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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 212

(Private)

**An Act respecting the conversion of LS  
Mutual Life Insurance Company**

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Assented to 15 June 2012**

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## **Bill 212**

(Private)

### **AN ACT RESPECTING THE CONVERSION OF LS MUTUAL LIFE INSURANCE COMPANY**

AS LS Mutual Life Insurance Company is a mutual life insurance company that was incorporated on 8 April 1938 under the Act to incorporate *La Survivance, compagnie mutuelle d'assurance-vie* (1938, 2 George VI, chapter 128);

AS, under chapter 104 of the statutes of 1948, the powers of LS Mutual Life Insurance Company were broadened;

AS a certificate of continuance was drawn up by the enterprise registrar to make Part IA of the Companies Act (R.S.Q., chapter C-38) applicable to LS Mutual Life Insurance Company as of 31 August 2005;

AS a certificate of amendment was drawn up by the enterprise registrar to attest that the company's English name, La Survivance, Mutual Life Assurance Company, was changed to LS Mutual Life Insurance Company on 23 April 2008;

AS LS Mutual Life Insurance Company wishes to convert into a capital stock insurance company devoted to the pursuit of its activities and a mutual management corporation to ensure that policy owners' and policyholders' rights are preserved and control, directly or through a holding company, the capital stock insurance company resulting from the conversion;

AS, for that purpose, the directors of LS Mutual Life Insurance Company adopted on 23 February 2012 and 29 March 2012, by unanimous vote, a resolution approving a conversion by-law;

AS, at a special general meeting held on 10 May 2012, the members of LS Mutual Life Insurance Company approved the conversion by-law by not less than two thirds of the votes cast by the members, and authorized the board of directors and the officers to petition the National Assembly of Québec for the passage of a private bill to allow LS Mutual Life Insurance Company to convert into a mutual management corporation and a capital stock insurance company devoted to the pursuit of its activities;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

## **CHAPTER I**

### **GENERAL PROVISIONS**

**1.** In this Act, unless the context indicates otherwise,

“capital stock insurance company” means the capital stock insurance company resulting from the conversion of LS Mutual Life Insurance Company;

“conversion date” means the date specified on the certificate of conversion drawn up by the enterprise registrar;

“holding company” means a corporation constituted under the Business Corporations Act (R.S.Q., chapter S-31.1) and whose activity is portfolio management;

“LS Mutual” means LS Mutual Life Insurance Company;

“Minister” means the minister responsible for the administration of the Act respecting insurance (R.S.Q., chapter A-32);

“mutual management corporation” means the mutual management corporation resulting from the conversion of LS Mutual Life Insurance Company.

## **CHAPTER II**

### **CONVERSION**

**2.** As of the conversion date, LS Mutual is converted into a mutual management corporation and a capital stock insurance company. Its corporate existence is continued, without interruption, as two separate legal persons in accordance with the provisions of this Act.

The capital stock insurance company continues, under its own name, the existence of LS Mutual and assumes all the rights and obligations of LS Mutual except with regard to the rights of policy owners and policyholders who are members of LS Mutual, which, subject to the first paragraph of section 33, are assumed by the mutual management corporation.

No transfer of assets to the capital stock insurance company and no transfer of rights of ownership of members of the mutual management corporation result from the conversion.

**3.** The rights and obligations of LS Mutual are not affected by its conversion. In all contracts, licences or other documents referring to LS Mutual, the name of the capital stock insurance company replaces by operation of law that of LS Mutual. All legal actions pending prior to the conversion are continued by or against the capital stock insurance company without continuance of suit.

The capital stock insurance company is authorized to use all documents or means of identification already prepared under the name of LS Mutual or another name used by LS Mutual during a period of 12 months following the coming into force of this Act.

**4.** The mutual management corporation continues the existence of LS Mutual for the purpose of ensuring that the rights of participating and non-participating policy owners and policyholders who are members of LS Mutual are preserved; such rights are from now on exercised through the mutual management corporation in accordance with this Act.

Subject to section 34, the mutual management corporation controls, directly or in accordance with the first paragraph of section 33, the capital stock insurance company resulting from the conversion. The mutual management corporation does not otherwise enjoy any of the rights, property or privileges of LS Mutual, nor is it otherwise responsible for LS Mutual's obligations.

**5.** If the conversion has not occurred before 1 January 2014, the conversion by-law is deemed never to have been passed and this Act will cease to have effect.

### **CHAPTER III**

#### **CAPITAL STOCK INSURANCE COMPANY**

##### **DIVISION I**

##### **CONVERSION**

**6.** The conversion of LS Mutual into a capital stock insurance company in accordance with sections 2 and 3 of this Act is made effective by the drawing up of a certificate of conversion by the enterprise registrar.

**7.** LS Mutual must send the Autorité des marchés financiers (the Authority) the articles of conversion, signed by a director or an officer authorized to sign them, together with the conversion by-law.

**8.** The conversion by-law must include

- (1) the name of the capital stock insurance company;
- (2) the address of its head office;
- (3) the classes of insurance it is authorized to transact;
- (4) the names and domiciles of its directors;
- (5) the mode of election of its directors; and
- (6) a description of its capital stock.

**9.** The articles of conversion must set out the information required under section 5 of the Business Corporations Act, except the information under paragraph 2. The articles must specify the classes of insurance the capital stock insurance company is authorized to transact.

**10.** After ascertaining that the documents submitted meet the requirements of this division, the Authority sends the enterprise registrar the articles of conversion, accompanied by the conversion by-law and the other documents referred to in section 8 of the Business Corporations Act. The enterprise registrar deposits them in the register and draws up a certificate of conversion in accordance with the procedure set out in sections 472 and 473 of that Act.

**11.** The fees payable for the conversion are those prescribed by the Regulation under the Act respecting insurance (R.R.Q., chapter A-32, r. 1) and by the Act respecting the legal publicity of enterprises (R.S.Q., chapter P-44.1) for the conversion of an insurance company and all other applicable fees prescribed by that regulation.

**12.** Subject to this Act, the capital stock insurance company is governed by the Act respecting insurance and, with the necessary modifications, by the Business Corporations Act.

## **DIVISION II**

### **ADMINISTRATION**

**13.** The directors and officers of LS Mutual in office prior to its conversion are the first directors and officers of the capital stock insurance company.

Those directors remain in office until the next annual general meeting unless they resign or a directorship otherwise becomes vacant before that meeting. If a vacancy occurs on the board of directors, the directors in office may elect another director to fill the vacancy until the next annual general meeting.

At least the majority of the directors of the capital stock insurance company must be elected by the general meeting of the members of the mutual management corporation. A number of those directors that is equivalent to at least one third of the total number of directors of the company must be elected by the participating policy owners.

**14.** A director elected by a general meeting of the members of the mutual management corporation may be removed only by the members qualified to elect that director.

**15.** Subject to the Act respecting insurance, the by-laws of LS Mutual become the by-laws of the capital stock insurance company, with the necessary modifications, until they are amended or replaced by the directors of the capital stock insurance company.

**16.** As soon as possible after the conversion, the directors of the capital stock insurance company must hold a first meeting during which they must authorize the issue and allotment to the mutual management corporation, as fully paid, of common shares of the capital stock of the capital stock insurance company. All the shares may subsequently be transferred by the mutual management corporation to a holding company in consideration for the issue and allotment by that company, as fully paid, of shares of its capital stock of a value and paid-up capital equivalent to the combined paid-up capital and contributed surplus of the capital stock insurance company.

The initial combined paid-up capital and contributed surplus of the capital stock insurance company total an amount equivalent to the equity of LS Mutual policyholders on the conversion date taking into account the value of the participating and non-participating funds, which are transferred to the capital stock insurance company in accordance with section 18.

Until such time as common shares are issued as provided for in this section, the members of LS Mutual may vote at any general meeting of the capital stock insurance company in accordance with the representation structure provided for in the constituting act and the internal management by-law of LS Mutual before its conversion as if the conversion had not occurred. This right is in addition to those the members already exercise in respect of the mutual management corporation and expires by operation of law, with no compensation whatsoever, on the issue of shares provided for in this section.

**17.** Section 43 of the Act respecting insurance does not apply to the allotment and registration of a transfer of shares under section 16.

### **DIVISION III**

#### **PARTICIPATING FUNDS**

**18.** On the conversion date, participating funds are maintained by the capital stock insurance company. However, the policy owners' and policyholders' equity accumulated in those funds is transferred to the shareholder account of the capital stock insurance company. That equity must be shown in the financial statements of the mutual management corporation in accordance with section 32.

**19.** As of the conversion, once the participating policy dividends and bonuses have been paid, all profits and losses from the participating funds must be transferred to the shareholder account of the capital stock insurance company and must be shown in the financial statements of the mutual management corporation in accordance with section 32.

## **CHAPTER IV**

### **MUTUAL MANAGEMENT CORPORATION**

#### **DIVISION I**

##### **NAME, HEAD OFFICE, OBJECTS AND POWERS**

**20.** The name of the mutual management corporation is LS Mutual Management and its French name is La Survivance, mutuelle de gestion.

**21.** The head office of the mutual management corporation is located in the judicial district of Saint-Hyacinthe.

**22.** The mutual management corporation is a legal person without share capital.

**23.** The mutual management corporation may make any investments referred to in sections 244 to 272 of the Act respecting insurance, as would be made in similar circumstances by a reasonable and prudent person, acting honestly and faithfully in the best interest of the members. The same applies to the holding company and to any other related legal person constituted in Québec that is authorized by the Minister under the first paragraph of section 33.

#### **DIVISION II**

##### **MEMBERS**

**24.** Every policy owner or policyholder who has entered directly into an insurance contract with LS Mutual or the capital stock insurance company is a member of the mutual management corporation as long as the contract remains in force. Consequently, participants in a group insurance contract issued by LS Mutual or the capital stock insurance company are not members of the mutual management corporation.

A member is entitled to only one vote regardless of the number or size of the insurance contracts owned or held by the member.

#### **DIVISION III**

##### **ADMINISTRATION**

**25.** The general meeting of the members elects the directors of the mutual management corporation from among the members of the corporation.

**26.** The directors of LS Mutual in office prior to its conversion are the first directors of the mutual management corporation.

Those directors remain in office for the unexpired portion of their terms, unless they resign or a directorship otherwise becomes vacant before the first general meeting of the members held after the conversion.

**27.** The by-laws of LS Mutual become the by-laws of the mutual management corporation, with the necessary modifications, until they are amended or replaced by the directors of the mutual management corporation.

**28.** The expenses inherent in the operation of the mutual management corporation and, if applicable, of the holding company, must be assumed by the capital stock insurance company.

**29.** Sections 10 to 15, 59, 62, the second paragraph of section 87, sections 90, 91 to 93.1, 285.2, 285.3, 285.6, 285.7, 285.17, 291, 298, 303, 305, 306, 316, 317.2, 325.0.1, 325.1, subparagraph *g.2* of the first paragraph of section 358, sections 392, 393, 394 to 398, paragraphs *a* to *c* of section 404 and sections 405 and 405.1 of the Act respecting insurance apply to the mutual management corporation, with the necessary modifications.

The same applies to the holding company and any other related legal person constituted in Québec that is authorized by the Minister under the first paragraph of section 33.

**30.** In the absence of a corresponding provision in this chapter and subject to section 29 of this Act, section 88, paragraph 3 of section 89 and sections 89.1 to 89.4 of Part I and the provisions of Part II of the Companies Act apply, with the necessary modifications, to the mutual management corporation, except sections 126, 136.1, 139 to 141, 143 to 165, 171 to 181, paragraph 3 of section 182, paragraphs *j* and *k* of subsection 3 of section 191, section 192, paragraphs *d* and *e* of subsection 1 and subsection 2 of section 197 of that Act.

**31.** For the purposes of the Companies Act and the Act respecting insurance, “company” means the mutual management corporation and “shareholder” means a member of the mutual management corporation, and when a provision of those Acts refers to a specified proportion in value of a company’s capital stock, the provision is to be construed as meaning the number of persons who are present and qualified to vote and who represent the specified proportion in value.

## **DIVISION IV**

### **MUTUAL MEMBERS’ EQUITY**

**32.** On the conversion date, the policy owners’ and policyholders’ equity accumulated in the participating funds of the capital stock insurance company must be shown separately in the members’ equity in the financial statements of the mutual management corporation.

As of the conversion, once the participating policy dividends and bonuses have been paid, all profits and losses from the participating funds of the capital stock insurance company must be shown separately in the members' equity in the financial statements of the mutual management corporation.

## **CHAPTER V**

### **MAINTENANCE OF CONTROL OF THE CAPITAL STOCK INSURANCE COMPANY AND EQUITY PERCENTAGE**

**33.** The mutual management corporation must, at all times, control the capital stock insurance company, directly or through a holding company or any other related legal person constituted in Québec as may be authorized by the Minister for that purpose after obtaining the advice of the Authority.

On pain of absolute nullity, no legal person referred to in the first paragraph may allot shares of its capital stock or register a transfer of such shares if, as a consequence, there would, at any time, cease to be direct or indirect control by the mutual management corporation of the capital stock insurance company.

**34.** Despite section 33 and subject to the approval provided for in the second paragraph, the Minister may authorize a change in control if the Minister considers it expedient, including in the interest of the capital stock insurance company and its development, and in the interest of the insured. The Minister must be satisfied that the financial resources of the persons concerned are sufficient to provide continuous financial support to the capital stock insurance company in its operations and development. The Minister renders a decision following a report from the Authority. The Minister may impose any conditions the Minister considers appropriate.

The change in control of the capital stock insurance company must be approved by two thirds of the votes cast at a special general meeting of the members of the mutual management corporation. An information circular approved by the Authority must be sent to the members of the mutual management corporation prior to the calling of such a meeting.

**35.** On pain of absolute nullity, no legal person referred to in section 33 may allot participating shares of its capital stock or register a transfer of such shares if, as a consequence, the equity percentage of the mutual management corporation in the capital stock insurance company would fall below 26% or, when the Minister has granted a first authorization in accordance with section 34, 13%, or such other minimum threshold as is approved by two thirds of the votes cast at a general meeting of the members of the mutual management corporation.

An information circular approved by the Authority must be sent to all members of the mutual management corporation prior to the calling of such a meeting.

A participating share is a share entitling the shareholder to participate in the profits and the distribution of assets in the event of liquidation.

**36.** A legal person is controlled by another person if that other person holds a controlling interest within the meaning of section 1.1 of the Act respecting insurance.

**37.** Section 33 does not render sections 43 to 50.5 of the Act respecting insurance inapplicable.

An allotment of shares or a registration of a transfer of shares made contrary to section 33 is absolutely null.

**38.** The equity percentage of the mutual management corporation in the capital stock insurance company is equal to the aggregate of

(1) the direct equity percentage of the mutual management corporation in the capital stock insurance company; and

(2) the result obtained by multiplying all the direct equity percentages of a legal person referred to in section 33 in the legal person it controls, from the mutual management corporation to the capital stock insurance company.

For the purposes of this section, the “equity percentage” of a person in a legal person means the percentage that the number of participating shares of the capital stock of the legal person owned by that person as a shareholder is of the total number of issued and outstanding participating shares of the capital stock of the legal person.

## **CHAPTER VI**

### **VOLUNTARY DISSOLUTION, LIQUIDATION AND SALE**

**39.** The voluntary dissolution and liquidation of the mutual management corporation entails the liquidation of the capital stock insurance company.

Similarly, the voluntary dissolution of the capital stock insurance company, its liquidation or the sale of all or substantially all its property or enterprise outside the ordinary course of its business entails the liquidation of the mutual management corporation.

Despite any contrary provision, the approval by two thirds of the votes cast at a special general meeting of the members of the mutual management corporation is required to decide to commence or discontinue the liquidation of the capital stock insurance company or a sale of its property or of its enterprise referred to in the preceding paragraph.

**40.** For the purposes of the Winding-up Act (R.S.Q., chapter L-4) as it applies to the mutual management corporation as provided for by section 29, “shareholder” means a member of the mutual management corporation, and when a provision of that Act refers to a specified proportion in value of a company’s capital stock, the provision is to be construed as meaning the number of persons who are qualified to vote and who represent the specified proportion in value.

## **CHAPTER VII**

### **MISCELLANEOUS AND FINAL PROVISIONS**

**41.** No shares of the capital stock insurance company or a holding company may be allotted and no shares held by the mutual management corporation or by a holding company other than those referred to in section 16 may be transferred before the fair market value of the capital stock insurance company has been determined by an independent expert appraisal to the satisfaction of the Authority.

**42.** This Act replaces the Act to incorporate *La Survivance, compagnie mutuelle d’assurance-vie* (1938, 2 George VI, chapter 128) as amended by chapter 104 of the statutes of 1948.

**43.** This Act comes into force on 15 June 2012.