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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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DIGEST

SB 289 Original

2024 Regular Session

Stine

Present law creates a process by which domestic mutual non-life insurers and mutual insurance holding companies may reorganize into a stock insurance companies that may be or become a subsidiary of a parent corporation or a stock insurance holding company.

Present law requires that a reorganizing mutual insurer submit a plan of reorganization to the commissioner of insurance that must include the following:

- (1) A statement of benefits and risks.
- (2) A statement detailing the protection of immediate and long-term interests of policyholders.
- (3) Copies of the articles of incorporation.
- (4) Information as to the financial condition of any reorganized insurer.
- (5) A description of any plans for the initial sale of stock.

Proposed law retains present law and clarifies that the ability, or possibility, of the mutual members or policy holders of the mutual insurer to obtain insurance from the new stock insurance company is not to be considered a benefit for purposes of the statement analyzing the purported benefits.

Present law requires that the proposed plan of reorganization includes an analysis of the independent actuary that the plan of reorganization is actuarially sound.

Proposed law retains present law and requires that the report of the analysis of the independent actuary be submitted to the insurance commissioner with the plan of reorganization.

Present law mandates that the plan of reorganization be adopted by at least two-thirds of the members of the board of directors of the reorganizing mutual insurer prior to the plan's submission to the commissioner of insurance. Prohibits compensating any director, officer, agent, or employee of the reorganized mutual insurer other than the usual regular salary and customary compensation.

Proposed law retains present law and clarifies that, except for the usual regular salary or compensation that directors or officers receive from the new stock insurance company if the conversion takes place, the directors or officers of the mutual insurer are prohibited from receiving a thing of economic value that will not be received by any other mutual member as a result of the conversion of the mutual insurer into the new stock insurance company. Prohibits the directors or officers of the mutual insurer receiving a prohibited thing of economic value, regardless if the thing

of economic value is derived from the new company or from a third-party who stands to benefit from the proposed conversion and regardless of whether the third-party is a natural person or a for-profit or not-for-profit corporation or a limited liability company, partnership, trust, or other entity.

Present law requires that the commissioner of insurance hold a public hearing to hear evidence on whether the plan of reorganization properly protects the interests of the policyholders, serves the best interests of policyholders and members, and is fair and equitable to policyholders. Requires that within 30 days of the public hearing, the commissioner issue a final order or decision approving the plan of reorganization, subject to a two-thirds vote of the members of the mutual insurer.

Present law requires that, after the public hearing before the commissioner, the plan of reorganization be approved by a vote of not less than two-thirds of the qualified voters of the reorganizing mutual insurer. Provides that such vote shall occur at a meeting of the qualified members of the mutual insurer and that all qualified voters be given notice of their opportunity to vote on the plan of reorganization and notice of the public hearing not less than 30 days before the date of the meeting. Provides for telephone and email voting, balloting, and proxy submissions.

Proposed law retains present law and provides that no verbal telephone voting, balloting, or proxy submissions may be counted or considered valid unless it is reduced to writing prior to being counted for purposes of the approval by the mutual insurer's membership. The written proxy may be submitted by the qualified voter to the mutual insurer in one of the following methods:

- (1) By United States mail or other delivery courier.
- (2) In person at the offices of the mutual insurer or at a place designated by the mutual insurer and approved by the commissioner.
- (3) By email that is sent by the qualified voter.

Proposed law provides that it is the intent of the legislature in enacting Act 234 of 2009 of the legislature that created the process by which a mutual insurer may be reorganized into stock insurance company was done because of the legislature's intent to do all of the following:

- (1) Safeguards financial interests and voting rights of the mutual members whose premium dollars funded the mutual insurer's reserve fund and created the solvency and financial stability of the mutual insurer that made the mutual insurer financially attractive and incentivized the purchase, conversion, or reorganization into stock insurance company.
- (2) Clarifies that the required approval of the insurance commissioner and the required approval of the mutual members (qualified voters) are suspensive conditions, pursuant to present law, that must be fulfilled in order to create a valid contract between any mutual insurer and a proposed reorganizing stock insurance company pursuant to present law. Clarifies that any contract that contains a penalty provision or a liquidated damages clause is contingent upon and does not become effective until after the commissioner and the mutual members have both approved the plan of reorganization because to do otherwise would divest the mutual

members of their very financial interest that the legislature sought to protect by enacting 2009 Act and would otherwise interfere and hinder the insurance commissioner's fair and just regulation of the mutual insurers for the benefit of the policy holders and all other interested parties.

Present law provides that the legislature may expressly declare its intent that the laws enacted by the legislature are procedural and interpretative in nature and that they are meant to apply both prospectively and retroactively.

Proposed law retains present law and provides that legislature may expressly intend to apply the provisions of proposed law as procedural and interpretative and that the law is intended to apply both prospectively and retroactively to all conversions or reorganization plans submitted after 2009, with respect to all plans of reorganization that have not yet been approved by both the commissioner of insurance and by the mutual members who are the qualified voters of the mutual insurer.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 22:237, 237.4(A)(1) and (2), and (B)(2) and (3), and (E), and 237.7); adds R.S. 22:237.4(A)(6))