

806 KAR 26:010. Proxies, consents and authorizations.

RELATES TO: KRS 304.26-050

STATUTORY AUTHORITY: KRS 304.2-110, 304.26-050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.26-050 gives the commissioner the authority to regulate any form of proxies, consents and authorizations. This administrative regulation sets out the requirements for proxies and their solicitation, consents, and authorizations.

Section 1. Definitions.

- (1) The definitions set out in Schedule SIS, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purposes of this administrative regulation.
- (2) The terms "solicit" and "solicitation" for purposes of this administrative regulation shall include:
 - (a) Any request for proxy, whether or not accompanied by or included in a form of proxy; or
 - (b) Any request to execute or not to execute, or to revoke a proxy; or
 - (c) The furnishing of a proxy or other communications to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.
- (3) The terms "solicit" and "solicitation" shall not include:
 - (a) Any solicitation by a person in respect to equity security of which he is the beneficial owner;
 - (b) Action by a broker or other person in respect to equity security carried in his name or in the name of his nominee in forwarding to the beneficial owner of such equity security soliciting material received from the company, or impartially instructing the beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;
 - (c) The furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

Section 2. Application of Administrative Regulation. This administrative regulation shall be applicable to each domestic stock insurer which has any class of equity security held of record by 100 or more persons; provided, however, that this administrative regulation shall not apply to any insurer if ninety-five (95) percent or more of its equity securities are owned or controlled by a parent or an affiliated insurer and the remaining securities are held of record by less than 500 persons. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities Exchange Act of 1934, as amended, and the applicable administrative regulations promulgated thereunder, shall be exempt from the provisions of this administrative regulation with respect to any class of securities subject to SEC jurisdiction.

Section 3. Proxies, Consents and Authorizations. A domestic stock insurer, or any director, officer or employee of an insurer subject to Section 2 of this administrative regulation, or any other person shall not solicit, or permit the use of his name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any class of equity security of

an insurer held of record by 100 or more persons in contravention of this administrative regulation and especially Sections 14 and 15 of this administrative regulation.

Section 4. Disclosure of Equivalent Information. Unless proxies, consents or authorizations in respect of any class of equity security of a domestic insurer subject to Section 2 of this administrative regulation are solicited by or on behalf of the management of such insurer from the holders of record of such security in accordance with this administrative regulation prior to any annual or other meeting of such security holders, such insurer shall, in accordance with this administrative regulation file with the commissioner and transmit to all security holders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made. The insurer shall transmit a written statement containing the information specified in Section 6(4) of this administrative regulation to every security holder who is entitled to vote in regard to any matter to be acted upon at the meeting and from whom a proxy is not solicited on behalf of the management of the insurer; provided, that in the case of a class of securities in unregistered or bearer form such statement need be transmitted only to those security holders whose names and addresses are known to the insurer.

Section 5.

(1) The instructions set out in Schedule SIS, as promulgated by the National Association of Insurance Commissioners, shall be applicable for purposes of this administrative regulation.

(2) Schedule SIS, revised in 1992, is incorporated by reference. Copies may be obtained from or inspected at the Department of Insurance, P.O. Box 517, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Section 6. Information to be Furnished to Security Holders.

(1) A solicitation subject to this administrative regulation shall not be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Section 14 of this administrative regulation.

(2) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of security holders at which directors are to be elected, each proxy statement furnished pursuant to subsection (1) of this section shall be accompanied or preceded by an annual report (in preliminary or final form) to the security holders containing the financial statements for the last fiscal year as are referred to in Schedule SIS under the heading "Financial Reporting to Security Holders." Subject to the foregoing requirements with respect to financial statement, the annual report to security holders may be in any form deemed suitable by the management.

(3) Two (2) copies of each report sent to the security holders pursuant to this section shall be mailed to the commissioner, not later than the date on which the report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the commissioner pursuant to Section 8(1) of this administrative regulation, whichever date is later.

(4) If no solicitation is being made by management of the insurer with respect to any annual or other meeting, such insurer shall mail to every security holder of record at least twenty (20) days prior to the meeting date, an information statement as required by Section 4 of this administrative regulation, containing the information called for by Section 1 of this administrative regulation, other than subsections (1), (3) and (4) of that Section, which would be applicable to any matter to be acted upon at the meeting if proxies were to be solicited in connection with the meeting. If the information statement relates to an annual meeting at which directors are to be elected, it shall be accompanied

by an annual report to such security holders in the form provided in subsection (2) of this section.

Section 7. Requirements as to Proxy.

(1) The form of proxy:

- (a) Shall indicate in boldface type whether or not the proxy is solicited on behalf of the management;
- (b) Shall provide a specifically designated blank space for dating the proxy; and
- (c) Shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or security holders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to subsection (3) of this section.

(2)

- (a) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in boldface type how it is intended to vote the shares or authorization presented by the proxy in each case.

- (b) A form of proxy which provides both for elections to office and for action on other specified matters shall be prepared so as to clearly provide, by a box or otherwise, means by which the security holder may withhold authority to vote for elections to office. Any such form of proxy which is executed by the security holder in this manner as not to withhold authority to vote for elections to office shall be deemed to grant this authority, provided the form of proxy so states in boldface type.

- (3) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware, a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(4) A proxy shall not confer authority to vote:

- (a) For the election of any person to any office for which a bona fide nominee is not named in the proxy statement; or
- (b) At any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to security holders. The limitation in paragraph (a) of this subsection shall not prevent the authority conferred from applying to a person substituted for a nominee who, prior to the election, has clearly manifested his unwillingness to serve or whose service would be a physical impossibility.

- (5) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to subsection (2) of this section a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

- (6) The information included in the proxy statement or information statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements or information statements shall be clearly and legibly presented.

- (7) All proxy statements shall disclose, under an appropriate caption, the date by which proposals of security holders intended to be presented at the next annual meeting must be received by the insurer for inclusion in the insurer's proxy statement and form of proxy relating to that meeting, the date to be calculated in accordance with the provisions of

Section 10(1) of this administrative regulation. If the date of the next annual meeting is subsequently advanced by more than thirty (30) calendar days or delayed by more than ninety (90) calendar days from the date of the annual meeting to which the proxy statement relates, the insurer shall, in a timely manner, inform security holders of such change, and the date by which proposals of security holders must be received, by any means reasonably calculated to so inform them.

Section 8. Material Required to be Filed.

(1) Two (2) preliminary copies of the information statement or the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the commissioner at least thirty (30) days prior to the date definitive copies of the material are first sent or given to security holders, or such shorter period prior to that date as the commissioner may authorize upon a showing of good cause therefor.

(2) Two (2) preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to security holders subsequent to the proxy statements shall be filed with the commissioner at least ten (10) days (exclusive of Saturdays, Sundays, or holidays) prior to the date copies of this material are first sent or given to security holders or a shorter period prior to the date as the commissioner may authorize upon a showing of good cause therefor.

(3) Two (2) definitive copies of the information statement or the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to security holders, shall be filed with, or mailed for filing to, the commissioner not later than the date the material is first sent or given to the stockholders.

(4) Where any information statement or proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, two (2) of the copies shall be marked to clearly show such changes.

(5) Copies or replies to inquiries from security holders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to this section.

(6) Notwithstanding the provisions of subsections (1) and (2) of this section and of Section 13(5) of this administrative regulation, copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the commissioner as required by subsection (3) of this section not later than the date the material is used or published. The provisions of subsections (1) and (2) of this section and Section 13(5) of this administrative regulation shall apply, however, to any reprints or reproductions of all or any part of such material.

Section 9. Mailing Communications for Security Holders.

(1) If the management of the insurer has made or intends to make any solicitation subject to this administrative regulation, the insurer shall perform any of the following acts as may be duly requested in writing with respect to the same subject matter or meeting by any security holder who is, or security holders who are, entitled to vote at least one (1) percent of the votes entitled to be voted on this matter and who shall defray the reasonable expenses to be incurred by the insurer in the performance of the act or acts requested:

(a) The insurer shall mail or otherwise furnish to the security holder, as promptly as practicable after the receipt of the request:

1. A statement of the approximate number of record owners and, to the extent known to the insurer, the approximate number of beneficial owners of any class of securities, any of whom have been or are to be solicited on behalf of the management, or any group of whom the security holder shall designate; and

2. An estimate of the cost of mailing a specified proxy statement, form of proxy or other communication to the owners.

(b) Copies of any proxy statement, form of proxy or other communication furnished by the security holder shall be mailed by the insurer to the security owners specified in paragraph (a)1 of this subsection as the security holder shall designate;

(c) Material furnished by the security holder shall be mailed with reasonable promptness after receipt of the material to be mailed, envelopes or other containers therefor, and postage or payment for postage. The insurer need not, however, mail any such material prior to the first day on which solicitation is made on behalf of the insurer;

(d) The insurer shall not be responsible for the proxy statement, form of proxy or other communication.

(2) In lieu of performing the acts specified above, the insurer may, at its option, furnish promptly to the security holder a reasonably current list of the names and addresses of the record owners and, to the extent known to the insurer, the beneficial owners as the security holder shall designate and a schedule of the handling and mailing costs if the schedule has been supplied to the insurer.

Section 10. Proposals of Security Holders.

(1) If any holder or holders of the securities of an insurer (hereafter referred to as the "proponent") notifies the insurer in writing not less than ninety (90) days before the insurer's annual meeting of his intention to present a lawful proposal for action at a forthcoming meeting of the insurer's security holders and at the time of the notice the proponent is entitled to vote at least one (1) percent of the votes entitled to be voted on the proposal, the insurer shall set forth the proposal in its proxy statement and identify it in its form of proxy and provide for the specification of approval or disapproval of such proposal. The proxy statement shall also include the name and address of the proponent.

(2) If the insurer opposes any proposal received from a proponent, it shall also, at the request of the proponent, include in its proxy statement a statement of the proponent of not more than 200 words in support of the proposal.

(3) The insurer may omit a proposal and any statement in support thereof from its proxy statement and form of proxy under any of the following circumstances:

(a) The proponent has submitted more than one (1) proposal in connection with a particular meeting;

(b) The proposal is more than 300 words in length;

(c) The proposal or the supporting statement is contrary to any section of this administrative regulation, including Section 11 of this administrative regulation which prohibits false or misleading statements in proxy soliciting materials;

(d) The proposal relates to the enforcement of a personal claim or the redress of a personal grievance against the insurer, its management, or any other person;

(e) The proposal deals with a matter not significantly related to the insurer's business; a matter beyond the insurer's power to effectuate; a matter relating to the conduct of the ordinary business operations of the insurer; or an election to office;

(f) The proposal is counter to a proposal to be submitted by the insurer at the meeting; the proposal has been rendered moot; or the proposal relates to specific amounts of cash or stock dividends;

(g) The proposal is substantially duplicative of a proposal previously submitted to the insurer by another proponent, which proposal will be included in the management's proxy material for the meeting; or

(h) The substantially same proposal has previously been submitted to security holders in the insurer's proxy statement and form of proxy relating to any annual or special meeting of security holders held within the preceding five (5) calendar years, and

received less than five (5) percent of the total number of votes cast in respect thereof at the time of its most recent submission.

(4) If the insurer intends to omit any proposal from its proxy statement or forms of proxy, it shall notify the proponent in writing of its intention at least ten (10) days before the insurer's preliminary proxy material is filed pursuant to Section 8 of this administrative regulation.

Section 11. False or Misleading Statements. A proxy statement, form of proxy, notice of meeting, information statement, or other communication, written or oral, subject to this administrative regulation, shall not contain any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the same meeting or subject matter which has become false or misleading.

Section 12. Prohibition of Certain Solicitations. A person making a solicitation which is subject to this administrative regulation shall not solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the security holder.

Section 13. Special Provisions Applicable to Election Contests.

(1) Applicability. This section shall apply to any solicitation subject to this administrative regulation by any person or group for the purpose of opposing a solicitation subject to this administrative regulation by any other person or group with respect to the election or removal of directors at any annual or special meeting of stockholders.

(2) Participant or participant in a solicitation. For purposes of this section the terms "participant" and "participant in a solicitation" include:

(a) The insurer;

(b) Any person or organization retained or employed by a participant to solicit security holders or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties;

(c) Any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of this employment;

(d) Any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or

(e) Any officer or director of, or any person regularly employed by any other participant, if such officer, director, or employee is not otherwise a participant.

(3) Filing of information required by Section 15 of this administrative regulation.

(a) Solicitations subject to this section shall not be made by any person other than the management of an insurer unless at least five (5) business days prior thereto, or a shorter period as the commissioner may authorize upon a showing of good cause therefor, there has been filed, with the commissioner, by or on behalf of each participant in this solicitation, a statement in duplicate containing the information specified by Section 15 of this administrative regulation and a copy of any material proposed to be distributed to security holders in furtherance of this solicitation. Where preliminary copies of any materials are filed, distribution to security holders should be deferred until the commissioner's comments have been received and complied with.

(b) Within five (5) days after a solicitation subject to this section is made by the management of an insurer, or a longer period as the commissioner may authorize upon a showing of good cause therefor, there shall be filed with the commissioner by or on behalf of each participant in the solicitation, other than the insurer, and by or on behalf

of each management nominee for director, a statement in duplicate containing the information specified by Section 15 of this administrative regulation.

(c) If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to this section in opposition thereto, a statement in duplicate containing the information specified in Section 14 of this administrative regulation shall be filed with the commissioner, by or on behalf of each participant in the prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

(d) If, subsequent to the filing of the statement required by paragraphs (a), (b) and (c) of this subsection, additional persons become participants in a solicitation subject to this rule, there shall be filed with the commissioner, by or on behalf of a person, a statement in duplicate containing the information specified by Section 15 of this administrative regulation within three (3) business days after a person becomes a participant, or such longer period as the commissioner may authorize upon a showing of good cause therefor.

(e) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to the statement shall be filed promptly with the commissioner.

(f) Each statement and amendment thereto filed pursuant to this subsection shall be part of the public files of the commissioner.

(4) Solicitations prior to furnishing required written proxy statement. Notwithstanding the provisions of Section 6(1) of this administrative regulation, a solicitation subject to this section may be made prior to furnishing security holders a written proxy statement containing the information specified in Section 14 of this administrative regulation with respect to the solicitation, provided that:

(a) The statements required by subsection (3) of this section are filed by or on behalf of each participant in the solicitation.

(b) No form of proxy is furnished to shareholders prior to the time the written proxy statement required by Section 6(1) of this administrative regulation is furnished to these persons: provided, however, that this paragraph shall not apply where a proxy statement then meeting the requirements of Section 14 of this administrative regulation has been furnished to security holders.

(c) At least the information specified in this paragraph and paragraph (b) of this subsection of the statements required by subsection (3) of this section to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to security holders in connection with the solicitation.

(d) A written proxy statement containing the information specified in Section 14 of this administrative regulation with respect to a solicitation is sent or given security holders at the earliest practicable date.

(5) Solicitations prior to furnishing required written proxy statement; filing requirements. Two (2) copies of any soliciting material proposed to be sent or given to security holders prior to the furnishing of the written proxy statement required by Section 6(1) of this administrative regulation shall be filed with the commissioner in preliminary form at least five (5) business days prior to the date definitive copies of the material are first sent or given to such persons, or shorter period as the commissioner may authorize upon a showing of good cause therefor.

(6) Application of this section to report. Notwithstanding the provisions of Section 6(2) and (3) of this administrative regulation, two (2) copies of any portion of the report referred to in Section 6(2) of this administrative regulation which comments upon or refers to any solicitation subject to this section, or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the

commissioner as proxy material subject to this administrative regulation. That portion of the report shall be filed with the commissioner in preliminary form at least five (5) business days prior to the date copies of the report are first sent or given to security holders.

Section 14. Information Required in Proxy Statement.

- (1) Revocability of proxy. Make a positive statement similar to, "This proxy may be revoked at will, prior to the voting for which it is given; upon notice to the Secretary of the Company." KRS 271A.165 requires proxies be revocable at will.
- (2) Dissenters' rights of appraisal. Outline briefly the rights of appraisal or similar rights of dissenting security holders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such security holders in order to perfect their rights. Where these rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of the date.
- (3) Persons making solicitations not subject to Section 13 of this administrative regulation:
 - (a) If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he intends to oppose any action intended to be taken by the management and indicate the action which he intends to oppose.
 - (b) If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.
- (4) Interest of certain persons in matters to be acted upon. Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.
- (5) Voting securities.
 - (a) State, as to each class of voting securities of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.
 - (b) Give the date as of which the record list of security holders entitled to vote at the meeting will be determined. If the right to vote is not limited to security holders of record on that date, indicate the conditions under which other security holders may be entitled to vote.
 - (c) If action is to be taken with respect to the election of directors, under KRS 271A.180 the persons solicited shall have cumulative voting rights. Make a statement that they have such rights and state briefly the technique of cumulative voting.
- (6) Nominees and directors. If action is to be taken with respect to the election of directors furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:
 - (a) Name each such person, state when his term of office or the term of office for which he is a nominee will expire, and all other positions and offices with the insurer presently held by him, and indicate which persons are nominees for election as directors at the meeting.
 - (b) State his present principal occupation or employment and give the name and principal business of any corporation or other organization in which the employment is carried on. Furnish similar information as to all of his principal occupations or employments during the last five (5) years, unless he is now a director and was elected

to his present term of office by a vote of security holders at a meeting for which proxies were solicited under this administrative regulation.

(c) If he is or has previously been a director of the insurer, state the period or periods during which he has served as such.

(d) State, as of the most recent practicable date, the approximate amount of each class of equity security of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by him. If he is not the beneficial owner of any such equity securities make a statement to that effect.

(7) Remuneration and other transactions with management and others:

(a) This subsection shall apply only to each director whose aggregate remuneration exceeds \$40,000 and to each of the three (3) highest paid officers whose aggregate annual remuneration exceeds \$40,000.

(b) Furnish the information reported or required in Item 1 of Schedule SIS under the heading "Information Regarding Management and Directors" if action is to be taken with respect to:

1. The election of directors;
2. Any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate;
3. Any pension or retirement plan in which any such person will participate; or
4. The granting or extension to any such person of any options, warrants or rights to purchase any equity securities other than warrants or rights issued to security holders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than management, information shall be furnished only as to Item 1-A of the aforesaid heading of Schedule SIS.

(8) Bonus, profit sharing and other remuneration plans. If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each class, and the basis of each participation.

(b) The amounts which would have been distributed under the plan during the last calendar year to:

1. Each person named in subsection (7) of this section;
2. Directors and officers as a group; and
3. All other employees as a group, if the plan had been in effect.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b) of this subsection, the nature of the amendments should be specified.

(9) Pension and retirement plan. If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of the participation.

(b) State:

1. The approximate total amount necessary to fund the plan with respect to past services, the period over which the amount is to be paid, and the estimated annual payments necessary to pay the total amount over that period;
2. The estimated annual payment to be made with respect to current services; and
3. The amount of such annual payments to be made for the benefit of:
 - a. Each person named in subsection (7) of this section;
 - b. Directors and officers as a group; and

c. Employees as a group.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in paragraph (b)3 of this subsection, the nature of the amendments should be specified.

(10) Options, warrants, or rights. If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase equity securities of the insurer or any subsidiary or affiliate, other than warrants issued to all security holders on a pro rata basis, furnish the following information:

(a) The title and amount of equity security called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the equity security called for or to be called for by the warrants, as of the latest practicable date.

(b) If known, state separately the amount of equity security called for or to be called for by warrants received or to be received by the following persons, naming each such person:

1. Each person named in subsection (7) of this section; and
2. Each other person who will be entitled to acquire five (5) percent or more of the equity security called for or to be called for by such warrants.

(c) If known, state also the total amount of equity security called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

(11) Authorization or issuance of equity securities.

(a) If action is to be taken with respect to the authorization or issuance of any equity security of the insurer, furnish the title, amount and description of the equity security to be authorized or issued.

(b) If the equity securities are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, preemptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

(c) If the equity securities to be authorized or issued are other than additional shares of common stock of a class outstanding, the commissioner may require financial statements comparable to those contained in the annual report.

(12) Mergers, consolidations, acquisitions and similar matters.

(a) If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

1. The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting security holders in order to perfect these rights.
2. The material features of the plan or agreement.
3. The business done by the company to be acquired or whose assets are being acquired.
4. If available, the high and low sales prices for each quarterly period within two (2) years.
5. The percentage of outstanding shares which must approve the transaction before it is consummated.

(b) For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

1. A comparative balance sheet as of the close of the last two (2) fiscal years.
2. A comparative statement of operating income and expenses for each of the last two (2) fiscal years and, as a continuation of each statement, a statement of earnings

per share after related taxes and cash dividends paid per share.

3. A pro forma combined balance sheet, and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

(13) Restatement of accounts. If action is to be taken with respect to the restatement of any assets, capital, or surplus of the insurer, furnish the following information:

(a) State the nature of the restatement and the date as of which it is to be effective.

(b) Outline briefly the reasons for the restatement and for the selection of the particular effective date.

(c) State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

(14) Matters not required to be submitted. If action is to be taken with respect to any matter which is not required to be submitted to a vote of security holders, state the nature of the matter, the reason for submitting it to a vote of security holders and what action is intended to be taken by the management in the event of a negative vote on the matter by security holders.

(15) Amendment of charter, bylaws, or other documents. If action is to be taken with respect to any amendment of the insurer's charter, bylaws or other documents as to which information is not required above, state briefly the reasons for and general effect of the amendment and the vote needed for its approval.

Section 15. Information to be included in statements filed by or on behalf of a participant (other than the insurer) in a proxy solicitation in an election contest.

(1) Insurer. State the name and address of the insurer.

(2) Identity and background.

(a) State the following:

1. Your name and business address.

2. Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which this employment is carried on.

(b) State the following:

1. Your resident address.

2. Information as to all material occupations, positions, offices and employments during the last ten (10) years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

(c) State whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the past ten (10) years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

(d) State whether or not, during the past ten (10) years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this paragraph need not be included in the proxy statement or other proxy soliciting material.

(3) Interest in equity securities of the insurer.

(a) State the amount of each class of equity security of the insurer which you own beneficially, directly or indirectly.

(b) State the amount of each class of equity security of the insurer which you own of record but not beneficially.

(c) State with respect to the equity security specified in paragraphs (a) and (b) of this subsection the amounts acquired within the past two (2) years, the date of acquisition and the amounts acquired on each date.

(d) If any part of the purchase price or market value of any of the equity security specified in paragraph (c) of this subsection is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such equity security, so state and indicate the amount of the indebtedness as of the latest practicable date. If the funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker, or dealer, briefly describe the transaction, and state the names of the parties.

(e) State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any equity security of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

(f) State the amount of equity security of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

(g) State the amount of each class of equity security of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly, or indirectly.

(4) Further matters.

(a) Describe the time and circumstance under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

(b) Describe briefly, and where practicable state the approximate amount of any material interest, direct or indirect, to yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

(c) State whether or not you or any of your associates have any arrangement or understanding with any person:

1. With respect to any future employment by the insurer or its subsidiaries or affiliates; or

2. With respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party. If so, describe such arrangement or understanding and state the names of the parties thereto.

(5) Signature. The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

Date:

Signature of participant or authorized representative:

(I-26.01; 1 Ky.R. 870; eff. 5-14-75; Am. 8 Ky.R. 926; eff. 4-7-82; 20 Ky.R. 2371; 2780; eff. 4-11-94; TAm eff. 8-9-2007; Crt eff. 2-26-2020; TAm eff. 3-10-2020.)