

**State of Rhode Island and Providence Plantations**  
**DEPARTMENT OF BUSINESS REGULATION**  
*Division of Insurance*  
**233 Richmond Street**  
**Providence, Rhode Island 02903**

**INSURANCE REGULATION 68**

**COMMUTATION PLANS**

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**Section 1**     **Authority**

This Regulation is promulgated in accordance with R.I. Gen. Laws § 27-14.5-6 and 42-14-17.

**Section 2**     **Purpose**

The purpose of this Regulation is to outline the procedural requirements for insurance companies applying for the implementation of a Commutation Plan pursuant to R.I. Gen. Laws § 27-14.5-1 *et seq.* and related matters.

**Section 3**     **Definitions**

In addition to the definitions set forth in R.I. Gen. Laws §27-14.5-1, which are incorporated here, by reference, the following definitions shall apply to this Regulation:

1. “Court” shall mean the Business Calendar of the Superior Court or its equivalent in and for the County of Providence, Rhode Island.
2. “Department” shall mean the Insurance Division of the Rhode Island Department of Business Regulation.
3. “Meeting of Creditors” shall mean a meeting of Creditors, to consider the Commutation Plan held within ninety (90) days of the date the Applicant’s notice is transmitted to the Court, or as otherwise directed by the Court upon the Applicant’s petition.

4. “Officer” shall mean such individuals as specified and defined in the Commutation Plan.
5. “Plan Administrator” shall mean the individual or entity retained by the Applicant for the purpose of administering the Commutation Plan in accordance with its terms.
6. “Value” shall mean the amount of a claim by a Creditor or Class of Creditors as prescribed in the Commutation Plan.

**Section 4**     **Commutation Plan Procedures**

(a) Application Procedure

- (i) Any Applicant that wishes to apply to the Court for an order implementing a Commutation Plan must first submit the Commutation Plan for review by the Department.
  - i. The Commutation Plan, submitted for review by the Applicant, should contain all operative provisions that may include, but not be limited to:
    1. Explanation of the Plan
    2. Plan Administration
    3. Effect on Creditor
    4. Meetings of Creditors
    5. Determination of Classes of Creditors
    6. Claims Procedure
    7. Alternative Solutions
    8. Financial Position
    9. Actuarial Review
    10. Enforcement Provisions
    11. Determination of Liabilities
    12. Dispute Resolution Procedure
    13. Payment of Claims
    14. Effect of Insolvency
    15. Termination of the Plan
- (ii) The Department shall have sixty (60) days from the date of its receipt of the Commutation Plan to comment on the Commutation Plan to the Applicant.
- (iii) Once the Department’s comments to the Commutation Plan, if any, are resolved to the satisfaction of the Department, or if the sixty (60) day period set forth in section 4 (a) (ii), above, has passed and the Department has no comments on the Commutation Plan, the Applicant may apply to the Court for an order:

- i. Agreeing upon the classes of Creditors for the purposes of the Meeting of Creditors.
- ii. Calling a Meeting of Creditors or class of Creditors.

(b) Meeting of Creditors

- (i) Within ninety (90) days of the date the Applicant's application is transmitted to the Court, pursuant to section 4 (a) (iii), above, or as otherwise directed by the Court upon the Applicant's application, a Meeting of Creditors shall be held to consider the Commutation Plan.
- (ii) Notice of the Meeting shall be pursuant to the Notice provisions of Chapter 14.5 of Title 27.
- (iii) All known Creditors and/or representatives of all Classes of Creditors shall be invited to the Meeting.

(c) Voting Procedure at the Meeting of Creditors

- (i) To determine whether the requisite statutory majority to approve the Commutation Plan has been achieved at the Meeting of Creditors, votes will be calculated according to the aggregate amount of claims specified against the Applicant in respect of insurance or reinsurance contracts detailed in the voting form.
  - i. The Applicant will provide a voting form to all Creditors.
  - ii. The Creditor must submit its voting form within the time, date and other requirements of the Commutation Plan.
  - iii. Only returned voting forms will be considered in order to determine the value of each Creditor's vote at the Meeting of Creditors.
- (ii) The Value to be attributed to each Creditor's claim, for voting purposes only, will be agreed on the basis of the information provided by the Creditor in its voting form or the information available to the Applicant from its existing records.
  - i. Account will also be taken of any known set off, cross claim or security in relation to any particular Creditor.
  - ii. A secured Creditor, or a holder of a promissory note issued by the Applicant, may vote only in respect of the balance, if any, of his claim after deducting the value of his security.

- (iii) If the Applicant agrees on the amount of the Value of a Creditor's claim, for voting purposes only, the amount will be used for the purposes of valuing the relevant Creditor's vote at the Meeting of Creditors.

(d) The Chairman of the Meeting of Creditors

- (i) The Chairman of the Meeting of Creditors shall be the Plan Administrator unless otherwise selected by Applicant.
- (ii) The Chairman of the Meeting of Creditors has the power to admit or reject any Creditor's voting form for the purpose of its entitlement to vote and the power is exercisable with respect to all or part of the voting form.
  - i. If the Chairman is in doubt whether a voting form should be admitted or rejected, the Chairman shall mark the voting form as objected to but allow the Creditor to vote subject to the vote being declared invalid if the objection is ultimately sustained.
  - ii. If agreement cannot be reached between the Applicant and any Creditor on the amount of the value of a Creditor's claim, for voting purposes only, the Chairman of the Meeting of Creditors will determine what he considers to be a fair and reasonable value for voting purposes.
  - iii. Where possible, the Chairman will notify the relevant Creditor of his decision on valuation for voting purposes before the Meeting of Creditors.
- (iii) Any Creditor may appeal the Chairman's decisions to the Court.
  - i. If a Chairman's decision is reversed or altered on appeal and the vote is declared invalid, the Court may order a new Meeting of Creditors or such other relief as is appropriate.

(e) Approval of the Commutation Plan

- (i) The Commutation Plan, as presented by the Applicant at the Meeting of Creditors, shall be considered to be approved and binding on all Creditors of the Applicant if fifty percent in number, representing at least three fourths in value of each Class of Creditors, present and voting either in person or by proxy at the Meeting, agree to the terms and conditions of the Commutation Plan.
- (ii) Within thirty (30) days of the approval of the Commutation Plan pursuant to section 4 (d) (i), above, the Applicant must petition the Court to enter an order confirming the approval of the Commutation Plan.

(f) Administration of the Commutation Plan

- (i) The Applicant, with the approval of the Department, shall appoint such Officers, or a Plan Administrator, as it deems necessary to administer the Commutation Plan.
- (ii) The Applicant, or its agent, shall:
  - i. Within thirty (30) days of the end of each quarter, make quarterly reports to the Department regarding implementation and administration of the Commutation Plan in a form acceptable to the Department with a copy provided to the Court; and
  - ii. Respond to all inquiries of the Department and the Court.
- (iii) All disputes between a Creditor(s) or Class of Creditors and the Applicant will be resolved pursuant to the dispute resolution provisions of the Commutation Plan.

(g) Termination of the Commutation Plan

- (i) The Commutation Plan will terminate as provided in the Commutation Plan documents.
- (ii) Notice of termination of the Commutation Plan will be transmitted as provided in the Commutation Plan.

(h) Modification or Waiver

- (i) If, for good cause shown, the Department determines that any one or more of these requirements should be modified or waived, the Department shall have the ability to approve a plan with such modification or waiver.
- (ii) An applicant that wishes to request such a modification or waiver shall make such request in writing no later than the filing of the plan with the Department.

**Section 5**     **Fees**

(a) Application Fee

At the time of application, the Applicant shall pay a fee to the Department in the amount of \$125,000 or such lesser amount as the Commissioner shall deem adequate.

(b) Administration Fee

The Applicant shall pay the costs of regulatory administration of the Commutation Plan as assessed by the Commissioner pursuant to R.I. Gen. Laws §27-14.5-5(b).

**Section 6**     *Severability*

If any section, term, or provision of this Regulation should be adjudged invalid for any reason, that judgment should not affect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.

**Section 7**     *Effective Date*

This Regulation shall be effective as indicated below.

EFFECTIVE DATE: September 5, 2004

AMENDED:             December 31, 2009