

§3358. Guaranty capital shares

1. A mutual insurer formed to transact or transacting any kind of insurance has the right to provide for guaranty capital shares in its articles of incorporation. Outstanding guaranty capital shares at the par value take the place of a like amount of basic surplus otherwise required for authority to transact insurance.

[PL 2013, c. 299, §9 (AMD).]

2. Shares of guaranty capital stock shall have a par value of \$100 each, and shall be paid for in cash. Nothing in this Title shall be deemed to prohibit the sale of such shares at a price above such par value in order to provide the insurer with capital surplus.

[PL 1969, c. 132, §1 (NEW).]

3. Only one class of such guaranty capital shares shall be provided for, and each such share outstanding shall have equal voting, dividend, retirement and other rights with every other such share. Each such share shall have one vote on matters coming to a vote at meetings of the insurer's shareholders and members. Policyholders of the insurer shall have the same voting rights as would exist in the absence of such guaranty capital.

[PL 1969, c. 132, §1 (NEW).]

4. Noncumulative dividends, not exceeding in any one year 12% or lesser reasonable amount as determined by prevailing rates for loans of similar risk characteristics at the time the shares are issued, may be declared and paid by the insurer on outstanding guaranty capital shares out of that portion of the insurer's expendable surplus representing net realized earnings from its operations; and may be so paid even though the amount of the insurer's expendable surplus is then less in amount than any prior total of expendable contributed, borrowed or paid-in surplus. Such a dividend may be paid in cash or in guaranty capital shares, or part in each. An amount equal to the par value of shares so distributed as dividend shall be transferred from the insurer's earned surplus account to its guaranty capital shares account.

[PL 1981, c. 501, §44 (AMD).]

5. If the guaranty capital becomes impaired, the impairment shall be cured as provided in section 3423 (impairment of capital funds).

[PL 1969, c. 132, §1 (NEW).]

6. The insurer shall retire and cancel the guaranty capital shares, in part and in whole as soon as is reasonably possible, out of expendable surplus resulting from net realized earnings from its operations, or out of surplus created through issuance of agreements authorized by section 3415. The insurer shall retire and cancel the guaranty capital shares in their entirety when such retirement would, in the superintendent's opinion, leave the insurer with surplus as to policyholders reasonably adequate to enable it to continue to transact the kinds and volume of insurance business transacted.

[PL 1973, c. 585, §12 (AMD).]

7. In any liquidation of the insurer, outstanding guaranty capital shares shall have the same rights and priority as to the insurer's assets as are possessed by the stockholders of a like stock insurer.

[PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1981, c. 501, §44 (AMD). PL 2013, c. 299, §9 (AMD).

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