

Sen. ... 4/1/85 Do Pass 4/10/85
House File 703

COMMERCE: Kinley, Chair; Palmer and Holden

MAR 22 1985

HOUSE FILE 703

Place On Calendar

BY COMMITTEE ON SMALL
BUSINESS AND COMMERCE

(Formerly House Study Bill 374)

Passed House, Date 3-28-85 (p. 1131) Passed Senate, Date 4-17-85 (p. 1458)
Vote: Ayes 90 Nays 7 Vote: Ayes 45 Nays 0
Approved May 15, 1985

A BILL FOR

- 1 An Act creating a procedure for a domestic mutual life insurance
- 2 company to become a domestic stock life insurance company.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 703

H-3465

1 Amend House File 703 as follows:
 2 1. Page 14, by inserting after line 19 the
 3 following:
 4 "Sec. ____ . NEW SECTION. 508B.16 RULES FOR
 5 DISPERSEMENT OF RESERVES. The insurance department
 6 shall adopt rules regarding requiring the dispersement
 7 of reserves of a mutual company as part of the
 8 approval of a plan of conversion under this chapter.
 9 The rules shall provide that the dispersement may be
 10 made only if the department finds that the
 11 dispersement is economically feasible and practicable.
 12 Consideration shall be given, but not limited to, the
 13 amount of the dispersement per policyholder, the cost
 14 of the dispersement to the company, and the
 15 administrative burden of the dispersement imposed on
 16 the company."

H-3465 FILED MARCH 26, 1985 BY SCHNEKLOTH of Scott
4/2 3/28/85 (p. 1136)

HF 703

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1 Section 1. NEW SECTION. 508B.1 DEFINITIONS.

2 As used in this chapter, unless the context clearly
3 indicates otherwise:

4 1. "Mutual life insurance company" or "mutual company"
5 means a level premium and natural premium life insurance
6 company authorized under chapter 508 upon the mutual plan and
7 includes a domestic company which meets the requirements of
8 section 508.12.

9 2. "Stock life insurance company" or "stock company" means
10 a life insurance company authorized under chapter 508 upon the
11 stock plan and includes a domestic company which meets the
12 requirements of section 508.12.

13 3. "Commissioner" means the commissioner of insurance.

14 4. a. "Plan of conversion" or "conversion plan" means a
15 plan authorized by section 508B.3 and, in the case of plans
16 authorized by section 508B.3, subsections 1 and 3, includes a
17 procedure by which the mutual company's participating policies'
18 and contracts in force on the effective date of the conversion
19 plan are operated by the reorganized company as a closed block
20 of participating business for the exclusive benefit of the
21 policies and contracts included, for dividend purposes only,
22 to which are allocated assets of the mutual company in an
23 amount which together with anticipated revenue from the
24 business is reasonably expected to be sufficient to support
25 the business, and which includes, but is not limited to,
26 provisions for payment of claims and reasonable expenses, and
27 provisions for continuation of current payable dividend scales
28 if the experience underlying the scales continues and for
29 appropriate adjustments in the scales if the experience
30 changes. However, at the option of the mutual company, some
31 or all classes of group policies and contracts shall continue
32 to be eligible to receive dividends based on the experience of
33 such class or classes.

34 b. If any amount of the policyholders' consideration as
35 specified in section 508B.3, subsection 3, paragraph "b", for

1 certain classes of policies or contracts is to be paid in the
2 form of increased annual dividends to the policyholders in
3 those classes, that amount is to be added to the assets
4 allocated as provided in paragraph "a" and is to be paid to
5 those classes.

6 5. "Policyholder" means a person determined by the mutual
7 company who is to be the holder of a policy or annuity
8 contract for the purposes of section 508B.3, subsection 1, 2,
9 or 3.

10 6. "Policyholders' membership interest" means all
11 policyholders' rights as members of the mutual company
12 including, but not limited to, rights to vote and participate
13 in any distribution of surplus whether or not incident to
14 liquidation of the mutual company.

15 7. "Reorganized company" means the domestic stock life
16 insurance company into which a mutual company has been
17 converted.

18 Sec. 2. NEW SECTION. 508B.2 MUTUAL COMPANY BECOMING
19 STOCK COMPANY -- AUTHORIZATION.

20 A mutual life insurance company may become a stock life
21 insurance company pursuant to a plan of conversion established
22 and approved in the manner provided by this chapter.

23 A plan of conversion may provide that a mutual company may
24 convert into a domestic stock company, convert and merge, or
25 convert and consolidate with a domestic stock company, as
26 provided in chapter 491 or 496A, whichever is applicable.
27 However, the mutual company is not required to comply with
28 sections 491.102 through 491.105 or sections 496A.68 through
29 496A.70 relating to approval or merger or consolidation plans
30 by boards of directors and shareholders, if at the time of
31 approval of the plan of conversion the board of directors
32 approves the merger or consolidation and if at the time of
33 approval of the plan by policyholders as provided in section
34 508B.6, the policyholders approve the merger or consolidation.
35 This chapter supersedes any conflicting provisions of chapters

1 521 and 521A. A mutual company may convert, merge, or
2 consolidate as part of a plan of conversion in which a
3 majority or all of the common shares of the stock company are
4 acquired by another corporation, which may be a corporation
5 organized for that purpose, or in which the new stock company
6 consolidates with a stock company to form another stock
7 company.

8 In lieu of selecting a plan of conversion provided for in
9 this chapter, a mutual company may convert to a stock company
10 pursuant to a plan approved by the commissioner. The
11 commissioner may use any provisions or combination of
12 provisions provided for a plan in this chapter and may adopt
13 any other provisions which are not unfair or inequitable to
14 the policyholders of the mutual company. If a mutual company
15 selects this procedure for conversion purposes, the mutual
16 company shall reimburse the state for expenses incurred by the
17 insurance department in connection with the conversion plan
18 except for expenses that are normal operating expenses of the
19 insurance department.

20 Sec. 3. NEW SECTION. 508B.3 CONVERSION PLANS NOT TO BE
21 UNFAIR OR INEQUITABLE -- PLANS -- ALTERNATIVE PROCEDURES AND
22 REQUIREMENTS.

23 A plan of conversion shall not be unfair or inequitable to
24 policyholders. A plan of conversion is not unfair or
25 inequitable if it satisfies the conditions of subsections 1,
26 2, or 3. The commissioner may determine that any other plan
27 proposed by a mutual company is not unfair or inequitable to
28 its policyholders.

29 1. Subject to paragraph "b", a plan of conversion under
30 this subsection shall provide all of the following:

31 a. The policyholders' membership interest shall be
32 exchanged, in a manner which takes into account the estimated
33 proportionate contribution of surplus of each class of
34 participating policies and contracts, for all of the common
35 shares of the reorganized company or its parent company, if

1 any, or for either or a combination of the common shares of
2 the reorganized company or its parent company, if any, and
3 consideration equal to the proceeds of the sale of the common
4 shares by the issuer or by a trust or other entity existing
5 for the exclusive benefit of policyholders and established
6 solely for the purpose of effecting the conversion, to which
7 trust or other entity the common shares, or the options to
8 acquire or securities convertible into the common shares,
9 shall be issued by the issuer on the effective date of the
10 conversion. The consideration shall be distributed to
11 policyholders during a process of conversion specified in the
12 plan which shall not last more than ten years after the
13 effective date of conversion or until the death of the
14 policyholder, whichever occurs first.

15 b. Unless the anticipated issuance within a shorter period
16 is disclosed, the issuer of common shares shall not, within
17 two years after the effective date of reorganization, issue
18 either of the following:

19 (1) Any of its common shares or any securities convertible
20 with or without consideration into the common shares or
21 carrying any warrant to subscribe to or purchase common
22 shares.

23 (2) Any warrant, right or option to subscribe to or
24 purchase the common shares or other securities described in
25 subparagraph (1), except for the issue of common shares to or
26 for the benefit of policyholders pursuant to the plan of
27 conversion and the issue of stock in anticipation of options
28 for the purchase of common shares being granted to officers or
29 employees of the reorganized company or its parent company, if
30 any, pursuant to this chapter.

31 c. Unless the common shares have a public market when
32 issued, the issuer shall use its best efforts to encourage and
33 assist in the establishment of a public market for the common
34 shares within two years of the effective date of the
35 conversion or a longer period as disclosed in the plan of

1 conversion. Within one year after the offering of stock other
2 than the initial distribution, but no later than six years
3 after the effective date of the conversion, the reorganized
4 company shall offer to make available to policyholders who
5 received and retained shares of stock with minimal values on
6 conversion, a procedure to dispose of those shares of stock at
7 market value without brokerage commissions or similar fees.

8 2. A plan of conversion under this subsection shall
9 provide all of the following:

10 a. The mutual company's participating business, comprised
11 of its participating policies and contracts in force on the
12 effective date of the conversion shall be operated by the
13 reorganized insurer as a closed block of participating
14 business.

15 b. Assets of the mutual company shall be allocated to the
16 closed block of participating business in an amount equal to
17 the reserves and liabilities for the mutual life insurer's
18 participating policies and contracts in force on the effective
19 date of the conversion.

20 c. The consideration to be given in exchange for the
21 policyholders' membership interest consists of aggregate
22 consideration in a form or forms selected by the mutual
23 company having a value equal to the amount of the statutory
24 surplus of the mutual life insurer.

25 d. The consideration is allocated among the policyholders
26 in a manner which is fair and equitable to the policyholders.

27 e. The reorganized company or its parent corporation shall
28 issue and sell shares of one or more classes having a total
29 price equal to the estimated value in the market on the
30 initial offering of such shares.

31 f. The estimated value shall take into account all of the
32 following:

33 (1) The consideration to be given to policyholders
34 pursuant to paragraph "c".

35 (2) The proceeds of the sale of the shares.

1 (3) Any additional value attributable to the shares as a
2 result of a purchaser or a group of purchasers who acted in
3 concert to obtain shares in the initial offering, attaining,
4 through such purchase, control of the reorganized company or
5 its parent corporation.

6 g. If a purchaser or a group of purchasers acting in
7 concert is to attain such control in the initial offering, the
8 mutual company shall not, directly or indirectly, pay for any
9 of the costs or expenses of the proposed company, whether or
10 not the conversion is effected.

11 h. The reorganized company may share in the profits of the
12 closed block of participating business for the benefit of
13 stockholders.

14 3. A plan of conversion under this subsection shall
15 satisfy all of paragraphs "a" through "j" and may add or
16 substitute, as applicable, the options provided in paragraphs
17 "k" and "l".

18 a. The reorganized company or its parent corporation shall
19 issue and sell shares of one or more classes having a total
20 price equal to the estimated market value on the initial
21 offering taking into account the value to be given to
22 participating policyholders pursuant to paragraph "b" and the
23 proceeds of the sale.

24 b. The participating policyholders' consideration shall be
25 based on the latest annual statement filed prior to the
26 effective date of the adoption by the board of directors of
27 the plan of conversion and shall be equal to the excess of
28 both of the following:

29 (1) The total amount of the mutual company's assets
30 accumulated from the operations of participating policies and
31 contracts in force on the date of the statement over the sum
32 of the total amount of assets allocated to the participating
33 business.

34 (2) An amount equal to reserves and other liabilities
35 attributable to any group participating policies and contracts

1 not included in the closed block of participating business.

2 c. The consideration to be given in exchange for the
3 policyholders' membership interest shall consist of the parti-
4 cipating policyholders' consideration and nontransferable
5 preemptive subscription rights to purchase all of the common
6 shares of the issuer and the establishment of a liquidation
7 account for the benefit of the policyholders in the event of a
8 subsequent complete liquidation of the reorganized company
9 having the terms described in paragraph "j".

10 d. The consideration and the preemptive subscription
11 rights to purchase the common shares shall be allocated among
12 the participating policyholders in a manner determined by the
13 reorganized company which takes into account the estimated
14 contribution of each class of participating policies and con-
15 tracts to the total amount of the policyholders'
16 consideration.

17 e. The number of the common shares which any person, to-
18 gether with any affiliates or group of persons acting in con-
19 cert, may subscribe for or purchase in the reorganization
20 shall be limited to not more than five percent of the common
21 shares. For this purpose, neither the members of the board of
22 directors of the reorganized company nor of its parent
23 corporation, if any, shall be deemed to be affiliates or a
24 group of persons acting in concert solely by reason of their
25 board membership.

26 f. Unless the common shares have a public market when
27 issued, officers and directors of the issuer and their af-
28 filiates shall not, for at least ninety days after the date of
29 conversion, purchase common shares of the issuer, except in
30 negotiated transactions involving more than ten percent of the
31 outstanding common shares.

32 g. Unless the common shares have a public market when
33 issued, the issuer shall use its best efforts to encourage and
34 assist in the establishment of a public market for the common
35 shares.

1 h. The issuer shall not, for at least three years
2 following the conversion, repurchase any of its common shares
3 except pursuant to a pro rata tender offer to all
4 shareholders.

5 i. Until the liquidation account has been reduced to zero,
6 the issuer shall not declare or pay a cash dividend on, or
7 repurchase any of, its common shares in an amount in excess of
8 its cumulative earned surplus generated after the conversion
9 determined in accordance with generally accepted accounting
10 principles, if the effect would be to cause the amount of the
11 statutory surplus of the reorganized company to be reduced
12 below the then amount of the liquidation account.

13 j. The liquidation account referred to in paragraph "c"
14 must be equal to the excess of the total amount of the assets
15 of the mutual company as of the effective date of the conver-
16 sion over the sum of the total amount of assets allocated to
17 the closed block of participating business and the
18 policyholders' consideration and other reserves and
19 liabilities attributed to policies and contracts not included
20 in the amount attributable to policies and contracts in force
21 on that effective date. The determinations shall be based on
22 the latest annual statement of the mutual company filed before
23 the effective date of the conversion plan. The function of
24 the liquidation account shall be solely to establish a
25 priority on liquidation and its existence shall not operate to
26 restrict the use or application of the surplus of the
27 reorganized company except as specified in paragraph "i". The
28 liquidation account shall be allocated equally as of the
29 effective date of conversion among the then participating
30 policyholders. The amount allocated to any policy or contract
31 shall not increase and shall be reduced to zero when the
32 policy or contract terminates. In the event of a complete
33 liquidation of the reorganized company, the policyholders
34 among which the liquidation account is allocated shall be
35 entitled to receive a liquidation distribution in the then

1 amount of the liquidation account before any liquidation dis-
2 tribution is made with respect to shares.

3 k. At the option of the mutual company, the consideration
4 to be given in exchange for the policyholders' membership in-
5 terest or into which the membership is to be converted may
6 consist of cash, securities of the reorganized company,
7 securities of another institution, a certificate of
8 contribution, additional life insurance, annuity benefits,
9 increased dividends, or other consideration or any combination
10 of forms of consideration. The consideration, if any, given
11 to any class or category of policyholder may differ from the
12 consideration given to another class or category of
13 policyholders. The certificate of contribution shall be
14 repayable in ten years, equal to one hundred percent of the
15 value of the policyholders' membership interest, and bear
16 interest at the highest rate charged by the reorganized
17 company for policy loans on the effective date of the
18 conversion.

19 1. At the option of the mutual company, a plan may provide
20 that any shares of the stock of the reorganized company or its
21 parent corporation included in the policyholders'
22 consideration shall be placed on the effective date of the
23 conversion in a trust or other entity existing for the
24 exclusive benefit of the participating policyholders and
25 established solely for the purpose of effecting the
26 reorganization. Under this option, the shares placed in trust
27 shall be sold over a period of not more than ten years and the
28 proceeds of the shares shall be distributed using the
29 distribution priorities prescribed in the plan.

30 Sec. 4. NEW SECTION. 508B.4 ELIGIBLE POLICYHOLDERS
31 PARTICIPATION.

32 The policyholders who are entitled to notice of and to vote
33 upon approval of a plan of conversion and entitled to notice
34 of a public hearing are the policyholders whose policies or
35 contracts are in force on the date of adoption of the plan of

1 conversion. Each policyholder whose policy has been in force
2 for at least one year prior to the date is entitled to the
3 consideration, if any, provided for the policyholder in the
4 plan based on the policyholder's membership interest
5 determined pursuant to this chapter, but only to the extent
6 that the policyholder's membership interest arose from
7 policies or contracts in force on the effective date of the
8 conversion and which were in force for at least one year prior
9 to the date of adoption of the plan. For this purpose, any
10 changes in status of, or premiums in excess of those required
11 on the policies or contracts occurring or made after the date
12 one year prior to the date of adoption of the plan shall be
13 disregarded.

14 Sec. 5. NEW SECTION. 508B.5 APPOINTMENT OF CONSULTANT.

15 A plan may provide for the appointment by the mutual com-
16 pany of a person as defined in section 4.1, subsection 13, who
17 is qualified to act as a consultant. The appointment of the
18 consultant shall be reviewed by the commissioner and unless
19 the commissioner finds the consultant unqualified, the consul-
20 tant shall carry out the duties required by the mutual company
21 and this chapter.

22 The consultant may assist in determining the equity or
23 value of the policyholders and the mutual company. The
24 consultant may consider the value of the consideration to be
25 given to the participating policyholders in exchange for their
26 membership interests or into which the membership interest is
27 to be converted and may consider the valuations necessary to
28 carry out the plans provided for in section 508B.3.

29 Valuations shall be made taking into account the latest filed
30 annual statement of the mutual company and any significant
31 developments occurring subsequent to the date of the
32 statement.

33 The findings of the consultant may be modified by the
34 mutual company at any time so long as the results are not
35 unfair or inequitable to policyholders.

1 If it can be shown by the mutual company to the
2 commissioner that an underwriter of the shares is a qualified
3 person, the underwriter may be appointed as the consultant.

4 Sec. 6. NEW SECTION. 508B.6 APPROVAL OF PLAN BY
5 POLICYHOLDERS -- NOTICE OF ELECTION -- EFFECTIVE DATE.

6 After the plan has been approved by the commissioner as
7 provided in section 508B.7, the plan of conversion shall be
8 submitted to and shall not take effect until approved by two
9 thirds of the policyholders of the mutual company voting on
10 the plan. Notice of a meeting for the purpose of voting on
11 the conversion plan shall be provided by mail to each
12 policyholder entitled to vote in accordance with the articles
13 of incorporation or bylaws of the mutual company. Each
14 policyholder entitled to vote may cast one vote unless
15 otherwise provided in the articles of incorporation or bylaws
16 of the mutual company. Voting shall be by ballot, in person
17 or by proxy. A quorum shall consist of a quorum as defined in
18 the articles of incorporation or bylaws of the mutual company.
19 A copy of the plan of conversion, or a summary of the plan of
20 conversion, shall accompany the notice of meeting and
21 election. The notice of meeting may contain the notice of any
22 planned public hearing. An approved plan of conversion shall
23 take effect on the date specified in the plan.

24 Sec. 7. NEW SECTION. 508B.7 REVIEW OF PLAN BY
25 COMMISSIONER -- HEARING AUTHORIZED -- FINAL APPROVAL.

26 The commission of insurance shall review the plan. The
27 commissioner shall approve the plan if the commissioner finds
28 the plan complies with all provisions of law, is not unfair or
29 inequitable to the mutual company and its policyholders, and
30 that the reorganized company will have the amount of capital
31 and surplus deemed by the commissioner to be reasonably neces-
32 sary for its future solvency. The commissioner may order a
33 hearing on the fairness and equity of the terms of the plan
34 after giving written notice of the hearing to the mutual
35 company, its policyholders and other interested persons, all

1 of whom have the right to appear at the hearing.

2 Sec. 8. NEW SECTION. 508B.8 PAYMENT OF FEES, SALARIES
3 AND COSTS.

4 A director, officer, agent or employee of the mutual
5 company shall not receive a fee, commission or other valuable
6 consideration, other than regular salary and compensation, for
7 aiding, promoting or assisting in the conversion except as set
8 forth in the plan approved by the commissioner. This section
9 does not prohibit the payment of reasonable fees and compensa-
10 tion to a consultant, attorneys at law, accountants, actuaries
11 or other persons specifically employed for services performed
12 in the practice of their professions while completing the plan
13 of conversion, even if these persons are directors of the
14 mutual company.

15 Sec. 9. NEW SECTION. 508B.9 APPROVAL OF PLAN -- ACT OF
16 CONVERSION -- CONTINUATION OF COMPANY.

17 When the commissioner approves the conversion plan as pro-
18 vided in this chapter, the commissioner shall issue a new
19 certificate of authority to the reorganized company effective
20 on the date specified in the plan. The reorganized company is
21 a continuation of the mutual life insurance company and the
22 conversion shall not annul or modify any of the mutual
23 company's existing suits, contracts or liabilities except as
24 provided in the approved conversion plan. All rights,
25 franchises and interests of the mutual company in and to
26 property, assets, and other interests shall be transferred to
27 and shall vest in the reorganized company and the reorganized
28 company shall assume all obligations and liabilities of the
29 mutual company.

30 The reorganized company, shall exercise all rights and
31 powers and perform all duties conferred or imposed by law on
32 life insurance companies writing the classes of insurance
33 written by it, and shall retain the rights and contracts
34 existing before conversion, subject to provisions of the plan.

35 Sec. 10. NEW SECTION. 508B.10 CONTINUATION OF OFFICERS.

1 The directors and officers of the mutual company shall
2 serve the reorganized company until new directors and officers
3 are elected and qualify pursuant to the articles of
4 incorporation and bylaws of the reorganized company.

5 Sec. 11. NEW SECTION. 508B.11 RULES.

6 The commissioner shall issue rules pursuant to chapter 17A
7 to carry out the provisions of this chapter.

8 Sec. 12. NEW SECTION. 508B.12 AMENDMENTS -- WITHDRAWAL.

9 At any time before approval of the plan of conversion and
10 pursuant to rules issued by the commissioner, the board of
11 directors of a mutual company may amend the conversion plan.
12 The board of directors of a mutual company may withdraw the
13 plan of conversion at any time prior to the approval of the
14 plan of conversion.

15 Sec. 13. NEW SECTION. 508B.13 PROHIBITIONS ON CERTAIN
16 OFFERS TO ACQUIRE SHARES.

17 Prior to and for a period of five years following the ef-
18 fective date of the conversion, and in the case of the plans
19 of conversion specified in subsections 1 and 3 of section
20 508B.3, five years following the date of distribution of con-
21 sideration to the policyholders in exchange for their member-
22 ship interests, an officer or director, including family mem-
23 bers and their spouses, of the mutual company or the
24 reorganized company, shall not directly or indirectly offer to
25 acquire or acquire the beneficial ownership of the reorganized
26 company unless the acquisition is made pursuant to a stock
27 option plan approved by the commissioner, made pursuant to the
28 plan of conversion, or made after the initial public offering
29 from a broker or dealer of registered securities with the
30 securities and exchange commission at the quoted price on the
31 date of purchase. As used in this section, "beneficial
32 ownership" means with respect to any security, the sole or
33 shared power to vote or direct the voting of the security or
34 the sole power to dispose or direct the disposition of the
35 security, and "family member" includes a brother, sister,

1 spouse, parent, grandparent, ancestor, or descendant of the
2 officer or director.

3 Sec. 14. NEW SECTION. 508B.14 LIMITATION OF ACTIONS.

4 An action challenging the validity of a conversion plan, or
5 any part of a conversion plan, shall not be commenced more
6 than one hundred eighty days following the date of approval by
7 the commissioner.

8 The reorganized company or any defendant may require the
9 plaintiff in such an action to give security for the
10 reasonable attorney fees which may be incurred by any party to
11 the action. The amount of the security may be increased or
12 decreased in the discretion of the court having jurisdiction
13 if a showing is made that the security provided is or may
14 become inadequate or excessive.

15 Sec. 15. NEW SECTION. 508B.15 DUTIES OF SECRETARY OF
16 STATE.

17 After approval of the conversion plan by the commissioners,
18 the secretary of state shall accept for filing a verified copy
19 of the amended articles of incorporation.

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20 Sec. 16. This Act applies to plans of conversion
21 established after the effective date of this Act.

22 EXPLANATION

23 This bill provides a method for mutual life insurance
24 companies to become stock companies. Iowa does not have a
25 "demutualization" law at the present time. Although a common
26 law procedure is available, it does not have the statutory
27 alternatives provided in this bill. This bill does not affect
28 property and casualty companies or fraternal life insurance
29 companies. Provision is made for submission of a plan to the
30 policyholders of a mutual insurance company, determining the
31 value of the equity of policyholders of the mutual insurance
32 company, providing benefits to mutual company policyholders,
33 providing other procedures, hearings, elections, and the final
34 review of the plan. A company desiring to follow a procedure
35 specifically designed by the commissioner of insurance may do

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1 so. Continuation of the structure of the company being
2 converted is provided.

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Small Business and Commerce: Brammer, Chair; Halvorson of Clayton and Swartz. SMALL BUSINESS AND COMMERCE

S.F. _____ H.F. ^{Now}
~~HF 703~~

PROPOSED HOUSE FILE/SENATE FILE

By **BRAMMER**

- 1 Iowa Life Insurance Draft #4
- 2 Demutualization Bill
- 3 March 7, 1985

A BILL FOR

An Act creating a procedure for a domestic mutual life insurance company to become a domestic stock life insurance company.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. _____ H.F. _____ CHAPTER 508A
CONVERSION OF MUTUAL LIFE INSURANCE COMPANY
TO STOCK LIFE INSURANCE COMPANY

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2 Section 1. NEW SECTION. 508A.1. DEFINITIONS.

3 As used in this chapter, unless the context clearly indica-
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10 2. "Stock life insurance company" or "stock company" means
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13 requirements of section 508.12.

14 3. "Commissioner" means the commissioner of insurance.

15 4a. "Plan of conversion" or "conversion plan" means a plan
16 authorized by section 508A.3 and, in the case of plans
17 authorized by subsections 1 and 3 of section 508A.3, it inclu-
18 des a procedure where the mutual company's participating poli-
19 cies and contracts in force on the effective date of the
20 conversion plan are operated by the reorganized company as a
21 closed block of participating business for the exclusive bene-
22 fit of the policies and contracts included, for dividend pur-
23 poses only, to which are allocated assets of the mutual company
24 in an amount which together with anticipated revenue from such
25 business is reasonably expected to be sufficient to support the
26 business including, but not limited to, provisions for payment
27 of claims and reasonable expenses, and to provide for con-
28 tinuation of current payable dividend scales if the experience
29 underlying such scales continues and for appropriate adjust-
30 ments in the scales if the experience changes. However, at the
31 option of the mutual company, some or all classes of group

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1 policies and contracts shall continue to be eligible to receive
2 dividends based on the experience of such class or classes.

3 b. If any amount of the policyholders' consideration as
4 specified in paragraph b of subsection 3 of section 508A.3 for
5 certain classes of policies or contracts is to be paid in the
6 form of increased annual dividends to the policyholders in
7 those classes, that amount is to be added to the assets allo-
8 cated as provided in paragraph a and is to be paid to those
9 classes in a fair and equitable manner.

10 5. "Policyholder" means a person determined by the records
11 of the mutual company who is deemed to be the holder of a
12 policy or annuity contract for the purposes of subsections 1, 2
13 or 3 of section 508A.3.

14 6. "Policyholders' membership interest" means all policy-
15 holders' rights as members of the mutual company including, but
16 not limited to, rights to vote and participate in any distribu-
17 tion of surplus whether or not incident to liquidation of the
18 mutual company.

19 7. "Reorganized company" means the domestic stock life
20 insurance company into which a mutual company has been
21 converted.

22 Section 2. NEW SECTION. 508A.2. MUTUAL COMPANY BECOMING
23 STOCK COMPANY--AUTHORIZATION. A mutual life insurance company
24 may become a stock life insurance company pursuant to a plan of
25 conversion established and approved in the manner provided by
26 this chapter.

27 A plan of conversion may provide that a mutual company may
28 convert into a domestic stock company, convert and merge, or
29 convert and consolidate with a domestic stock company, as pro-
30 vided in chapter 491 or 496A, whichever is applicable.

31 However, the mutual company is not required to comply with
32 sections 491.02 through 491.105 or sections 496A.68 through
33 496A.70 relating to approval or merger or consolidation plans
34 by boards of directors and shareholders, if at the time of
35 approval of the plan of conversion the board of directors

1 approve the merger or consolidation and if at the time of
2 approval of the plan by policyholders as provided in section
3 508A.5, the policyholders approve the merger or consolidation.
4 A mutual company may convert, merge, or consolidate as part of
5 a plan of conversion in which a majority or all of the common
6 shares of the stock company is acquired by another corporation,
7 which may be a corporation organized for such purpose, or in
8 which the new stock company consolidates with a stock company
9 to form another stock company.

10 In lieu of selecting a plan of conversion provided for in
11 this chapter, a mutual company may convert to a stock company
12 pursuant to a plan approved by the commissioner. The com-
13 missioner may use any provisions or combination of provisions
14 provided for a plan in this chapter and may adopt any other
15 provisions which are not unfair or inequitable to the policy-
16 holders of the mutual company. If a mutual company selects
17 this procedure for conversion purposes, the mutual company
18 shall reimburse the state for expenses incurred by the
19 insurance department in connection with the conversion plan .
20 except for expenses that are normal operating expenses of the
21 insurance department.

22 Section 3. NEW SECTION. 508A.3. CONVERSION PLANS NOT TO
23 BE UNFAIR OR INEQUITABLE--PLANS-ALTERNATIVE PROCEDURES AND
24 REQUIREMENTS. A plan of conversion shall not be unfair or ine-
25 quitable to policyholders. A plan of conversion is not unfair
26 or inequitable if it satisfies the conditions of subsections 1,
27 2, or 3 of this section. The commissioner may determine that
28 any other plan proposed by a mutual company is not unfair or
29 inequitable to its policyholders.

30 1. Subject to the provisions of paragraph (b) of this subsec-
31 tion, a plan of conversion under this subsection shall provide
32 that: a. A policyholder's membership interest will be
33 exchanged, in a manner which takes into account the estimated
34

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1 proportionate contribution of each class of participating poli-
2 cies and contracts, for all of the common shares of the reorga-
3 nized company or its parent company, if any, or for either or a
4 combination of the common shares of the reorganized company or
5 its parent company, if any, and consideration equal to the pro-
6 ceeds of the sale of the common shares by the issuer or by a
7 trust or other entity existing for the exclusive benefit of
8 policyholders and established solely for the purpose of
9 effecting the conversion to which the common shares or options
10 to acquire, or securities convertible into, the common shares
11 are issued by the issuer on the effective date of the conver-
12 sion. The consideration shall be distributed to policyholders
13 during a process of conversion specified in the plan and not to
14 last more than ten years after the effective date of conversion
15 or until the death of the policyholder, whichever occurs first.
16 b. Unless the anticipated issuance within a shorter period is
17 disclosed, the issuer of common shares shall not, within two
18 years after the effective date of reorganization, issue: (1)
19 Any of its common shares, any securities convertible with or
20 without consideration into such common shares or carrying any
21 warrant to subscribe to or purchase common shares; (2) Any
22 warrant, right or option to subscribe to or purchase such com-
23 mon shares or other securities described in subparagraph 1,
24 except for the issue of common shares to or for the benefit of
25 policyholders pursuant to the plan of conversion and the
26 issue of stock in anticipation of options for the purchase of
27 common shares being granted to officers or employees of the
28 reorganized company or its parent company, if any, pursuant to
29 this chapter and a plan approved by the commissioner; c.
30 Unless the common shares have a public market when issued, the
31 issuer shall use its best efforts to encourage and assist in
32 the establishment of a public market for the common shares
33 within two years of the effective date of the conversion or
34 such longer period as may be disclosed in the plan of conver-
35 sion, and within one year after the offering of stock other

1 than the initial distribution, but no later than six years
2 after the effective date of the conversion, the reorganized
3 company, under a plan approved by the commissioner, which the
4 commissioner finds not to be unfair or inequitable to the
5 reorganized company, shall offer to make available to policy-
6 holders who received and retained shares of stock with minimal
7 values on conversion, a procedure to dispose of those shares of
8 stock at market value without brokerage commissions or similar
9 fees; d. The costs and expenses of the conversion shall be
10 borne by the mutual company but no costs and expenses incurred
11 in any manner in connection with the plan of reorganization
12 shall be charged to the closed block of participating
13 business.

14 2. A plan of conversion under this subsection shall provi-
15 de: a. The mutual company's participating business, comprised
16 of its participating policies and contracts in force on the
17 effective date of the conversion are to be operated by the
18 reorganized insurer as a closed block of participating busi-
19 ness; b. Assets of the mutual company are allocated to the
20 closed block of participating business in an amount equal to
21 the reserves and liabilities for the mutual life insurer's par-
22 ticipating policies and contracts in force on the effective
23 date of the conversion; c. The consideration to be given in
24 exchange for the policyholders' membership interest consists of
25 aggregate consideration in a form or forms selected by the
26 mutual company having a value equal to the amount of the statu-
27 tory surplus of the mutual life insurer; d. The consideration
28 is allocated among the policyholders in a manner which is fair
29 and equitable to the policyholders; e. The reorganized company
30 or its parent corporation issues and sells shares of one or
31 more classes having a total price equal to the estimated value
32 in the market on the initial offering of such shares; f. The
33 estimated value takes into account: (1) The consideration to be
34 given to policyholders pursuant to paragraph c; (2) The pro-
35 ceeds of the sale of the shares; and (3) Any additional value

1 attributable to the shares as a result of a purchaser or a
2 group of purchasers who acted in concert to obtain shares in
3 the initial offering attaining, through such purchase, control
4 of the reorganized company or its parent corporation; g. If a
5 purchaser or a group of purchasers acting in concert is to
6 attain such control in the initial offering, the mutual company
7 shall not, directly or indirectly, pay for any of the costs or
8 expenses of the proposed company, whether or not the conversion
9 is effected; and h. The reorganized company may share in the
10 profits of the closed block of participating business for the
11 benefit of stockholders.

12 3. A plan of conversion under this subsection shall satis-
13 fy all of paragraphs a through j or the options provided in
14 paragraphs k and l ~~shall meet the requirement that the proposed~~
15 ~~conversion plan is not unfair or inequitable to the policy-~~
16 ~~holders:~~

17 a. The reorganized company or its parent corporation is to
18 issue and sell shares of one or more classes having a total
19 price equal to the estimated market value on the initial
20 offering taking into account the value to be given to par-
21 ticipating policyholders pursuant to paragraph b and the
22 proceeds of the sale;

23 b. The participating policyholders' consideration is based
24 on the latest annual statement filed prior to the effective
25 date of the adoption by the board of directors of the plan
26 of conversion and is equal to the excess of:

27 (1) The total amount of the mutual company's assets
28 accumulated from the operations of participating poli-
29 cies and contracts in force on the date of the state-
30 ment over the sum of the total amount of assets
31 allocated to the participating business; and

32 (2) An amount equal to reserves and other liabilities
33 attributable to any group participating policies and
34 contracts not included in the closed block of par-
35 ticipating business.

- 1 c. The consideration to be given in exchange for the
2 policyholders' membership interest consists of the par-
3 ticipating policyholders' consideration and nontransferable
4 preemptive subscription rights to purchase all of the com-
5 mon shares of the issuer and the establishment of a
6 liquidation account for the benefit of the policyholders in
7 the event of a subsequent complete liquidation of the
8 reorganized company having the terms described in paragraph
9 j of this subsection;
- 10 d. The consideration and the preemptive subscription
11 rights to purchase the common shares shall be allocated
12 among the participating policyholders in a manner deter-
13 mined by the reorganized company which takes into account
14 the estimated contribution of each class of participating
15 policies and contracts to the total amount of the policy-
16 holders' consideration;
- 17 e. The number of the common shares which any person,
18 together with any affiliates or group of persons acting in
19 concert, may subscribe for or purchase in the reorganiza-
20 tion is limited to not more than five percent of the common
21 shares and for this purpose, neither the members of the
22 board of directors of the reorganized company nor of its
23 parent corporation, if any, shall be deemed to be affi-
24 liates or a group of persons acting in concert solely by
25 reason of their board membership;
- 26 f. Unless the common shares have a public market when
27 issued, officers and directors of the issuer and their
28 affiliates cannot, for at least ninety days after the date
29 of conversion, purchase common shares of the issuer, except
30 in negotiated transactions involving more than ten percent
31 of the outstanding common shares;
- 32 g. Unless the common shares have a public market when
33 issued, the issuer is obligated to use its best efforts to
34 encourage and assist in the establishment of a public
35 market for the common shares;

1 h. The issuer cannot for at least three years following
2 the conversion, repurchase any of its common shares except
3 pursuant to a pro rata tender offer to all shareholders:

4 i. Until the liquidation account has been reduced to zero,
5 the issuer cannot declare or pay a cash dividend on, or
6 repurchase any of, its common shares in an amount in excess
7 of its cumulative earned surplus generated after the con-
8 version determined in accordance with generally accepted
9 accounting principles, if the effect would be to cause the
10 amount of the statutory surplus of the reorganized company
11 to be reduced below the then amount of the liquidation
12 account.

13 j. The liquidation account referred to in paragraph c of
14 this subsection must be equal to the excess of the total
15 amount of the assets of the mutual company as of the effec-
16 tive date of the conversion over the sum of the total
17 amount of assets allocated to the closed block of par-
18 ticipating business and the policyholder's consideration
19 and other reserves and liabilities attributed to policies
20 and contracts not included in the amount attributable to
21 policies and contracts in force on such effective date.
22 The determinations shall be based on the latest annual sta-
23 tement of the mutual company filed before the effective
24 date of the conversion plan. The function of the liquida-
25 tion account will be solely to establish a priority on
26 liquidation and its existence shall not operate to restrict
27 the use or application of the surplus of the reorganized
28 company except as specified in paragraph i above. The
29 liquidation account shall be allocated equally as of the
30 effective date of conversion among the then participating
31 policyholders. The amount allocated to any policy or
32 contract shall not increase and shall be reduced to zero
33 when the policy or contract terminates. In the event of a
34 complete liquidation of the reorganized company, the poli-
35 cyholders among which the liquidation account is allocated

1 will be entitled to receive a liquidation distribution in
2 the then amount of the liquidation account before any
3 liquidation distribution is made with respect to shares.

4 k. At the option of the mutual company, the consideration
5 to be given in exchange for the policyholders' membership
6 interest or into which the membership is to be converted
7 may consist of cash, securities of the reorganized company,
8 securities of another institution, a certificate of contri-
9 bution, additional life insurance, annuity benefits,
10 increased dividends, or other consideration or any com-
11 bination of forms of consideration. The consideration, if
12 any, given to any class or category of policyholder may
13 differ from the consideration given to another class or
14 category of policyholders. The certificate of contribution
15 shall be repayable in ten years, equal to one hundred per-
16 cent of the value of the policyholder's membership
17 interest, and bear interest at the highest rate charged by
18 the reorganized company for policy loans on the effective
19 date of the conversion.

20 l. At the option of a mutual company, a plan may provide
21 that any shares of the stock of the reorganized company or
22 its parent corporation included in the policyholders' con-
23 sideration shall be placed on the effective date of the
24 conversion in a trust or other entity existing for the
25 exclusive benefit of the participating policyholders and
26 established solely for the purpose of effecting the reorga-
27 nization. Under this option, the shares placed in trust
28 shall be sold over a period of not more than ten years and
29 the proceeds of the shares shall be distributed using the
30 distribution priorities prescribed in the plan.

31 Section 4. NEW SECTION. 508A.4. ELIGIBLE POLICYHOLDERS
32 NOTICE - PARTICIPATION. The policyholders who are entitled to
33 notice of and to vote upon approval of a plan of conversion and
34 entitled to notice of a public hearing are the policyholders

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1 whose policies or contracts are in force on the date of adop-
2 tion of the plan of conversion. Each policyholder whose policy
3 has been in force for at least one year prior to such date
4 shall be entitled to the consideration, if any, provided for
5 such policyholder in the plan based on the policyholder's mem-
6 bership interest determined pursuant to this chapter, but only
7 to the extent that the policyholder's membership interest arose
8 from policies or contracts in force on the effective date of
9 the conversion and which were in force for at least one year
10 prior to the date of adoption of the plan. For this purpose,
11 any changes in status of, or premiums in excess of those
12 required on the policies or contracts occurring or made after
13 the date one year prior to the date of adoption of the plan
14 shall be disregarded.

15 Section 5. NEW SECTION. 508A.5. APPOINTMENT OF
16 CONSULTANT. A plan may provide for the appointment by the
17 mutual company of a person as defined in subsection 13 of sec-
18 tion 4.1 who is qualified to act as a consultant. The appoint-
19 ment of the consultant shall be reviewed by the commissioner
20 and unless the commissioner finds the consultant unqualified,
21 the consultant shall carry out the duties required by the
22 mutual company and this chapter.

23 The consultant may assist in determining the equity or
24 value of the policyholders and the mutual company. The con-
25 sultant may consider the value of the consideration to be given
26 to the participating policyholders in exchange for their mem-
27 bership interests or into which the membership interest is to
28 be converted and may consider the valuations necessary to carry
29 out the plans provided for in section 508A.3. Valuations shall
30 be made taking into account the latest filed annual statement
31 of the mutual company and any significant developments
32 occurring subsequent to the date of the statement.

33 The findings of the consultant may be modified at any time
34 so long as the results are not unfair or inequitable to policy-
35 holders.

1 If it can be shown that an underwriter of the shares is a
2 qualified person, the underwriter may be appointed as the con-
3 sultant.

4 Section 6. NEW SECTION. 508A.6. APPROVAL OF PLAN BY
5 POLICYHOLDERS--NOTICE--ELECTION--EFFECTIVE DATE. A plan of con-
6 version must be approved by two-thirds of the policyholders of
7 the mutual company voting on the plan. Notice of a meeting for
8 the purpose of voting on the conversion plan shall be provided
9 by mail to each policyholder entitled to vote in accordance
10 with the articles of incorporation or bylaws of the mutual com-
11 pany. Each policyholder entitled to vote shall cast one vote
12 unless otherwise provided in the articles of incorporation or
13 bylaws of the mutual company. Voting shall be by ballot, in
14 person or by proxy. A quorum shall consist of a quorum as
15 defined in the articles of incorporation or bylaws of the
16 mutual company. A copy of the plan of conversion, or a summary
17 of the plan of conversion, shall accompany the notice of
18 meeting and election. The notice of meeting may contain the
19 notice of any planned public hearing. The plan of conversion
20 shall take effect on the date specified in the plan.

21 Section 7. NEW SECTION. 508A.7. REVIEW OF PLAN BY
22 COMMISSIONER--HEARING AUTHORIZED--FINAL APPROVAL. The com-
23 missioner of insurance shall review the plan submitted after
24 all procedural provisions have been completed as provided by
25 the plan and this chapter. The commissioner shall approve the
26 plan if the commissioner finds the plan complies with all pro-
27 visions of law, is not unfair or inequitable to the mutual com-
28 pany and its policyholders, and that the reorganized company
29 will have an amount of capital and surplus deemed necessary by
30 the commissioner to be reasonably necessary for its future
31 solvency. The commissioner may order a hearing on the fairness
32 and terms of the plan after giving written notice of the
33 hearing to the mutual company, its policyholders and other
34 interested persons, all of whom have the right to appear at the
35 hearing.

1 Section 8. NEW SECTION. 508A.8. PAYMENT OF FEES AND
2 SALARIES AND COSTS. A director, officer, agent or employee of
3 the mutual company shall not receive any fee, commission or
4 other valuable consideration, other than regular salary and
5 compensation, for aiding, promoting or assisting in the conver-
6 sion except as set forth in the plan approved by the com-
7 missioner. This section shall not prohibit the payment of
8 reasonable fees and compensation to a consultant, attorneys at
9 law, accountants, actuaries or other persons specifically
10 employed for services performed in the practice of their pro-
11 fessions while completing the plan of conversion, even if these
12 persons are directors of the mutual company.

13 Section 9. NEW SECTION. 508A.9. APPROVAL OF PLAN--ACT OF
14 CONVERSION--CONTINUATION OF COMPANY. When the commissioner
15 approves the conversion plan as provided in this chapter, the
16 commissioner shall issue a new certificate of authority to the
17 reorganized company effective on the date specified in the
18 plan. The reorganized company shall be a continuation of the
19 mutual life insurance company and the conversion shall not
20 annul, modify or change any of the mutual company's existing
21 suits, contracts or liabilities except as provided in the
22 approved conversion plan. All rights, franchises and interests
23 of the mutual company to property, assets, and other interests
24 are transferred to and shall vest in the reorganized company
25 and the reorganized company shall assume all obligations and
26 liabilities of the mutual company.

27 The reorganized company, shall exercise all rights and
28 powers and perform all duties conferred or imposed by law on
29 life insurance companies writing the classes of insurance writ-
30 ten by it, and shall retain the rights and contracts existing
31 before conversion, subject to provisions of the plan.

32 Section 10. NEW SECTION. 508A.10. CONTINUATION OF
33 OFFICERS. The directors and officers of the mutual company
34 shall serve until new directors and officers are elected and
35 qualify pursuant to the articles of incorporation and bylaws of
the stock company.

1 Section 11. NEW SECTION. 508A.11. RULES. The com-
2 missioner shall issue rules pursuant to chapter 17A to carry
3 out the provisions of this chapter.

4 Section 12. NEW SECTION. 508.12. AMENDMENTS--WITHDRAWAL.
5 The board of directors of a mutual company may, at any time
6 before approval of the plan of conversion, and pursuant to
7 rules issued by the commissioner, amend the conversion plan.
8 The board of directors of a mutual company may withdraw the
9 plan of conversion at any time prior to the approval of the
10 plan of conversion.

11 Section 13. NEW SECTION. 508A.13. PROHIBITIONS ON
12 CERTAIN OFFERS TO ACQUIRE SHARES. Prior to and for a period of
13 five years following the effective date of the conversion, and
14 in the case of the plans of conversion specified in subsections
15 1 and 3 of section 508A.3, five years following the date of
16 distribution of consideration to the policyholders in exchange
17 for their membership interests, an officer or director,
18 including family members and their spouses of the mutual com-
19 pany or the reorganized company, shall not directly or
20 indirectly offer to acquire or acquire the beneficial ownership
21 of the reorganized company unless the acquisition is made pur-
22 suant to a stock option plan approved by the commissioner, made
23 pursuant to the plan of conversion, or made after the initial
24 public offering from a broker or dealer of registered securi-
25 ties with the securities and exchange commission at the quoted
26 price on the date of purchase. As used in this section,
27 "beneficial ownership" means with respect to any security, the
28 sole or shared power to vote or direct the voting of the
29 security or the sole power to dispose or direct the disposition
30 of the security. The term "family member" includes a brother,
31 sister, spouse, ancestor, or descendent of the officer or
32 director.

33 Section 14. NEW SECTION. 508A.14. LIMITATION OF ACTIONS.
34 An action challenging the validity of a conversion, or any part
35

1 of a conversion plan, shall not be commenced more than one
2 hundred eighty days following the date of approval by the com-
3 missioner.

4 The reorganized company or any defendant may require the
5 plaintiff to give security for the reasonable attorney fees
6 which may be incurred by any party to the action. The amount
7 of the security may be increased or decreased in the discretion
8 of the court having jurisdiction if a showing is made that the
9 security provided is or may become inadequate or excessive.

10 Section 15. NEW SECTION. 508A.15. DUTIES OF SECRETARY OF
11 STATE. After approval of the conversion, the secretary of
12 state shall accept for filing a verified copy of the amended
13 articles of incorporation.

14 EXPLANATION

15 This Bill provides a method for mutual life insurance com-
16 panies to become stock companies. Iowa does not have a
17 "demutualization" law at the present time. Although a common
18 law procedure is available, it lacks statutory alternatives
19 which this Bill will provide. This Bill does not affect pro-
20 perty and casualty companies or fraternal life insurance com-
21 panies. Provision is made for submission of a plan to the
22 policyholders of a mutual insurance company, determining the
23 value of the equity of policyholders of the mutual insurance
24 company, providing benefits to mutual company policyholders,
25 providing other procedures, hearings, elections, and the final
26 review of the plan. A company desiring to follow a procedure
27 specifically designed by the commissioner of insurance may do
28 so. Continuation of the structure of the company being con-
29 verted is provided.

30 Corporate procedures available to stock companies sometimes
31 have business advantages over the mutual form of business.
32 Allowing Iowa-based life insurance companies to convert from a
33 mutual form of organization to a stock form provides an alter-
34 native not now available in Iowa statutes, which alternative

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1 may be of benefit to Iowa domestic companies or any foreign
2 life company which desires to become an Iowa domestic company
3 and relocate its corporate headquarters to Iowa.

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HOUSE FILE 703

AN ACT

CREATING A PROCEDURE FOR A DOMESTIC MUTUAL LIFE INSURANCE
COMPANY TO BECOME A DOMESTIC STOCK LIFE INSURANCE COMPANY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 508B.1 DEFINITIONS.

As used in this chapter, unless the context clearly indicates otherwise:

1. "Mutual life insurance company" or "mutual company" means a level premium and natural premium life insurance company authorized under chapter 508 upon the mutual plan and includes a domestic company which meets the requirements of section 508.12.
2. "Stock life insurance company" or "stock company" means a life insurance company authorized under chapter 508 upon the stock plan and includes a domestic company which meets the requirements of section 508.12.
3. "Commissioner" means the commissioner of insurance.
4. a. "Plan of conversion" or "conversion plan" means a plan authorized by section 508B.3 and, in the case of plans authorized by section 508B.3, subsections 1 and 3, includes a procedure by which the mutual company's participating policies

and contracts in force on the effective date of the conversion plan are operated by the reorganized company as a closed block of participating business for the exclusive benefit of the policies and contracts included, for dividend purposes only, to which are allocated assets of the mutual company in an amount which together with anticipated revenue from the business is reasonably expected to be sufficient to support the business, and which includes, but is not limited to, provisions for payment of claims and reasonable expenses, and provisions for continuation of current payable dividend scales if the experience underlying the scales continues and for appropriate adjustments in the scales if the experience changes. However, at the option of the mutual company, some or all classes of group policies and contracts shall continue to be eligible to receive dividends based on the experience of such class or classes.

b. If any amount of the policyholders' consideration as specified in section 508B.3, subsection 3, paragraph "b", for certain classes of policies or contracts is to be paid in the form of increased annual dividends to the policyholders in those classes, that amount is to be added to the assets allocated as provided in paragraph "a" and is to be paid to those classes.

5. "Policyholder" means a person determined by the mutual company who is to be the holder of a policy or annuity contract for the purposes of section 508B.3, subsection 1, 2, or 3.

6. "Policyholders' membership interest" means all policyholders' rights as members of the mutual company including, but not limited to, rights to vote and participate in any distribution of surplus whether or not incident to liquidation of the mutual company.

7. "Reorganized company" means the domestic stock life insurance company into which a mutual company has been converted.

Sec. 2. NEW SECTION. 508B.2 MUTUAL COMPANY BECOMING STOCK COMPANY -- AUTHORIZATION.

A mutual life insurance company may become a stock life insurance company pursuant to a plan of conversion established and approved in the manner provided by this chapter.

A plan of conversion may provide that a mutual company may convert into a domestic stock company, convert and merge, or convert and consolidate with a domestic stock company, as provided in chapter 491 or 496A, whichever is applicable. However, the mutual company is not required to comply with sections 491.102 through 491.105 or sections 496A.68 through 496A.70 relating to approval or merger or consolidation plans by boards of directors and shareholders, if at the time of approval of the plan of conversion the board of directors approves the merger or consolidation and if at the time of approval of the plan by policyholders as provided in section 508B.6, the policyholders approve the merger or consolidation. This chapter supersedes any conflicting provisions of chapters 521 and 521A. A mutual company may convert, merge, or consolidate as part of a plan of conversion in which a majority or all of the common shares of the stock company are acquired by another corporation, which may be a corporation organized for that purpose, or in which the new stock company consolidates with a stock company to form another stock company.

In lieu of selecting a plan of conversion provided for in this chapter, a mutual company may convert to a stock company pursuant to a plan approved by the commissioner. The commissioner may use any provisions or combination of provisions provided for a plan in this chapter and may adopt any other provisions which are not unfair or inequitable to the policyholders of the mutual company. If a mutual company selects this procedure for conversion purposes, the mutual company shall reimburse the state for expenses incurred by the insurance department in connection with the conversion plan

except for expenses that are normal operating expenses of the insurance department.

Sec. 3. NEW SECTION. 508B.3 CONVERSION PLANS NOT TO BE UNFAIR OR INEQUITABLE -- PLANS -- ALTERNATIVE PROCEDURES AND REQUIREMENTS.

A plan of conversion shall not be unfair or inequitable to policyholders. A plan of conversion is not unfair or inequitable if it satisfies the conditions of subsections 1, 2, or 3. The commissioner may determine that any other plan proposed by a mutual company is not unfair or inequitable to its policyholders.

1. Subject to paragraph "b", a plan of conversion under this subsection shall provide all of the following:

a. The policyholders' membership interest shall be exchanged, in a manner which takes into account the estimated proportionate contribution of surplus of each class of participating policies and contracts, for all of the common shares of the reorganized company or its parent company, if any, or for either or a combination of the common shares of the reorganized company or its parent company, if any, and consideration equal to the proceeds of the sale of the common shares by the issuer or by a trust or other entity existing for the exclusive benefit of policyholders and established solely for the purpose of effecting the conversion, to which trust or other entity the common shares, or the options to acquire or securities convertible into the common shares, shall be issued by the issuer on the effective date of the conversion. The consideration shall be distributed to policyholders during a process of conversion specified in the plan which shall not last more than ten years after the effective date of conversion or until the death of the policyholder, whichever occurs first.

b. Unless the anticipated issuance within a shorter period is disclosed, the issuer of common shares shall not, within two years after the effective date of reorganization, issue either of the following:

(1) Any of its common shares or any securities convertible with or without consideration into the common shares or carrying any warrant to subscribe to or purchase common shares.

(2) Any warrant, right or option to subscribe to or purchase the common shares or other securities described in subparagraph (1), except for the issue of common shares to or for the benefit of policyholders pursuant to the plan of conversion and the issue of stock in anticipation of options for the purchase of common shares being granted to officers or employees of the reorganized company or its parent company, if any, pursuant to this chapter.

c. Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares within two years of the effective date of the conversion or a longer period as disclosed in the plan of conversion. Within one year after the offering of stock other than the initial distribution, but no later than six years after the effective date of the conversion, the reorganized company shall offer to make available to policyholders who received and retained shares of stock with minimal values on conversion, a procedure to dispose of those shares of stock at market value without brokerage commissions or similar fees.

2. A plan of conversion under this subsection shall provide all of the following:

a. The mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion shall be operated by the reorganized insurer as a closed block of participating business.

b. Assets of the mutual company shall be allocated to the closed block of participating business in an amount equal to the reserves and liabilities for the mutual life insurer's participating policies and contracts in force on the effective date of the conversion.

c. The consideration to be given in exchange for the policyholders' membership interest consists of aggregate consideration in a form or forms selected by the mutual company having a value equal to the amount of the statutory surplus of the mutual life insurer.

d. The consideration is allocated among the policyholders in a manner which is fair and equitable to the policyholders.

e. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market on the initial offering of such shares.

f. The estimated value shall take into account all of the following:

(1) The consideration to be given to policyholders pursuant to paragraph "c".

(2) The proceeds of the sale of the shares.

(3) Any additional value attributable to the shares as a result of a purchaser or a group of purchasers who acted in concert to obtain shares in the initial offering, attaining, through such purchase, control of the reorganized company or its parent corporation.

g. If a purchaser or a group of purchasers acting in concert is to attain such control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of the proposed company, whether or not the conversion is effected.

h. The reorganized company may share in the profits of the closed block of participating business for the benefit of stockholders.

3. A plan of conversion under this subsection shall satisfy all of paragraphs "a" through "j" and may add or substitute, as applicable, the options provided in paragraphs "k" and "l".

a. The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total

price equal to the estimated market value on the initial offering taking into account the value to be given to participating policyholders pursuant to paragraph "b" and the proceeds of the sale.

b. The participating policyholders' consideration shall be based on the latest annual statement filed prior to the effective date of the adoption by the board of directors of the plan of conversion and shall be equal to the excess of both of the following:

(1) The total amount of the mutual company's assets accumulated from the operations of participating policies and contracts in force on the date of the statement over the sum of the total amount of assets allocated to the participating business.

(2) An amount equal to reserves and other liabilities attributable to any group participating policies and contracts not included in the closed block of participating business.

c. The consideration to be given in exchange for the policyholders' membership interest shall consist of the participating policyholders' consideration and nontransferable preemptive subscription rights to purchase all of the common shares of the issuer and the establishment of a liquidation account for the benefit of the policyholders in the event of a subsequent complete liquidation of the reorganized company having the terms described in paragraph "j".

d. The consideration and the preemptive subscription rights to purchase the common shares shall be allocated among the participating policyholders in a manner determined by the reorganized company which takes into account the estimated contribution of each class of participating policies and contracts to the total amount of the policyholders' consideration.

e. The number of the common shares which any person, together with any affiliates or group of persons acting in concert, may subscribe for or purchase in the reorganization

shall be limited to not more than five percent of the common shares. For this purpose, neither the members of the board of directors of the reorganized company nor of its parent corporation, if any, shall be deemed to be affiliates or a group of persons acting in concert solely by reason of their board membership.

f. Unless the common shares have a public market when issued, officers and directors of the issuer and their affiliates shall not, for at least ninety days after the date of conversion, purchase common shares of the issuer, except in negotiated transactions involving more than ten percent of the outstanding common shares.

g. Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares.

h. The issuer shall not, for at least three years following the conversion, repurchase any of its common shares except pursuant to a pro rata tender offer to all shareholders.

i. Until the liquidation account has been reduced to zero, the issuer shall not declare or pay a cash dividend on, or repurchase any of, its common shares in an amount in excess of its cumulative earned surplus generated after the conversion determined in accordance with generally accepted accounting principles, if the effect would be to cause the amount of the statutory surplus of the reorganized company to be reduced below the then amount of the liquidation account.

j. The liquidation account referred to in paragraph "c" must be equal to the excess of the total amount of the assets of the mutual company as of the effective date of the conversion over the sum of the total amount of assets allocated to the closed block of participating business and the policyholders' consideration and other reserves and liabilities attributed to policies and contracts not included

in the amount attributable to policies and contracts in force on that effective date. The determinations shall be based on the latest annual statement of the mutual company filed before the effective date of the conversion plan. The function of the liquidation account shall be solely to establish a priority on liquidation and its existence shall not operate to restrict the use or application of the surplus of the reorganized company except as specified in paragraph "i". The liquidation account shall be allocated equally as of the effective date of conversion among the then participating policyholders. The amount allocated to any policy or contract shall not increase and shall be reduced to zero when the policy or contract terminates. In the event of a complete liquidation of the reorganized company, the policyholders among which the liquidation account is allocated shall be entitled to receive a liquidation distribution in the then amount of the liquidation account before any liquidation distribution is made with respect to shares.

k. At the option of the mutual company, the consideration to be given in exchange for the policyholders' membership interest or into which the membership is to be converted may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, or other consideration or any combination of forms of consideration. The consideration, if any, given to any class or category of policyholder may differ from the consideration given to another class or category of policyholders. The certificate of contribution shall be repayable in ten years, equal to one hundred percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

1. At the option of the mutual company, a plan may provide that any shares of the stock of the reorganized company or its parent corporation included in the policyholders' consideration shall be placed on the effective date of the conversion in a trust or other entity existing for the exclusive benefit of the participating policyholders and established solely for the purpose of effecting the reorganization. Under this option, the shares placed in trust shall be sold over a period of not more than ten years and the proceeds of the shares shall be distributed using the distribution priorities prescribed in the plan.

Sec. 4. NEW SECTION. 508B.4 ELIGIBLE POLICYHOLDERS PARTICIPATION.

The policyholders who are entitled to notice of and to vote upon approval of a plan of conversion and entitled to notice of a public hearing are the policyholders whose policies or contracts are in force on the date of adoption of the plan of conversion. Each policyholder whose policy has been in force for at least one year prior to the date is entitled to the consideration, if any, provided for the policyholder in the plan based on the policyholder's membership interest determined pursuant to this chapter, but only to the extent that the policyholder's membership interest arose from policies or contracts in force on the effective date of the conversion and which were in force for at least one year prior to the date of adoption of the plan. For this purpose, any changes in status of, or premiums in excess of those required on the policies or contracts occurring or made after the date one year prior to the date of adoption of the plan shall be disregarded.

Sec. 5. NEW SECTION. 508B.5 APPOINTMENT OF CONSULTANT.

A plan may provide for the appointment by the mutual company of a person as defined in section 4.1, subsection 13, who is qualified to act as a consultant. The appointment of the consultant shall be reviewed by the commissioner and unless

the commissioner finds the consultant unqualified, the consultant shall carry out the duties required by the mutual company and this chapter.

The consultant may assist in determining the equity or value of the policyholders and the mutual company. The consultant may consider the value of the consideration to be given to the participating policyholders in exchange for their membership interests or into which the membership interest is to be converted and may consider the valuations necessary to carry out the plans provided for in section 508B.3. Valuations shall be made taking into account the latest filed annual statement of the mutual company and any significant developments occurring subsequent to the date of the statement.

The findings of the consultant may be modified by the mutual company at any time so long as the results are not unfair or inequitable to policyholders.

If it can be shown by the mutual company to the commissioner that an underwriter of the shares is a qualified person, the underwriter may be appointed as the consultant.

Sec. 6. NEW SECTION. 508B.6 APPROVAL OF PLAN BY POLICYHOLDERS -- NOTICE OF ELECTION -- EFFECTIVE DATE.

After the plan has been approved by the commissioner as provided in section 508B.7, the plan of conversion shall be submitted to and shall not take effect until approved by two thirds of the policyholders of the mutual company voting on the plan. Notice of a meeting for the purpose of voting on the conversion plan shall be provided by mail to each policyholder entitled to vote in accordance with the articles of incorporation or bylaws of the mutual company. Each policyholder entitled to vote may cast one vote unless otherwise provided in the articles of incorporation or bylaws of the mutual company. Voting shall be by ballot, in person or by proxy. A quorum shall consist of a quorum as defined in the articles of incorporation or bylaws of the mutual company.

A copy of the plan of conversion, or a summary of the plan of conversion, shall accompany the notice of meeting and election. The notice of meeting may contain the notice of any planned public hearing. An approved plan of conversion shall take effect on the date specified in the plan.

Sec. 7. NEW SECTION. 508B.7 REVIEW OF PLAN BY COMMISSIONER -- HEARING AUTHORIZED -- FINAL APPROVAL.

The commission of insurance shall review the plan. The commissioner shall approve the plan if the commissioner finds the plan complies with all provisions of law, is not unfair or inequitable to the mutual company and its policyholders, and that the reorganized company will have the amount of capital and surplus deemed by the commissioner to be reasonably necessary for its future solvency. The commissioner may order a hearing on the fairness and equity of the terms of the plan after giving written notice of the hearing to the mutual company, its policyholders and other interested persons, all of whom have the right to appear at the hearing.

Sec. 8. NEW SECTION. 508B.8 PAYMENT OF FEES, SALARIES AND COSTS.

A director, officer, agent or employee of the mutual company shall not receive a fee, commission or other valuable consideration, other than regular salary and compensation, for aiding, promoting or assisting in the conversion except as set forth in the plan approved by the commissioner. This section does not prohibit the payment of reasonable fees and compensation to a consultant, attorneys at law, accountants, actuaries or other persons specifically employed for services performed in the practice of their professions while completing the plan of conversion, even if these persons are directors of the mutual company.

Sec. 9. NEW SECTION. 508B.9 APPROVAL OF PLAN -- ACT OF CONVERSION -- CONTINUATION OF COMPANY.

When the commissioner approves the conversion plan as provided in this chapter, the commissioner shall issue a new

certificate of authority to the reorganized company effective on the date specified in the plan. The reorganized company is a continuation of the mutual life insurance company and the conversion shall not annul or modify any of the mutual company's existing suits, contracts or liabilities except as provided in the approved conversion plan. All rights, franchises and interests of the mutual company in and to property, assets, and other interests shall be transferred to and shall vest in the reorganized company and the reorganized company shall assume all obligations and liabilities of the mutual company.

The reorganized company, shall exercise all rights and powers and perform all duties conferred or imposed by law on life insurance companies writing the classes of insurance written by it, and shall retain the rights and contracts existing before conversion, subject to provisions of the plan.

Sec. 10. NEW SECTION. 508B.10 CONTINUATION OF OFFICERS.

The directors and officers of the mutual company shall serve the reorganized company until new directors and officers are elected and qualify pursuant to the articles of incorporation and bylaws of the reorganized company.

Sec. 11. NEW SECTION. 508B.11 RULES.

The commissioner shall issue rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 12. NEW SECTION. 508B.12 AMENDMENTS -- WITHDRAWAL.

At any time before approval of the plan of conversion and pursuant to rules issued by the commissioner, the board of directors of a mutual company may amend the conversion plan. The board of directors of a mutual company may withdraw the plan of conversion at any time prior to the approval of the plan of conversion.

Sec. 13. NEW SECTION. 508B.13 PROHIBITIONS ON CERTAIN OFFERS TO ACQUIRE SHARES.

Prior to and for a period of five years following the effective date of the conversion, and in the case of the plans

of conversion specified in subsections 1 and 3 of section 508B.3, five years following the date of distribution of consideration to the policyholders in exchange for their membership interests, an officer or director, including family members and their spouses, of the mutual company or the reorganized company, shall not directly or indirectly offer to acquire or acquire the beneficial ownership of the reorganized company unless the acquisition is made pursuant to a stock option plan approved by the commissioner, made pursuant to the plan of conversion, or made after the initial public offering from a broker or dealer of registered securities with the securities and exchange commission at the quoted price on the date of purchase. As used in this section, "beneficial ownership" means with respect to any security, the sole or shared power to vote or direct the voting of the security or the sole power to dispose or direct the disposition of the security, and "family member" includes a brother, sister, spouse, parent, grandparent, ancestor, or descendant of the officer or director.

Sec. 14. NEW SECTION. 508B.14 LIMITATION OF ACTIONS.

An action challenging the validity of a conversion plan, or any part of a conversion plan, shall not be commenced more than one hundred eighty days following the date of approval by the commissioner.

The reorganized company or any defendant may require the plaintiff in such an action to give security for the reasonable attorney fees which may be incurred by any party to the action. The amount of the security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

Sec. 15. NEW SECTION. 508B.15 DUTIES OF SECRETARY OF STATE.

After approval of the conversion plan by the commissioners, the secretary of state shall accept for filing a verified copy of the amended articles of incorporation.

Sec. 16. This Act applies to plans of conversion established after the effective date of this Act.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 703, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 15, 1985

TERRY E. BRANSTAD
Governor