

Effective 5/4/2022

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31A-16-102.6 Mutual insurance holding companies.

(1) As used in this section:

- (a) "Intermediate holding company" means a holding company that:
 - (i) is a subsidiary of a mutual insurance holding company;
 - (ii) directly or through a subsidiary of the holding company, holds one or more subsidiary insurers, including a reorganized mutual insurer; and
 - (iii) if the subsidiary insurers were not held by the holding company, a majority of the voting shares of the subsidiary insurers' capital stock would be required under this section to be owned by the mutual insurance holding company.
- (b) "Majority of the voting shares" means the shares of a reorganized mutual insurer's capital stock that carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the reorganized mutual insurer's capital stock for the election of directors and other matters submitted to a vote of the reorganized mutual insurer's shareholders.

(2)

- (a) With the commissioner's approval, a domestic mutual insurer may reorganize by forming a mutual insurance holding company in which:
 - (i) in accordance with the mutual insurance holding company's articles of incorporation and bylaws, the membership interests of the domestic mutual insurer's policyholders become membership interests in the mutual insurance holding company; and
 - (ii) the domestic mutual insurer is reorganized as a domestic stock insurance company.
- (b) The commissioner may approve a domestic mutual insurer's reorganization if:
 - (i) the domestic mutual insurer's reorganization plan:
 - (A) properly protects the interests of the domestic mutual insurer's policyholders;
 - (B) is fair and equitable to the domestic mutual insurer's policyholders; and
 - (C) satisfies the requirements of Subsections 31A-16-103(8) through (10);
 - (ii) the initial shares of the reorganized domestic mutual insurer's capital stock are issued to the mutual insurance holding company or intermediate holding company; and
 - (iii) at all times, the mutual insurance holding company or intermediate holding company owns a majority of the voting shares of the reorganized domestic mutual insurer's capital stock.

(3)

- (a) With the commissioner's approval, a foreign mutual insurer that would qualify to become a domestic insurer organized under the laws of this state may reorganize by forming a mutual insurance holding company system in which:
 - (i) in accordance with the mutual insurance holding company's articles of incorporation and bylaws, the membership interests of the foreign mutual insurer's policyholders become membership interests in the mutual insurance holding company; and
 - (ii) the foreign mutual insurer is reorganized as a foreign stock insurance company.
- (b) The commissioner may approve a foreign mutual insurer's reorganization if:
 - (i) the foreign mutual insurer's reorganization plan:
 - (A) complies with any other law or rule applicable to the foreign mutual insurer;
 - (B) properly protects the interests of the foreign mutual insurer's policyholders;
 - (C) is fair and equitable to the foreign mutual insurer's policyholders; and
 - (D) satisfies the requirements of Subsections 31A-16-103(8) through (10);
 - (ii) the initial shares of the reorganized foreign mutual insurer's capital stock are issued to the mutual insurance holding company or intermediate holding company; and

- (iii) at all times, the mutual insurance holding company or intermediate holding company owns a majority of the voting shares of the reorganized foreign mutual insurer's capital stock.
 - (c) After a merger, the reorganized foreign mutual insurer may:
 - (i) remain a foreign corporation; and
 - (ii) with the commissioner's approval, be admitted to conduct business in this state.
 - (d) A foreign mutual insurer that is a party to a reorganization plan may redomesticate in this state by complying with the applicable requirements of this state and the foreign mutual insurer's state of domicile.
- (4)
- (a) As a condition of approval, the commissioner may require a mutual insurer to modify the mutual insurer's reorganization plan to protect the interests of the mutual insurer's policyholders.
 - (b) If the commissioner determines reasonably necessary, at the reorganizing mutual insurer's expense, the commissioner may retain a third-party consultant to assist the commissioner in reviewing the mutual insurer's reorganization plan.
 - (c) The commissioner has jurisdiction over a mutual insurance holding company or intermediate holding company organized in accordance with this section.
 - (d) Subject to the commissioner's approval, a reorganized mutual insurer or a stock insurance subsidiary within a mutual insurance company may issue a dividend or distribution to the mutual insurance holding company or intermediate holding company.
- (5)
- (a) Subject to the provisions of this section, a mutual insurance holding company resulting from the reorganization of a domestic mutual insurer shall be incorporated in accordance with Chapter 5, Domestic Stock and Mutual Insurance Corporations.
 - (b) A mutual insurance holding company's articles of incorporation and bylaws are subject to commissioner's approval in the same manner as an insurance company's articles of incorporation and bylaws.
- (6)
- (a) A mutual insurance holding company is:
 - (i) subject to Chapter 27a, Insurer Receivership Act; and
 - (ii) a party to any proceeding under Chapter 27a, Insurer Receivership Act, involving an insurer that is a subsidiary of the mutual insurance holding company as a result of a reorganization in accordance with this section.
 - (b) In a proceeding under Chapter 27a, Insurer Receivership Act, involving a reorganized mutual insurer, the assets of the mutual insurance holding company are assets of the estate of the reorganized mutual insurer for the purpose of satisfying the claims of the reorganized mutual insurer's policyholders.
 - (c) A mutual insurance holding company may be dissolved or liquidated only by:
 - (i) prior approval of the commissioner; or
 - (ii) court order in accordance with Chapter 27a, Insurer Receivership Act.
- (7)
- (a) Section 31A-5-506 does not apply to a mutual insurer's reorganization or merger under this section.
 - (b) Section 31A-5-506 applies to demutualization of a mutual insurance holding company.
- (8) A membership interest in a domestic mutual insurance holding company is not a security under Utah law.
- (9)

- (a) The ownership of a majority of the voting shares of a reorganized mutual insurer's capital stock includes indirect ownership through one or more intermediate holding companies in a corporate structure approved by the commissioner.
 - (b) The indirect ownership described in Subsection (9)(a) may not result in the mutual insurance holding company owning less than the equivalent of the majority of the voting shares of the reorganized mutual insurer's capital stock.
- (10)
- (a) A mutual insurance holding company or intermediate holding company may not sell, transfer, assign, pledge, encumber, hypothecate, alienate, or subject to a security interest or lien the majority of the voting shares of the reorganized mutual insurer's capital stock.
 - (b) An act that violates Subsection (10)(a) is void in reverse chronological order of the date the act occurred.
 - (c) The majority of the voting shares of the reorganized mutual insurer's capital stock are not subject to execution and levy under Utah law.
 - (d) The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two or more reorganized mutual insurers, or two or more intermediate holding companies that were subsidiaries of the same mutual insurance holding company, are subject to the same requirements, restrictions, and limitations described in this section that applied to the shares of the merging or consolidating reorganized mutual insurers or intermediate holding companies before the merger or consolidation.
- (11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules to implement the provisions of this section.