



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

April 29, 1960

Hon. William A. Harrison  
Commissioner of Insurance  
State Department of Insurance  
Austin, Texas

Opinion No. WW-830

Re: Whether or not a charter amendment which will result in an insurance company issuing fractional shares of stock can be approved.

Dear Mr. Harrison:

You have requested our opinion on the legality of a charter amendment presented to your office whereby a casualty stock company with par stock of the value of \$2.50 per share, proposes to amend its charter to effect a stock split by changing the par value to \$1.50 per share. The capital of the company is unchanged by the amendment but the conversion of the stock's par value results in its capital being divided into 1,918,966  $\frac{2}{3}$  shares. You ask whether or not this charter amendment should be approved since the amendment will result in a fractional share of stock being issued.

It is our opinion that the proposed amendment may be approved.

Your request was occasioned by an Attorney General's opinion dated December 21, 1926, which is to the effect that an insurance company cannot issue fractional shares of stock.

We do not find anything in the Insurance Code specifically prohibiting the issuance of fractional shares. The former Attorney General's opinion pointed out a statutory provision that each stockholder shall be entitled to one vote for each share of stock fully paid up appearing in his name on the books of the company and reasoned that it would be impossible for this language to have application in case certificates could be issued for fractional shares. A similar provision appears in the present Insurance Code in Article 3.04, section 4.

Turning to the Business Corporation Act, Art. 2.29 likewise provides that each outstanding share shall be entitled to one vote at a meeting of shareholders. Nevertheless, Art. 2.20 specifically authorizes the issuance

of fractional shares and provides further that a certificate for a fractional share shall entitle the holder to exercise voting rights, to receive dividends thereon, and to participate in any of the assets of the corporation in the event of liquidation. Also, Art. 1333 of Title 32, R.C.S., formerly the exclusive general corporate law, provides that when a corporation shall reduce its capital stock, and by reason thereof fractional shares shall be issued or held by any stockholders, the holder of any such fractional share shall be entitled to vote the same at any meeting of the stockholders in accordance with proportionate or ratable value of such shares.

These provisions of our corporate statutes show that a legislative admonition that each fully paid up share of stock must entitle its owner to one vote does not preclude the existence of fractional shares. This being the case we do not believe that a provision in the Insurance Code that each stockholder is entitled to one vote for each share of stock held was intended to prohibit the issuance of fractional shares by insurance companies, but was simply intended as a protection for the stockholder and to secure for him the right to vote in stockholders meetings.

Therefore, the reasoning of the previous opinion we believe to be erroneous and it is consequently overruled.

By this opinion we do not hold that those provisions of the Business Corporation Act relating to fractional shares apply to insurance companies. To do so is not necessary to this opinion. They are mentioned solely by way of analogy. We therefore hold that the charter amendment about which you inquire may be approved.

Your letter also requests our opinion on an additional charter amendment, but you have since advised that further information will be submitted in connection with that proposal. We will accordingly dispose of that question in a subsequent opinion.

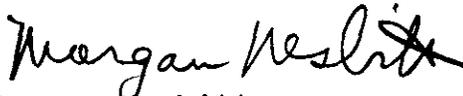
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S U M M A R Y

A casualty stock company with par stock may  
issue a certificate for a fractional share.

Very truly yours

WILL WILSON  
Attorney General of Texas

By:   
Morgan Mesbitt  
Assistant

APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman

Raymond V. Loftin, Jr.  
C. K. Richards  
Fred Werkenthin

REVIEWED FOR THE ATTORNEY GENERAL

By: Leonard Passmore