

CHAPTER 155

AN ACT concerning certain dividends paid by certain domestic insurers and amending P.L.1994, c.189.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1994, c.189 (C.17:17-20) is amended to read as follows:

C.17:17-20. Change of domicile for insurers.

1. a. An insurer that is formed under the laws of another state and is admitted to transact the business of insurance in this State may become a domestic insurer upon the commissioner's determination that the company has complied with all applicable requirements of Title 17 of the Revised Statutes relating to the formation of a domestic insurer of the same type. If the commissioner approves the domestication of a foreign insurer pursuant to this section, the insurer shall be entitled to a certificate of authority equivalent to that which was previously held as a foreign insurer and the insurer shall be subject to the authority and jurisdiction of this State. The newly domesticated insurer shall amend its articles of incorporation to provide that the corporation is a continuation of the corporate existence of the original foreign corporation through the adoption of this State as its corporate domicile, and that the original date of incorporation in its original domiciliary state is the date of incorporation of such domestic insurer. For purposes of the premium tax laws, pursuant to P.L.1945, c.132 (C.54:18A-1 et seq.), however, the date of licensure shall be the date on which the commissioner approves the domestication in this State.

b. Any domestic insurer may, upon the written approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance. The company shall cease to be a domestic insurer as of the effective date of the transfer approved by the commissioner. Such a company shall be admitted to transact the business of insurance in this State if the company is otherwise qualified as a foreign insurer pursuant to the applicable requirements of Title 17 of the Revised Statutes.

c. Every insurer authorized to transact business in the State shall notify the commissioner of the details of any proposed transfer of domicile at least 60 days prior to the effective date of the proposed transfer, however, the commissioner may approve a shorter period for providing such notice. Such an insurer shall file promptly any resulting amendments to corporate documents filed or required to be filed with the commissioner.

d. Prior to granting approval for any foreign insurer to become a domestic insurer, or for a domestic insurer to transfer its domicile to another state, the commissioner may conduct whatever investigations, examinations or hearings he deems necessary, and may subject the issuance of his approval to the conditions and restrictions that he determines are reasonable and necessary for the protection of the company's policyholders or the public.

e. The transfer of domicile of an insurer pursuant to the provisions of this section shall not be construed to alter either the existing rights, franchises and interests, or the duties, obligations and liabilities of the insurer transferring domicile, except as otherwise provided by law. Insurers who transfer domicile shall continue to be subject to all the liabilities, claims and demands against the company which were in existence prior to the transfer of domicile. Any action or proceeding pending at the time of the consummation of the process by which the domicile is transferred in which the company is a party shall not abate or discontinue by reason of the transfer of domicile, but shall be prosecuted to a final resolution in the same manner as if the transfer of domicile had not taken place.

f. The certificate of authority, insurance producer appointments and licenses, rating systems and other documents required to be maintained for regulatory purposes, which are in existence and approved for use in this State at the time any insurer licensed to transact the business of insurance in this State transfers its corporate domicile to this or any other state by merger, consolidation, transfer, or any other lawful method, shall continue in full force and effect upon such transfer if the commissioner is satisfied that the insurer remains duly qualified to transact the business of insurance in this State. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the commissioner. To the extent required by law, every transferring insurer shall file new policy forms with the commissioner on or before the effective

date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner.

g. When two foreign insurers of the same insurance holding company system domiciled in different states are approved for domestication pursuant to subsection a. of this section during the calendar year following enactment of P.L.1994, c.189 (C.17:17-20 et al.), these insurers shall thereafter file financial statements in this State pursuant to R.S. 17:23-1 that are consistent with the financial statements filed by each other with respect to the same or similar financial transactions notwithstanding any inconsistent financial statements filed previously as required by insurance regulators of the prior respective domiciles. Any dividends previously paid by these insurers pursuant to the laws of the former domiciliary states in excess of the earned surplus of these insurers shall, to the extent of such excess, be reported on the financial statements filed by each insurer after domestication in this State as a return of capital distributed from gross paid in and contributed surplus rather than as negative earnings.

2. This act shall take effect immediately.

Approved January 8, 1997.