

40-1223. Same; rights of dissatisfied policyholders; appraisal of interest; award; costs; judgment, when. If any policyholder, who shall be entitled to vote and is residing in this state at the time of the merger or consolidation, shall be dissatisfied with or object to such merger or consolidation and shall have voted against the same at the meeting of policyholders, it shall be lawful for any such policyholder, within thirty (30) days after the approval of said agreement of merger or consolidation by the commissioner of insurance and upon reasonable notice to the merged or consolidated company, to apply by petition to the district court of the county in which the registered or home office of such merged or consolidated company may be situated to appoint three (3) qualified disinterested persons to estimate and appraise the interest or cash value of such interest in the company of which he was a policyholder prior to the merger or consolidation. The persons so appointed shall appraise the interest or the cash value of such interest of such policyholder in such company at the full value thereof, without regard to any appreciation or depreciation in consequence of the said merger or consolidation. Said appointed persons shall receive as full compensation for their services a sum not to exceed one hundred dollars (\$100) per day for the actual and necessary time in making such estimate or appraisal as may be directed by the court which shall become a part of the costs.

Upon such petition it shall be the duty of said court to make such appointment, and the award of the persons so appointed, or a majority of them, when confirmed by the said court, shall be final and conclusive and such award shall become an obligation of the new or surviving company. The costs in such proceeding shall be shared equally by the petitioner and the merged or consolidated company, except that the court in any case may assess the costs in such proceeding as it may deem just and equitable under the particular facts and circumstances of the case. Upon the payment of the award made to any policyholder the interest of such policyholder shall cease. In case the award and costs, or both, as aforesaid, shall not be so paid within thirty (30) days after the said award shall have been confirmed by said court, the award and costs, or both, so found and confirmed, shall be a judgment against the party named by the court, and may be collected as other judgments in said court are by law recoverable.

History: L. 1957, ch. 289, § 8; L. 1970, ch. 180, § 2; L. 1972, ch. 53, § 9; July 1.