH LINE OF  
28 BUSINESS IN EACH STATE WHERE THE DIVIDING INSURER WAS LICENSED  
29 WITH RESPECT TO THE INSURANCE POLICIES OR ANNUITY CONTRACTS  
30 ISSUED BY THE DIVIDING INSURER THAT ARE ALLOCATED TO THAT  
31 RESULTING INSURER AS PART OF THE PLAN OF DIVISION; EXCEPT THAT, THE  
32 RESULTING INSURER NEED NOT BE LICENSED WITH RESPECT TO ANY LINE

1 OF BUSINESS IN ANY STATE WHERE, AT THE TIME OF DIVISION:  
2 (A) THE DIVIDING INSURER IS NOT LICENSED WITH RESPECT TO THE  
3 LINE OF BUSINESS; OR  
4 (B) THE STATE DOES NOT PROVIDE GUARANTY ASSOCIATION  
5 COVERAGE OR SIMILAR COVERAGE WITH RESPECT TO THE ALLOCATED  
6 POLICIES OR CONTRACTS; AND  
7 (XI) IF THE PLAN OF DIVISION ALLOCATES POLICIES OF LONG-TERM  
8 CARE INSURANCE, AS DEFINED IN SECTION 10-19-103 (5), THE LIABILITIES  
9 ASSOCIATED WITH THE ALLOCATED POLICIES DO NOT CONSTITUTE MORE  
10 THAN A DE MINIMUS AMOUNT OF THE INSURANCE LIABILITIES ALLOCATED  
11 TO THE DIVIDING INSURER, IF IT SURVIVES THE DIVISION, OR TO ANY  
12 RESULTING INSURER."

13 Page 10, lines 26 and 27, strike "THE COMMISSIONER MAY USE  
14 INDEPENDENT EXPERTS AT THE DISCRETION OF THE COMMISSIONER."

15 Page 11, after line 2 insert:

16 "(f) THE COMMISSIONER SHALL SELECT AND RETAIN AN  
17 INDEPENDENT EXPERT WHO SHALL REVIEW THE PLAN OF DIVISION AND  
18 ISSUE A REPORT TO THE COMMISSIONER, WHICH REPORT ADDRESSES THE  
19 FOLLOWING:

20 (I) THE BUSINESS PURPOSES OF THE PROPOSED DIVISION;

21 (II) CAPITAL ADEQUACY AND RISK-BASED CAPITAL, INCLUDING  
22 CONSIDERATION OF THE EFFECTS OF ASSET QUALITY, NONADMITTED  
23 ASSETS, AND ACTUARIAL STRESSES TO RESERVE ASSUMPTIONS;

24 (III) CASH FLOW AND RESERVE ADEQUACY TESTING, INCLUDING  
25 CONSIDERATION OF THE EFFECTS OF DIVERSIFICATION ON POLICY  
26 LIABILITIES;

27 (IV) BUSINESS PLANS;

28 (V) THE IMPACT, IF ANY, OF CONCENTRATION OF LINES OF  
29 BUSINESS FOLLOWING THE PROPOSED DIVISION; AND

30 (VI) MANAGEMENT'S COMPETENCE, EXPERIENCE, AND  
31 INTEGRITY."

32 Reletter succeeding paragraphs accordingly.

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