

HOUSE BILL No. 2337

By Committee on Insurance

2-12

AN ACT concerning insurance; relating to policyholder voting in conversion of mutual insurance company to stock insurance company; amending K.S.A. 40-4002 and 40-4004 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-4002 is hereby amended to read as follows: 40-4002. (a) A resolution shall be adopted by a $\frac{2}{3}$ majority of the entire board of directors of the insurer which shall state the reasons such conversion would benefit the insurer and be in the best interests of its policyholders. Following adoption of such resolution a detailed plan of conversion shall be developed and shall be approved by a $\frac{2}{3}$ majority of the entire board of directors. The plan of conversion shall not be effective unless the plan has been so approved by the board of directors.

(b) A draft of the plan of conversion may be submitted to the commissioner for preliminary examination and comment prior to or after the adoption of the resolution described in subsection (a).

(c) After the completion of the process of preliminary examination and comment, the plan shall be submitted to the commissioner for approval in writing, subject to the provisions of K.S.A. 40-4004 and amendments thereto. The plan of conversion shall not be effective unless the plan has been approved by the commissioner.

(d) *If approved by the commissioner, then the plan shall be submitted to the policyholders and shall be approved by ~~2/3~~ of the policyholders voting in person or by proxy at a meeting of the policyholders called for that purpose, pursuant to the bylaws of the insurer, except that if a majority of all policyholders vote in person or by proxy, then a majority of those voting shall constitute approval, and.* The plan of conversion shall not be effective unless the plan has been so approved by *a majority of all the policyholders eligible to vote on the plan.* No such proxy vote shall be effective unless the proxy specifically provides the proxyholder with the authority to vote on the plan of conversion, and unless the proxy is dated subsequent to the day on which the plan of conversion is initially approved by the board of directors of the mutual insurer. Proxy statements relating to the plan may be mailed to the policyholders in accordance with the

1 bylaws of the insurer.

2 (e) The board of directors by a vote of not less than $\frac{2}{3}$ of the entire
3 board may, at any time prior to the issuance of the certificate of authority
4 pursuant to K.S.A. 40-4010 and amendments thereto:

5 (1) Withdraw the plan, if conversion is deemed to be no longer in
6 the best interests of the insurer or its policyholders; or

7 (2) amend the plan, except that no amendment which materially
8 changes the plan shall take effect unless such amendment is approved by
9 the commissioner. In the event of a material change to the plan, the
10 commissioner:

11 (A) Shall order a hearing to be conducted in accordance with the
12 provisions of the Kansas administrative procedure act before approving
13 or disapproving such material change; and

14 (B) may require that such a change be approved by the policyholders
15 pursuant to subsection (d).

16 (f) The plan shall be filed in the office of the commissioner after
17 having been approved as provided by subsections (a), (c) and (d).

18 (g) As used in this act: (1) "Policyholder" means a policyholder of the
19 mutual insurer on the day the plan of conversion is initially approved by
20 the board of directors of the mutual insurer; except that, with respect to
21 a mutual insurance company authorized to transact the business of in-
22 surance in the state of Kansas under the authority granted in article 10
23 or article 12 of chapter 40 of the Kansas Statutes Annotated *and amend-*
24 *ments thereto*, "policyholder" means a policyholder of the mutual insurer
25 on the day the plan of conversion is initially approved by the board of
26 directors of the mutual insurer, whose policy or policies have been in
27 effect for not less than two out of three years immediately prior to the
28 date the board of directors approved the plan, or whose policy or policies
29 have been in effect for at least 90 days during the 365 days immediately
30 preceding the date the board of directors approved the plan if the insured
31 is a crop hail insurance policyholder.

32 (2) "Commissioner" means the commissioner of insurance.

33 Sec. 2. K.S.A. 40-4004 is hereby amended to read as follows: 40-
34 4004. (a) The commissioner shall examine the plan submitted pursuant
35 to subsection (b) or (c) of K.S.A. 40-4002, and amendments thereto. As
36 a part of such examination, the commissioner shall order a hearing on the
37 plan to be conducted in accordance with the provisions of the Kansas
38 administrative procedure act and shall give not less than 20 days' written
39 notice of the date of hearing to the insurer and give not less than 20 days'
40 written notice to policyholders by publication or otherwise. The commis-
41 sioner shall approve the plan if the commissioner finds that:

42 (1) The plan of conversion is fair and equitable to policyholders;

43 (2) the plan of conversion complies with the provisions of this act;

1 (3) the plan of conversion does not unjustly enrich any director, of-
2 ficer, agent or employee of the insurer; and

3 (4) the new stock insurer would meet minimum requirements to be
4 issued a certificate of authority by the commissioner to transact business
5 in this state and the continued operations of the new stock insurer would
6 not be hazardous to existing or future policyholders or the public.

7 (b) *The commissioner may rely on an independent evaluation by one*
8 *or more qualified experts retained by the commissioner pursuant to K.S.A.*
9 *40-4013, and amendments thereto, to determine whether the amount of*
10 *consideration provided by the converting insurer to policyholders shall*
11 *be deemed to be is fair and equitable pursuant to subsection (a); if. In*
12 *no event shall the consideration is at least be less than the amount of*
13 *statutory surplus attributable to contributions of policyholders.*

14 (c) Upon submission of a plan of conversion, the commissioner may
15 request any additional documents or information in the possession of the
16 insurer or its affiliates as are reasonably necessary to enable the commis-
17 sioner to make the findings required by this section for the approval of
18 the plan.

19 Sec. 3. K.S.A. 40-4002 and 40-4004 are hereby repealed.

20 Sec. 4. This act shall take effect and be in force from and after its
21 publication in the statute book.

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