DISTRICT OF COLUMBIA

OFFICIAL CODE

TITLE 31.

INSURANCE AND SECURITIES.

CHAPTER 44.

DOMESTIC LIFE COMPANIES.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 44. DOMESTIC LIFE COMPANIES.

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CHAPTER 44. DOMESTIC LIFE COMPANIES.

§ 31-4401. FORMATION--REQUIRED CONTENTS OF ARTICLES OF INCORPORATION.

Any 7 or more persons who desire to become incorporated as an insurance company shall make, sign, and acknowledge articles of incorporation before an officer authorized to take acknowledgment of deeds, in which shall be stated:

(1) The proposed corporate name, which shall not be identical with nor so nearly resemble the name of an existing corporation organized under the laws of the District, or authorized to transact business therein, as to mislead the public or cause confusion and, in case of a mutual company, shall contain the word "mutual";

(2) The term of its existence, which may be perpetual;

(3) The place where its principal office shall be located, which shall be the District of Columbia;

(4) The purpose of the company, which shall be restricted to the business of insurance appertaining to persons;

(5) The mode and manner in which the corporate power shall be exercised; the number, terms of office, and manner of electing directors, who shall be stockholders, or, in the case of a mutual company, shall be members or policyholders of the corporation;

(6) The provisions for meeting and votes of stockholders and policyholders. A stock company in which the policyholders do not vote shall provide for cumulative voting in its articles of incorporation. A stock company in which policyholders vote shall provide that each stockholder shall have 1 vote, in person or by proxy, for each share of stock owned. A company without capital stock shall provide that every policyholder shall be a member and entitled to 1 or more votes, in person, or by proxy, based on the insurance in force, the number of policies held or the amount of premiums paid as may be provided in the bylaws, and a stock company may provide for votes by policyholders, but in such case each policyholder shall have the same voting power as every other policyholder;

(7) The amount of its capital stock, if any, the number of shares, and the par value of each share;

(8) The number of directors who shall manage the company for the 1st year and their names; and

(9) Such other particulars as may be necessary to manifest and explain the objects and purposes of the company.

(June 19, 1934, 48 Stat. 1143, ch. 672, ch. lll, § 1.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-601.

1973 Ed., § 35-501.

§ 31-4402. FORMATION--FILING, NOTICE AND BOND REQUIREMENTS.

The incorporators shall file such articles with the Commissioner and shall publish in a newspaper of general circulation in the District notice of the filing of such articles and of the intention to form such company. Copy of such notice verified by the oath of the publisher of the newspaper, or his agent, copies of proposed bylaws and forms of subscription for capital stock and of proposed applications for membership and for insurance and of all proposed forms of insurance policies, literature, and advertisements shall be filed with the Commissioner. The incorporators shall also file with the Commissioner a bond payable to the Commissioner and his successors, as trustee, in the sum of $10,000 with approved corporate sureties, and conditioned upon the faithful accounting to the proposed company, on completion of its organization and the receipt of its certificate of authority from the Commissioner, or the stockholders, members, applicants for policies, and creditors, or the trustee, receiver, or assignee of the proposed company, duly appointed in any proceedings in any court or

department of competent jurisdiction in the District, in accordance with their respective rights in case the organization of the proposed company shall not be completed and a certificate of authority shall not be procured from the Commissioner.

(June 19, 1934, 48 Stat. 1144, ch. 672, ch. III, § 2; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-602.

1973 Ed., § 35-502.

Legislative History of Laws

Law 11-268, the "Department of Insurance and Securities Regulation Establishment Act of 1996," was introduced in Council and assigned Bill No. 11- 415, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective on May 21, 1997.

Miscellaneous Notes

Department of Insurance abolished: The Department of Insurance, including the Superintendent, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 43, dated June 23, 1953, as amended, established, under the direction and control of a Commissioner, a Department of Insurance headed by a Superintendent. The Order provided for the organization of the Department, abolished the previously existing Department of Insurance, and provided that all functions and positions of the previous Department would be transferred to the new Department of Insurance, including the duties, powers, and authorities of all officers and employees; and that all personnel, property, records and unexpended balances relating to the functions and positions transferred would also be transferred to the new Department. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. The functions of the Superintendent of Insurance were transferred to the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983. Pursuant to the provisions of D.C. Law 11- 268, the Department of Insurance and Securities Regulation was established and the duties of the Superintendent of Insurance and the Insurance Administration were assumed by the Commissioner of Insurance and Securities, and the Insurance Administration in the Department of Consumer and Regulatory Affairs was abolished.

§ 31-4403. FORMATION--CORPORATE POWERS DURING COMPLETION OF ORGANIZATION; ISSUANCE OF CERTIFICATE OF AUTHORITY.

(a) The Commissioner shall examine the proposed articles and other papers so filed with him and, if he finds the same in accordance with law, he shall so certify and return the same to the Commissioner, who shall cause the articles and the certificate of the Corporation Counsel to be recorded in the records of the Commissioner and issue to the incorporators 2 certified copies thereof, one of which shall be recorded in the Office of the Recorder of Deeds for the District of Columbia, and thereupon such incorporators and their associates shall become and be a body corporate with power to sue and be sued, contract and be contracted with, adopt a seal, and do such other acts, subject to the provisions of this subdivision, as shall be needful to accomplish the purposes of its organization. If the Commissioner shall approve the sureties on the bond so filed, or on any like bond substituted therefor, he shall issue to the corporation a permit, as a "company in course of organization," authorizing it to complete its organization. Said company in course of organization shall have authority under such permit to solicit subscriptions and payments for capital stock, if a stock company, and applications and advance premiums for insurance, and to exercise such powers, subject to the limitations in this subdivision prescribed, as may be necessary and proper in completing its organization and qualifying itself for a certificate of authority from the Commissioner to transact the business of insurance appertaining to persons. But such company shall not issue policies or enter into contracts of insurance until it shall have received the certificate of the Commissioner authorizing it so to do.

(b) Upon completion of organization in accordance with this subdivision the Commissioner shall issue to such company, in course of organization, a certificate of authority as an insurance company.

(June 19, 1934, 48 Stat. 1144, ch. 672, ch. III, § 3; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730; Mar. 8, 2007, D.C. Law 16-232, § 205(b)(1), 54 DCR 368.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-603.

1973 Ed., § 35-503.

Effect of Amendments

D.C. Law 16-232, in subsec. (a), substituted "The Commissioner shall examine the proposed articles and other papers so filed with him" for "The Commissioner shall submit the proposed articles and other papers so filed with him to the Corporation Counsel of the District, who shall examine the same".

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

For Law 16-232, see notes following § 31-231.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4404. FORMATION--AUTHORITY TO SOLICIT STOCK SUBSCRIPTIONS OR INSURANCE APPLICATIONS.

No person shall solicit subscriptions for the capital stock of or applications for insurance in any such company in course of organization unless he has been duly authorized by the company and a certificate of his authority, duly signed by a principal officer of the company, has been filed with and approved by the Commissioner.

(June 19, 1934, 48 Stat. 1145, ch. 672, ch. III, § 4; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-604.

1973 Ed., § 35-504.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4405. FORMATION--DISPOSITION OF SUMS PAID UPON STOCK SUBSCRIPTIONS.

Every subscription to the capital stock of a stock company shall contain the stipulation that no sum shall be used for commission, promotion, or organization expenses in excess of a percentage of the amount paid upon the stock subscriptions, to be named in such stipulation and proved by the Commissioner, and the remainder of sums so paid to the company shall be invested in securities in which a life insurance company is authorized to invest, or deposited in a bank or trust company in the District until the company has duly procured a certificate of authority from the Commissioner.

(June 19, 1934, 48 Stat. 1145, ch. 672, ch. III, § 5; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-605.

1973 Ed., § 35-505.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4406. FORMATION--EXAMINATION OF COMPANY; REVOCATION AND REINSTATEMENT OF COMPANY'S PERMIT OR AGENT'S AUTHORITY.

The Commissioner shall personally, or through his Deputy and assistants, examine into the affairs of any such company in course of organization and inspect its books and papers, and may summon and examine under oath any officer or agent or any person who is or has been connected with or who has knowledge of the affairs of such company, and if he finds the company is violating the law, or if the company shall not be qualified for a certificate of authority within 2 years from date of its permit, he shall revoke its permit; and if he finds an agent of such company has violated the law, he shall revoke his authority, and he may for such agent's violation revoke the company's permit. Any revocation shall be after 20 days' notice. The Commissioner may, on proper showing, reinstate any company's permit or agent's authority which he has revoked.

(June 19, 1934, 48 Stat. 1145, ch. 672, ch. III, § 6; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-606.

1973 Ed., § 35-506.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4407. FORMATION--TIME LIMITATION FOR ISSUANCE OF POLICIES.

If any domestic life insurance company, in course or organization, shall not commence to issue policies within 2 years from the date of filing its articles of incorporation in the office of the Commissioner, its powers shall thereby cease, and the court, upon petition of the Commissioner or of any person interested, may fix by decree the time in which the Commissioner may settle and close its affairs; provided, however, that the Commissioner may extend the time for any such company to commence the issuance of policies for a period not exceeding 2 years if the said company shall show good cause in writing why the same should be done.

(June 19, 1934, 48 Stat. 1145, ch. 672, ch. III, § 7; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-607.

1973 Ed., § 35-507.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4408. MINIMUM CAPITAL AND SURPLUS REQUIREMENTS.

(a) A domestic capital-stock company organized under this subdivision shall have a paid-up capital stock of not less than $1,000,000. Each domestic capital-stock company organized under this subdivision, in addition to the paid-up capital stock, shall have a surplus paid-up equal to at least 50% of such capital stock. Each domestic mutual company organized or doing business under this subdivision shall at all times have a surplus as defined by this subdivision of not less than $1,500,000.

(b) No company shall be exempt from the provisions of this section by reason of its having been incorporated in the District or elsewhere prior to the effective date of this subsection or subsequent amendment, except that in the case of companies authorized in the District of Columbia on August 31, 1964, and continuously authorized thereafter without any increase or broadening of authority, the minimum capital required of a stock company, or the minimum surplus required of a mutual company, shall not be increased by this section.

(June 19, 1934, 48 Stat. 1145, ch. 672, ch. III, § 8; May 4, 1950, 64 Stat. 104, ch. 157, § 4; Aug. 31, 1964, 78 Stat. 764, Pub. L. 88-556, § 1; Aug. 14, 1973, 87 Stat. 303, Pub. L. 93-89, title II, § 201(1), (2).)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-608.

1973 Ed., § 35-508.

References in Text

"The effective date of this subsection," referred to in subsection (b) of this section, is prescribed by § 5 of the Act of August 31, 1964, 78 Stat. 764, Pub. L. 88-557.

§ 31-4409. AMENDMENT OF ARTICLES OF INCORPORATION.

Any company may amend its articles of incorporation upon publishing notice of such intention, authorized by a majority of its directors, once a week for 3 consecutive weeks in a newspaper of general circulation in the District, and with the written consent of stockholders representing at least two thirds of the capital stock entitled to vote, or two thirds of its members present in person or by proxy at a meeting called for that purpose if it does not have capital stock, and by observing such other and further requirements in that behalf as may be prescribed in its articles of incorporation. Such amendment shall be signed and acknowledged by the president and secretary or like officers of the company, and, with a copy of the proceedings of the stockholders or members, if any, and of the directors, shall be filed with the Commissioner and by him submitted to the Corporation Counsel, and if he finds the amendment and proceedings in conformity with the law, he shall so certify to the Commissioner. The amendment shall not take effect until the Commissioner shall deliver to the company his certified copy of the amendment and of the certificate of the Corporation Counsel.

(June 19, 1934, 48 Stat. 1145, ch. 672, ch. III, § 9; Aug. 31, 1964, 78 Stat. 765, Pub. L. 88-556, § 3; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-609.

1973 Ed., § 35-509.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4410. INCREASE OF CAPITAL STOCK.

(a) If a company amends its articles of incorporation by providing for an increase of its capital stock, such increase shall be subscribed and fully paid up within 1 year of the date of such amendment, unless the Commissioner shall certify his consent to an extension of such time. Failure to have such increase of capital stock paid up within the time provided may be considered grounds for ousting the company from its powers under any such amendment to such articles of incorporation by a court of competent jurisdiction in a proceeding by the Commissioner, the Corporation Counsel representing him, against the company for such judgment.

(b) Subsection (a) of this section shall not be applicable to an amendment of the articles of incorporation providing for an increase of capital stock wherein said amendment provides that said increase will be reserved for issuance for: (1) the acquisition of the ownership or control of another insurance company as an affiliate or subsidiary subject to the limitations of § 31-4435(a)(10)(B); provided, however, that no such acquisition shall be consummated until it has been approved or ratified by stockholders representing at least a majority of the capital stock entitled to votes; (2) the granting of options to officers or employees of the company to purchase authorized but unissued shares of stock of the company, for such consideration and upon such terms and conditions as may be fixed by the board of directors; provided, however, that: (A) at no time shall the number of shares reserved for this purpose exceed, in the aggregate, 5% of the total authorized shares of stock of the company; (B) no more than 10% of the total number of shares authorized to be optioned may be made available to any individual under any and all options issued to him by the company; (C) no option shall be promised or granted: (i) to any individual employed by an insurance company authorized to do business in the District of Columbia (other than the company promising or granting the option or a subsidiary of the company promising or granting the option) while that individual is so employed; or (ii) to any individual within 2 years following the termination of his employment with such an insurance company; (D) the option price of shares subject to any such option shall not be less than 95% of the fair market value of such shares at the time the option is granted and shall be not less than the par

value of such shares; (E) any such option shall not be transferable except by will or the laws of descent and distribution; and (F) any such option shall not be exercisable after the expiration of 10 years from the time the option is granted; or (3) the paying of stock dividends; provided, that at no time shall the number of shares of reserved unissued stock exceed the number of shares of issued and outstanding shares of stock of said company.

(June 19, 1934, 48 Stat. 1146, ch. 672, ch. lll, § 10; Aug. 31, 1964, 78 Stat. 765, Pub. L. 88-556, § 4; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 24(a), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-610.

1973 Ed., § 35-510.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Law 12-81, the "Technical Amendments Act of 1998." was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997 and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4411. DECREASE OF CAPITAL STOCK.

A company may, with the approval of the Commissioner, amend its articles of incorporation by providing for a decrease of its capital stock and a corresponding increase in surplus to an amount not less than the minimum capital stock and surplus required by this subdivision. The Commissioner shall not approve or issue his certified copy of such amendment if he be of the opinion that the interests of policyholders or creditors may be prejudiced thereby. No distribution of the assets of the company shall be made to stockholders upon any such decrease of capital stock which shall reduce the surplus and capital stock to less than the minimum capital stock and surplus required as aforesaid. Upon any such amendment so decreasing the capital stock such company may require each stockholder to return his certificate of stock and accept a new certificate for such proportion of the amount of its original capital stock as the reduced capital stock shall bear to the original capital stock.

(June 19, 1934, 48 Stat. 1146, ch. 672, ch. lll, § 11; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-611.

1973 Ed., § 35-511.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4412. LIABILITY OF STOCKHOLDERS; RIGHTS OF FIDUCIARY STOCKHOLDERS AND PERSONS PLEDGING STOCK.

(a) All the stockholders of every company incorporated under this chapter shall be severally and individually liable to the policyholders and creditors of the company in which they are stockholders for the unpaid amount due upon the shares of capital stock held by them, respectively, for all debts and contracts made by such company until the whole amount of capital stock fixed and limited by such company shall have been paid in.

(b) No person holding capital stock in such company as executor, administrator, guardian, committee, or trustee shall be personally subject to any liability as stockholder of such company, but the estate and funds in the hands of such executor, administrator, guardian, committee, or trustee shall be liable in like manner and to the same extent as the testator or intestate or the ward or person interested in such trust would have

been if he had been living and competent to act and hold the stock in his own name.

(c) Every such executor, administrator, guardian, committee, or trustee shall represent the capital stock in his hands at all meetings of the company, and may vote accordingly as a stockholder.

(d) No person holding capital stock in such company as collateral security shall be personally subject to any liability as stockholder of such company, but the person pledging such capital stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and every person who shall pledge his capital stock as collateral security may, nevertheless, represent the same at all meetings and vote as a stockholder.

(June 19, 1934, 48 Stat. 1146, ch. 672, ch. III, § 12.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-612.

1973 Ed., § 35-512.

§ 31-4413. PAYMENTS FOR CAPITAL STOCK.

No company incorporated under this chapter shall be authorized to transact any business until the authorized capital stock shall have been actually paid in, either in cash or in investments authorized by this subdivision at market value; and it shall be lawful for the directors to call in and demand from the stockholders the residue of their subscriptions in money or property at such times and in such instalments as the directors shall deem proper, under the penalty of forfeiting the shares of capital stock subscribed for and all previous payments made thereon, if payment shall not be made by the stockholder within 60 days after a personal demand or a notice requiring such payment shall have been published once a week for 3 consecutive weeks in a daily newspaper in the District.

(June 19, 1934, 48 Stat. 1147, ch. 672, ch. III, § 13.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-613.

1973 Ed., § 35-513.

§ 31-4414. CAPITAL STOCK TRANSFERS.

(a) The capital stock of such company shall be deemed personal estate and shall be transferable in such manner as shall be prescribed by the bylaws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in or the shares shall have been declared forfeited for nonpayment.

(b) A person in whose name shares of capital stock stand on the books of a company shall be deemed the owner thereof as regards the company, but if any such person shall in good faith sell or otherwise dispose of any of his shares of capital stock to another and deliver to him the certificates for such shares, with written authority for the transfer of the same on the books, the title of the former shall vest in the latter so far as may be necessary to effect the purpose of the sale or other disposition, not only as between the parties themselves but also as against the creditors of and subsequent purchasers from the former.

(June 19, 1934, 48 Stat. 1147, ch. 672, ch. III, § 14.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-614.

1973 Ed., § 35-514.

§ 31-4415. CAPITAL STOCK RECORDS.

(a) It shall be the duty of the directors of every domestic stock company to cause a record to be kept by the treasurer or secretary of the company or by the stock transfer agent of the company containing the names of all persons, alphabetically arranged, who are or shall within 6 years have been stockholders of such company, and showing their place of residence, the number of shares of capital stock held by them, respectively, the time when they became owners of such shares, and the amount of capital stock actually

paid in.

(b) Such record shall, during the usual business hours of the day, on every business day, be open for inspection by policyholders, stockholders, creditors of the company, and the personal representatives of such policyholders, stockholders, and creditors at the office or principal place of business of such company in the place where its business operations shall be located in the District of Columbia, or at the office of the stock transfer agent located in the District of Columbia, and any policyholder, stockholder, creditor, or representative shall have a right to make extracts from such record.

(c) Such record shall be presumptive evidence of the facts therein stated in favor of the plaintiff in any suit or proceeding against such company or against any 1 or more stockholders.

(d) Every officer, stock transfer agent, or any other agent of any company who shall neglect to make any proper entry in such record, or shall refuse or neglect to exhibit the same, or allow the same to be inspected and extracts to be taken therefrom, as herein provided, shall be deemed guilty of a misdemeanor and the company shall pay to the party injured a penalty of $50 for any such neglect or refusal, and all damages resulting therefrom.

(e) Every company that shall neglect to have such record kept open for inspection, as herein provided, shall forfeit to the District the sum of $50 for every day it shall so neglect, to be sued for and recovered by the Commissioner, the Corporation Counsel representing him, in the Superior Court of the District of Columbia.

(June 19, 1934, 48 Stat. 1147, ch. 672, ch. III, § 15; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; Aug. 20, 1964, 78 Stat. 556, Pub. L. 88-458, § 1; July 29, 1970, 84 Stat. 572, Pub. L. 91-358, title I, § 155(c)(37)(C); May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-615.

1973 Ed., § 35-515.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4416. MUTUAL COMPANIES--CORPORATIONS, BOARDS, OR ASSOCIATIONS AS AGENTS OR MEMBERS THEREOF.

Public or private corporations, boards, or associations of the District or elsewhere may make applications, enter into agreements for, hold policies in, and become members of mutual companies. Any officer, stockholder, trustee, or legal representative of any such corporation, board, association, or of an estate may be recognized as acting for or on its behalf, but shall not be personally liable by reason of acting in such representative capacity.

(June 19, 1934, 48 Stat. 1148, ch. 672, ch. III, § 16.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-616.

1973 Ed., § 35-516.

§ 31-4417. MUTUAL COMPANIES--REQUIREMENTS BEFORE DOING BUSINESS.

No domestic mutual company shall transact any business until at least 200 persons shall have subscribed in the aggregate for at least $200,000 of insurance and shall have paid in full 1 annual premium in money upon the insurance so subscribed.

(June 19, 1934, 48 Stat. 1148, ch. 672, ch. III, § 17.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-617.

1973 Ed., § 35-517.

§ 31-4418. REINCORPORATION OF EXISTING CORPORATIONS.

(a) Any domestic insurance corporation existing or doing business on June 19, 1934, may, by a vote of a majority of its directors or trustees, accept the provisions of this subdivision and amend its charter to conform with the same upon obtaining the consent of the Commissioner thereto in writing, and filing such consent in the Officer of the Recorder of Deeds for the District; and thereafter it shall be deemed to have been incorporated under this chapter, and every such corporation in reincorporating under this provision may for that purpose so adopt in whole or in part a new charter, in conformity herewith, and include therein any and all provisions of its existing charter, and any or all changes from its existing charter, to cover and enjoy any or all the privileges and provisions of existing laws which might be so included and enjoyed if it were originally incorporated hereunder, and it shall, upon such adoption of and after obtaining the consent, as in this section before provided, to such charter and filing the same with the Commissioner and the record thereof with the Recorder of Deeds of the District, perpetually enjoy the same as and be such corporation, which is declared to be a continuation of such corporation which existed prior to such reincorporation; and the offices therein which shall be continued shall be filled by the respective incumbents for the period and the same general proceedings shall be taken upon the presentation of such amended charter or certificate adopted in relation to such amendment, to the Commissioner, as are required by this chapter to be taken with respect to an original charter or certificate, except that no examination of the condition and affairs of such corporation shall be required unless so ordered by the Commissioner, and if the amended charter or certificate be approved by the Commissioner and his certificate of authority to do business thereunder is granted, the corporation shall thereafter be deemed to possess the same powers and be subject to the same liabilities as if such charter or certificate so amended had been its original charter or certificate of incorporation, but without prejudice to pending action or proceeding or any rights previously accrued.

(b) Upon the reincorporation or upon the amendment of the charter of any corporation having a capital stock in accordance with the provisions of this section it may by a vote of the majority of its directors confer upon its policyholders as may have a prescribed amount of insurance upon their lives the right to vote for all or any less number of the directors in such manner not inconsistent with any provision of this subdivision.

(June 19, 1934, 48 Stat. 1148, ch. 672, ch. III, § 18; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-618.

1973 Ed., § 35-518.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4419. CONVERSION OF STOCK COMPANIES INTO MUTUAL LIFE COMPANIES.

Any domestic stock company organized or licensed to do business, whether incorporated under this subdivision, or any previous existing law, or act of Congress, may become a mutual company, and to that end may carry out a plan for the acquisition of shares of its capital stock; provided, however, that such plan:

(1) Shall have been adopted by a vote of a majority of the directors of such company;

(2) Shall have been approved by a vote of stockholders representing a majority of the capital stock at a meeting of stockholders called for the purpose;

(3) Shall have been approved by a majority vote of the policyholders voting at a meeting, called for the purpose, of policyholders each insured for at least $1,000 and whose insurance shall then be in force and shall have been in force for at least 1 year prior to such meeting; notice of such meeting shall be given by mailing such notice from the home office of such corporation at least 30 days prior to such meeting, in a sealed envelope, postage prepaid, addressed to such policyholders at their last known post-office addresses, and such meeting shall be otherwise provided for and conducted in such

manner as shall be provided in such plan; provided, however, that policyholders may vote in person, by proxy, or by mail; that all votes shall be cast by ballot and the Commissioner shall supervise and direct the methods and procedure of said meeting and appoint an adequate number of inspectors to conduct the voting at said meeting who shall have power to determine all questions concerning the verification of the ballots, the ascertainment of the validity thereof, the qualifications of the voters, and the canvass of the vote, and who shall certify to the Commissioner and to the company the result thereof, and with respect thereto shall act under such rules and regulations as shall be prescribed by the Council of the District of Columbia; that all necessary expenses incurred by the Commissioner shall be paid by the company as certified to by him; and

(4) Shall have been submitted to the Commissioner and shall have been approved by him in writing; provided, that every payment for the acquisition of any shares of the capital stock of such company, the purchase price of which is not fixed by such plan, shall be subject to the approval of the Commissioner; provided further, that neither such plan, nor any such payment, shall be approved by the Commissioner unless at the time of such approvals, respectively, the company, after deducting the aggregate sum appropriated by such plan for the acquisition of any part or all of its capital stock, and in the case of any payment not fixed by such plan and subject to separate approval as aforesaid after the approval of such plan, after deducting also the amount of such payment, shall be possessed of assets not less than the entire liabilities of the company, including the net values of its outstanding contracts computed according to the standard adopted by the company under § 31-4701, and also all funds, contingent reserves, and surplus save so much of the latter as shall have been appropriated or paid under such plan.

(June 19, 1934, 48 Stat. 1149, ch. 672, ch. lll, § 19; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-619.

1973 Ed., § 35-519.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 35-602.

Change in Government

This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(274) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4420. APPLICABILITY OF PROVISIONS TO EXISTING CORPORATIONS.

Every company incorporated under the provisions of the laws of the District, or act of Congress, prior to June 19, 1934, is hereby brought under all the provisions of this subdivision, except that its capital may continue in the amount named in its charter during the existing term thereof, unless it extends its business to other kinds of insurance, and it shall be entitled to all privileges granted by such charter not authorized by this law.

(June 19, 1934, 48 Stat. 1149, ch. 672, ch. lll, § 20.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-620.

1973 Ed., § 35-520.

§ 31-4421. DIRECTORS--ANNUAL ELECTION; QUALIFICATIONS; LIMITATION ON PROXIES.

The stock, property, and business of every company organized under this subdivision shall be managed by the directors who shall, except for the 1st year, be annually elected, at such time and place as shall be determined by the bylaws of the company. All proxies used in the election of directors of such companies shall be valid for a period not exceeding 1 year from the election for which they were signed and in which they were authorized to be voted.

(June 19, 1934, 48 Stat. 1149, ch. 672, ch. III, § 21; Mar. 8, 2007, D.C. Law 16-232, § 205(b)(2), 54 DCR 368.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-621.

1973 Ed., § 35-521.

Effect of Amendments

D.C. Law 16-232 deleted the second sentence, which had read: "Every director of such a stock company shall be a stockholder thereof, and every director of such a mutual company shall be a policyholder thereof."

Legislative History of Laws

For Law 16-232, see notes following § 31-231.

§ 31-4422. DIRECTORS--POWER TO MAKE BYLAWS.

The directors of companies organized under this subdivision shall have power to make such bylaws as they deem proper for the management of the business affairs of such company, not inconsistent with the laws of the District and the Constitution of the United States, and prescribing the duties of officers, employees, and servants that may be employed, for the appointment or election of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

(June 19, 1934, 48 Stat. 1150, ch. 672, ch. III, § 22.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-622.

1973 Ed., § 35-522.

§ 31-4423. DIRECTORS--GENERAL ELECTION PROCEDURE.

(a) Notice of the time and place of holding election of directors of a company organized under this subdivision shall be sent to those entitled to vote, and the election shall be made by such of the stockholders and/or policyholders as shall attend for that purpose, either in person or by proxy. All elections shall be by ballot, and the persons receiving the greatest number of votes shall be directors. When any vacancy shall happen among the directors it shall be filled for the remainder of the year in such manner as shall be prescribed by the bylaws of the company.

(b) In case it shall happen at any time that an election of directors shall not be made on the day designated by the bylaws of said company when it ought to have been made, the company shall not for that reason be dissolved, but it shall be lawful on any other day to hold an election for directors in such manner as may be provided in the bylaws, and all acts of directors shall be valid and binding as against said company until their successors shall be elected.

(June 19, 1934, 48 Stat. 1150, ch. 672, ch. III, § 23.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-623.

1973 Ed., § 35-523.

§ 31-4424. DIRECTORS--CUMULATIVE VOTING IN STOCK COMPANY

ELECTION.

In an election for directors of any stock company in which the policyholders do not vote, each stockholder having a right to vote may cast the whole number of his votes for 1 candidate, or distribute them upon 2 or more candidates, as he may prefer, that is to say: If the stockholder having a right to vote owns 1 share of stock, or has 1 vote, or is entitled to 1 vote for each of 7 directors by virtue thereof, he may give 1 vote to each of said 7 directors, or 7 votes for any 1 thereof, or a less number of votes for any less number of directors, whatever may be the actual number to be elected, and in this manner may distribute or cumulate his votes as he may see fit.

(June 19, 1934, 48 Stat. 1150, ch. 672, ch. III, § 24.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-624.

1973 Ed., § 35-524.

§ 31-4425. VOTING POWERS UNDER GROUP POLICIES.

In every group policy issued by a domestic life company the employer shall be deemed to be the policyholder for all purposes, within the meaning of this chapter, and, if entitled to vote at meetings of the company, shall be entitled to 1 vote thereat.

(June 19, 1934, 48 Stat. 1150, ch. 672, ch. III, § 25.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-625.

1973 Ed., § 35-525.

§ 31-4426. LIABILITY OF DIRECTORS.

The directors of any company organized under the laws of the District shall be personally liable when they have participated in or assented to any act which shall cause injury to policyholders, creditors, or stockholders resulting from: (1) ultra vires acts; (2) illegal corporate acts done with their connivance, knowledge, or consent; (3) issuing unpaid or part-paid stock and marking or representing it as paid up in full; (4) dividend payments declared whether negligently or purposely impairing the capital stock and minimum surplus; (5) mismanagement; (6) loaning corporate funds to stockholders or discounting their notes out of corporate moneys; (7) making false notices or reports that deceive the public; or, (8) transferring property to officers or stockholders to defraud policyholders or creditors. If any of the directors shall object to declaring a dividend or the payment of the same, and shall, at any time before the time fixed for the payment thereof, file a certificate of their objections in writing with the secretary of the company and with the Commissioner, they shall be exempt from the liability prescribed in this section for dividends declared or paid impairing the capital stock and minimum surplus.

(June 19, 1934, 48 Stat. 1150, ch. 672, ch. III, § 26; May 21, 1997, D.C. Law 11-268, § 10, 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 24(b), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-626.

1973 Ed., § 35-526.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-4410.

§ 31-4427. SALARIES TO BE AUTHORIZED BY DIRECTORS.

No domestic company shall pay any salary, compensation, or emolument to any officer, trustee, or director thereof, amounting in any 1 year to more than $5,000, unless such payment shall be authorized by the board of directors of the company.

(June 19, 1934, 48 Stat. 1151, ch. 672, ch. III, § 27.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-627.

1973 Ed., § 35-527.

§ 31-4428. LIMITATION OF PAYMENTS TO STOCKHOLDERS AND POLICYHOLDERS.

No domestic company shall make any payments in form of dividends or otherwise to its stockholders for or on account of any interest in or relation to the company as stockholders unless it possesses assets in the amount of such payment in excess of its liabilities, including its capital stock, and the surplus required by this subdivision; and no domestic company shall make any payments to its policyholders for or on account of any interest in or relation to the company as members or policyholders except for matured claims or other policy obligations and in the purchase of surrender values unless it possesses assets in the amount of such payments in excess of its liabilities, and the capital stock and surplus required by this subdivision.

(June 19, 1934, 48 Stat. 1151, ch. 672, ch. III, § 28.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-628.

1973 Ed., § 35-528.

§ 31-4429. ELECTION OR APPOINTMENT OF OFFICERS; REQUIRED SECURITY.

There shall be a president, a secretary, and a treasurer of the company, who shall be elected by the directors; and also such subordinate officers as may be elected or appointed, and who may be required to give security for the faithful performance of the duties of their office, as this subdivision and the company by its bylaws may require.

(June 19, 1934, 48 Stat. 1151, ch. 672, ch. III, § 29.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-629.

1973 Ed., § 35-529.

§ 31-4430. OFFICERS AND DIRECTORS NOT TO BE PECUNIARILY INTERESTED IN TRANSACTIONS.

No director or officer of any company doing business in the District shall receive any money or valuable thing for negotiating, procuring, recommending, or aiding in any purchase by or sale to such company of any property, or any loan from such company, nor be pecuniarily interested, either as principal, coprincipal, agent, or beneficiary, in any such purchase, sale, or loan, nor shall the financial obligation of any such director or officer be guaranteed by such company in any capacity; provided, that nothing herein contained shall prevent any such director or officer from receiving a fee for appraising property for said company or for serving on any committee that passes on the investments of said company; provided further, that nothing herein contained shall prevent a life insurance company from making a loan upon a policy held therein by a director or officer not in excess of the net value thereof or prevent any company in connection with the relocation of the place of employment of an officer, including any relocation in connection with the initial employment of such officer from: (1) making (or such officer from accepting therefrom) a mortgage loan to such officer on real property owned by such officer which is to serve as such officer's residence; or (2) acquiring (or such officer from selling thereto), at not more than the fair market value thereof, the residence of such officer. Any person violating any provision of this section shall be guilty of a misdemeanor.

(June 19, 1934, 48 Stat. 1151, ch. 672, ch. III, § 30; Apr. 16, 1982, D.C. Law 4-99, § 2, 29 DCR 967.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-630.

1973 Ed., § 35-530.

Legislative History of Laws

Law 4-99, the "Life Insurance Act Amendment of 1981," was introduced in Council and assigned Bill No. 4-325, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on January 26, 1982, and February 9, 1982, respectively. Signed by the Mayor on February 22, 1982, it was assigned Act No. 4-157 and transmitted to both Houses of Congress for its review.

§ 31-4431. VOTING-TRUST AGREEMENTS.

It shall be unlawful for any stockholder, director, or officer of any company having capital stock to enter into any contract or agreement, commonly known as "voting-trust agreements," whereby the rights, benefits, or liabilities attaching to the capital stock are transferred or assigned, temporarily or otherwise, to any person or group of persons, incorporated or unincorporated, for the purpose of controlling, managing, or directing the company, or voting its stock; provided, that this section shall not prevent the granting of proxies by stockholders authorizing a designated individual to represent them at stockholders' meetings.

(June 19, 1934, 48 Stat. 1151, ch. 672, ch. III, § 31.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-631.

1973 Ed., § 35-531.

§ 31-4432. MAXIMUM AND CONTINGENT PREMIUMS OF MUTUAL COMPANIES.[REPEALED]

(June 19, 1934, 48 Stat. 1152, Ch. 672, ch. III, § 32; May 4, 1950, 64 Stat. 104, ch. 157, § 5.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1973 Ed., § 35-532.

§ 31-4433. CLASSIFICATION OF RISKS AND MEMBERS, PAYMENT OF DIVIDENDS, AND CREATION OF SURPLUS BY MUTUAL COMPANIES.

A mutual company may, in its articles of incorporation or in its bylaws, provide for the classification of its risks and of its members and for the payment of dividends and for the creation of a surplus.

(June 19, 1934, 48 Stat. 1152, ch. 672, ch. III, § 33.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-632.

1973 Ed., § 35-533.

§ 31-4434. POWER OF MUTUAL COMPANY TO BORROW OR ASSUME LIABILITY.

(a)(1) In addition to the general power and authority to borrow money for its regular business purposes, if a domestic insurance company obtains prior written approval for a stated maximum amount, it may borrow money by the issuance of notes to:

(A) Pay the reasonable expenses of its organization;

(B) Provide contingency loss funds;

(C) Provide additional surplus funds;

(D) Satisfy a deficiency; or

(E) Provide the amount of required minimum surplus.

(2) The notes issued for the purposes stated in paragraph (1) of this subsection shall be known as surplus notes and shall fully recite the purpose for which the money was borrowed. The amount of the outstanding principal and unpaid interest of the surplus notes shall be stated in each annual report.

(b) The principal indebtedness of surplus notes issued on or after October 21, 2000, shall not be a liability or claim against any of the assets of the company. The principal of, and interest on, the notes may be paid from time to time, either in full or in part, from available surplus funds of the company only if the amount of the surplus of the company is twice the amount of principal and interest being paid. The company may make such payments whenever it is able to do so if it receives the prior written approval of the Commissioner. The Commissioner shall use the standards set forth in subchapter I of Chapter 7 of this title, relating to adequacy of surplus in determining whether or not to approve the payments. Upon a dissolution of the company, the principal and accrued and unpaid interest of the surplus notes shall be payable from surplus.

(June 19, 1934, 48 Stat. 1152, ch. 672, ch. III, § 34; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730; Oct. 21, 2000, D.C. Law 13-189, § 2, 47 DCR 7077; June 19, 2001, D.C. Law 13-313, § 13, 48 DCR 1873.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-633.

1973 Ed., § 35-534.

Effect of Amendments

D.C. Law 13-189 rewrote this section which prior thereto provided:

"A mutual company organized under chapters 3 to 8 [1981 Ed.] of this title may borrow or assume a liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization or to enable it to comply with any requirement of the law or as a guaranty fund upon agreement, which shall first be submitted to and approved by the Commissioner, that such loan or advance, with interest at a rate not exceeding 6% per annum, shall be repaid out of the earnings, or profits of such corporation with the approval of the Commissioner whenever in his judgment the financial condition of the company shall warrant; but such approval shall not be withheld if, after such repayment shall be made, the company shall have and be in possession of a surplus equal to 10% or more of its gross annual premiums. Any such loan or advance shall not form a part of the legal liabilities of the company, but until repaid all statements published by such company or filed with the Commissioner shall show the amount thereof then remaining unpaid."

D.C. Law 13-313 substituted "prior written approval" for "prior approval" in the third sentence of subsec. (b).

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Law 13-189, the "Surplus Note Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-677, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 2, 2000, it was assigned Act No. 13-405 and transmitted to both Houses of Congress for its review. D.C. Law 13-189 became effective on October 21, 2000.

Law 13-313, the "Technical Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-879, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 19, 2001, it was assigned Act No. 13-574 and transmitted to both Houses of Congress for its review. D.C. Law 13-313 became effective on June 19, 2001.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4435. INVESTMENTS AND LOANS.[REPEALED]

(June 19, 1934, 48 Stat. 1152, ch. 672, ch. III, § 35; Feb. 3, 1938, 52 Stat. 26, ch. 13, § 12; June 19, 1948, 62 Stat. 480, ch. 503; July 19, 1954, 68 Stat. 494, ch. 546, § 1; Sept. 21, 1959, 73 Stat. 598, Pub. L. 86-329, § 1; Sept. 8, 1960, 74 Stat. 866, Pub. L. 86-731, § 1; Sept. 14, 1961, 75 Stat. 514, Pub. L. 87-245, § 1; Oct. 3, 1962, 76 Stat. 715, Pub. L. 87- 739, § 1; Aug. 31, 1964, 78 Stat. 765, Pub. L. 88-566, § 2(a), (b); Aug. 14, 1973, 87 Stat. 303, Pub. L. 93-89, title II, § 201(3), (4); Oct. 30, 1981, D.C. Law 4-50, § 2, 28 DCR 4258; June 13, 1990, D.C. Law 8-141, § 2, 37 DCR 2654; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730; Apr. 11, 2003, D.C. Law 14-297, § 401(e)(2), 50 DCR 330.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-634.

1973 Ed., § 35-535.

Legislative History of Laws

Law 4-50, the "District of Columbia Local Business Investment Act of 1981," was introduced in Council and assigned Bill No. 4-137, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on July 14, 1981, and July 28, 1981, respectively. Signed by the Mayor on August 6, 1981, it was assigned Act No. 4-77 and transmitted to both Houses of Congress for its review.

Law 8-141, the "African Development Bank and Asian Development Bank Investment Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-127, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 13, 1990, and March 27, 1990, respectively. Signed by the Mayor on April 17, 1990, it was assigned Act No. 8-197 and transmitted to both Houses of Congress for its review.

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

For Law 14-297, see notes following § 31-1371.01.

Editor's Notes

The reference to "§ 3701 et seq. of Title 38, United States Code" appearing in (a)(4)(H) was translated from § 1801 et seq., which originally appeared, as this section was renumbered in the U.S. Code.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4436. DOMESTIC COMPANY REAL-ESTATE HOLDINGS.[REPEALED]

(June 19, 1934, 48 Stat. 1153, Ch. 672, ch. III, § 36; June 19, 1948, 62 Stat. 480, ch. 503.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1973 Ed., § 35-536.

§ 31-4437. REINSURANCE BE DOMESTIC COMPANIES IN AUTHORIZED COMPANIES.[REPEALED]

(June 19, 1934, 48 Stat. 1154, Ch. 672, ch. III, § 37; Oct. 15, 1993, D.C. Law 10-36, § 6(a), 40 DCR 5812, as amended, May 16, 1995, D.C. Law 10-255, § 26(c), 41 DCR 5193.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-635.

1973 Ed., § 35-537.

§ 31-4438. REINSURANCE OF RISKS.[REPEALED]

(Oct. 15, 1993, D.C. Law 10-36, § 6(a), 40 DCR 5812, as amended, May 16, 1995, D.C. Law 10-255, § 26(c), 41 DCR 5193.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-635.

Legislative History of Laws

Law 10-36, the "Law on Credit for Reinsurance Act of 1993," was introduced in Council and assigned Bill No. 10-128, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on July 29, 1993, it was assigned Act No. 10-69 and transmitted to both Houses of Congress for its review. D.C. Law 10-36 became effective on October 15, 1993.

Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

§ 31-4439. VOUCHERS OR AFFIDAVITS AS EVIDENCE OF DISBURSEMENTS.

No domestic company shall make any disbursement of $100 or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm, or corporation receiving the money and describing the consideration for the payment; and if the expenditure be in connection with any matter pending before any legislative or public body or before any department or officer of any state or government, the voucher shall describe the nature of the matter and the interest of the company therein, or, if such voucher cannot be obtained, the expenditure shall be evidenced by affidavit describing its character and object and stating the reasons for not obtaining such voucher.

(June 19, 1934, 48 Stat. 1154, ch. 672, ch. III, § 38.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-636.

1973 Ed., § 35-538.

§ 31-4440. MANNER OF KEEPING BOOKS, RECORDS, ACCOUNTS, AND VOUCHERS.

Every domestic company shall keep its books, records, accounts, and vouchers in such manner that its financial condition can be ascertained and so that its financial statements filed with the Commissioner can be readily verified.

(June 19, 1934, 48 Stat. 1154, ch. 672, ch. III, § 39; May 21, 1997, D.C. Law 11-268, § 10, 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 24(c), 45 DCR 745.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-637.

1973 Ed., § 35-539.

Legislative History of Laws

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-4410.

§ 31-4441. ACQUISITION OF OWN CAPITAL STOCK.[REPEALED]

(June 19, 1934, 48 Stat. 1154, ch. 672, ch. III, § 40; May 21, 1997, D.C. Law 11-268, § 10, 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 24(d), 45 DCR 745; Apr. 11, 2003, D.C. Law 14-297, § 401(e)(2), 50 DCR 330.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-638.

1973 Ed., § 35-540.

Legislative History of Laws

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-4410.

For Law 14-297, see notes following § 31-1371.01.

§ 31-4442. VARIABLE OR MODIFIED GUARANTEED CONTRACTS.

(a) Every domestic life insurance company which issues contracts providing for payments which vary directly according to investment experience shall establish 1 or more separate accounts in connection with such contracts, as directed by the Commissioner. All amounts received by the company which are required by contract to be applied to provide such variable payments shall be added to the appropriate separate account, and the assets of any such separate account shall not be chargeable with liabilities arising out of any other business the company may conduct. Any surplus or deficit which may arise in any such separate account by virtue of mortality experience shall be adjusted by withdrawals from or additions to such account so that the assets of such account shall always equal the assets required to satisfy the company's obligations for such variable payments.

(a-1) Every domestic life insurance company that issues modified guaranteed contracts may establish 1 or more separate accounts in connection with these types of contracts. All amounts received by the company to provide benefits under contracts for which separate accounts have been established shall be added to the appropriate separate account. Amounts allocated by the company to separate accounts for modified guaranteed contracts shall be owned by the company, the assets therein shall be the property of the company, and no company by reason of such account shall be or hold itself out to be a trustee. The assets of any such separate account shall not be chargeable with liabilities arising out of any other business the company may conduct. For the purposes of this section, the term:

(1) "Modified guaranteed annuity" means any group or individual contract for an annuity in which the benefits are guaranteed if held for specified periods and nonforfeiture values are based upon a market-value adjustment formula if held for shorter periods. The formula may or may not reflect the investment experience of any separate account. The assets underlying the annuity contract must be maintained by the insurance company in a separate account during the period, or periods, when the annuity becomes payable.

(2) "Modified guaranteed contracts" means a modified guaranteed annuity or modified guaranteed life insurance policy or contract.

(3) "Modified guaranteed life insurance" means any group or individual policy of life insurance, the underlying assets of which are held in a separate account, in which the benefits are guaranteed if held for specified periods and nonforfeiture values are based upon a market-value adjustment formula if held for shorter periods. The formula may or may not reflect the investment experience of any separate account. The assets underlying the policy must be maintained by the insurance company in a separate account during the period, or periods, when the policyholder can surrender the policy.

(b) A foreign or alien life insurance company authorized to do business in the District may be authorized to issue or deliver contracts in the District providing for payments which vary directly according to investment experience only if authorized to issue such contracts under the laws of its domicile.

(c) No domestic life insurance company shall be authorized to issue such variable contracts or modified guaranteed contracts, and no foreign or alien life insurance company shall be authorized to issue or deliver such contracts in the District, until such company has satisfied the Commissioner that its condition and methods of operation in connection with the issuance of such variable contracts or modified guaranteed contracts will not be such as to render its operation hazardous to the public or to its policyholders in the District. In determining the qualification of a company to issue or deliver such variable contracts or modified guaranteed contracts in the District, the Commissioner shall consider, among other things, the history and financial condition of the company; the character, responsibility, and general fitness of the officers and directors of the company; and, in the case of a foreign or alien company, whether the regulation provided by the laws of its domicile provides a degree of protection to policyholders and the public substantially equal to that provided by this section and the rules and regulations issued by the Commissioner pursuant thereto.

(d) Every life insurance company which issues or delivers such variable contracts or modified guaranteed contracts in the District shall file with the Commissioner, in addition to the annual statement required by § 31-4307, such other periodic or special reports as the Commissioner may prescribe.

(e) The provisions of this section shall not apply to any contracts which do not provide for payments which vary directly according to investment experience other than modified guaranteed contracts and shall not apply to contracts issued pursuant to subsection (l) of this section.

(f) The Commissioner shall have the authority to issue such reasonable rules and regulations as may be necessary to carry out the purposes of this section.

(g) Repealed.

(h) Unless otherwise approved by the Commissioner, separate accounts relating to modified guaranteed contracts will be subject to investment laws applicable to a life insurance company's general asset account.

(i) Any modified guaranteed contract delivered or issued for delivery in the District, and any certificate evidencing nonforfeiture benefits that vary according to market-value adjustment formula issued pursuant to any life insurance or annuity contract issued on a group basis shall contain, on its first page, a prominent statement that the nonforfeiture value may increase or decrease, based on the market-value adjustment

formula in the contract, and, for modified guaranteed life insurance only, be accompanied by a written disclosure to the purchaser of the policy's interest adjusted net cost index in compliance with regulations or forms approved by the Commissioner.

(j) To the extent necessary to comply with the Investment Company Act of 1940, (15 U.S.C. 80a-1 et seq.) as now or later amended, or any rules issued thereunder, the insurance company may adopt special procedures for the conduct of the business and affairs of the modified guaranteed contract separate accounts, and may, for persons having beneficial interests therein, provide special voting and other rights, including special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee, the members of which need not be otherwise affiliated with the corporation, to manage the business and affairs of the account.

(k) Reasonable actuarial expenses incurred in connection with approval of a modified guaranteed contract shall be paid by the person seeking approval of such a contract.

(l)(1) Every domestic life insurance company which issues modified guaranteed contracts in connection with a pension, retirement, or profit sharing plan may, after adoption of a resolution by its board of directors and delivery of certification of that adoption to the Commissioner, establish 1 or more separate accounts in connection with these types of contracts. The contracts may provide for payments and nonforfeiture values which vary according to investment experience of the accounts, for guaranteed payments and nonforfeiture values, for payments and nonforfeiture values that are subject to a market value adjustment formula, or for any other type of payments or incidental benefits. Any income and any realized or unrealized gain or loss on each separate account established pursuant to this paragraph shall be credited to or charged against that separate account in accordance with the terms of the contract without regard to the other income, gains, or losses of the company. Amounts allocated to the separate account shall be owned by the company, the assets therein shall be the property of the company, and no company by reason of such account shall be or hold itself out to be trustee. Unless the contract provides otherwise, the assets of any such separate account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(2) Repealed.

(June 19, 1934, ch. 672, ch. III, § 41; June 12, 1960, 74 Stat. 218, Pub. L. 86-520, § 1; Mar. 22, 1994, D.C. Law 10-95, § 2, 41 DCR 503; Apr. 9, 1997, D.C. Law 11-255, § 38, 44 DCR 1271; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730; Apr. 11, 2003, D.C. Law 14-297, § 401(e)(2), 50 DCR 330.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-639.

1973 Ed., § 35-541.

Effect of Amendments

D.C. Law 14-297 repealed subsecs. (g) and (l)(2) which had read as follows:

"(g) In the case of a domestic life insurance company which issues contracts providing for payments which vary directly according to investment experience, except modified guaranteed contracts unless otherwise provided by rules and regulations promulgated by the Commissioner:

"(1) The 2% limitation of § 31-4435(a)(7)(A)(i), shall be enlarged to include an additional 2% of the assets held by such company in the separate account or accounts established pursuant to subsection (a) of this section;

"(2) The 1% limitation of § 31-4435(a)(9) shall be enlarged to include an additional 2% of the assets held by such company in the separate account or accounts established pursuant to subsection (a) of this section; and

"(3) The 1% limitation of § 31-4435(a)(10) shall be enlarged to include an additional 2% of the assets held by such company in the separate account or accounts established pursuant to subsection (a) of this section."

"(l)(2) Notwithstanding any other provision of this chapter, the amounts accumulated in or allocated to separate accounts established pursuant to this subsection may be invested and reinvested in any kinds of investment. The investments shall not be taken into account in applying the investment limitations of § 31-4435 to investments made by the company."

Temporary Amendments of Section

For temporary (225 day) amendment of section, see § 3(b) of Modified Guaranteed Contracts Temporary Amendment Act of 1993 (D.C. Law 10-85, March 19, 1994, law notification 41 DCR 1635).

Legislative History of Laws

Law 10-95, the "Modified Guaranteed Contracts Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-364, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 7, 1993, and January 4, 1994, respectively. Signed by the Mayor on January 21, 1994, it was assigned Act No. 10-172 and transmitted to both Houses of

Congress for its review. D.C. Law 10-95 became effective on March 22, 1994.

Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

For Law 14-297, see notes following § 31-1371.01.

References in Text

"Section 31-4307," referred to in (d), was repealed by D.C. Law 10-42, § 7(b), 40 DCR 6020, effective October 21, 1993.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4443. EFFECT OF MERGER OR CONSOLIDATION.

(a)(1) When a merger or consolidation has been completed, the merging or consolidating companies shall be a single company.

(2) For a merger, the single company shall be the 1 designated in the plan as the surviving company and, for a consolidation, shall be the new company described in the plan.

(b) The separate existence of the merging or consolidating companies shall cease.

(c) The surviving or new company shall have the rights, the privileges, the immunities, and the powers and shall be subject to the duties and liabilities of a life company organized under this subdivision.

(d)(1) The surviving or the new company shall have the rights, the privileges, the immunities, and the franchises of each of the merging or consolidating companies.

(2) All property interests, debts, claims, or other interests belonging to the merging or the consolidating companies shall be transferred automatically to the single company.

(3) Realty interests vested in the merging or the consolidating companies shall not revert or be impaired because of the merger or the consolidation.

(e)(1) The surviving or the new company shall be responsible for obligations of the merging or the consolidating companies.

(2) A claim involving 1 of the merging or consolidating companies may be litigated as though the merger or the consolidation had not taken place or with the single company replacing the merging or the consolidating company.

(3) Neither the rights of creditors nor any liens upon the property of a merging or consolidating company shall be impaired by the merger or the consolidation.

(f)(1) For a merger, the articles of incorporation of the surviving company shall be considered amended to the extent that the articles of merger described changes in the articles of incorporation.

(2) For a consolidation, articles of consolidation provisions required or permitted in the articles of incorporation of life companies shall be considered the articles of incorporation of the new company.

(g) The aggregate amount of the net assets of the merging or the consolidating companies available for the payment of dividends immediately before the merger or the consolidation, to the extent that the amount cannot be transferred to stated capital, shall continue to be available for the payment of dividends by the surviving or the new company.

(June 19, 1934, ch. 672, ch. lll, § 42, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-640.

Legislative History of Laws

Law 5-160, the "Life Insurance Amendments Reform Act of 1984," was introduced in Council and assigned Bill No. 5-471, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 20, 1984, and December 4, 1984, respectively. Signed by the Mayor on December 7, 1984, it was assigned Act No. 5-225 and transmitted to both Houses of Congress for its review.

§ 31-4444. PROCEDURE FOR MERGER OF DOMESTIC COMPANIES.

(a) Two or more domestic life companies may merge into 1 company.

(b) The board of directors of each company shall, by resolution adopted by a majority vote of the members of the boards, approve a plan of merger that lists the following:

(1) The names of the companies proposing to merge.

(2) The name of the surviving company the merging companies would become.

(3) The terms and the conditions of the proposed merger.

(4) The manner and the basis of converting the shares or memberships of each merging company into:

(A) Shares, memberships, or other securities of the surviving company.

(B) Shares or other securities of another company.

(C) Cash or property.

(5) Changes in the articles of incorporation of the surviving company.

(6) Other provisions with respect to the proposed merger as are deemed necessary or desirable.

(June 19, 1934, ch. 672, ch. lll, § 43, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-641.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.

§ 31-4445. PROCEDURE FOR CONSOLIDATING DOMESTIC COMPANIES.

(a) Two or more domestic life companies may consolidate into a new company.

(b) To consolidate, the board of directors of each consolidating company, by resolution adopted by majority vote of the members of the boards, shall approve a plan of consolidation listing the following:

(1) The names of the companies proposing to consolidate.

(2) The name of the new company into which they propose to consolidate.

(3) The terms and conditions of the proposed consolidation.

(4) The manner and the basis of converting the shares or memberships of each company into:

(A) Shares, memberships, or other securities of the new company.

(B) Shares or other securities of another company.

(C) Cash or property.

(5) The articles of incorporation for domestic companies organized under this chapter.

(6) Other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

(June 19, 1934, ch. 672, ch. lll, § 44, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-642.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.

§ 31-4446. MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN COMPANIES.

(a) Foreign and domestic life companies may be merged or consolidated if the laws where each company is organized permit the merger or the consolidation.

(b) If the surviving or the new company is governed by a foreign jurisdiction, then the surviving or the new company shall comply with Chapter 45 of this subdivision, before transacting life insurance business in the District of Columbia.

(c) The surviving or the new company shall comply with § 31-202, and maintain and appoint in the District, or not more than 10 miles beyond the territorial limits of the District, an agent for service of process and shall register with the Commissioner the address of its principal office and the name and address of its agent for service of process in the District, including any changes in address.

(d) Repealed.

(e)(1) Except as provided in paragraph (2) of this subsection, a merger or a consolidation under this section shall be the same as a merger or a consolidation of domestic companies creating a surviving or a new company governed by the District of Columbia.

(2) If the surviving or the new company shall be governed by a foreign jurisdiction, the merger or the consolidation shall be the same as a merger or a consolidation of domestic companies except insofar as the laws of the foreign jurisdiction provide otherwise.

(June 19, 1934, ch. 672, ch. lll, § 45, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39; Mar. 21, 1995, D.C. Law 10-233, § 3, 42 DCR 24; Apr. 18, 1996, D.C. Law 11-110, § 37, 43 DCR 530; May 21, 1997, D.C. Law 11-268, § 10(k), 44 DCR 1730.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-643.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.

Law 10-233, the "Insurers Service of Process Act of 1994," was introduced in Council and assigned Bill No. 10-666, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-376 and transmitted to both Houses of Congress for its review. D.C. Law 10-233 became effective on March 21, 1995.

Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1995, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-4402.

Miscellaneous Notes

Department of Insurance abolished: See Historical and Statutory Notes following § 31-4402.

§ 31-4447. MERGER OR CONSOLIDATION--APPROVAL BY MAYOR.

(a) The plan of merger or of consolidation and the filings required by § 31- 5803 shall be mailed to shareholders, to members, or to policyholders of the domestic merging and consolidating companies, and shall be filed with the Mayor according to § 31-5803.

(b) A life company aggrieved by the Mayor's decision to disapprove a plan of merger or of consolidation with the Mayor under subsection (a) of this section shall have the rights, under § 31-5803, to judicial review of the decision.

(June 19, 1934, ch. 672, ch. lll, § 46, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-644.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443

References in Text

Section 31-5803, referred to in (a) and (b), was repealed by § 17 of D.C. Law 10-44, effective Oct. 21, 1993.

Editor's Notes

Subsection (b) of this section is set forth above as it appears in D.C. Law 5- 160. The word "filed" should probably appear following "consolidation.".

§ 31-4448. MERGER OR CONSOLIDATION--PROCEDURES BEFORE VOTING.

(a)(1) After approval from the Mayor, the board of directors shall, by resolution, direct that the plan of merger or of consolidation be voted upon at a meeting of the shareholders, the members, or the policyholders of record and entitled to vote.

(2) The vote may be conducted at either an annual or a special meeting.

(b) Written notice shall be delivered at least 20 days before the meeting, either personally or by mail, to each shareholder, member, or policyholder.

(c) The notice shall state the place, the time, and the purpose of the meeting, and a copy or a summary of the plan of merger or of consolidation shall be delivered with the notice.

(d) The notice shall also summarize dissenting shareholders' rights under § 31-4450.

(June 19, 1934, ch. 672, ch. lll, § 47, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-645.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.

§ 31-4449. MERGER OR CONSOLIDATION--APPROVAL BY SHAREHOLDERS.

(a) The plan of merger or of consolidation shall be approved by the affirmative vote of the holders of two thirds of the voting outstanding shares of each company unless 2 or more classes of shares have been issued for any of the companies.

(b) If the company has issued 2 or more classes of shares, the plan of merger or of consolidation shall be approved by the affirmative vote of at least two thirds of the voting outstanding shares of each class.

(c) For a mutual company, each member or policyholder entitled to vote shall have 1 vote, regardless of the amount of insurance or number of policies held by the individual.

(June 19, 1934, ch. 672, ch. lll, § 48, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39; Feb. 27, 1996, D.C. Law 11-90, § 11, 42 DCR 7155.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-646.

Emergency Act Amendments

For temporary amendment of section, see § 11 of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.

Law 11-90, the "Insurance Omnibus Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-182, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No. 11-173 and transmitted to both Houses of Congress for its review. D.C. Law 11-90 became effective on February 27, 1996.

§ 31-4450. MERGER OR CONSOLIDATION--RIGHTS OF DISSENTING SHAREHOLDERS.

(a)(1)(A) If, by the date of shareholder meeting described in § 31-4449, a shareholder of a domestic merging or consolidating company files with the company a written objection to the merger or the

consolidation and does not vote for the action and if, within 20 days after the merger or consolidation, the shareholder makes a written demand to the surviving or the new company for payment of the fair market value of the dissenting shareholder's shares, then the surviving or new company shall pay the shareholder the value of the shares.

(B) The fair market value of the shares shall equal the market value on the day before the shareholders vote.

(2) The company shall make the payment when the dissenter surrenders the dissenter's certificate of share ownership.

(3) The demand shall state the number and the class of the shares owned by the dissenting shareholder.

(4) Any shareholders failing to make the demand described in subsection (1) of this section within the 20-day period shall have their interests in the company and their shares limited by the terms of the merger or consolidation.

(b)(1) If, within 30 days after the completion of the merger or consolidation, the dissenting shareholder and the surviving or new company agree upon the value of the shares, then the company shall pay the agreed upon value, according to subsection (a)(2) of this section, within 90 days after the merger or the consolidation becomes complete.

(2) When the company pays the agreed upon value, the dissenting shareholder shall cease having an interest either in the shares or in the company.

(c)(1) If, at the end of the 30-day period described in subsection (b)(1) of this section, the dissenting shareholder and the surviving or new company do not agree upon the value of the shares, then, within 60 days after the 30-day period ends, the dissenting shareholder may file a petition in the Superior Court of the District of Columbia asking for a determination of the fair value of the shares.

(2) The dissenter filing a timely petition shall be entitled to judgment against the surviving or new company for the amount the Court determines to be the fair value, and shall also be entitled to interest at the rate described in § 28-3302.

(3) The costs of the proceeding may be determined by the Court and may be apportioned by the Court against the parties.

(4) Some factors the Court may consider while making the apportionment described in paragraph (3) of this subsection shall be the following:

(A) Whether the fair value of the shares substantially exceeds the amount the company offered to pay.

(B) Whether the dissenting shareholder rejected the company's offer and brought the action in good faith.

(C) Whether the company failed to make an offer.

(5) The judgment shall be payable after the dissenting shareholder complies with subsection (a)(2) of this section.

(6) Any dissenting shareholder failing to petition within the 60-day period described in paragraph (1) of this subsection shall have his or her interests in the company and in his or her shares, as well as the interests of people claiming under the dissenter, limited by the terms of the merger or the consolidation.

(d) The right of a dissenter to receive the fair value for shares shall cease when the company abandons the merger or consolidation.

(June 19, 1934, ch. 672, ch. III, § 49, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-647.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.

Editor's Notes

In D.C. Law 5-160, paragraph (2) of subsection (c) of this section was mistakenly set forth twice. This duplication error has been eliminated from the section as set forth above.

§ 31-4451. ARTICLES OF MERGER OR CONSOLIDATION.

(a) Upon shareholder approval of the merger or consolidation, articles of merger or consolidation shall be executed in duplicate by the president of each company, attested by the secretary of each company, and the corporate seal of each company shall be stamped on the articles.

(b) The articles shall list the following:

(1) The plan of merger or consolidation.

(2) For each company, the number of members, policyholders, or shares outstanding and, if 2 or more classes of shares have been issued, the designation of each class and the number of shares outstanding in each class.

(3) For each company, the number of members, policyholders, or shares voting for the plan and the number voting against the plan and, if 2 or more classes of shares have been issued, the number of shares of each class voting for the plan and the number voting against the plan.

(c)(1) The articles shall be filed with the Mayor.

(2) The Mayor shall charge a fee for filing the articles.

(3) If both the form of the articles and the fee payment comply with this section, then the Mayor shall perform the following:

(A) State the date of the filing and the word "filed" on the duplicates.

(B) Keep 1 of the duplicates.

(C) Send to the new or surviving company both the other duplicate and a certificate of merger or consolidation.

(June 19, 1934, ch. 672, ch. lll, § 50, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-648.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.

§ 31-4452. DATE MERGER OR CONSOLIDATION COMPLETED.

The merger or consolidation shall be complete when the Mayor issues under § 31-4451(c)(3)(C) the certificate of merger or consolidation to the new or surviving company.

(June 19, 1934, ch. 672, ch. lll, § 51, as added Mar. 14, 1985, D.C. Law 5- 160, § 3(c), 32 DCR 39.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 35-649.

Legislative History of Laws

For legislative history of D.C. Law 5-160, see Historical and Statutory Notes following § 31-4443.