



Rep. Thaddeus Jones

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10100SB1377ham001

LRB101 05283 RPS 60611 a

1 AMENDMENT TO SENATE BILL 1377

2 AMENDMENT NO. _____. Amend Senate Bill 1377 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 changing Section 35B-25 as follows:

6 (215 ILCS 5/35B-25)

7 Sec. 35B-25. Plan of division approval.

8 (a) A division shall not become effective until it is
9 approved by the Director after reasonable notice and a public
10 hearing, if the notice and hearing are deemed by the Director
11 to be in the public interest. The Director shall hold a public
12 hearing if one is requested by the dividing company. A hearing
13 conducted under this Section shall be conducted in accordance
14 with Article 10 of the Illinois Administrative Procedure Act.

15 (b) The Director shall approve a plan of division unless
16 the Director finds that:

1 (1) the interest of any class of policyholder or
2 shareholder of the dividing company will not be properly
3 protected;

4 (2) each new company created by the proposed division,
5 except a new company that is a nonsurviving party to a
6 merger pursuant to subsection (b) of Section 156, would be
7 ineligible to receive a license to do insurance business in
8 this State pursuant to Section 5;

9 (2.5) each new company created by the proposed
10 division, except a new company that is a nonsurviving party
11 to a merger pursuant to subsection (b) of Section 156, that
12 will be a member insurer of the Illinois Life and Health
13 Insurance Guaranty Association and that will have policy
14 liabilities allocated to it will not be licensed to do
15 insurance business in each state where such policies were
16 written by the dividing company;

17 (3) the proposed division violates a provision of the
18 Uniform Fraudulent Transfer Act;

19 (4) the division is being made for purposes of
20 hindering, delaying, or defrauding any policyholders or
21 other creditors of the dividing company;

22 (5) one or more resulting companies will not be solvent
23 upon the consummation of the division; or

24 (6) the remaining assets of one or more resulting
25 companies will be, upon consummation of a division,
26 unreasonably small in relation to the business and

1 transactions in which the resulting company was engaged or
2 is about to engage.

3 (c) In determining whether the standards set forth in
4 paragraph (3) of subsection (b) have been satisfied, the
5 Director shall only apply the Uniform Fraudulent Transfer Act
6 to a dividing company in its capacity as a resulting company
7 and shall not apply the Uniform Fraudulent Transfer Act to any
8 dividing company that is not proposed to survive the division.

9 (d) In determining whether the standards set forth in
10 paragraphs (3), (4), (5), and (6) of subsection (b) have been
11 satisfied, the Director may consider all proposed assets of the
12 resulting company, including, without limitation, reinsurance
13 agreements, parental guarantees, support or keep well
14 agreements, or capital maintenance or contingent capital
15 agreements, in each case, regardless of whether the same would
16 qualify as an admitted asset as defined in Section 3.1.

17 (e) In determining whether the standards set forth in
18 paragraph (3) of subsection (b) have been satisfied, with
19 respect to each resulting company, the Director shall, in
20 applying the Uniform Fraudulent Transfer Act, treat:

21 (1) the resulting company as a debtor;

22 (2) liabilities allocated to the resulting company as
23 obligations incurred by a debtor;

24 (3) the resulting company as not having received
25 reasonably equivalent value in exchange for incurring the
26 obligations; and

1 (4) assets allocated to the resulting company as
2 remaining property.

3 (f) All information, documents, materials, and copies
4 thereof submitted to, obtained by, or disclosed to the Director
5 in connection with a plan of division or in contemplation
6 thereof, including any information, documents, materials, or
7 copies provided by or on behalf of a domestic stock company in
8 advance of its adoption or submission of a plan of division,
9 shall be confidential and shall be subject to the same
10 protection and treatment in accordance with Section 131.14d as
11 documents and reports disclosed to or filed with the Director
12 pursuant to Section 131.14b until such time, if any, as a
13 notice of the hearing contemplated by subsection (a) is issued.

14 (g) From and after the issuance of a notice of the hearing
15 contemplated by subsection (a), all business, financial, and
16 actuarial information that the domestic stock company requests
17 confidential treatment, other than the plan of division, shall
18 continue to be confidential and shall not be available for
19 public inspection and shall be subject to the same protection
20 and treatment in accordance with Section 131.14d as documents
21 and reports disclosed to or filed with the Director pursuant to
22 Section 131.14b.

23 (h) All expenses incurred by the Director in connection
24 with proceedings under this Section, including expenses for the
25 services of any attorneys, actuaries, accountants, and other
26 experts as may be reasonably necessary to assist the Director

1 in reviewing the proposed division, shall be paid by the
2 dividing company filing the plan of division. A dividing
3 company may allocate expenses described in this subsection in a
4 plan of division in the same manner as any other liability.

5 (i) If the Director approves a plan of division, the
6 Director shall issue an order that shall be accompanied by
7 findings of fact and conclusions of law.

8 (j) The conditions in this Section for freeing one or more
9 of the resulting companies from the liabilities of the dividing
10 company and for allocating some or all of the liabilities of
11 the dividing company shall be conclusively deemed to have been
12 satisfied if the plan of division has been approved by the
13 Director in a final order that is not subject to further
14 appeal.

15 (Source: P.A. 100-1118, eff. 11-27-18.)".