

ELECTIONS, PROPORTIONATE REPRESENTATION, AND INSIDER TRADING

523.1 Proxies authorized.

Any insurance company or association organized under the laws of this state, may provide in its articles of incorporation, that its members or stockholders may vote by proxies, voluntarily given, upon all matters of business coming before the stated or called meetings of the stockholders or members, including the election of directors.

[S13, § 1821-x; C24, 27, 31, 35, 39, § **9124**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 523.1]

523.2 Conditions.

The commissioner of insurance shall promulgate such rules with respect to the solicitation and voting of proxies as will in the commissioner's opinion best protect the interests of all stockholders or policyholders from whom they are solicited. Any violation of any rule promulgated hereunder shall be deemed a simple misdemeanor.

[S13, § 1821-x; C24, 27, 31, 35, 39, § **9125**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 523.2]

523.3 and 523.4 Repealed by 65 Acts, ch 402, § 1.

523.5 Proportionate representation.

The holder or holders, jointly or severally, of not less than one-fifth but less than a majority of the shares of the capital stock of corporations organized on the stock plan under the laws of this state for transacting the business of life or fire insurance, shall be entitled to nominate, to be elected, or appointed, as the case may be, directors or other persons performing the functions of directors by whom, according to the articles of incorporation of such corporations, its affairs are to be conducted. In the event such nomination shall be made, there shall be elected or appointed to the extent that the total number to be elected or appointed is divisible, such proportionate number from the persons so nominated as the shares of stock held by persons making such nominations bear to the whole number of shares issued; provided the holder or holders of the minority shares of stock shall only be entitled to one-fifth (disregarding fractions) of the total number of directors to be elected for each one-fifth of the entire capital stock of such corporation so held by them; and provided, further, that this section shall not be construed to prevent the holders of a majority of the stock of any such corporation from electing the majority of its directors. Vacancies occurring from time to time shall be filled so as to preserve and secure to such minority and majority stockholders proportionate representation as above provided.

[S13, § 1821-v; C24, 27, 31, 35, 39, § **9128**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 523.5]

523.6 Amendment of articles.

All such existing corporations shall by amendment to their articles of incorporation, approved by the commissioner of insurance, provide for the nomination, election, or appointment of the directors or other persons by whom its affairs are to be conducted, in conformity with the provisions of section 523.5, and the articles of incorporation of all such corporations hereafter organized shall contain like provisions.

[S13, § 1821-w; C24, 27, 31, 35, 39, § **9129**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 523.6]

523.7 Statement of stock ownership filed with commissioner.

1. Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance as prescribed by rule a statement, in a form as the commissioner may prescribe, of the amount of all equity securities of the company of which the person is the beneficial owner.

2. Within the time frame prescribed by rule, if there has been a change in the ownership during a time period prescribed by rule, a person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner a statement, in a form as the commissioner may prescribe, indicating the person's ownership at the close of the time period prescribed by rule and any changes in the person's ownership as have occurred during the time period prescribed by rule.

[C66, 71, 73, 75, 77, 79, 81, § 523.7]

2003 Acts, ch 91, §50

523.8 Profit in trading stock to inure to company.

For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of the relationship to such company, any profit realized by the beneficial owner, director or officer from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchase or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the commissioner by rules and regulations may exempt as not comprehended within the purpose of this section.

[C66, 71, 73, 75, 77, 79, 81, § 523.8]

523.9 Penalty for selling stock not directly owned by seller.

It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or the person's principal does not own the security sold, or if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if the person proves that notwithstanding the exercise of good faith the person was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

[C66, 71, 73, 75, 77, 79, 81, § 523.9]

523.10 Exceptions rules by commissioner.

The provisions of section 523.8 shall not apply to any purchase and sale, or sale and purchase, and the provisions of section 523.9 shall not apply to any sale, of an equity security of a domestic stock insurance

company not then or theretofore held in an investment account by a dealer in the ordinary course of the dealer's business and incident to the establishment or maintenance by the dealer of a primary or secondary market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The commissioner may, by such rules and regulations as the commissioner deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

[C66, 71, 73, 75, 77, 79, 81, § 523.10]

523.11 Arbitrage transactions excepted.

The provisions of sections 523.7, 523.8, and 523.9 shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner may adopt in order to carry out the purposes of sections 523.7 to 523.14.

[C66, 71, 73, 75, 77, 79, 81, § 523.11]

523.12 Equity security defined.

The term "*equity security*" when used in sections 523.7 to 523.14 means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as the commissioner may prescribe in the public interest or for the protection of investors, to treat as an equity security.

[C66, 71, 73, 75, 77, 79, 81, § 523.12]

523.13 Exceptions as to domestic stock companies.

The provisions of sections 523.7, 523.8 and 523.9 shall not apply to equity securities of a domestic stock insurance company if (1) such securities shall be registered, or shall be required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934 [48 Stat. L. 881; 15 U.S.C., § 77b et seq.], as amended, or if (2) such domestic stock insurance company shall not have any class of its equity securities held of record by one hundred or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 523.7, 523.8 and 523.9 except for the provisions of this subsection 2.

[C66, 71, 73, 75, 77, 79, 81, § 523.13]

523.14 Rules.

The commissioner shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in the commissioner by sections 523.7 to 523.13, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters, within the commissioner's jurisdiction. No provisions of sections 523.7, 523.8 and 523.9 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

[C66, 71, 73, 75, 77, 79, 81, § 523.14]