

CHAPTER 156

S.B. No. 1004

An Act relating to chartering, reserving, and regulating stipulated premium companies; amending the Insurance Code, as amended, by amending Sections 2 and 4, Article 22.03; Articles 22.04 and 22.23; Subsection (a), Article 22.09; Section 2, Article 22.11; and Subsection (a), Section 2, Article 22.13.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Article 22.03, Insurance Code, is amended to read as follows:

"Section 2. When such application for charter, articles of incorporation, affidavit, and charter fee are filed with the State Board of Insurance, the Board may set a date for a public hearing of the same, which date shall be not less than ten (10) nor more than thirty (30) days after the date of notice thereof. The Board shall notify in writing the person or persons submitting such application of the date for such hearing and shall furnish a copy of such notice ~~[to the Attorney General of Texas and]~~ to all interested parties, including any parties who have theretofore requested a copy of such notice. The Board shall, at the expense of the incorporators, publish a copy of such notice in any newspaper of general circulation in the county of the proposed home office of said company. In all such public hearings on such applications, a record shall be made of such proceedings, and no such application shall be granted except when same is adequately supported by competent evidence. Any interested party shall have the right to oppose or support the granting or denial of such application and may intervene and participate fully and in all respects in any hearing or other proceeding had on any such application. Any such intervenor shall have and enjoy all the rights and privileges of a proper or necessary party in a civil suit in the courts of this state, including the right to be represented by counsel."

SECTION 2. Section 4, Article 22.03, Insurance Code, is amended to read as follows:

"Section 4. (a) If the Board shall determine by an affirmative finding any of the above issues adversely to the applicants, it shall reject the application in writing, giving the reason therefor. Otherwise, the Board shall approve the application. ~~On [and submit such application, together with the articles of incorporation and the affidavit, to the Attorney General for examination. If the application, articles of incorporation, the affidavit and the procedure and action thereon shall be found by the Attorney General to be in~~

accordance with the law of this state, he shall attach thereto his certificate to that effect, whereupon all such documents shall be deposited with the Board. Upon receipt by the Board of such documents so certified by the Attorney General, the Board shall record the same in a book kept for that purpose, and upon receipt of a fee of One Dollar (\$1.00), the Board [it] shall furnish a certified copy of the application, articles of incorporation, and affidavit [same] to the incorporators, upon which they shall become a body politic and corporate and may proceed to complete the organization of the company, for which purpose they shall forthwith call a meeting of the stockholders who shall adopt by-laws for the government of the company, and elect a Board of Directors, not less than five (5) persons [; composed of stockholders]; which Board shall have full control and management of the affairs of the corporation, subject to the by-laws thereof as adopted or amended from time to time by the stockholders or directors, and to the laws of this state. The Board of Directors so elected shall serve until the second Tuesday in April thereafter, on which date, annually thereafter, there shall be held a meeting of the stockholders at the home office, and a Board of Directors elected for the ensuing year. If the stockholders fail to elect directors at any such annual meeting, directors may be elected at a special meeting of the stockholders called for that purpose. The directors shall choose a President from their own number, and all other officers shall be chosen in accordance with the by-laws of the company, and none of such officers need be either a director or a stockholder except as required by the by-laws of such company. The duties and compensation of officers of such company shall be in accordance with the by-laws of the company, or, to the extent of the absence of provisions governing the same in the by-laws, then the duties and compensation of officers shall be defined and fixed by the directors. The directors shall keep a full and correct record of their transactions to be open during business hours to the inspection of stockholders. The directors shall fill any vacancy which occurs in the Board or in any office of such company. A majority of the Board shall be a quorum for the transaction of such business. At all meetings of the stockholders, each stockholder shall be entitled to one vote for each share of stock fully paid up appearing in his name on the books of the company, which vote may be given in person or by written proxy. The majority of the paid up capital stock at any meeting of the stockholders shall be a quorum.

“(b) At any regular or called meeting of the stockholders, they may, by resolution, provide for any lawful amendment to the charter or articles of incorporation; and such amendment, accompanied by a copy of such resolution duly certified by the President and Secretary of the company, shall be filed and recorded in the same manner as the original charter, and shall thereupon become effective. Stockholders representing a majority of the capital stock of any such company may in such manner also increase or reduce the amount of its capital stock. The capital stock shall in no case be reduced to less than the minimum amount of fully paid up capital stock required by applicable provisions of law. A statement of any such increase or reduction shall be signed and acknowledged by two officers of the company and filed and recorded along with the certified copy of the resolution of the stockholders provided therefor in the same manner as the charter or amendment thereto. For any such increase or reduction, the company may require the return of the original certificates as other evidence of stock in exchange for new certificates issued in lieu thereof. The shares of stock of such company shall be transferable on its books, in accordance with law and the by-laws of the company, by the owner in person or his authorized agent. Every person becoming a stockholder by such transfer shall succeed to all rights of the former holder of the stock transferred, by reason of such ownership.”

SECTION 3. Article 22.04, Insurance Code, is amended to read as follows:

“Article 22.04. AMENDMENT OF CHARTER

“Section 1. At any regular or called meeting of the stockholders, they may, by resolution, provide for any lawful amendment to the charter or articles of incorporation; and such amendment, accompanied by a copy of such resolution duly certified by the President and Secretary of the company, shall be filed and recorded in the same manner as the original charter, and shall thereupon become effective. Stockholders representing a majority of the capital stock of any such company may in such manner also increase or reduce the amount of its capital stock. The capital stock may in no case be reduced to less than One Hundred Thousand Dollars (\$100,000.00) except for the purpose of avoiding insolvency as provided in Article [Art.] 22.12 of this Chapter, but in such event never less than Fifteen Thousand Dollars (\$15,000.00). A statement of any such increase or reduction shall be signed and acknowledged by two officers of the company and filed and recorded along with the certified copy of the resolution of the stockholders provided therefor in the same manner as the charter amendment thereto. For any such increase or reduction, the company may require the return of the original certificates as evidence of stock in exchange for new certificates transferable on its books, in accordance with this Chapter and the by-laws of the company, by the owner in person or his authorized agent. Every person becoming a stockholder by such transfer shall succeed to all rights of the former holder of the stock transferred, by reason of such ownership.

“Section 2. Subject to Section 1 of this article, any stipulated premium company may purchase issued and outstanding shares of the capital stock of that company in the name of the company as provided by the Texas Business Corporation Act. A purchase of stock made under this section shall not be considered an investment and does not constitute a violation of the provisions of this code relating to eligible investments for such a company. A company that makes such a purchase shall file a statement with the Commissioner of Insurance that sets forth the name of each shareholder from whom the shares have been purchased and the sum of money paid for those shares. The statement must be filed not later than the tenth (10th) day after the date of the purchase.”

SECTION 4. Subsection (a), Article 22.09, Insurance Code, is amended to read as follows:

“(a) No stipulated premium company shall pay any salary, compensation or emolument to any officer, trustee, or director thereof, nor any salary, compensation or emolument amounting in any year to more than *Fifty Thousand Dollars (\$50,000.00)* [~~Ten Thousand Dollars (\$10,000.00)~~] to any person, firm or corporation, unless such payment be first authorized by a vote of the Board of Directors of such company, or by a committee of such Board charged with the duty of authorizing such payments. The limitation as to time contained herein shall not be construed as preventing any stipulated premium company from entering into contracts with its agents for the payment of renewal commissions.”

SECTION 5. Section 2, Article 22.11, Insurance Code, is amended to read as follows:

“Section 2. All health, accident and sickness policies shall be reserved by the stipulated premium company and each stipulated premium company shall maintain reserves on such policies in the same manner as is required by the companies writing such coverage under the provisions of Chapter 3 of the Insurance Code of Texas except that:

“(1) *for policies issued during the calendar year 1985, only one-third of the unearned premium reserve shall be required to be maintained during the first policy year; and*

“(2) *for policies issued during the calendar year 1986, only two-thirds of the unearned premium reserve shall be required to be maintained during the first policy year* [~~an unearned premium reserve shall not be required to be maintained during the first policy year.~~”

SECTION 6. Subsection (a), Section 2, Article 22.13, Insurance Code, is amended to read as follows:

“(a) All health, accident, sickness and hospitalization policies shall be issued in accordance with the provisions of *Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-1 et seq., Insurance Code)* [~~Article 3.70, of Chapter 3 of this Code.~~”

SECTION 7. Article 22.23, Insurance Code, is amended to read as follows:

“Article 22.23. **ISSUANCE OF LIFE INSURANCE POLICIES AND ANNUITY CONTRACTS BY STIPULATED PREMIUM COMPANIES.** (a) Each stipulated premium company possessing capital and unencumbered surplus of at least the combined total sum of \$100,000.00 may issue policies of life insurance as authorized and permitted under the provisions of Chapter Three of this Insurance Code provided that:

“(1) no individual life shall be insured for more than *\$10,000.00; [\$5,000.00;]*

“(2) each such policy shall be reserved and reinsured as required under the provisions of Chapter Three of this Insurance Code; [;] and

“(3) each such life policy shall be issued only upon an endowment or limited pay basis.

“(b) Each stipulated premium company possessing capital and unencumbered surplus of at least the combined total sum of \$100,000.00, over and above all liabilities, including contingent liabilities, may issue annuity contracts as authorized and permitted under the provisions of Chapter Three of this Insurance Code. Reserves on such contracts shall be maintained in accordance with the statutes governing reserves on equivalent contracts issued by legal reserve companies, as such laws now exist or as they may hereafter be amended. Any insurer which elects to write annuity contracts under authority of this Article shall thereafter be required to maintain capital and unencumbered surplus of at least the combined total sum of \$100,000.00, over and above all liabilities, including contingent liabilities, and any such company shall be regarded as insolvent which fails to maintain capital and unencumbered surplus of at least a combined total sum of \$100,000.00, over and above all liabilities, including contingent liabilities.”

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

CH 156

69th LEGIS—REGULAR SESSION

Passed the Senate on April 25, 1985, by the following vote: Yeas 30, Nays 0; passed the House on May 9, 1985, by the following vote: Yeas 145, Nays 0, one present not voting.

Approved: May 24, 1985

Effective: Immediately